

Adams County Legal Journal

Vol. 45

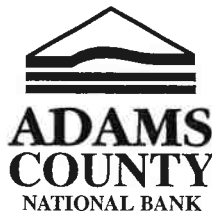
December 5, 2003

No. 28, pp. 170–176

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FIRST SIERRA VS. YORK SPRINGS EQUESTRIAN ET AL

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



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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FICTITIOUS NAME NOTICE

An application for registration under the Fictitious Names Act of DALE C. ANDERSON COMPANY, of 4 West Confederate Ave., Gettysburg, PA 17325 was filed by Debra P. Anderson on or about October 31, 2003.

Walton V. Davis
Attorney at Law

12/5

FIRST SIERRA VS. YORK SPRINGS EQUESTRIAN ET AL

1. A default judgment may be opened when three (3) elements are established. The moving party must promptly file a Petition to Open a Default Judgment, show a meritorious defense, and provide a reasonable excuse or explanation for the failure to file a responsive pleading.

2. The requirement of a meritorious defense in support of a Petition to Open Default Judgment requires that a defense must be pled, which, if proved at trial, would justify relief. Although the Defendant does not have to prove every element of its defense, they must set forth the defense in precise, specific and clear terms.

3. A general allegation that a contract is illegal is insufficient (to open judgment), in and of itself, under Pennsylvania's rules of pleading.

4. Courts should not enforce contracts which violate public policy regardless of whether the defense of illegality is properly raised.

5. One who chooses to sign a document without taking the time to read it does so at his own peril.

6. Where the Prothonotary's Office has not assessed an amount of damages in entering the default judgment, damages are to be assessed at a trial at which the issues are limited to a determination of the amount of damages.

7. A judgment may be partially opened.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 02-S-194, FIRST SIERRA FINANCIAL, INC. VS. YORK
SPRINGS EQUESTRIAN CENTER, CARL B. LEACH AND
CAROL ANN LEACH.

Henry W. Van Eck, Esq., for Plaintiff

Scott Ruth, Esq., for Defendant

George, J., December 31, 2002

OPINION

This cause of action was initiated on February 21, 2002, when First Sierra Financial, Inc., (hereinafter referred to as "First Sierra") filed a civil complaint alleging breach of contract against York Equestrian Center, Carl B. Leach and Carol Ann Leach.¹ The factual background for this suit begins on December 17, 1998, when the York Springs Equestrian Center entered into a lease agreement with First Sierra for the lease of a 1982 car trailer and a 1990 Peterbilt tractor. In addition to the terms contained in the lease, Carl B. Leach and Carol Ann Leach executed a personal guarantee in consideration

¹ Although the caption and the body of the Complaint consistently refer to one of the defendants as York Equestrian Center, the contract documents attached to the Complaint refer to the contracting entity as York Springs Equestrian Center. The parties have not raised this discrepancy.

for the transaction. Notably, a term of the lease agreement entered between the parties required the lessees to keep the equipment fully insured against loss and to maintain a general liability insurance policy. *See* Pl.'s Compl., Ex. A, ¶ 6. Apparently, in the Spring of 2000, the tractor and trailer were involved in an accident that resulted in a fire destroying the tractor and damaging the trailer. For some reason, which is not completely clear in the pleadings, the lessee's insurance carrier refused to pay the claim. Since the damage to the tractor and trailer precluded Carl Leach from working as a truck driver, York Springs Equestrian Center defaulted on the lease. First Sierra, as authorized pursuant to the terms of their agreement, repossessed the damaged vehicle, accelerated the payments under the lease and filed suit to enforce the personal guarantees of Carl Leach and Carol Ann Leach.² The record indicates that the Adams County Sheriff's Department served the Defendants with the Complaint on February 25, 2002. After the Defendants failed to file an Answer to the Complaint, First Sierra filed a Notice of Praecipe to Enter a Judgment by Default, essentially in the form provided by Pennsylvania Rule of Civil Procedure 237.5, on September 24, 2002. Interestingly, the Prothonotary, in the course of entering the Default Judgment, did not assess damages for a monetary amount. *See generally* PA. R. CIV. P. 1037. After notice of the default judgment was provided to the Defendants, Defendants Carol Ann Leach and York Springs Equestrian Center filed a Petition to Open Judgment on October 3, 2002. Although not attached to the Petition to Open Judgment, an Answer to the Complaint was filed simultaneously with the Petition.³

The Petition to Open Judgment alleges generally that the Defendants failed to file a responsive pleading due to the following:

²The factual background is taken from the admitted allegations in the Plaintiff's Complaint as well as allegations by Carol Ann Leach in her Petition to Open Judgment.

³The Pennsylvania Rules of Civil Procedure specifically require the proposed Answer to be attached to the Petition to Open Judgment. I will not treat the Defendants' failure to comply with this provision as fatal to their claim. Rather, I will interpret the rules liberally to effectuate a fair and just resolution. *See* PA. R. CIV. P. 126. In doing so, I note that the parties acted *pro se* until November 15, 2002, when Attorney Ruth entered an appearance for Carol Ann Leach doing business as York Springs Equestrian Center.

1. Their inability to retain competent counsel;
2. An assumption that the insurance company providing coverage on the tractor and trailer had settled the matter with First Sierra; and
3. A claim that the guarantee is an adhesion contract and unconscionable, lacking mutuality between the parties.⁴

The Defendants' Answer essentially acknowledges execution of the guarantee and a default in payments under the lease. The Answer goes on to claim that there were extenuating circumstances due to the accident involving the tractor and trailer and the unwillingness of the insurance carrier to make payment on the insurance policy. The Answer further alleges that Defendant Carol Ann Leach never saw or read the actual lease agreement between York Springs Equestrian Center and First Sierra prior to executing her guarantee to First Sierra. Finally, the Defendants contest the amount of their obligation to First Sierra. Although they acknowledge that the tractor was destroyed, they contest the reasonableness of the resale of the trailer alleging that the fire damage to it was minimal. Defs.' Answer to Compl., ¶ 22. In this regard, Plaintiff's Complaint requested accelerated payments in excess of \$90,000, while crediting only \$2,000 as proceeds from the sale of the damaged equipment.⁵

A default judgment may be opened when three (3) elements are established. The moving party must promptly file a Petition to Open a Default Judgment, show a meritorious defense, and provide a reasonable excuse or explanation for the failure to file a responsive pleading. *Allegheny Hydro No. 1 v. American Line Builders, Inc.*, 722 A.2d 189, 191 (Pa. Super. Ct. 1998). Where, as in the present case, a Petition to Open a Default Judgment is filed within ten (10) days after the entry of the judgment, the judgment must be opened if

⁴In considering a Petition to Open Judgment, the Court may address only the issues raised in the Petition to Open Judgment and the Answer thereto. *Sanctis v. Lagerbusch*, 249 A.2d 919 (Pa. Super. Ct. 1968). It is appropriate, however, for the Court to take into account the pleadings filed by the parties. See generally *Beausang v. Bernotas*, 442 A.2d 796 (Pa. Super. Ct. 1982). Therefore, my review is limited to issues raised in the Petition to Open Judgment and the Defendants' Proposed Answer.

⁵Plaintiff's Complaint alleges total damages in the amount of \$93,923.87, consisting of accelerated payments of \$90,770.12, attorney fees of \$3,500 and repossession fees of \$1,653.75 minus proceeds from the sale of the equipment in the amount of \$2,000. See Pl.'s Compl., ¶ 23.

a meritorious defense is raised in the proposed answer. PA. R. CIV. P. 237.3(b). This Rule supplies two of the three requisites for opening default judgments by presuming that a petition filed within the required ten-day period is both promptly filed and with reasonable explanation or legitimate excuse for the inactivity or delay. *Flynn v. America West Airlines*, 742 A.2d 695, 698 n.2 (Pa. Super. Ct. 1999). Therefore, in considering whether the Petition to Open Judgment should be granted, the only remaining issue is whether the Defendants have properly alleged a meritorious defense.

The requirement of a meritorious defense in support of a Petition to Open Default Judgment requires that a defense must be pled, which, if proved at trial, would justify relief. *Penn-Delco Sch. Dist. v. Bell Atlantic-Pa., Inc.*, 745 A.2d 14, 19 (Pa. Super. Ct. 1999) (re-argument denied). Although the Defendant does not have to prove every element of its defense, they must set forth the defense in precise, specific and clear terms. *Id.*

The Defendants' Petition to Open Judgment does not include any allegation that a meritorious defense exists. It does, however, contain a general allegation that the guarantee is illegal. I find this allegation to be insufficient to justify opening the default judgment for a number of reasons.

Initially, I note that a general allegation that a contract is illegal is insufficient, in and of itself, under Pennsylvania's rules of pleading. *See generally Freedley v. Jacoby*, 69 A. 1047 (Pa. 1908). Moreover, the defense of illegality is an affirmative defense that should be pled under the heading "New Matter". PA. R. CIV. P. 1030(a). Instantly, although generally raised in the Petition to Open Judgment, the Defendants' Answer contains no such affirmative defense nor makes even a general reference as to the illegality of the contract. Therefore, a meritorious defense concerning the legality of the contract has not been properly pled.

While I am mindful that the Courts should not enforce contracts which violate public policy regardless of whether the defense of illegality is properly raised, *American Ass'n of Meat Processors v. Casualty Reciprocal Exchange*, 588 A.2d 491, 495-96 (Pa. 1991), the posture of this case does not lend the Court to a determination of the actual controversy. Rather, the current issue is whether the

Defendants have precisely and specifically alleged a meritorious defense in clear terms sufficient to open a default judgment. I find the Defendants' claims of illegality to be insufficient in this regard.

The Defendants next argue that extenuating circumstances justify their breach of the lease and, consequently, constitute a viable defense. In making this argument, the Defendants essentially acknowledge their breach of the terms of the lease agreement. While their argument understandably explains their inability to make payment under the guarantee, this explanation does not constitute a legal defense to a breach of contract action. This basis, therefore, does not justify opening the judgment.

The Defendants also claim not to have seen the lease prior to executing the guarantee. This claim is clearly inapplicable as raised by Defendant York Springs Equestrian Center. The Complaint in this matter includes a copy of the lease that appears to be executed by an authorized agent of that entity. Notably, the Defendants have not contested this aspect. Thus, the York Springs Equestrian Center cannot claim that the lease was signed without reading it. One who chooses to sign a document without taking the time to read it does so at his own peril. *Pavex, Inc. v. Thomas Angelozzi, Inc.*, No. 02-S-34 (C.C.P. of Adams County Sept. 27, 2002), citing *Greenfield's Estate*, 14 Pa. 489, 496 (1856).

Similarly, the guarantee contains the signature of Carol Ann Leach at the bottom of the guarantee document. By signing the guarantee, she chose to be bound by the terms of the lease agreement between First Sierra and the York Springs Equestrian Center. Whether she chose to do so without actually reading the lease agreement is of little import. Recognition of such an argument would essentially wreak havoc with the stability of contract law. See generally *Greenfield's Estate*, supra. Such a claim is insufficient to overturn a written agreement and, therefore, is insufficient to justify the opening of a default judgment.

Finally, the Defendants' Answer alleges that the damaged equipment was not disposed of in a reasonable manner thereby mitigating the extent of damages suffered by First Sierra. Although inartfully stated, the Defendants have raised in their proposed Answer the issue of whether First Sierra has disposed of the collateral in a commercially reasonable manner. See 13 PA. CONS. STAT. ANN. § 9610

(West 2002).⁶ Although I have been unable to find any Pennsylvania cases exactly on point, federal cases have held that a Petition to Open Judgment is appropriately granted where the Defendant has raised an issue concerning whether the collateral was disposed of in a “commercially reasonable manner”. *Mercantile Financial Corp. v. Miller*, 292 F. Supp. 797 (E.D. Pa. 1968). I find this Opinion persuasive especially in light of the procedural status of this particular litigation.

Specifically, as previously noted, the Prothonotary’s Office has not assessed an amount of damages in entering the default judgment. Accordingly, under the Pennsylvania Rules of Civil Procedure, damages are to be assessed at a trial at which the issues are limited to a determination of the amount of damages. *See* PA. R. CIV. P. 1037(b)(1). It appears, therefore, that regardless of the disposition of Defendants’ Petition to Open Judgment, a trial to determine the amount of damages is necessary.

Pennsylvania Courts have long recognized that a judgment may be partially opened. *Walker v. Oakley*, 32 A.2d 563 (Pa. 1943); *Sterling Elec. & Furniture Co. v. Peterson*, 187 A.2d 285 (Pa. 1963). Balancing of the equities in this matter leads me to the conclusion that the judgment should be opened limited only to the issue of whether the Defendants are entitled to an additional credit for the Plaintiff’s alleged failure to dispose of the property in a commercially reasonable manner. Opening judgment limited to this issue will not prejudice First Sierra since a proceeding addressing damages is already required. Evidence presented at such trial would be limited only to the purpose of whether the sale of the assets by First Sierra was conducted in a commercially reasonable manner and, if not, the actual value of the assets sold by First Sierra. Liability for damages, on the other hand, has essentially been admitted by the Defendants. The Defendants have not raised a meritorious defense and a trial in this matter would be a foregone conclusion. The Default Judgment on the liability issue is, therefore, conclusive.

By partially granting the Defendants’ Petition, I do not suggest that they are entitled to any greater credit arising from disposition of

⁶The express language of the guarantee and the lease indicate that it shall be construed under the laws of the State of California. California has a similar provision to that in the Pennsylvania Commercial Code, which can be found at CAL. U. COM. CODE § 9627 (Deering 2001).

this collateral than has already been received. Rather, I suggest only that this is an issue to be determined by a fact finder.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 31st day of December, 2002, the Petition of York Springs Equestrian Center and Carol Ann Leach to Open Default Judgment is partially granted and partially denied. Specifically, the Petition to Open Default Judgment is denied as to the issue of liability. The Petition, however, is granted in regard to the issue of damages. Trial in this matter will be limited to whether the Plaintiff's disposal of collateral was conducted in a commercially reasonable manner and, if not, the amount of credit to which the Defendants are entitled. Otherwise, the trial shall proceed as provided by PA. R. CIV. P. 1037 for the purpose of assessing damages. Either party may praecipe the Court for a pre-trial conference at which time trial in compliance with this Order will be scheduled.

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF BETTY J. CLABAUGH, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Co-Executors: Cheryl Lynn Grove a/k/a Cheryl Grove-Klinka, 739 Blossom Hill Lane, Dallastown, PA 17313; Mark Joseph Clabaugh, 29 Camelot Court, Stewartstown, PA 17363

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

ESTATE OF FRIEDA G. SANDRUCK a/k/a FRIEDA GARRETT SANDRUCK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Cloyd K. Leedy, Jr., 1906 Fairmount Road, Hampstead, MD 21074; Jean Marie Sandruck-Fahey, 5909 Eastcliff Drive, Baltimore, MD 21209

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

ESTATE OF RUTH H. STREVIG, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrices: Charlotte L. Iacona, 48 Colorado Avenue, Littlestown, PA 17340; Marian H. Ramsey, 2450 Ham Brown Road, Kissimmee, FL 34746

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF MARY JANE THERIT a/k/a MARY J. THERIT, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administratrix: Elizabeth M. Therit, 67 Conewago Park Drive, East Berlin, PA 17316

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

ESTATE OF CATHERINE E. WILSON, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Mary W. Brown, 253 South Howard Avenue, Gettysburg, PA 17325

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

SECOND PUBLICATION**ESTATE OF CHARLES H. BANGE, JR., DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executors: Edith Speak, 2119 Feeser Road North, Taneytown, MD 21787; Ralph M. Fritz, 40 Ocelot Drive, Hanover, PA 17331; Dorothy Ann Fritz, 40 Ocelot Drive, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF GEORGE E. BARR, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Executor: Millard George Barr, 39 Mary Lou Lane, Shokan, NY 12481

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

ESTATE OF FRANCIS J. BOWLING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Janet Currens, 2890 Fairfield Road, Gettysburg, PA 17325

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

ESTATE OF DAVID C. BURNITE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Martha B. Alston, 10 Carissa Court, Owing Mills, MD 21117

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

ESTATE OF RUTH E. GRIM, DEC'D

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

Personal Representatives: Paul A. Grim, 301 Abbottstown Street, East Berlin, PA 17316; Susan A. Spangler, 305 West King Street, East Berlin, PA 17316

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

ESTATE OF CATHERINE L. HIMES, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Sandra M. Riley, 2531 Emmitsburg Road, Gettysburg, PA 17325

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

ESTATE OF RUTH M. MOORE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Donald P. Moore, 749 Poplar Road, New Oxford, PA 17350; Francis B. Moore, Jr., 25 Pleasant View Drive, Hanover, PA 17331

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

ESTATE OF NEVIN H. SEITZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sally Rebecca Seitz Pritt, c/o Daniel Carn, Esq., 221 W. Philadelphia Street, Suite 45, York, PA 17404

Attorney: Daniel Carn, Esq., 221 W. Philadelphia Street, Suite 45, York, PA 17404

ESTATE OF VELMA V. STRAYER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Robert C. Baker & Jane A. Baker, c/o William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

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

THIRD PUBLICATION**ESTATE OF TREVA M. CHRONISTER, DEC'D**

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

Co-Executors: Kathy Mellott & Jerry R. Leathery, c/o Craig A. Diehl, Esq., 119 W. Hanover St., Spring Grove, PA 17362

Attorney: Craig A. Diehl, Esq., C.P.A., 119 W. Hanover St., Spring Grove, PA 17362

ESTATE OF WILLIAM B. JOHNS, III, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Administratrix: Lucy J. Bassin, 640 W. Conway St., Baltimore, MD 21230

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

(continued on page 4)

THIRD PUBLICATION (continued)

ESTATE OF DALE R. McCLEAF, DEC'D

Late of Franklin Township, Adams
County, Pennsylvania

Executor: Grover H. McCleaf, P.O. Box
45, Cashtown, PA 17310; Anna M.
Swope, 100 Confederate Drive,
Gettysburg, PA 17325

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

**ESTATE OF RICHARD C. SHEALER,
DEC'D**

Late of Menallen Township, Adams
County, Pennsylvania

Executor: Richard G. Shealer, 65
Memory Lane, Aspers, PA 17304;
Dianne S. Peterson, 3276 Old
Harrisburg Rd., Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108
W. Middle St., Gettysburg, PA 17325

ESTATE OF MARION C. ZHEA, DEC'D

Late of the Borough of Gettysburg,
Adams County, Pennsylvania

Executrix: Linda Ella Zhea, 300 N.
Stratton St., Gettysburg, PA 17325

Attorney: Gary E. Hartman, Esq.,
Hartman & Yannetti, Attorneys at
Law, 126 Baltimore Street,
Gettysburg, PA 17325

Adams County Legal Journal

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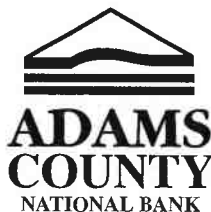
December 12, 2003

No. 29, pp. 177-181

IN THIS ISSUE

HIMMELREICH VS. ADAMS ABSTRACT ET AL

**Strong.
Rooted Upon Traditional Values.
Dedicated to Quality.
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-279 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 January, 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 those certain two tracts of land situate, lying and being in Mt. Pleasant Township, county of Adams and State of Pennsylvania, more particularly described as follows:

TRACT NO. 1 - BEGINNING for a point on the center line of Township Road T-430, known as Plunkert Road, and Lot No. 2 of the hereinafter referenced subdivision plan; thence along said center line of Plunkert Road, the following two courses and distances: 1) North twenty-four (24) degrees two (02) minutes thirty-three (33) seconds East, one hundred and seven hundredths (100.07) feet to a point; thence 2) North twenty-five (25) degrees fifty-three (53) minutes thirty-four (34) seconds East, two hundred ten and fifty-seven hundredths (210.57) feet to a point on the center line of Bulk Plant Road (SR 2004); thence along same, South seventy-six (76) degrees twenty-three (23) minutes zero (00) seconds East, five hundred seventy-three and fourteen hundredths (573.14) feet to a point on the center line of Township Road T-442, known as Locust Lane; thence along same, South four (04) degrees thirty-six (36) minutes forty-three (43) seconds East, three hundred fifty-eight and thirty-four hundredths (358.34) feet to a point at lands now or formerly of Perry L. Grove; thence along same, the following three courses and distances: 1) South eighty-five (85) degrees fifty (50) minutes forty-one (41) seconds West, two hundred one and twenty-six hundredths (201.26) feet to a point; thence 2) South three (03) degrees fifty-eight (58) minutes thirty (30) seconds East, one hundred sixty-seven and sixty hundredths (167.60) feet to a point; thence 3) South sixty-six (66) degrees fifty-three (53) minutes seventeen (17) seconds West, three hundred thirty-one and eighty-nine hundredths

(331.89) feet to a point at lands now or formerly of Gregory E. Sullivan; thence along same, North forty-four (44) degrees forty-nine (49) minutes ten (10) seconds West, seventy-two and eighty-seven hundredths (72.87) feet to a point at Lot No. 3 of the hereinafter referenced subdivision plan; thence along same, and along Lot No. 2 of said plan, North twenty-four (24) degrees two (02) minutes thirty-three (33) seconds East, three hundred sixty and thirty-two hundredths (360.32) feet to a point; thence continuing along said Lot No. 2 of said plan, North sixty-five (65) degrees fifty-seven (57) minutes twenty-seven (27) seconds West, three hundred fifty (350.00) feet to a point on the center line of Plunkert Road, the point and place of BEGINNING. CONTAINING 7.353 acres and identified as Lot No. 1 on a plan of lots prepared by Mort, Brown and Associates on January 8, 1988. Said plan recorded in the Adams County Recorder of Deeds' Office in Plat Book 51, Page 65.

TRACT NO. 2 - BEGINNING for a point on the center line of Bulk Plant Road, known as SR-2004, and lands now or formerly of Charles W. Coleman; thence along said Bulk Plant Road, South seventy-six (76) degrees twenty-three (23) minutes zero (00) seconds East, two hundred five (205.00) feet to a point on the center line of Township Road T-430, known as Plunkert Road, and Lot No. 1 of the hereinafter referenced subdivision plan; thence continuing along said Lot No. 1 and the center line of Plunkert Road, South twenty-five (25) degrees fifty-three (53) minutes thirty-four (34) seconds West, two hundred ten and fifty-seven hundredths (210.57) feet to a point at lands now or formerly of Charles W. Coleman; thence along same, the following two courses and distances: 1) North fifty-seven (57) degrees fourteen (14) minutes zero (00) seconds West, one hundred eighty and twelve hundredths (180.12) feet to a point; thence 2) North seventeen (17) degrees twenty-nine (29) minutes sixteen (16) seconds East, one hundred forty-seven (147.00) feet to a point on the center line of Bulk Plant Road, the point and place of BEGINNING. CONTAINING .777 acres and identified as Lot No. 4 on a plan of lots prepared by Mort, Brown and Associates on January 8, 1988. Said

plan is recorded in the Adams County Recorder of Deeds' Office in Plat Book 51, Page 65.

BEING known as 1000 Plunkert Road, Littlestown, PA 17340

PROPERTY ID NO: Map 1-15 Parcel 47A

TITLE TO SAID PREMISES IS VESTED IN Lisa M. Nicklow, by Deed from Lisa M. Nicklow, Executor of the Estate of Martha C. Sheets, late, dated 1/4/02, recorded 1/10/02, in Deed Book 2527, Page 41.

SEIZED and taken into execution as the property of **Lisa M. Nicklow** 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 February 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.

12/12, 19 & 26

LEGAL NOTICE

The annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 10th, 2004 to elect directors and to transact any other business property presented.

Attest
Marilyn Q. Butt
President & Treasurer; Director

12/12, 19, 26 & 1/2

HIMMELREICH VS. ADAMS ABSTRACT ET AL

1. Summary judgment is proper where the pleadings, depositions, answers to interrogatories, admissions and affidavits and other materials demonstrate that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

2. In order to withstand a motion for summary judgment, a non-moving party must adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury could return a verdict in his favor; failure to adduce this evidence establishes that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 92-S-1145, MARK A. HIMMELREICH AND LISA
HIMMELREICH VS. ADAMS ABSTRACT ASSOCIATES AND
PENN TITLE INSURANCE COMPANY

Charles I. Himmelreich, Esq., for Plaintiffs

Mark K. Emery, Esq., for Defendant Adams Abstract

Helen L. Gemmill, Esq., for Defendant Penn Title Insurance Co.

Kuhn, P.J., January 6, 2003

OPINION ON PENN TITLE INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT AND PLAINTIFFS' COUNTERMOTION FOR SUMMARY JUDGMENT

Plaintiffs initiated this action against Penn Title Insurance Company (hereinafter "Penn") in December, 1992. There has been a tortured procedural history which is not particularly pertinent to the issues now before the Court. Suffice it to say that Plaintiffs filed their Fourth Amended Complaint on December 20, 1999. Only Count IV (Breach of Contract) and Count V (Bad Faith) related to Penn.

On May 10, 2002, Penn filed its Motion for Summary Judgment to which Plaintiffs responded. The response filed June 19, 2002 included Plaintiffs' Counter-motion for Summary Judgment.

Legal Standard

Summary judgment is proper where the pleadings, depositions, answers to interrogatories, admissions and affidavits and other materials demonstrate that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Philadelphia Ambulatory Care Center, Inc. v. Rite Aid Corp.*, 805 A.2d 613 (Pa.Super. 2002). In order to withstand a motion for

summary judgment, a non-moving party must adduce sufficient evidence on an issue essential to his case and on which he bears the burden of proof such that a jury could return a verdict in his favor; failure to adduce this evidence establishes that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Nationwide Mut. Ins. Co. v. West*, 807 A.2d 916 (Pa.Super. 2002).

Statement of Facts

On September 13, 1991, Plaintiffs purchased property located at 120 Bittle Road, Littlestown, Adams County, Pennsylvania at a tax sale in a case docketed at 91-S-982. The property was formerly owned by Robert E. and Jacquelyn N. Foster. On November 12, 1991, a decree confirming the sale was entered and on December 23, 1991, the court authorized distribution of the sale proceeds.

After the tax sale was complete, Plaintiffs attempted to obtain a \$25,000 mortgage from the Adams County National Bank (hereinafter "ACNB") to pay off the prior mortgage with ACNB and to cover other expenses related to the purchase of the property. ACNB required either an attorney's certificate of title or title insurance as a condition of mortgage approval. Plaintiffs selected Defendant, Adams Abstract Associates (hereinafter "Adams Abstract"), to perform this service because they were familiar with Susan White, one of Adams Abstract's employees.¹

Plaintiffs were eager to move into their new home and requested that closing be held January 2, 1992. However, because the deed into Plaintiffs was only recorded on December 31, 1991, the title search was delayed and settlement was postponed until January 3, 1992.

During the title search, Ms. White became aware that the record of the tax sale did not reveal a receipt that Mr. Foster had received notice of the tax sale by certified mail.

At settlement, Ms. White reviewed the title insurance policy written through Penn with Plaintiffs and specifically; the noted exception of any possible claim Mr. Foster may file. The policy was written as an "Owner's Policy" meaning that it would cover the alleged value of the property at \$94,000 rather than a "Lender's Policy" which

¹ Adams Abstract is an abstract company that provides title insurance as an agent for Penn Title.

limited coverage to the amount of the mortgage to ACNB. As part of the settlement, Plaintiff executed an Owner's Affidavit at the bottom of which, in different print, was a notation "that they received a copy of Penn Title Insurance Company, Report of Title, and that they are aware of exceptions to said policy."

On January 15, 1992, the Fosters filed a Petition Nunc Pro Tunc in the Court of Common Pleas of Adams County at docket number 91-S-982 asking that the tax sale be set aside and asking that ejectment proceedings initiated against them by Plaintiffs be stayed. The sole issue raised in the petition was the alleged lack of notice of the tax sale to Mr. Foster. By Order of the same date, a stay was entered and a hearing scheduled. In response to this petition, Plaintiffs asked that Adams Abstract and/or Penn provide legal counsel to help them defend their interest in the property. Adams Abstract advised Plaintiffs to make a claim with Penn. Penn, in turn, refused to provide such representation and Plaintiffs were therefore forced to hire their own counsel. Subsequently, on March 9, 1992, the Court of Common Pleas of Adams County upheld Plaintiffs' interest in the property. An appeal to the Commonwealth Court was denied.

Legal Discussion

Penn seeks summary judgment as to Count IV on the basis that there was no duty on its part to defend against the Fosters' tax sale petition. If Penn is correct that Count IV should be dismissed, it follows that Plaintiffs have no bad faith claim nor entitlement to summary judgment on their motion. For reasons set forth below, this Court concludes that Penn is entitled to the relief requested.

Penn's position is easy to articulate. Penn contends that the title insurance policy described its contractual obligations. Included among those obligations was a duty to defend against claims made against title to the property purchased by Plaintiffs at the tax sale unless those claims were specifically excluded from coverage. Any claim made regarding Robert Foster's interest in the property was expressly excluded. The Fosters' Petition raised only one issue – lack of notice to Mr. Foster. Plaintiffs' primary argument focuses on the fact that Mrs. Foster joined in the Foster Petition, and because her claim was not excepted, Penn had a duty to defend Plaintiffs in that litigation.

The title insurance policy at issue clearly states that it covered title defects or interests except those excluded. The exclusions included “possible outstanding interest of Robert E. Foster, sold out at Tax Claim Bureau Sale held September 13, 1991.” There is no question that Mrs. Foster joined in the petition to set aside the tax sale, however, in doing so, she was not asserting her interest in the property, but rather Mr. Foster’s interest. Mrs. Foster may have been the driving force in litigating the petition because she was the one residing in the property at the time of the tax sale, but her joinder for that reason did not cloak the petition with a claim covered by the policy. Her interest was clearly derivative of Mr. Foster’s claim.

Plaintiffs raise several arguments in an effort to breathe life into litigation on the edge of legal death.

First they argue that the original title report excluded from coverage “suit action: 91-S-982 – Petition for Confirmation of Distribution, entered November 15, 1991,” but that exclusion had been removed when the final policy was issued. Because the Foster Petition was filed to case 91-S-982, Plaintiffs contend that Penn had a duty to defend litigation arising under that docket number.

The docket number simply reflects the original tax sale case number. The sale was held September 13, 1991, and on November 14, 1991 the Tax Claim Bureau petitioned the court to confirm Distribution of Proceeds with a rule returnable date of December 23, 1991. No exceptions were filed by that date; therefore, authorization to make distribution was granted. The preliminary report was written to reflect that outstanding petition, and because no exceptions were filed within the allowable period, that exclusion was redacted. The fact that the Fosters’ Nunc Pro Tunc petition was subsequently filed on January 19, 1992 to the same docket number does not mean that claim was not excluded. The policy is clear and unambiguous that any interest of Mr. Foster was excluded preliminarily, and that exclusion was not removed in the final policy. It is not the docket number that gives life to the coverage; rather, it is the substance of the claim which Penn excluded from its duty to defend.

Second, Plaintiffs suggest that before issuing the title policy, Penn had knowledge of the possibility that Mrs. Foster was not properly served prior to the tax sale. However, because the Foster Petition

made no allegation that Mrs. Foster was not properly served, it matters not whether Penn did or did not have any concerns in that regard.

Third, Plaintiffs contend that because the policy did not exclude claims that Mrs. Foster might raise, it follows that Penn was required to defend against her petition. Furthermore, they argue that the merits of Mrs. Foster's petition has no bearing upon Penn's duty to defend. I agree with that statement in general, however, in the context of this case, it does not preclude summary judgment. Again, Mrs. Foster was not raising a claim regarding her interest in the property. Instead, she was asserting the issue of notice to Mr. Foster. As noted, his possible claim is expressly excluded.

Finally, Plaintiffs argue that during the hearings on the Foster petition, Mrs. Foster said she did not receive all the notices regarding the pending tax sale. Plaintiffs suggest that only through their efforts in cross-examining Mrs. Foster was evidence presented to defeat that claim. Therefore, because the Fosters could have amended their petition in the course of the hearing, Penn should have provided the defense. This circular argument has no merit. Up to the point that Mrs. Foster responded that she did not receive all the notices, that issue was not before the Court. Penn would not have a duty to assume the defense in anticipation of an amendment. In fact, the Fosters did not amend their petition. Thus, there was no reason to interrupt the litigation in order for Penn to defend that issue, nor did Plaintiffs request a delay for the purpose. Instead, Plaintiffs took it upon themselves to put that potential issue to rest. Having done so, they are in no position presently to contend that Penn breached its contractual duty by failing to intervene on their behalf.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 6th day of January, 2003, in consideration of the attached Opinion:

1. The Motion for Summary Judgment filed by Penn Title Insurance Company on May 10, 2002 is granted and all claims against said defendant are dismissed; and
2. The Countermotion for Summary Judgment filed by Plaintiffs on June 19, 2002 is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-946 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 January, 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, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at an Ash Tree for a corner; thence along land of New Oxford Municipal Authority, South 79 degrees West, 93 feet to center of the Little Conewago Creek, said line being 263 feet up stream from land of New Oxford Municipal Authority measured on bank of stream; thence along center of said stream, South 21-1/2 degrees West, 68 feet to a point in said stream; thence along land of Wallen Homes, Inc., North 82 degrees East, 137 feet to an iron pin; thence along land of same North 32 degrees East, 52 feet to a hickory tree; thence along land of same, North 21-1/2 degrees West 50 feet to a stake at wire fence; thence along land of same South 51-1/2 degrees West, 41 feet to an Ash Tree and place of BEGINNING. CONTAINING 34.7 perches of land.

SUBJECT, to all rights-of-way, restrictions, reservations, conditions, easements and notations as set forth in Record Book 467 at Page 44.

BEING KNOWN AS 113-C Kohler Mill Road, New Oxford, PA 17350
PROPERTY ID NO J11-130

TITLE TO SAID PREMISES IS VESTED IN Michael Pullifrone and Tandra Pullifrone, husband and wife, as tenants by the entireties, by deed from Xue-Tao Chen, a married woman, dated 5/10/01, recorded 5/15/01, in Deed Book 2283, Page 280.

SEIZED and taken into execution as the property of **Michael Pullifrone & Tandra J. Pullifrone** 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 February 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.

12/12, 19 & 26

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 03-SU-966
Action to Quiet Title

RICHARD B. STULL and BRENDA L. STULL, husband and wife, Plaintiffs
vs.

DAVID B. KELLY, his heirs, administrators, successors and assigns, Defendants

TO: David B. Kelly, his heirs, administrators, successors and assigns

YOU ARE NOTIFIED that an Order has been entered on November 24, 2003, directing that within thirty (30) days after this publication, you shall commence an Action in Ejectment or other appropriate action against the Plaintiffs above to assert any claim you may have in and to the lands herein described or be forever barred from asserting any right, lien, title or interest inconsistent with the interest or claim set forth in Plaintiffs' Complaint with respect to the land herein described:

ALL that tract of land situate, lying and being in Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. 16 in Charnita Subdivision, Section R1, more particularly bounded and described as follows:

BEGINNING at a point in the center of a 50-foot wide trail at Lot No. 15; thence by said lot North 81 degrees 25 minutes 40 seconds West, 195.32 feet to Lot No. 17; thence by said lot North 5 degrees 17 minutes East, 178.76 feet to a point in the center of McLaughlin Trail; thence in said McLaughlin Trail South 84 degrees 43 minutes East, 195 feet to a point in the intersection of McLaughlin Trail and said 50-foot wide trail; thence in said 50-foot wide trail South 5 degrees 17 minutes West, 189.96 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section R1, Charnita" dated May 29, 1970, prepared by Gordon L. Brown, R.S. and recorded in Adams County Plat Book No. 1 at page 83.

BEING THE SAME WHICH Charnita, Inc., by deed dated September 13, 1971 and recorded in the Office of the

Recorder of Deeds of Adams County, Pennsylvania in Deed Book 295 at page 900, sold and conveyed unto David B. Kelly, Defendant herein; and BEING THE SAME which the Adams County Tax Claim Bureau, by their deed dated March 10, 1976, and recorded in the aforementioned office in Record Book 323 at Page 277, sold and conveyed unto Stuart Alan Gentle; and BEING THE SAME which Stuart Alan Gentle, unmarried, by Bernard A. Yannetti, his attorney-in-fact, by virtue of Power of Attorney dated July 20, 2001, by deed dated September 21, 2001, and recorded in the aforementioned office in Record Book 2470 at Page 212, sold and conveyed unto Allen W. Beckett, v/d/b/a Allen W. Beckett Construction; and BEING THE SAME which Allen W. Beckett, v/d/b/a Allen W. Beckett Construction, by deed dated July 10, 2003, and recorded in the aforementioned office in Record Book 3188 at Page 303, sold and conveyed unto Richard B. Stull and Brenda L. Stull, husband and wife, Plaintiffs herein.

Hartman & Yannetti
Bernard A. Yannetti, Esq.
Attorney for Plaintiffs
126 Baltimore Street
Gettysburg, PA 17325
(717) 334-3105

12/12

NOTICE

NOTICE IS HEREBY GIVEN that an Order was issued on the Petition of Darlene Laughman and Tiffany Kay Hoffman, a minor, in the Court of Common Pleas of Adams County, Pennsylvania, praying for a decree to change Tiffany Kay Hoffman's name to Tiffany Kay Laughman.

The Court has fixed February 3, 2004 at 9:00 a.m. in Courtroom No. 1, 2 or 3 of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Pennsylvania, 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 of them have, why the prayer of the said Petition should not be granted.

Amy E. W. Ehrhart, Esq.
Solicitor

12/12

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-588 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 THOSE CERTAIN two (2) tracts of land:

TRACT NO. 1:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, being known and described as Lot No. 638 on a plan of lots known as "Lake Meade Subdivision" said plan being recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, Page 4.

TRACT NO. 2:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, being known and numbered as Lot No. 637 on a plan of lots of "Lake Meade Subdivision" duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 1, Page 4 and subject to all legal highways, easements, rights of way and restrictions of record.

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

TITLE TO SAID PREMISES IS VESTED IN Steven J. Malnick and Brenda M. Malnick, his wife by Deed from David R. Brooks and Eileen M. Lucas-Brooks, his wife dated 12/3/1999 and recorded 12/9/1999 in Record Book 1967, Page 173.

Premises being: 85 Curtis Drive, East Berlin, PA 17316

Tax Parcel No. 002-0006-000

SEIZED and taken into execution as the property of **Steven J. Malnick & Brenda M. Malnick** 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 February 13, 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.

12/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-886 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 those lots situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1: BEGINNING at a point in the center of a public road known as State Highway Route No. 01030, said point of beginning being South 43 degrees 36 minutes East, 455.30 feet from a point driven in the center of Route No. 01030 where said highway center intersects the Eastern edge of the right of way of the Littlestown-Hanover State Highway; thence running through the original tract of Harry C. Worley, et al., and running through an iron pin 20 feet from the beginning of this course, North 45 degrees 30 minutes East, 150 feet to an iron pin; thence continuing through the original tract South 44 degrees 30 minutes East, 100 feet to an iron pin; thence continuing through the original tract South 45 degrees 30 minutes West, 150 feet through an iron pin 20 feet from the end of this course to a point in the center of said State Highway Route No. 01030; thence running in the center of said State Highway, North 44 degrees 30 minutes West, 100 feet to the above described place of BEGINNING. CONTAINING 15,000 square feet, more or less.

The above description was taken from a draft of survey made by D. W. Resh, Registered Surveyor, dated August 27, 1955, and further identified by the legend "Plan of Property belonging to Harry C. Worley situated in Union Township, Adams County, Pa."

TRACT NO. 2: BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smeach; thence by land about to be conveyed to Charles E. Smeach North 45 degrees 30 minutes East 50 feet to a steel pin at other lands of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45 degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

The above description was taken from a draft of survey prepared by J. H. Rife, R.E., dated April 30, 1970.

SUBJECT, NEVERTHELESS, to the restrictions of record.

IT BEING the same premises which Edna M. Steich, widow, by Joyce M. Harltaub, her attorney-in-fact, by her Deed dated January 14, 2000, and recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1989, Page 224, granted and conveyed unto Michael L. Waite.

Address: 50 Pine Grove Road,
Hanover, PA 17331

Tax Map K17, Parcel 8

Includes all buildings and improvements erected on the premises.

SEIZED and taken into execution as the property of **Michael L. Waite** 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 February 13, 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.

12/12, 19 & 26

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 BERNICE M. APPLER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Co-Executors: Judith Creutzer, 4105 Pine Hill Road, Perry Hall, MD 21236; Marian Kay Fekula, 105 Fox Hill Lane, Colorado Springs, CO 80919

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

ESTATE OF VIRGINIA W. PARRY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: William C. Wright, 606 Quaker Valley Road, Biglerville, PA 17307

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

ESTATE OF CLARENCE M. SADLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Timothy W. Sadler, 109 Springs Avenue, Gettysburg, PA 17325

Attorney: Walton V. Davis, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF SHAWNA MICHELLE STAMBAUGH, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Administrator: Dorothy L. Stambaugh, 2820 Carlisle Pike, New Oxford, PA 17350

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

ESTATE OF MARJORIE E. TEETER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Craig A. Showvaker, 781 Highland Avenue, Gettysburg, PA 17325

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

ESTATE OF PHYLLIS K. WILLIAMS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator C.T.A.: Robert E. Campbell, 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., 112 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF BETTY J. CLABAUGH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Co-Executors: Cheryl Lynn Grove a/k/a Cheryl Grove-Klinka, 739 Blossom Hill Lane, Dallastown, PA 17313; Mark Joseph Clabaugh, 29 Camelot Court, Stewartstown, PA 17363

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

ESTATE OF FRIEDA G. SANDRUCK a/k/a FRIEDA GARRETT SANDRUCK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Cloyd K. Leedy, Jr., 1906 Fairmount Road, Hampstead, MD 21074; Jean Marie Sandruck-Fahay, 5909 Eastcliff Drive, Baltimore, MD 21209

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

ESTATE OF RUTH H. STREIVIG, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrices: Charlotte L. Iacona, 48 Colorado Avenue, Littlestown, PA 17340; Marian H. Ramsey, 2450 Ham Brown Road, Kissimmee, FL 34746

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF MARY JANE THERIT a/k/a MARY J. THERIT, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administratrix: Elizabeth M. Therit, 67 Conewago Park Drive, East Berlin, PA 17316

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

ESTATE OF CATHERINE E. WILSON, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Mary W. Brown, 253 South Howard Avenue, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF CHARLES H. BANGE, JR., DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Edith Speak, 2119 Feeser Road North, Taneytown, MD 21787; Ralph M. Fritz, 40 Ocelot Drive, Hanover, PA 17331; Dorothy Ann Fritz, 40 Ocelot Drive, Hanover, PA 17331

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF GEORGE E. BARR, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Executor: Millard George Barr, 39 Mary Lou Lane, Shokan, NY 12481

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

ESTATE OF FRANCIS J. BOWLING, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Janet Currens, 2890 Fairfield Road, Gettysburg, PA 17325

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

ESTATE OF DAVID C. BURRITTE, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Martha B. Alston, 10 Carissa Court, Owing Mills, MD 21117

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

ESTATE OF RUTH E. GRIM, DEC'D

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

Personal Representatives: Paul A. Grim, 301 Abbottstown Street, East Berlin, PA 17316; Susan A. Spangler, 305 West King Street, East Berlin, PA 17316

Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

(continued on page 6)

THIRD PUBLICATION (continued)

ESTATE OF CATHERINE L. HIMES, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Sandra M. Riley, 2531 Ermitzburg Road, Gettysburg, PA 17325

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

ESTATE OF RUTH M. MOORE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Donald P. Moore, 749 Poplar Road, New Oxford, PA 17350; Francis B. Moore, Jr., 25 Pleasant View Drive, Hanover, PA 17331

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

ESTATE OF NEVIN H. SEITZ, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Sally Rebecca Seitz Pritt, c/o Daniel Carn, Esq., 221 W. Philadelphia Street, Suite 45, York, PA 17404

Attorney: Daniel Carn, Esq., 221 W. Philadelphia Street, Suite 45, York, PA 17404

ESTATE OF VELMA V. STRAYER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Robert C. Baker & Jane A. Baker, c/o William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1029 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING for a point at Caribou Street and Lot No. 113; thence along Lot No. 113, South twenty-five (25) degrees

zero (00) minutes twenty-eight (28) seconds West, ninety-five and seventy-four hundredths (95.74) feet to a point at Lot No. 114; thence along Lot No. 114, South sixty-one (61) degrees ten (10) minutes thirty-nine (39) seconds West, seventy-three and eight hundredths (73.08) feet to a point at Lot No. 111; thence along Lot No. 111, North three (03) degrees eight (08) minutes eleven (11) seconds West, one hundred thirty-four and seventy-three hundredths (134.73) feet to a point at Caribou Street; thence along Caribou Street by a curve to the right whose radius is three hundred forty (340.00) feet and whose chord bearing is South eighty-three (83) degrees thirty-six (36) minutes twenty-eight (28) seconds East, one hundred twelve and fifty-eight hundredths (112.58) feet for an arc distance of one hundred thirteen and ten hundredths (113.10) feet to the point and place of BEGINNING. CONTAINING 9,896 square feet and identified as Lot No. 112 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 45, page 95.

SUBJECT to the restrictions contained in Record Book 459, page 757.

BEING KNOWN as 35 Caribou Street (Conewago Twp.), Hanover, PA 17331

PROPERTY ID NO.: Map 9, Parcel 175

TITLE TO SAID PREMISES IS VESTED IN Brian A. Poist and Sandra M. Poist, husband and wife, as tenants by the entireties, by deed from Mary Lee Kuhn and John H. Kuhn, her husband, dated 01/31/89, recorded 02/02/89, in Deed Book 513, Page 871.

SEIZED and taken into execution as the property of **Brian A. Poist & Sandra M. Poist** 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 February 13, 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.

12/12, 19 & 26

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL
NO. 03-S-1034
Action to Quiet Title

CHARLES F. DOWD, Plaintiff
vs.

ESTELLA M. ALTLAND, a Widow, HER HEIRS, ASSIGNS and PERSONAL REPRESENTATIVE and any UNKNOWN PERSONS HAVING OR CLAIMING AN APPARENT INTEREST IN TITLE TO CERTAIN PROPERTY SITUATE IN THE TOWNSHIP OF BERWICK, ADAMS COUNTY, PENNSYLVANIA, Defendants

ORDER OF COURT

AND NOW, this 25th day of November, 2003, an Affidavit of Service of the Complaint by Publication together with a Notice to Plead having been filed and no Answer having been made by the Defendants, upon consideration of the Motion of the Plaintiff pursuant to Pa. R.Civ.P. 1066(a), it is hereby Ordered that judgment shall be entered against the Defendants unless the Defendants file an Answer to the Plaintiff's Complaint within thirty (30) days of the date of this Order. If the Defendants fail to file an Answer within thirty (30) days of the date of this Order, the Prothonotary shall, upon Praecipe, enter final judgment in the Plaintiff's favor directing that:

The Defendants, and any person or persons claiming under the Defendants, are permanently enjoined, restrained and forever barred from asserting any right, lien, title or interest in and to the following real property or any part thereof: ALL that tract of woodland situate, lying and being in Berwick Township, Adams County, Pennsylvania, containing four acres and sixteen perches of land and more particularly described in Deed Book 3173 at Page 268 and recorded in the Office of Recorder of Deeds of Adams County, Pennsylvania.

The Court notes that original process was served by publication. The Plaintiff shall, therefore, serve the Defendants with a copy of this Order pursuant to Pa.R.Civ.P. 440(a)(2) and proof thereof shall immediately be filed with the Prothonotary.

By the Court:
/s/Michael A. George
Judge
Michelle Pokrifka, Esq.

12/12

Adams County Legal Journal

Vol. 45

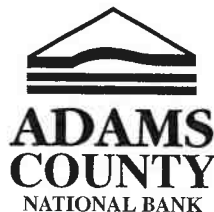
December 19, 2003

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



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-279 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 January, 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 those certain two tracts of land situate, lying and being in Mt. Pleasant Township, county of Adams and State of Pennsylvania, more particularly described as follows:

TRACT NO. 1 - BEGINNING for a point on the center line of Township Road T-430, known as Plunkert Road, and Lot No. 2 of the hereinafter referenced subdivision plan; thence along said center line of Plunkert Road, the following two courses and distances: 1) North twenty-four (24) degrees two (02) minutes thirty-three (33) seconds East, one hundred and seven hundredths (100.07) feet to a point; thence 2) North twenty-five (25) degrees fifty-three (53) minutes thirty-four (34) seconds East, two hundred ten and fifty-seven hundredths (210.57) feet to a point on the center line of Bulk Plant Road (SR 2004); thence along same, South seventy-six (76) degrees twenty-three (23) minutes zero (00) seconds East, five hundred seventy-three and fourteen hundredths (573.14) feet to a point on the center line of Township Road T-442, known as Locust Lane; thence along same, South four (04) degrees thirty-six (36) minutes forty-three (43) seconds East, three hundred fifty-eight and thirty-four hundredths (358.34) feet to a point at lands now or formerly of Perry L. Grove; thence along same, the following three courses and distances: 1) South eighty-five (85) degrees fifty (50) minutes forty-one (41) seconds West, two hundred one and twenty-six hundredths (201.26) feet to a point; thence 2) South three (03) degrees fifty-eight (58) minutes thirty (30) seconds East, one hundred sixty-seven and sixty hundredths (167.60) feet to a point; thence 3) South sixty-six (66) degrees fifty-three (53) minutes seventeen (17) seconds West, three hundred thirty-one and eighty-nine hundredths

(331.89) feet to a point at lands now or formerly of Gregory E. Sullivan; thence along same, North forty-four (44) degrees forty-nine (49) minutes ten (10) seconds West, seventy-two and eighty-seven hundredths (72.87) feet to a point at Lot No. 3 of the hereinafter referenced subdivision plan; thence along same, and along Lot No. 2 of said plan, North twenty-four (24) degrees two (02) minutes thirty-three (33) seconds East, three hundred sixty and thirty-two hundredths (360.32) feet to a point; thence continuing along said Lot No. 2 of said plan, North sixty-five (65) degrees fifty-seven (57) minutes twenty-seven (27) seconds West, three hundred fifty (350.00) feet to a point on the center line of Plunkert Road, the point and place of BEGINNING. CONTAINING 7.353 acres and identified as Lot No. 1 on a plan of lots prepared by Mort, Brown and Associates on January 8, 1988. Said plan recorded in the Adams County Recorder of Deeds' Office in Plat Book 51, Page 65.

TRACT NO. 2 - BEGINNING for a point on the center line of Bulk Plant Road, known as SR-2004, and lands now or formerly of Charles W. Coleman; thence along said Bulk Plant Road, South seventy-six (76) degrees twenty-three (23) minutes zero (00) seconds East, two hundred five (205.00) feet to a point on the center line of Township Road T-430, known as Plunkert Road, and Lot No. 1 of the hereinafter referenced subdivision plan; thence continuing along said Lot No. 1 and the center line of Plunkert Road, South twenty-five (25) degrees fifty-three (53) minutes thirty-four (34) seconds West, two hundred ten and fifty-seven hundredths (210.57) feet to a point at lands now or formerly of Charles W. Coleman; thence along same, the following two courses and distances: 1) North fifty-seven (57) degrees fourteen (14) minutes zero (00) seconds West, one hundred eighty and twelve hundredths (180.12) feet to a point; thence 2) North seventeen (17) degrees twenty-nine (29) minutes sixteen (16) seconds East, one hundred forty-seven (147.00) feet to a point on the center line of Bulk Plant Road, the point and place of BEGINNING. CONTAINING .777 acres and identified as Lot No. 4 on a plan of lots prepared by Mort, Brown and Associates on January 8, 1988. Said

plan is recorded in the Adams County Recorder of Deeds' Office in Plat Book 51, Page 65.

BEING known as 1000 Plunkert Road, Littlestown, PA 17340

PROPERTY ID NO: Map 1-15 Parcel 47A

TITLE TO SAID PREMISES IS VESTED IN Lisa M. Nicklow, by Deed from Lisa M. Nicklow, Executor of the Estate of Martha C. Sheets, late, dated 1/4/02, recorded 1/10/02, in Deed Book 2527, Page 41.

SEIZED and taken into execution as the property of **Lisa M. Nicklow** 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 February 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.

12/12, 19 & 26

LEGAL NOTICE

The annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 10th, 2004 to elect directors and to transact any other business properly presented.

Attest

Marilyn Q. Butt
President & Treasurer; Director

12/12, 19, 26 & 1/2

COMMONWEALTH VS. McDANNELL

1. The Post Conviction Collateral Relief Act, 42 Pa. C.S.A. §9541, et seq., provides the sole means of collaterally challenging a plea of guilty or nolo contendere. However, in order for the court to have jurisdiction, the motion for relief must be filed within one year of the date the judgment in the case becomes final.

2. The starting point for any ineffective counsel claim is that counsel is presumed effective and the petitioner has the burden of proving otherwise. In order to prevail on an ineffectiveness claim, appellant must demonstrate that: (1) his claims are of arguable merit, (2) counsel had no reasonable basis for his actions, and (3) counsel's actions prejudiced appellant.

3. Regarding the third prong of the ineffectiveness test, "prejudice is established when [a defendant] demonstrates that counsel's chosen course of action had an adverse effect on the outcome of the proceedings" a "criminal defendant alleging prejudice must show that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable."

4. Where there is a claim that counsel is ineffective for failure to call witnesses, the petitioner must prove (1) the existence and availability of the witnesses; (2) counsel's awareness of, or duty to know of the witnesses; (3) the witnesses' willingness and ability to cooperate and appear on behalf of the appellant; and (4) the necessity of the proposed testimony in order to avoid prejudice.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, Nos. CC-966-00, CC-990-00, CC-1025-00, CC-1035-00, COMMONWEALTH VS. DAMEON McDANNELL

Brian Coffey, Esq., Assistant District Attorney, for Commonwealth
Kristin Rice, Esq., for Defendant

Kuhn, P.J., January 6, 2003

OPINION ON DEFENDANT'S PCRA MOTION

Before the Court is Defendant's Motion for Post Conviction Collateral Relief, filed April 18, 2002. Defendant is alleging ineffective assistance of counsel, which resulted in an unlawfully induced guilty plea.

Defendant was born May 25, 1982, and was age 17 when all the underlying incidents occurred. They are described as follows:

1. On December 26, 1999, Defendant and one co-defendant, J.U., burglarized a PDQ store in Cumberland Township. A juvenile petition as filed at JC-228-00 on June 7, 2000, charging Burglary, Criminal Conspiracy, Theft, Theft By Receiving, and Criminal Mischief.
2. Between December 31, 1999 and January 1, 2000, Defendant and J.U. again committed a theft at the PDQ store in

Cumberland Township. A juvenile petition was filed at JC-229-00 on June 7, 2000, charging Theft and Theft By Receiving.

3. On January 1, 2000, Defendant and J.U. took a car from a location in Mt. Pleasant Township. A juvenile petition was filed at JC-226-00 on January 21, 2000, charging Theft By Receiving, Criminal Conspiracy, and Criminal Mischief.
4. Between January 3-4, 2000, Defendant and J.U. burglarized three storage sheds in Cumberland Township. A juvenile petition was filed on August 3, 2000, at JC-238-00, charging Burglary, Criminal Trespass, Criminal Mischief, and Criminal Conspiracy.
5. On January 10, 2000, Defendant and his brother, D.B., stole stereo equipment from a car located at the Littlestown Senior High School in the Borough of Littlestown. A juvenile petition was filed at JC-225-00 on January 21, 2000, charging Theft, Theft By Receiving, and Criminal Mischief.
6. On January 22, 2000, Defendant assaulted a neighbor in the Borough of Bonneauville. A juvenile petition was filed on February 2, 2000, at JC-227-00, charging Simple Assault and Harassment.

On August 8, 2000, Commonwealth moved to transfer these cases to adult court pursuant to provisions of 42 Pa. C.S.A. §6355. A hearing was scheduled for August 30, 2000. At that time, the child and counsel, Roy A. Keefer, appeared and after a colloquy by then President Judge Oscar F. Spicer (now retired), agreed to certification. Each case was then forwarded to the appropriate district justice for a preliminary hearing.

The case at JC-227-00 was treated as a summary offense at the district justice level and the charges at JC-238-00 were withdrawn. The remaining four cases were bound over to court from the district justice level. Those cases were subsequently docketed as follows:

JC-225-00 became CC-966-00

JC-229-00 became CC-990-00

JC-226-00 became CC-1025-00

JC-228-00 became CC-1035-00.

On March 19, 2001, Defendant appeared with counsel before Judge Spicer and entered pleas of nolo contendere in each case. The pleas were as follows:

CC-966-00 – Count I – Theft By Unlawful Taking – Misdemeanor first degree;

CC-990-00 – Count I – Theft By Unlawful Taking – Misdemeanor first degree;

CC-1025-00 – Count I – Theft By Receiving – Felony third degree;

CC-1035-00 – Count II – Theft By Receiving – Misdemeanor third degree.

Defendant was sentenced pursuant to a plea agreement to intermediate punishment of 12 months in CC-1035-00 and 36 months in the other cases. He was to serve 6 months in phase two (house arrest) and the balance of the sentences in phases three through five (probation). Each sentence was to run concurrently.

A conference on Defendant's PCRA motion was held June 7, 2002, where the following specific allegations of ineffectiveness were identified.

1. That counsel failed to properly advise Defendant of the difference between proceeding in Juvenile Court and Criminal Court. Defendant alleges that he was advised that if adjudicated in Juvenile Court on one case, he would be adjudicated on all cases whereas in Criminal Court, each case would be pursued separately.
2. That counsel failed to investigate the background of the allegations and to interview witnesses, specifically, Kristy Shoemaker and Alan Golden.

A hearing was held on August 7, 2002. Defendant testified that on August 30, 2000, he spoke to counsel who advised that it would be best for him to agree to a certification to adult court because if he was adjudicated on one charge in juvenile court, he would be found guilty of all charges, but that in adult court, he could fight each case separately. Attorney Keefer testified that he was assigned to represent Defendant in late August and on August 24, 2000, wrote Defendant a letter advising him to make contact before the hearing on August 30. No contact was made and counsel first met

Defendant, who was then age 18, on August 30 prior to the scheduled hearing. Before that date, a psychological evaluation of Defendant had been performed, which recommended residential placement upon adjudication because he was seen as a potential recidivist. Defendant was made aware that he could be in supervision under the Juvenile Court until age 21. Defendant indicated to counsel that he wanted to be in adult court because his girlfriend was pregnant and he wanted to be out of jail on bail to be with her. Counsel testified that he advised Defendant against transfer and that he could fight each case separately in both juvenile and adult court. He acknowledges perhaps telling Defendant that whether he was adjudicated on one or more charges, the disposition would probably be the same.

Defendant further testified that he had provided counsel with the name and address of Kristy Shoemaker who, in CC-1025-00, would testify that J.U. told Defendant the car belonged to a relative and asked Defendant to go for a ride. Defendant contends that he never knew the car was stolen. Counsel admitted not speaking to Ms. Shoemaker. However, he had her written statement and knew that there was a gap in her story. Shoemaker would allegedly have testified that she heard J.U. tell Defendant he needed to return a borrowed car to his relatives and solicited Defendant and herself to ride along. Defendant and J.U. then went outside. Counsel was aware that J.U. would testify that when outside, J.U. advised Defendant, beyond Shoemaker's hearing, that the car was stolen. With this knowledge, Defendant's subsequent actions would have supported Theft By Receiving.

Counsel also testified that he discussed strategy and the corrupt source rule with Defendant prior to March 19, 2001. On that date, he advised Defendant of the Commonwealth's plea offer, which Defendant accepted because he wanted to stay out of jail.

At the conclusion of the PCRA hearing, Commonwealth moved for dismissal.

First, we note that this Court has jurisdiction. The Post Conviction Collateral Relief Act, 42 Pa. C.S.A. §9541, et seq. provides the sole means of collaterally challenging a plea of guilty or nolo contendere. However, in order for the court to have jurisdiction, the motion for relief must be filed within one year of the date the judgment in the case becomes final. Here, the sentence was entered

on March 19, 2001, and because Defendant did not file an appeal, the judgment became final 30 days later on April 18, 2001. In fact, the instant motion was filed one year later on that date.

The Act also sets forth the eligibility requirements which a defendant must prove by a preponderance of the evidence. 42 Pa. C.S.A. §9543(a). Defendant has alleged that his conviction resulted from one or more of the following:

- (1) Violation of the Pennsylvania or United States Constitution which so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place;
- (2) Ineffective assistance of counsel which so undermined the truth-determining process that no reliable adjudication of guilt or innocence could have taken place;
- (3) His plea was unlawfully induced under circumstances which made it likely that the inducement caused him to enter the plea when he is innocent.

Defendant claims that counsel was ineffective. The starting point for any ineffective counsel claim is that counsel is presumed effective and the petitioner has the burden of proving otherwise. *Commonwealth v. D'Collanfield*, 805 A.2d 1244, 1246 (Pa. Super. 2002). Then,

In order to prevail on an ineffectiveness claim, appellant must demonstrate that: (1) his claims are of arguable merit, (2) counsel had no reasonable basis for his actions, and (3) counsel's actions prejudiced appellant.

Commonwealth v. Allen, 732 A.2d 582, 587 (Pa. 1999).

Without question, counsel has an obligation to advise a client within the range of competence and skill expected of an attorney in the particular area of the law at issue. Certainly, counsel should not mislead a client. When deciding what advice was given, the PCRA court must make a credibility determination. Here, regarding the allegation that counsel provided Defendant with improper advice as to the differences between juvenile and adult court, we find no merit to this claim.

Attorney Keefer is a very experienced and competent attorney who has served both as a prosecutor and defense counsel in juvenile

and adult criminal matters. I recognize that Defendant may have misunderstood or been confused by counsel's explanation of the difference between juvenile and adult court, but I conclude that counsel, in this matter, did not give improper advice.

Furthermore, I do not believe that Defendant could demonstrate any prejudice that resulted from whatever advice may have been given. As recently stated in *Commonwealth v. Chambers*, 807 A.2d 872, 883 (Pa. 2002), regarding the third prong of the ineffectiveness test,

“Prejudice is established when [a defendant] demonstrates that counsel’s chosen course of action had an adverse effect on the outcome of the proceedings” . . . “the defendant must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome” . . . a “criminal defendant alleging prejudice must show that counsel’s errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.”

Defendant has failed to demonstrate that certification to adult court would not have been ordered after the hearing which was to be held on August 30, 2000. Had certification been ordered anyway, the discussion of counsel's alleged improper advice would be irrelevant. A brief review of the criteria for transfer under 42 Pa. C.S.A. §6335 indicates that numerous of the relevant factors could have been easily established by the Commonwealth. For example, Defendant was age 17-1/2 years or older when the incidents occurred and was age 18 years at the time of the certification hearing. At least three of the incidents involved potential felonies if committed by an adult. Several of the events exhibited a degree of criminal sophistication in that they involved breaking into businesses, sheds and cars. One incident allegedly involved physically aggressive behavior. The psychological evaluation evidenced serious concern about recidivism.

Ultimately, the decision to agree to certification belonged to Defendant. Judge Spicer was satisfied on August 30, 2000, that Defendant made a knowing and voluntary decision to agree to the transfer. I am satisfied from the evidence presented on August 7, 2002, that Defendant agreed to the transfer, not because of counsel's

advice, but because he wanted to be out of placement and/or jail in order to be with his pregnant girlfriend. This conclusion is bolstered by counsel's testimony that he "always" advises a juvenile against agreeing to certification.

Finally, I find no merit to Defendant's claim that counsel was ineffective for failing to investigate witnesses in CC-1025-00. Counsel admits that he did not interview Kristy Shoemaker. However, he had the statement she gave to the police and knew that there was a time frame during which Shoemaker was not present for conversations between Defendant and J.U. In addition, J.U. had testified against Defendant at the preliminary hearing.

Where there is a claim that counsel is ineffective for failure to call witnesses, the petitioner must prove

- (1) The existence and availability of the witnesses; (2) Counsel's awareness of, or duty to know of the witnesses; (3) the witnesses' willingness and ability to cooperate and appear on behalf of the appellant; and (4) the necessity of the proposed testimony in order to avoid prejudice . . . A defendant must establish prejudice by demonstrating that he was denied a fair trial because of the absence of the testimony. *Commonwealth v. Williams*, 730 A.2d 507, 511 (Pa. Super. 1999) (citations omitted).

In other words, the petitioner must "demonstrate how the testimony of the uncalled witness would have been beneficial under the circumstances of the case." *Commonwealth v. Drass*, 718 A.2d 816, 819 (Pa. Super. 1998).

Here, Defendant did not demonstrate how an actual interview or the testimony of Shoemaker would have benefited him. Defendant entered a nolo contendere plea and was sentenced pursuant to a plea agreement, which would initially keep him out of jail. On March 19, 2002, Defendant was advised of the Commonwealth's offer but made no mention of Shoemaker's possible testimony.

Defendant offered no evidence regarding what information potential witness Golden could have provided.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 6th day of January, 2003, in accordance with the attached Opinion, the Motion for Post Conviction Collateral Relief, filed by Defendant on April 18, 2002, is denied.

Defendant is advised of his right to file an appeal from this Order to the Superior Court within 30 days of the date of this Order. Defendant is entitled to have appointed counsel continue as his attorney on appeal. Finally, he is advised of his right to proceed in forma pauperis.

This Order and attached Opinion shall be sent to Defendant by certified mail.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-946 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 January, 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, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at an Ash Tree for a corner; thence along land of New Oxford Municipal Authority, South 79 degrees West, 93 feet to center of the Little Conewago Creek, said line being 263 feet up stream from land of New Oxford Municipal Authority measured on bank of stream; thence along center of said stream, South 21-1/2 degrees West, 68 feet to a point in said stream; thence along land of Wallen Homes, Inc., North 82 degrees East, 137 feet to an iron pin; thence along land of same North 32 degrees East, 52 feet to a hickory tree; thence along land of same, North 21-1/2 degrees West 50 feet to a stake at wire fence; thence along land of same South 51-1/2 degrees West, 41 feet to an Ash Tree and place of BEGINNING. CONTAINING 34.7 perches of land.

SUBJECT, to all rights-of-way, restrictions, reservations, conditions, easements and notations as set forth in Record Book 467 at Page 44.

BEING KNOWN AS 113-C Kohler Mill Road, New Oxford, PA 17350

PROPERTY ID NO J11-130

TITLE TO SAID PREMISES IS VESTED IN Michael Pullifrone and Tandra Pullifrone, husband and wife, as tenants by the entireties, by deed from Xue-Tao Chen, a married woman, dated 5/10/01, recorded 5/15/01, in Deed Book 2283, Page 280.

SEIZED and taken into execution as the property of **Michael Pullifrone & Tandra J. Pullifrone** 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 February 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.

12/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-588 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 THOSE CERTAIN two (2) tracts of land:

TRACT NO. 1:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, being known and described as Lot No. 638 on a plan of lots known as "Lake Meade Subdivision" said plan being recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, Page 4.

TRACT NO. 2:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, being known and numbered as Lot No. 637 on a plan of lots of "Lake Meade Subdivision" duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 1, Page 4 and subject to all legal highways, easements, rights of way and restrictions of record.

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

TITLE TO SAID PREMISES IS VESTED IN Steven J. Malnick and Brenda M. Malnick, his wife by Deed from David R. Brooks and Eileen M. Lucas-Brooks, his wife dated 12/3/1999 and recorded 12/9/1999 in Record Book 1967, Page 173.

Premises being: 85 Curtis Drive, East Berlin, PA 17316

Tax Parcel No. 002-0006-000

SEIZED and taken into execution as the property of **Steven J. Malnick & Brenda M. Malnick** 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 February 13, 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.

12/12, 19 & 26

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 the 29th day of October, 2003, for the purpose of obtaining a Certificate of Incorporation for a business corporation organized under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania of 1988, as amended.

The name of the Corporation is RICK'S REPAIRS, INC. The purpose for which said Corporation is organized is to engage in and do any lawful act concerning any or all business for which corporations may be incorporated under the Business Corporation Law of 1988, December 21, P.L. 1444, No. 177 Section 103, effective October 1, 1989 including but not limited to general construction services and related items.

Stonesifer and Kelley, P.C.

12/19

INCORPORATION NOTICE

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

The name of the corporation is JIM SHANK ENTERPRISES, INC.

The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

Jim Shank Enterprises, Inc.
PO Box 20
McKnightstown, PA 17343

12/19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-886 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 those lots situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1: BEGINNING at a point in the center of a public road known as State Highway Route No. 01030, said point of beginning being South 43 degrees 36 minutes East, 455.30 feet from a point driven in the center of Route No. 01030 where said highway center intersects the Eastern edge of the right of way of the Littlestown-Hanover State Highway; thence running through the original tract of Harry C. Worley, et al., and running through an iron pin 20 feet from the beginning of this course, North 45 degrees 30 minutes East, 150 feet to an iron pin; thence continuing through the original tract South 44 degrees 30 minutes East, 100 feet to an iron pin; thence continuing through the original tract South 45 degrees 30 minutes West, 150 feet through an iron pin 20 feet from the end of this course to a point in the center of said State Highway Route No. 01030; thence running in the center of said State Highway, North 44 degrees 30 minutes West, 100 feet to the above described place of BEGINNING. CONTAINING 15,000 square feet, more or less.

The above description was taken from a draft of survey made by D. W. Resh, Registered Surveyor, dated August 27, 1955, and further identified by the legend "Plan of Property belonging to Harry C. Worley situated in Union Township, Adams County, Pa."

TRACT NO. 2: BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smeach; thence by land about to be conveyed to Charles E. Smeach North 45 degrees 30 minutes East 50 feet to a steel pin at other lands of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45 degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

The above description was taken from a draft of survey prepared by J. H. Rife, R.E., dated April 30, 1970.

SUBJECT, NEVERTHELESS, to the restrictions of record.

IT BEING the same premises which Edna M. Steich, widow, by Joyce M. Hartlaub, her attorney-in-fact, by her Deed dated January 14, 2000, and recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1989, Page 224, granted and conveyed unto Michael L. Waite,

Address: 50 Pine Grove Road, Hanover, PA 17331

Tax Map K17, Parcel 8

Includes all buildings and improvements erected on the premises.

SEIZED and taken into execution as the property of **Michael L. Waite** 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 February 13, 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.

12/12, 19 & 26

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Pennsylvania's "Fictitious Names Act", 54 Pa. C.S.A. §§ 301 et seq., of the filing of an Application for Registration of Fictitious Name under the said Act. The fictitious name is SULLIVAN NURSERY & LANDSCAPING. The address of the principal office or place of business to be carried on under or through the fictitious name is 881 Abbottstown Pike, Hanover, Pennsylvania 17331. The name and address of the entity who is party to the registration is Kirton & Sullivan LLC of 881 Abbottstown Pike, Hanover, Pennsylvania 17331. An application for registration under the Fictitious Names Act of the said fictitious name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on November 7, 2003.

Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325
Attorneys for Applicant

12/19

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Pennsylvania's "Fictitious Names Act", 54 Pa. C.S.A. §§ 301 et seq., of the filing of an Application for Registration of Fictitious Name under the said Act. The fictitious name is KIRTON KENNEL. The address of the principal office or place of business to be carried on under or through the fictitious name is 881 Abbottstown Pike, Hanover, Pennsylvania 17331. The name and address of the entity who is a party to the registration is Kirton & Sullivan LLC of 881 Abbottstown Pike, Hanover, Pennsylvania 17331. An application for registration under the Fictitious Names Act of the said fictitious name was filed in the Office of the Secretary of the Commonwealth of Pennsylvania on November 7, 2003.

Campbell & White, P.C.
112 Baltimore Street
Gettysburg, PA 17325
Attorneys for Applicant

12/19

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-448 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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.:

Legal Description

PREMISES "A"

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

BEGINNING at an Existing Rebar at the common corner of land now or formerly of Brian Showers and land now or formerly of Leroy Routsong, et al. and land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Brian Showers, South 37 degrees 56 minutes 09 seconds East, 317.60 feet to an Existing Axle at corner of said land now or formerly of Brian Showers; thence by said land now or formerly of Brian Showers, South 85 degrees 07 minutes 39 seconds West, 199.82 feet to an Existing Axle at corner of said land now or formerly of Brian Showers, and on line of land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, North 37 degrees 56 minutes 09 seconds West, 423.73 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of Ruth E. Bretzman and other land now or formerly of William O. Routsong and land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., North 84 degrees 27 minutes 24 seconds East, 198.32 feet to a point at corner of said land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., South 37 degrees 56 minutes 09 seconds East, 108.90 feet to an Existing Rebar at the common corner of said land now or formerly of Leroy Routsong, et al. and land now or formerly of Brian Showers and land now or formerly of Harry L. Pritchard, the point and place of BEGINNING.

CONTAINING 1.634 acres.

THE above description was taken from a draft of survey, by Mark A. Kuntz, Surveyor, dated November 12, 1993 as later revised, which draft of survey is lodged and part of the record in No. 97-S-231 in the Adams County Prothonotary's Office.

PREMISES "B"

ALL THOSE TWO (2) tracts of land situate, lying and being in Menallen

Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a Pipe Set in the centerline of the right-of-way of Maryland Avenue, 18' back from the centerline of existing 18' gravel cartway, at the common corner of land now or formerly of Rob Conner and land now or formerly of Hugh Gauch; thence crossing and leaving said Maryland Avenue, and by land now or formerly of Hugh Gauch, North 57 degrees 34 minutes 08 seconds East, 199.24 feet to a Rebar Set at corner of said land now or formerly of Hugh Gauch; thence by said land now or formerly of Hugh Gauch, South 48 degrees 38 minutes 54 seconds East, 1,098.16 feet to a Rebar Set at Existing Planted Stone at corner of said land now or formerly of Hugh Gauch; thence by said land now or formerly of Hugh Gauch, North 33 degrees 05 minutes 16 seconds East, 178.65 feet to an Existing Rebar and Stones at the common corner of said land now or formerly of Hugh Gauch, land now or formerly of Paul Kuhn, and land now or formerly of Robert Ayers, Jr.; thence by said land now or formerly of Robert Ayers, Jr., South 46 degrees 57 minutes 39 seconds East, 328.32 feet to an Existing Pipe and Stones at corner of said land now or formerly of Robert Ayers, Jr.; thence by said land now or formerly of Robert Ayers, Jr., North 52 degrees 40 minutes 28 seconds East, 297.66 feet to an Existing Pipe at intersection of Stone Rows on line of said land now or formerly of Robert Ayers, Jr., and at corner of land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, South 37 degrees 14 minutes 19 seconds East, 548.01 feet to an Existing Pipe at corner of said land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, North 49 degrees 29 minutes 30 seconds East, 819.62 feet to an Existing Pipe at 8" Spruce Tree at corner of said land now or formerly of John W. Morrow, and said on line of land now or formerly of E.C. Anderson, Jr.; thence by said land now or formerly of E.C. Anderson, Jr. and by land now or formerly of Kevin B. King, South 40 degrees 36 minutes 47 seconds East, 265.20 feet to an Existing Pipe at corner of said land now or formerly of Kevin B. King and on line of land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Harry L. Pritchard, South 52 degrees 37 minutes 44 seconds West, 635.58 feet to a Rebar and Stones Set at corner of said land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Harry L. Pritchard, and across an Unimproved Road (right-of-way to S.R. #4008) near the end of

this course, South 33 degrees 26 minutes 12 seconds West, 623.70 feet to an Existing Rebar at common corner of said land now or formerly of Harry L. Pritchard and Brian Showers, and on line now or formerly of William O. Routsong; thence by said land now or formerly of William O. Routsong, North 37 degrees 56 minutes 09 seconds West, 108.90 feet to a point at corner of said land now or formerly of William O. Routsong; thence by said land now or formerly of William O. Routsong, South 84 degrees 27 minutes 24 seconds West, 198.32 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of William O. Routsong and other land now or formerly of the said William O. Routsong.

(TRACT 2 more particularly described hereinbelow); thence by said other lands now or formerly of William O. Routsong, North 37 degrees 56 minutes 09 seconds West, 273.87 feet to a point at corner of said other land now or formerly of William O. Routsong; thence by said other land now or formerly of William O. Routsong, South 54 degrees 22 minutes 15 seconds West, 209.78 feet to a Rebar Set in Existing Stones at corner of said other land now or formerly of William O. Routsong and at corner of land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, and by land now or formerly of John C. Bretzman, South 54 degrees 22 minutes 15 seconds West, 544.63 feet to an Existing Pipe and Planted Stone on line of said land now or formerly of John C. Bretzman, and at corner of land now or formerly of Robert Luckenbaugh; thence by said land now or formerly of Robert Luckenbaugh, and across a private road or drive near the end of this course, North 61 degrees 56 minutes 42 seconds West, 610.43 feet to an Existing Pipe at corner of said land now or formerly of Robert Luckenbaugh; thence by said land now or formerly of Robert Luckenbaugh, South 60 degrees 49 minutes 41 seconds West, 97.23 feet to an Existing Pipe and Stones at corner of said land now or formerly of Robert Luckenbaugh, and on line of land now or formerly of Ralph Sheaffer; thence by said land now or formerly of Ralph Sheaffer, and by land now or formerly of Albert Hudimae, and by land now or formerly of Henry Krahn, Jr., and by land now or formerly of Jerome Hanson, and by land now or formerly of Susan Coles, North 07 degrees 38 minutes 11 seconds East, 1,200.66 feet to an Existing Pipe and Stones at the common corner of said land now or formerly of Susan Coles and land now or formerly of Rob Conner; thence by said land now or formerly of Rob Conner, North 53 degrees 10 minutes 42 seconds West, 419.04 feet to a Pipe Set in the centerline of the right-of-

(continued on page 6)

way of Maryland Avenue at the common corner of said land now or formerly of Rob Conner and land now or formerly of Hugh Gauch, the point and place of BEGINNING.

CONTAINING 43.921 Acres.

LESS, HOWEVER ALL those two parcels of land, situate in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

PARCEL NO. 1:

BEGINNING at an existing pipe on line of land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, and at corner of land now or formerly of John W. Morrow, thence by said land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, and by land now or formerly of Kevin G. King, a/k/a Kevin B. King, South 40 degrees 36 minutes 47 seconds East, 105.00 feet to a rebar set on line of said land now or formerly of Kevin G. King, a/k/a Kevin B. King, and at corner of Lot 3 depicted in and upon the below-mentioned draft of survey and final subdivision plan; thence by said Lot 3, South 32 degrees 35 minutes 56 seconds West, 175.48 feet to a rebar set at corner of said Lot 3, and on line of land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr.; thence by said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr., North 40 degrees 36 minutes 47 seconds West, 155.99 feet to a rebar set at corner of said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr., and on line of land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, North 49 degrees 29 minutes 30 seconds East, 168.00 feet to an existing pipe at corner of said land now or formerly of John W. Morrow, and on line of land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, the point and place of BEGINNING.

CONTAINING 0.503 acre.

THE above description was taken from a draft of survey and final subdivision plan, dated March 30, 1998, by Mark A. Kuntz, Surveyor, which draft of survey and final subdivision plan is recorded in the Office of Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 74 at Page 5; the above described tract of land is labeled as Lot 2 in and upon said draft of survey and final subdivision plan.

PARCEL NO. 2:

BEGINNING at a rebar set on line of land now or formerly of Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, and at corner of Lot 2 depicted in and upon the below-mentioned draft

survey and final subdivision plan; thence by said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, South 40 degrees 36 minutes 47 seconds East, 160.20 feet to an existing pipe at corner of said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, and on line of land now or formerly of Harry Pritchard; thence by said land now or formerly of Harry Pritchard, South 52 degrees 37 minutes 44 seconds West, 168.27 feet to a rebar set on line of said land now or formerly of Harry Pritchard, and at corner of land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr.; thence by said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr., and at corner of said Lot 2; thence by said Lot 2, North 32 degrees 35 minutes 56 seconds East, 175.48 feet to a rebar set at corner of said Lot 2, and on line of said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, the point and place of BEGINNING.

CONTAINING 0.502 acre.

THE above description was taken from a draft of survey and final subdivision plan, dated March 30, 1998, by Mark A. Kuntz, Surveyor, which draft of survey and final subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 74 at Page 5; the above described tract of land is labeled as Lot 3 in and upon said draft of survey and final subdivision plan.

TRACT NO. 2:

BEGINNING at a point at corner of land now or formerly of Leroy Routsong, et al. (Tract 1) more particularly described hereinabove); thence by said land now or formerly of Leroy Routsong, et al., South 37 degrees 56 minutes 09 seconds East, 273.87 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of Leroy Routsong, et al. and other land now or formerly of William O. Routsong and land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, North 74 degrees 31 minutes 43 seconds West, 351.63 feet to a Rebar Set in Existing Stones at corner of said land now or formerly of Ruth E. Bretzman, and on line of said land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., North 54 degrees 22 minutes 15 seconds East, 209.78 feet to a point at

corner of said land now or formerly of Leroy Routsong, et al., the point and place of BEGINNING.

CONTAINING 0.659 acre.

THE above descriptions for Tracts Nos. 1 and 2 were taken from a draft of survey, by Mark A. Kuntz, Surveyor, dated November 12, 1993, as later revised, which draft of survey is lodged as part of the record in No. 97-S-231 in the Adams County Prothonotary's Office.

TITLE TO SAID PREMISES IS VESTED IN Joseph S. Buchheister and Juanita M. Buchheister, his wife by reason of the following:

PREMISES "A"

BEING THE SAME PREMISES which William Oscar Routsong, Jr., single man (widower) by Deed dated 9/10/1999 and recorded 9/13/1999 in the County of Adams in Record Book 1913, Page 293 conveyed unto Joseph S. Buchheister and Juanita M. Buchheister, his wife.

PREMISES "B"

BEING THE SAME PREMISES which Leroy Routsong and Alice Y. Routsong, his wife by Deed dated 9/10/1999 and recorded on 9/13/1999 in the County of Adams in Record Book 1913, Page 297 conveyed unto Joseph S. Buchheister and Juanita M. Buchheister, his wife.

Premises being: 360-362 Bendersville-Wenksville Road, Aspers, PA 17304

Tax Parcel No. E05-0070 (PREMISES A)
Tax Parcel No. EC5-0037-000 (PREMISES B)

SEIZED and taken into execution as the property of **Joseph S. Buchheister & Juanita M. Buchheister** 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 February 13, 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.

12/19, 26 & 1/2

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 ESTHER E. BANKERT, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executors: Cheryl Glab, 407 East Wheel Road, Belair, MD 21015; Anthony Glab, 407 East Wheel Road, Belair, MD 21015

Attorney: Ross H. Pifer, Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAUL E. GARHART, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Personal Representative: Mary Jane Garhart, 2151 Fairfield Road, Gettysburg, PA 17325

Attorney: LeRoy S. Maxwell, Jr., Esq., Maxwell Law Offices, Wayne Building, 92 West Main Street, Waynesboro, PA 17268

ESTATE OF MADELINE M. KLUNK, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Diane Mann, 130 Smoketown Road, Hanover, PA 17331; Mary Nace, 392 Church Road, East Berlin, PA 17316

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

ESTATE OF JESSIE M. LEAL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Janet K. McCoy, 8015 N.E. 112th Street, Kirkland, WA 98033; Clifford V. Germano, 848 Sunset Avenue, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 West Middle St., Gettysburg, PA 17325

ESTATE OF PAULINE A. SANDERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jacqueline Zepp, 2035 Grandview Road, Hanover, PA 17331; Laverne Sanders, 1008 High Street, Hanover, PA 17331

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

ESTATE OF MARY E. SNYDER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrix: Susan M. Ayres, 412 Dart Drive, Hanover, PA 17331

Attorney: Thomas E. Miller, Esq., Miller & Shultis, P.C., 249 York Street, Hanover, PA 17331

ESTATE OF HENRIETTA S. WILLIAMS a/k/a HENRIETTA SELL WILLIAMS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Patricia K. Hagarman, 105 Paul Street, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF BERNICE M. APPLER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Co-Executors: Judith Creutzer, 4105 Pine Hill Road, Perry Hall, MD 21236; Marian Kay Fekula, 105 Fox Hill Lane, Colorado Springs, CO 80919

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

ESTATE OF VIRGINIA W. PARRY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: William C. Wright, 606 Quaker Valley Road, Biglerville, PA 17307

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

ESTATE OF CLARENCE M. SADLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Timothy W. Sadler, 109 Springs Avenue, Gettysburg, PA 17325

Attorney: Walton V. Davis, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF SHAWNA MICHELLE STAMBAUGH, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Administrator: Dorothy L. Stambaugh, 2820 Carlisle Pike, New Oxford, PA 17350

Attorney: John James Mooney, III, Esq., Mooney & Associates, 2030 York Street, Hanover, PA 17331

ESTATE OF MARJORIE E. TEETER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Craig A. Showvaker, 781 Highland Ave., Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

ESTATE OF PHYLLIS K. WILLIAMS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator C.T.A.: Robert E. Campbell, 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., 112 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF BETTY J. CLABAUGH, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Co-Executors: Cheryl Lynn Grove a/k/a Cheryl Grove-Klinka, 739 Blossom Hill Lane, Dallastown, PA 17313; Mark Joseph Clabaugh, 29 Camelot Court, Stewartstown, PA 17363

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

ESTATE OF FRIEDA G. SANDRUCK a/k/a FRIEDA GARRETT SANDRUCK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Cloyd K. Leedy, Jr., 1906 Fairmount Road, Hampstead, MD 21074; Jean Marie Sandruck-Fahey, 5909 Eastcliff Drive, Baltimore, MD 21209

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

ESTATE OF RUTH H. STREVIG, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrices: Charlotte L. Iacona, 48 Colorado Ave., Littlestown, PA 17340; Marian H. Ramsey, 2450 Ham Brown Rd., Kissimmee, FL 34746

Attorney: Crabbs & Crabbs, 202 Broadway, Hanover, PA 17331

ESTATE OF MARY JANE THERIT a/k/a MARY J. THERIT, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administratrix: Elizabeth M. Therit, 67 Conewago Park Drive, East Berlin, PA 17316

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

(continued on page 8)

THIRD PUBLICATION (continued)

ESTATE OF CATHERINE E. WILSON, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Mary W. Brown, 253 South Howard Avenue, Gettysburg, PA 17325

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1029 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING for a point at Caribou Street and Lot No. 113; thence along Lot No. 113, South twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds West, ninety-five and seventy-four hundredths (95.74) feet to a point at Lot No. 114; thence along Lot No. 114, South sixty-one (61) degrees ten (10) minutes thirty-nine (39) seconds West, seventy-three and eight hundredths (73.08) feet to a point at Lot No. 111; thence along Lot No. 111, North three (03) degrees eight (08) minutes eleven (11) seconds West, one hundred thirty-four and seventy-three hundredths (134.73) feet to a point at Caribou Street; thence along Caribou Street by a curve to the right whose radius is three hundred forty (340.00) feet and whose chord bearing is South eighty-three (83) degrees thirty-six (36) minutes twenty-eight (28) seconds East, one hundred twelve and fifty-eight hundredths (112.58) feet for an arc distance of one hundred thirteen and ten hundredths (113.10) feet to the point and place of BEGINNING, CONTAINING 9,896 square feet and identified as Lot No. 112 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 45, page 95.

SUBJECT to the restrictions contained in Record Book 459, page 757.

BEING KNOWN as 35 Caribou Street (Conewago Twp.), Hanover, PA 17331

PROPERTY ID NO.: Map 9, Parcel 175

TITLE TO SAID PREMISES IS VESTED IN Brian A. Poist and Sandra M.

Poist, husband and wife, as tenants by the entireties, by deed from Mary Lee Kuhn and John H. Kuhn, her husband, dated 01/31/89, recorded 02/02/89, in Deed Book 513, Page 871.

SEIZED and taken into execution as the property of **Brian A. Poist & Sandra M. Poist** 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 February 13, 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.

12/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-47 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 those three tracts of land situate, lying and being in Highland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1: BEGINNING at a spike in the center of Pennsylvania Route No. 116; thence through an iron pin set 26.6 feet from said place of beginning and by land now or formerly of Raymond Shindledecker, South 2 degrees 30 minutes West, 200 feet to a stake at lands now or formerly of J.J. Spence; thence by same, South 81 degrees 31 minutes West, 100 feet to a stake; thence by same North 2 degrees 30 minutes East, 200 feet to a spike in the center of said Pennsylvania Route No. 116; thence in the center of said Pennsylvania Route No. 116, North 81 degrees 31 minutes East, 100 feet to the place of BEGINNING. CONTAINING 72 Perches and 31 Square Feet.

TRACT NO. 2: BEGINNING at a spike in the center of the State Highway Route No. 116 leading from Gettysburg to Fairfield at the northwest corner of land now or formerly of Raymond C. Shindledecker and wife; thence along other land of said Shindledeckers, through

an iron pin set back 35 feet from said spike, South 3 degrees 21 minutes East, 200 feet to an iron pin; thence by other land now or formerly of Ruth J. Spence, South 75 degrees 30 minutes West, 10 feet to an iron pin; thence by other land now or formerly of Ruth J. Spence, North 3 degrees 21 minutes West, 200 feet through an iron pin set back 35 feet along the line to a point in the center of the aforementioned State Highway; thence in the center of the aforementioned State Highway, North 75 degrees 30 minutes East, 10 feet to a spike, the place of BEGINNING. CONTAINING 7 Perches and 57 Square Feet of land.

TRACT NO. 3: BEGINNING at an iron pin at other land now or formerly of Kermit R. Shindledecker and wife; thence North 75 degrees 30 minutes East, 110 feet to an iron pin at other land now or formerly of Raymond Shindledecker; thence by said Shindledecker land, South 03 degrees 21 minutes East, 430.36 feet to an iron pin at land now or formerly of David Williams; thence by other land now or formerly of the Estate of Ruth J. Spence, North 18 degrees 28 minutes West 423.16 feet to an iron pin, the place of BEGINNING. CONTAINING 85.3 Perches and known as Lot No. 5-A on a draft of survey prepared on September 28, 1968 by Wilbur V. Redding, R.S.

BEING known as 3074 Fairfield Road, Gettysburg, PA 17325.

BEING the same premises which Randall B. Inskip and Martha R. Inskip, his wife, by Deed dated August 15, 1986 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 433 at Page 891 granted and conveyed unto Kenneth John Ortman.

SUBJECT TO MORTGAGE.

SEIZED and taken into execution as the property of **Kenneth John Ortman** 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 February 13, 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.

12/19, 26 & 1/2

Adams County Legal Journal

Vol. 45

December 26, 2003

No. 31, pp. 190-197

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-946 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 January, 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, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at an Ash Tree for a corner; thence along land of New Oxford Municipal Authority, South 79 degrees West, 93 feet to center of the Little Conewago Creek, said line being 263 feet up stream from land of New Oxford Municipal Authority measured on bank of stream; thence along center of said stream, South 21-1/2 degrees West, 68 feet to a point in said stream; thence along land of Wallen Homes, Inc., North 82 degrees East, 137 feet to an iron pin; thence along land of same North 32 degrees East, 52 feet to a hickory tree; thence along land of same, North 21-1/2 degrees West 50 feet to a stake at wire fence; thence along land of same South 51-1/2 degrees West, 41 feet to an Ash Tree and place of BEGINNING. CONTAINING 34.7 perches of land.

SUBJECT, to all rights-of-way, restrictions, reservations, conditions, easements and notations as set forth in Record Book 467 at Page 44.

BEING KNOWN AS 113-C Kohler Mill Road, New Oxford, PA 17350

PROPERTY ID NO J11-130

TITLE TO SAID PREMISES IS VESTED IN Michael Pullifrone and Tandra Pullifrone, husband and wife, as tenants by the entireties, by deed from Xue-Tao Chen, a married woman, dated 5/10/01, recorded 5/15/01, in Deed Book 2283, Page 280.

SEIZED and taken into execution as the property of Michael Pullifrone & Tandra J. Pullifrone 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 February 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.

12/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-588 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 THOSE CERTAIN two (2) tracts of land:

TRACT NO. 1:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, being known and described as Lot No. 638 on a plan of lots known as "Lake Meade Subdivision" said plan being recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, Page 4.

TRACT NO. 2:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, being known and numbered as Lot No. 637 on a plan of lots of "Lake Meade Subdivision" duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 1, Page 4 and subject to all legal highways, easements, rights of way and restrictions of record.

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

TITLE TO SAID PREMISES IS VESTED IN Steven J. Malnick and Brenda M. Malnick, his wife by Deed from David R. Brooks and Eileen M. Lucas-Brooks, his wife dated 12/3/1999 and recorded 12/9/1999 in Record Book 1967, Page 173.

Premises being: 85 Curtis Drive, East Berlin, PA 17316

Tax Parcel No. 002-0006-000

SEIZED and taken into execution as the property of Steven J. Malnick & Brenda M. Malnick 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 February 13, 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.

12/12, 19 & 26

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-279 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 January, 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 those certain two tracts of land situate, lying and being in Mt. Pleasant Township, county of Adams and State of Pennsylvania, more particularly described as follows:

TRACT NO. 1 - BEGINNING for a point on the center line of Township Road T-430, known as Plunkert Road, and Lot No. 2 of the hereinafter referenced subdivision plan; thence along said center line of Plunkert Road, the following two courses and distances: 1) North twenty-four (24) degrees two (02) minutes thirty-three (33) seconds East, one hundred and seven hundredths (100.07) feet to a point; thence 2) North twenty-five (25) degrees fifty-three (53) minutes thirty-four (34) seconds East, two hundred ten and fifty-seven hundredths (210.57) feet to a point on the center line of Bulk Plant Road (SR 2004); thence along same, South seventy-six (76) degrees twenty-three (23) minutes zero (00) seconds East, five hundred seventy-three and fourteen hundredths (573.14) feet to a point on the center line of Township Road T-442, known as Locust Lane; thence along same, South four (04) degrees thirty-six (36) minutes forty-three (43) seconds East, three hundred fifty-eight and thirty-four hundredths (358.34) feet to a point at lands now or formerly of Perry L. Grove; thence along same, the following three courses and distances: 1) South eighty-five (85) degrees fifty (50) minutes forty-one (41) seconds West, two hundred one and twenty-six hundredths (201.26) feet to a point; thence 2) South three (03) degrees fifty-eight (58) minutes thirty (30) seconds East, one hundred sixty-seven and sixty hundredths (167.60) feet to a point; thence 3) South sixty-six (66) degrees fifty-three (53) minutes seventeen (17) seconds West, three hundred thirty-one and eighty-nine hundredths

(331.89) feet to a point at lands now or formerly of Gregory E. Sullivan; thence along same, North forty-four (44) degrees forty-nine (49) minutes ten (10) seconds West, seventy-two and eighty-seven hundredths (72.87) feet to a point at Lot No. 3 of the hereinafter referenced subdivision plan; thence along same, and along Lot No. 2 of said plan, North twenty-four (24) degrees two (02) minutes thirty-three (33) seconds East, three hundred sixty and thirty-two hundredths (360.32) feet to a point; thence continuing along said Lot No. 2 of said plan, North sixty-five (65) degrees fifty-seven (57) minutes twenty-seven (27) seconds West, three hundred fifty (350.00) feet to a point on the center line of Plunkert Road, the point and place of BEGINNING. CONTAINING 7.353 acres and identified as Lot No. 1 on a plan of lots prepared by Mort, Brown and Associates on January 8, 1988. Said plan recorded in the Adams County Recorder of Deeds' Office in Plat Book 51, Page 65.

TRACT NO. 2 - BEGINNING for a point on the center line of Bulk Plant Road, known as SR-2004, and lands now or formerly of Charles W. Coleman; thence along said Bulk Plant Road, South seventy-six (76) degrees twenty-three (23) minutes zero (00) seconds East, two hundred five (205.00) feet to a point on the center line of Township Road T-430, known as Plunkert Road, and Lot No. 1 of the hereinafter referenced subdivision plan; thence continuing along said Lot No. 1 and the center line of Plunkert Road, South twenty-five (25) degrees fifty-three (53) minutes thirty-four (34) seconds West, two hundred ten and fifty-seven hundredths (210.57) feet to a point at lands now or formerly of Charles W. Coleman; thence along same, the following two courses and distances: 1) North fifty-seven (57) degrees fourteen (14) minutes zero (00) seconds West, one hundred eighty and twelve hundredths (180.12) feet to a point; thence 2) North seventeen (17) degrees twenty-nine (29) minutes sixteen (16) seconds East, one hundred forty-seven (147.00) feet to a point on the center line of Bulk Plant Road, the point and place of BEGINNING. CONTAINING .777 acres and identified as Lot No. 4 on a plan of lots prepared by Mort, Brown and Associates on January 8, 1988. Said

plan is recorded in the Adams County Recorder of Deeds' Office in Plat Book 51, Page 65.

BEING known as 1000 Plunkert Road, Littlestown, PA 17340

PROPERTY ID NO: Map 1-15 Parcel 47A

TITLE TO SAID PREMISES IS VESTED IN Lisa M. Nicklow, by Deed from Lisa M. Nicklow, Executor of the Estate of Martha C. Sheets, late, dated 1/4/02, recorded 1/10/02, in Deed Book 2527, Page 41.

SEIZED and taken into execution as the property of Lisa M. Nicklow 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 February 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.

12/12, 19 & 26

LEGAL NOTICE

The annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 10th, 2004 to elect directors and to transact any other business properly presented.

Attest

Marilyn Q. Butt
President & Treasurer, Director

12/12, 19, 26 & 1/2

COMMONWEALTH VS. CROMWELL ET AL

1. In deciding whether to consolidate or sever cases for trial, a Court must balance the need to minimize the prejudice that may be caused by consolidation against the general policy of encouraging judicial economy.

2. To warrant severance, the defenses presented by the various defendants must be "irreconcilable and exclusive" and "conflict at the core" before the substantial prejudice burden is met.

3. The mere fact that there is hostility between defendants, or that one may try to save himself at the expense of another, is in itself not sufficient grounds to require separate trials. In fact, it has been asserted that the fact that defendants have conflicting versions of what took place, or the extent to which they participated in it, is a reason for rather than against a joint trial because the truth may be more easily determined if all are tried together.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, Nos. CC-157-02, CC-158-02, and CC-159-02, COMMONWEALTH VS. SCOTT LEE CROMWELL, JEFFREY ALLEN ANGELL AND MATTHEW LAWRENCE JOHNSTON

Brian Coffey, Esq., Assistant District Attorney, for Commonwealth

Robert J. Chester, Esq., for Defendant Cromwell

Patrick Quinn, Esq., for Defendant Angell

Jeffery Cook, Esq., for Defendant Johnston

Kuhn, P.J., January 7, 2003

OPINION ON COMMONWEALTH'S MOTION TO CONSOLIDATE AND MOTION TO AMEND

Each of the above-named defendants have been charged with Aggravated Assault and two counts of Simple Assault, 18 Pa. C.S.A. §2702(a)(1); 2701(a)(1) and 2701(a)(3) respectively, for injuries suffered by James Pickard on August 5, 2001. In addition, Defendant, Matthew L. Johnston, was also charged with a total of six counts of Simple Assault, 18 Pa. C.S.A. §2701(a)(1) and 2701(a)(3), for injuries suffered by Kristen Miller, Dan Miller and Virginia Brown at or about the same time. On October 17, 2002, the Commonwealth moved to consolidate these matters for purposes of trial, and on November 5, 2002, filed a Motion to Amend Criminal Information. Each defendant opposes the motions. For reasons set forth herein, the motions will be granted except for the right to amend to add several subsections of Disorderly Conduct.

The Court has been provided with the Affidavit of Probable Cause, the transcript of the preliminary hearing, and material

provided in response to a discovery request. From these materials, the following background is alleged by the Commonwealth.

On August 4-5, 2001, Steve and Deb Angell were hosting a party at their home at 325 Georgetown Road, Littlestown. The party began at around 2:00 p.m. on August 4, 2001, and, as is typical at such events, alcohol was freely available. Not all the guests were known to each other.

Near midnight, an incident allegedly occurred in the vicinity of the garage between Matthew Johnston and another male. Jacqueline Kiser attempted to intervene, which resulted in her being grabbed around the neck by Johnston. At this point, Virginia Brown attempted to intervene on behalf of Ms. Kiser. Mr. Johnston threw Ms. Kiser against a picnic table, knocked Ms. Brown to the ground, and began kicking her. Ms. Brown's boyfriend, James Pickard, then went to intervene on her behalf and was jumped from behind. Mr. Pickard ended up fighting with two persons who he believed were Jeffrey Angell and Scott Cromwell.

While Mr. Pickard was so engaged, Dan Miller arrived on the scene and was able to get Ms. Brown, his sister-in-law, off the ground. As he was carrying Ms. Brown toward a picnic table, he was put into a headlock and punched in the face 3-4 times by Mr. Johnston.

After the incident involving Mr. Pickard ended, Steve Angell told him that he had to leave and with the help of Jeffrey Angell and Mr. Cromwell, physically moved him to Ms. Brown's car. Mr. Pickard indicated that he could not leave without Ms. Brown because it was her car. It appears that at Ms. Brown's urging, Steve Angell was considering allowing Mr. Pickard to remain at the premises. However, Mr. Pickard had no interest in doing so.

Mr. Pickard then pulled Ms. Brown's car into the driveway approximately 30 feet from the garage. When Ms. Brown did not come to the vehicle, Mr. Pickard got out and began walking toward the garage. Mr. Pickard approached with his hands up and stating he did not want to fight but that he wanted Ms. Brown, who was being held by an unknown person, to come with him. Jeffrey Angell and Mr. Cromwell charged Mr. Pickard, yelling that he had his chance to leave. Mr. Johnston also quickly joined the scene from his encounter with Mr. Miller.

Mr. Pickard attempted to bend over and cover himself while Angell, Cromwell and, especially Johnston, viciously assaulted him about the head and face. Mr. Miller's wife, Kristen, tried to pull Mr. Johnston off Mr. Pickard but, in turn, was struck on the back of her head and thrown against a Jeep Cherokee by Mr. Johnston. At that point, the assault ended.

Mr. Pickard subsequently received medical treatment and is now blind in one eye.

Formal arraignment for each defendant was held on March 25, 2002. All counsel appeared before the court on December 6, 2002, to address Commonwealth's Motions.

Motion to Amend:

Commonwealth requests leave to amend each criminal Information to add the charge of Disorderly Conduct, 18 Pa. C.S.A. §5503(a)(1), (2), (3) and (4), and Riot, 18 Pa. C.S.A. §5501(1).

Pa.R.Crim.P. 564 (formerly Rule 229) allows for a criminal information to be amended

when there is a defect in form, the description of the offense(s), the description of any person or any property, or the date charged, provided the information, as amended does not charge an additional or different offense . . .

On its face, the rule would seem to prohibit an amendment which, as here, adds more charges. However,

It is well settled, . . . that "caselaw sets forth a broader test for propriety of amendments than the plain language of the rule suggests . . . [A]n amendment to an information must not deny a defendant due process, the relevant component of which is adequate notice . . ."

Commonwealth v. Smith, 772 A.2d 75, 83 (Pa. Super. 2001).

Rule 564 is only the starting point in determining whether an amendment is appropriate. The Court is instructed to apply the rule in accordance with its underlying purpose and with a commitment to substantial justice rather than technicalities. *Commonwealth v. Miller*, 27 D & C 4th 335, 339 (Chester Co. 1994).

The purpose of Rule 564 "is to ensure that a defendant is fully apprised of the charges, and to avoid prejudice by prohibiting the last

minute addition of alleged criminal acts of which the defendant is uninformed.” *Commonwealth v. Davalos*, 779 A.2d 1190, 1194 (Pa. Super. 2001). Accordingly, courts have been following the test articulated in *Commonwealth v. Stanley*, 401 A.2d 1166 (Pa. Super. 1979) wherein it was stated that a court should inquire

whether the crimes specified in the original indictment or information involve the same basic elements and evolved out of the same factual situation as the crimes specified in the amended indictment or information. If so, then the defendant is deemed to have been placed on notice regarding his alleged criminal conduct. If, however, the amended provision alleges a different set of events, or the elements or defenses to the amended crime are materially different from the elements or defenses to the crime originally charged, such that the defendant would be prejudiced by the change, then the amendment is not permitted.

401 A.2d at 1175 (emphasis in original).

See, *Commonwealth v. Smith*, *supra.*, 772 A.2d at 83; *Commonwealth v. Grekes*, 601 A.2d 1284, 1289 (Pa. Super. 1992); *Commonwealth v. Mosley*, 585 A.2d 1057, 1059-60 (Pa. Super. 1991); *Commonwealth v. Fuller*, 579 A.2d 879, 883 (Pa. Super. 1990).

Originally, each defendant was charged with Simple Assault and Aggravated Assault. The elements of each offense are described as follows:

A. Simple Assault – 2701(a)(1)

1. Attempts to cause or intentionally, knowingly, or recklessly causes
2. Bodily injury.

B. Simple Assault – 2701(a)(3)

1. Attempting by physical menace
2. To put another in fear
3. Of imminent
4. Serious bodily injury.

C. Aggravated Assault – 2702(a)(1)

1. Attempts to cause or intentionally, knowingly or recklessly causes
2. Serious bodily injury

3. Under circumstances manifesting extreme indifference to the value of human life.

The proposed amendments would add charges of Disorderly Conduct and Riot, which involve the following elements:

D. Disorderly Conduct – 5503(a)(1), (2), (3) and (4)

1. With intent of causing public inconvenience, annoyance or alarm or recklessly creating a risk thereof, a person either:
 - a. engages in fighting or threatening or tumultuous behavior,
or
 - b. makes unreasonable noise; or
 - c. uses obscene language or makes an obscene gesture; or
 - d. creates a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

E. Riot – 5501(a)(1)

1. A person, along with two or more other persons;
2. Participates in a course of disorderly conduct
3. With intent to commit or facilitate the commission of a felony or misdemeanor.

After examining the evidence elicited at the preliminary hearing and through discovery, it is clear that the Commonwealth is attempting to use the same factual scenario to support the original and proposed charges; specifically, that the defendants engaged in assaulting Mr. Pickard. Nevertheless, with the exception of subsection (a)(1) (fighting), I believe the other proposed additions of Disorderly Conduct allege conduct, which is different from that originally charged.¹ However, if we allow the amendment for §5503(a)(1), it follows that the amendment adding the charge of Riot should also be permitted. On that charge, Commonwealth would have to prove that the three defendants participated in disorderly conduct (fighting)

¹ Defendants argue that because the incident occurred on private property that Disorderly Conduct was not an appropriate charge. They also contend that this amendment would introduce a different victim (the public). However, instantly we are only addressing Commonwealth's entitlement to amend, not whether the charge can be proven beyond a reasonable doubt. The alleged assault of Mr. Pickard occurred adjacent to a public roadway and near to a street light. A highway and a neighborhood are considered "public" places for purposes of Disorderly Conduct. Furthermore, the Commonwealth need not establish that particular persons were actually disturbed by the conduct because the offense is established if the actor recklessly created a risk of public annoyance or alarm.

with the intent of assaulting Mr. Pickard. Essentially, the underlying conduct necessary to support §5503(a)(1) and §5501 is identical to the assault charges where Mr. Pickard is the victim. Furthermore, no change in defense strategy should be necessitated by the amendment. Each defendant still has to defend against the same allegations that he assaulted Mr. Pickard. I find no prejudice to the defendants.

Motion to Consolidate:

Pa. R.Crim.P. 582 provides,

(A) Standards

...

(2) Defendants charged in separate . . . informations may be tried together if they are alleged to have participated in the same act or transaction or in the same series of acts or transactions constituting an offense or offense(s).

(B) Procedure

(1) Notice that . . . defendants charged in separate . . . informations will be tried together shall be in writing and filed with the clerk of courts. A copy of the notice shall be served on the defendant at or before arraignment.

(2) When notice has not been given under paragraph (B)(1), any party may move to consolidate for trial separate . . . informations, which motion must ordinarily be included in the omnibus pretrial motion.

Defendants first contend that the motion to consolidate is filed too late. As mentioned, formal arraignment took place on March 22, 2002. On April 10, 2002, Commonwealth filed the initial Motion to Consolidate all cases for trial but on May 8, 2002, withdrew that motion. A series of defense requested continuances followed. On October 17, 2002, Commonwealth filed a Motion for Continuance alleging that its primary witness, Mrs. Miller, had moved to Florida and, although willing to testify, she would be burdened by having to appear for three separate trials. On November 13, 2002, all parties agreed to continue trial through the term beginning January 21, 2003, and to have a hearing on Commonwealth's Motion to Consolidate and its Motion to Amend, scheduled for December 6, 2002. Commonwealth now indicates that Mrs. Miller is pregnant, which would cause additional burden upon her to travel for separate trials.

For the reasons stated, the motion for consolidation is not deemed untimely.

Commonwealth suggests that consolidation is appropriate because the allegations against each defendant arose out of the same set of facts and involves the same witnesses. Defendants complain that each would be prejudiced by consolidation because each may deny responsibility and/or point the finger at a co-defendant.

In deciding whether to consolidate or sever cases for trial, a

Court must balance the need to minimize the prejudice that may be caused by consolidation against the general policy of encouraging judicial economy . . . a better chance of acquittal from a separate trial is not sufficient cause to warrant severance . . . Rather, the defenses presented by the various defendants must be “irreconcilable and exclusive” and “conflict at the core” before the substantial prejudice burden is met . . .

Commonwealth v. Presbury, 665 A.2d 825, 828 (Pa. Super. 1995)(citations omitted).

As has been pointed out by our Supreme Court in *Commonwealth v. King*, 721 A.2d 763, 771 (Pa. 1998),

. . . finger pointing alone, however, is insufficient to warrant separate trials . . . “[t]he mere fact that there is hostility between defendants, or that one may try to save himself at the expense of another, is in itself not sufficient grounds to require separate trials. In fact, it has been asserted that the fact that defendants have conflicting versions of what took place, or the extent to which they participated in it, is a reason for rather than against a joint trial because the truth may be more easily determined if all are tried together.” . . .

(citations omitted).

Here, we have several reasons which favor a joint trial of the three defendants: 1) most of the offenses charged are the same against each defendant, 2) all three are charged with assaulting the same victim (of course, Mr. Johnston is also charged with assaulting other persons as well but those assaults are part of the chain of relevant events), 3) the factual backgrounds are the same, 4) the primary

Commonwealth witness would be burdened by having to travel from Florida three times, and 5) judicial economy is advanced. Furthermore, my review of the material provided does not suggest this will be a complex case nor one for which the jury will have difficulty distinguishing the conduct of the separate defendants. Trying the cases together should place no further burden upon any defendant than would be experienced in separate trials.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 7th day of January, 2003, in consideration of the attached Opinion, the Commonwealth's Motion to Consolidate, filed October 17, 2002, is granted and its Motion to Amend Criminal Information, filed November 5, 2002, is granted with respect to adding a charge of Disorderly Conduct, 18 Pa. C.S.A. §5503(a)(1) and Riot, 18 Pa. C.S.A. §5501(a)(1), but otherwise is denied.

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—DIVORCE
NO. 01-S-810

ROSE M. RILL, Plaintiff
vs.

MAURICE N. RILL, JR., Defendant

AMENDED COMPLAINT UNDER
SECTION 3301(d) OF THE
DIVORCE CODE

This 25th day of November, 2003, comes the Plaintiff, Rose M. Rill, by her attorneys, Miller & Shullis, P.C., and files this Amended Divorce Complaint against Defendant, Maurice N. Rill, Jr., pursuant to Section 3301(d) of the Pennsylvania Divorce Code, whereof the following is a statement:

1. Plaintiff is Rose M. Rill, who currently resides at 529 East King Street, Littlestown, Pennsylvania 17340.

2. Defendant is Maurice N. Rill, Jr., an adult individual, whose current whereabouts are unknown. Plaintiff believes and therefore avers that Defendant has not resided in Littlestown, Adams County, Pennsylvania, since July 2001.

3. The allegations contained in Paragraphs 3 through 9 of the original Divorce Complaint filed July 24, 2001 are incorporated herein by this reference thereto as though set forth in their entirety.

4. The parties have been living separate and apart since July 22, 2001.

WHEREFORE, Plaintiff respectfully requests this Honorable Court to enter a §3301(d) Divorce Decree, dissolving the marriage of the parties.

NOTICE

If you wish to deny any of the statements set forth in this affidavit, you must file a counter-affidavit within twenty (20) days after this affidavit has been served on you or the statements will be admitted.

AFFIDAVIT UNDER SECTION 3301(d)
OF THE DIVORCE CODE

1. The parties to this action separated on July 22, 2001, and have continued to live separate and apart for a period of at least two years.

2. The marriage is irretrievably broken.

3. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

I verify that the statements made in this affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

COUNTER-AFFIDAVIT UNDER
SECTION 3301(d) OF THE
DIVORCE CODE

1. Check either (a) or (b):

___ (a) I do not oppose the entry of a divorce decree.

___ (b) I oppose the entry of a divorce decree because

(Check (i), (ii), or both):

___ (i) The parties to this action have not lived separate and apart for a period of at least two (2) years.

___ (ii) The marriage is not irretrievably broken.

2. Check either (a) or (b):

___ (a) I do not wish to make any claims for economic relief. I understand that I may lose rights concerning alimony, division of property, lawyer's fees or expenses if I do not claim them before a divorce is granted.

___ (b) I wish to claim economic relief which may include alimony, division of property, lawyer's fees or expenses or other important rights.

I understand that in addition to checking (b) above, I must also file all of my economic claims with the Prothonotary in writing and serve them on the other party. If I fail to do so before the date set forth on the Notice of Intention to Request Divorce Decree, the Divorce Decree may be entered without further notice to me, and I shall be unable thereafter to file any economic claims.

I verify that the statements made in this counter-affidavit are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

NOTICE: IF YOU DO NOT WISH TO OPPOSE THE ENTRY OF A DIVORCE DECREE AND YOU DO NOT WISH TO MAKE ANY CLAIM FOR ECONOMIC RELIEF, YOU NEED NOT FILE THIS COUNTER-AFFIDAVIT.

PROCEPTE TO TRANSMIT RECORD

TO THE PROTHONOTARY:

Transmit the record, together with the following information, to the Court for entry of a divorce decree:

1. Ground for divorce: Irretrievably broken under §3301(d) of the Divorce Code.

2. Date and manner of service of the original Divorce Complaint: Upon Maurice N. Rill, Jr., formerly of 460 Hoffacker Road, Littlestown, Adams County, Pennsylvania 17340, on March 3 and 7, 2003, by publication, proof of which was filed on March 28, 2003, by Special Order Directing Service of Process by Publication dated February 24, 2003.

3. Date of execution of Plaintiff's Affidavit required by §3301(d) of the Divorce Code: November 24, 2003; and date of filing and service of the Plaintiff's Affidavit upon Defendant: November 25, 2003 and December 19, 2003, respectively.

4. Related claims pending: No economic claims ancillary to the divorce have been raised by either party.

5. Date and manner of service of the notice of intention to file praecipe to transmit record, a copy of which is attached: Upon Maurice N. Rill, Jr., formerly of 460 Hoffacker Road, Littlestown, Adams County, Pennsylvania 17340, on December 19, 2003, by Publication, by Special Order Directing Service of Process by Publication dated November 25, 2003.

NOTICE OF INTENTION TO REQUEST
ENTRY OF SECTION 3301(d)
DIVORCE DECREE

You have been sued in an action for divorce. You have failed to answer the complaint or file a Counter-Affidavit to the §3301(d) Affidavit. Therefore, on or after January 15, 2004, the other party can request the court to enter a final decree in divorce.

If you do not file with the Prothonotary of the court an answer with your signature notarized or verified or a counter-affidavit by the above date, the court can enter a final decree in divorce. A counter-affidavit which you may file with the Prothonotary of the Court is attached to this Notice.

Unless you have already filed with the court a written claim for economic relief, you must do so by the above date or the court may grant the divorce and you will lose forever the right to ask for economic relief. The filing of the form counter-affidavit alone does not protect your economic claims.

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

County Referral Office
Adams County Courthouse
111-117 Baltimore Street
Gettysburg, PA 17325
(717) 334-6781

Thomas E. Miller, Esq.
Miller & Shullis, P.C.

12/26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-886 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 those lots situate, lying and being in Union Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1: BEGINNING at a point in the center of a public road known as State Highway Route No. 01030, said point of beginning being South 43 degrees 36 minutes East, 455.30 feet from a point driven in the center of Route No. 01030 where said highway center intersects the Eastern edge of the right of way of the Littlestown-Hanover State Highway; thence running through the original tract of Harry C. Worley, et al., and running through an iron pin 20 feet from the beginning of this course, North 45 degrees 30 minutes East, 150 feet to an iron pin; thence continuing through the original tract South 44 degrees 30 minutes East, 100 feet to an iron pin; thence continuing through the original tract South 45 degrees 30 minutes West, 150 feet through an iron pin 20 feet from the end of this course to a point in the center of said State Highway Route No. 01030; thence running in the center of said State Highway, North 44 degrees 30 minutes West, 100 feet to the above described place of BEGINNING. CONTAINING 15,000 square feet, more or less.

The above description was taken from a draft of survey made by D. W. Resh, Registered Surveyor, dated August 27, 1955, and further identified by the legend "Plan of Property belonging to Harry C. Worley situated in Union Township, Adams County, Pa."

TRACT NO. 2: BEGINNING at a point at corner of land now or formerly of John C. Steich and corner of land now or formerly of Charles E. Smeach; thence by land about to be conveyed to Charles E. Smeach North 45 degrees 30 minutes East 50 feet to a steel pin at other lands of Harry C. Worley; thence by said lands of Worley South 44 degrees 30 minutes East 100 feet to a steel pin; thence by the same South 45 degrees 30 minutes West 50 feet to a point at other land now or formerly of John C. Steich; thence by said Steich's land North 44 degrees 30 minutes West 100 feet to a point, the place of BEGINNING. CONTAINING 5,000 square feet.

The above description was taken from a draft of survey prepared by J. H. Rife, R.E., dated April 30, 1970.

SUBJECT, NEVERTHELESS, to the restrictions of record.

IT BEING the same premises which Edna M. Steich, widow, by Joyce M. Hartlaub, her attorney-in-fact, by her Deed dated January 14, 2000, and recorded in the Office of Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1989, Page 224, granted and conveyed unto Michael L. Waite.

Address: 50 Pine Grove Road, Hanover, PA 17331

Tax Map K17, Parcel 8

Includes all buildings and improvements erected on the premises.

SEIZED and taken into execution as the property of Michael L. Waite 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 February 13, 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.

12/12, 19 & 26

NOTICE

NOTICE IS HEREBY GIVEN that Cynthia A. Kaylor, Esq., intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 3rd day of February, 2004, and that she intends to practice law as an Attorney at Diviglia & Kaylor, P.C., of Two Lincoln Way West, New Oxford, Adams County, Pennsylvania.

12/26, 1/2 & 9

NOTICE

NOTICE IS HEREBY GIVEN that Archie V. Diviglia, Esq., intends to apply in open court for admission to the Bar of Adams County, Pennsylvania on the 3rd day of February, 2004, and that he intends to practice law as an Attorney at Diviglia & Kaylor, P.C., of Two Lincoln Way West, New Oxford, Adams County, Pennsylvania.

12/26, 1/2 & 9

NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Limited Partnership has been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on November 13, 2003.

The name of the limited partnership is MICHAEL A. WAREHIME LIMITED PARTNERSHIP.

The company has been organized under and pursuant to the requirements of 15 Pa. C.S. §8511.

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

Attorneys for the Corporation

12/26

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on November 10, 2003 a certificate was filed under the Fictitious Name Act approved December 21, 1988, P.L. 1444, in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Kenneth L. Luckenbaugh, 55 Stoney Point Road, New Oxford, PA 17350, is the only person(s) owning or interested in a business, the character of which is janitorial, office cleaning and that the name, style and designation under which said business is and will be conducted is CHRISTY CLEANING SERVICE and the location where said business is and will be located is 55 Stoney Point Road, New Oxford, PA 17350.

12/26

NOTICE

NOTICE IS HEREBY GIVEN that a Certificate of Organization - Domestic Limited Liability Company has been filed with the Pennsylvania Department of State, Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, on September 25, 2003, for the purpose of obtaining a Certificate of Organization for a domestic limited liability company under the Pennsylvania Limited Liability Company Act of 1994. The name of the corporation is J. M. WAITE TRUCKING, LTD.

John W. Phillips, Esq.
101 West Middle Street
Gettysburg, PA 17325
Attorney for the Corporation

12/26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-448 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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.:

Legal Description

PREMISES "A"

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

BEGINNING at an Existing Rebar at the common corner of land now or formerly of Brian Showers and land now or formerly of Leroy Routsong, et al. and land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Brian Showers, South 37 degrees 56 minutes 09 seconds East, 317.60 feet to an Existing Axle at corner of said land now or formerly of Brian Showers; thence by said land now or formerly of Brian Showers, South 85 degrees 07 minutes 39 seconds West, 199.82 feet to an Existing Axle at corner of said land now or formerly of Brian Showers, and on line of land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, North 37 degrees 56 minutes 09 seconds West, 423.73 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of Ruth E. Bretzman and other land now or formerly of William O. Routsong and land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., North 84 degrees 27 minutes 24 seconds East, 198.32 feet to a point at corner of said land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., South 37 degrees 56 minutes 09 seconds East, 108.90 feet to an Existing Rebar at the common corner of said land now or formerly of Leroy Routsong, et al. and land now or formerly of Brian Showers and land now or formerly of Harry L. Pritchard, the point and place of BEGINNING.

CONTAINING 1.634 acres.

THE above description was taken from a draft of survey, by Mark A. Kuntz, Surveyor, dated November 12, 1993 as later revised, which draft of survey is lodged and part of the record in No. 97-S-231 in the Adams County Prothonotary's Office.

PREMISES "B"

ALL THOSE TWO (2) tracts of land situate, lying and being in Menallen

Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a Pipe Set in the centerline of the right-of-way of Maryland Avenue, 18' back from the centerline of existing 18' gravel cartway, at the common corner of land now or formerly of Rob Conner and land now or formerly of Hugh Gauch; thence crossing and leaving said Maryland Avenue, and by land now or formerly of Hugh Gauch, North 57 degrees 34 minutes 08 seconds East, 199.24 feet to a Rebar Set at corner of said land now or formerly of Hugh Gauch; thence by said land now or formerly of Hugh Gauch, South 48 degrees 38 minutes 54 seconds East, 1,098.16 feet to a Rebar Set at Existing Planted Stone at corner of said land now or formerly of Hugh Gauch; thence by said land now or formerly of Hugh Gauch, North 33 degrees 05 minutes 16 seconds East, 178.65 feet to an Existing Rebar and Stones at the common corner of said land now or formerly of Hugh Gauch, land now or formerly of Paul Kuhn, and land now or formerly of Robert Ayers, Jr.; thence by said land now or formerly of Robert Ayers, Jr., South 46 degrees 57 minutes 39 seconds East, 328.32 feet to an Existing Pipe and Stones at corner of said land now or formerly of Robert Ayers, Jr.; thence by said land now or formerly of Robert Ayers, Jr., North 52 degrees 40 minutes 28 seconds East, 297.66 feet to an Existing Pipe at intersection of Stone Rows on line of said land now or formerly of Robert Ayers, Jr., and at corner of land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, South 37 degrees 14 minutes 19 seconds East, 548.01 feet to an Existing Pipe at corner of said land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, North 49 degrees 29 minutes 30 seconds East, 819.62 feet to an Existing Pipe at 8" Spruce Tree at corner of said land now or formerly of John W. Morrow, and said on line of land now or formerly of E.C. Anderson, Jr.; thence by said land now or formerly of E.C. Anderson, Jr. and by land now or formerly of Kevin B. King, South 40 degrees 36 minutes 47 seconds East, 265.20 feet to an Existing Pipe at corner of said land now or formerly of Kevin B. King and on line of land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Harry L. Pritchard, South 52 degrees 37 minutes 44 seconds West, 635.58 feet to a Rebar and Stones Set at corner of said land now or formerly of Harry L. Pritchard; thence by said land now or formerly of Harry L. Pritchard, and across an Unimproved Road (right-of-way to S.R. #4008) near

the end of this course, South 33 degrees 26 minutes 12 seconds West, 623.70 feet to an Existing Rebar at common corner of said land now or formerly of Harry L. Pritchard and Brian Showers, and on line now or formerly of William O. Routsong; thence by said land now or formerly of William O. Routsong, North 37 degrees 56 minutes 09 seconds West, 108.90 feet to a point at corner of said land now or formerly of William O. Routsong; thence by said land now or formerly of William O. Routsong, South 84 degrees 27 minutes 24 seconds West, 198.32 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of William O. Routsong and other land now or formerly of the said William O. Routsong.

(TRACT 2 more particularly described hereinafter); thence by said other lands now or formerly of William O. Routsong, North 37 degrees 56 minutes 09 seconds West, 273.87 feet to a point at corner of said other land now or formerly of William O. Routsong; thence by said other land now or formerly of William O. Routsong, South 54 degrees 22 minutes 15 seconds West, 209.78 feet to a Rebar Set in Existing Stones at corner of said other land now or formerly of William O. Routsong and at corner of land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, and by land now or formerly of John C. Bretzman, South 54 degrees 22 minutes 15 seconds West, 544.63 feet to an Existing Pipe and Planted Stone on line of said land now or formerly of John C. Bretzman, and at corner of land now or formerly of Robert Luckenbaugh; thence by said land now or formerly of Robert Luckenbaugh, and across a private road or drive near the end of this course, North 61 degrees 56 minutes 42 seconds West, 610.43 feet to an Existing Pipe at corner of said land now or formerly of Robert Luckenbaugh; thence by said land now or formerly of Robert Luckenbaugh, South 60 degrees 49 minutes 41 seconds West, 97.23 feet to an Existing Pipe and Stones at corner of said land now or formerly of Robert Luckenbaugh, and on line of land now or formerly of Ralph Sheaffer; thence by said land now or formerly of Ralph Sheaffer, and by land now or formerly of Albert Hudimae, and by land now or formerly of Henry Krahn, Jr., and by land now or formerly of Jerome Hanson, and by land now or formerly of Susan Coles, North 07 degrees 38 minutes 11 seconds East, 1,200.66 feet to an Existing Pipe and Stones at the common corner of said land now or formerly of Susan Coles and land now or formerly of Rob Conner; thence by said land now or formerly of Rob Conner, North 53 degrees 10 minutes 42 seconds West, 419.04 feet to a

(continued on page 6)

Pipe Set in the centerline of the right-of-way of Maryland Avenue at the common corner of said land now or formerly of Rob Conner and land now or formerly of Hugh Gauch, the point and place of BEGINNING.

CONTAINING 43.921 Acres.

LESS, HOWEVER ALL those two parcels of land, situate in Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

PARCEL NO. 1:

BEGINNING at an existing pipe on line of land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, and at corner of land now or formerly of John W. Morrow, thence by said land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, and by land now or formerly of Kevin G. King, a/k/a Kevin B. King, South 40 degrees 36 minutes 47 seconds East, 105.00 feet to a rebar set on line of said land now or formerly of Kevin G. King, a/k/a Kevin B. King, and at corner of Lot 3 depicted in and upon the below-mentioned draft of survey and final subdivision plan; thence by said Lot 3, South 32 degrees 35 minutes 56 seconds West, 175.48 feet to a rebar set at corner of said Lot 3, and on line of land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr.; thence by said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr., North 40 degrees 36 minutes 47 seconds West, 155.99 feet to a rebar set at corner of said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr., and on line of land now or formerly of John W. Morrow; thence by said land now or formerly of John W. Morrow, North 49 degrees 29 minutes 30 seconds East, 168.00 feet to an existing pipe at corner of said land now or formerly of John W. Morrow, and on line of land now or formerly of the Grantees, E.C. Anderson, Jr. and Dolores M. Anderson, the point and place of BEGINNING.

CONTAINING 0.503 acre.

THE above description was taken from a draft of survey and final subdivision plan, dated March 30, 1998, by Mark A. Kuntz, Surveyor, which draft of survey and final subdivision plan is recorded in the Office of Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 74 at Page 5; the above described tract of land is labeled as Lot 2 in and upon said draft of survey and final subdivision plan.

PARCEL NO. 2:

BEGINNING at a rebar set on line of land now or formerly of Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, and at corner of Lot 2 depicted in

and upon the below-mentioned draft of survey and final subdivision plan; thence by said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, South 40 degrees 36 minutes 47 seconds East, 160.20 feet to an existing pipe at corner of said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, and on line of land now or formerly of Harry Pritchard; thence by said land now or formerly of Harry Pritchard, South 52 degrees 37 minutes 44 seconds West, 168.27 feet to a rebar set on line of said land now or formerly of Harry Pritchard, and at corner of land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife and William O. Routsong, Jr.; thence by said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr., North 40 degrees 36 minutes 47 seconds West, 100.00 feet to a rebar set on line of said land now or formerly of the Grantors, Leroy Routsong and Alice Routsong, his wife, and William O. Routsong, Jr., and at corner of said Lot 2; thence by said Lot 2, North 32 degrees 35 minutes 56 seconds East, 175.48 feet to a rebar set at corner of said Lot 2, and on line of said land now or formerly of the Grantees, Kevin G. King, a/k/a Kevin B. King and Wanda S. King, the point and place of BEGINNING.

CONTAINING 0.502 acre.

THE above description was taken from a draft of survey and final subdivision plan, dated March 30, 1998, by Mark A. Kuntz, Surveyor, which draft of survey and final subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 74 at Page 5; the above described tract of land is labeled as Lot 3 in and upon said draft of survey and final subdivision plan.

TRACT NO. 2:

BEGINNING at a point at corner of land now or formerly of Leroy Routsong, et al. (Tract 1 more particularly described hereinabove); thence by said land now or formerly of Leroy Routsong, et al., South 37 degrees 56 minutes 09 seconds East, 273.87 feet to a Rebar Set at Existing Planted Stone at the common corner of said land now or formerly of Leroy Routsong, et al. and other land now or formerly of William O. Routsong and land now or formerly of Ruth E. Bretzman; thence by said land now or formerly of Ruth E. Bretzman, North 74 degrees 31 minutes 43 seconds West, 351.63 feet to a Rebar Set in Existing Stones at corner of said land now or formerly of Ruth E. Bretzman, and on line of said land now or formerly of Leroy Routsong, et al.; thence by said land now or formerly of Leroy Routsong, et al., North 54 degrees 22 minutes 15

seconds East, 209.78 feet to a point at corner of said land now or formerly of Leroy Routsong, et al., the point and place of BEGINNING.

CONTAINING 0.659 acre.

THE above descriptions for Tracts Nos. 1 and 2 were taken from a draft of survey, by Mark A. Kuntz, Surveyor, dated November 12, 1993, as later revised, which draft of survey is lodged as part of the record in No. 97-S-231 in the Adams County Prothonotary's Office.

TITLE TO SAID PREMISES IS VESTED IN Joseph S. Buchheister and Juanita M. Buchheister, his wife by reason of the following:

PREMISES "A"

BEING THE SAME PREMISES which William Oscar Routsong, Jr., single man (widower) by Deed dated 9/10/1999 and recorded 9/13/1999 in the County of Adams in Record Book 1913, Page 293 conveyed unto Joseph S. Buchheister and Juanita M. Buchheister, his wife.

PREMISES "B"

BEING THE SAME PREMISES which Leroy Routsong and Alice Y. Routsong, his wife by Deed dated 9/10/1999 and recorded on 9/13/1999 in the County of Adams in Record Book 1913, Page 297 conveyed unto Joseph S. Buchheister and Juanita M. Buchheister, his wife.

Premises being: 360-362 Bendersville-Wenksville Road, Aspers, PA 17304

Tax Parcel No. E05-0070 (PREMISES A)

Tax Parcel No. EC5-0037-000 (PREMISES B)

SEIZED and taken into execution as the property of **Joseph S. Buchheister & Juanita M. Buchheister** 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 February 13, 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.

12/19, 26 & 1/2

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 JANET V. BYERS, DEC'D

Late of the Borough of New Oxford, Adams County, Pennsylvania

Executors: Vicki M. Buckley, 93 Two Taverns Road, Littlestown, PA 17340; David L. Byers, 1801 Temple School Road, Dover, PA 17315; Larry L. Byers, 516 Sutton Road, Abbottstown, PA 17301; Steven M. Byers, RR 5, Box 5621, Saylorsburg, PA 18353

Attorney: Kelly M. Dilts, Esq., McQuaide Law Office, Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

ESTATE OF ADELENE G. MELHORN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Gary E. Martin & Delores J. Shaffer, c/o William W. Hafer, Esq., 215 Baltimore Street, Hanover, PA 17331

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

ESTATE OF ROBERT L. SHEAFFER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Lois J. Owings, 2326 Table Rock Road, Biglerville, PA 17307

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

ESTATE OF THELMA C. YINGLING a/k/a M. THELMA YINGLING a/k/a MARY THELMA YINGLING, DEC'D

Late of Mount Joy Township, Adams County, Pennsylvania

Co-Executors: Audrey Ridinger, 561 Beecherstown Road, Biglerville, PA 17307; Daniel L. Yingling, 3231 Taneytown Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF ESTHER E. BANKERT, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Co-Executors: Cheryl Glab, 407 East Wheel Road, Belair, MD 21015; Anthony Glab, 407 East Wheel Road, Belair, MD 21015

Attorney: Ross H. Pifer, Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF PAUL E. GARHART, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Personal Representative: Mary Jane Garhart, 2151 Fairfield Road, Gettysburg, PA 17325

Attorney: LeRoy S. Maxwell, Jr., Esq., Maxwell Law Offices, Wayne Building, 92 West Main Street, Waynesboro, PA 17268

ESTATE OF MADELINE M. KLUNK, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executors: Diane Mann, 130 Smoketown Road, Hanover, PA 17331; Mary Nace, 392 Church Road, East Berlin, PA 17316

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

ESTATE OF JESSIE M. LEAL, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Janet K. McCoy, 8015 N.E. 112th Street, Kirkland, WA 98033; Clifford V. Germano, 848 Sunset Avenue, Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 West Middle St., Gettysburg, PA 17325

ESTATE OF PAULINE A. SANDERS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jacqueline Zepp, 2035 Grandview Road, Hanover, PA 17331; Laverne Sanders, 1008 High Street, Hanover, PA 17331

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

ESTATE OF MARY E. SNYDER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrix: Susan M. Ayres, 412 Dart Drive, Hanover, PA 17331

Attorney: Thomas E. Miller, Esq., Miller & Shultis, P.C., 249 York Street, Hanover, PA 17331

ESTATE OF HENRIETTA S. WILLIAMS a/k/a HENRIETTA SELL WILLIAMS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Patricia K. Hagarman, 105 Paul Street, Hanover, PA 17331

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

THIRD PUBLICATION

ESTATE OF BERNICE M. APPLER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Co-Executors: Judith Creutzer, 4105 Pine Hill Road, Perry Hall, MD 21236; Marian Kay Fekula, 105 Fox Hill Lane, Colorado Springs, CO 80919

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

ESTATE OF VIRGINIA W. PARRY, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: William C. Wright, 606 Quaker Valley Road, Biglerville, PA 17307

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

ESTATE OF CLARENCE M. SADLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Timothy W. Sadler, 109 Springs Avenue, Gettysburg, PA 17325

Attorney: Walton V. Davis, Esq., 63 West High Street, Gettysburg, PA 17325

ESTATE OF SHAWNA MICHELLE STAMBAUGH, DEC'D

Late of Berwick Township, Adams County, Pennsylvania

Administrator: Dorothy L. Stambaugh, 2820 Carlisle Pike, New Oxford, PA 17350

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

ESTATE OF MARJORIE E. TEETER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Craig A. Showvaker, 781 Highland Ave., Gettysburg, PA 17325

Attorney: Teeter, Teeter & Teeter, 108 W. Middle St., Gettysburg, PA 17325

(continued on page 8)

THIRD PUBLICATION (continued)

ESTATE OF PHYLLIS K. WILLIAMS, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrator C.T.A.: Robert E. Campbell, 112 Baltimore Street, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., 112 Baltimore Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 03-S-1029 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 the following tract of land situate, lying and being in Conewago Township, Adams County, Pennsylvania, bounded and described as follows, to-wit:

BEGINNING for a point at Caribou Street and Lot No. 113; thence along Lot No. 113, South twenty-five (25) degrees zero (00) minutes twenty-eight (28) seconds West, ninety-five and seventy-four hundredths (95.74) feet to a point at Lot No. 114; thence along Lot No. 114, South sixty-one (61) degrees ten (10) minutes thirty-nine (39) seconds West, seventy-three and eight hundredths (73.08) feet to a point at Lot No. 111; thence along Lot No. 111, North three (03) degrees eight (08) minutes eleven (11) seconds West, one hundred thirty-four and seventy-three hundredths (134.73) feet to a point at Caribou Street; thence along Caribou Street by a curve to the right whose radius is three hundred forty (340.00) feet and whose chord bearing is South eighty-three (83) degrees thirty-six (36) minutes twenty-eight (28) seconds East, one hundred twelve and fifty-eight hundredths (112.58) feet for an arc distance of one hundred thirteen and ten hundredths (113.10) feet to the point and place of BEGINNING. CONTAINING 9,896 square feet and identified as Lot No. 112 on a plan of lots entitled Phase II, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 45, page 95.

SUBJECT to the restrictions contained in Record Book 459, page 757.

BEING KNOWN as 35 Caribou Street (Conewago Twp.), Hanover, PA 17331

PROPERTY ID NO.: Map 9, Parcel 175

TITLE TO SAID PREMISES IS VESTED IN Brian A. Poist and Sandra M.

Poist, husband and wife, as tenants by the entireties, by deed from Mary Lee Kuhn and John H. Kuhn, her husband, dated 01/31/89, recorded 02/02/89, in Deed Book 513, Page 871.

SEIZED and taken into execution as the property of **Brian A. Poist & Sandra M. Poist** 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 February 13, 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.

12/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-47 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 23rd day of January, 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 those three tracts of land situate, lying and being in Highland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1: BEGINNING at a spike in the center of Pennsylvania Route No. 116; thence through an iron pin set 26.6 feet from said place of beginning and by land now or formerly of Raymond Shindldecker, South 2 degrees 30 minutes West, 200 feet to a stake at lands now or formerly of J.J. Spence; thence by same, South 81 degrees 31 minutes West, 100 feet to a stake; thence by same North 2 degrees 30 minutes East, 200 feet to a spike in the center of said Pennsylvania Route No. 116; thence in the center of said Pennsylvania Route No. 116, North 81 degrees 31 minutes East, 100 feet to the place of BEGINNING. CONTAINING 72 Perches and 31 Square Feet.

TRACT NO. 2: BEGINNING at a spike in the center of the State Highway Route No. 116 leading from Gettysburg to Fairfield at the northwest corner of land now or formerly of Raymond C. Shindldecker and wife; thence along other land of said Shindldeckers, through

an iron pin set back 35 feet from said spike, South 3 degrees 21 minutes East, 200 feet to an iron pin; thence by other land now or formerly of Ruth J. Spence, South 75 degrees 30 minutes West, 10 feet to an iron pin; thence by other land now or formerly of Ruth J. Spence, North 3 degrees 21 minutes West, 200 feet through an iron pin set back 35 feet along the line to a point in the center of the aforementioned State Highway; thence in the center of the aforementioned State Highway, North 75 degrees 30 minutes East, 10 feet to a spike, the place of BEGINNING. CONTAINING 7 Perches and 57 Square Feet of land.

TRACT NO. 3: BEGINNING at an iron pin at other land now or formerly of Kermit R. Shindldecker and wife; thence North 75 degrees 30 minutes East, 110 feet to an iron pin at other land now or formerly of Raymond Shindldecker; thence by said Shindldecker land, South 03 degrees 21 minutes East, 430.36 feet to an iron pin at land now or formerly of David Williams; thence by other land now or formerly of the Estate of Ruth J. Spence, North 18 degrees 28 minutes West 423.16 feet to an iron pin, the place of BEGINNING. CONTAINING 85.3 Perches and known as Lot No. 5-A on a draft of survey prepared on September 28, 1968 by Wilbur V. Redding, R.S.

BEING known as 3074 Fairfield Road, Gettysburg, PA 17325.

BEING the same premises which Randall B. Inskip and Martha R. Inskip, his wife, by Deed dated August 15, 1986 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 433 at Page 891 granted and conveyed unto Kenneth John Ortman.

SUBJECT TO MORTGAGE.

SEIZED and taken into execution as the property of **Kenneth John Ortman** 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 February 13, 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.

12/19, 26 & 1/2