

Adams County Legal Journal

Vol. 46

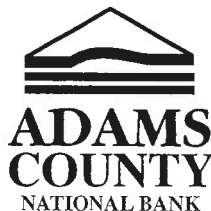
June 4, 2004

No. 2, pp. 7-11

IN THIS ISSUE

JOHNSON VS. OPEN MINDS ET AL

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



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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-286 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate in Hamilton Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin in the center of Township Road T-300, known as Mount Hope Road; thence in the center of said road, North 28 degrees 11 minutes 00 seconds East, 20.22 feet to a nail in the center of said road; thence through the original tract of Luke J. Clapsadl and running through a reference iron pin 40 feet from the beginning of this course, South 70 degrees 20 minutes 30 seconds East, 412.55 feet to an iron pin; thence continuing through the same, North 24 degrees 19 minutes 35 seconds East, 158.71 feet to an iron pin on line of land now or formerly of William Miller; thence along said Miller land, South 68 degrees 40 minutes 00 seconds East, 201 feet to an iron pin located approximately 30 feet from land now or formerly of the Glatfelter Pulpwood Company; thence running in a line parallel with and approximately 30 feet West of land now or formerly of the Glatfelter Pulpwood Company, South 24 degrees 19 minutes 35 seconds West, 172.88 feet to an iron pin; thence along line of land now or formerly of Charles F. Clapsadl, North 70 degrees 20 minutes 30 seconds West, 615.31 feet to the above described place of BEGINNING CONTAINING 1 acre.

BEING the same premises which Robert E. Burrall, by Deed dated July 28, 1986, and recorded July 30, 1986, in the Recorder's Office in and for Adams, Pennsylvania in Deed Book Volume 432, Page 0437, granted and conveyed unto Ellis R. Emory and Denise M. Emory, husband and wife, the mortgagors herein.

SEIZED and taken into execution as the property of **Ellis R. Emory & Denise M. Emory** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of the Fictitious Name, ALL ABOUT CLEAN, for the conduct of business in Adams County, Pennsylvania, with the principal place of business being 815 Mathias Road, Littlestown, PA 17340, was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on May 3, 2004, pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the entity owning or interested in the said business is: Freja Fuller, 815 Mathias Road, Littlestown, PA 17340.

6/4

WRIT OF SCIRE FACIAS

2004-NO-0000365

Adams County, ss.

The Commonwealth of Pennsylvania, To Kenneth J. Kluge Greeting:

Whereas, The Borough of Littlestown on the 16th day of July, 2003 filed its claim in our Court of Common Pleas of Adams County as No. 03-TL-309 for the sum of \$2,150.52 with interest from the 16th day of July, 2003 for unpaid water and sewer rentals due and owing, including penalty, interest and costs, plus additional water and sewer rentals, and penalty thereon.

against the following property situate in 107 South Queen Street, Littlestown, Adams County, PA, also known as Adams County Parcel No. 008-0333, Record Book 2236 at Page 10.

owned or reputed to be owned by you Kenneth J. Kluge

And Whereas, we have been given to understand that said claim is still due and unpaid, and remains a lien against the property;

Now, you are hereby notified to file your affidavit of defense to said claim, if defense you have thereto, in the office of the Prothonotary of our said Court within fifteen days after the service of this writ upon you.

If no affidavit of defense be filed within said time, judgment may be entered against you for the whole claim and the property described in the claim be sold to recover the amount thereof.

Witness the Honorable John D. Kuhn, President Judge of our said Court at Gettysburg, this 23rd day of April, A.D. 2004.

Patricia A. Funt, Prothonotary
By: Chris Dutrow
Deputy Prothonotary

5/28, 6/4 & 11

JOHNSON VS. OPEN MINDS ET AL

1. Dismissal of a cause of action should occur only where “it is clear and free from doubt from all the facts pleaded that the pleader will be unable to prove facts legally sufficient to establish right to relief.”

2. To sustain a claim for breach of contract, the plaintiff must establish: (1) the existence of a contract, including its essential terms; (2) a breach of duty imposed by the contract; and (3) resultant damages.

3. In a breach of contract action “where a party contracts with a corporation through a corporate agent who acts within the scope of his authority and reveals his principal, the corporate principal alone is liable for the breach of contract.”

4. Any potential liability based on respondeat superior sounds in tort, not contract.

5. Punitive damages cannot be recovered under a mere breach of contract action.

6. Liquidated damages (must be) reasonably ascertainable at time of breach, measurable by fixed or established external standard, or by standard apparent from documents upon which plaintiffs based their claim.

7. Attorney fees are only recoverable when there is express statutory authorization, a clear agreement between the parties, or some other established exception.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 03-S-328, DAVID JOHNSON VS. OPEN MINDS;
BEHAVIORAL HEALTH INDUSTRY NEWS, INC.; MONICA E.
OSS; AND EDITH L. JARDINE.

J. Michael Sheldon, Esq., for Plaintiff

Mark D. Bradshaw, Esq., for Defendant

Bigham, J., June 9, 2003

OPINION

This case involves an alleged breach of an employment contract. Before the Court are the Preliminary Objections of Defendant, Behavioral Health Industry News, Inc. (BHIN) and Plaintiff’s Preliminary Objections to Defendant’s Preliminary Objections.

Defendant’s objection that Plaintiff’s Complaint be dismissed with prejudice for failure to state a cause of action pursuant to Pa.R.C.P. 1028(a)(4) is overruled. Dismissal of a cause of action should occur only where “it is clear and free from doubt from all the facts pleaded that the pleader will be unable to prove facts legally sufficient to establish right to relief.” *Bourke v. Kazaras*, 746 A.2d 642, 643 (Pa.Super.2000) (citations omitted). Plaintiff has averred enough facts to sustain a breach of contract action. To sustain a claim for breach of contract, the plaintiff must establish: (1) the existence of a contract, including its essential terms; (2) a breach of duty

imposed by the contract; and (3) resultant damages. *Arbor Assoc. Inc., v Aetna U.S. Healthcare*, 2003WL 1847497 (Pa.Com.Pl. 2003) citing to *CoreStates Bank, Nat'l Assn. V. Cutillo*, 723 A.2d 1053 (Pa.Super.1999). Because Plaintiff has set forth sufficient facts to support a breach of contract action, Defendant's objection is overruled.

Defendant also objects to the fact that Monica E. Oss and Edith L. Jardine, President and Executive Vice President respectively of BHIN Inc., are named as defendants in their individual capacities. This objection is sustained, and Plaintiff's Complaint against Monica E. Oss and Edith L. Jardine in their individual capacities is dismissed.

In a breach of contract action "where a party contracts with a corporation through a corporate agent who acts within the scope of his authority and reveals his principal, the corporate principal alone is liable for the breach of the contract." *Daniel Adams Assc. Inc. v. Rimbach Pub., Inc.* 519 A.2d 997, 1001 (Pa.Super. 1986) (citations omitted). In the case sub judice, Plaintiff has not averred within the Complaint itself, or within his responsive pleading, any facts that would indicate that the Plaintiff was unaware he was dealing with BHIN. Nor has Plaintiff averred any other facts constituting indicia of individual liability on the part of either Oss or Jardine. Accordingly, the Complaint against Oss and Jardine is dismissed.

In a related instance within Plaintiff's Complaint (under one of the two separate counts for breach of contract), Plaintiff asserts that BHIN is liable for "all actions of all defendants under the legal theory of *respondeat superior*." Such basis for liability is misapplied in this instance. Any potential liability based on *respondeat superior* sounds in tort, not contract. Furthermore, as explained above, Defendant (BHIN) is subject to potential liability in its capacity as the corporate entity. Plaintiff should re-plead accordingly.

Defendant also objects to Plaintiff's demand for punitive damages under both counts of breach of contract. Defendant's objection is sustained. Punitive damages cannot be recovered under a mere breach of contract action. *Baker v. Pa. Nat'l Mut. Cas. Ins. Co.*, 536 A.2d 1357, 1361 (Pa.Super. 1987). Plaintiff's Complaint does not aver any facts of a nature that would indicate potential liability on the part of BHIN for punitive damages. Accordingly, Plaintiff's demand for punitive damages is stricken without prejudice.

Defendant also objects to Plaintiff's demand for specific monetary damages, alleging that such specific demands relate to unliquidated damages and are therefore prohibited pursuant to Pa.R.C.P. 1021(b). Liquidated damages must be "reasonably ascertainable at time of breach, measurable by fixed or established external standard, or by standard apparent from documents upon which plaintiffs based their claim." *Blacks Law Dictionary* (6th Ed. 1990) citing *Ramada Development Co. v. U.S. Fidelity & Guaranty Co.*, 626 F.2d 517, 525 (C.A.Mich 1980).

Plaintiff's demand for \$39,366.33 in the *ad damnum* clauses to both counts I and II are stricken. Plaintiff did, by way of his Objections to Defendant's Preliminary Objections, provide an itemization explaining the \$39,366.33 total but this did not cure the fact that such damages remain unliquidated due to the fact that they are not ascertainable by a fixed or external standard, or by a standard apparent from the documents. Accordingly, Plaintiff's demand for the sum certain of \$39,366.33 in both counts I and II is stricken.

Defendant also objects to Plaintiff's demand for costs and attorney fees. Plaintiff's demand for costs and attorney fees in both counts I and II are stricken without prejudice. Attorney fees are only recoverable when "there is express statutory authorization, a clear agreement between the parties, or some other established exception." *Chatham Communications, Inc. v. General Press Corp.*, 344 A.2d 837, 842 (Pa.1975). Plaintiff has not averred any facts that indicate one or more of these circumstances exist. Accordingly, Defendant's objection is sustained.

Defendant also objects to Plaintiff's use of what is characterized as "scandalous and impertinent" matter. Defendant's objection is overruled. The terms complained of, "hostile work environment" and "professional humiliation" do not meet the standard of impertinence and scandal prohibited under *Pa.R.C.P. 1028(a)(2)*. Language in a Complaint should be struck if it is immaterial and inappropriate to the proof of a cause of action. *Com., Dept. of Environmental Resources v. Peggs . . .*, 423 A.2d 765, 769 (Pa.Cmwlth 1980). "Hostile work environment" and "professional humiliation" are alleged factual representations of how the Plaintiff characterized his working environment. Such allegations are relevant to Plaintiff's argument for constructive discharge and are therefore material and appropriate.

Plaintiff's Preliminary Objections to Defendant's Preliminary Objections are, for the reasons set forth below, overruled in their entirety.

Plaintiff pleaded, in a manner much less than straight forward, that Defendant's Preliminary Objections are legally insufficient because Defendant did not serve upon Plaintiff a copy of Plaintiff's own Complaint. Plaintiff could not have been prejudiced by any failure on Defendant's part to serve Plaintiff a copy of Plaintiff's own Complaint. Accordingly, Plaintiff's objection is overruled.

Plaintiff also objects to Defendant's Preliminary Objections on the grounds that they were not verified as required pursuant to Pa.R.C.P. 1024(a). The verification requirement only pertains to averments or denial of facts. Defendant's Preliminary Objections do not contain any factual averments, nor do they deny any facts. Accordingly, this objection is overruled.

For the foregoing reasons the attached Order is entered.

ORDER

AND NOW, this 9th day of June, 2003, for the reasons set forth in the attached Opinion, Defendant's Preliminary Objections are sustained in part and overruled in part as follows:

1. Defendant's objection based upon Plaintiff's failure to state a cause of action pursuant to Pa.R.C.P. 1028(a)(4) is overruled.
2. Defendant's objection to Monica E. Oss and Edith L. Jardine as named defendants in their individual capacities is sustained and the Complaint against Ms. Oss and Ms. Jardine is dismissed without prejudice.
3. Defendant's objection to Plaintiff's demand for monetary damages to a sum certain is sustained and the Complaint for monetary damages reduced to a sum certain are dismissed without prejudice.
4. Defendant's objection to Plaintiff's demand for costs and attorney fees is sustained and the Complaint, as regards costs and attorney fees, is dismissed without prejudice.
5. Defendant's objection to Plaintiff's demand for punitive damages is sustained and the Complaint, as regards punitive damages, is dismissed without prejudice.

6. Defendant's objection to what Defendant characterizes as "scandalous and impertinent" matter is overruled.

Plaintiff's Preliminary Objections to Defendant's Preliminary Objections are overruled in their entirety.

The parties are directed to proceed in accordance with the Pennsylvania Rules of Civil Procedure and the local rules of Adams County.

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 04-S-476
Action to Quiet Title

DONNA G. MARTIN and SHELDON R. MARTIN, husband and wife, and MARY R. KINSLEY; Plaintiffs

vs.

MARY KETTERMAN, and her estate, personal representatives, heirs and descendants;

AND

CARRIE SWISHER and her estate, personal representatives, heirs and descendants;

AND

JESSIE SWISHER SANDERS, SCOTT SWISHER, MARGARET SWISHER KEISSLING; GEORGE SWISHER, DONALD SWISHER, DENTON SWISHER, RICHARD SWISHER, LEONARD SWISHER, ROBERT SWISHER, BONNIE SWISHER, PHYLLIS SWISHER HARBAUGH, and JACK HARBAUGH, and their estates, personal representatives, heirs and descendants;

AND

CALVIN SWISHER; RAY SWISHER; RUTH SWISHER SANDERS;

AND

RONALD HARBAUGH, GEORGE HARBAUGH, JACKIE HARBAUGH, MARK HARBAUGH, JAMIE HARBAUGH, AMBER HARBAUGH, and APRIL HARBAUGH;

AND

all other heirs, relatives and descendants of MARY KETTERMAN, late of Hamiltonban Township;

AND

and all of said Defendants, respective heirs, executors, administrators, personal representatives, successors, and assigns in title, and all persons and entitled unknown or not named herein claiming any right, title or interest in those certain tracts of real estate situate in Hamiltonban Township, Adams County, Pennsylvania, Located at 1476 and 1501 Iron Springs Road.

LEGAL NOTICE

TO: Bridgett Swisher, Donald Swisher, Jr., Susan Swisher, Scott Swisher, Beverly (Swisher) McIntire, Karen (Swisher) Baer, James Harbaugh, Dorris Nyn, Gary Swisher, and all other heirs, relatives and descendants of Mary Ketterman, (a/k/a Mary Kettoman), late of Hamiltonban Township; and all of said Defendants' respective heirs, executors, administrators, personal representatives,

successors and assigns in title, and all persons unknown or not named herein claiming any right, title or interest in those certain tracts of real estate situate in Hamiltonban Township, Adams County, Pennsylvania, located at 1476 and 1501 Iron Springs Road.

You have been named as Defendants in an Action to Quiet Title instituted by the Plaintiffs, Donna G. Martin and Sheldon R. Martin, husband and wife, and Mary R. Kinsley.

The Plaintiffs allege in the Complaint in this action that record title to the subject real estate remains titled in the name of Mary Ketterman (a/k/a Mary Kettoman) by virtue of a Deed from William Smith dated April 13, 1896 and recorded on February 2, 1938 in the Adams County Recorder of Deeds Office in Deed Book 147 at Page 173, should be vested in Plaintiffs. The Complaint alleges that Mary Ketterman lived at the property until the time of her death and that she died intestate, leaving an unknown number of adult children. This Complaint alleges that prior to her death, Mary Ketterman's daughter, Carrie Swisher, and Carrie Swisher's husband, returned to live at the subject property to care for Ms. Ketterman during her old age. Carrie Swisher continued to live at the property after Mary Ketterman's death and for her entire adult life until her own death in 1954. At all times, Carrie Swisher's use and occupancy of the property was exclusive and adverse to the interests of her brothers and sisters, who are the other children of Mary Ketterman. At some point at least five (5) years before Carrie Swisher's death, her daughter, Phyllis (Swisher) Harbaugh and her husband, Leroy Harbaugh, moved into the property to care for Carrie Swisher. Phyllis and Leroy Harbaugh raised four (4) children on the property and lived in the property, exclusively, from 1954, the year of Carrie Swisher's death to 1984. In 1984, Plaintiff Donna Martin and her husband, Plaintiff Sheldon Martin, moved into the 1501 Iron Springs Road property to care for Phyllis and Leroy Harbaugh, who were Donna Martin's parents, and to support, maintain and care for the property at issue. Leroy Harbaugh died in 1986 and Phyllis (Swisher) Harbaugh died in 1987. From 1954 to the present, Phyllis (Swisher) Harbaugh and now, Donna and Sheldon Martin have paid all expenses related to the property, including all real estate taxes, have lived in the property exclusively and have taken all actions to maintain the property, and have acted as if it was their own.

Plaintiffs claim that Donna and Sheldon Martin are lawful owners of the property by adverse possession.

Plaintiffs are asking that any right, title and interest you may have to the aforementioned real estate be terminated and that you be, and your heirs be, forever barred from asserting any claims against said real estate.

Plaintiffs also assert that Plaintiff Mary Kinsley has made sole, exclusive, hostile and adverse use of a cabin located on a portion of the land since at least 1969 and has had sole, exclusive, hostile, open and adverse possession of the modular home on another portion of the land since 1983. The Complaint also asks that the property line be corrected pursuant to the survey attached to the Complaint for purposes of correcting title to the parcels of real estate as set forth in the land records of Adams County, Pennsylvania.

You are hereby notified to plead to the Complaint in this case, of which the above is a brief summary, within Twenty (20) days from June 4, 2004, the date of publication.

NOTICE

If you wish to defend, you must enter a written appearance personally or by attorney and file your defense or objections in writing with the court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiffs. 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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

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

By: /s/Thomas R. Campbell, Esq.
Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325
(717) 334-9278

Attorneys for Plaintiffs Donna G. Martin and Sheldon R. Martin

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-219 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain parcel of land lying and situate in Liberty Township, Adams County, Pennsylvania, being Lot No. 37 in Section AA, more particularly bounded and described as follows:

BEGINNING at a point in the center of Rist Trail at Lot No. 36; thence by said lot, South 68 degrees 13 minutes 46 seconds East, 225 feet to Lot No. 19; thence by said lot and by Lot No. 18, South 21 degrees 46 minutes 14 seconds West, 100 feet to Lot No. 38; thence by said lot, North 68 degrees 13 minutes 46 seconds West, 225 feet to a point in the center of said Rist Trail; thence in said Rist Trail, North 21 degrees 46 minutes 14 seconds East, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section AA, Charnita", dated October 21, 1969, prepared by Evans, Hagan & Holdefer and recorded in Adams County Plat Book 1 at page 59.

BEING the same premises which Terry L. Stern and Rachel E. Stern, specially constituted by her Attorney-in-Fact, Terry L. Stern, husband and wife, by their deed December 4, 2002 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2616 at page 58, and as corrected by deed of correction dated January 3, 2003 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 2936 at page 81, sold and conveyed unto Allen W. Beckett, trading and doing business as Allen Beckett Construction, the Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Edward G. Kuhn, III and Brandi L. Kuhn, his wife by Deed from Allen W. Beckett, trading and d/b/a Allen Beckett Construction dated 6/5/2003 and recorded 6/6/2003 in Record Book 3137 Page 322.

Premises being: 33 Rist Trail, Fairfield, PA 17320

Tax Parcel No. 37 Map AA

SEIZED and taken into execution as the property of **Edward G. Kuhn, III & Brandi Lynn Kuhn** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

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, June 14, 2004, at 9:00 a.m.

SADLER—Orphans' Court Action Number OC-133-03. The First and Final Account of Timothy W. Sadler of the Estate of Clarence M. Sadler, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

BOWSER—Orphans' Court Action Number OC-48-04. The First and Final Account of PNC Bank, N.A., Executor of the Estate of Barbara Schaeffer Bowser, a/k/a Barbara S. Bowser, deceased, late of Straban Township, Adams County, Pennsylvania.

MANCHEY—Orphans' Court Action Number OC-49-04. The First and Final Account of John M. Crabbs, Esq., Executor of the Estate of Myrtle R. Manchey, deceased, late of Straban Township, Adams County, Pennsylvania.

MANCHEY—Orphans' Court Action Number OC-50-04. The First and Final Account of John M. Crabbs, Esq., Executor of the Estate of Crane W. Manchey, deceased, late of Straban Township, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

6/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-471 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone in center of public road on line between land now or formerly of James B. Meyer and S.W. Hammers; thence with center of said road Southwest, 52 feet to a stone; thence by land now or formerly of the said James B. Meyers, Southeast 150 feet to a stone on line of land now or formerly of Cornelius Reneicker; thence by land now or formerly of Cornelius Reneicker Northeast 53 feet to a stone; thence by land now or formerly of S.S.W. Hammers, 138 feet to stone, the place of BEGINNING. CONTAINING 28 perches, more or less.

TITLE TO SAID PREMISES IS VESTED IN: BEING the same premises which Allan F. Trostle, Widower by Deed dated January 19, 1973 and recorded January 19, 1973 in Deed Book 304, Page 767 granted and conveyed unto Rondale A. Trostle and Karen S. Trostle, husband and wife, in fee.

Map and Parcel ID: (2) E12-121

Being known as: 690 Knoxlyn Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Rondale A. Trostle a/k/a Rondale Allen Trostle, Karen S. Trostle and The United States of America** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

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 GARRETT T. MASON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

John R. Grady, 2483 Mummasburg Road, Gettysburg, PA 17325

Attorney: Thomas R. Nell, Esq., 340 Nell Road, East Berlin, PA 17316

ESTATE OF MIRANDA M. ROHR-BAUGH, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Clyde Donald Rohrbaugh, 1497 Clayoma Avenue, York, PA 17404; Mary A. Shaffer, 507 Fulton Street, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF ROBERT E. ACHESON, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executor: David R. Acheson, 7 Lakeview Trail, Fairfield, PA 17320

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF MIRIAM M. BECKER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Beverly A. Boone, 605 Harvest Drive, York, PA 17404

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

ESTATE OF KATHRYN E. CLARKIN a/k/a KATHRYN M. CLARKIN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Timothy Bollinger, 300 Table Rock Road, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF JANET L. ECKERT, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Nina M. Scott, 150 Russell Tavern Road, Gettysburg, PA 17325

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

ESTATE OF MARTHA L. FORD, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Jane A. Towers, 893 Stone Jug Road, Biglerville, PA 17307; Jeanne Louise Denny, 610 Mohican Trail, Wilmington, NC 28409

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

ESTATE OF R. GUY LAIN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Kevin A. Lain, 7085 Woodland Drive, Spring Grove, PA 17362

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

ESTATE OF ELIZABETH S. MANUEL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: James A. Manuel, 1401 Brighton Dam Road, Brookeville, MD 20833

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

ESTATE OF CHARLES E. ROTHEN-HOEFER, JR., DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: George E. Miller, P.O. Box 250, York Springs, PA 17372

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

ESTATE OF LAWRENCE S. SCOTT, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Jane W. Scott, c/o Michael N. Corr, Esq., Barnard, Mezzanotte and Pinnie, 218 West Front Street, Media, PA 19063

Attorney: Michael N. Corr, Esq., Barnard, Mezzanotte and Pinnie, 218 West Front Street, Media, PA 19063

ESTATE OF EARL L. WEAVER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Darlene J. Koontz, 11104 Taneytown Pike, Emmitsburg, MD 21727

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

THIRD PUBLICATION

ESTATE OF JOHN C. BELLEW, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Personal Representative: Robert M. Bellew, 6013 Deer Park Road, Reisterstown, MD 21136

ESTATE OF EVELYN C. FROCK, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Susan J. Frock, 376 Pine Grove Road, Hanover, PA 17331; Carolyn J. Frock, 376 Pine Grove Road, Hanover, PA 17331

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

ESTATE OF GEORGE F. HOCKENSMITH, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executors: Deborah A. Klunk, 524 Ridge Avenue, McSherrystown, PA 17344; Henry Stephen Edwards, 422 North Franklin Street, Hanover, PA 17331

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

ESTATE OF HERBERT KIESSLING, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Joanne Schmick, c/o Anthony J. Nestico, Esq., Nestico, Druby & Hildabrand LLP, 840 East Chocolate Avenue, Hershey, PA 17033

Attorney: Anthony J. Nestico, Esq., Nestico, Druby & Hildabrand LLP, 840 East Chocolate Avenue, Hershey, PA 17033

ESTATE OF CATHERINE E. MILLER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: James E. O'Brien, 9190 Wayne Highway, Waynesboro, PA 17268

Attorney: Timothy W. Misner, Esq., 39 South Broad Street, Waynesboro, PA 17268-1610

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-131 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail in the center of Rupp Road, T-564, at lands of John D. Frazier, Ruth I. Frazier and Paul E. Frazier; thence crossing Rupp Road, T-564, and by lands of John D. Frazier, Ruth I. Frazier and Paul E. Frazier and through an iron pin in concrete set along the line 91.41 feet from the beginning hereof, North 63 degrees 58 minutes 11 seconds West, 275.22 feet to an iron pin; thence continuing by lands of John D. Frazier, Ruth I. Frazier and Paul E. Frazier, North 25 degrees 47 minutes 28 seconds East, 200 feet to an iron pin; thence by lands of Darryl D. Davis and Kristin E. Davis and through a steel pin set back 25 feet from the end hereof, South 63 degrees 58 minutes 11 seconds East, 275.22 feet to a point in the center line of Rupp Road T-564; thence in the center line of Rupp Road, T-564, South 25 degrees 47 minutes 28 seconds West, 200 feet to a p.k. nail in the center of Rupp Road T-564, the point and place of BEGINNING.

The foregoing description was taken from subdivision plans duly recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Plat Book 34 at Page 122, Plat Book 43 at Page 53A and Plat Book 49 at Page 58.

UNDER AND SUBJECT, NEVERTHELESS, to conditions and restrictions set forth in the deed recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 381 at Page 858, which conditions and restrictions are incorporated herein by reference, and which conditions and restrictions are covenants running with the land, and in any deed or conveyance of said premises or any part thereof, to any person or persons said restrictions and conditions shall be incorporated by reference therein to the deed referred to herein and the record thereof, or as fully as through the same are contained therein.

Being known as 370 Rupp Road, Gettysburg, (Tyrone Twp.), PA 17325
Property ID No: H6-123

TITLE TO SAID PREMISES IS VESTED IN Byron J. Orndorff and Lisa I. Orndorff, husband and wife, as tenants of an estate by the entireties by deed from Jacob L. Wilt and Donna J. Wilt, husband and wife, dated 3/5/99, recorded 3/11/99, in Deed Book 1784, Page 134.

SEIZED and taken into execution as the property of **Bryon J. Orndorff & Lisa I. Orndorff** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

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

NOTICE IS HEREBY GIVEN that on the 21st day of May, 2004, the Petition of Mark Joseph Otto was filed in the Court of Common Pleas of Adams County, Pennsylvania, praying for a decree to change his name from Mark Joseph Otto to Mark Joseph Vechini.

The Court has fixed the 24th day of August, 2004, at 9:00 A.M. in Courtroom No. 3 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.

Bandy L. Jarosz, Esquire
Attorney for Petitioner
31 S. Washington Street
Gettysburg, PA 17325

6/4

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on January 9, 2004, the Petition of Joseph Martin Sparks, III, was filed in the Court of Common Pleas of Adams County, Pennsylvania, praying for a decree to change his name to Joseph Martin Rucker.

The court has fixed June 14, 2004, at 9:00 a.m., in Room 2 of the Adams County Court House, 111 Baltimore Street, Gettysburg, PA 17325, as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of the said Petition should not be granted.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/4

Adams County Legal Journal

Vol. 46

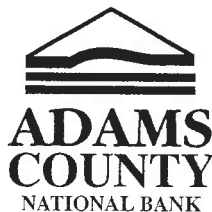
June 11, 2004

No. 3, pp. 12-17

IN THIS ISSUE

BANGE ET AL VS. MT. PLEASANT TWP.

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-286 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate in Hamiltonban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin in the center of Township Road T-300, known as Mount Hope Road; thence in the center of said road, North 28 degrees 11 minutes 00 seconds East, 20.22 feet to a nail in the center of said road; thence through the original tract of Luke J. Clapsadl and running through a reference iron pin 40 feet from the beginning of this course, South 70 degrees 20 minutes 30 seconds East, 412.55 feet to an iron pin; thence continuing through the same, North 24 degrees 19 minutes 35 seconds East, 158.71 feet to an iron pin on line of land now or formerly of William Miller; thence along said Miller land, South 68 degrees 40 minutes 00 seconds East, 201 feet to an iron pin located approximately 30 feet from land now or formerly of the Glatfelter Pulpwood Company; thence running in a line parallel with and approximately 30 feet West of land now or formerly of the Glatfelter Pulpwood Company, South 24 degrees 19 minutes 35 seconds West, 172.88 feet to an iron pin; thence along line of land now or formerly of Charles F. Clapsadl, North 70 degrees 20 minutes 30 seconds West, 615.31 feet to the above described place of BEGINNING CONTAINING 1 acre.

BEING the same premises which Robert E. Burrall, by Deed dated July 28, 1986, and recorded July 30, 1986, in the Recorder's Office in and for Adams, Pennsylvania in Deed Book Volume 432, Page 0437, granted and conveyed unto Ellis R. Emory and Denise M. Emory, husband and wife, the mortgagors herein.

SEIZED and taken into execution as the property of Ellis R. Emory & Denise M. Emory and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on April 29, 2004.

The name of the corporation is GATEWAY MINI-MART, INC.

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

Robert E. Campbell, Esq.
Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325
Attorneys

6/11

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania.

- 1. The name of the Corporation is: PENN STABLE INC.
- 2. The Corporation has been incorporated under the provisions of the Business Corporation Law of 1988.

John M. Crabbs
Solicitor

6/11

WRIT OF SCIRE FACIAS

2004-NO-0000365

Adams County, ss.

The Commonwealth of Pennsylvania, To Kenneth J. Kluge Greeting:

Whereas, The Borough of Littlestown on the 16th day of July, 2003 filed its claim in our Court of Common Pleas of Adams County as No. 03-TL-309 for the sum of \$2,150.52 with interest from the 16th day of July, 2003 for unpaid water and sewer rentals due and owing, including penalty, interest and costs, plus additional water and sewer rentals, and penalty thereon.

against the following property situate in 107 South Queen Street, Littlestown, Adams County, PA, also known as Adams County Parcel No. 008-0333, Record Book 2236 at Page 10,

owned or reputed to be owned by you Kenneth J. Kluge

And Whereas, we have been given to understand that said claim is still due and unpaid, and remains a lien against the property;

Now, you are hereby notified to file your affidavit of defense to said claim, if defense you have thereto, in the office of the Prothonotary of our said Court within fifteen days after the service of this writ upon you.

If no affidavit of defense be filed within said time, judgment may be entered against you for the whole claim and the property described in the claim be sold to recover the amount thereof.

Witness the Honorable John D. Kuhn, President Judge of our said Court at Gettysburg, this 23rd day of April, A.D. 2004.

Patricia A. Funt, Prothonotary
By: Chris Dutrow
Deputy Prothonotary

5/28, 6/4 & 11

BANGE ET AL VS. MT. PLEASANT TWP.

1. Mandamus is an extraordinary writ which lies to compel the performance of a ministerial act or mandatory duty where there is a clear legal right in the plaintiff, a corresponding duty in the defendant, and a lack of any other adequate and appropriate remedy at law.

2. The six-month statute of limitations provided by 42 Pa. Con. Stat. Ann. §5522 (West 2003) [applies to mandamus].

3. The date that starts commencement of the limitation period is the date of the occurrence of the final significant event necessary to maintain a successful cause of action. However, if the duty is a continuing one, the omission to perform the duty will also be regarded as a continuance and a statute of limitations commences at the time when the duty terminates.

4. The plaintiff must clearly establish the defendant's refusal to perform. Mandamus will not issue where the defendant's refusal is speculative or where the plaintiff's cause of action is filed in anticipation of the omission of a duty in the future.

5. Mandamus will not issue in anticipation of a speculated omission of duty some day in the future.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 01-S-1145, JAY S. BANGE, JANE A. ZEISET, AND
JASON J. BANGE, AS ATTORNEY IN FACT FOR JAY S. BANGE
AND JANE A. ZEISET VS. MT. PLEASANT TOWNSHIP BOARD
OF SUPERVISORS.

Matthew R. Battersby, Esq., for Plaintiff

Mark T. Riley, Esq., for Defendant

George, J., June 10, 2003

OPINION

The Plaintiffs have filed an Action in Mandamus seeking the Court to compel Mt. Pleasant Township to issue building permits and seeking damages in the amount of \$53,962.00. This Court has previously denied the Plaintiffs' request for a preemptory judgment in their favor by Court Order dated October 2, 2002. The Defendant has subsequently filed a Motion for Summary Judgment, which is the matter currently before the Court. The Mt. Pleasant Township Board of Supervisors (hereinafter referred to as "Defendant") challenges the Plaintiffs' cause of action on several bases, each of which will be addressed separately below.

Initially, the Defendant claims it is immune from any cause of action sounding in slander due to the protections of the Pennsylvania Political Subdivision Tort Claims Act. Although at first glance, their

claim has merit, it is not necessary to conduct lengthy analysis of this issue. The Plaintiffs have not filed a civil cause of action based on slander but rather have filed this matter as an action in mandamus. The Plaintiffs concede in their brief that they are not seeking any damages based upon a cause of action of slander. A reading of the demand in their Complaint confirms this representation. Accordingly, further discussion of this issue is not necessary.¹

The Defendant next argues that the applicable statute of limitations bars the Plaintiffs' cause of action. I agree.

Any discussion concerning the applicable statute of limitations must focus on the nature of the cause of action. Instantly, the Plaintiffs have filed an Action in Mandamus. "Mandamus is an extraordinary writ which lies to compel the performance of a ministerial act or mandatory duty where there is a clear legal right in the plaintiff, a corresponding duty in the defendant, and a lack of any other adequate and appropriate remedy at law." *Darney v. Borough of West Mifflin*, 351 A.2d 317, 317-18 (Pa. Commw. Ct. 1976). The Plaintiffs' current action² requests the Court to compel the Defendant to issue on-lot septic permits and building permits for five lots that were the subject of a subdivision plan submitted on April 30, 1984. Although the caption lists only the Mt. Pleasant Township Board of Supervisors as the Defendant, a mandamus action brought against the municipality properly lies against a municipal officer whose duty it is to perform the act commanded to be done. *Commonwealth ex rel. Brown v. Schmidt*, 134 A. 478 (Pa. 1926). Thus, the proper officers and officials of the municipality must be made party defendants when a mandamus action is brought against a municipality. *Township of Bensalem v. Moore*, 620 A.2d 76, 79-80 (Pa. Commw. Ct. 1993). In essence, this mandamus action is an action against the Township Supervisors concerning the execution of their ministerial acts as supervisors.

The Pennsylvania Judicial Code sets forth the limitations of time applicable to actions filed before the respective courts. *See generally*

¹The Defendant's claim of immunity is apparently prompted by paragraph 17 of the Plaintiffs' First Amended Complaint that alleges that Township officials slandered the Plaintiffs. Although preliminary objections to this allegation have not been filed, it appears to be mere surplusage and is not material to the Plaintiffs' claim.

²The Judicial Code defines action as "[a]ny action at law or in equity". 42 PA. CON. STAT. ANN. § 102 (West 2003) (emphasis added).

42 PA. CON. STAT. ANN. § 5501 (West 2003). Relevant to our inquiry is Section 5522. That section provides as follows:

(b) Commencement of action required.—The following actions and proceedings must be commenced within six months:

- (1) An action against any officer of any government unit for anything done in the execution of his office, . . .

42 PA. CON. STAT. ANN. § 5522(b)(1) (West 2003). I find the plain language of this section applicable to the current matter. Moreover, my analysis is consistent with the Commonwealth Court's interpretation of the applicability of this section.

In *Moore*, supra, the Commonwealth Court considered the issue of which statute of limitations applied to a mandamus action filed by a police officer against the municipality that employed him. In holding that the six-month limitation of actions was applicable, the Court reasoned that a mandamus action required municipal officials to be joined in the action, thereby fitting it squarely within the statutory provisions for a six-month statute of limitations. As in *Moore*, the Township officials are the proper party in this matter. See PA. R. CIV. P. 1094(a); *Moore*, 620 A.2d at 80. I find no reason to distinguish *Moore*. Accordingly, the six-month statute of limitations provided by 42 PA. CON. STAT. ANN. § 5522 (West 2003) guides further discussion of this issue.

Having determined the applicable statute of limitations, it now becomes necessary to ascertain as to when that limitations period commenced. The Plaintiffs' cause of action was filed with this Court on October 25, 2001. Therefore, the Plaintiffs' cause of action must have arisen after April 25, 2001, in order to be within the statutory period. The Defendant argues that the Plaintiffs' cause of action arose well before that date. In support of their argument, they cite five different dates, all of which predate April 25, 2001. The Defendant claims that on October 26, 1994, the Plaintiffs were advised that they would receive no further building permits until a road in the subdivision was repaired and maintained. Alternatively, they argue that August 21, 1998, and November 2, 1998, certainly triggered the statute. Those dates are the dates on which the Plaintiffs' contracts on respective lots fell through because of the inability to obtain permits. It is those lots for which the Plaintiff

currently seeks monetary damages. Finally, the pleadings reference October 17, 2000, and October 25, 2000, as dates that Mt. Pleasant Township officials informed the Plaintiffs that they were not entitled to a sewage permit. Importantly, these are also the dates relied upon in the Plaintiffs' Complaint as the acts which constitute the Defendant's violation of their ministerial duty. *See* Pl.'s First Am. Compl., ¶¶s 8, 10.

The Plaintiffs argue that the Township's denial of the issuance of permits is an ongoing denial continuing through the present. They conclude, therefore, that they are well within any applicable statute of limitations.

As a general rule, the time period specified in a statute of limitations begins to run when the cause of action accrues. *S. T. Hudson Eng'rs, Inc. v. Camden Hotel Dev. Assocs.*, 747 A.2d 931, 934 (Pa. Super. Ct. 2000). A cause of action accrues as soon as the right to institute and maintain a suit arises. *Centre Concrete Co. v. AGI, Inc.*, 559 A.2d 516, 518 (Pa. 1989). Therefore, the date that starts commencement of the limitation period is the date of the occurrence of the final significant event necessary to maintain a successful cause of action. Since some causes of action are based upon the omission to perform a duty, the statute of limitations will begin to run from the date of the omission to perform the required duty. *Plazak v. Allegheny Steel Co.*, 188 A. 130, 133-34 (Pa. 1936). However, if the duty is a continuing one, the omission to perform the duty will also be regarded as a continuance and a statute of limitations commences at the time when the duty terminates. It is apparent, therefore, that any analysis of when the Plaintiffs' cause of action accrued must include a discussion of the elements surrounding their action.

Mandamus is an extraordinary common-law writ which is used to compel the official performance of a ministerial act or mandatory duty where there is a clear legal right in the plaintiff, a corresponding duty in the defendant and the lack of any other appropriate or adequate remedy at law. *Darney*, 351 A.2d at 317-18. In addition to these primary prerequisites to relief in mandamus, Pennsylvania courts have required that a request be made upon the defendant to perform a particular act or duty and that the defendant refused to so perform. *Camiel v. Thornburgh*, 489 A.2d 1360 (Pa. 1985). In order to satisfy this requirement, the plaintiff must clearly establish the

defendant's refusal to perform. Mandamus will not issue where the defendant's refusal is speculative or where the plaintiff's cause of action is filed in anticipation of the omission of a duty in the future. *Nason v. Commonwealth*, 494 A.2d 499, 502 (Pa. Commw. Ct. 1985).

In their Complaint, the Plaintiffs argue that they have a clear legal right to the issuance of septic and building permits based upon the Defendant's approval of a 1984 subdivision. The Complaint indicates that on October 11, 2000, the Plaintiffs applied for a building permit to build upon lot number three. Thereafter, by letter dated October 17, 2000, the Defendant's Sewage Enforcement Officer denied the Plaintiffs' application indicating that the subdivision was not in compliance with conditions contained in its approval. The Complaint continues that on October 25, 2000, the Township, through its solicitor, refused to issue an on-lot septic permit. Although the Complaint alleges that the Township "continues to fail and refuse to issue the building permit", see Pl.'s First Am. Compl., ¶ 10, they make no other reference as to the specifics of such refusals. This history does not bode well for the Plaintiffs' cause of action.

Clearly, all activity in this matter, including the alleged lost sales, occurred outside the limitation period pursuant to 42 PA. CON. STAT. ANN. § 5522 (West 2003) with the exception of the Plaintiffs' claim that the Defendant's refusal to issue the permits is ongoing. Unfortunately for the Plaintiffs, however, I find no merit in this argument. With the exception of the reference to the October 11, 2000, request for a permit for lot number three, the record is absent of any indication that the Defendant refused to perform a ministerial duty in response to a clear and specific request by the Plaintiffs. While I acknowledge the boilerplate language in the Complaint indicating that the breach of duty is ongoing, I also recognize that in a mandamus action, the Plaintiffs have the obligation to prove that a request was made upon the Township to perform a particular duty and that the Township refused to do so. *Camiel*, supra. Mandamus will not issue in anticipation of a speculated omission of duty some day in the future. *Nason*, supra. The only indication in the Plaintiffs' Complaint in this regard is their averment that a series of requests were made to the Township in October, 2000. Only as to those requests do the pleadings adequately establish elements that would,

if otherwise legally acceptable, justify the issuance of mandamus. Therefore, in October, 2000, the cause of action accrued outside the time period of the applicable statute of limitations. More importantly, the Plaintiffs have neither alleged nor established in the record issues of material fact as to matters that would justify this litigation to proceed.³

Because of my resolution herein, it is not necessary to address the remaining issues raised by the Defendant.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 10th day of June, 2003, the Defendant's Motion for Summary Judgment is granted.

³In pursuing a motion for summary judgment, the moving party has the burden of proving that no genuine issue of material fact exists. *Prince v. Pavoni*, 302 A.2d 452, 454 (Pa. Super. Ct. 1973). However, under PA. R. CIV. P. 1035.3, the non-moving party bears a clear duty to respond to the motion for summary judgment. *Harber Philadelphia Center City Office Ltd. v. LPCI Ltd. Partnership*, 764 A.2d 1100, 1104 (Pa. Super. Ct. 2000). Summary judgment is appropriate where the non-moving party fails to identify, *inter alia*, one or more issues of fact arising from the evidence in record controverting the evidence that the movant has cited in support of their motion. PA. R. CIV. P. 1035.3(a)(1). The responding party must do more than simply rely on the allegations in the pleadings. PA. R. CIV. P. 1035.3(a).

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 04-S-10

NOTICE OF ACTION IN
MORTGAGE FORECLOSURE

THE CIT GROUP/CONSUMER
FINANCE, INC., Plaintiff
vs.

EDWIN E. WICKLINE, LAST RECORD
OWNER and CHARLES WICKLINE,
KNOWN HEIR OF EDWIN E. WICKLINE,
LAST RECORD OWNER, Defendants

TO: Edwin E. Wickline, last record owner
and unknown heirs of Edwin E. Wickline,
last record owner, Defendant(s), whose
last known address is 421 North Fourth
Street, Gettysburg, PA 17325

AMENDED COMPLAINT IN
MORTGAGE FORECLOSURE

YOU ARE HEREBY NOTIFIED that
Plaintiff, THE CIT GROUP/CONSUMER
FINANCE, INC., has filed An Amended
Mortgage Foreclosure Complaint
endorsed with a Notice to Defend,
against you in the Court of Common
Pleas of Adams County, Pennsylvania,
docketed to NO. 04-S-10, wherein
Plaintiff seeks to foreclose on the mort-
gage secured on your property located,
421 North Fourth Street, Gettysburg, PA
17325, whereupon your property would
be sold by the Sheriff of Adams County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If
you wish to defend against the claims set
forth in the notice above, you must take
action within twenty (20) days after this
Complaint and Notice are served, by
entering a written appearance personally
or by attorney and filing in writing with
the Court your defenses or objections to
the claims set forth against you. You are
warned that if you fail to do so the case
may proceed without you and a judg-
ment 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 GO TO OR
TELEPHONE THE OFFICE SET
FORTH BELOW. THIS OFFICE CAN
PROVIDE YOU WITH INFORMATION
ABOUT HIRING A LAWYER. IF YOU
CANNOT AFFORD TO HIRE A
LAWYER, THIS OFFICE MAY BE ABLE
TO PROVIDE YOU WITH THE INFOR-
MATION ABOUT AGENCIES THAT MAY
OFFER LEGAL SERVICES TO ELIGIBLE

PERSONS AT A REDUCED FEE OR
NO FEE.

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

Mark J. Udren
Attorney for Plaintiff
Udren Law Offices, P.C.
Woodcrest Corporate Center
111 Woodcrest Road
Suite 200
Cherry Hill, NJ 08003-3620
856-482-6900

6/11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execu-
tion, Judgment No. 04-S-131 issuing out
of the Court of Common Pleas of Adams
County, and to me directed, will be ex-
posed to Public Sale on Friday, the 16th
day of July, 2004, at 10:00 o'clock in the
forenoon at the Sheriff's Office located in
the Courthouse, Borough of Gettysburg,
Adams County, PA, the following Real
Estate, viz.:

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

BEGINNING at a p.k. nail in the center
of Rupp Road, T-564, at lands of John D.
Frazier, Ruth I. Frazier and Paul E.
Frazier; thence crossing Rupp Road,
T-564, and by lands of John D. Frazier,
Ruth I. Frazier and Paul E. Frazier and
through an iron pin in concrete set along
the line 91.41 feet from the beginning
hereof, North 63 degrees 58 minutes 11
seconds West, 275.22 feet to an iron pin;
thence continuing by lands of John D.
Frazier, Ruth I. Frazier and Paul E.
Frazier, North 25 degrees 47 minutes 28
seconds East, 200 feet to an iron pin;
thence by lands of Darryl D. Davis and
Kristin E. Davis and through a steel pin
set back 25 feet from the end hereof,
South 63 degrees 58 minutes 11 seconds
East, 275.22 feet to a point in the
center line of Rupp Road T-564; thence
in the center line of Rupp Road, T-564,
South 25 degrees 47 minutes 28 sec-
onds West, 200 feet to a p.k. nail in the
center of Rupp Road T-564, the point
and place of BEGINNING.

The foregoing description was taken
from subdivision plans duly recorded in
the Recorder of Deeds Office of Adams
County, Pennsylvania, in Plat Book 34 at
Page 122, Plat Book 43 at Page 53A and
Plat Book 49 at Page 58.

UNDER AND SUBJECT, NEVERTHE-
LESS, to conditions and restrictions set
forth in the deed recorded in the Office of
the Recorder of Deeds in and for Adams

County, Pennsylvania, in Deed Book 381
at Page 858, which conditions and
restrictions are incorporated herein by
reference, and which conditions and
restrictions are covenants running with
the land, and in any deed or conveyance
of said premises or any part thereof, to
any person or persons said restrictions
and conditions shall be incorporated by
reference therein to the deed referred to
herein and the record thereof, or as fully
as through the same are contained
therein.

Being known as 370 Rupp Road,
Gettysburg, (Tyrone Twp.), PA 17325

Property ID No: H6-123

TITLE TO SAID PREMISES IS VEST-
ED IN Byron J. Orndorff and Lisa I.
Orndorff, husband and wife, as tenants
of an estate by the entireties by deed
from Jacob L. Wilt and Donna J. Wilt,
husband and wife, dated 3/5/99, record-
ed 3/11/99, in Deed Book 1784, Page
134.

SEIZED and taken into execution as
the property of **Byron J. Orndorff &
Lisa I. Orndorff** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND
CLAIMANTS: You are notified that a
schedule of distribution will be filed by the
Sheriff in his office on August 9, 2004,
and distribution will be made in accor-
dance with said schedule, unless excep-
tions 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.

6/4, 11 & 18

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that
Articles of Incorporation have been filed
with the Commonwealth of Pennsylvania,
Department of State, at Harrisburg,
Pennsylvania, for the purpose of obtain-
ing a Certificate of Incorporation.

The name of the proposed corporation
which has been organized pursuant to the
Nonprofit Corporation Law of the
Commonwealth of Pennsylvania, Act of
December 21, 1988 (P.L. 1444, No. 177),
is COALITION FOR COMMUNITY
CARE, INC.

Clayton R. Wilcox
Solicitor

6/11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-219 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain parcel of land lying and situate in Liberty Township, Adams County, Pennsylvania, being Lot No. 37 in Section AA, more particularly bounded and described as follows:

BEGINNING at a point in the center of Rist Trail at Lot No. 36, thence by said lot, South 68 degrees 13 minutes 46 seconds East, 225 feet to Lot No. 19; thence by said lot and by Lot No. 18, South 21 degrees 46 minutes 14 seconds West, 100 feet to Lot No. 38; thence by said lot, North 68 degrees 13 minutes 46 seconds West, 225 feet to a point in the center of said Rist Trail; thence in said Rist Trail, North 21 degrees 46 minutes 14 seconds East, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section AA, Charnita", dated October 21, 1969, prepared by Evans, Hagan & Holdefer and recorded in Adams County Plat Book 1 at page 59.

BEING the same premises which Terry L. Stern and Rachel E. Stern, specially constituted by her Attorney-in-Fact, Terry L. Stern, husband and wife, by their deed December 4, 2002 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2616 at page 58, and as corrected by deed of correction dated January 3, 2003 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 2936 at page 81, sold and conveyed unto Allen W. Beckett, trading and doing business as Allen Beckett Construction, the Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Edward G. Kuhn, III and Brandi L. Kuhn, his wife by Deed from Allen W. Beckett, trading and d/b/a Allen Beckett Construction dated 6/5/2003 and recorded 6/6/2003 in Record Book 3137 Page 322.

Premises being: 33 Rist Trail, Fairfield, PA 17320

Tax Parcel No. 37 Map AA

SEIZED and taken into execution as the property of **Edward G. Kuhn, III & Brandi Lynn Kuhn** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

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, June 14, 2004, at 9:00 a.m.

SADLER—Orphans' Court Action Number OC-133-03. The First and Final Account of Timothy W. Sadler of the Estate of Clarence M. Sadler, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

BOWSER—Orphans' Court Action Number OC-48-04. The First and Final Account of PNC Bank, N.A., Executor of the Estate of Barbara Schaeffer Bowser, a/k/a Barbara S. Bowser, deceased, late of Straban Township, Adams County, Pennsylvania.

MANCHEY—Orphans' Court Action Number OC-49-04. The First and Final Account of John M. Crabbs, Esq., Executor of the Estate of Myrtle R. Manchev, deceased, late of Straban Township, Adams County, Pennsylvania.

MANCHEY—Orphans' Court Action Number OC-50-04. The First and Final Account of John M. Crabbs, Esq., Executor of the Estate of Crane W. Manchev, deceased, late of Straban Township, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

6/4 & 11

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-471 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone in center of public road on line between land now or formerly of James B. Meyer and S.W. Hammers; thence with center of said road Southwest, 52 feet to a stone; thence by land now or formerly of the said James B. Meyers, Southeast 150 feet to a stone on line of land now or formerly of Cornelius Reneicker; thence by land now or formerly of Cornelius Reneicker Northeast 53 feet to a stone; thence by land now or formerly of S.S.W. Hammers, 138 feet to stone, the place of BEGINNING. CONTAINING 28 perches, more or less.

TITLE TO SAID PREMISES IS VESTED IN: BEING the same premises which Allan F. Trostle, Widower by Deed dated January 19, 1973 and recorded January 19, 1973 in Deed Book 304, Page 767 granted and conveyed unto Rondale A. Trostle and Karen S. Trostle, husband and wife, in fee.

Map and Parcel ID: (2) E12-121

Being known as: 690 Knoxlyn Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Rondale A. Trostle a/k/a Rondale Allen Trostle, Karen S. Trostle and The United States of America** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

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 ROBERT F. HARNISCH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Denis Meany, 404 Shealer Road, Gettysburg, PA 17325

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

ESTATE OF LUTHER R. REYNOLDS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Jay L. Knaub, 956 S. Mountain Rd., Dillsburg, PA 17019

Attorney: Jan M. Wiley, Esq., Wiley, Lenox, Colgan & Marzzacco, P.C., 130 W. Church St., Suite 100, Dillsburg, PA 17019

ESTATE OF EILEEN M. TOPPER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Rev. Msgr. Vincent Topper, 4000 Derry Street, Harrisburg, PA 17111-2237; Ann Clingan, 505 Main Street, McSherrystown, PA 17344

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

SECOND PUBLICATION

ESTATE OF GARRETT T. MASON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

John R. Grady, 2483 Mummasburg Road, Gettysburg, PA 17325

Attorney: Thomas R. Nell, Esq., 340 Nell Road, East Berlin, PA 17316

ESTATE OF MIRANDA M. ROHRBAUGH, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Clyde Donald Rohrbaugh, 1497 Clayoma Avenue, York, PA 17404; Mary A. Shaffer, 507 Fulton Street, Hanover, PA 17331

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

THIRD PUBLICATION

ESTATE OF ROBERT E. ACHESON, DEC'D

Late of the Borough of Carroll Valley, Adams County, Pennsylvania

Executor: David R. Acheson, 7 Lakeview Trail, Fairfield, PA 17320

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF MIRIAM M. BECKER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Beverly A. Boone, 605 Harvest Drive, York, PA 17404

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

ESTATE OF KATHRYN E. CLARKIN a/k/a KATHRYN M. CLARKIN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Timothy Bollinger, 300 Table Rock Road, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF JANET L. ECKERT, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Nina M. Scott, 150 Russell Tavern Road, Gettysburg, PA 17325

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

ESTATE OF MARTHA L. FORD, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Jane A. Towers, 893 Stone Jug Road, Biglerville, PA 17307; Jeanne Louise Denny, 610 Mohican Trail, Wilmington, NC 28409

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

ESTATE OF R. GUY LAIN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Kevin A. Lain, 7085 Woodland Drive, Spring Grove, PA 17362

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

ESTATE OF ELIZABETH S. MANUEL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: James A. Manuel, 1401 Brighton Dam Road, Brookeville, MD 20833

Attorney: Catherine J. Gault, Esq., 31 S. Washington Street, Gettysburg, PA 17325-2112

ESTATE OF CHARLES E. ROTHEN-HOEFER, JR., DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executor: George E. Miller, P.O. Box 250, York Springs, PA 17372

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

ESTATE OF LAWRENCE S. SCOTT, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Jane W. Scott, c/o Michael N. Corr, Esq., Barnard, Mezzanotte and Pinnie, 218 West Front Street, Media, PA 19063

Attorney: Michael N. Corr, Esq., Barnard, Mezzanotte and Pinnie, 218 West Front Street, Media, PA 19063

ESTATE OF EARL L. WEAVER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Darlene J. Koonz, 11104 Taneytown Pike, Emmitsburg, MD 21727

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-990 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Parcel No: (17) K-09;8B

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

BEGINNING for a point in the center of a public road leading to Brown's Dam; thence along lands of Criswell South eighty-three and one-half (83-1/2) degrees West, four hundred fifty-seven and five-tenths (457.5) feet to a point; thence along lands of J. I. Myers North twenty-one (21) degrees East, five hundred eighty-two (582) feet to an iron pin; thence along lands of Guy Haverstick North seventy-nine and three-fourth (79-3/4) degrees East, three hundred twenty-six and seven-tenths (326.7) feet to an iron bolt in the center of the aforementioned public road; thence along and through the center of said public road South seven and three-fourth (7-3/4) degrees West, five hundred fifty-one and six-tenths (551.6) feet to an iron bolt, place of BEGINNING. CONTAINING 4 acres, one hundred twelve and fifty-three hundredths (112.53) square perches as per survey of C.A. Wentz, Reg. Surveyor, dated May 7, 1966.

BEING the same premises which Melissa M. Wonder Sneeringer a/k/a Melissa M. Sneeringer, by Deed dated December 12, 2001, and recorded December 21, 2001, in Book 2505, Page 56, granted and conveyed unto Melissa M. Sneeringer and Michael G. Freet, in fee.

SEIZED and taken into execution as the property of **Melissa M. Sneeringer & Michael G. Freet** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-701 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land and premises, situate, lying and being in the Township of Latimore, in the County of Adams and Commonwealth of Pennsylvania, more particularly described as follows:

BEING Lot No. 1205 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 7.

HAVING erected thereon premises known and numbered as R.D. #1, East Berlin, Adams County, Pennsylvania.

TITLE TO SAID PREMISES IS VESTED IN Sandra Lee Shade by Deed from Robert Lee Shade dated 8/26/83 and recorded 9/6/83, in Record Book 370, Page 385.

Tax Parcel: 15 Map #6

Premises being: 241 Lake Meade Drive, East Berlin, PA 17316

SEIZED and taken into execution as the property of **Sandra Lee Shade** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/11, 18 & 25

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 May 5, 2004, pursuant to the Fictitious Name Act, setting forth that Rhoda M. Smallwood, of 292 Seymore Road, Gettysburg, PA 17325, is the only person owning or interested in a business, the character of which is to own and operate a retirement home and that the name, style and designation under which said business is and will be conducted is COUNTRY VIEW ACRES PERSONAL CARE RETIREMENT HOME and the location where said business is and will be conducted is 676 Beaver Creek Road, Hanover, PA 17331.

Guthrie, Nonemaker, Yingst & Hart Solicitor

6/11

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about May 11, 2004 for the purposes of obtaining a Certificate of Incorporation of a proposed corporation organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended. The name of the corporation is ACCLIMATE, INC.

6/11

Adams County Legal Journal

Vol. 46

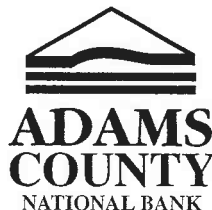
June 18, 2004

No. 4, pp. 18-22

IN THIS ISSUE

COMMONWEALTH VS. PAULES

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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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-286 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate in Hamiltonban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin in the center of Township Road T-300, known as Mount Hope Road; thence in the center of said road, North 28 degrees 11 minutes 00 seconds East, 20.22 feet to a nail in the center of said road; thence through the original tract of Luke J. Clapsadl and running through a reference iron pin 40 feet from the beginning of this course, South 70 degrees 20 minutes 30 seconds East, 412.55 feet to an iron pin; thence continuing through the same, North 24 degrees 19 minutes 35 seconds East, 158.71 feet to an iron pin on line of land now or formerly of William Miller; thence along said Miller land, South 68 degrees 40 minutes 00 seconds East, 201 feet to an iron pin located approximately 30 feet from land now or formerly of the Glatfelter Pulpwood Company; thence running in a line parallel with and approximately 30 feet West of land now or formerly of the Glatfelter Pulpwood Company, South 24 degrees 19 minutes 35 seconds West, 172.88 feet to an iron pin; thence along line of land now or formerly of Charles F. Clapsadl, North 70 degrees 20 minutes 30 seconds West, 615.31 feet to the above described place of BEGINNING CONTAINING 1 acre.

BEING the same premises which Robert E. Burrall, by Deed dated July 28, 1986, and recorded July 30, 1986, in the Recorder's Office in and for Adams, Pennsylvania in Deed Book Volume 432, Page 0437, granted and conveyed unto Ellis R. Emory and Denise M. Emory, husband and wife, the mortgagors herein.

SEIZED and taken into execution as the property of **Ellis R. Emory & Denise M. Emory** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-219 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain parcel of land lying and situate in Liberty Township, Adams County, Pennsylvania, being Lot No. 37 in Section AA, more particularly bounded and described as follows:

BEGINNING at a point in the center of Rist Trail at Lot No. 36; thence by said lot, South 68 degrees 13 minutes 46 seconds East, 225 feet to Lot No. 19; thence by said lot and by Lot No. 18, South 21 degrees 46 minutes 14 seconds West, 100 feet to Lot No. 38; thence by said lot, North 68 degrees 13 minutes 46 seconds West, 225 feet to a point in the center of said Rist Trail; thence in said Rist Trail, North 21 degrees 46 minutes 14 seconds East, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section AA, Charnita", dated October 21, 1969, prepared by Evans, Hagan & Holdefer and recorded in Adams County Plat Book 1 at page 59.

BEING the same premises which Terry L. Stern and Rachel E. Stern, specially constituted by her Attorney-in-Fact, Terry L. Stern, husband and wife, by their deed

December 4, 2002 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2616 at page 58, and as corrected by deed of correction dated January 3, 2003 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 2936 at page 81, sold and conveyed unto Allen W. Beckett, trading and doing business as Allen Beckett Construction, the Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Edward G. Kuhn, III and Brandi L. Kuhn, his wife by Deed from Allen W. Beckett, trading and d/b/a Allen Beckett Construction dated 6/5/2003 and recorded 6/6/2003 in Record Book 3137 Page 322.

Premises being: 33 Rist Trail, Fairfield, PA 17320

Tax Parcel No. 37 Map AA

SEIZED and taken into execution as the property of **Edward G. Kuhn, III & Brandi Lynn Kuhn** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 26, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

COMMONWEALTH VS. PAULES

1. In certain circumstances, substantive due process guarantees an individual the right to have his arrest record expunged. This right to petition for expungement is “an adjunct to due process and is not dependent upon express statutory authority.” Nevertheless, the right to petition for expungement is not available where the defendant is found guilty of the crime for which he seeks expungement.

2. There is a distinction between situations where the charges have and have not resulted in conviction. In cases where the charges have resulted in conviction, Section (b) of the Criminal History Information Act applies. However, where a suspect was charged but not convicted, courts are to apply a balancing test such as that outlined in *Commonwealth vs. Wexler*.

3. Rehabilitation cannot be considered in determining whether an individual is entitled to expungement.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-152-81, COMMONWEALTH VS. WILLIAM F. PAULES, JR.

Kuhn, P.J., June 20, 2003

OPINION ON DEFENDANT’S MOTION FOR EXPUNGEMENT OF RECORD

Before this Court is Defendant’s Motion for Expungement of Record filed November 13, 2002. Defendant seeks expungement under the due process clause and the Criminal History Record Information Act, 18 Pa.C.S.A. § 9122. For the reasons set forth herein, Defendant’s Motion is granted in part and denied in part.

Background

On April 26, 1981, Defendant was charged with the crimes of Recklessly Endangering Another Person, 18 Pa.C.S.A. § 2705, Terroristic Threats, 18 Pa.C.S.A. § 2706, and Harassment by Communication, 18 Pa.C.S.A. § 5504¹. Defendant entered a plea of not guilty to all counts on July 15, 1981. Trial was held on October 1, 1981. At the conclusion of the Commonwealth’s case, Defendant’s Demurrer to the charge of Harassment by Communication was granted. The jury returned a verdict of not guilty on the charge of Recklessly Endangering Another Person, and guilty on the charge of Terroristic Threats.

¹ 18 Pa.C.S.A. § 5504 was repealed by 2002, Dec. 9, P.L. 1759, No. 218 § 4. Section 10 of 2002, Dec. 9, P.L. 1759, No. 218 provides in part: “... any reference in any act or part of an act to 18 Pa.C.S. § 5504 without specification as to subsection (a) or (a.1) of that section shall be deemed a reference to 18 Pa.C.S. §§ 2709(a)(4), (5), (6) and (7) and 2709.1 as if fully set forth in that act or part of that act.”

Defendant states the following in his Motion for Expungement: 1) that he has paid all fines and costs and has completed his probation in connection with these charges; 2) that he is currently 62 years of age and has had no involvement with the criminal justice system prior to or subsequent to the above-referenced charges; 3) that he is now self-employed and has a notary business; 4) that he is attempting to renew a license to carry firearms permit; 5) that his application for renewal was denied based on his 1981 conviction for Terroristic Threats because this conviction precludes issuance of a license to carry pursuant to 18 Pa.C.S.A. § 6109(e).

The Commonwealth opposes Defendant's Motion for Expungement.

Discussion

The Criminal History Record Information Act, 18 Pa.C.S.A. § 9122, provides that expungement may occur only where 1) the subject of the information reaches the age of seventy and has been free from arrest or prosecution for ten years or 2) where the individual has been dead for three years. Defendant is sixty-two years of age at this time, and therefore does not meet either of the requirements which would entitle him to expungement pursuant to § 9122.

The Pennsylvania Supreme Court has held that, in certain circumstances, substantive due process guarantees an individual the right to have his arrest record expunged. See *Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981). This right to petition for expungement is "an adjunct to due process and is not dependent upon express statutory authority." *Commonwealth v. Armstrong*, 434 A.2d 1205, 1206 (Pa. 1981). Nevertheless, it appears that the right to petition for expungement is not available where the defendant is found guilty of the crime for which he seeks expungement.

The *Wexler* Court established several factors to be used in determining whether "justice requires expungement." *Wexler*, 431 A.2d at 879. In each particular case, the Court must balance "the individual's right to be free from the harm attendant to maintenance of the arrest record against the Commonwealth's interest in preserving such records." *Id.* Since *Wexler*, however, Pennsylvania courts have indicated that this balancing test is applicable only in cases that were terminated without conviction. For example, the Supreme Court stated in *Commonwealth v. D.M.*, 695 A.2d 770, 772 (1997):

We reiterate the authority of *Wexler* and the balancing test approved therein as the means of deciding petitions to expunge the records of all arrests which are *terminated without convictions except in cases of acquittals*. (emphasis added)

Furthermore, the Superior Court stated in *Commonwealth v. Wolfe*, 749 A.2d 507, 508 (2000), that there is a distinction between situations where the charges have and have not resulted in conviction. In cases where the charges have resulted in conviction, Section (b) of the Criminal History Record Information Act, cited above, applies. However, where a suspect was charged but not convicted, courts are to apply a balancing test such as that outlined in *Wexler*. *Wolfe*, 749 A.2d at 508. See also *Commonwealth v. Lutz*, 788 A.2d 993, 999 (Pa.Super. 2001) where the Court stated: “[p]revailing law dictates that a petitioner is entitled to expungement of the arrest record upon acquittal or, in the alternative, a *Wexler* hearing on charges that have been either withdrawn or nolle prossed.”

The courts seem to reason that those who were convicted or who plead guilty have not been denied due process and are therefore not entitled to expungement:

Punishment of the innocent is the clearest denial of life, liberty, and property without due process of law. To remedy such a situation, an individual must be afforded a hearing to present his claim that he is entitled to an expungement — that is, because an innocent individual has a right to be free from unwarranted punishment, a court has the authority to remedy the denial of that right by ordering expungement of the arrest record.

Commonwealth v. Maxwell, 737 A.2d 1243, 1245 (Pa.Super. 1999).

In fact, the Superior Court specifically stated in *Commonwealth v. Magdon*, 456 A.2d 194, 196 (1983):

This due process right to be heard is not abridged by denying an expungement hearing to one *actually convicted* of a crime because the conviction itself is based upon a hearing in which the accused was adjudged guilty beyond a reasonable doubt, or upon a plea of guilty which waives many of the formalities of such a hearing.

The courts consistently note that there are cases in which special legislative policies exist to provide for expungement of records after completion of specific programs. See *Commonwealth v. Cook*, 518 A.2d 858, 860 (Pa.Super. 1986). For example, one who completes the A.R.D. program may be entitled to have his record expunged. See *Armstrong*, 434 A.2d 1205, and *Commonwealth v. Briley*, 420 A.2d 582 (Pa.Super. 1980).

The courts have also made it clear, however, that, outside of these specific areas of law, rehabilitation cannot be considered in determining whether an individual is entitled to expungement. See *Magdon*, 518 A.2d at 196 where the Court commended appellant for his post-conviction accomplishments but nevertheless held that Magdon's due process rights had not been violated, and no special legislative policy existed which would entitle him to expungement.

On at least one occasion, the Superior Court addressed the possibility of extending the legislative policy exception to permit expungement of a summary offense where the defendant could have pled guilty to a more serious charge and entered the A.R.D. program, in which case, she would have been entitled to expungement. See *Wolfe*, 749 A.2d 507. In *Wolfe*, the defendant was charged with two second degree misdemeanors and a summary offense. The two misdemeanors were ultimately withdrawn, and Wolfe pled nolo contendere to the summary offense. The lower court expunged both the conviction and non-conviction records, reasoning that, in the interest of justice, a second judicial exception should be created to permit expungement in this situation. The Superior Court reversed the lower court's expungement of the conviction records, stating: "we are aware of no authority which permits a judge in this situation to exercise equitable powers or the inherent powers of the court to extend a statutory provision beyond its explicit limits." *Id.* at 509.

I recognize that Defendant has completed his probation and has had no subsequent involvement with the criminal justice system; nevertheless, it appears that neither the due process clause nor the Criminal History Record Information Act entitle him to expungement because he was in fact convicted of the Terroristic Threats charge. However, because Defendant was found not guilty of Recklessly Endangering Another Person, he is entitled to expungement of that charge. Furthermore, in granting the demurrer with

regard to the Harassment charge, the presiding judge determined that the evidence presented was legally insufficient to even present the case to a jury. This ruling is tantamount to acquittal, and Defendant is therefore entitled to expungement of the Harassment charge.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 20th day of June, 2003, in accordance with the attached Opinion, Defendant's Motion for Expungement of Record, filed November 13, 2002, is granted in part and denied in part. Defendant's Motion for Expungement is granted with respect to the charges of Recklessly Endangering Another Person and Harassment by Communication. Defendant's Motion for Expungement is denied with respect to the charge of Terroristic Threats.

Defendant is advised that he has a right to file an appeal from this Order within 30 days of the date hereof by filing, with the Adams County Clerk of Courts, a Notice of Appeal, addressed to the Superior Court of Pennsylvania.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-131 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a p.k. nail in the center of Rupp Road, T-564, at lands of John D. Frazier, Ruth I. Frazier and Paul E. Frazier; thence crossing Rupp Road, T-564, and by lands of John D. Frazier, Ruth I. Frazier and Paul E. Frazier and through an iron pin in concrete set along the line 91.41 feet from the beginning hereof, North 63 degrees 58 minutes 11 seconds West, 275.22 feet to an iron pin; thence continuing by lands of John D. Frazier, Ruth I. Frazier and Paul E. Frazier, North 25 degrees 47 minutes 28 seconds East, 200 feet to an iron pin; thence by lands of Darryl D. Davis and Kristin E. Davis and through a steel pin set back 25 feet from the end hereof, South 63 degrees 58 minutes 11 seconds East, 275.22 feet to a point in the center line of Rupp Road T-564; thence in the center line of Rupp Road, T-564, South 25 degrees 47 minutes 28 seconds West, 200 feet to a p.k. nail in the center of Rupp Road T-564, the point and place of BEGINNING.

The foregoing description was taken from subdivision plans duly recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Plat Book 34 at Page 122, Plat Book 43 at Page 53A and Plat Book 49 at Page 58.

UNDER AND SUBJECT, NEVERTHELESS, to conditions and restrictions set forth in the deed recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 381 at Page 858, which conditions and restrictions are incorporated herein by reference, and which conditions and restrictions are covenants running with the land, and in any deed or conveyance of said premises or any part thereof, to any person or persons said restrictions and conditions shall be incorporated by reference therein to the deed referred to herein and the record thereof, or as fully as through the same are contained therein.

Being known as 370 Rupp Road, Gettysburg, (Tyrone Twp.), PA 17325

Property ID No.: H6-123

TITLE TO SAID PREMISES IS VESTED IN Byron J. Orndorff and Lisa I.

Orndorff, husband and wife, as tenants of an estate by the entireties by deed from Jacob L. Wilt and Donna J. Wilt, husband and wife, dated 3/5/99, recorded 3/11/99, in Deed Book 1784, Page 134.

SEIZED and taken into execution as the property of **Bryon J. Orndorff & Lisa I. Orndorff** and to be sold by me,

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-139 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron stake on the North side of the public road aforesaid at land now or formerly of George Wolf; thence by the same, North 29 degrees West, 49.5 feet to an iron pin at lands now or formerly of Emory Laughmen; thence by the same, North 60 degrees 27 minutes East, 244 feet to an iron pin near a walnut tree at the other land now or formerly of Charles H. Bittinger; thence by the same, South 37 degrees East, 67 feet to an iron pin at the public road, aforesaid; thence by the same, South 54 degrees 45 minutes West, 260 feet to an iron pin, the place of BEGINNING.

EXCEPTING AND RESERVING, however unto C.H. Bittinger, his heirs and assigns the perpetual right-of-way and privilege irrevocably, in, over and under

the lot hereby conveyed for the purpose of maintaining, operating and replacing the water pipe line which now exists and extends upon the lot of ground hereby conveyed. This conveyance does not include or intend to include any water right or privilege to obtain water from the pipe line of C.H. Bittinger, as now existing over the lot of ground hereby conveyed.

BEING the same premises which Russel D. Langkam and George T. Langkam, by Deed dated March 31, 2000 and recorded in the Office of the Recorder of Deeds of Philadelphia County on April 24, 2000, in Deed Book 2035, Page 191, granted and conveyed unto Russel D. Langkam and George T. Langkam.

Grenen & Birsic, P.C.
By: /s/Kristine M. Anthon, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: (04)L12-57

SEIZED and taken into execution as the property of **James Bigelow, Sr. & Teresa Wallis** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/18, 25 & 7/2

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Pennsylvania Department of State on May 17, 2004 for ENGLISH GARDEN PRODUCTS, INC. in accordance with the provisions of the Pennsylvania Business Corporation Law.

Duane Morris LLP
Solicitors
305 North Front Street, 5th Floor
P.O. Box 1003
Harrisburg, PA 17108-1003

6/18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-990 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Parcel No: (17) K-09;8B

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

BEGINNING for a point in the center of a public road leading to Brown's Dam; thence along lands of Criswell South eighty-three and one-half (83-1/2) degrees West, four hundred fifty-seven and five-tenths (457.5) feet to a point; thence along lands of J. I. Myers North twenty-one (21) degrees East, five hundred eighty-two (582) feet to an iron pin; thence along lands of Guy Haverstick North seventy-nine and three-fourth (79-3/4) degrees East, three hundred twenty-six and seven-tenths (326.7) feet to an iron bolt in the center of the aforementioned public road; thence along and through the center of said public road South seven and three-fourth (7-3/4) degrees West, five hundred fifty-one and six-tenths (551.6) feet to an iron bolt, place of BEGINNING. CONTAINING 4 acres, one hundred twelve and fifty-three hundredths (112.53) square perches as per survey of C.A. Wentz, Reg. Surveyor, dated May 7, 1966.

BEING the same premises which Melissa M. Wonder Sneeringer a/k/a Melissa M. Sneeringer, by Deed dated December 12, 2001, and recorded December 21, 2001, in Book 2505, Page 56, granted and conveyed unto Melissa M. Sneeringer and Michael G. Freet, in fee.

SEIZED and taken into execution as the property of **Melissa M. Sneeringer & Michael G. Freet** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

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

6/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-701 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land and premises, situate, lying and being in the Township of Latimore, in the County of Adams and Commonwealth of Pennsylvania, more particularly described as follows:

BEING Lot No. 1205 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 7.

HAVING erected thereon premises known and numbered as R.D. #1, East Berlin, Adams County, Pennsylvania.

TITLE TO SAID PREMISES IS VESTED IN Sandra Lee Shade by Deed from Robert Lee Shade dated 8/26/83 and recorded 9/6/83, in Record Book 370, Page 385.

Tax Parcel: 15 Map #6

Premises being: 241 Lake Meade Drive, East Berlin, PA 17316

SEIZED and taken into execution as the property of **Sandra Lee Shade** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-471 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a stone in center of public road on line between land now or formerly of James B. Meyer and S.W. Hammers; thence with center of said road Southwest, 52 feet to a stone; thence by land now or formerly of the said James B. Meyers, Southeast 150 feet to a stone on line of land now or formerly of Cornelius Reneicker; thence by land now or formerly of Cornelius Reneicker Northeast 53 feet to a stone; thence by land now or formerly of S.S.W. Hammers, 138 feet to stone, the place of BEGINNING. CONTAINING 28 perches, more or less.

TITLE TO SAID PREMISES IS VESTED IN: BEING the same premises which Allan F. Trostle, Widower by Deed dated January 19, 1973 and recorded January 19, 1973 in Deed Book 304, Page 767 granted and conveyed unto Rondale A. Trostle and Karen S. Trostle, husband and wife, in fee.

Map and Parcel ID: (2) E12-121

Being known as: 690 Knoxlyn Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Rondale A. Trostle a/k/a Rondale Allen Trostle, Karen S. Trostle and The United States of America** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/4, 11 & 18

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 HORACE W. BAKER, DEC'D

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

Executor: Esther R. Baker, c/o 106 Harrisburg Street, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 106 Harrisburg Street, East Berlin, PA 17316

ESTATE OF ELLA A. BECKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Charles A. Becker, 2252 Bob White Lane, Lancaster, PA 17601; Richard D. Becker, 4073 Grandview Drive, Hanover, PA 17331

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

ESTATE OF ROBERT K. FAIR, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Larry D. Fair, 2747 Meadow Drive, Gettysburg, PA 17325

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

ESTATE OF HELEN J. LUQUETTE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Kenneth G. Luquette, 314 Lyn Wood Drive, Severna Park, MD 21146; Mary J. Kime, 250 Orchard Lane, Aspers, PA 17304

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

ESTATE OF WALTER G. SUMMERS a/k/a WALTER GERALD SUMMERS, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrator: Sheila F. Summers, 522 Third Street, Hanover, PA 17331

Attorney: Scott J. Strausbaugh, Esq., Arthur J. Becker, Jr., P.C., 544 Carlisle Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF ROBERT F. HARNISCH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Denis Meany, 404 Shealer Road, Gettysburg, PA 17325

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

ESTATE OF LUTHER R. REYNOLDS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Jay L. Knaub, 956 S. Mountain Rd., Dillsburg, PA 17019

Attorney: Jan M. Wiley, Esq., Wiley, Lenox, Colgan & Marzzacco, P.C., 130 W. Church St., Suite 100, Dillsburg, PA 17019

ESTATE OF EILEEN M. TOPPER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Rev. Msgr. Vincent Topper, 4000 Derry Street, Harrisburg, PA 17111-2237; Ann Clingan, 505 Main Street, McSherrystown, PA 17344

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

THIRD PUBLICATION

ESTATE OF GARRETT T. MASON, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

John R. Grady, 2483 Mummasburg Road, Gettysburg, PA 17325

Attorney: Thomas R. Nell, Esq., 340 Nell Road, East Berlin, PA 17316

ESTATE OF MIRANDA M. ROHR-BAUGH, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executors: Clyde Donald Rohrbaugh, 1497 Clayoma Avenue, York, PA 17404; Mary A. Shaffer, 507 Fulton Street, Hanover, PA 17331

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-176 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground, together with the improvements thereon erected, situate, lying and being in the Borough of McSherystown, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the Northern side of North Street at the Southwestern corner of lot now or formerly of Thomas B. Redding, designated as 53 North Street; thence along the Northern side of North Street, South sixty-six (66) degrees West, seventy (70) feet to a point on the Northern side of North Street, thence by lands now or formerly of Lewis S. Smith and Alma C. Smith, husband and wife, North twenty-four (24) degrees West, one hundred twenty-five and no one-hundredths (125.00) feet; thence by lands of same, North sixty-six (66) degrees East, seventy-three and forty-six one hundredths (73.46) feet; thence by said lot now or formerly of Thomas D. Redding, South twenty-two (22) degrees twenty-five (25) minutes East, one hundred twenty-five and five one-hundredths (125.05) feet to the point on the North side of North Street, the place of BEGINNING. CONTAINING 0.206 acres. Known as 49 North Street.

The above description is taken from a draft made by Joe B. O'Brien, Registered Surveyor, on April 18, 1969.

BEING Tax Map 2, Parcel 213.

BEING the same premises which George D. Hartman and Mary H. Hartman, husband and wife, by Deed dated December 29, 1989 and recorded in the Office of the Recorder of Deeds in and for Adams County in Deed Book 543, Page 484, granted and conveyed unto Robert W. Myers and Eva F. Myers, husband and wife.

SEIZED and taken into execution as the property of **Robert W. Myers & Eva F. Myers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/18, 25 & 7/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-174 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Bonneauville Borough, Adams County, Pennsylvania, and more specifically described as follows, to wit:

LOT 22: BEGINNING at a point at the only common corner of Lots 22, 23 and Southwestern edge of White Birch Drive on the plan described below; thence along Northwestern edge of Lot 23, South 39 degrees 12 minutes 38 seconds West, 110.00 feet to a point at lands now or formerly of James A. Orndorff; thence along the Northeastern edge of said lands, North 50 degrees 47 minutes 22 seconds West, 75.00 feet to a point at the corner of Lot 21 of said plan; thence along the Southeastern edge of Lot 21, North 39 degrees 12 minutes 38 seconds East, 110.00 feet to a point on the Southwestern edge of White Birch Drive; thence along said Drive, South 50 degrees 47 minutes 22 seconds East, 75.00 feet to a point at the corner of Lot 23 of said plan, the point and place of BEGINNING.

CONTAINING 8,250 square feet.

THE above description, being known as Lot 22, was taken from a plan of lots entitled "Final Plan Section Two - Hickory Ridge", prepared by Worley Surveying dated November 11, 1992 and revised August 24, 1993, File No. C-1264, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 64, Page 70, on April 21, 1994.

TITLE TO SAID PREMISES IS VESTED IN Michael H. Meyer and Elizabeth L. Meyer, his wife by Deed from James A. Orndorff and Brenda G. Orndorff, his wife dated 11/14/1995 and recorded 11/20/1995 in Record Book 1110 Page 245.

Tax Parcel: 10-23

Premises Being: 15 White Birch Drive, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Michael H. Meyer &**

Elizabeth L. Meyer and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 23, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/18, 25 & 7/2

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on April 27, 2004, pursuant to the Fictitious Name Act, setting forth that Steven R. Quinley is the only individual interested in a business, the character of which is information technology sales and consulting, that the designation under which the business is and will be conducted is IT MAX and that the location where said business is and will be conducted is 139 Baltimore Street, Gettysburg, PA 17325.

Gary E. Hartman
Solicitor

6/18

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately 5/23/04, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of DEL SOL LATINOS AND INTERNATIONAL FOOD WHOLE-SALER, with its principal place of business at 222 W. Golden Ln., New Oxford, PA 17350. The names and addresses of the persons owning or interested in said business are Francisco Arriaga, residing at 7110 Allison St., Hyattsville, MD 20784. The character or nature of the business is Latinos and International Groceries Distribution.

6/18

Adams County Legal Journal

Vol. 46

June 25, 2004

No. 5, pp. 23-29

LEGAL NOTICE

NOTICE of the below-captioned eminent domain proceedings is hereby given to the heirs, personal representatives, successors and assigns of Peter Little, deceased, as follows:

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 04-S-616

EMINENT DOMAIN
PROCEEDINGS IN REM

IN RE: Condemnation by the Borough of Littlestown, Adams County, Pennsylvania, of a fee simple interest in and absolute title to the improved real property of Queen Street, LLLP, located at and known as 10 South Queen Street, Littlestown, Adams County, Pennsylvania, and the adjoining improved real property of the heirs, successors and/or assigns of Peter Little, deceased, located at the same aforementioned address and known as an open court and paved alleyway, as and for public works and facilities of the said borough

NOTICE TO CONDEMNNEES

NOTICE IS HEREBY GIVEN, pursuant to and in accordance with Article IV, Section 405, of the Eminent Domain Code, Act of June 22, 1964, P.L. 84, [26 P. S. §1-405.], as amended, to the Condemnees in the above-captioned eminent domain proceedings, Queen Street, LLLP, as follows:

1. On the 15th day of June, 2004, at 2:54 p.m., prevailing time, a **Declaration of Taking** (a true and correct copy of which is attached hereto and incorporated herein by reference) was duly filed in the Office of the Prothonotary of the Court of Common Pleas of Adams County, Pennsylvania, docketed to No. 04-S-616.

2. The Condemnees, the record owners of the subject improved real properties, are:

(a) As to the above-captioned 10 South Queen Street, Littlestown, Adams County, Pennsylvania improved real property: Queen Street, LLLP, a Maryland limited liability limited partnership, with a mailing address of c/o

Mr. Howard P. Sugarman, 1 Corporation Center, 10451 Mill Run Circle, Suite 400, Owings Mills, Maryland 21117; and

(b) As to the above-captioned Open Court and Alleyway: the heirs, successors and/or assigns of Peter Little, deceased, the identity(ies), whereabouts and/or address(es) of whom, after diligent inquiry, are unknown.

3. The Condemnor is the Borough of Littlestown, Adams County, Pennsylvania (the "Borough"), a duly incorporated political subdivision and municipal corporation of the Commonwealth of Pennsylvania, acting by and through its duly elected or appointed and incumbent governing body, the Littlestown Borough Council. The address of the Condemnor is: Littlestown Borough Office, 46 East King Street, Littlestown, Adams County, Pennsylvania 17340.

4. The present condemnation is authorized, and the Borough, as Condemnor, has the delegated power to effect the present condemnation, by virtue of the provisions of the Borough Code, Act of February 1, 1966, P.L. (1965) —, No. 581, §§1501., *et seq.*, and §§2501., *et seq.* [53 P.S. §§46501., *et seq.*, and 53 P.S. §§47501., *et seq.*], as amended.

5. As authorized by law, the Borough, by the Littlestown Borough Council, at a duly convened and advertised public meeting of the said Borough Council on May 25, 2004, by Ordinance No. 579 of 2004, which Ordinance was duly enacted, adopted and ordained in accordance with law after proper public notice and advertising, authorized, directed and effected the present condemnation of the improved real properties taken herein for the public purposes of the Borough hereinafter stated. Said Ordinance No. 579 of 2004 is open for public inspection in and at the Littlestown Borough Office, 46 East King Street, Littlestown, Adams County, Pennsylvania 17340, at any time during regular business hours (Monday - Friday, 8:00 a.m. - 5:00 p.m.), and may be found in the Borough of Littlestown Ordinance Book.

6. The purpose of the present condemnation is to acquire a fee simple absolute title and ownership of the Condemnees' subject improved real

properties for the public purposes of the said Borough for the construction and maintenance of utility and transportation improvements associated with the said Borough's Square Improvement Project, and related improvements, facilities and appurtenances, as well as other public facilities of the said Borough, including, without limitation, use as and for a public building, public parking and public works.

7. The Condemnees' respective improved real properties have been condemned, which are identified as follows:

(a) As to the above-captioned 10 South Queen Street, Littlestown, Adams County, Pennsylvania improved real property, the present record owner of which is Queen Street, LLLP, a Maryland limited liability limited partnership, with a mailing address of c/o Mr. Howard P. Sugarman, 1 Corporation Center, 10451 Mill Run Circle, Suite 400, Owings Mills, Maryland 21117, and the present deed to which is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2103 at Page 0005, and as depicted in and upon that certain Boundary Survey, dated July 19, 2000, by Adams County Surveyors (which Boundary Survey is attached hereto as **Exhibit "A"** and incorporated herein by reference, and also recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2103 at Page 0009); the aforementioned Deed, dated August 3, 2000, containing the specific legal description of the subject improved real property, is attached hereto and incorporated herein by reference as **Exhibit "B"**; and

(b) As to the above-captioned Open Court and Alleyway: believed to be owned by the heirs, successors and/or assigns of Peter Little, deceased, the identity(ies), whereabouts and/or address(es) of whom, after diligent inquiry, are unknown, and believed to constitute part of Adams County Patent Book AA, Volume 1, Page 80 [the deed(s) thereto being unrecorded, and the whereabouts of which is/are, after diligent inquiry, unknown], as also depicted in and upon that certain Boundary Survey, dated July 19, 2000, by Adams County Surveyors (which Boundary Survey is

(continued on page 8)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-132 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a pipe along land of Greenmount Cemetery at the Northwestern corner of the lot designated as Lot No. 4 on the plan of lots referred to below; thence by land of the Greenmount Cemetery, North 6 degrees 16 minutes West 102.61 feet to a pipe; thence by the lot designated as Lot No. 2 on the plan of lots referred to below North 70 degrees 46 minutes 20 seconds East 151.40 feet to a pipe; thence along a 50 foot wide private road known as Apple Lane South 19 degrees 13 minutes 40 seconds East 100 feet to a pipe; thence by other land of Elliott E. Schlosser and wife designated as Lot No. 4 on the plan of lots referred to below South 70 degrees 46 minutes 20 seconds West 174.41 feet to a pipe, the place of BEGINNING.

CONTAINING 16,290 Square Feet.

THE above description was taken from a plan of lots prepared by J. Riley Redding, Registered Surveyor, trading as Adams County Surveyors, dated October 17, 1977, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 19 at Page 17. The lot hereby conveyed being designated as Lot No. 3 on said plan of lots.

TITLE TO SAID PREMISES IS VESTED IN Thad B. Trostel and Donna F. Trostel, his wife by Deed from Jeffrey L. Newman and Constance A. Newman, his wife dated 2/28/1997 and recorded 3/4/1997 in Record Book 1336 Page 26.

Premises being: 32 Apple Lane, Arendtsville, PA 17303

Tax Parcel No. 110, Map #6

SEIZED and taken into execution as the property of **Thad B. Trostel a/k/a**

Thad B. Trostel & Donna F. Trostel a/k/a Donna F. Fair and to be sold by me,

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 23, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/25, 7/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-139 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at an iron stake on the North side of the public road aforesaid at land now or formerly of George Wolf; thence by the same, North 29 degrees West, 49.5 feet to an iron pin at lands now or formerly of Emory Laughmen; thence by the same, North 60 degrees 27 minutes East, 244 feet to an iron pin near a walnut tree at the other land now or formerly of Charles H. Bittinger; thence by the same, South 37 degrees East, 67 feet to an iron pin at the public road, aforesaid; thence by the same, South 54 degrees 45 minutes West, 260 feet to an iron pin, the place of BEGINNING.

EXCEPTING AND RESERVING, however unto C.H. Bittinger, his heirs and assigns the perpetual right-of-way and privileged irrevocably, in, over and under the lot hereby conveyed for the purpose of maintaining, operating and replacing the water pipe line which now exists and extends upon the lot of ground hereby conveyed. This conveyance does not include or intend to include any water right or privilege to obtain water from the pipe line of C.H. Bittinger, as now existing over the lot of ground hereby conveyed.

BEING the same premises which Russel D. Langkam and George T. Langkam, by Deed dated March 31, 2000 and recorded in the Office of the Recorder of Deeds of Philadelphia County on April 24, 2000, in Deed Book 2035, Page 191, granted and conveyed unto Russell D. Langkam and George T. Langkam.

Grenen & Birsic, P.C.
By: /s/Kristine M. Anthon, Esq.
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: (04)JL12-57

SEIZED and taken into execution as the property of **James Bigelow, Sr. & Teresa Wallis** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/18, 25 & 7/2

KING VS. DELAVAL ET AL

1. Although a number of courts have permitted affirmative defenses to be raised as preliminary objections notwithstanding Rule 1030, in those instances, the affirmative defense must be clearly applicable on the face of the complaint; or where the opposing party fails to object to the procedural defect.

2. Where a party objects to the procedural defect in raising affirmative defenses as preliminary objections, the rules of procedure should be followed and the improper preliminary objections dismissed.

3. Valid exculpatory clauses are enforceable under the law of this Commonwealth.

4. The Commonwealth Court defined an affirmative defense to be one that “raises new facts and arguments that, if true, will defeat a plaintiff’s claim, even if all allegations contained in the complaint are true.”

5. In order for an exculpatory clause to be valid, three conditions must be met: First, the clause must not contravene public policy. Secondly, the contract must be between persons relating entirely to their own private affairs, and, thirdly, each party must be a free bargaining agent to the agreement so that the contract is not one of adhesion.

6. A plaintiff is not required to anticipate affirmative defenses when they initially file a complaint.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 03-S-268, JEFFREY KING VS. DELAVAL AND WITMER IMPLEMENT SERVICE, INC.

Alexander H. Lindsay, Esq., and Paul A. Barkus, Esq., for Plaintiff
James G. Nealon, Esq., for Defendant DeLaval
Donald M. Desseyne, Esq., for Defendant Witmer
George, J., June 26, 2003

OPINION

On March 10, 2003, the Plaintiff, Jeffrey King (hereinafter referred to as “King”), filed a civil complaint against Defendants DeLaval and Witmer Implement Service, Inc. (hereinafter referred to as “Witmer”) concerning damages King alleges to have incurred as a result of his purchase of a milking parlor and its subsequent installation. King alleges that in June of 1998 he was interested in installing a new milking parlor at his dairy farm located in Gardners, Adams County, Pennsylvania. He claims to have read promotional material provided by Witmer and DeLaval that included representations concerning the quality of DeLaval equipment. He claims that these representations persuaded him to enter a purchase agreement for the purchase of \$63,508 worth of DeLaval equipment. King claims to have paid Witmer an additional \$25,700 to install the new milking parlor.

Pursuant to the agreements, construction of the milking parlor began on March 8, 1999, and was completed on or about April 20, 1999. Unfortunately, King claims that rather than increasing the quality and quantity of his milk production, installation of the milking parlor was followed by a significant deterioration of all milk quality indicators. Additionally, severe clinical cases of mastitis appeared throughout his dairy herd.¹ Over the next twenty-nine (29) months, King conducted numerous tests to determine the cause of the significant increase of mastitis among his dairy herd. Finally, on September 24, 2001, an employee of Witmer discovered that the take-off retract and milk vacuum air valves in the milking parlor were hooked up backwards. This apparently had the unintended result of the teat cups being pulled off the teat of the cattle under full suction rather than gently dropping off after the flow of milk has ceased.

King currently seeks recoupment for damages, *inter alia*, due to decreased milk production; milk loss due to its pollution by the cattle's use of antibiotics for treatment; veterinarian costs; and loss of past and future profits. King raises the following theories in support of his claim for damages:

- a) breach of an implied warranty of merchantability pursuant to Section 2-314 of the Uniform Commercial Code (13 PA. CON. STAT. ANN. § 2314 (West 1999));
- b) breach of implied warranty, fitness for a particular purpose pursuant to Section 2-315 of the Uniform Commercial Code (13 PA. CON. STAT. ANN. § 2315 (West 1999));
- c) breach of contract;
- d) special liability of seller pursuant to Restatement Second of Torts § 402A;
- e) negligence; and
- f) fraud.

Witmer has filed Preliminary Objections to King's Complaint which includes Preliminary Objections in the nature of a demurrer to each count claiming that the allegations in King's Complaint are legally insufficient to support a cause of action. In support of this argument, Witmer references the language in the purchase agreement that contains

¹Mastitis is a bacterial infection that infects the teats of dairy cows resulting in decreased milk production and, possibly, the death of the cow. <www.encyclopedia.com>.

an exculpatory clause which Witmer claims bars King's causes of actions. In response, King has filed Preliminary Objections to Witmer's Preliminary Objections claiming that issues concerning the exculpatory clause are affirmative defenses which have been improperly raised by preliminary objection.² For the reasons set forth below, King's Preliminary Objections to Witmer's Preliminary Objections are granted.

PA. R. CIV. P. 1030 requires that all affirmative defenses be pleaded in a responsive pleading under the heading "New Matter". Although a number of courts have permitted affirmative defenses to be raised as preliminary objections notwithstanding Rule 1030, in those instances, the affirmative defense must be clearly applicable on the face of the complaint; *see generally Dorsch by Dorsch v. Butler Area Sch. Dist.*, 525 A.2d 17, 19 (Pa. Commw. Ct. 1987) or where the opposing party fails to object to the procedural defect. *Tiedeman v. City of Philadelphia*, 732 A.2d 696 (Pa. Commw. Ct. 1999). Most recently, the Commonwealth Court opined that where a party objects to the procedural defect in raising affirmative defenses as preliminary objections, the rules of procedure should be followed and the improper preliminary objections dismissed. *See Jacobs v. Merrymead Farm, Inc.*, 799 A.2d 980, 983-84 (Pa. Commw. Ct. 2002). The reasoning of the *Jacobs* court is particularly applicable to the current circumstances. The *Jacobs* Court concluded:

Permitting affirmative defenses to be raised by preliminary objections occasionally permits expeditious resolution of a dispositive issue; however, it carries broad unsettling potential. The lack of predictability arising from sporadic affirmative defense demurrers falls primarily on plaintiffs. Plaintiffs are uncertain whether they must anticipate affirmative defenses in the complaint or whether they may rely on existing procedural rules in crafting their pleadings. Therefore, it is prudent to respect the plaintiffs' objections to a departure from existing rules for raising affirmative defenses.

Id.

I find this reasoning persuasive.

²The proper method for challenging the propriety of preliminary objections raising an affirmative defense is by preliminary objections to the challenged preliminary objections.

Ruling that affirmative defenses must be raised in new matter, however, does not conclude our inquiry. Before King's Preliminary Objections to Witmer's Preliminary Objections may be granted, it is also necessary to determine whether the invocation of an exculpatory clause is, in effect, the raising of an affirmative defense.

Instantly, Witmer relies upon an exculpatory clause as a shield to any cause of action against it. Indeed, valid exculpatory clauses are enforceable under the law of this Commonwealth. See *Topp Copy Prods., Inc. v. Singletary*, 626 A.2d 98, 99 (Pa. 1993). Yet, the defense raised by the claim of an exculpatory clause is not one of the enumerated affirmative defenses set forth in Rule 1030. PA. R. CIV. P. 1030(a). Nonetheless, Rule 1030 does not represent itself to be an exhaustive list of affirmative defenses. *Id.* The issue, therefore, turns on the definition of "affirmative defense". Our appellate courts have provided guidance in this area. For instance, in *Jacobs*, the Commonwealth Court defined an affirmative defense to be one that "raises new facts and arguments that, if true, will defeat a plaintiff's claim, even if all allegations contained in the complaint are true". *Jacobs*, 799 A.2d at 983 (citing BLACK'S LAW DICTIONARY 430 (7th Ed. 1999)). Using this definition as a guide, I will now turn to the specific defense raised by Witmer.

Witmer argues that the exculpatory clause is not an affirmative defense but rather is indicative of King's inability to establish a cause of action. Witmer urges that its preliminary objections are not raising additional facts but rather are relying upon facts that are clearly contained in King's Complaint. Specifically, Witmer points out that the complaint contains a copy of the purchase agreement wherein the exculpatory clause is contained. Witmer reasons that the contract upon which King's cause of action rests is the same document that precludes King's cause of action. In support of this argument, Witmer cites a line of Pennsylvania cases that allow a preliminary objection in the nature of a demurrer to be sustained where the complaint is clearly insufficient on its face after taking into account the entire written agreement upon which a plaintiff relies to establish his cause of action. *Martin v. Commonwealth, Dep't of Transp.*, 556 A.2d 969, 971 (Pa. Commw. Ct. 1989). Although Witmer's argument is attractive, I decline to accept it.

Although as mentioned, exculpatory clauses are enforceable in Pennsylvania, *see Topp*, supra, in order for an exculpatory clause to be valid, three conditions must be met:

First, the clause must not contravene public policy. Secondly, the contract must be between persons relating entirely to their own private affairs . . . and thirdly, each party must be a free bargaining agent to the agreement so that the contract is not one of adhesion.

Topp, 626 A.2d at 99 (citations omitted).

Thus, the validity of an exculpatory clause is one of interpretation, which includes consideration of additional factual issues. Although Witmer suggests in its brief that none of these additional issues have been raised by King's pleading, that argument fails to recognize that a plaintiff is not required to anticipate affirmative defenses when they initially file a complaint. *Jacobs*, 799 A.2d at 984. *See also Commonwealth v. Bigelow*, 399 A.2d 392, 395 (Pa. 1979). The Pennsylvania Rules of Civil Procedure provide a plaintiff the opportunity to respond to arguments raised by a defendant's new matter. Once King has had that opportunity, the posture of this case will enhance the Court's ability to determine whether a factual background is clear and free from doubt. *See League of Women Voters of Pennsylvania v. Commonwealth*, 692 A.2d 263, 267 (Pa. Commw. Ct. 1997) (dismissal of a cause of action based upon preliminary objections should occur only in cases that are clear and free from doubt).

I find, therefore, that Witmer's Preliminary Objections raise a new argument to which King should be given the opportunity to respond. As such, Witmer has improperly pled an affirmative defense.³ Accordingly, King's Preliminary Objections to Witmer's Preliminary Objections are granted. Witmer's Preliminary Objections are

³ This decision is consistent with the Opinion of at least one other Court of Common Pleas. *Shaner v. State Sys. Of Higher Educ.*, 40 Pa. D. & C.4th 308, 310 (C.C.P. of Dauphin County 1998) (noting a release/exculpatory clause is an affirmative defense).

dismissed without prejudice to Witmer to file appropriate motions once the pleadings are completed.⁴

The Defendants also raise a demurrer to Count IV of King's Complaint alleging that King's Complaint is insufficient to state a cause of action for liability based upon Section 402A of the Restatement Second of Torts (special liability of seller of product). Witmer's demurrer on this basis will be granted.

Section 402A of the Restatement Second of Torts attaches liability to one who sells a product in a defective condition. King's Complaint, however, does not raise any factual background supporting an argument that the equipment was defective as sold. Rather, all of the allegations in King's Complaint center upon the defective condition of the equipment due to its alleged improper installation. Such allegations are clearly outside the scope of Section 402A of the Restatement Second of Torts. *Phillips ex rel. Estate of Williams v. Cricket Lighters*, 773 A.2d 802, 810-11 (Pa. Super. Ct. 2001) (stating three elements in product liability action are product must be defective, defect must be a substantial factor in causing plaintiff's injuries, and the defect must exist when the product left the defendant's control). Therefore, Witmer's demurrer to Count IV is granted. King, however, will be given an opportunity to allege a factual basis supporting the cause of action set forth in Count V.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 26th day of June, 2003, the Plaintiff's Preliminary Objections to Defendant Witmer Implement Service, Inc.'s Preliminary Objections A, B, C, E, and F are granted. The Plaintiff's Preliminary Objection to Defendant Witmer Implement Service, Inc.'s Preliminary Objection D is granted to the extent that Defendant Witmer Implement Service, Inc. raises the affirmative

⁴In his brief, Witmer also argues that the "gist of the action" doctrine bars King's causes of action sounding in tort. Although the "gist of the action" doctrine has not yet been expressly adopted by the Pennsylvania Supreme Court, the Pennsylvania Superior Court, predicting what the Supreme Court would do, recently discussed the doctrine in *Eroll, Inc. v. Elias/Savion Adver.*, 811 A.2d 10 (Pa. Super. Ct. 2002). Although raised in his brief, Witmer did not specifically raise the issue in his Preliminary Objections. Accordingly, it will not be considered at this time. *Appeal of Hill*, 545 A.2d 463, 464 (Pa. Commw. Ct. 1988); PA. R. CIV. P. 1032.

defense of an exculpatory clause. The Plaintiff, however, has not filed a preliminary objection to Defendant Witmer Implement Service, Inc.'s remaining demurrer to Count IV of the Plaintiff's Complaint. Defendant Witmer Implement Service, Inc.'s demurrer in that regard is granted and Count IV of the Plaintiff's Complaint is dismissed. The Plaintiff shall be granted twenty (20) days from the date of this Order within which to file an amended complaint. Should the Plaintiff not file an amended complaint within twenty (20) days of the date of this Order, Defendant Witmer Implement Service, Inc. shall have forty (40) days from the date of this Order to file an answer to the Plaintiff's current complaint. In the event that the Plaintiff files an amended complaint within the twenty (20) day period, Defendant Witmer Implement Service, Inc. shall file a responsive pleading in compliance with the time limits set forth in the Pennsylvania Rules of Civil Procedure.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-990 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Parcel No: (17) K-09;8B

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

BEGINNING for a point in the center of a public road leading to Brown's Dam; thence along lands of Criswell South eighty-three and one-half (83-1/2) degrees West, four hundred fifty-seven and five-tenths (457.5) feet to a point; thence along lands of J. I. Myers North twenty-one (21) degrees East, five hundred eighty-two (582) feet to an iron pin; thence along lands of Guy Haverstick North seventy-nine and three-fourth (79-3/4) degrees East, three hundred twenty-six and seven-tenths (326.7) feet to an iron bolt in the center of the aforementioned public road; thence along and through the center of said public road South seven and three-fourth (7-3/4) degrees West, five hundred fifty-one and six-tenths (551.6) feet to an iron bolt, place of BEGINNING. CONTAINING 4 acres, one hundred twelve and fifty-three hundredths (112.53) square perches as per survey of C.A. Wentz, Reg. Surveyor, dated May 7, 1966.

BEING the same premises which Melissa M. Wonder Sneeringer a/k/a Melissa M. Sneeringer, by Deed dated December 12, 2001, and recorded December 21, 2001, in Book 2505, Page 56, granted and conveyed unto Melissa M. Sneeringer and Michael G. Freet, in fee.

SEIZED and taken into execution as the property of **Melissa M. Sneeringer & Michael G. Freet** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the purchase price or all of the cost,

whichever may be the higher, shall be paid forthwith to the Sheriff.

6/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-701 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract or parcel of land and premises, situate, lying and being in the Township of Latimore, in the County of Adams and Commonwealth of Pennsylvania, more particularly described as follows:

BEING Lot No. 1205 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 7.

HAVING erected thereon premises known and numbered as R.D. #1, East Berlin, Adams County, Pennsylvania.

TITLE TO SAID PREMISES IS VESTED IN Sandra Lee Shade by Deed from Robert Lee Shade dated 8/26/83 and recorded 9/6/83, in Record Book 370, Page 385.

Tax Parcel: 15 Map #6

Premises being: 241 Lake Meade Drive, East Berlin, PA 17316

SEIZED and taken into execution as the property of **Sandra Lee Shade** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/11, 18 & 25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-353 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

342 York Street
Gettysburg, PA 17325
Adams County

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

BEGINNING at a point on the Northern side of York Street, at the Southeast corner of lot of George H. Poist; thence running along lot of George H. Poist in a North Northwesterly direction for a distance of 180 feet, more or less, to a point in or along a public alley; thence in or along said public alley in an East Northeasterly direction for a distance of 30 feet 3 inches, more or less, to the Northwest corner of lot now or formerly of Orville B. Orner, formerly a part hereof; thence along said last mentioned lot in a South Southeasterly direction for a distance of 180 feet, more or less, to a corner on the Northern side of York Street aforesaid; thence in a West Southwesterly direction along the Northern side of York Street for a distance of 30 feet 3 inches, more or less, to the above described place of BEGINNING.

TOGETHER WITH and Subject to the rights to use the parking lots as contained in Record Book 433, page 517.

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 23, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/25, 7/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-176 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 16th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground, together with the improvements thereon erected, situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the Northern side of North Street at the Southwestern corner of lot now or formerly of Thomas B. Redding, designated as 53 North Street; thence along the Northern side of North Street, South sixty-six (66) degrees West, seventy (70) feet to a point on the Northern side of North Street, thence by lands now or formerly of Lewis S. Smith and Alma C. Smith, husband and wife, North twenty-four (24) degrees West, one hundred twenty-five and no one-hundredths (125.00) feet; thence by lands of same, North sixty-six (66) degrees East, seventy-three and forty-six one hundredths (73.46) feet; thence by said lot now or formerly of Thomas D. Redding, South twenty-two (22) degrees twenty-five (25) minutes East, one hundred twenty-five and five one-hundredths (125.05) feet to the point on the North side of North Street, the place of BEGINNING. CONTAINING 0.206 acres. Known as 49 North Street.

The above description is taken from a draft made by Joe B. O'Brien, Registered Surveyor, on April 18, 1969.

BEING Tax Map 2, Parcel 213.

BEING the same premises which George D. Hartman and Mary H. Hartman, husband and wife, by Deed dated December 29, 1989 and recorded in the Office of the Recorder of Deeds in and for Adams County in Deed Book 543, Page 484, granted and conveyed unto Robert W. Myers and Eva F. Myers, husband and wife.

SEIZED and taken into execution as the property of **Robert W. Myers & Eva F. Myers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 9, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/18, 25 & 7/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-174 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Bonneauville Borough, Adams County, Pennsylvania, and more specifically described as follows, to wit:

LOT 22: BEGINNING at a point at the only common corner of Lots 22, 23 and Southwestern edge of White Birch Drive on the plan described below; thence along Northwestern edge of Lot 23, South 39 degrees 12 minutes 38 seconds West, 110.00 feet to a point at lands now or formerly of James A. Orndorff; thence along the Northeastern edge of said lands, North 50 degrees 47 minutes 22 seconds West, 75.00 feet to a point at the corner of Lot 21 of said plan; thence along the Southeastern edge of Lot 21, North 39 degrees 12 minutes 38 seconds East, 110.00 feet to a point on the Southwestern edge of White Birch Drive; thence along said Drive, South 50 degrees 47 minutes 22 seconds East, 75.00 feet to a point at the corner of Lot 23 of said plan, the point and place of BEGINNING.

CONTAINING 8,250 square feet.

THE above description, being known as Lot 22, was taken from a plan of lots entitled "Final Plan Section Two - Hickory Ridge", prepared by Worley Surveying dated November 11, 1992 and revised August 24, 1993, File No. C-1264, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 64, Page 70, on April 21, 1994.

TITLE TO SAID PREMISES IS VESTED IN Michael H. Meyer and Elizabeth L. Meyer, his wife by Deed from James A. Orndorff and Brenda G. Orndorff, his wife dated 11/14/1995 and recorded 11/20/1995 in Record Book 1110 Page 245.

Tax Parcel: 10-23

Premises Being: 15 White Birch Drive, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Michael H. Meyer &**

Elizabeth L. Meyer and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 23, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/18, 25 & 7/2

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, July 6, 2004, at 9:00 a.m.

BRODBECK—Orphans' Court Action Number OC-56-04. The First and Final Account of Deo H. Brodbeck, Executor of the Estate of Alma M. Brodbeck, deceased, late of Franklin Township, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

6/25 & 7/2

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on April 22, 2004 with respect to a corporation that has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is KREATIONS GALLERY INC.

Clinton T. Barkdoll, Esq.
Kulla, Barkdoll, Ullman and Painter, P.C.
9 East Main Street
Waynesboro, PA 17268

6/25

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-330 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot, parcel, piece of ground, situate on the North side of Pennsylvania State Highway 234 in Huntingdon Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a spike in the center-line of the state highway leading from Five Points to Heidlersburg at lands now or late of Ray F. Decker, thence in the center line of the aforesaid highway and lands now or late of Decker, North seventy-six (76) degrees twenty-four (24) minutes West, two hundred twenty-five (225) feet to a point; thence by lands now or late of Ralph Sloan, of which this was once a part, North thirty-three (33) degrees East, one hundred fifty-six (156) feet, more or less, to a point at lands of the Commonwealth of Pennsylvania, Pennsylvania State Game Commission, formerly of Aaron Fetrow, thence by said Game Commission lands, South fifty-six (56) degrees East, two hundred one (201) feet, more or less, to an iron pin, thence South twenty-two (22) degrees forty-five (45) minutes West, seventy-seven and seven tenths (77.7) feet to a spike in the center line of the Pennsylvania State Highway leading from Heidlersburg to Five Points, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Evelyn May Kelly, single by reason of the following:

BEING THE SAME premises which Joan A. Anderson n/b/m Joan A. Hammel and John F. Hammel, her husband by Deed dated 3/17/1998 and recorded 3/24/1998 in the County of Adams in Record Book 1544 Page 163 conveyed unto Robert Allen Kelly and Evelyn May Kelly, his wife.

AND THE SAID Evelyn May Kelly and Robert Allen Kelly were divorced from the bonds of matrimony in Docket #01-S-1092 on 3/1/2002.

AND ALSO BEING THE SAME premises which Robert Allen Kelly and Evelyn May Kelly, formerly his wife by Deed dated 3/9/2003 and recorded 5/13/2003 in the County of Adams in Record Book 3102 Page 322, conveyed unto Evelyn May Kelly, single.

Premises being: 576 East Berlin Road, York Springs, PA 17372

Tax Parcel No. 17-12A

SEIZED and taken into execution as the property of **Robert A. Kelly a/k/a Robert Allen Kelly & Evelyn M. Kelly a/k/a Evelyn M. Kelley a/k/a Evelyn May Kelly** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 23, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/25, 7/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-339 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a steel rod near the Western edge of the right-of-way of Mt. Carmel Road (T-312), at corner of Lot No. 1 on the hereinafter described subdivision plan dated August 30, 1993 and prepared by Adams County Surveyors, thence by said Lot No. 1 North 62 degrees 13 minutes 10 seconds West, 165.00 feet to a steel rod; thence by same North 77 degrees 54 minutes 15 seconds West, 276.21 feet to a railroad spike, thence by same South 89 degrees 41 minutes 35 seconds West, 195.00 feet to a steel rod; thence by same South 20 degrees 59 minutes 40 seconds West, 147.67 feet to a steel rod on line of land now or formerly of Harry Jenkins, Sr.; thence by same North 81 degrees 53 minutes 00 seconds West 87.45 feet to a steel rod in run on line of land now or formerly of El Vista Orchards, Inc.; thence by same North 20 degrees 59 minutes 40 seconds East, 360.21 feet to an existing steel rod; thence by same North 51 degrees 04 minutes 50 seconds East, 159.38 feet to an existing steel rod; thence by same North 73 degrees 14

minutes 15 seconds East, 179.19 feet to an existing steel rod; thence by same South 51 degrees 42 minutes 55 seconds East, 177.48 feet to an existing steel rod set in run at corner of land now or formerly of Randy Aldridge; thence by said land now or formerly of Randy Aldridge South 12 degrees 43 minutes 10 seconds West, 238.03 feet to an existing steel rod; thence by same South 62 degrees 13 minutes 10 seconds East, 272.09 feet to a point on line of land now or formerly of El Vista Orchards, Inc.; thence by land now or formerly of El Vista Orchards, Inc., South 03 degrees, 35 minutes 50 seconds West, 27.40 feet to a steel rod, the point of BEGINNING.

CONTAINING 3.617 acres more or less.

THE above description is taken from a subdivision plan for Dorcas G. Charney dated August 30, 1993, prepared by Adams County Surveyors, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 68, at page 15. The tract herein conveyed is designated on said plan as Lot No. 2.

Map #C-12, Parcel #17

BEING THE SAME premises which Dorcas Gay Charney, single by Deed dated 4/26/1996 and recorded 4/26/1996 in the County of Adams in Record Book 1182 Page 297, conveyed unto Russell L. Ritchie and Sharon M. Ritchie, husband and wife, in fee.

Premises being: 617 Mount Carmel Road, Orrtanna, PA 17353

Tax Parcel No. #17 Map #C 12-17

SEIZED and taken into execution as the property of **Russell L. Ritchie a/k/a Russell Lee Ritchie & Sharon M. Ritchie** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 23, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/25, 7/2 & 9

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-349 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 30th day of July, 2004, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point in the center of the cartway of the Peach Glen-Idaville Road (L.R. 01047), said point marking the common point of adjoiner of Lots No. 5 and No. 6 on the hereinafter mentioned plan of subdivision with the center of said cartway; thence departing from the centerline of the Peach Glen-Idaville Road, and extending along Lot Nos. 5 and 3 on the hereinafter mentioned plan of subdivision, North 30 degrees 12 minutes 30 seconds East, through a concrete monument set 30 feet from the origin of this call, for a total distance of 450 feet to a concrete monument which marks the common point of adjoiner of Lot Nos. 1, 2, 3 and 6 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 1, South 59 degrees 47 minutes 30 seconds East, for a distance of 270 feet to a steel pin at Lot No. 8 on the hereinafter mentioned plan of subdivision; thence departing from Lot No. 1, and extending along Lot No. 8, South 30 degrees 12 minutes 30 seconds West, for a distance of 230 feet to a steel pin at Lot No. 7 on the hereinafter mentioned plan of subdivision; thence extending along Lot No. 7, the following two courses and distances: North 59 degrees 47 minutes 30 seconds West, for a distance of 220 feet to a steel pin; thence continuing South 30 degrees 12 minutes 30 seconds West, through a steel pin set back 30 feet from the terminus of this call for a total distance of 220 feet, to a point in the center of the cartway of Peach Glen-Idaville Road; thence extending in and through the center of the cartway of the Peach Glen-Idaville Road, North 59 degrees 47 minutes 30 seconds West, for a distance of 50 feet to a point in said cartway at Lot No. 5 on the hereinafter mentioned plan of subdivision, said point marking the place of BEGINNING.

CONTAINING 1.678 acres and being designated as Lot No. 6 on a final plan of subdivision of Peach Glen Meadows, Phase I, prepared for Kimba, Inc., by Mort, Brown and Associates, dated August 16, 1984, and recorded in the Office of the Recorder of Deeds of

Adams County, Pennsylvania, in Plat Book 40 at page 131.

TITLE TO SAID PREMISES IS VESTED IN Ivan Richardson and Rebecca Richardson, his wife by Deed from Eleanor J. Runkles dated 7/6/2000 and recorded 7/6/2000 in Record Book 2083, Page 82.

Premises being: 315 Peach Glen-Idaville Road

Tax Map G3, Parcel 91

SEIZED and taken into execution as the property of **Ivan Richardson & Rebecca Richardson** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 23, 2004, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/25, 7/2 & 9

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for GERLACH VENTURES, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on May 14, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/25

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for VICTORY RESTAURANT OF HANOVER, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on May 12, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/25

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for DOUBLE BB, INC. were filed with the Department of State of the Commonwealth of Pennsylvania on May 14, 2004, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

6/25

WRIT OF SCIRE FACIAS

2004-NO-000233

Adams County, ss.

The Commonwealth of Pennsylvania,
To Audrey A. Harman Greeting:

Whereas, The Borough of Littlestown on the 20th day of November, 2003 filed its claim in our Court of Common Pleas of Adams County at No. 03-TL-596 for the sum of \$1,245.85 with interest from the 20th day of November, 2003 for unpaid water and sewer rentals due and owing, including penalty, interest and costs, plus additional water and sewer rentals, and penalty and interest thereon against the following property situate in 20-22 Park Avenue, Littlestown, PA 17340 Parcel No. 008-0205, Record Book 298 at Page 807.

owned or reputed to be owned by you Audrey A. Harman

And Whereas, we have been given to understand that said claim is still due and unpaid, and remains a lien against the property;

Now, you are hereby notified to file your affidavit of defense to said claim, if defense you have thereto, in the office of the Prothonotary of our said Court within fifteen days after the service of this writ upon you.

If no affidavit of defense be filed within said time, judgment may be entered against you for the whole claim and the property described in the claim be sold to recover the amount thereof.

Witness the Honorable John D. Kuhn, President Judge of our said Court at Gettysburg, this 9th day of March, A.D. 2004.

Patricia A. Funt, Prothonotary
By: /s/Chris Dutrow
Deputy Prothonotary

6/25, 7/2 & 9

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 RAYMOND F. CROMER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Richard H. Cromer, 140 Blacksmith Road, Camp Hill, PA 17011; Lloyd E. Cromer, 423 Ridge Road, Gettysburg, PA 17325

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

ESTATE OF RAY C. MACKLEY, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Shirley J. Mackley, 36 Table Rock Rd., Gettysburg, PA 17325

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

ESTATE OF FREDERIKA MINER a/k/a FREDERIKA M. MINER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Christine Brandt Little, 399 Pumping Station Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF HORACE W. BAKER, DEC'D

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

Executor: Esther R. Baker, c/o 106 Harrisburg Street, East Berlin, PA 17316

Attorney: Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, P.C., 106 Harrisburg Street, East Berlin, PA 17316

ESTATE OF ELLA A. BECKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Charles A. Becker, 2252 Bob White Lane, Lancaster, PA 17601; Richard D. Becker, 4073 Grandview Drive, Hanover, PA 17331

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

ESTATE OF ROBERT K. FAIR, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Larry D. Fair, 2747 Meadow Drive, Gettysburg, PA 17325

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

ESTATE OF HELEN J. LUQUETTE, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: Kenneth G. Luquette, 314 Lyn Wood Drive, Severna Park, MD 21146; Mary J. Kime, 250 Orchard Lane, Aspers, PA 17304

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

ESTATE OF WALTER G. SUMMERS a/k/a WALTER GERALD SUMMERS, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Administrator: Sheila F. Summers, 522 Third Street, Hanover, PA 17331

Attorney: Scott J. Strausbaugh, Esq., Arthur J. Becker, Jr., P.C., 544 Carlisle Street, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF ROBERT F. HARNISCH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Denis Meany, 404 Shealer Road, Gettysburg, PA 17325

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

ESTATE OF LUTHER R. REYNOLDS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Jay L. Knaub, 956 S. Mountain Rd., Dillsburg, PA 17019

Attorney: Jan M. Wiley, Esq., Wiley, Lenox, Colgan & Marzzacco, P.C., 130 W. Church St., Suite 100, Dillsburg, PA 17019

ESTATE OF EILEEN M. TOPPER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Rev. Msgr. Vincent Topper, 4000 Derry Street, Harrisburg, PA 17111-2237; Ann Clingan, 505 Main Street, McSherrystown, PA 17344

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

(continued from page 1)

attached hereto as **Exhibit "A"** and incorporated herein by reference, and also recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2103 at Page 0009; the legal description of the subject Open Court and Alleyway is attached hereto and incorporated herein by reference as **Exhibit "C"**.

8. The Borough has acquired fee simple, absolute title to the subject improved real properties by virtue of the present condemnation.

9. A plan showing the condemned properties, in the form of the Boundary Survey, dated July 19, 2000, by Adams County Surveyors, may be inspected in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2103 at Page 0009.

10. The payment of just compensation in this matter is secured by the Borough's power of taxation; additionally, the sum of Two Hundred Fifty Thousand Dollars (\$250,000.00) has been offered contemporaneously herewith unto the said owner/condemnee, Queen Street, LLLP, as and for the Borough's estimated just compensation in accordance with law and the Borough's appraised value of the subject improved real property hereby acquired and condemned.

11. If the Condemnee(s) wish(es) to challenge the power or right of the Borough, as Condemnor, to appropriate the condemned property(ies), the sufficiency of the security, the procedure followed by the Condemnor or the Declaration of Taking, it/they shall file Preliminary Objections within thirty (30) days after being served with the present Notice of Condemnation.

Dated: June 16, 2004.
Littlestown Borough Council
Borough of Littlestown,
Adams County, Pennsylvania
Campbell & White, P.C.

by: John R. White, Esq.
Littlestown Borough Solicitors
Attorney-at-Law and Attorney-in-Fact,
duly authorized to execute and
file this Notice to Condemnee on its
behalf, pursuant to and in accordance
with Ordinance No. 579 of 2004
of the Borough of Littlestown
Telephone: (717) 334-9278

6/25

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

IN RE: Robert Hoffman Trust - PNC
Bank, National Association, Trustee

Trust contained in Last Will and
Testament of Robert Hoffman,
deceased, dated September 12, 1994,
First Codicil dated January 4, 1995, and
Second Codicil dated February 7, 1996
O.C. # 63-97

NOTICE

NOTICE IS HEREBY GIVEN that PNC
Bank, National Association, Trustee of a
trust created under the Last Will and
Testament of Robert Hoffman, deceased,
has filed its First and Final Account and
Statement of Proposed Distribution as
such Trustee in the Office of the Clerk of
Courts of Common Pleas of Adams
County, Commonwealth of
Pennsylvania, Orphans' Court Division,
and that the same will be presented to
said Court for confirmation of the
Account and approval of the proposed
distribution July 6, 2004, at 9:00 o'clock
a.m., at the Adams County Courthouse,
Gettysburg, Pennsylvania.

Lisa K. Grubbs
Clerk of said Court.

Richard E. Thrasher, Esq.
Puhl, Eastman & Thrasher,
Attorneys

6/25 & 7/2

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN that
ADAMS COUNTY MOTORS CORPO-
RATION, a Pennsylvania corporation
with its registered office at 130
Confederate Drive, Gettysburg, PA
17325, is now engaged in winding up
and settling the affairs of said corpora-
tion. The corporation will be filing Articles
of Dissolution with the Commonwealth of
Pennsylvania at Harrisburg, PA, so that
its corporate existence shall be ended by
issuance of a Certificate of Dissolution
by the Department of State under the
provisions of the Business Corporation
Law of 1933.

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

6/25

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

NOTICE IS HEREBY GIVEN that on
the 21st day of May, 2004, the Petition of
Mark Joseph Otto was filed in the Court
of Common Pleas of Adams County,
Pennsylvania, praying for a decree to
change his name from Mark Joseph Otto
to Mark Joseph Vechini.

A hearing date was previously sched-
uled for August 24, 2004 at 9:00 a.m.;
however, said date and time had been
continued at the request of the Petitioner.

The Court has fixed the 6th day of July,
2004 at 2:30 P.M. in Courtroom No. 2 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: Bandy L. Jarosz, Esq.
Attorney for Petitioner
31 South Washington Street
Gettysburg, PA 17325

6/25