

Adams County Legal Journal

Vol. 47

November 4, 2005

No. 24, pp. 133-138

IN THIS ISSUE

COMMONWEALTH VS. JEFFERIES

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you and your clients need
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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices, Published weekly by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199, Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 337-9812

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-783 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, 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 described tract of land with the improvements thereon erected, situate, lying and being in Mt. Pleasant Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point at Lot No. 3 and lands now or formerly of Classon W. Stoner and Virgie V. Stoner, his wife; thence along said last mentioned lands, North thirty-one (31) degrees fifty (50) minutes fifty (50) seconds West, eighty-nine and sixty-two one-hundredths (89 62) feet to a point; thence North sixty-seven (67) degrees fifty (50) minutes (erroneously omitted in prior deed) zero (00) seconds East, four hundred twenty (420) feet to a point on the Northern edge of a cul-de-sac; thence through the center of the aforesaid cul-de-sac and the center of a right-of-way, South eleven (11) degrees sixteen (16) minutes twenty-five (25) seconds East, one hundred sixty-three and twenty-eight one-hundredths (erroneously omitted in prior deed) (163.28) feet to a point at Lot No. 3; thence along and with said Lot No. 3, South seventy-eight (78) degrees forty-three (43) minutes thirty-five (35) seconds West, three hundred eighty and ninety-four one-hundredths (380.94) feet to a point and place of BEGINNING, CONTAINING 1.141 acres and being known as Lot No. 4 as per survey of Boyer Surveys, Biglerville, Pennsylvania, bearing date of March 22, 1978, and revised April 4, 1978.

BEING THE SAME PREMISES which Michael H. Thompson and Eileen B. Thompson, husband and wife, by Deed dated 5/25/89 and recorded 5/26/89 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 523 at Page 455, granted and conveyed unto Gary J. Given and Florence L. Given, husband and wife.

Tax Parcel #: 32-C-111-53

SEIZED and taken into execution as the property of **Gary J. Given & Florence L. Given** 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 December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/21, 28 & 11/4

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-518 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 29 on a plan of lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County in Misc. Deed Book 1, Page 1, and subject to all legal highways, easements, rights-of-way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation area, 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 or assigns.

UNDER AND SUBJECT, nevertheless, to certain covenants, conditions, restrictions, easements and other provisions as set forth in the aforesaid deed recorded in Deed Book 267, Page 1071, Adams County Records.

Being known as: 4 Hooker Cove, East Berlin, PA 17316

Property ID No.: 8-16

TITLE TO SAID PREMISES IS VESTED IN Barry E. Miller and Donna J. Miller, his wife by deed from Clyde C. Bachert, Jr., single person dated 8/4/00 recorded 8/28/00 in Deed Book 2115 Page 29.

SEIZED and taken into execution as the property of **Barry E. Miller & Donna J. Miller** 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 December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/28, 11/4 & 11/10

COMMONWEALTH VS. JEFFERIES

1. The United States Supreme Court has held that there is no constitutional infirmity in revoking probation or parole for less than willful behavior.
2. The State Parole Board is not required to accept an offender's mitigating or justifying evidence as an excuse for violating parole so as to render revocation inappropriate.
3. Statutory authority has removed the Court's discretion with regard to determining an inmate's place of confinement for sentences with a maximum term of five years or more.
4. Abuse of discretion, for sentencing purposes, has been defined as:
Not merely an error of judgment, but if in reaching a conclusion the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias, or ill will, as shown by the evidence or the record, discretion is abused.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CP-01-CR-510-2004, COMMONWEALTH OF PENNSYLVANIA VS. JONATHAN ROBERT JEFFERIES.

Brian R. Sinnett, Esq., Assistant District Attorney, for Commonwealth
Kristin L. Rice, Esq., Assistant Public Defender, for Defendant
George, J., April 22, 2005

OPINION PURSUANT TO PA.R.A.P. 1925

The Defendant appeals from a re-sentencing in which the Defendant was sentenced to concurrent sentences of no less than eighteen months and no more than sixty months in a State Correctional Institution. A brief review of the entire history of this matter will assist in addressing the issues raised by the Defendant.

On June 21, 2004, the Defendant entered guilty pleas to terroristic threats in violation of Section 2706(a)(1) of the Pennsylvania Crimes Code, as a misdemeanor of the first degree, and to criminal attempt to commit theft in violation of Section 901(a) of the Pennsylvania Crimes Code, as a misdemeanor of the first degree. Pursuant to a plea agreement, President Judge Kuhn sentenced the Defendant, for the count of terroristic threats, to sixty months in the Intermediate Punishment Program, sixty days of which would be served in Phase I (partial confinement) with the balance to be served in Phases III through V (probationary phases). With regard to the count of criminal attempt, the Defendant was sentenced to sixty months in the Intermediate Punishment Program to be served on Phases III through V (probationary phases). The two sentences were ordered to run concurrent with each other.

On July 27, 2004, the Defendant appeared before the Court and acknowledged violating the conditions of his intermediate punishment sentences. In addition to acknowledging a number of technical violations, the Defendant admitted to the commission of the crime of criminal trespass. In light of his admissions, the Defendant was revoked from the Intermediate Punishment Program and re-sentenced by this Judge. On the terroristic threats conviction, the Defendant was re-sentenced to serve sixty months in the Intermediate Punishment Program with six months served on Phase I (partial confinement) and the remaining time spent on Phases III through V (probationary phases). With regard to the count of criminal attempt, the Defendant was re-sentenced to a concurrent sentence of sixty months in the Intermediate Punishment Program with six months to be served on Phase I (partial confinement).

On November 8, 2004, the Commonwealth filed a second petition for revocation. At a hearing on the petition held on December 28, 2004, before this Judge, the parties presented a stipulated record to the Court. The stipulated record included evidence that the Defendant committed six incidents of prison misconduct while on the Phase I portion of his sentence. These incidents include threats towards prison staff, disobedience of staff orders, possession of contraband, and disorderly conduct. Significantly, a razor blade, a broken-off comb, and cut down q-tips were three items among the contraband possessed by the Defendant.

In addition to the stipulated record, the Defendant presented testimony from a mental health professional who indicated that the Defendant has a borderline personality disorder and the majority of these incidents were the result of this disorder. The mental health professional further indicated that a number of the incidents could be traced to the Defendant's efforts to harm himself. Significantly, however, the counselor opined that the Defendant's mental health deficiencies could not account for the Defendant's possession of contraband on prison property.

Following the presentation of the stipulated record and the brief testimony, this Judge found that the Commonwealth carried its burden of proof in establishing, by a preponderance of the evidence, that the Defendant violated the conditions of the Intermediate Punishment Program. Following the preparation of a pre-sentence

investigation, re-sentencing was held on February 28, 2005. Between the date of revocation and the date of re-sentencing, the Court was advised that the Defendant committed five additional incidents of misconduct at the Adams County Prison. Although a number of the incidents appeared insignificant, at least two of the incidents involved the uttering of vulgarities towards prison staff and urinating on prison property. After balancing a number of factors, including the Defendant's lack of contact with the Adams County community, the ability of the Adams County Prison to deal with the Defendant's mental health issues, the Defendant's significant history of unsuccessful judicial intervention, and other information included in the pre-sentence investigation, the Defendant was sentenced to a state correctional institution.

In his Concise Statement of Matters Complained of on Appeal, the Defendant raises three issues. Initially, he argues that his conduct at the Adams County Prison was not "willful" and, therefore, cannot form a basis for revocation. Secondly, the Defendant argues that his mental disorder presented sufficient mitigation to avoid revocation. Finally, the Defendant argues that the Eighth Amendment of the United States Constitution precludes sentencing the Defendant to a state correctional Institution because of his mental illness. I find no merit to any of these arguments.

The Pennsylvania Superior Court has held that it is an "open question" whether probation and parole may be revoked for less than willful behavior. *Commonwealth v. Edward*, 450 A.2d 15, 20 (Pa.Super. 1982). However, the United States Supreme Court has held that there is no constitutional infirmity in revoking probation or parole for less than willful behavior. *Bearden v. Georgia*, 461 U.S. 660, 668, 103 S.Ct. 2064, 2070 (1983). Although the issue remains unresolved in Pennsylvania, I need not resolve this issue when addressing the arguments raised by the Defendant. As a matter of fact, based upon the stipulated record, I found that the Defendant willfully possessed contraband on prison property. Although the Defendant's mental health counselor opined that some of the Defendant's unruly behavior may have been caused by mental health issues, she cannot explain the Defendant's possession of a razor blade on prison property. I find incredible any argument alleging that the Defendant's possession of contraband was not willful.

Accordingly, having found a willful violation of the Defendant's sentence of intermediate punishment, it is unnecessary to address the willfulness of the remaining incidents of the Defendant's misconduct. However, I will indicate that, as a matter of fact, I find the testimony from the Defendant's mental health counselor insufficient to establish that the Defendant, in committing the remaining misconducts, did not know the nature or quality of his actions due to a defect of reason or disease of mind.

The Defendant's second argument is simply a watered-down version of his first argument. Essentially, the Defendant argues that although his mental disorder may be insufficient to present a viable defense, it is evidence of mitigation which works against revocation. The Commonwealth Court has held on several occasions that the State Parole Board is not required to accept an offender's mitigating or justifying evidence as an excuse for violating parole so as to render revocation inappropriate. *Pitch v. Commonwealth, Pennsylvania Bd. of Probation and Parole*, 514 A.2d 638, 641-42 (Pa. Cmwlth. 1986); *Thompson v. Commonwealth, Pennsylvania Bd. of Probation and Parole*, 466 A.2d 1149, 1151 (Pa.Cmwlth. 1983). These cases seem to suggest that the fact finder has wide discretion in determining whether or not mitigating evidence is sufficient to excuse the violation. In finding that the Defendant violated his sentence of intermediate punishment, I considered and rejected the Defendant's argument of mitigation. The Defendant's flagrant and continued violations of the Adams County Prison policy placed not only the security of the prison at risk but also endangered the other inmates. I fail to find any mitigation in the Defendant's willful possession of items which are readily capable of being used as weapons in a prison setting. Accordingly, in my opinion, this argument lacks merit.

The Defendant's final argument suggests that the Defendant's sentence violates the cruel and unusual punishment clause of the Eighth Amendment of the United States Constitution because the Defendant suffers from a mental illness and the State "prison facilities lack the ability to provide adequate care." In support of this argument, the Defendant cites *Commonwealth v. Godwin*. 551 F.2d 44 (4th Cir. 1977).

Initially, I note that *Godwin* does not support the Defendant's argument. In *Godwin*, the Court held that prisoners are entitled to

psychological and psychiatric treatment while confined in a correctional institution just as they are guaranteed adequate food, clothing, shelter, and medical care. *Id.* at 47-48. While *Godwin* speaks to services which must be provided to inmates at correctional institutions, it is silent as to the discretion vested in a sentencing judge.

The deficiency in the Defendant's argument is the assumption that state correctional institutions lack appropriate treatment services. There simply is no factual support for this argument in the record. Although the Defendant's witness may have indicated that the Defendant's mental health disorder would be aggravated by confining him to a state institution, her opinion lacked a credible factual foundation and was not accepted by the Court. Although the record was absent as to treatment opportunities in a state correctional system, there is no mistaking the background of this case and the history of the Adams County Correctional Institution's inability to address the Defendant's needs.

The frivolity of this argument is apparent in the nature of the Defendant's challenge. Critically, the Defendant challenges neither the legality of the sentence nor the length of the sentence. Rather, the Defendant's sole challenge is to the place of incarceration. However, statutory authority has removed the Court's discretion with regard to determining an inmate's place of confinement for sentences with a maximum term of five years or more. See 42 Pa.C.S.A. § 9762 (persons sentenced to maximum terms of five or more years shall be committed to the Bureau of Corrections for confinement). Thus, the five-year maximum sentence pre-determined the Defendant's place of confinement.

To the extent that the Defendant's challenge can be interpreted as an attack on the Court's discretion with regard to imposing a five-year maximum sentence, the same is clearly meritless. "Abuse of discretion" for sentencing purposes, has been defined as:

[N]ot merely an error of judgment, but if in reaching a conclusion the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias, or illwill, as shown by the evidence or the record, discretion is abused.

Commonwealth v. Jackson, 486 A.2d 431, 441 (Pa.Super. 1984). The Defendant's argument falls short, legally, of satisfying this standard.

Notably, pursuant to the original plea agreement, the Defendant's original maximum sentence was five years. Similarly, on the Defendant's first revocation, his maximum sentence remained at five years. The Court cannot be found to have abused its discretion with regard to the re-sentencing by imposing a maximum sentence identical to the maximum sentence which the Defendant negotiated in his original sentencing plea agreement. It is ludicrous to suggest that the maximum sentence should be reduced under circumstances where an offender has twice violated the conditions of his supervision.

When imposing a sentence, the Court carefully considered a pre-sentence investigation, a psychiatric examination, the defendant's susceptibility to rehabilitation by local authorities, the arguments of counsel and the particular needs of the defendant. The Defendant, through various misconducts, progressed from a sentencing scheme initially aimed at rehabilitation to a sentence more heavily weighted in favor of the protection of society. The Defendant is no longer asking for a second chance, but rather a third, fourth and perhaps fifth chance. This is a request which I was unwilling to grant. Quite frankly, under the circumstances, some might consider the challenged sentence as being lenient in light of the Defendant's history of misconduct and lack of adaptability to rehabilitative opportunities.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-378 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, 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 three (3) tracts of land situate in Berwick Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

Tract No. 1:

ALL that piece, parcel or tract of land situate and being in Berwick Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

BEGINNING at a stone in a line with lands now or formerly of Jonas Flickinger, South thirty-five and one-half (35-1/2) degrees East, fourteen and eight tenths (14.8) perches to a stone and lands now or formerly of Charles Haugh; thence North fifty-four and one-half (54-1/2) degrees East, seventy and four tenths (70.4) perches to a stone and lands now or formerly of Lindezs Sturgeon; thence North fourteen (14) degrees West, sixteen and two tenths (16.2) perches to a stone and lands now or formerly of Rebecca Oaster; thence South along aforesaid lands now or formerly of Rebecca Oaster and lands now or formerly of John Kellenberger, South fifty-four and one-half (54-1/2) degrees West, seventy-six and one tenth (76.1) perches to the place of BEGINNING. CONTAINING six (6) acres and one hundred twenty-three (123) perches, more or less.

BEING the same tract of land which Fred H. Fissel and Donna D. Fissel, his wife, by their Deed dated November 5, 1993 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 0808, at page 0228, sold and conveyed unto David W. Schmidt and Sandra F. Schmidt, his wife.

Tract No. 2:

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

BEGINNING for a point in the center line of the Carlisle Pike (PA 94), at lands now or formerly of Wildasin Used Cars, thence continuing along and with the center line of the Carlisle Pike (PA 94), North twenty-four (24) degrees thirty (30) minutes zero (00) seconds West, two hundred eighty-three and ninety-eight hundredths (283.98) feet to a point in the center line of the Carlisle Pike (PA 94)

aforesaid, thence leaving said Carlisle Pike (PA 94), and along lands now or formerly of David Schmidt, and passing through an existing reference steel rod set back twenty-five and forty-five hundredths (25.45) feet from the beginning of this course, North sixty-five (65) degrees fifty-two (52) minutes zero (00) seconds East, two hundred twenty-seven and fifty-five hundredths (227.55) feet to an existing steel rod reset; thence continuing along lands of the same, North twenty-four (24) degrees zero (00) minutes forty (40) seconds West, one hundred eighty-six and sixty-seven hundredths (186.67) feet to an existing steel rod at stone at lands now or formerly of Evelyn Altland; thence continuing along lands now or formerly of Evelyn Altland, North twenty-seven (27) degrees eighteen (18) minutes fifteen (15) seconds West, ninety-six and eleven hundredths (96.11) feet to an existing pipe reset at lands now or formerly of John Hippensteel and lands now or formerly of Maurice Myers; thence continuing along lands of the same, North sixty-six (66) degrees twenty-three (23) minutes fifty (50) seconds East, two hundred forty-four and zero hundredths (244.00) feet to an aluminum post set at a thirty (30) foot oak stump; thence continuing along lands of the same, North sixty-five (65) degrees fifty-two (52) minutes fifteen (15) seconds East, three hundred forty and twenty-six hundredths (340.26) feet to an angle iron set at existing post and stones; thence continuing along lands of the same and lands now or formerly of Ingrid Luckenbaugh, and lands now or formerly of Fred Fissel, South thirty-six (36) degrees zero (00) minutes twenty-five (25) seconds East, five hundred sixty-five and zero hundredths (565.00) feet to an aluminum post set over existing old pipe at other lands now or formerly of Burnell Wildasin; thence continuing along lands of the same and passing through a reference existing drill shaft set thirty-six and eighty-four hundredths (36.84) feet back from the beginning of this course, South sixty-five (65) degrees seven (07) minutes ten (10) seconds West, six hundred eighty-three and fifty hundredths (683.50) feet to an existing bolt set at lands now or formerly of Wildasin Used Cars; thence continuing along lands of the same and passing through an existing reference pipe set twenty-two and thirty-seven hundredths (22.37) feet back from the terminus of this course, South sixty-five (65) degrees one (01) minute thirty-five (35) seconds West, two hundred thirty-seven and sixty-three hundredths (237.63) feet to a point in the center line of the Carlisle Pike (PA 94), the point and place of BEGINNING. CONTAINING 9.627 acres as per survey prepared for Burnell

Wildasin by Adams County Surveyors bearing dated of November 7, 1990. This survey was performed to correctly identify the boundaries of the above-described premises and is not intended to subdivide the premises in any manner whatsoever. It is the same as shown by draft of L. H. Winebrenner, County Surveyor, dated May 11, 1935.

BEING the same tract of land which David W. Schmidt by his Deed dated March 15, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 0583, at page 0200, sold and conveyed unto David W. Schmidt and Sandra F. Schmidt, his wife.

Tract No. 3:

ALL that lot of ground situate along the East side of the Hanover-Carlisle State Highway in Berwick Township, Adams County, Pennsylvania bounded and described as follows, to wit:

BEGINNING at a point in the center of the aforesaid State Highway at corner of land now or formerly of Mrs. Nelson Miller; thence in the center of said State Highway, North seventeen (17) degrees thirty-three (33) minutes fifteen (15) seconds West, one hundred eighty-eight and thirty-three hundredths (188.33) feet to a point; thence by land now or formerly of Mrs. Evelyn Utz and running through a steel pin located twenty-five (25.00) feet from the center of the aforesaid State Highway, North seventy-three (73) degrees seven (07) minutes forty-five (45) seconds East, two hundred twenty-eight and eighty hundredths (228.80) feet to a point; thence by land now or formerly of Mrs. Nelson Miller, South seventeen (17) degrees two (02) minutes twenty (20) seconds East, one hundred eighty-six and sixty-seven hundredths (186.67) feet to a point; thence by the same and running through a steel pin located twenty-five (25.00) feet from the center of the aforesaid State Highway, South seventy-two (72) degrees forty-two (42) minutes fifty-five (55) seconds West, two hundred twenty-seven and eleven hundredths (227.11) feet to a point in the center of said State Highway, the place of BEGINNING. CONTAINING 0.9812 acre.

The foregoing description was obtained from a draft of a survey made by Donald E. Worley, Registered Surveyor, on November 13, 1969.

BEING the same tract of land which David Schmidt and Bonnie Lou Schmidt, husband and wife, by their Deed dated July 26, 1988, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 496, at page 1, sold and conveyed unto David Schmidt.

(continued on page 4)

SEIZED and taken into execution as the property of **David W. Schmidt & Sandra F. Leppo** formerly **Sandra F. Schmidt** 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 December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/28, 11/4 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-928 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a R.R. Spike in or near the center line of Sutton Road at corner of Lot No. 3 on the hereinafter referred to Final Plan; thence in or near said centerline South 69 degrees 22 minutes 15 seconds West 39.90 feet to a R.R. Spike in or near said centerline; thence continuing in same South 64 degrees 23 minutes 00 seconds West 103.18 feet to a R.R. Spike at corner of Lot No. 1 on the hereinafter referred to Final plan; thence by Lot No. 1 and running through an iron pin back 25.12 feet from the beginning of this course North 20 degrees 05 minutes 15 seconds West, 684.19 feet to an iron pin at land now or formerly of David A. Holtzinger; thence by said Holtzinger land and by land now or formerly of Abbotstown Industries, Inc. North 82 degrees 14 minutes 14 seconds East, 233.84 feet to an iron pin at corner of Lot No. 3 on the hereinafter referred to Final plan; thence by Lot No. 3 and running through an iron pin back 25.27 feet from the terminus of this course South 12 degrees 15 minutes 10 seconds East, 629.83 feet to a R.R. Spike in or near the

centerline of Sutton Road, the point and place of **BEGINNING**. **CONTAINING** 2.803 Acres, more or less.

The above description was taken from Final Plan, Gerald L. Hoffheins as prepared by George M. Wildasin, PLS, dated September 8, 1992, Revised October 29, 1992, bearing Field Book 35-58 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 61 at page 98, and being Lot No. 2 thereon.

BEING the same tract of land which Gerald L. Hoffheins and Dorothy E. Hoffheins, husband and wife, by their Deed dated December 1, 1992, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 662, page 315, granted and conveyed unto Wayne A. Gebhart and Tammy L. Gebhart, husband and wife, **MORTGAGORS** **HEREIN**.

SUBJECT, NEVERTHELESS, to a drainage easement as more fully set forth in Deed Book 311 at page 1012; and to drainage easements set forth on above mentioned Final Plan.

TOGETHER WITH a twenty (20) feet Septic Right-of-Way across lands now or formerly of Abbotstown Industries, Inc. as more particularly described in Right-of-Way Agreement dated July 12, 1993, and recorded in Book 1031, page 92.

EXCEPTING THERETO AND THEREFROM:

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

BEGINNING at a point at the corner of lands now or formerly of David A. Holtzinger and Lot No. 2, more particularly shown on the hereinafter referred to subdivision plan; thence continuing along lands now or formerly of David A. Holtzinger, North 20 degrees 05 minutes 15 seconds West, 299.07 feet to a point at an abandoned E. Berlin Railroad; thence continuing along said abandoned E. Berlin railroad, North 82 degrees 14 minutes 14 seconds East, 233.84 feet to an existing iron pin at other lands of the Grantees herein; thence continuing along said lands of the Grantees herein, South 12 degrees 15 minutes 10 seconds East, 244.57 feet to a point at Lot No. 2, more particularly described on the hereinafter referred to subdivision plan; thence continuing along Lot No. 2, South 67 degrees 53 minutes 42 seconds West, 195.24 feet to the point and place of **BEGINNING**. **CONTAINING** 1.3243 acres and known as Lot No. 2-A on the subdivision plan recorded in the Adams County Recorder of Deeds Office in Plat Book 77, page 69.

Lot No. 2-A is to become an integral, inseparable part of lands previously conveyed to Michael E. Miller and Lynne L. Miller and recorded in the Recorder of Deeds Office of Adams County in Record Book 1362, page 61.

IT BEING a part of a larger tract of land which Gerald L. Hoffheins and Dorothy E. Hoffheins, husband and wife, by deed dated December 1, 1992 and recorded in the Recorder of Deeds Office of Adams County, Pennsylvania, in Record Book 662, page 315, granted and conveyed unto Michael E. Miller and Lynne L. Miller, husband and wife, **Grantors** herein.

TAX PARCEL #: 1-5-20

SEIZED and taken into execution as the property of **Wayne A. Gebhart & Tammy L. Gebhart** 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 December 22, 2005, 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.

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

10/21, 28 & 11/4

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State, of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania on September 21, 2005 for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

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

Arendtsville Car Wash, Inc.
17 Main Street
Arendtsville, Pennsylvania 17303

11/4

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 RUTH WOODS HILDEBRAND, DEC'D

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

Executor: Ralph M. Hildebrand, 19028 Amarillo Drive, Germantown, MD 20874

Attorney: John J. Murphy III, Esq., Patrono & Associates, LLC, 30 West Middle Street, Gettysburg, PA 17325

ESTATE OF ALICE H. KENNEDY a/k/a LUCY ALICE KENNEDY, DEC'D

Late of Huntingdon Township, Adams County, Pennsylvania

Executors: Connie Lee Kennedy Wampler, 60 Fanus Rd., Gardners, PA 17324; Claude Franklin Kennedy, 239 Meals Rd., Gardners, PA 17324

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

ESTATE OF CHARLES J. MUMMERT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix dbnca: Cheryl L. Yingling, 1207 Lake Road, Spring Grove, PA 17362

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF LAURA G. SIMPSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: R. Dean Simpson, 7713 Fern Grotto Circle, Fayetteville, PA 17222; Richard E. Simpson, 865 Seven Stars Road, Biglerville, PA 17307

Attorney: Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF CHRISTOPHER S. SPANGLER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Steven L. Spangler & Claudia T. Spangler, 1215 Goldenville Road, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

SECOND PUBLICATION

ESTATE OF VIRGINIA V. DAVIS, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Walton Vail Davis, 301 Ridge Avenue, Gettysburg, PA 17325; Richard Fletcher Davis, 195 Washington Road, Rye, NH 03870

Attorney: Walton V. Davis, Esq., 63 W. High St., Gettysburg, PA 17325

ESTATE OF MARGARET DITZLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Linda K. Ditzler, 425 Baltimore St., Gettysburg, PA 17325

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

ESTATE OF RAYMOND J. McCLEAF, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrices: Constance M. Howe, 102 Knoxlyn Rd., Gettysburg, PA 17325; Sandra K. Howe, 255 Belmont Rd., Gettysburg, PA 17325; Maisie A. Fox, 1653 Blakewood Dr., Chambersburg, PA 17201

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

ESTATE OF RICHARD L. MICHAEL, SR., DEC'D

Late of Guilford Township, Franklin County, Pennsylvania

Executors: Robert Zullinger and Larry A. Musselman, c/o Barley Snyder LLC, 247 Lincoln Way East, Chambersburg, PA 17201

Attorney: Martha B. Walker, Esq., Barley Snyder LLC, 247 Lincoln Way East, Chambersburg, PA 17201

ESTATE OF CHARLES F. MILLER, JR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jeffrey A. Herr and Maria L. Miller, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF A. DOROTHY D. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Jeffrey A. Herr and Maria L. Miller, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF CHARLES H. SLONAKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Constance A. Ray, 430 Sunrise Boulevard, Elizabethtown, PA 17022; David C. Slonaker, 149 New Lane, Chambersburg, PA 17201; John J. Slonaker, 41 Wilson Street, Carlisle, PA 17013; Bruce H. Slonaker, 153 N. Main Street, Biglerville, PA 17307

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

THIRD PUBLICATION

ESTATE OF MARY L. ADAMS, DEC'D

Late of Latimore Township, Adams County, Pennsylvania

Executrix: Sherry A. Miller, 2085 Old Harrisburg Rd., Gettysburg, PA 17325

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

ESTATE OF HETTIE R. DELP, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executors: Kay D. Guise, 819 Yellow Hill Rd., Biglerville, PA 17307; Carol Ann Miller, P.O. Box 36, Idaville, PA 17337; Jane D. Delp, now Johnston, 23 Halleck Dr., East Berlin, PA 17316

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

ESTATE OF KATHRYN H. DIETZEL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Richard C. Dietzel, 564 Quaker Church Road, York Springs, PA 17372

Attorney: Mark E. Halbruner, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043

(continued on page 6)

THIRD PUBLICATION (continued)

ESTATE OF WILLIAM M. HANEY, SR., DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executrix: Brenda Cassatt, c/o Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

Attorney: Samuel A. Gates, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF ANNA MOHAN a/k/a ANNA G. MOHAN, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Anne Catherine Mohan, 5947 Houghton Street, Philadelphia, PA 19128

Attorney: Paul J. Datte, Esq., Cerullo, Datte & Wallbillich, P.C., 450 West Market Street, P.O. Box 450, Pottsville, PA 17901

ESTATE OF KERRY L. SCHNEIDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Tyree G. Berfin, 60 Shrivvers Corner Rd., Gettysburg, PA 17325

ESTATE OF HENRI M. VANDENBOGAARD, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Roland Hoet, 1829 Arnold Road, York, PA 17404

Attorney: D. Michael Craley, 246 West Broadway, Lower Level, Red Lion, PA 17356

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on September 13, 2005, for the purpose of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Law of 1988, P.L. 1444, No. 177, as amended. The name of the corporation is TWIN PONDS DEVELOPMENT CORP., with a registered office of the corporation being 979 Harney Road, Littlestown, PA 17340.

David K. James, III, Esq.
234 Baltimore Street
Gettysburg, PA 17325

11/4

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, November 15, 2005, at 9:00 a.m.

GROH—Orphans' Court Action Number OC-22-05. The First and Final Account of Kathleen Ballering, Administratrix of the Estate of Mary L. Groh, a/k/a Mary Louise Groh, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

WILDASIN—Orphans' Court Action Number OC-137-05. The First and Final Account of G. Michael Wildasin, Executor of the Estate of George Morrell Wildasin, deceased, late of Abbottstown Borough, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

11/4 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-867 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 340 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of The Recorder of Deeds in and for Adams County in Plat Book 1, Page 1 and subject to all legal highways, easements, rights of way and restrictions of record including but not being limited to restriction and conditions as recorded in Adams County Deed Book 262, Page 854 and Adams County Deed Book 262, Page 857.

The improvements thereon being known as 7 Bragg Drive, East Berlin, PA 17316.

Being the same property which by Deed dated November 28, 2000 and recorded among the aforesaid Office of Recorder of Deed in Book No. 2170, page 33 was granted and conveyed by Henry E. Ostman and Zenaída E. Ostman unto Keith N. Palmer.

Adams County, Pennsylvania Tax ID (37) 011-0063-000

SEIZED and taken into execution as the property of **Keith N. Palmer** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/4, 10 & 18

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION
NO. 05-S-778
Action to Quiet Title

GERALD M. LIPPY and P. ELIZABETH LIPPY, husband and wife, Plaintiffs

vs.

JOHN DOE, M. HOWARD, and their respective executors, heirs and/or assigns, Defendants

ORDER OF COURT

AND NOW, this 30th day of September, 2005, upon consideration of the attached Motion for Judgment, it is hereby ordered that the Defendants in the above captioned action be forever barred from asserting any right, lien, title or interest in the subject real estate inconsistent with the interest or claim of the Plaintiffs as set forth in their Complaint, unless the Defendant or Defendants bring an action in ejectment within thirty (30) days of notice of this Order pursuant to Pa.R.C.P. 1066(b)(1). If such action is not taken within the thirty (30) day period, the Prothonotary, on Praecipe from the Plaintiffs, shall enter final judgment, if appropriate.

Service of this Order of Court upon the Defendants shall be made by publication once in the *Adams County Legal Journal* and once in *The Gettysburg Times*.

BY THE COURT,
/s/Michael A. George
J.

11/4

Adams County Legal Journal

Vol. 47

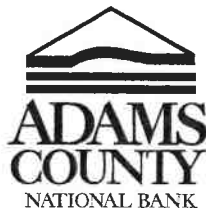
November 10, 2005

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BERWAGER VS. BERWAGER

Quality Customer Service.
Our promise to you every day.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices, Published weekly by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 337-9812

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-518 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 29 on a plan of lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County in Misc. Deed Book 1, Page 1, and subject to all legal highways, easements, rights-of-way and restrictions of record.

TOGETHER with the right in common with other owners of lots in said subdivision to use for all usual purposes the streets, ways, beaches, recreation area, 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 or assigns.

UNDER AND SUBJECT, nevertheless, to certain covenants, conditions, restrictions, easements and other provisions as set forth in the aforesaid deed recorded in Deed Book 267, Page 1071, Adams County Records.

Being known as: 4 Hooker Cove, East Berlin, PA 17316

Property ID No.: 8-16

TITLE TO SAID PREMISES IS VESTED IN Barry E. Miller and Donna J. Miller, his wife by deed from Clyde C. Bachert, Jr., single person dated 8/4/00 recorded 8/28/00 in Deed Book 2115 Page 29.

SEIZED and taken into execution as the property of **Barry E. Miller & Donna J. Miller** 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 December 22, 2005, and distribution will be made in

accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/28, 11/4 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-768 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN parcel of land in Butler Township, Adams County, Commonwealth of Pennsylvania, as more fully described in Deed Book 384 Page 1066, ID#68-42, being known and designated as a Metes and Bounds Property.

Tract No. 1:

BEGINNING at the point for a corner in the center of the state highway leading from Route 234 to Route 15; thence running by land now or formerly of Melvin Miller, South 55 degrees West 210 feet to an iron pin; thence running by land now or formerly of Ivan Huff, North 23 degrees West, 154.2 feet to an iron pin; thence running by land of the same North 59 degrees East, 210 feet to a point in the aforesaid highway, marked by an iron pin set on the West side of said highway; thence running in the center of said highway South 23 degrees East, 141 feet to a point in the center of the aforesaid highway the place of BEGINNING. CONTAINING 110 perches and 48 square feet.

Tract No. 2:

BEGINNING at a point for a corner in the center of the state highway leading from Route 234 to Route 15; thence running by land now or formerly of Melvin Miller, and in the center of said highway,

South 23 degrees East, 75 feet to a point in the center of said highway; thence running by land now or formerly of Raymond W. and Alice I. Swatzbaugh, South 59 degrees West 210 feet to an iron pin for a corner; thence running by land now or formerly of Ivan Huff North 59 degrees East, 210 feet to a point in the center of the state highway the place of BEGINNING. CONTAINING 57 perches and 217 square feet.

BEING THE SAME premises which Mina E. Newberry, widow, by deed dated 8/10/84 and recorded 8/13/84 in the Office of the Recorder of Deeds in and for Adams County in Deed Book 384 at Page 1066, granted and conveyed unto David Allen Arentz and Barbara Arentz, husband and wife, as tenants of an estate by the entireties.

Tax Parcel #: 7-G-8-42

Property known as: 870 Rentzel Road, Biglerville, PA 17307

SEIZED and taken into execution as the property of **Barbara A. Arentz & David A. Arentz, Sr.** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

BERWAGER VS. BERWAGER

1. Although the Divorce Code enumerates several factors to consider when a court is fashioning an equitable distribution scheme the ultimate decision is within the discretion of the trial court.

2. There is no magical formula, instead the court is to use a flexible approach considering the factors in 23 Pa.C.S.A. 3502(a) along with the unique facts and circumstances of each case.

3. When a court is fashioning an equitable distribution scheme it is appropriate for a spouse to receive half of the fair market rental value of the home so long as the other spouse was in exclusive possession of the marital residence during the parties' separation. The award of half of the fair market rental value of the home is discretionary with the Court and does not amount to an abuse of discretion when the Court refuses to grant a request for such an award.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 00-S-616, KENNETH L. BERWAGER, JR. VS. BRONWYN B. BERWAGER.

Timothy J. Shultis, Esq., for Plaintiff
John James Mooney III, Esq., for Defendant
Roy A. Keefer, Esq., Master
Bigham, J., April 25, 2005

STATEMENT PURSUANT TO PA.R.A.P.1925(A)

Plaintiff, Kenneth L. Berwager, Jr., files an appeal from a February 7, 2005, Order of Court which disposed of multiple exceptions by Plaintiff and Defendant, Bronwyn B. Berwager. Specifically, Plaintiff objects to the Court's disposition of Plaintiff's original objections, J and E. Plaintiff argues that this court erred: 1) in classifying a post-separation loan from Defendant's mother, Pearl Neff, to Defendant as marital debt and, 2) in failing to award Plaintiff one-half of the fair rental value of the marital residence following the parties' separation and following the conversion of the marital residence in to a two unit rental property.

Plaintiff initiated this action by filing a Complaint in Divorce on June 19, 2000. A Master was appointed on November 19, 2002, to consider the issues of divorce, alimony, equitable distribution, counsel fees, costs and expenses. A Master's Report and Recommendation was filed on January 20, 2004. Each party timely filed exceptions. On February 3, 2005, this Court held oral argument on the exceptions to the Master's Report and Recommendations.

1.) The Trial Court erred in classifying a post-separation loan from Defendant's mother, Pearl Neff, to Defendant as a marital debt.

The Pennsylvania Divorce Code requires a trial court to examine and consider several factors when determining whether or not an equitable distribution scheme is just. *Williams v. Williams*, 540 A.2d 563, 565 (Pa.Super.1987). The factors to be considered are as follows:

1. The length of the marriage.
2. Any prior marriage of either party.
3. The age, health, station, amount and source of income, vocational skills, employability, estate, liabilities and needs of each of the parties.
4. The contribution by one party to the education, training or increased earning power of the party.
5. The opportunity of each party for future acquisitions of capital assets and income.
6. The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
7. The contribution or dissipation of each party in the acquisition, preservation, depreciation or appreciation of the marital property, including the contribution of a party as homemaker.
8. The value of the property set apart to each party.
9. The standard of living of the parties established during the marriage.
10. The economic circumstances of each party at the time the division of property is to become effective.
- 10.1 The Federal, State and local tax ramifications associated with each asset to be divided, distributed or assigned, which ramifications need not be immediate and certain,
- 10.2 The expense of sale, transfer or liquidation associated with a particular asset, which expense need not be immediate and certain,
- 10.3 Whether the party will be serving as the custodian of any dependent minor children. *23 Pa.C.S.A 3502(a)*.

Although the Divorce Code enumerates several factors to consider when a court is fashioning an equitable distribution scheme the ultimate decision is within the discretion of the trial court. *Anderson*

v. *Anderson*, 822 A.2d 824, 827 (Pa.Super. 2003) and *Gaydos v. Gaydos*, 693 A.2d 1368, 1376 (Pa.Super. 1997). There is no magical formula, instead the court is to use a flexible approach considering the factors in 23 Pa.C.S.A 3502(a) along with the unique facts and circumstances of each case. *Gaydos at 1376*.

Plaintiff's position is that the classification of the post-separation loan of \$27,799.25 from Defendant's mother, Pearl Neff, to Defendant as marital debt is an error. Plaintiff contends that the loan should be reclassified as a non-marital separate debt of Defendant. In support of his position Plaintiff advances the following arguments: the loan transaction was made after the date of separation, there was no documentation of the loan, Defendant has never made any attempt to pay the loan back, inclusion of this loan as marital debt has the effect of obligating Plaintiff to support Defendant by paying 55% of the mortgage payments on the marital home without a corresponding benefit to Plaintiff and the effect of obligating Plaintiff to pay 55% of the mortgage payments is unfair to Plaintiff because the Court denied the request for fair rental value.

The fairness of an equitable distribution scheme, the weight assigned to each factor, whether an asset is marital or non-marital property and whether or not to credit marital expenses to one party are all issues within the sound discretion of the trial court. *Sergi v. Sergi*, 506 A.2d 928(Pa.Super.1985), *Gordon v. Gordon*, 647 A.2d 530(Pa.Super.1994), *Smith v. Smith*, 653 A.2d 1259(Pa.Super.1994). The Court notes that Defendant took numerous steps after separation to not only preserve the marital home but to improve it while Plaintiff did not. Additionally, Defendant was responsible for the parties' marital debt in the form of a consolidation loan. Defendant was unable to make payments on both the consolidation loan and the mortgage. In order to prevent foreclosure the Defendant was forced to borrow \$27,799.25 from her Mother, Pearl Neff. Plaintiff did not assist the Defendant with any payments after separation towards the mortgage payments or consolidation loans. The court must consider the policy of the Divorce Code, "to effectuate economic justice between parties who are divorced," when creating a scheme of economic justice. *Meyer v. Meyer*, 749 A.2d 917, 919 (Pa. 2000). The Court determines that classifying the loan of \$27,799.25 from Defendant's mother, Pearl Neff, to Defendant as marital debt accomplishes economic justice.

2.) The Trial Court erred in failing to award Plaintiff one-half of the fair rental value of the marital residence following the parties' separation and following the conversion of the marital residence to a two unit rental property.

When a court is fashioning an equitable distribution scheme it is appropriate for a spouse to receive half of the fair market rental value of the home so long as the other spouse was in exclusive possession of the marital residence during the parties' separation. *Butler v. Butler*, 621 A.2d 659, 668 (Pa.Super. 1993). The award of half of the fair market rental value of the home is discretionary with the Court and does not amount to an abuse of discretion when the Court refuses to grant a request for such an award. *Middleton v. Middleton*, 812 A.2d 1241,1248 (Pa.Super. 2002), *Gaydos v. Gaydos*, 693 A.2d 1368, 1377 (Pa.Super. 1996), quoting *Sutliff v. Sutliff*, 522 A.2d 1144, 1154 (Pa.Super.1987). The Court agrees with the Master's determination that a credit is not appropriate in this case. Since separation Plaintiff has not paid any of the expenses, mortgage, insurance, taxes or maintenance expenses, related to the marital home. Defendant converted the marital residence into two-rental properties and has been responsible for all of the expenses associated with owning rental properties including, but not limited to maintenance and utility bills. Defendant has not been in exclusive possession of the marital residence although she has had exclusive possession of the rental income from the marital home.¹ Both Plaintiff and Defendant have incurred housing costs but the Defendant also has had the added cost of preserving the marital residence. Furthermore, the equitable distribution scheme present here is fair and reasonable when evaluated in its entirety and an award of fair market rental value is unnecessary.

¹The record reflects that Defendant has not lived in the marital home since November 1, 2001.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-378 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 2nd day of December, 2005, 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 three (3) tracts of land situate in Berwick Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

Tract No. 1:

ALL that piece, parcel or tract of land situate and being in Berwick Township, Adams County, Pennsylvania, more particularly described as follows, to-wit:

BEGINNING at a stone in a line with lands now or formerly of Jonas Flickinger, South thirty-five and one-half (35-1/2) degrees East, fourteen and eight tenths (14.8) perches to a stone and lands now or formerly of Charles Haugh; thence North fifty-four and one-half (54-1/2) degrees East, seventy and four tenths (70.4) perches to a stone and lands now or formerly of Lindezs Sturgeon; thence North fourteen (14) degrees West, sixteen and two tenths (16.2) perches to a stone and lands now or formerly of Rebecca Oaster; thence South along aforesaid lands now or formerly of Rebecca Oaster and lands now or formerly of John Kellenberger, South fifty-four and one-half (54-1/2) degrees West, seventy-six and one tenth (76.1) perches to the place of BEGINNING. CONTAINING six (6) acres and one hundred twenty-three (123) perches, more or less.

BEING the same tract of land which Fred H. Fissel and Donna D. Fissel, his wife, by their Deed dated November 5, 1993 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 0808, at page 0228, sold and conveyed unto David W. Schmidt and Sandra F. Schmidt, his wife.

Tract No. 2:

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

BEGINNING for a point in the center line of the Carlisle Pike (PA 94), at lands now or formerly of Wildasin Used Cars; thence continuing along and with the center line of the Carlisle Pike (PA 94), North twenty-four (24) degrees thirty (30) minutes zero (00) seconds West, two hundred eighty-three and ninety-eight hundredths (283.98) feet to a point in the center line of the Carlisle Pike (PA 94)

aforesaid; thence leaving said Carlisle Pike (PA 94), and along lands now or formerly of David Schmidt, and passing through an existing reference steel rod set back twenty-five and forty-five hundredths (25.45) feet from the beginning of this course, North sixty-five (65) degrees fifty-two (52) minutes zero (00) seconds East, two hundred twenty-seven and fifty-five hundredths (227.55) feet to an existing steel rod reset; thence continuing along lands of the same, North twenty-four (24) degrees zero (00) minutes forty (40) seconds West, one hundred eighty-six and sixty-seven hundredths (186.67) feet to an existing steel rod at stone at lands now or formerly of Evelyn Alltand; thence continuing along lands now or formerly of Evelyn Alltand, North twenty-seven (27) degrees eighteen (18) minutes fifteen (15) seconds West, ninety-six and eleven hundredths (96.11) feet to an existing pipe reset at lands now or formerly of John Hippensteel and lands now or formerly of Maurice Myers; thence continuing along lands of the same, North sixty-six (66) degrees twenty-three (23) minutes fifty (50) seconds East, two hundred forty-four and zero hundredths (244.00) feet to an aluminum post set at a thirty (30) foot oak stump; thence continuing along lands of the same, North sixty-five (65) degrees fifty-two (52) minutes fifteen (15) seconds East, three hundred forty and twenty-six hundredths (340.26) feet to an angle iron set at existing post and stones; thence continuing along lands of the same and lands now or formerly of Ingrid Luckenbaugh, and lands now or formerly of Fred Fissel, South thirty-six (36) degrees zero (00) minutes twenty-five (25) seconds East, five hundred sixty-five and zero hundredths (565.00) feet to an aluminum post set over existing old pipe at other lands now or formerly of Burnell Wildasin; thence continuing along lands of the same and passing through a reference existing drill shaft set thirty-six and eighty-four hundredths (36.84) feet back from the beginning of this course, South sixty-five (65) degrees seven (07) minutes ten (10) seconds West, six hundred eighty-three and fifty hundredths (683.50) feet to an existing bolt set at lands now or formerly of Wildasin Used Cars; thence continuing along lands of the same and passing through an existing reference pipe set twenty-two and thirty-seven hundredths (22.37) feet back from the terminus of this course, South sixty-five (65) degrees one (01) minute thirty-five (35) seconds West, two hundred thirty-seven and sixty-three hundredths (237.63) feet to a point in the center line of the Carlisle Pike (PA 94), the point and place of BEGINNING. CONTAINING 9.627 acres as per survey prepared for Burnell

Wildasin by Adams County Surveyors bearing dated of November 7, 1990. This survey was performed to correctly identify the boundaries of the above-described premises and is not intended to subdivide the premises in any manner whatsoever. It is the same as shown by draft of L. H. Winebrenner, County Surveyor, dated May 11, 1935.

BEING the same tract of land which David W. Schmidt by his Deed dated March 15, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 0583, at page 0200, sold and conveyed unto David W. Schmidt and Sandra F. Schmidt, his wife.

Tract No. 3:

ALL that lot of ground situate along the East side of the Hanover-Carlisle State Highway in Berwick Township, Adams County, Pennsylvania bounded and described as follows, to wit:

BEGINNING at a point in the center of the aforesaid State Highway at corner of land now or formerly of Mrs. Nelson Miller; thence in the center of said State Highway, North seventeen (17) degrees thirty-three (33) minutes fifteen (15) seconds West, one hundred eighty-eight and thirty-three hundredths (188.33) feet to a point; thence by land now or formerly of Mrs. Evelyn Utz and running through a steel pin located twenty-five (25.00) feet from the center of the aforesaid State Highway, North seventy-three (73) degrees seven (07) minutes forty-five (45) seconds East, two hundred twenty-eight and eighty hundredths (228.80) feet to a point; thence by land now or formerly of Mrs. Nelson Miller, South seventeen (17) degrees two (02) minutes twenty (20) seconds East, one hundred eighty-six and sixty-seven hundredths (186.67) feet to a point; thence by the same and running through a steel pin located twenty-five (25.00) feet from the center of the aforesaid State Highway, South seventy-two (72) degrees forty-two (42) minutes fifty-five (55) seconds West, two hundred twenty-seven and eleven hundredths (227.11) feet to a point in the center of said State Highway, the place of BEGINNING. CONTAINING 0.9812 acre.

The foregoing description was obtained from a draft of a survey made by Donald E. Worley, Registered Surveyor, on November 13, 1969.

BEING the same tract of land which David Schmidt and Bonnie Lou Schmidt, husband and wife, by their Deed dated July 26, 1988, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 496, at page 1, sold and conveyed unto David Schmidt.

(continued on page 4)

SEIZED and taken into execution as the property of **David W. Schmidt & Sandra F. Leppo formerly Sandra F. Schmidt** 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 December 22, 2005, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

10/28, 11/4 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-908 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground with the improvements thereon erected, situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at an iron pin for a corner on the South side of the Lincoln Highway; thence along said Lincoln Highway, North seventy (70) degrees East, sixty-six (66) feet to a public street; thence along said street, South twelve and one-half (12-1/2) degrees East, one hundred eighty-one (181) feet to an alley; thence along said alley South seventy (70) degrees West, sixty-six (66) feet to an iron pin for a corner; thence along lands now or formerly of William P. Baker, North twelve and one-half (12-1/2) degrees West, one hundred eighty-one (181) feet to an iron pin, the place of BEGINNING.

BEGIN THE SAME property conveyed to Jason C. Alder and Jennifer A. Alder, husband and wife as tenants of an estate by the entireties by deed from Robin L. Rife-Francisco and Jose A. Francisco, her husband recorded 05/18/2004 in Deed Book 3572 Page 157, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Jason C. Alder and Jennifer A. Alder, husband and wife, as tenants of an estate by the entireties, by Deed from Robin L. Rife-Francisco and Jose A. Francisco, her husband, dated 5-14-04, recorded 5-18-04, in Deed Book 3572, page 157.

Premises being: 404 West King Street, Abbottstown, PA 17301-9761

Tax Parcel No. 1-3-59

SEIZED and taken into execution as the property of **Jason C. Alder & Jennifer A. Alder** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, November 15, 2005, at 9:00 a.m.

GROH—Orphans' Court Action Number OC-22-05. The First and Final Account of Kathleen Ballering, Administratrix of the Estate of Mary L. Groh, a/k/a Mary Louise Groh, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

WILDASIN—Orphans' Court Action Number OC-137-05. The First and Final Account of G. Michael Wildasin, Executor of the Estate of George Morrell Wildasin, deceased, late of Abbottstown Borough, Adams County, Pennsylvania.

Lisa K. Grubbs
Clerk of Courts

11/4 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-859 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 December, 2005, 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 Poplar Street and Lot No. 125; thence along Lot No. 125, South thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds East, one hundred eighty (180.00) feet to a point at Lot No. 121; thence along Lot No. 121, North fifty-eight (58) degrees two (02) minutes twenty-one (21) seconds East, ninety and sixty-nine hundredths (90.69) feet to a point at Lot No. 122; thence along Lot No. 122 and Lot No. 123, North thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds West, one hundred ninety-one and nineteen hundredths (191.19) feet to a point at Poplar Street; thence along Poplar Street, South fifty (50) degrees fifty-seven (57) minutes four (04) seconds West, ninety (90.00) feet to the point and place of BEGINNING.

CONTAINING 16,703 square feet and identified as Lot No. 124 on a plan of lots entitled Phase III, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 51, page 82.

Tax Parcel #6-186

Property known as: 719 Poplar Street, Hanover, PA 17331

SEIZED and taken into execution as the property of **Lois A. Misiti** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

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 DOLORES D. BADDERS, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Personal Representatives: Robyn Lynn Jacobs, 101 M Street, Littlestown, PA 17340; Kelly Ann Ricci, 57 Prince St., Littlestown, PA 17340

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

ESTATE OF GARY K. KERN, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executrix: Judith A. Kern, c/o Pauline Manos, Esq., 1604 Locust Street, 2R, Philadelphia, PA 19103

Attorney: Pauline Manos, Esq., Feldman & Pinto, 1604 Locust Street, Philadelphia, PA 19103

ESTATE OF HECTOR DONALD MCKENZIE, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administrator: Richard D. Billings, 1605 Pepperridge Ln., Charlottesville, VA 22911

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

ESTATE OF TERENCE JOHN ROGERS a/k/a TERENCE J. ROGERS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Dorothy Baker Rogers, 189 South Columbus Avenue, Littlestown, PA 17340

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

SECOND PUBLICATION**ESTATE OF RUTH WOODS HILDEBRAND, DEC'D**

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

Executor: Ralph M. Hildebrand, 19028 Amanillo Dr., Germantown, MD 20874

Attorney: John J. Murphy III, Esq., Patrono & Associates, LLC, 30 West Middle Street, Gettysburg, PA 17325

ESTATE OF ALICE H. KENNEDY a/k/a LUCY ALICE KENNEDY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Connie Lee Kennedy Wampler, 60 Fanus Rd., Gardners, PA 17324; Claude Franklin Kennedy, 239 Meals Rd., Gardners, PA 17324

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

ESTATE OF CHARLES J. MUMMERT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix dbncta: Cheryl L. Yingling, 1207 Lake Road, Spring Grove, PA 17362

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF LAURA G. SIMPSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: R. Dean Simpson, 7713 Fern Grotto Circle, Fayetteville, PA 17222; Richard E. Simpson, 865 Seven Stars Road, Biglerville, PA 17307

Attorney: Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF CHRISTOPHER S. SPANGLER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Steven L. Spangler & Claudia T. Spangler, 1215 Goldenville Road, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION**ESTATE OF VIRGINIA V. DAVIS, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: Walton Vail Davis, 301 Ridge Avenue, Gettysburg, PA 17325; Richard Fletcher Davis, 195 Washington Road, Rye, NH 03870

Attorney: Walton V. Davis, Esq., 63 W. High St., Gettysburg, PA 17325

ESTATE OF MARGARET DITZLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Linda K. Ditzler, 425 Baltimore St., Gettysburg, PA 17325

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

ESTATE OF RAYMOND J. McCLEAF, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executrices: Constance M. Howe, 102 Knoxlyn Rd., Gettysburg, PA 17325; Sandra K. Howe, 255 Belmont Rd., Gettysburg, PA 17325; Maysie A. Fox, 1653 Blakewood Dr., Chambersburg, PA 17201

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

ESTATE OF RICHARD L. MICHAEL, SR., DEC'D

Late of Guilford Township, Franklin County, Pennsylvania

Executors: Robert Zullinger and Larry A. Musselman, c/o Barley Snyder LLC, 247 Lincoln Way East, Chambersburg, PA 17201

Attorney: Martha B. Walker, Esq., Barley Snyder LLC, 247 Lincoln Way East, Chambersburg, PA 17201

ESTATE OF CHARLES F. MILLER, JR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Jeffrey A. Herr and Maria L. Miller, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF A. DOROTHY D. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executors: Jeffrey A. Herr and Maria L. Miller, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF CHARLES H. SLONAKER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Constance A. Ray, 430 Sunrise Boulevard, Elizabethtown, PA 17022; David C. Slonaker, 149 New Lane, Chambersburg, PA 17201; John J. Slonaker, 41 Wilson Street, Carlisle, PA 17013; Bruce H. Slonaker, 153 N. Main Street, Biglerville, PA 17307

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-850 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a magnetic spike near the centerline of Hilltown Road (T-355) which spike is also at the Northeastern-most corner of Lot No. 3 on the hereinafter described plan of lots; thence running in Hilltown Road (T-355) North 88 degrees 36 minutes 00 seconds East, 281.60 feet to a magnetic spike near the centerline of said road, which magnetic spike is located at the corner of Lot No. 1 on the hereinafter described plan of lots; thence running by Lot No. 1 and through a steel rod set back 30 feet from the start of this course South 01 degree 24 minutes 00 seconds East, 320.00 feet to a steel rod; thence continuing by the same South 88 degrees 36 minutes 00 seconds West, 281.60 feet to a steel rod where Lot Nos. 2, 3 and 4 intersect as shown on the hereinafter described plan of lots; thence running by Lot No. 3 on the hereinafter described plan of lots and through a reference steel rod set back 30 feet from the end of this course North 01 degree 24 minutes 00 seconds West, 320.00 feet to a magnetic spike near the centerline of Hilltown Road (T-355), the point and place of BEGINNING. CONTAINING 2.069 Acres, more or less.

This description was taken from a survey prepared by J. Riley Redding, R.S., dated February 24, 1998 and recorded in Adams County Plat Book 74 at page 29A. The tract described is Tract No. 4 on said plan of lots.

Being the same which Elizabeth C. Cavanaugh, widow, by her attorney-in-fact, Rachel C. Rouse, by deed dated May 30, 2000, which deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2060 at page 48, sold and conveyed unto David H. Landis, one of the grantors herein named.

TITLE TO SAID PREMISES IS VESTED IN Michael W. Schaefer and Rebecca S. Schaefer, husband and wife, by Deed from David H. Landis and Barbara A. Stewart, his wife, dated 9-29-03, recorded 9-30-03 in Deed Book 3323, page 291.

Premises being: 574 Hilltown Road, Gettysburg, PA 17325

Tax Parcel No. 12-D10-0015C

SEIZED and taken into execution as the property of Michael W. Schaefer & Rebecca S. Schaefer 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for THE LINKS AT GETTYSBURG LAND COMPANY, INC. on November 1, 2005. The said corporation has been incorporated under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

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

11/10

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on August 24, 2005, with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of SHADOWBROOK at Gettysburg with its principal office or place of business at 303 Rentzel Road, Gettysburg, PA 17325. The name of the party owning or interested in said business is Shadowbrook at Gettysburg, LLC.

Jonathan Patrono, Esq.
Patrono & Associates, LLC

11/10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-867 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 340 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of The Recorder of Deeds in and for Adams County in Plat Book 1, Page 1 and subject to all legal highways, easements, rights of way and restrictions of record including but not being limited to restriction and conditions as recorded in Adams County Deed Book 262, Page 854 and Adams County Deed Book 262, Page 857.

The improvements thereon being known as 7 Bragg Drive, East Berlin, PA 17316.

Being the same property which by Deed dated November 28, 2000 and recorded among the aforesaid Office of Recorder of Deed in Book No. 2170, page 33 was granted and conveyed by Henry E. Ostman and Zenaïda E. Ostman unto Keith N. Palmer.

Adams County, Pennsylvania Tax ID (37) 011-0063-000

SEIZED and taken into execution as the property of Keith N. Palmer 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/4, 10 & 18

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Vol. 47

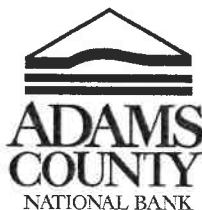
November 18, 2005

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TAYLOR VS. WILSON AND PRUDENTIAL

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



Member FDIC

Designated for the Publication of Court and other Legal Notices. Published weekly by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 337-9812

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-768 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN parcel of land in Butler Township, Adams County, Commonwealth of Pennsylvania, as more fully described in Deed Book 384 Page 1066, 1D#68-42, being known and designated as a Metes and Bounds Property.

Tract No. 1:

BEGINNING at the point for a corner in the center of the state highway leading from Route 234 to Route 15; thence running by land now or formerly of Melvin Miller, South 55 degrees West 210 feet to an iron pin; thence running by land now or formerly of Ivan Huff, North 23 degrees West, 154.2 feet to an iron pin; thence running by land of the same North 59 degrees East, 210 feet to a point in the aforesaid highway, marked by an iron pin set on the West side of said highway; thence running in the center of said highway South 23 degrees East, 141 feet to a point in the center of the aforesaid highway the place of BEGINNING CONTAINING 110 perches and 48 square feet.

Tract No. 2:

BEGINNING at a point for a corner in the center of the state highway leading from Route 234 to Route 15; thence running by land now or formerly of Melvin Miller, and in the center of said highway, South 23 degrees East, 75 feet to a point in the center of said highway; thence running by land now or formerly of Raymond W. and Alice I. Swatzbaugh, South 59 degrees West 210 feet to an iron pin for a corner; thence running by land now or formerly of Ivan Huff North 59 degrees East, 210 feet to a point in the center of the state highway the place of BEGINNING CONTAINING 57 perches and 217 square feet.

BEING THE SAME premises which Mina E. Newberry, widow, by deed dated 8/10/84 and recorded 8/13/84 in the

Office of the Recorder of Deeds in and for Adams County in Deed Book 384 at Page 1066, granted and conveyed unto David Allen Arentz and Barbara Arentz, husband and wife, as tenants of an estate by the entireties.

Tax Parcel #: 7-G-8-42

Property known as: 870 Rentzel Road, Biglerville, PA 17307

SEIZED and taken into execution as the property of **Barbara A. Arentz & David A. Arentz, Sr.** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-908 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground with the improvements thereon erected, situate, lying and being in the Borough of Abbotstown, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at an iron pin for a corner on the South side of the Lincoln Highway; thence along said Lincoln Highway, North seventy (70) degrees East, sixty-six (66) feet to a public street; thence along said

street, South twelve and one-half (12-1/2) degrees East, one hundred eighty-one (181) feet to an alley; thence along said alley South seventy (70) degrees West, sixty-six (66) feet to an iron pin for a corner; thence along lands now or formerly of William P. Baker, North twelve and one-half (12-1/2) degrees West, one hundred eighty-one (181) feet to an iron pin, the place of BEGINNING.

BEING THE SAME property conveyed to Jason C. Alder and Jennifer A. Alder, husband and wife as tenants of an estate by the entireties by deed from Robin L. Rife-Francisco and Jose A. Francisco, her husband recorded 05/18/2004 in Deed Book 3572 Page 157, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Jason C. Alder and Jennifer A. Alder, husband and wife, as tenants of an estate by the entireties, by Deed from Robin L. Rife-Francisco and Jose A. Francisco, her husband, dated 5-14-04, recorded 5-18-04, in Deed Book 3572, page 157.

Premises being: 404 West King Street, Abbotstown, PA 17301-9761

Tax Parcel No. 1-3-59

SEIZED and taken into execution as the property of **Jason C. Alder & Jennifer A. Alder** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

TAYLOR VS. WILSON AND PRUDENTIAL

1. Absent proper service of a writ upon a garnishee, the garnishee's possession or ability to dispose of the property of a defendant debtor is unrestricted.

2. Pennsylvania Rule of Civil Procedure 402(a), relating to the manner of original service, permits service at any office or usual place of business of the defendant, to his agent or to the person for the time being in charge thereof.

3. The rules allow for service of a writ of execution upon one in possession of a debtor's property. Service of a writ of execution upon such a party attaches to all property of the defendant which is in the possession of such a person.

4. Service of the writ of execution imposes an obligation on the garnishee to refrain from changing the status quo to the detriment of the judgment creditor. Any action taken by a garnishee following service of a writ is done at the garnishee's own peril.

5. The Supreme Court speaking on the effect of a writ of execution has stated that the service of an attachment execution has the effect of an equitable assignment of the thing attached. It puts the garnishee in the relation to the attaching creditor which he had sustained to his former creditor.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 04-N-229, DONNA W. TAYLOR VS. STACEY WILSON, DEFENDANT, AND PRUDENTIAL FINANCIAL, GARNISHEE.

Matthew R. Battersby, Esq., for Plaintiff

John M. Ogden, Esq., for Defendant

Jonathan Dryer, Esq., for Garnishee

George, J., April 25, 2005

OPINION

This matter originates from a landlord/tenant complaint, which resulted in the entry of judgment by a district justice followed by the entry of a money judgment by the Adams County Prothonotary's Office. A money judgment in the amount of \$5,309.91 was entered in favor of Donna W. Taylor ("Taylor") and against Stacey Wilson ("Wilson").¹ Following the entry of judgment with the Prothonotary, Taylor filed a Praecipe for Writ of Execution resulting in a writ being issued on March 11, 2004. On March 18, 2004, at 4:00 P.M., the Cumberland County Sheriff served the Writ of Execution upon Prudential Financial ("Prudential"), as Garnishee, at a branch office

¹ Wilson filed a Petition to Strike Judgment/Open Judgment on April 6, 2004. Wilson's Petition to Strike and/or Open Judgment was denied by this Court on April 27, 2004. Wilson appealed this Court's denial of her Motion to the Pennsylvania Superior Court. *Taylor v. Wilson*, 927 MDA 2004. By Order dated August 4, 2004, the Superior Court quashed Wilson's appeal.

located at 150 Corporate Drive, Camp Hill, Pennsylvania. The next day, March 19, 2004, Wilson closed an annuity contract held with Prudential in the amount of \$7,956.71. Proceeds from the annuity were released to Wilson that same day. On June 6, 2004, Wilson filed a Praecipe for Writ of Execution requesting the Prothonotary to enter judgment against Prudential, as garnishee, in the amount of \$5,504.66. Prudential timely filed a Petition to Strike and/or Open Judgment. This petition was granted by the Court on September 1, 2004. Pursuant to Pennsylvania Rule of Civil Procedure 3147, Taylor petitions the Court to enter judgment in her favor and against Prudential as garnishee. Prudential has filed an Answer opposing the entry of judgment. Prudential argues that it is no longer in possession or in control of the annuity funds having disposed of the annuity funds in good faith and within industry standards. It further claims that service of the writ on a field office was insufficient under the Pennsylvania Rules of Civil Procedure and, therefore, the release of annuity proceeds to Wilson was proper under the circumstances.

The Court will begin its analysis by addressing Prudential's challenge to the propriety of the service of the Writ of Execution. Clearly, absent proper service of a writ upon a garnishee, the garnishee's possession or ability to dispose of the property of a defendant debtor is unrestricted. See *Royal Bank of Pennsylvania v. Selig*, 644 A.2d 741 (Pa.Super. 1994), appeal denied 655 A.2d 516 (holding that a garnishee could no longer deal with a debtor's investments as it had before attachment). Pennsylvania Rule of Civil Procedure 3111 provides that the writ shall be served by a sheriff upon the garnishee in the manner prescribed by Pennsylvania Rule of Civil Procedure 402(a). Pennsylvania Rule of Civil Procedure 402(a), relating to the manner of original service, permits service "at any office or usual place of business of the defendant, to his agent or to the person for the time being in charge thereof." Pa.R.C.P. 3111. This rule suggests a balance between the need to accomplish service in a manner calculated to give actual notice and the desire to facilitate service upon corporate entities. See *Grand Entertainment Group, Ltd., v. Star Media Sales, Inc.*, 787 F.Supp. 458 (E.D. Pa. 1992), order rev'd on other grounds, 988 F.2d 476 (3d Cir. 1993). The balance sought to be struck by the Pennsylvania Rules of Civil Procedure is further clarified by Pennsylvania Rule of Civil Procedure 424 which permits service upon a corporation at any

regular place of business or activity of the corporation. Pa.R.C.P. 424(2). Applying this principal to the factual circumstances before the Court, I find that service in this matter was proper.

The Sheriff's Return indicates that service was effectuated on John Cover, the Operations Manager for the Prudential Financial Office located at 150 Corporate Drive, Camp Hill, Pennsylvania. In its Answer to Taylor's Motion for Entry of Judgment, Prudential acknowledges that it is a corporation organized under the laws of the State of New Jersey duly authorized by law to conduct business in the Commonwealth of Pennsylvania. Prudential further acknowledges that service was effectuated at one of its branch offices. This factual background satisfies the requirements of the Pennsylvania Rules of Civil Procedure for proper service.

In reaching this conclusion, I note that Prudential fails to cite any legal authority for its argument that proper service can only be effectuated at the corporation's principal place of business in Newark, New Jersey. Although Prudential references the language of the Pennsylvania Supreme Court as support for the argument that justice and fairness require due process, the applicability of that fundamental legal principle is misplaced. While it is beyond reproach that our law requires due process before one may suffer a deprivation of liberty or property, Prudential fails to recognize that the Pennsylvania Rules of Civil Procedure have been adopted to provide due process. See generally *Grand Entertainment Group*, cited above. Since I find that Taylor has complied with the requirements for service pursuant to the Pennsylvania Rules of Civil Procedure, I find no due process violation.

Similarly, I reject Prudential's second argument. This argument focuses upon the language of Pennsylvania Rule of Civil Procedure 3147 which reads that any judgment entered "shall be for the property of the defendant **found to be in the garnishee's possession...**" Pa.R.C.P. 3147. Prudential claims that Wilson's annuity proceeds were released to her on March 19, 2004. As a result, judgment cannot be entered against Prudential since Prudential no longer has possession of Wilson's property. Contrary to the Pennsylvania Supreme Court's instruction that rules in *pari materia* shall be construed together, see Pa.R.C.P. 131, Prudential attempts to isolate this particular language from the context in which it is used.

Pennsylvania Rule of Civil Procedure 3101, et seq, relating to the enforcement of money judgments for the payment of money, provides a comprehensive outline of procedures for a judgment creditor to follow in order to enforce a judgment against the assets of the debtor. Included in the rules are provisions which allow for service of a writ of execution upon one in possession of a debtor's property. See Pa.R.C.P. 311. Service of a writ of execution upon such a party attaches to all property of the defendant which is in the possession of such a person. The rules then provide the procedures for the creditor to follow in order to proceed to judgment against the garnishee for such property. It is clear, when read in context, that the language "found to be in the garnishee's possession" is not limited to the time the actual judgment is entered against the garnishee, but includes any property in the possession of the garnishee subsequent to the operation of the attachment. To find otherwise would allow garnishees to effectively ignore their responsibilities once served with a writ of execution.

Pennsylvania Rule of Civil Procedure 311 mandates that a garnishee is prohibited from delivering or otherwise disposing of a debtor's property once that property is attached. In essence, service of the writ of execution imposes an obligation on the garnishee to refrain from changing the status quo to the detriment of the judgment creditor. Any action taken by a garnishee following service of a writ is done at the garnishee's own peril. *Royal Bank of Pennsylvania*, cited above. Moreover, a violation of the mandate and injunctive order of the writ is punishable as contempt. Pa.R.C.P. 3111(d). The Supreme Court speaking on the effect of a writ of execution has stated that "[t]he service of an attachment execution has the effect of an equitable assignment of the thing attached. It puts the garnishee in the relation to the attaching creditor which he had sustained to his former creditor." *Aarons v. Public Service Building and Loan Ass'n*, 178 A. 141, 142 (Pa. 1935). Accordingly, at the moment of attachment, Prudential no longer had the legal ability to dispose of the property. As such, Prudential remains subject to an entry of judgment.

I am not persuaded by Prudential's argument that basic principles of fairness require a contrary result. Prudential has chosen to conduct business on a nationwide basis. As the steward of Wilson's annuity, Prudential had no difficulty in releasing proceeds to Wilson within a very short period of time at Wilson's request. I see no reason why such a prompt response cannot be accomplished if

Prudential acts as the steward of a judgment creditor once a writ of execution has been properly served. Prudential's argument essentially seeks to place a buffer between the time a writ of execution is served and the time at which a writ of execution attaches. The Pennsylvania Rules of Civil Procedure, however, do not include such a buffer. I am unable to judicially create such a nebulous zone where the Rule is currently clear in its application.

For the foregoing reasons, the attached Order is entered.

ORDER OF COURT

AND NOW, this 4th day of April, 2005, judgment is entered in favor of Donna W. Taylor and against Prudential Financial in the amount of \$5,303.91.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-859 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 December, 2005, 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 Poplar Street and Lot No. 125; thence along Lot No. 125, South thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds East, one hundred eighty (180.00) feet to a point at Lot No. 121; thence along Lot No. 121, North fifty-eight (58) degrees two (02) minutes twenty-one (21) seconds East, ninety and sixty-nine hundredths (90.69) feet to a point at Lot No. 122; thence along Lot No. 122 and Lot No. 123, North thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds West, one hundred ninety-one and nineteen hundredths (191.19) feet to a point at Poplar Street; thence along Poplar Street, South fifty (50) degrees fifty-seven (57) minutes four (04) seconds West, ninety (90.00) feet to the point and place of BEGINNING.

CONTAINING 16,703 square feet and identified as Lot No. 124 on a plan of lots entitled Phase III, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 51, page 82.

Tax Parcel #6-166

Property known as: 719 Poplar Street, Hanover, PA 17331

SEIZED and taken into execution as the property of **Lois A. Misiti** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-850 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a magnetic spike near the centerline of Hilltown Road (T-355) which spike is also at the Northeastern-most corner of Lot No. 3 on the hereinafter described plan of lots; thence running in Hilltown Road (T-355) North 88 degrees 36 minutes 00 seconds East, 281.60 feet to a magnetic spike near the centerline of said road, which magnetic spike is located at the corner of Lot No. 1 on the hereinafter described plan of lots; thence running by Lot No. 1 and through a steel rod set back 30 feet from the start of this course South 01 degree 24 minutes 00 seconds East, 320.00 feet to a steel rod; thence continuing by the same South 88 degrees 36 minutes 00 seconds West, 281.60 feet to a steel rod where Lot Nos. 2, 3 and 4 intersect as shown on the hereinafter described plan of lots; thence running by Lot No. 3 on the hereinafter described plan of lots and through a reference steel rod set back 30 feet from the end of this course North 01 degree 24 minutes 00 seconds West, 320.00 feet to a magnetic spike near the centerline of Hilltown Road (T-355), the point and place of BEGINNING CONTAINING 2.069 Acres, more or less.

This description was taken from a survey prepared by J. Riley Redding, R.S., dated February 24, 1998 and recorded in Adams County Plat Book 74 at page 29A. The tract described is Tract No. 4 on said plan of lots.

Being the same which Elizabeth C. Cavanaugh, widow, by her attorney-in-fact, Rachel C. Rouse, by deed dated May 30, 2000, which deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2060 at page 48, sold and conveyed unto David H. Landis, one of the grantors herein named.

TITLE TO SAID PREMISES IS VESTED IN Michael W. Schaefer and Rebecca S. Schaefer, husband and wife, by Deed from David H. Landis and Barbara A. Stewart, his wife, dated 9-29-03, recorded 9-30-03 in Deed Book 3323, page 291.

Premises being: 574 Hilltown Road, Gettysburg, PA 17325

Tax Parcel No, 12-D10-0015C

SEIZED and taken into execution as the property of **Michael W. Schaefer & Rebecca S. Schaefer** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

FICTITIOUS NAME NOTICE

NOTICE IS GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on October 5, 2005, pursuant to the Fictitious Name Act, setting forth that Frederick William Nugent, Jr and Kathryn L. Nugent, of 725 Abbottstown Pike, Abbottstown, PA 17301, are the only persons owning or interested in a business, the character of which is the production and sale of agricultural products and that the name, style and designation under which said business is and will be conducted is PERFECT, AS USUAL, FARM and the location where said business is and will be conducted is 725 Abbottstown Pike, Abbottstown, PA 17301.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

11/18

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-960 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in the Township of Franklin, County of Adams and State of Pennsylvania, bounded and limited as follows:

BEGINNING at an existing P.K. nail three (3) feet North of the centerline of Church Road (T-361) at the Northeastern corner of other land now or formerly of Gilbert Hartzell, thence running in Church Road and by land now or formerly of Gilbert Hartzell, South 60 degrees 23 minutes 40 seconds West, 87.45 feet to a railroad spike 3 feet North of the centerline of Church Road (which railroad spike is North 60 degrees 23 minutes 40 seconds East 40 feet from an existing P.K. nail 3 feet North of the centerline of said highway); thence running by land now or formerly of Donald Dillon and through a reference steel rod set back 21.75 feet from the start of this course, North 15 degrees 0 minutes 0 seconds West, 488.00 feet to an existing pipe; thence by the same, North 88 degrees 54 minutes and 10 seconds East, 80.71 feet to an existing pipe at land now or formerly of Donald Valentine; thence running by land now or formerly of Donald Valentine, South 38 degrees 19 minutes 55 seconds East, 414.24 feet to an existing railroad spike in the centerline of Church Road and thence by the same bearing, 29.88 feet to an existing steel rod on line of land now or formerly of Dale J. Lux; and thence by the same bearing and by land of Lux, 262.56 feet to an existing steel rod in stones on line of land now or formerly of Bob Deatrlick; thence by land now or formerly of Bob Deatrlick, 50 degrees 41 minutes 10 seconds West, 298.74 feet to an existing pipe at corner of land now or formerly of Gilbert Hartzell, thence by land now or formerly of Gilbert Hartzell and through an existing pipe in concrete set back 22.5 feet from the end of this course, North 15 degrees fourteen 14 minutes 30 seconds West, 325.34 feet to an existing P.K. nail 3 feet North of the centerline of Church Road (T-361) the point and place of BEGINNING.

CONTAINING 3.281 acres. The description was taken from a draft of survey by J. Riley Redding, R.S., dated October 13, 1987.

Being the same premises which Clyde E. Ritter and Francis A. Ritter, now Francis A. Hershberger, by deed dated October 15, 1990, and recorded June 10, 1992, in and for Adams County, in the Office of the Recorder of Deeds, in Deed Book 630, Page 225, granted and conveyed unto Clyde E. Ritter, the Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Clyde E. Ritter and Joyce E. Ritter, husband and wife, by Deed from Clyde E. Ritter joined by Joyce E. Ritter, husband and wife, dated 10-4-01, recorded 10-9-01 in Deed Book 2426, page 86.

Premises being: 520 Church Road, Orrtanna, PA 17353

Tax Parcel No. 12-B09-0063-000

SEIZED and taken into execution as the property of **Clyde E. Ritter & Joyce E. Ritter** 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 January 30, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/18, 23 & 12/2

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 311 of the Act of December 16, 1982, P.L. 1309, No. 295, codified as amended (54 Pa. C.S.A. §311), there was filed in the Office of the Secretary of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on October 5, 2005, an Application for Registration of Fictitious Name of THE BRICKHOUSE INN, the address of the principal place of business being 452 Baltimore Street, Gettysburg, PA 17325. The name and address of the entity that is a party to said registration is: Bardo Duncan, LLC, 452 Baltimore Street, Gettysburg, PA 17325.

Puhl, Eastman & Thrasher
Attorneys

11/18

PUBLIC NOTICE
TO KELLY MARIE HESS

In Re: Adoption of Charity Elizabeth Hess

A petition has been filed asking the Court to put an end to all rights you have to your child, Charity Elizabeth Hess (DOB May 24, 2002). The Court has set a hearing to consider ending your rights to your child. That hearing will be held in Courtroom No. 1, 6th Floor of the York County Judicial Center, 45 North George Street, York, Pennsylvania on December 7, 2005 at 10:00 a.m. Your presence is required at the hearing. You have a right to be represented at the hearing by a lawyer. 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.

Lawyer Referral Service of the York County Bar Association
137 East Market Street
York, Pennsylvania 17401
Ph. (717) 854-8755

Clyde W. Vedder, Esq.
32 N. Duke St.
P.O. Box 544
York, PA 17405
Ph. (717) 843-9815
Attorney for Petitioners

11/18

FICTITIOUS NAME NOTICE

NOTICE IS GIVEN that an Application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on October 13, 2005, pursuant to the Fictitious Name Act, setting forth that Heritage Gallery of Lace & Interior Accents, LLC, of 260 Orchard Drive, Hanover, PA 17331, is the only entity owning or interested in a business, the character of which is retail sales of fabric, furniture and gifts and that the name, style and designation under which said business is and will be conducted is QUILT PATCH FABRIC, FURNITURE AND GIFTS and the location where said business is and will be conducted is 1897 Hanover Pike, Littlestown, PA 17340.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

11/18

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF CARRIE A. ADKINS a/k/a CARRIE ANN ADKINS a/k/a CARRIE A. BEACH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Shirley A. Funt, 90 Seven Stars Rd., Gettysburg, PA 17325; Paulie E. Varner, P.O. Box 356, Fannettsburg, PA 17221; Lloyd Adkins, 395 Bottom Rd., Orrtanna, PA 17353

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

ESTATE OF ELIZABETH D. ALDRICH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Sarah E. Aldrich, c/o 135 South Duke St., York, PA 17403

Attorney: Richard H. Mylin, III, Esq., 135 South Duke St., York, PA 17403

ESTATE OF CATHERINE ANNE AMOUR, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Kathleen Anne Redding, 101 Panther Dr., Hanover, PA 17331

ESTATE OF ARMATHAM FORD, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Rosetta M. Lawyer, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF HAROLD F. LAWRENCE, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: Dean P. Lawrence, 6370 York Road, New Oxford, PA 17350

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

ESTATE OF HANS J. LEONHARDT, SR., a/k/a HANS JOACHIM LEONHARDT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrators: Peter J. Leonhardt, 1112 Roosevelt Court, Hanover, PA 17331; Hans J. Leonhardt, Jr., 1270 New Chester Road, New Oxford, PA 17350

Attorney: Daniel M. Frey, Esq., Barley Snyder LLC, 14 Center Square, Hanover, PA 17331

ESTATE OF FREDERICK A. SMITH, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Linda M. Brown, 107 Fourth Street, Hanover, PA 17331

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

ESTATE OF LOUISE B. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Deborah A. Harper & Paul E. Smith, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF DOLORES D. BADDERS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Personal Representatives: Robyn Lynn Jacobs, 101 M Street, Littlestown, PA 17340; Kelly Ann Ricci, 57 Prince St., Littlestown, PA 17340

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

ESTATE OF GARY K. KERN, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executrix: Judith A. Kern, c/o Pauline Manos, Esq., 1604 Locust Street, 2R, Philadelphia, PA 19103

Attorney: Pauline Manos, Esq., Feldman & Pinto, 1604 Locust Street, Philadelphia, PA 19103

ESTATE OF HECTOR DONALD MCKENZIE, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administrator: Richard D. Billings, 1605 Pepperidge Ln., Charlottesville, VA 22911

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

ESTATE OF TERRENCE JOHN ROGERS a/k/a TERRENCE J. ROGERS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Dorothy Baker Rogers, 189 South Columbus Avenue, Littlestown, PA 17340

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

THIRD PUBLICATION

ESTATE OF RUTH WOODS HILDEBRAND, DEC'D

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

Executor: Ralph M. Hildebrand, 19028

Amarillo Dr., Germantown, MD 20874

Attorney: John J. Murphy III, Esq., Patrono & Associates, LLC, 30 West Middle Street, Gettysburg, PA 17325

ESTATE OF ALICE H. KENNEDY a/k/a LUCY ALICE KENNEDY, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Connie Lee Kennedy Wampler, 60 Fanus Rd., Gardners, PA 17324; Claude Franklin Kennedy, 239 Meals Rd., Gardners, PA 17324

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

ESTATE OF CHARLES J. MUMMERT, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix dbncta: Cheryl L. Yingling, 1207 Lake Road, Spring Grove, PA 17362

Attorney: Lynn G. Peterson, Esq., Peterson & Peterson, 515 Carlisle Street, Hanover, PA 17331

ESTATE OF LAURA G. SIMPSON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: R. Dean Simpson, 7713 Fern Grotto Circle, Fayetteville, PA 17222; Richard E. Simpson, 865 Seven Stars Road, Biglerville, PA 17307

Attorney: Christina M. Simpson, Esq., Gates & Gates, P.C., 250 York Street, Hanover, PA 17331

ESTATE OF CHRISTOPHER S. SPANGLER, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Steven L. Spangler & Claudia T. Spangler, 1215 Goldenville Road, Gettysburg, PA 17325

Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-784 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike in the center line of Legislative Route T-397 leading to Gardners at lands now or formerly of Merle R. Kime; thence in said road, North 58 degrees 43 minutes 00 seconds East 280 43 feet to a railroad spike in the center line of said Legislative Route T-397 at lands now or formerly of Charles E. Group Estate; thence by said lands and through an iron pin set back 20 feet on the line, South 33 degrees 14 minutes 34 seconds East, crossing the Gettysburg-Harrisburg railroad tracks, 141.55 feet to an iron pin at lands now or formerly of Pet Milk Co.; thence by said lands, South 46 degrees 45 minutes 00 railroad tracks at lands now or formerly of Merle R. Kime; thence by said lands and through an iron pin set back 17 feet from the end of this course, North 34 degrees 25 minutes 32 seconds West 199.92 feet to the place of BEGINNING. CONTAINING 1.091 acres.

Parcel #40-G04-0056

Improvements consisting of a single family residential dwelling.

Premises known as: 313 Gardners Station Road, Gardners, PA 17324

SEIZED and taken into execution as the property of **Garry C. Kuhn & Cheryl L. Kuhn** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 30, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/18, 23 & 12/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-707 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate in Hamilton Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a corner at the Conewago Creek and other land now or formerly of Paul E. Arentz and wife, thence Westwardly along said creek one hundred (100) feet to a fifty (50) feet wide street, thence along the East side of said street South four and one-fourth (4-1/4) degrees East, one hundred ninety (190) feet, more or less, to a twenty (20) feet wide driveway; thence along and with the North side of said driveway, in an Eastwardly direction, one hundred (100) feet to other lands now or formerly of Paul E. Arentz and wife; thence along said last mentioned land, Northwardly two hundred ten (210) feet to the Conewago Creek, the place of BEGINNING.

TOGETHER with the right to take and draw water, for domestic use in the building erected on the premises hereby conveyed, from a well located on adjacent lands, through pipes now and lately used for that purpose as the now exist, said well system to be maintained by the owner of the said adjacent premises.

TITLE TO SAID PREMISES IS VESTED IN Gary J. Pheabus and Helen Melina Pheabus, his wife by Deed from Byran A. Beichler and Kelly D. Beichler, his wife dated 5/12/1999 and recorded 5/14/1999, in Record Book 1831 Page 244.

Premises being: 395 Boy Scout Road, New Oxford, PA 17350

Tax Parcel No. 13; Map #J-10

SEIZED and taken into execution as the property of **Gary J. Pheabus & Helen M. Pheabus a/k/a Helen Melina Pheabus a/k/a Helen M. Rich** 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 January 30, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/18, 23 & 12/2

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN of the filing in the Office of the Secretary of the Commonwealth of Pennsylvania, at Harrisburg, PA of an application for registration under the Fictitious Names Act. The name of the business is GETTYSBURG PHOTO with its principal place of business at 168 Carlisle Street, Gettysburg, PA 17325. The owner of the business is Jennie R. Knox, of 150 Jackson Drive, Gettysburg, PA 17325.

Robert G. Teeter, Esq.
Teeter, Teeter & Teeter

11/18

Adams County Legal Journal

Vol. 47

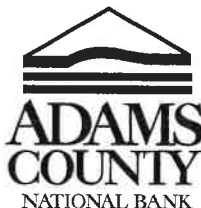
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Adams County National Bank's commitment to its communities is more than a fleeting promise. It is a tradition founded upon our more than 130 years of service to the individuals, businesses and organizations in these communities.



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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

Designated for the Publication of Court and other Legal Notices. Published weekly by Adams County Bar Association, John W. Phillips, Esq., Editor and Business Manager.

Subscribers within Adams County should send subscriptions direct to the business office. Subscribers outside of Adams County should send subscriptions to Wm. W. Gaunt & Sons, Inc., 3011 Gulf Drive, Holmes Beach, FL 34217-2199. Postmaster: Send address changes to Adams County Legal Journal, 111 Baltimore Street, Room 305, Gettysburg, PA 17325.

Business Office – 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 337-9812

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-768 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN parcel of land in Butler Township, Adams County, Commonwealth of Pennsylvania, as more fully described in Deed Book 384 Page 1066, ID#68-42, being known and designated as a Metes and Bounds Property.

Tract No. 1:

BEGINNING at the point for a corner in the center of the state highway leading from Route 234 to Route 15, thence running by land now or formerly of Melvin Miller, South 55 degrees West 210 feet to an iron pin; thence running by land now or formerly of Ivan Huff, North 23 degrees West, 154.2 feet to an iron pin; thence running by land of the same North 59 degrees East, 210 feet to a point in the aforesaid highway, marked by an iron pin set on the West side of said highway; thence running in the center of said highway South 23 degrees East, 141 feet to a point in the center of the aforesaid highway the place of BEGINNING. CONTAINING 110 perches and 48 square feet.

Tract No. 2:

BEGINNING at a point for a corner in the center of the state highway leading from Route 234 to Route 15; thence running by land now or formerly of Melvin Miller, and in the center of said highway, South 23 degrees East, 75 feet to a point in the center of said highway; thence running by land now or formerly of Raymond W. and Alice I. Swatzbaugh, South 59 degrees West 210 feet to an iron pin for a corner; thence running by land now or formerly of Ivan Huff North 59 degrees East, 210 feet to a point in the center of the state highway the place of BEGINNING. CONTAINING 57 perches and 217 square feet.

BEING THE SAME premises which Mina E. Newberry, widow, by deed dated 8/10/84 and recorded 8/13/84 in the

Office of the Recorder of Deeds in and for Adams County in Deed Book 384 at Page 1066, granted and conveyed unto David Allen Arentz and Barbara Arentz, husband and wife, as tenants of an estate by the entireties.

Tax Parcel #: 7-G-8-42

Property known as: 870 Rentzel Road, Biglerville, PA 17307

SEIZED and taken into execution as the property of **Barbara A. Arentz & David A. Arentz, Sr.** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-908 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of ground with the improvements thereon erected, situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at an iron pin for a corner on the South side of the Lincoln Highway; thence along said Lincoln Highway, North seventy (70) degrees East, sixty-six (66) feet to a public street, thence along said

street, South twelve and one-half (12-1/2) degrees East, one hundred eighty-one (181) feet to an alley; thence along said alley South seventy (70) degrees West, sixty-six (66) feet to an iron pin for a corner; thence along lands now or formerly of William P. Baker, North twelve and one-half (12-1/2) degrees West, one hundred eighty-one (181) feet to an iron pin, the place of BEGINNING.

BEING THE SAME property conveyed to Jason C. Alder and Jennifer A. Alder, husband and wife as tenants of an estate by the entireties by deed from Robin L. Rife-Francisco and Jose A. Francisco, her husband recorded 05/18/2004 in Deed Book 3572 Page 157, in the Office of the Recorder of Deeds of Adams County, Pennsylvania.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Jason C. Alder and Jennifer A. Alder, husband and wife, as tenants of an estate by the entireties, by Deed from Robin L. Rife-Francisco and Jose A. Francisco, her husband, dated 5-14-04, recorded 5-18-04, in Deed Book 3572, page 157.

Premises being: 404 West King Street, Abbottstown, PA 17301-9761

Tax Parcel No. 1-3-59

SEIZED and taken into execution as the property of **Jason C. Alder & Jennifer A. Alder** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

COMMONWEALTH VS. CAREY

1. The Pennsylvania Supreme Court has recognized that a noncustodial interrogation might possibly in some situations, by virtue of some special circumstances, result in an involuntary confession.

2. The test is whether there was sufficient mental capacity for the defendant to know what he was saying and have voluntarily intended to say it. This standard is equally applicable to those instances where an unaccused was allegedly under the influence of drugs or narcotics at the time of this entire interrogation by police officials.

3. Critically, under both the Federal and State Standards, there are two separate events, custody and interrogation, that must occur before the safeguards of *Miranda* are triggered.

4. The primary test for evaluating whether a person is subjected to a custodial interrogation is whether a person is physically deprived of his freedom in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted by said interrogation.

5. The standard for determining whether the police initiated a custodial interrogation is an objective standard with due consideration given to the reasonable impression conveyed to the person interrogated rather than the strictly subjective view of the officers or the person being seized.

6. Police detentions become custodial when, under the totality of the circumstances, the conditions and/or duration of detention become so coercive as to become the functional equivalent of an arrest.

7. The United States has long held that a request for a lawyer stops further questioning by the police only in instances where the Sixth Amendment right to counsel attaches.

8. While tactics used to coerce involuntary statements are properly impermissible, the law does not require the coddling of those accused of crime. One such need not be protected against his own innate desire to unburden himself. In reaching resolution of this issue (voluntariness), the trial court should consider: the duration and means of the interrogation; the physical and psychological state of the accused; the conditions attendant to the detention; the attitude of the interrogator; and any and all other factors that could drain a person's ability to withstand suggestion and coercion.

9. The fact that *Miranda* warnings were given is an important factor tending in the direction of a voluntariness finding.

10. The line of distinction between a voluntary and involuntary confession is that at which governing self-direction is lost and compulsion propels the confession.

11. Encouraging a suspect to cooperate with the investigation and answer questions honestly is a permissible interrogation tactic.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-958-02, COMMONWEALTH OF PENNSYLVANIA VS. DOUGLAS RALPH CAREY.

Shawn Wagner, Esq., District Attorney, for Commonwealth
Roy A. Keefer, Esq., and Steve Rice, Esq., for Defendant
George, J., May 2, 2005

FINDINGS OF FACT

1. On July 12, 2002, at approximately 1:37 P.M., Adams County Control contacted the Pennsylvania State Police Barracks concerning a shooting at 841 Brickcrafter Road, Adams County, Pennsylvania. Sergeant Wade Lauer, Corporal Ivan Taylor, and Trooper Michael Gayman of the Pennsylvania State Police responded and arrived at the scene at approximately 2:06 P.M.
2. Prior to arriving at 841 Brickcrafter Road, Trooper Gayman received information that the shooting involved a suicide.
3. Upon arrival, the troopers knocked on the door but did not receive an answer. Thereafter, they entered the residence and found a deceased female in a back bedroom lying on the bed with a rifle beside her.
4. After remaining at the scene of the shooting until approximately 2:42 P.M., Trooper Gayman received information that the decedent's husband was at the residence of Brenda and Wayne Harmon located at 1084 New Chester Road, Adams County, Pennsylvania.
5. Trooper Gayman traveled to the Harmon residence and, upon arrival, observed Carey standing in the driveway area.
6. The Harmon residence is a trailer measuring approximately fourteen feet by seventy feet. There were various people, including numerous children, present at the residence. As a result, it was hectic during Trooper Gayman's visit.
7. July 12, 2002, was an extremely hot day. Although the Harmon trailer had an air-conditioning unit, it was broken.
8. After speaking briefly with Carey, Trooper Gayman asked Carey if they could speak further in Trooper Gayman's vehicle so that Trooper Gayman could obtain background information. Trooper Gayman requested to speak with Carey in his vehicle because it was air-conditioned and private.
9. Carey voluntarily entered the police vehicle with Trooper Gayman. Carey opened and closed the car door by himself. Carey sat in the front passenger seat opposite Trooper Gayman who sat in the front driver's seat. The doors to the vehicle remained unlocked at all times, although the windows were up because of the air-conditioning.

10. Carey was neither searched nor handcuffed before entering the vehicle. Additionally, no firearms were un-holstered by Trooper Gayman in Carey's presence.
11. At the time of Trooper Gayman's interaction with Carey, Trooper Gayman was dressed in street clothes.
12. The interview between Carey and Trooper Gayman lasted approximately sixty-two minutes. Trooper Gayman and Carey discussed general background information, however, made no specific inquiries as to what occurred at 841 Brickcrafter Road. Trooper Gayman conducted the interview under the presumption that the incident in question was a suicide. At no time during the course of the interview did Trooper Gayman accuse Carey of shooting the deceased.
13. During the course of the conversation between Trooper Gayman and Carey, Trooper Gayman observed that Carey was upset. Nevertheless, Carey was able to carry on the conversation. Carey did not appear to be under the influence of drugs or alcohol and he seemed to understand the nature of the conversation between the trooper and himself.
14. Carey did not use any controlled substances or alcohol between the time of the shooting and the time of his conversation with Trooper Gayman. During the course of his interview with Trooper Gayman, Carey indicated that he used cocaine the night before the incident. Other than Carey's testimony at the suppression hearing, which the Court finds incredible, there is no indication that Carey was under the influence of any controlled substance or alcoholic beverage on July 12, 2002. Carey's recollection of his interview with Trooper Gayman, as recounted during his testimony at the suppression hearing, is consistent with Trooper Gayman's observations regarding Carey's full knowledge and complete understanding of the nature of the conversation between Trooper Gayman and Carey.
15. At the conclusion of their conversation, Carey and Trooper Gayman shook hands. Carey opened the door to the vehicle by himself and exited the vehicle. Trooper Gayman remained seated in the vehicle and, shortly thereafter, left the Harmon residence.

16. Prior to his conversation with Trooper Gayman, Carey was never informed that he was under arrest; was not advised of his *Miranda* warnings; was never told that he was not free to leave the area; and was not restricted in his freedom of movement. Carey was neither promised nor threatened anything prior to or during the course of his conversation with Trooper Gayman.
17. Following his conversation with Trooper Gayman, Carey was able to move about freely in the community without police supervision or surveillance.
18. On July 13, 2002, at the request of the Pennsylvania State Police, Carey traveled to the Pennsylvania State Police Barracks located in Straban Township, Adams County. Carey's friend, Steve Wagner, drove him to this location. He arrived at the State Police Barracks at approximately 2:15 P.M. on July 13, 2002.
19. Corporal George Cronin of the Pennsylvania State Police met Carey in the lobby of the State Police Barracks. Carey signed a visitor log and was assigned a visitor's tag. At the Barracks, he was told that he was not under arrest nor would he be arrested. He was also told that he was free to leave at any time.
20. While at the Barracks on July 13, 2002, Carey met with Corporal Cronin and Trooper Gayman at approximately 2:30 P.M. At least two breaks were taken during the course of the conversation between Carey and the troopers. During a break at 3:30 P.M., Carey was left alone and unsupervised in the lobby of the Pennsylvania State Police Barracks. Steve Wagner was still in the lobby at that time. During this break, Carey was unsupervised during his use of the restroom in the lobby. The lobby of the Pennsylvania State Police Barracks leads immediately to the outside parking lot through an unsecured door. According to Carey, he "could have walked right outside" if he wished to do so. Following this break, Carey voluntarily continued his conversation with the troopers.
21. A second break occurred at approximately 4:11 P.M., at which time Carey was asked if he wished to exit the building. He indicated that he did not. Carey did, however, accompany the troopers to the kitchen area to obtain a soda.

22. Near the end of his meeting with the troopers, Carey was asked to reenact, in front of a video recorder, the events from the preceding day. Carey voluntarily agreed to participate.
23. During the course of the interview, Corporal Cronin and Trooper Gayman were dressed in plain clothes and were unarmed.
24. At the conclusion of the July 13, 2002, interview, Carey left the Barracks unsupervised and spent the night at Steve Wagner's residence. Prior to leaving the Barracks, arrangements were made for Carey to return at 1:00 P.M. on July 14, 2002, to discuss the results of the decedent's autopsy, which was scheduled to take place the following morning.
25. During the course of the interaction between Carey and the troopers on July 13, 2002, no promises or threats were made to Carey. During the course of the July 13, 2002, meeting, Carey was never told that his failure to cooperate would result in the loss of his children nor did he ever request to speak with an attorney. During the course of the meeting, however, Carey did express concern for the wellbeing of his children. The troopers informed Carey that "his children would always be with him".
26. On July 14, 2002, Carey voluntarily returned to the Pennsylvania State Police Barracks for the scheduled 1:00 P.M. meeting. Carey, once again, arranged his own transportation and was given a ride to the Barracks by his friend, Steve Wagner.
27. The troopers were delayed at the autopsy and did not return to the Barracks until 1:40 P.M. Prior to the troopers' arrival, Carey waited in the lobby with Steve Wagner. During this time, Carey was neither restrained nor was his freedom of movement prohibited in any way. As previously mentioned, the lobby to the Pennsylvania State Police Barracks is unsecured and has an immediate exit to the parking lot area.
28. Upon the troopers' return, Carey, Corporal Cronin, and Trooper Gayman walked back to the interview room. An audiotape recorded all conversations between the troopers and Carey which occurred in the interview room.

29. The audiotape introduced at the hearing as Commonwealth Exhibit #4 is an accurate record of all discussions between Carey and the troopers on July 14, 2002.
30. Carey was not under the influence of alcohol or any controlled substance on July 14, 2002.
31. No promises were made to Carey nor was he threatened during the course of the July 14, 2002 interview, or at any time prior thereto.
32. The troopers did not, at any time prior to or during the interview, advise Carey that he was under arrest nor did they use any restraints against him. As with the previous day, neither trooper displayed a firearm nor used force at any time during the interaction with Carey.
33. Once the troopers and Carey arrived at the interview room, the door was closed and the troopers' interaction with Carey was generally consistent with the interaction the previous day.
34. During the early part of their discussions with Carey, Carey was advised of his *Miranda* warnings, both orally and in writing. Carey acknowledged that no promises or threats were made to him and further acknowledged that he was present of his own free will.
35. The interview with Carey lasted approximately one hour and thirty-four minutes during which time Carey was provided with refreshments.
36. At the end of the interview, Carey met unsupervised with his friend, Steve Wagner.

OPINION

Carey's Omnibus Pre-trial Motion seeks to suppress three (3) statements given on July 12, July 13, and July 14, 2002, respectively. He claims that the admission of these statements violates both his right to due process of law and his privilege against self-incrimination under our Federal and State Constitutions.¹ Since Carey's arguments for

¹ Although the Defendant invokes both the U.S. and the Pennsylvania Constitutions in connection with this claim, he does not suggest nor argue that a different test applies under the Pennsylvania Constitution than under the Federal Constitution. Accordingly, my analysis will employ a unitary approach. See generally *Commonwealth v. Boczkowski*, 846 A.2d 75, 90 n. 18 (Pa. 2004).

suppression are slightly different for each of the respective statements, I will address each statement separately below.

In regard to the July 12, 2002, statement to Trooper Gayman, Carey alleges that his statement was involuntary due to his “shock and fatigue” and the fact that he was “under the influence of cocaine and/or medication”. Douglas Carey’s Motion to Suppress Statements, Paragraph 2. He further argues that the interrogation was illegal because Trooper Gayman took the statement without advising Carey of his *Miranda* rights.

In essence, Carey argues that his July 12, 2002, statement was involuntary because his mental condition was impaired at the time he made the statement. Indeed, the Pennsylvania Supreme Court has recognized that “a noncustodial interrogation might possibly in some situations, by virtue of some special circumstances, result in an involuntary confession”. *Commonwealth v. Johnson*, 727 A.2d 1099 (Pa. 1999). Carey asserts that those “special circumstances” are applicable to his July 12, 2002, statement.

In *Commonwealth v. Manning*, the Pennsylvania Supreme Court considered whether a confession, obtained in a custodial setting, was vitiated because the declarant was under the influence of controlled substances. *Commonwealth v. Manning*, 435 A.2d 1207, 1209-10 (Pa. 1981). In finding the statement at issue admissible, the Supreme Court summarized Pennsylvania case law as follows:

[I]ntoxication is a factor to be considered, but is not sufficient, in and of itself to render the confession involuntary. *Commonwealth v. Jones*, 322 A.2d 119, 125 (1974). The test is whether there was sufficient mental capacity for the defendant to know what he was saying and have voluntarily intended to say it. *Commonwealth v. Smith*, 291 A.2d 103, 105 (1972). We believe this standard is equally applicable to those instances where an accused was allegedly under the influence of drugs or narcotics at the time of this entire interrogation by police officials.

Id. at 1209 (citing *Commonwealth v. Culbertson*, 358 A.2d 416, 417 (Pa. 1976)).

The record reveals that Carey’s physical condition was not so impaired as to render him incapable of voluntarily providing information to Trooper Gayman. Trooper Gayman indicated that

although distraught, Carey did not appear to be under the influence of either drugs or alcohol. Moreover, Carey appeared to understand the questions asked by Trooper Gayman and was able to respond appropriately. Carey, by his own admission, acknowledged that he used neither controlled substances nor alcohol between the time of the shooting and his interview with Trooper Gayman. Moreover, he indicated that the early morning hours of July 12, 2002, was the last time he used cocaine.²

Carey's claim that he was unable to think clearly is undercut by his own testimony at the suppression hearing when he referred to specific details of his interaction with Trooper Gayman on July 12, 2002. Under the totality of the circumstances, I find that Carey's mental capacity was sufficient to knowingly, voluntarily, and intentionally make the statements in question.

Carey's second attack on the admissibility of the July 12, 2002, statement cites the lack of "*Miranda* warnings" as a basis for suppression. In the landmark case of *Miranda v. Arizona*, 384 U.S. 436, 444 (1966), the United States Supreme Court decreed that police are required to provide *Miranda* warnings when a suspect is undergoing actual custodial interrogation. In *Commonwealth v. Chacko*, 459 A.2d 311, 314 (Pa. 1983), the Pennsylvania Supreme Court adopted this mandate as the law of Pennsylvania. Critically, under both the Federal and State Standards, there are two separate events, custody and interrogation, that must occur before the safeguards of *Miranda* are triggered. See *Commonwealth v. Whitehead*, 629 A.2d 142, 144 (Pa.Super.1993). Thus, analysis of each of these events is necessary to resolution of the issue before the Court.

The primary test for evaluating whether a person is subjected to a custodial interrogation is whether a person "is physically deprived of his freedom in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted by said interrogation." *Commonwealth v. Gonzalez*, 546

² Carey's statement at the suppression hearing is contradicted by his statements during the July 13, 2002, interview with Trooper Gayman, where he stated that he does not use cocaine. In his July 12, 2002, statement, Carey indicated only that he used cocaine the night preceding that statement. While one might argue that these contradictory statements are indicative of his confused state, it is equally plausible that the statements are consistent with intentionally deceptive conduct. As such, I give little weight to Carey's allegations of drug use on the morning of July 12, 2002.

A.2d 26, 29 (Pa. 1988). In *Commonwealth v. Gwynn*, 723 A.2d 143 (1998), the Pennsylvania Supreme Court instructed that the standard for determining whether the police initiated a custodial interrogation is an objective standard “with due consideration given to the reasonable impression conveyed to the person interrogated rather than the strictly subjective view of the officers or the person being seized.” *Id.* at 148. The factors that a court should consider in determining whether there has been a custodial interrogation include:

[T]he basis for the detention; its length; its location; whether the suspect was transported against his or her will, how far and why; whether restraints were used; whether law enforcement officers showed, threatened or used force; and the investigative methods employed to confirm or dispel suspicions.

Turner, 772 A.2d at 973 (citing *Commonwealth v. Peters*, 642 A.2d 1126, 1130 (Pa.Super. 1994)). “Police detentions become custodial when, under the totality of the circumstances, the conditions and/or duration of detention become so coercive as to become the functional equivalent of an arrest.” *Id.* at 974.

Under the totality of the circumstances, I find that Trooper Gayman’s July 12, 2002, interview with Carey did not constitute a custodial interrogation. The facts developed at the suppression hearing clearly establish that Carey voluntarily spoke to Trooper Gayman in a setting that did not physically deprive him of his freedom in any significant way. The facts also show that Carey was not placed in a situation where he could reasonably believe that his freedom of movement was restricted.

When Trooper Gayman spoke with Carey, he believed that he was investigating a suicide. His interview with Carey was merely an attempt to obtain background information. In Trooper Gayman’s testimony, which this Court accepts as credible, he indicated that he advised Carey of this purpose.³ Because July 12, 2002, was an

³The Pennsylvania Superior Court has held that an officer’s beliefs may bear upon the issue of whether an interview constituted a custodial interrogation if his beliefs are conveyed to the defendant by either word or deed. *Commonwealth v. Busch*, 713 A.2d 97, 102 (Pa.Super. 1998). The decision appears consistent with the Supreme Court’s language in *Gwynn* permitting consideration of “the reasonable impression conveyed to the person interrogated”. *Gwynn*, A.2d at 148-

extremely hot day and the Harmon residence was hectic, Trooper Gayman asked Carey to speak with him inside the privacy of his air-conditioned vehicle. Importantly, Carey was not frisked nor was any restraint used on Carey. Carey voluntarily opened the passenger door of the police vehicle and sat in the front seat with the passenger door unlocked. When the interview ended, Carey exited the vehicle by himself after shaking hands with the trooper. There is no indication that force, or the threat of force, was used. Additionally, the trooper did not take Carey anywhere against his will.

Carey relies on the fact that the interview occurred in the police cruiser as an objective basis to support his argument that he was under Trooper Gayman's custody. While this fact may be the proper subject of consideration, this fact, in and of itself, does not lead to a conclusive finding that Carey was subject to a custodial interrogation. See generally *Commonwealth v. White*, 516 A.2d 1211 (Pa.Super. 1986). Moreover, Carey's entry into the vehicle must be viewed under the totality of the circumstances. Under such a view, the location of the discussion between Trooper Gayman and Carey, which took place in the solitude of Trooper Gayman's air-conditioned police cruiser, was a reasonable location for their discussion in light of the extreme heat and the need for privacy.⁴

Finally, Carey argues that the July 12, 2002, statement was unlawfully induced by threats from Trooper Gayman to take Carey's children if Carey failed to cooperate. While the threat of losing custody

⁴ Although I have found no Pennsylvania cases directly on point, other jurisdictions addressing similar issues have reached the same result. See *State v. Smith*, 38 P.3d 1149 (Alaska 2002) (noting the "custodial atmosphere" in a police car "is further diluted" when the questioning is "objectionably reasonable" and the police car was "an alternative private location.") *Id.* at 1156, n.29-30; *Drake v. State*, 800 So.2d 508 (Miss. 2001) (not under custody in a police van, "where Drake was an unrestrained, voluntary passenger" and where questioning was to clarify his "role as a robbery victim.") *Id.* at 513; *Wussow v. State*, 507 S.W. 2d 792 (1974) (police car questioning was not custodial when the alternative was for the participants to stand in heavy rain). *Id.* at 792. Although the Pennsylvania case of *Commonwealth v. Turner* found that a custodial interrogation resulted from statements made while in a police vehicle, the case is readily distinguishable in that the Superior Court specifically determined that the defendant was involuntarily "put" into the police car. *Turner*, 772 A.2d at 974. In reaching their conclusion, the Superior Court distinguished the *Turner* circumstances from a situation where a party may be asked to sit in a police vehicle. *Id.* at 977. Unlike *Turner*, there is no credible indication that Carey was forced into Trooper Gayman's vehicle or that his freedom of movement was restrained in any way once inside the vehicle.

of one's child for failure to cooperate with a trooper may be a basis for suppression,⁵ that factual scenario is not before me. I find Trooper Gayman's testimony that there were no promises or threats made to Carey on July 12, 2002 to be credible. Furthermore, I accept as true Trooper Gayman's testimony wherein he specifically indicated that he never advised Carey that Carey would lose his children if he did not cooperate. Carey's self-serving testimony to the contrary is rejected. Accordingly, the July 12, 2002, statement will be admissible at trial.⁶

Continued to next issue (12/2/2005)

⁵See generally *Lynumn v. Illinois*, 372 U.S. 528 (1963).

⁶Appellate courts have recognized that the credible testimony of interrogating officers alone is sufficient to substantiate a finding of voluntariness. *Commonwealth v. Wanner*, 605 A.2d 803 (Pa.Super. 1992).

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-859 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 December, 2005, 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 Poplar Street and Lot No. 125; thence along Lot No. 125, South thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds East, one hundred eighty (180.00) feet to a point at Lot No. 121; thence along Lot No. 121, North fifty-eight (58) degrees two (02) minutes twenty-one (21) seconds East, ninety and sixty-nine hundredths (90.69) feet to a point at Lot No. 122; thence along Lot No. 122 and Lot No. 123, North thirty-nine (39) degrees two (02) minutes fifty-six (56) seconds West, one hundred ninety-one and nineteen hundredths (191.19) feet to a point at Poplar Street; thence along Poplar Street, South fifty (50) degrees fifty-seven (57) minutes four (04) seconds West, ninety (90.00) feet to the point and place of BEGINNING.

CONTAINING 16,703 square feet and identified as Lot No. 124 on a plan of lots entitled Phase III, Conewago Estates, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 51, page 82.

Tax Parcel #6-166

Property known as: 719 Poplar Street, Hanover, PA 17331

SEIZED and taken into execution as the property of **Lois A. Misiti** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-850 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 December, 2005, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a magnetic spike near the centerline of Hilltown Road (T-355) which spike is also at the Northeastern-most corner of Lot No. 3 on the hereinafter described plan of lots; thence running in Hilltown Road (T-355) North 88 degrees 36 minutes 00 seconds East, 281.60 feet to a magnetic spike near the centerline of said road, which magnetic spike is located at the corner of Lot No. 1 on the hereinafter described plan of lots; thence running by Lot No. 1 and through a steel rod set back 30 feet from the start of this course South 01 degree 24 minutes 00 seconds East, 320.00 feet to a steel rod; thence continuing by the same South 88 degrees 36 minutes 00 seconds West, 281.60 feet to a steel rod where Lot Nos. 2, 3 and 4 intersect as shown on the hereinafter described plan of lots; thence running by Lot No. 3 on the hereinafter described plan of lots and through a reference steel rod set back 30 feet from the end of this course North 01 degree 24 minutes 00 seconds West, 320.00 feet to a magnetic spike near the centerline of Hilltown Road (T-355), the point and place of BEGINNING. CONTAINING 2.069 Acres, more or less.

This description was taken from a survey prepared by J. Riley Redding, R.S., dated February 24, 1998 and recorded in Adams County Plat Book 74 at page 29A. The tract described is Tract No. 4 on said plan of lots.

Being the same which Elizabeth C. Cavanaugh, widow, by her attorney-in-fact, Rachel C. Rouse, by deed dated May 30, 2000, which deed is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 2060 at page 48, sold and conveyed unto David H. Landis, one of the grantors herein named.

TITLE TO SAID PREMISES IS VESTED IN Michael W. Schaefer and Rebecca S. Schaefer, husband and wife, by Deed from David H. Landis and Barbara A. Stewart, his wife, dated 9-29-03, recorded 9-30-03 in Deed Book 3323, page 291.

Premises being: 574 Hilltown Road, Gettysburg, PA 17325

Tax Parcel No. 12-D10-0015C

SEIZED and taken into execution as the property of **Michael W. Schaefer & Rebecca S. Schaefer** 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 January 9, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/10, 18 & 23

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that on October 5, 2005, Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, incorporating RAW CYCLES, INC., under the provisions of the Business Corporation Law.

The purpose for which said corporation is formed: The corporation shall have unlimited power to engage in and do any lawful act concerning any and all lawful business for which corporations may be incorporated under the Business Corporation Law of 1988.

The location and post office address of the initial registered office of said corporation is 315 Mengus Mill Road, Littlestown, PA 17340.

Alan M. Cashman, Esq.
141 Broadway, Suite 230
Hanover, PA 17331
(717) 632-9580

11/23

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-960 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in the Township of Franklin, County of Adams and State of Pennsylvania, bounded and limited as follows:

BEGINNING at an existing P.K. nail three (3) feet North of the centerline of Church Road (T-361) at the Northeastern corner of other land now or formerly of Gilbert Hartzell, thence running in Church Road and by land now or formerly of Gilbert Hartzell, South 60 degrees 23 minutes 40 seconds West, 87.45 feet to a railroad spike 3 feet North of the centerline of Church Road (which railroad spike is North 60 degrees 23 minutes 40 seconds East 40 feet from an existing P.K. nail 3 feet North of the centerline of said highway); thence running by land now or formerly of Donald Dillon and through a reference steel rod set back 21.75 feet from the start of this course, North 15 degrees 0 minutes 0 seconds West, 488.00 feet to an existing pipe; thence by the same, North 88 degrees 54 minutes and 10 seconds East, 80.71 feet to an existing pipe at land now or formerly of Donald Valentine; thence running by land now or formerly of Donald Valentine, South 38 degrees 19 minutes 55 seconds East, 414.24 feet to an existing railroad spike in the centerline of Church Road and thence by the same bearing, 29.88 feet to an existing steel rod on line of land now or formerly of Dale J. Lux; and thence by the same bearing and by land of Lux, 262.56 feet to an existing steel rod in stones on line of land now or formerly of Bob Deatrick; thence by land now or formerly of Bob Deatrick, 50 degrees 41 minutes 10 seconds West, 298.74 feet to an existing pipe at corner of land now or formerly of Gilbert Hartzell, thence by land now or formerly of Gilbert Hartzell and through an existing pipe in concrete set back 22.5 feet from the end of this course, North 15 degrees fourteen 14 minutes 30 seconds West, 325.34 feet to an existing P.K. nail 3 feet North of the centerline of Church Road (T-361) the point and place of BEGINNING.

CONTAINING 3.281 acres. The description was taken from a draft of survey by J. Riley Redding, R.S., dated October 13, 1987.

Being the same premises which Clyde E. Ritter and Francis A. Ritter, now Francis A. Hershberger, by deed dated October 15, 1990, and recorded June 10, 1992, in and for Adams County, in the Office of the Recorder of Deeds, in Deed Book 630, Page 225, granted and conveyed unto Clyde E. Ritter, the Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Clyde E. Ritter and Joyce E. Ritter, husband and wife, by Deed from Clyde E. Ritter joined by Joyce E. Ritter, husband and wife, dated 10-4-01, recorded 10-9-01 in Deed Book 2426, page 86.

Premises being: 520 Church Road, Orrtanna, PA 17353

Tax Parcel No. 12-B09-0063-000

SEIZED and taken into execution as the property of **Clyde E. Ritter & Joyce E. Ritter** 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 January 30, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/18, 23 & 12/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-549 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of improved real estate situate in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING for the Southeaster corner hereof at a leitz spike in the center of the Belmont Road (Township Road T-348), located North 14 degrees 19 minutes 45 seconds East, 113.92 feet from an existing railroad spike in the center of said Belmont Road at the

Southeastern corner of the original tract of Dean R. Gardner et al, and at a corner of lands now or formerly of Ray Baker; thence through the original tract of Dean R. Gardner et al, for the next three courses, running through a copperweld rod 36.7 feet from the beginning of this course, North 76 degrees 42 minutes 50 seconds West, 292 feet to a steel rod at the Southwestern corner hereof; thence North 14 degrees 19 minutes 45 seconds East, 150 feet to a steel rod at the Northwestern corner hereof; thence running through a steel rod 25 feet from the end of this course, South 76 degrees 42 minutes 50 seconds East, 292 feet to a leitz spike in the center of said Belmont Road at the Northeastern corner hereof; thence running in the center of Belmont Road, South 14 degrees 19 minutes 45 seconds West, 150 feet to the above described place of BEGINNING.

CONTAINING 1.005 Acres,

THE above description was taken from a draft of survey of Adams County Surveyors, dated May 28, 1986, being Tract No. 2 thereon, and duly filed in the Office of the Recorder of Deeds of Adams County, Pennsylvania, on June 16, 1986 and recorded in Plat Book 44 at page 26.

TITLE TO SAID PREMISES IS VESTED IN John F. Kaczorowski by Deed from James S. MacPherson and Barbara E. MacPherson dated 5/23/1997 and recorded 5/27/1997 in Record Book 1378 Page 120.

Tax Parcel: 79 Map #E11

Premises being: 306 Belmont Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **John F. Kaczorowski** 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 January 30, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/23, 12/2 & 9

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF DOROTHY W. DeHAAS, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: John P. DeHaas, 411 North Fourth Street, Gettysburg, PA 17325; C. William DeHaas, 1760 Shivers Corner Road, Lot #110, Gettysburg, PA 17325

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

ESTATE OF STERLING R. LEHIGH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Richard E. Lehigh, 7725 Blue Hill Road, Glenville, PA 17329

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

SECOND PUBLICATION**ESTATE OF CARRIE A. ADKINS a/k/a CARRIE ANN ADKINS a/k/a CARRIE A. BEACH, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Co-Executors: Shirley A. Funt, 90 Seven Stars Rd., Gettysburg, PA 17325; Paulie E. Varner, P.O. Box 356, Fannettsburg, PA 17221; Lloyd Adkins, 395 Bottom Rd., Orrtanna, PA 17353

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

ESTATE OF ELIZABETH D. ALDRICH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Administratrix: Sarah E. Aldrich, c/o 135 South Duke St., York, PA 17403

Attorney: Richard H. Mylin, III, Esq., 135 South Duke St., York, PA 17403

ESTATE OF CATHERINE ANNE AMOUR, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Kathleen Anne Redding, 101 Panther Dr., Hanover, PA 17331

ESTATE OF ARMATHA M. FORD, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Rosetta M. Lawyer, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

ESTATE OF HAROLD F. LAWRENCE, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executor: Dean P. Lawrence, 6370 York Road, New Oxford, PA 17350

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

ESTATE OF HANS J. LEONHARDT, SR., a/k/a HANS JOACHIM LEONHARDT, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Administrators: Peter J. Leonhardt, 1112 Roosevelt Court, Hanover, PA 17331; Hans J. Leonhardt, Jr., 1270 New Chester Road, New Oxford, PA 17350

Attorney: Daniel M. Frey, Esq., Barley Snyder LLC, 14 Center Square, Hanover, PA 17331

ESTATE OF FREDERICK A. SMITH, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Linda M. Brown, 107 Fourth Street, Hanover, PA 17331

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

ESTATE OF LOUISE B. SMITH, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Deborah A. Harper & Paul E. Smith, c/o Law Offices of Douglas H. Gent, 1157 Eichelberger Street, Suite 4, Hanover, PA 17331

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

THIRD PUBLICATION**ESTATE OF DOLORES D. BADDERS, DEC'D**

Late of the Borough of Littlestown, Adams County, Pennsylvania

Personal Representatives: Robyn Lynn Jacobs, 101 M Street, Littlestown, PA 17340; Kelly Ann Ricci, 57 Prince St., Littlestown, PA 17340

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

ESTATE OF GARY K. KERN, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Executrix: Judith A. Kern, c/o Pauline Manos, Esq., 1604 Locust Street, 2R, Philadelphia, PA 19103

Attorney: Pauline Manos, Esq., Feldman & Pinto, 1604 Locust Street, Philadelphia, PA 19103

ESTATE OF HECTOR DONALD MCKENZIE, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administrator: Richard D. Billings, 1605 Pepperridge Ln., Charlottesville, VA 22911

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

ESTATE OF TERRENCE JOHN ROGERS a/k/a TERRENCE J. ROGERS, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executrix: Dorothy Baker Rogers, 189 South Columbus Avenue, Littlestown, PA 17340

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-784 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a railroad spike in the center line of Legislative Route T-397 leading to Gardners at lands now or formerly of Merle R. Kime; thence in said road, North 58 degrees 43 minutes 00 seconds East 280.43 feet to a railroad spike in the center line of said Legislative Route T-397 at lands now or formerly of Charles E. Group Estate; thence by said lands and through an iron pin set back 20 feet on the line, South 33 degrees 14 minutes 34 seconds East, crossing the Gettysburg-Harrisburg railroad tracks, 141.55 feet to an iron pin at lands now or formerly of Pet Milk Co.; thence by said lands, South 46 degrees 45 minutes 00 railroad tracks at lands now or formerly of Merle R. Kime; thence by said lands and through an iron pin set back 17 feet from the end of this course, North 34 degrees 25 minutes 32 seconds West 199.92 feet to the place of BEGINNING. CONTAINING 1.091 acres.

Parcel #40-G04-0056

Improvements consisting of a single family residential dwelling.

Premises known as: 313 Gardners Station Road, Gardners, PA 17324

SEIZED and taken into execution as the property of **Garry C. Kuhn & Cheryl L. Kuhn** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on January 30, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/18, 23 & 12/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 04-S-707 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 6th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate in Hamilton Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a corner at the Conewago Creek and other land now or formerly of Paul E. Arentz and wife, thence Westwardly along said creek one hundred (100) feet to a fifty (50) feet wide street, thence along the East side of said street South four and one-fourth (4-1/4) degrees East, one hundred ninety (190) feet, more or less, to a twenty (20) feet wide driveway; thence along and with the North side of said driveway, in an Eastwardly direction, one hundred (100) feet to other lands now or formerly of Paul E. Arentz and wife; thence along said last mentioned land, Northwardly two hundred ten (210) feet to the Conewago Creek, the place of BEGINNING.

TOGETHER with the right to take and draw water, for domestic use in the building erected on the premises hereby conveyed, from a well located on adjacent lands, through pipes now and lately used for that purpose as the now exist, said well system to be maintained by the owner of the said adjacent premises.

TITLE TO SAID PREMISES IS VESTED IN Gary J. Pheabus and Helen Melina Pheabus, his wife by Deed from Byran A. Beichler and Kelly D. Beichler, his wife dated 5/12/1999 and recorded 5/14/1999, in Record Book 1831 Page 244.

Premises being: 395 Boy Scout Road, New Oxford, PA 17350

Tax Parcel No. 13; Map #J-10

SEIZED and taken into execution as the property of **Gary J. Pheabus & Helen M. Pheabus a/k/a Helen Melina Pheabus a/k/a Helen M. Rich** 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 January 30, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/18, 23 & 12/2

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 05-S-263 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 13th day of January, 2006, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Mount Pleasant Township, Adams County, Pennsylvania, being more particularly described as Lot No. 571 on a plan of lots of Lake Heritage Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Miscellaneous Book 4, at Page 665, and subject to all legal highway easements, rights-of-way and restrictions of record.

TITLE TO SAID PREMISES IS VESTED IN Charles G. Aiken, III, single by Deed from V. M. Cimino Contractors, Inc., a Maryland Corporation dated 2/14/2001 and recorded 2/21/2001 in Record Book 2216, Page 265.

Premises being: 571 Hooker Drive, Gettysburg, PA 17325

Tax Parcel No. 33-005-0068-000

SEIZED and taken into execution as the property of **Charles G. Aiken, III a/k/a Charles Gerard Aiken, III a/k/a Jerry Aiken a/k/a C. Gerard Aiken** 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 6, 2006, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

11/23, 12/2 & 9