

Adams County Legal Journal

Vol. 44

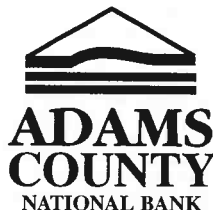
January 3, 2003

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COMMONWEALTH VS. GOCHENOUR

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-375 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1

ALL THAT CERTAIN piece or parcel of real estate situate in the Township of Reading, County of Adams, and Commonwealth of Pennsylvania, being known and described as Lot No. 432 on a Plan of Lots known as "Lake Meade Subdivision," said plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1, Page 4.

TRACT NO. 2

ALL THAT CERTAIN piece or parcel of real estate situated in the Township of Reading, County of Adams, and Commonwealth of Pennsylvania, being known and described as Lot No. 433 on a Plan of Lots known as "Lake Meade Subdivision," said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1, Page 4.

Tax Parcel 2-43

SUBJECT TO PRIOR MORTGAGE

SEIZED and taken into execution as the property of **Brian E. Kinard & Michelle R. Kinard** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/27, 1/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-788 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the Western edge of a fifty (50.00) foot right-of-way known as Bonnie Field Circle at corner of Lot No. 73 on the draft of survey hereinafter referred to; thence along Lot No. 73 South sixty (60) degrees forty-one (41) minutes forty-one (41) seconds West, one hundred sixteen and thirty-six hundredths (116.36) feet to a point at Lot No. 67; thence along a portion of Lot Nos. 67 and 66 North thirty-five (35) degrees forty-one (41) minutes twenty-one (21) seconds West, seventy-four and forty-eight hundredths (74.48) feet to a point at corner of Lot No. 75; thence along Lot No. 75 North sixty (60) degrees forty-one (41) minutes forty-one (41) seconds East, one hundred thirty-six and forty-one hundredths (136.41) feet to a point on the Western edge of a fifty (50.00) foot right-of-way known as Bonnie Field Circle; thence along the Western edge of such fifty (50.00) foot right-of-way by a curve to the left, the radius of which is two hundred forty and nineteen hundredths (240.19) feet an arc distance of seventy-five and twenty-three hundredths (75.23) feet and having a long chord bearing and distance of South twenty (20) degrees nineteen (19) minutes fifty-seven (57) seconds East, seventy-four and ninety-two hundredths (74.92) feet to a point; the place of BEGINNING. CONTAINING 9,205.8 square feet.

The above description was taken from a draft of survey dated February 26, 1976, prepared by Edward H. Richardson Associates, Inc., labeled "Final Plat Bonnie Field", revised April 14, 1976, and designated thereon as Lot No. 74 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 9 at Page 24.

UNDER AND SUBJECT, NEVERTHELESS, to restrictive covenants as contained in Misc. Book 27 at Page 302.

BEING KNOWN AND NUMBERED AS 40 BONNIEFIELD CIRCLE, GETTYSBURG, PA 17325

TAX PARCEL NUMBER: 10619-88.

BEING the same property William Walls, Jr. a/k/a William Frank Walls, Jr. and Sherrie Lynn Walls, husband and wife, granted and conveyed to William Walls, Jr. a/k/a William Frank Walls, Jr., by Deed dated June 12, 2001 and recorded July 18, 2001, in the Recorder of Deeds Office, Adams County, Pennsylvania in Deed Book Volume 2346, Page 235.

Grenen & Birsic, P.C.

By /s/Kristine M. Anthon, Esq.
Pa. I.D. #77991

Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

DBV 2346

Page 235

Tax Parcel No. 10619-88

SEIZED and taken into execution as the property of **William Walls, Jr. a/k/a William Frank Walls, Jr.** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/20, 27 & 1/3

COMMONWEALTH VS. GOCHENOUR

1. An investigative stop of a moving vehicle, to be valid, must be based upon objective facts creating a reasonable suspicion that the detained motorist is presently involved in criminal activity....The police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion.

2. In determining whether police may conduct a warrantless search and seizure under the "plain view" doctrine, the court must decide two factors. First, the item must be in plain view with its incriminating character immediately apparent. Second, the officer must have lawfully been in a position to observe the object.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-1134-01, **COMMONWEALTH OF PENNSYLVANIA VS. JOHN D. GOCHENOUR**.

Matthew D. Fogal, Esq., for Commonwealth

Robert J. Chester, Esq., for Defendant

Bigham, J., April 8, 2002

OPINION ON DEFENDANT'S MOTION TO SUPPRESS EVIDENCE

BRIEF STATEMENT OF FACTS

On Saturday, October 13, 2001, Randy L. Becker, Sr., a fire policeman, was traveling behind defendant's Toyota pickup truck and observed defendant's truck weave back and forth across white fog lines several times and almost strike several vehicles. Mr. Becker stated many of the oncoming vehicles had to pull over to the side of the road to avoid a collision with defendant's truck. Mr. Becker contacted Adams County Control and gave a description of the vehicle and license plate number. Mr. Becker continued to follow the defendant until a policeman pulled the defendant over.

Patrolman Richard S. Keefer of the Eastern Adams Regional Police Department intercepted the truck west of the SR30 and SR94 intersection. Patrolman Keefer witnessed the truck swerve to the right and cross the fog line and then swerve back to the left, beyond the yellow lines. After Patrolman Keefer viewed the erratic driving, he stopped the vehicle. Upon approaching the driver's side window of the truck, Patrolman Keefer observed an open can of Budweiser beer on the console between the driver's seat and the passenger seat. A 30-pack of Budweiser beer was on the passenger seat with two missing cans from it. Defendant gave Patrolman Keefer his

insurance information and registration, but did not have a driver's license card. While the two of them were talking, Patrolman Keefer detected a strong odor of alcohol coming from Defendant's breath. Patrolman Keefer noticed defendant's eyes were red and glassy and his speech was slurred.

Patrolman Keefer asked defendant to exit the vehicle and perform sobriety tests. Defendant was swaying and staggering from side to side outside of the vehicle. Defendant was given two field sobriety tests and failed both. Defendant was arrested for driving under the influence. Patrolman Keefer retrieved the open can of Budweiser from the truck. Defendant refused blood testing at Hanover Hospital.

Defendant filed a Motion to Suppress Evidence on the basis Patrolman Keefer did not have probable cause to stop Defendant's vehicle and the Budweiser beer can is the fruit of an illegal search and seizure.

LEGAL DISCUSSION

Patrolman Keefer did have probable cause to stop defendant's truck. "The officer need not establish that an actual violation of the Vehicle code has occurred prior to stopping a vehicle; however, in the absence of an actual violation, the officer must provide a reasonable basis for his or her belief that the Vehicle Code was being violated in order to validate the stop." *Standard Pennsylvania Practice 2d §139:48*. "An investigative stop of a moving vehicle, to be valid, must be based upon objective facts creating a reasonable suspicion that the detained motorist is presently involved in criminal activity...The police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion." *Id.*

Patrolman Keefer had reasonable suspicion from specific and articulable facts to warrant a stop of defendant's truck. Mr. Becker called with information that defendant's vehicle was weaving back and forth across the fog lines. Then, Patrolman Keefer observed defendant's truck swerve to the right and cross the fog line and then swerve to the left, beyond the yellow lines. This erratic driving was reasonable suspicion enough to warrant a stop of defendant's vehicle. Bolstering this position is the report to police from Mr. Becker. The officer himself observed erratic driving consistent with the report to Adams County Control.

Patrolman Keefer's seizure of the Budweiser beer was not the fruit of an illegal search. "When a police officer sees contraband or other objects in plain view and has not intruded into a constitutionally protected area, his or her observation is not a search within the meaning of the Fourth Amendment. In determining whether police may conduct a warrantless search and seizure under the 'plain view' doctrine, the court must decide two factors. First, the item must be in plain view with its incriminating character immediately apparent. In other words, the observing officer must have probable cause to believe the evidence in question is contraband or incriminating evidence. Second, the officer must have lawfully been in a position to observe the object. The initial intrusion must be lawful, thus giving the officer the right of access to the object." *Standard Pennsylvania Practice 2d §139:15*.

Both factors are met. Patrolman Keefer saw the Budweiser beer when he approached the driver's side window. The beer was in plain view. An open can of beer was on the console between the driver's seat and the passenger's seat and a 30-pack with two missing beer cans was on the passenger's seat in plain view of Patrolman Keefer. Second, Patrolman Keefer was lawfully in a position to view the beer because he had the right to stop defendant's truck because of defendant's erratic driving.

Defendant's Motion to Suppress Evidence will be denied.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 8th day of April, 2002, IT IS ORDERED THAT Defendant's Motion to Suppress Evidence is denied.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the South property line of Park Street where the same is intersected by the West property line of Sunset Avenue, thence running along said property line of Sunset Avenue, South 34 degrees 15 minutes West, 101.6 feet to an iron pin at corner of lot now or formerly of Fred J. Kane; thence along same, North 55 degrees 45 minutes West, 138 feet to an iron pin; thence North 34 degrees 15 minutes East, 101.6 feet to an iron pin on the South property line of Park Street; thence running along the property line of said Park Street, South 55 degrees 45 minutes East, 138 feet to a point at the intersection of Park Street and Sunset Avenue, the place of BEGINNING (Gettysburg Borough Tax Map 12, Parcel 12)

BEING known as 358 Park Street, Gettysburg, PA 17325

Property ID: 12-12

TITLE TO SAID PREMISES IS VESTED IN Michael H. Flowers and Susan A. Flowers, husband and wife, by deed from Dale E. Deardorff and William K. Grover, Executors of the Will of Mildred D. Shover, deceased, dated 12/28/96, recorded 1/3/97, in Deed Book 1312, Page 313.

SEIZED and taken into execution as the property of **Michael Harrison Flowers & Susan Ann Flowers** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/27, 1/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-930 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in the Borough of Carroll Valley, (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot No. J-42, more particularly bounded and described as follows:

BEGINNING at a point in the center of White Oak Trail at Lot No. 41; thence by said lot, North 03 degrees 11 minutes 40 seconds West, 200 feet to Lot No. 45; thence by said lot, South 86 degrees 37 minutes East, 100 feet to Lot No. 43; thence by said lot, South 03 degrees 11 minutes 40 seconds East, 200 feet to a point in the center of said White Oak Trail; thence in said White Oak Trail North 86 degrees 37 minutes West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section J, Charnita Ski Area, Inc." dated March 20, 1968, prepared by Gordon L. Brown, R. S., recorded in Adams County Plat Book 1 at page 24.

TOGETHER WITH a right-of-way and easement over the private roads indicated on said lot plan recorded in Adams County Plat Book 1 at page 24, for means of ingress, egress and regress.

TAX PARCEL #2-128

BEING DESIGNATED "Lot No. J-42 Section J, Charnita Ski Area, Inc." dated 3/20/68 per Adams County Surveyors and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 1 at page 24.

SEIZED and taken into execution as the property of **Gary L. Whipp & Mary C. Smith** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

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

12/27, 1/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-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 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate lying and being in the Borough of Carroll Valley, (formerly Hamiltonban Township), Adams County, Pennsylvania being Lot No. 38 in Section H, bounded and described as follows:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 37; thence by said lot, North 49 degrees, 6 minutes West, 200 feet to lands now or formerly of Charnita, Inc.; thence by said lands, North 40 degrees, 54 minutes East, 100 feet to Lot No. 39; thence by said lot, South 40 degrees, 54 minutes West, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section H, Charnita, Inc." dated August 7, 1965 prepared by Gordon L. Brown, R.S. recorded in Adams County Plat Book 1 at page 15.

TITLE TO SAID PREMISES IS VESTED IN Ricky L. Miller and Patricia A. Miller, his wife by Deed from Donald M. Sites and Lisa M. Sites dated 12/29/92 and recorded 12/30/92, in Record Book 672, Page 253.

Premises being: 41 Ridgetrail, Fairfield, PA 17320

Tax Parcel No. 8-9

SEIZED and taken into execution as the property of **Ricky L. Miller & Patricia A. 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 March 3, 2003, 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.

1/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate lying and being situate in the Borough of Littlestown, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point along the westerly edge of Apple Grove Lane at a corner of Lot No. 420 on the subdivision plan hereinafter referred to; thence along Lot No. 420, North 61 degrees 18 minutes 33 seconds East, 115.00 feet to a point along lands now or formerly of Hayward E. Wogan; thence along lands now or formerly of Hayward E. Wogan, South 28 degrees 41 minutes 27 seconds East, 35.00 feet to a point at a corner of Lot No. 422; thence along Lot No. 422, South 61 degrees 18 minutes 33 seconds West, 115.00 feet to a point along the westerly edge of Apple Grove Lane, thence along the westerly edge of Apple Grove Lane, North 28 degrees 41 minutes 27 seconds West, 35.00 feet to a point at a corner of Lot No. 420, the place of BEGINNING. Containing 4,023 square feet.

BEING Lot No. 421 on a plan of lots prepared by Group Hanover, Inc. for Appler, dated January 22, 1999, recorded in Adams County Plan Book 77, Page 94-C.

BEING the same real estate which Appler Properties, LLLP, by deed dated September 27, 2001, intended to be recorded immediately prior to the recording of this Mortgage, conveyed to Jeffrey N. Dixon and Shannon M.B. Dixon, Mortgagors herein.

Premises being: 132 Apple Grove Lane, Littlestown, PA 17340

Tax Parcel No. 004-0139-000

SEIZED and taken into execution as the property of **Jeffrey Norman Dixon a/k/a Jeffrey N. Dixon & Shannon M. Dixon a/k/a Shannon M.B. Dixon a/k/a Shannon Meade-Berg Dixon** 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 March 10, 2003, 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.

1/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1036 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of ground situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, known and numbered as Lot No. 15 on a plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plat 73, page 43, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Easterly right of way line of Abbotts Drive at a corner of Lot No. 16 on said plan; thence extending along the said right of way line of Abbotts Drive along a line curving to the left having a radius of 225 feet, an arc distance of 85 feet with a chord bearing North 21 degrees 07 minutes 20 seconds West, 84.50 feet to a point; thence North 58 degrees 03 minutes 19 seconds East, 182.28 feet to a point; thence South 20 degrees 08 minutes 38 seconds East, 152.48 feet to a point, at a corner of Lot No. 16 on said plan; thence extending along said Lot No. 16 South 79 degrees 42 minutes 01 second West, 179.63 feet to the point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Patrick A. McMaster and Katherine M. McMaster by Deed from Garland Construction, Inc. dated 2/22/2000 and recorded 4/11/2000, in Record Book 2029, Page 4.

Premises being: 78 Abbotts Drive, Abbottstown, PA 17301

Tax Parcel No. MAP 5, PARCEL 63

SEIZED and taken into execution as the property of **Patrick A. McMaster & Katherine M. McMaster** 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 March 10, 2003, and distribution will be made in accor-

dance 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.

1/3, 10 & 17

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 THOMAS PATRICK CAREY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Administrator: Victor D. Carey
 Attorney: Mark David Frankel, Esq., 14 West King Street, York, PA 17401

ESTATE OF ELAINE F. HOMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executrices: Nancy H. Rick, 774 Third St., Herndon, VA 20170; Jean H. Pyzik, 2715 Coon Club Rd., Westminster, MD 21157
 Attorney: John W. Phillips, Esq., 101 W. Middle St., Gettysburg, PA 17325

ESTATE OF AUDREY L. LUXON, DEC'D

Late of Reading Township, Adams County, Pennsylvania
 Executor: Carter L. Luxon, 4520 Robin Avenue, Livingston, CA 95334
 Attorney: D.J. Hart, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF CLEDA FLORENCE BENNETT, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania
 Personal Representative: Catherine Sanders, 5001 Old Forge Road, Fayetteville, PA 17222
 Attorney: William S. Dick, Esq., Dick, Stein & Schemel, LLP, 13 W. Main Street, Suite 210, Waynesboro, PA 17268

ESTATE OF DOROTHY R. DEATRICK a/k/a DOROTHY M. DEATRICK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF EARL K. FROCK, DEC'D

Late of Conewago Township, Adams County, Pennsylvania
 Personal Representative: Richard L. Frock, 2060 Grandview Rd., Hanover, PA 17331
 Attorney: G. Steven McKonly, Esq., 119 Baltimore Street, Hanover, PA 17331

ESTATE OF ANNE W. LUCKENBILL, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania
 Executor: Adams County National Bank, Trust Office, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: Teeter, Teeter & Teeter, 108 West Middle Street, Gettysburg, PA 17325

ESTATE OF MARY CATHERINE McMASTER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Co-Executors: Charles J. McMaster, 310 North 3rd Street, McSherrystown, PA 17344; Lawrence R. McMaster, 3111 Equinox Road, Dover, PA 17315
 Attorney: Matthew L. Guthrie, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

ESTATE OF ZELDA J. WAGAMAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania
 Executrix: Mary E. Elledge, 110 Stone Jug Road, Gettysburg, PA 17325
 Attorney: John R. White, Esq., Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARY E. WOLF, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania
 Executor: Jeffrey W. Wolf, 225-1/2 Lincolnway East, New Oxford, PA 17350
 Attorney: Robert E. Campbell, Esq., Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF LAWRENCE P. BARNEY, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania
 Administrator: Gary S. Barney, 390 Spangler School Road, Gettysburg, PA 17325
 Attorney: John R. White, Esq., Campbell & White, 112 Baltimore Street, Gettysburg, PA 17325

ESTATE OF RICHARD A. BRADY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executor: Adams County National Bank, Trust Office, P.O. Box 4566, Gettysburg, PA 17325
 Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARGARET A. PEARCE a/k/a MARGARET ADELE PEARCE, DEC'D

Late of Oxford Township, Adams County, Pennsylvania
 Executor: Vicky Wagaman a/k/a Vicki Wagaman, 1310 Gun Club Rd., York Springs, PA 17372
 Attorney: John C. Zepp, III, Esq., P.O. Box 204, 8438 Carlisle Pike, York Springs, PA 17372

ESTATE OF RAPHAEL F. STAUB, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania
 Executrix: Carlen L. Staub, 353 North Street, McSherrystown, PA 17344
 Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF WILBUR H. WINEMILLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania
 Executrix: Karen S. Strong a/k/a Bathgate, 25 Marie Drive, Hanover, PA 17331
 Attorney: Keith R. Nonemaker, Esq., Guthrie, Nonemaker, Yingst & Hart, 40 York Street, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-560 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

184 Christ Church Road, Littlestown, PA

All the following tract of land situate, lying and being in Union Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point in the centerline of Christ Church Road (S.R. 2023) at Lot No. 3 on the hereinafter referenced subdivision plan; thence along and with said Lot No. 3, North seventy-nine (79) degrees zero (00) minutes five (5) seconds West, three hundred twenty-five (325.00) feet to a point at lands now or formerly of Wilbert J.H. Messinger; thence along and with said last mentioned lands North ten (10) degrees fifty-nine (59) minutes fifty-five (55) seconds East, one hundred forty (140.00) feet to a steel pin (set) at lands now or formerly of Wilbert J.H. Messinger; thence along and with said last mentioned lands South seventy-nine (79) degrees zero (00) minutes five (5) seconds East, two hundred seventy-three and eighty-four hundredths (273.84) feet to a steel pin set; thence continuing South thirty-four (34) degrees zero (00) minutes five (5) seconds East, thirty-five and thirty-six hundredths (35.36) feet to a steel pin (set); thence continuing South seventy-nine (79) degrees zero (00) minutes five (5) seconds East, twenty-six and sixteen hundredths (26.16) feet to a point in the centerline of Christ Church Road (S.R. 2023); thence along and with said Christ Church Road, South ten (10) degrees fifty-nine (59) minutes fifty-five (55) seconds West, one hundred fifteen (115.00) feet to a point in the centerline of Christ Church Road, the point and place of BEGINNING. CONTAINING 1.022 acres and known as Lot No. 4 on a Final Subdivision Plan prepared for Wilbert J.H. Messinger, by Mort, Brown and Associates, bearing date of March 17, 1988, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 50, at page 37.

IT BEING THE SAME tract of land which LaRay Enterprises, Inc., a Maryland corporation, by its deed dated June 28, 1991 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 592, page 1107, granted and conveyed unto Jesse R. Bible and Edith A. Bible, his wife, MORTGAGORS HEREIN,

PARCEL NUMBER: 41-J16-60

SEIZED IN EXECUTION as the property of JESSE R. BIBLE and EDITH A. BIBLE on Judgment No. 2002-SU-0000560.

SEIZED and taken into execution as the property of **Jesse R. Bible & Edith A. Bible** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/20, 27 & 1/3

LEGAL NOTICE

The annual meeting of the policyholders of the Protection Mutual Insurance Company of Littlestown will be held at the office located at 101 South Queen Street in Littlestown, PA, between the hours of 1:00 and 2:00 p.m., on January 11th, 2003 to elect directors and to transact any other business properly presented.

Attest
Marilyn Q. Butt

Secretary-Treasurer; Director

12/13, 20, 27 & 1/3

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, January 13, 2003, at 9:00 o'clock a.m.

KEECH—Orphans' Court Action Number OC-142-02. The First and Final Account of Allfirst Trust Company of Pennsylvania, NA Executor of the Estate of Adele M. Keech, deceased, late of Oxford Township, Adams County, Pennsylvania.

TRIEBER—Orphans' Court Action Number OC-143-02. The First and Final Account of Daniel R. Hollerbusch and Clair

E. Fry, Jr., Co-Executors of the Estate of Hilda H. Treiber, deceased, late of Oxford Township, Adams County, Pennsylvania.

SMITH—Orphans' Court Action Number OC-144-02. The First and Final Account of C. Joyce Greenholt and Paul L. Wheeler, Jr., Co-Executors of the Estate of Kathleen B. Smith a/k/a Kathleen B. Hornbach, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

1/3 & 10

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on November 19, 2002, the Petition of **Bridgette Santa Jablon**, nka **Bridgette Santa Jablonsky**, was filed in the Court of Common Pleas of Adams County, Pennsylvania, praying for a Decree to change her name to **Bridgette Santa Jablonsky**.

The Court has fixed February 4, 2003, at 9:00 a.m. in Court Room No. 1, 2, or 3 of the Adams County Court House, 111 Baltimore St., Gettysburg, PA 17325, as the time and place for the hearing of the Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of the Petitioner should not be granted.

G. Steven McKonly, Esq.
Attorney for Petitioner

1/3

DISSOLUTION NOTICE

NOTICE IS HEREBY GIVEN that the shareholder and directors of FORBES CONSULTANTS, INC., a Pennsylvania corporation, with an address at 229-A Coventry Court, New Oxford, Pennsylvania, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

James D. Bogar, Esq.
One West Main Street
Shiremanstown, Pennsylvania 17011

1/3

Adams County Legal Journal

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No. 33, pp. 171-176

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-955 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at an iron pin in the center of the State Highway running from York Springs to East Berlin, at corner of land now or formerly of Gilbert and land now or formerly of Guy Musselman; thence in said State Highway and running along lands now or formerly of Guy Musselman South thirty-seven and one-half (37-1/2) degrees East twenty-six and one-tenth (26.1) perches to a point in said State Highway; thence leaving State Highway and running by land now or formerly of Guy Musselman South fifty-five (55) degrees West twelve and twenty-five hundredths (12.25) perches to a post; thence by same South eighty-nine (89) degrees West three (3) perches to a post at corner of land now or formerly of Guy Musselman and land now or formerly of Gilbert; thence along said last mentioned land North five and one-half (5-1/2) degrees West twenty-eight (28) perches to an iron pin, the place of BEGINNING.

CONTAINING 1 acre and 41.7 perches.

THE ABOVE description of the tract of land hereby conveyed having been obtained from draft of survey thereof made on July 2, 1943, by LeRoy H. Winebrenner, Registered Surveyor.

Tax Map #K6 Parcel #16

BEING THE SAME PREMISES conveyed by Chance B. Amos and Kimberly J. Amos, Husband and Wife, to Ronald E. Strausbaugh and Nancy R. Strausbaugh, Husband and Wife, by Deed dated March 29, 2001, and recorded with the Adams County Recorder of Deeds on April 2, 2001, in Record Book Volume 2244, Page 290.

ALSO KNOWN as 903 Germany Road, East Berlin.

SEIZED and taken into execution as the property of **Ronald E. Strausbaugh & Nancy R. Strausbaugh** 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-993 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in Reading Township, Adams County, Pennsylvania, known as part of Lot No. 47 on a general plan or plat of a series of lots laid out by W. P. Stoner, which said plat is intended to be recorded, bounded and described as follows:

BEGINNING for a corner at Lot No. 48 and Big Conewago Creek; thence in a Westerly direction along said Lot No. 48 150 feet, more or less, to a 20 feet wide open alley; thence in a Northerly direction along said alley 25 feet, more or less, to a stake for a corner at property of George Wise which was formerly a part of this tract; thence in a Southeasterly direction along said Wise's land 150 feet, more or less, to the Big Conewago Creek aforesaid; thence in a Southerly direction along said creek 71 feet, more or less, to a stake for a corner, the place of BEGINNING.

BEING KNOWN AS 1306 Browns Dam Drive, New Oxford, PA 17350.

Property ID: K8-57

TITLE TO SAID PREMISES IS VESTED IN Dennis Ness and Anna Marie Ness, husband and wife as tenants by the entireties, by deed from Charlie Cockey Precision, a Maryland corporation, dated 05/27/99, recorded 06/04/99, in Deed Book 1845, Page 316.

SEIZED and taken into execution as the property of **Dennis Ness & Anne M. Ness a/k/a Anna Marie Ness** 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 March 10, 2003, 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.

1/10, 17 & 24

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 JEFF LAWYER MASONRY, INC. on December 30, 2002, effective January 1, 2003. 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

1/10

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the South property line of Park Street where the same is intersected by the West property line of Sunset Avenue; thence running along said property line of Sunset Avenue, South 34 degrees 15 minutes West, 101.6 feet to an iron pin at corner of lot now or formerly of Fred J. Kane; thence along same, North 55 degrees 45 minutes West, 138 feet to an iron pin; thence North 34 degrees 15 minutes East, 101.6 feet to an iron pin on the South property line of Park Street; thence running along the property line of said Park Street, South 55 degrees 45 minutes East, 138 feet to a point at the intersection of Park Street and Sunset Avenue, the place of BEGINNING. (Gettysburg Borough Tax Map 12, Parcel 12)

BEING known as 358 Park Street, Gettysburg, PA 17325

Property ID: 12-12

TITLE TO SAID PREMISES IS VESTED IN Michael H. Flowers and Susan A. Flowers, husband and wife, by deed from Dale E. Deardorff and William K. Grover, Executors of the Will of Mildred D. Shover, deceased, dated 12/28/96, recorded 1/3/97, in Deed Book 1312, Page 313.

SEIZED and taken into execution as the property of **Michael Harrison Flowers & Susan Ann Flowers** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are

filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/27, 1/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-930 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in the Borough of Carroll Valley, (formerly Hamiltonban Township), Adams County, Pennsylvania, being Lot No. J-42, more particularly bounded and described as follows:

BEGINNING at a point in the center of White Oak Trail at Lot No. 41; thence by said lot, North 03 degrees 11 minutes 40 seconds West, 200 feet to Lot No. 45; thence by said lot, South 86 degrees 37 minutes East, 100 feet to Lot No. 43; thence by said lot, South 03 degrees 11 minutes 40 seconds East, 200 feet to a point in the center of said White Oak Trail; thence in said White Oak Trail North 86 degrees 37 minutes West, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section J, Charnita Ski Area, Inc." dated March 20, 1968, prepared by Gordon L. Brown, R. S., recorded in Adams County Plat Book 1 at page 24.

TOGETHER WITH a right-of-way and easement over the private roads indicated on said lot plan recorded in Adams County Plat Book 1 at page 24, for means of ingress, egress and regress.

TAX PARCEL #2-128

BEING DESIGNATED "Lot No. J-42 Section J, Charnita Ski Area, Inc." dated 3/20/68 per Adams County Surveyors and recorded in the Office of the

Recorder of Deeds of Adams County, Pennsylvania in Plat Book 1 at page 24.

SEIZED and taken into execution as the property of **Gary L. Whipp & Mary C. Smith** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/27, 1/3 & 10

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

NOTICE IS HEREBY GIVEN that on the 10th day of December, 2002, the Petition of Arlyn Susan Petteingell Miller was filed in the Court of Common Pleas of Adams County, Pennsylvania, praying for a decree to change her name to Arlyn Susan Petteingell.

The Court has fixed the 4th day of February, 2003, at 9:00 o'clock a.m., in Courtroom #1, 2, or 3, of the Adams County Courthouse at 111 Baltimore Street, Gettysburg, Adams County, Pennsylvania, as the time and place for the hearing on said Petition when and where all persons interested may appear and show cause, if any they have, why the prayer of the said Petition should not be granted.

Sheryl L. Jackson
Attorney for Petitioner
P.O. Box 3504
Gettysburg, PA 17325
(717) 337-2808

1/10

SINES ET AL VS. GERMANY TWP. ET AL

1. The Trial Court may grant summary judgment in instances where the non-moving party has failed to respond to a motion for summary judgment.
2. The Political Subdivision Tort Claims Act, 42 Pa. C.S.A. §8541, et seq. ("Act") provides political subdivisions with immunity from suits except for those injuries resulting from eight described exceptions.
3. (Under the Act) a township cannot be held liable for injuries caused by dangerous conditions on roads owned by PennDOT absent a contractual duty of maintenance and repair.
4.it has long been recognized in Pennsylvania that a municipality does not have a duty to provide sewerage for the natural flow of surface water. Although liability may be assessed where it has been shown that a system was negligently constructed or maintained,....

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 00-S-76, DARLENE SINES, LOREN SINES, HUSBAND AND WIFE, AND PROGRESSIVE CASUALTY INSURANCE COMPANY VS. GERMANY TOWNSHIP, BILL FABRICK AND PENNSYLVANIA DEPARTMENT OF TRANSPORTATION.

L. Paul Johnston, Esq., for Plaintiffs

Thomas X. McAndrew, Jr., Esq., for Defendant Germany Township

Robert L. McQuaide, Esq., for Defendant Bill Fabrick

Jay W. Stark, Esq., for Defendant PA Dept. of Transportation

George, J., April 16, 2002

OPINION

This case arises from a motor vehicle accident which occurred on January 29, 1998, on Frederick Pike in Germany Township, Adams County, Pennsylvania. On that date, Plaintiff Loren Sines allegedly drove across an icy patch while negotiating a curve on Frederick Pike. As a result, he lost control of the vehicle and spun into an oncoming vehicle as well as stationary objects alongside the road. As a result of the accident, Loren Sines suffered personal injury.

On May 26, 2000, Darlene Sines¹ and Loren Sines (hereinafter collectively identified as "Sines") and Progressive Casualty Insurance Company (Progressive)² filed a complaint seeking property

¹ A reading of the complaint indicates that Darlene Sines was not an occupant of the vehicle but rather joins this action in pursuit of a loss of consortium claim.

² In the complaint, Progressive Casualty Insurance Company describes itself as a corporation which issued a motor vehicle insurance policy to the Sines. Progressive joins in the suit in furtherance of its obligation rights under the policy.

and personal injury damages against the Defendants, Bill Fabrick (Fabrick)³, the Commonwealth of Pennsylvania, Department of Transportation (PennDOT) and Germany Township, Pennsylvania. The complaint alleged that Fabrick negligently allowed surface water from his property to accumulate and form ice on Frederick Pike. The complaint further alleged that PennDOT and Germany Township negligently failed to manage the flow of surface water and appropriately warn motorists or treat the accumulation of ice on the roadway.

On June 15, 2000, Germany Township filed Preliminary Objections, including a demurrer, alleging that the Township was immune from suit under the Political Subdivision Tort Claims Act codified at 42 Pa. C.S.A. §8541 et seq.⁴ By Order of Court dated August 9, 2000, issued by the Honorable Oscar F. Spicer, the Preliminary Objections were sustained, however, the Plaintiffs were given the opportunity to file an amended complaint.⁵

On August 29, 2000, the Plaintiffs filed an Amended Complaint against the same parties. The Amended Complaint contained allegations aimed at addressing the deficiencies raised by the earlier Order of former President Judge Spicer. Following Plaintiffs' Amended Complaint, responsive pleadings were filed by all parties and discovery was conducted.⁶ Currently, Germany Township has filed a Motion for Summary Judgment alleging that the Township is

³ On September 26, due to the death of Bill Fabrick, Ronald E. Parham, Jr., Personal Representative of the Estate of William J. Fabrick, Sr., was substituted as a Defendant.

⁴ On July 11, 2000, the Plaintiff filed Preliminary Objections to the Preliminary Objections of Germany Township. Disposition of those Preliminary Objections is immaterial to the resolution herein.

⁵ In sustaining the Preliminary Objections, Judge Spicer opined that "[a]lthough we cannot imagine Plaintiffs being able to refute DOT maps, *Pa. R.E. 201* requires us to give Plaintiffs an opportunity to be heard on the propriety of our taking judicial notice". It is Plaintiffs' attempt to address the deficiencies in their original complaint which is now before the Court.

⁶ Defendant, Germany Township, filed Preliminary Objections to Plaintiffs' Amended Complaint alleging governmental immunity to all claims filed against it by Progressive. By stipulation, which was confirmed by Order of Court dated December 13, 2000, all claims by Progressive Casualty Insurance Company against Germany Township were dismissed with prejudice.

immune from suit pursuant to the Political Subdivision Tort Claims Act. No response has been filed by any of the remaining parties.⁷

Summary judgment may be granted in cases where the record clearly shows that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law. *Rush v. Philadelphia Newspapers, Inc.*, 732 A.2d 648 (Pa. Super. 1999). Only when the facts are so clear that reasonable minds cannot differ, may a Trial Court properly enter summary judgment. *Basile v. H & R Block*, 761 A.2d 1115 (Pa. Super. 2001). The Court must review the record in a light most favorable to the non-moving party, accepting as true all well-pleaded facts and giving the non-moving party the benefit of all reasonable inferences which can be drawn from those facts. *Winwood v. Bregman*, 788 A.2d 983 (Pa. Super. 2001). However, under Pennsylvania Rule of Civil Procedure 1035.3, the non-moving party bears a clear duty to respond to a motion for summary judgment. *Harber Philadelphia Center City Office, Ltd. v. L.P. CI Ltd. Partnership*, 764 A.2d 1100 (Pa. Super. 2000), appeal denied, 782 A.2d 546 (2001). The Trial Court may grant summary judgment in instances where the non-moving party has failed to respond to a motion for summary judgment. *Id. See, also, Peyton v. Pennsylvania Sewing Company*, 710 A.2d 1221 (Pa. Super. 1998).

Instantly, as mentioned, the non-moving parties to this action have not filed a response to Germany Township's Motion for Summary Judgment. This lack of response may be motivated, in part, by the parties' recognition that Germany Township is entitled to its request.

The Political Subdivision Tort Claims Act, 42 Pa. C.S.A. §8541, et seq. ("Act") provides political subdivisions with immunity from suits except for those injuries resulting from eight described exceptions. In strictly and narrowly construing those exceptions, *see, Lockwood v. City of Pittsburgh*, 751 A.2d 1136 (Pa. 2000), it appears that only two of those exceptions may possibly be triggered by Plaintiffs' pleadings. For purposes of clarity, I will address each of

⁷Pennsylvania Rule of Civil Procedure 1035.3(a) provides that an "adverse party may not rest upon the mere allegations or denials of the pleadings but must file a response within thirty (30) days after service of the motion." The record reflects that Defendant Germany Township's Motion for Summary Judgment was filed on February 13, 2002. The motion included a Certificate of Service indicating that all parties were served with the motion via first-class mail.

the potentially applicable exceptions in the context of Plaintiffs' complaint.

Plaintiff initially alleges that Germany Township is negligent in regard to its maintenance of the roadway as follows:

- 1) “[p]ermitting the accumulation of water and ice,..., on Frederick Pike (State Route 194) in the vicinity of Georgetown Road (State Route 2014) in Germany Township, Adams County, Pennsylvania”. *Plaintiffs’ Amended Complaint, paragraph 27*;
- 2) “[f]ailing to mark the road on Frederick Pike (State Route 194) in the vicinity of Georgetown Road (State Route 2014)..., or otherwise warn motorists that the negligently designed, maintained and built roadway had caused an accumulation of water and ice”. *Plaintiffs’ Amended Complaint, paragraph 27(c)*; and
- 3) “[f]ailing to properly drain or prevent water from pooling on the roadways with a sewer system”. *Plaintiffs’ Amended Complaint, paragraph 27(d)*.

Although the Act includes “streets” as one of the eight exceptions to governmental immunity, it limits the exception to “streets owned by the local agency” or under the jurisdiction of the Commonwealth where the “local agency has entered into a written contract...for the maintenance and repair by the local agency of such streets...”. 42 Pa. C.S.A. §8542. Thus, a township cannot be held liable for injuries caused by dangerous conditions on roads owned by PennDOT absent a contractual duty of maintenance and repair. *Jackson v. Southeastern Transportation Authority*, 556 A.2d 638 (Pa. Cmwlth. 1989); alloc. dn. 593 A.2d 426 (1990).

In ruling on this motion for summary judgment, I note that President Judge Spicer has earlier taken judicial notice of a Pennsylvania Department of Transportation highway map which indicated that both roadways in question are owned by the Pennsylvania Department of Transportation. Moreover, in their answer to Defendant Germany Township’s request for admissions, PennDOT admitted that Frederick Pike (State Route 194) and Georgetown Road (State Route 2014) are owned by the Commonwealth of Pennsylvania. Thus, any exception to immunity from suit related to the maintenance of streets within the Township

must find its genesis in an agreement between the Township and the Department of Transportation. Unfortunately for the Plaintiffs, there is nothing to suggest that such an agreement existed at the time of the accident. Other than the mere allegation in the Complaint, which has been denied by Germany Township, the record is absent of any indication which would allow a reasonable mind to infer liability on behalf of the Township. In fact, as mentioned, PennDOT acknowledges that the roads in question were maintained by them.⁸ Thus, in piercing the bare allegations in the Complaint, I find that there is no genuine need for a trial on the allegations of Germany Township's negligence as it relates to maintenance of the roads in question. See, *Ertel v. Patriot-News Company*, 674 A.2d 1038 (1996).

The remaining allegation of negligence purports that the Township failed "to properly manage the flow of surface and/or ground water off the Fabrick property and off Township and State property and other properties in the vicinity with a cohesive drainage and/or surface runoff plan". *Plaintiffs' Amended Complaint, paragraph 27(b)*.⁹ Initially, it has been long recognized in Pennsylvania that a municipality does not have a duty to provide sewerage for the natural flow of surface water. *LaForm v. Bethlehem Township*, 499 A.2d 1373 (Pa. Super. 1985). See, also, *Warpine Auto v. Southeastern Pa. Transp. Auth.*, 8 F.Sup. 2d 475 (E.D. Pa. 1998) (interpreting Pennsylvania law). Although liability may be assessed where it has been shown that a system was negligently constructed or maintained, *City of Washington v. Johns*, 474 A.2d 1199 (Pa. Cmwlth. 1984), no such facts have been alleged by the Plaintiffs. Accordingly, the only possible applicable exception to Germany Township's immunity under this theory of negligence relates to the Township's "care, custody or control of real property in" its possession. See, 42 Pa. C.S.A. §8542(b)(3). Once again, however, the record is bare of facts supporting this exception.

⁸In their answers to the Germany Township requests for admissions, PennDOT indicated that it maintained Frederick Pike (State Route 194) and that the only agreement which it has entered into with Germany Township in regard to the roads in question is an agility agreement dated October 14, 1999. This agreement post-dates the accident by almost two years and is immaterial to the issues currently before the Court.

⁹By stipulation confirmed by Order of Court dated December 13, 2000, Plaintiffs withdrew four (4) other bases of alleged negligence against Germany Township which had been contained in their Amended Complaint.

It is apparent that Plaintiffs' cause of action suffers from the same deficiency which led President Judge Spicer to dismiss the initial complaint based upon Germany Township's demurrer. While Plaintiffs' additional allegations have allowed Plaintiffs' Amended Complaint to avoid a similar fate at that stage in the proceedings, their inability to develop a factual dispute compels the Court to now dismiss the action against Germany Township. As mentioned, the Plaintiff has failed to file a response to Defendant's Preliminary Objections. Therefore, summary judgment on behalf of Germany Township will be granted.

ORDER OF COURT

AND NOW, this 16th day of April, 2002, Defendant Germany Township's Motion for Summary Judgment is granted and all causes of action against Germany Township arising from this suit are dismissed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate lying and being situate in the Borough of Littlestown, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point along the westerly edge of Apple Grove Lane at a corner of Lot No. 420 on the subdivision plan hereinafter referred to; thence along Lot No. 420, North 61 degrees 18 minutes 33 seconds East, 115.00 feet to a point along lands now or formerly of Hayward E. Wogan; thence along lands now or formerly of Hayward E. Wogan, South 28 degrees 41 minutes 27 seconds East, 35.00 feet to a point at a corner of Lot No. 422; thence along Lot No. 422, South 61 degrees 18 minutes 33 seconds West, 115.00 feet to a point along the westerly edge of Apple Grove Lane, thence along the westerly edge of Apple Grove Lane, North 28 degrees 41 minutes 27 seconds West, 35.00 feet to a point at a corner of Lot No. 420, the place of BEGINNING. Containing 4,023 square feet.

BEING Lot No. 421 on a plan of lots prepared by Group Hanover, Inc. for Appler, dated January 22, 1999, recorded in Adams County Plan Book 77, Page 94-C.

BEING the same real estate which Appler Properties, LLLP, by deed dated September 27, 2001, intended to be recorded immediately prior to the recording of this Mortgage, conveyed to Jeffrey N. Dixon and Shannon M.B. Dixon, Mortgagors herein.

Premises being: 132 Apple Grove Lane, Littlestown, PA 17340

Tax Parcel No. 004-0139-000

SEIZED and taken into execution as the property of **Jeffrey Norman Dixon a/k/a Jeffrey N. Dixon & Shannon M. Dixon a/k/a Shannon M.B. Dixon a/k/a Shannon Meade-Berg Dixon** 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 March 10, 2003, 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.

1/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1036 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of ground situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, known and numbered as Lot No. 15 on a plan of lots for Abbots Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plat 73, page 43, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Easterly right of way line of Abbots Drive at a corner of Lot No. 16 on said plan; thence extending along the said right of way line of Abbots Drive along a line curving to the left having a radius of 225 feet, an arc distance of 85 feet with a chord bearing North 21 degrees 07 minutes 20 seconds West, 84.50 feet to a point; thence North 58 degrees 03 minutes 19 seconds East, 182.28 feet to a point; thence South 20 degrees 08 minutes 38 seconds East, 152.48 feet to a point, at a corner of Lot No. 16 on said plan; thence extending along said Lot No. 16 South 79 degrees 42 minutes 01 second West, 179.63 feet to the point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Patrick A. McMaster and Katherine M. McMaster by Deed from Garland Construction, Inc. dated 2/22/2000 and recorded 4/11/2000, in Record Book 2029, Page 4.

Premises being: 78 Abbots Drive, Abbottstown, PA 17301

Tax Parcel No. MAP 5, PARCEL 63

SEIZED and taken into execution as the property of **Patrick A. McMaster & Katherine M. McMaster** 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 March 10, 2003, 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.

1/3, 10 & 17

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Monday, January 13, 2003, at 9:00 o'clock a.m.

KEECH—Orphans' Court Action Number OC-142-02. The First and Final Account of Allfirst Trust Company of Pennsylvania, NA Executor of the Estate of Adele M. Kech, deceased, late of Oxford Township, Adams County, Pennsylvania.

TREIBER—Orphans' Court Action Number OC-143-02. The First and Final Account of Daniel R. Hollerbusch and Clair E. Fry, Jr., Co-Executors of the Estate of Hilda H. Treiber, deceased, late of Oxford Township, Adams County, Pennsylvania.

SMITH—Orphans' Court Action Number OC-144-02. The First and Final Account of C. Joyce Greenholt and Paul L. Wheeler, Jr., Co-Executors of the Estate of Kathleen B. Smith a/k/a Kathleen B. Hombach, deceased, late of the Borough of McSherrystown, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

1/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-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 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate lying and being in the Borough of Carroll Valley, (formerly Hamiltonban Township), Adams County, Pennsylvania being Lot No. 38 in Section H, bounded and described as follows:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 37; thence by said lot, North 49 degrees, 6 minutes West, 200 feet to lands now or formerly of Charmita, Inc.; thence by said lands, North 40 degrees, 54 minutes East, 100 feet to Lot No. 39; thence by said lot, South 40 degrees, 54 minutes West, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section H, Charmita, Inc." dated August 7, 1965 prepared by Gordon L. Brown, R.S. recorded in Adams County Plat Book 1 at page 15.

TITLE TO SAID PREMISES IS VESTED IN Ricky L. Miller and Patricia A. Miller, his wife by Deed from Donald M. Sites and Lisa M. Sites dated 12/29/92 and recorded 12/30/92, in Record Book 672, Page 253.

Premises being: 41 Ridgetrail, Fairfield, PA 17320

Tax Parcel No. 8-9

SEIZED and taken into execution as the property of **Ricky L. Miller & Patricia A. 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 March 3, 2003, 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.

1/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-375 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

TRACT NO. 1

ALL THAT CERTAIN piece or parcel of real estate situate in the Township of Reading, County of Adams, and Commonwealth of Pennsylvania, being known and described as Lot No. 432 on a Plan of Lots known as "Lake Meade Subdivision," said plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1, Page 4.

TRACT NO. 2

ALL THAT CERTAIN piece or parcel of real estate situated in the Township of Reading, County of Adams, and Commonwealth of Pennsylvania, being known and described as Lot No. 433 on a Plan of Lots known as "Lake Meade Subdivision," said Plan being recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plat Book 1, Page 4.

Tax Parcel 2-43

SUBJECT TO PRIOR MORTGAGE

SEIZED and taken into execution as the property of **Brian E. Kinard & Michelle R. Kinard** 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 March 3, 2003, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/27, 1/3 & 10

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL DIVISION
NO. 02-S-996

CHASE MANHATTAN MORTGAGE
CORPORATION, Plaintiff
vs.

UNKNOWN HEIRS OF DAVID BRUCE
BUSCH, Defendant

NOTICE of Sheriff's Sale of Real Estate on February 28, 2003 at 10:00 A.M. in the Adams County Courthouse, 117 Baltimore Street, Gettysburg, PA 17325.

ALL THE RIGHT, TITLE, INTEREST AND CLAIM OF THE UNKNOWN HEIRS OF DAVID BRUCE BUSCH OF, IN AND TO THE FOLLOWING DESCRIBED PROPERTY:

ALL THE FOLLOWING DESCRIBED REAL ESTATE SITUATED IN THE TOWNSHIP OF LIBERTY, COUNTY OF ADAMS AND COMMONWEALTH OF PENNSYLVANIA. HAVING ERRECTED THEREON A DWELLING BEING KNOWN AND NUMBERED AS 30 COVE HOLLOW RD., LIBERTY, PA 17320. DBV 1822, PAGE 90, AND PARCEL NUMBER B17-90.

Chase Manhattan Mortgage Corporation v. The Unknown Heirs of David Bruce Busch, at Execution No. 02-S-996 in the amount of \$103,871.95.

Schedule of Distribution will be filed by the Sheriff on the date specified by the Sheriff no later than thirty (30) days from sale date. Distributions will be made in accordance with the schedule unless exceptions are filed within ten (10) days of the filing of the Schedule.

Kristine M. Anthon, Esq.
Grenen & Birsic, P.C.
One Gateway Center, 9 West
Pittsburgh, PA 15222
(412) 281-7650

1/10

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF GENEVIEVE C. OHM, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Larry E. Ohm, 3701 Coastal Highway, Apt. 206B, Ocean City, MD 21842

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

SECOND PUBLICATION**ESTATE OF THOMAS PATRICK CAREY, DEC'D**

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Administrator: Victor D. Carey

Attorney: Mark David Frankel, Esq., 14 West King Street, York, PA 17401

ESTATE OF ELAINE F. HOMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrices: Nancy H. Rick, 774 Third St., Herndon, VA 20170; Jean H. Pyzik, 2715 Coon Club Rd., Westminster, MD 21157

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

ESTATE OF AUDREY L. LUXON, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Carter L. Luxon, 4520 Robin Avenue, Livingston, CA 95334

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

THIRD PUBLICATION**ESTATE OF CLEDA FLORENCE BENNETT, DEC'D**

Late of Hamiltonban Township, Adams County, Pennsylvania

Personal Representative: Catherine Sanders, 5001 Old Forge Road, Fayetteville, PA 17222

Attorney: William S. Dick, Esq., Dick, Stein & Schemel, LLP, 13 W. Main Street, Suite 210, Waynesboro, PA 17268

ESTATE OF DOROTHY R. DEATRICK a/k/a DOROTHY M. DEATRICK, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

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

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

ESTATE OF EARL K. FROCK, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Personal Representative: Richard L. Frock, 2060 Grandview Rd., Hanover, PA 17331

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

ESTATE OF ANNE W. LUCKENBILL, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

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

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

ESTATE OF MARY CATHERINE McMASTER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Co-Executors: Charles J. McMaster, 310 North 3rd Street, McSherrystown, PA 17344; Lawrence R. McMaster, 3111 Equinox Road, Dover, PA 17315

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

ESTATE OF ZELDA J. WAGAMAN, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executrix: Mary E. Elledge, 110 Stone Jug Road, Gettysburg, PA 17325

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

ESTATE OF MARY E. WOLF, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Jeffrey W. Wolf, 225-1/2 Lincolnway East, New Oxford, PA 17350

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1114 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the property line of Elm Lane at corner of Lot No. 62 on the draft of survey hereinafter referred to; thence along the property line of Elm Lane by a curve to the right, the radius of which is nine hundred fifty (950) feet, an arc length of thirty-five and forty-eight hundredths (35.48) feet, having a long chord bearing and distance of South twenty-four (24) degrees fifty (50) minutes thirty-one (31) seconds East, crossing over a twenty (20) foot Sun Oil Line right-of-way, thirty-five and forty-eight (35.48) feet to a point on the property line of Elm Lane; thence by same, by a curve to the left, the radius of which is three hundred ninety (390) feet, an arc length of fifty-three and sixty-seven hundredths (53.67) feet and having a long chord bearing and distance of South twenty-seven (27) degrees twenty-six (26) minutes fifty-one (51) seconds East fifty-one (51) East, fifty-three and sixty-three hundredths (53.63) feet to a point on the property line of Elm Lane at corner of Lot No. 64; thence along Lot No. 64, South fifty-eight (58) degrees fifty (50) minutes fifty-three (53) seconds West, one hundred seventeen and ninety-eight hundredths (117.98) feet to a point on the rearline of Lot No. 11; thence along a portion of Lots Nos. 11 and 10, North thirty-six (36) degrees zero (00) minutes zero (00) seconds West, eighty-nine and eight hundredths (89.08) feet to a point on the rearline of Lot No. 10 where it intersects with the corner of Lot No. 62; thence along Lot No. 62, North fifty-eight (58) degrees fifty (50) minutes twenty-six (26) seconds East, recrossing the twenty (20) foot Sun Oil Line right-of-way, one hundred thirty-two and eighty-seven hundredths (132.87) feet to a point the place of BEGINNING. Commonly known as 6 Elm Street.

BEING the same premises which Monica C. Stuller, by Deed dated the 20th day of February, 1997, and recorded at Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, on the 1st day of April, 1997, in Record Book 1349, Page 249, granted and conveyed unto Robert H. Ritchey, Jr. and Monica C. Stuller.

Tax ID No.: Dist:35 Map:9 Parcel:30
Premises being: 6 Elm Lane, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Robert H. Ritchey, Jr. & Monica T. Barret a/k/a Monica T. Stuller** 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-915 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING two (2) tracts of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

TRACT NO. 1:

BEGINNING at a point at low water mark on the Conewago Creek at Lot No. 2; thence along Lot No. 2 one hundred five (105) feet, more or less, to a point at a ten (10) feet wide driveway; thence along said driveway, forty-eight (48) feet, more or less, to a point at Lot No. 4; thence along Lot No. 4, one hundred five (105) feet to a point in said Conewago Creek; thence in the Conewago Creek forty-eight (48) feet to the place of BEGINNING.

TRACT NO. 2:

BEGINNING at a point in a road leading Northwestwardly to the East Berlin-Dillsburg Road, at lands now or formerly of Charles Koel and Earnest Schmidt; thence in a Northeastwardly direction along lands now or formerly of Earnest Schmidt, one hundred fifty (150) feet to a point at lands now or formerly of Charles J. Hoffman and Edward A. Hoffman, Co-Partners, T/A Hoffman Brothers; thence

in a Northwestwardly direction forty-eight (48) feet to a point at lands now or formerly of Mabel Rider; thence along the same in a Southwestwardly direction one hundred fifty (150) feet to a point in the aforementioned road; thence along the same in a Southeastwardly direction forty-eight (48) feet to a point; the place of BEGINNING.

HAVING erected thereon a dwelling known as 179 Conewago Park Drive, East Berlin, PA.

BEING known and designated as Tax ID # (36) Map L07 Parcel 44.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Wayne Slothour, Deed from Mary A. Anthony, Unmarried, Deed dated October 2, 1996, recorded October 13, 1996, in Deed Book 1274, Page 42.

SEIZED and taken into execution as the property of **Wayne E. Slothour** 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 March 10, 2003, 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.

1/10, 17 & 24

Adams County Legal Journal

Vol. 44

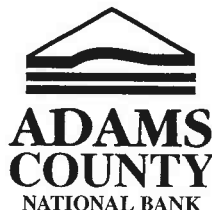
January 17, 2003

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IN THIS ISSUE

GELCOR VS. STRABAN TWP.

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



Member FDIC

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-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 7th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate lying and being in the Borough of Carroll Valley, (formerly Hamiltonban Township), Adams County, Pennsylvania being Lot No. 38 in Section H, bounded and described as follows:

BEGINNING at a point in the center of High Ridge Drive at Lot No. 37; thence by said lot, North 49 degrees, 6 minutes West, 200 feet to lands now or formerly of Charnita, Inc.; thence by said lands, North 40 degrees, 54 minutes East, 100 feet to Lot No. 39; thence by said lot, South 40 degrees, 54 minutes West, 100 feet to the place of BEGINNING.

THE above description was taken from a plan of lots labeled "Section H, Charnita, Inc." dated August 7, 1965 prepared by Gordon L. Brown, R.S. recorded in Adams County Plat Book 1 at page 15.

TITLE TO SAID PREMISES IS VESTED IN Ricky L. Miller and Patricia A. Miller, his wife by Deed from Donald M. Sites and Lisa M. Sites dated 12/29/92 and recorded 12/30/92, in Record Book 672, Page 253.

Premises being: 41 Ridgetrail, Fairfield, PA 17320

Tax Parcel No. 8-9

SEIZED and taken into execution as the property of **Ricky L. Miller & Patricia A. 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 March 3, 2003, 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.

1/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1027 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Mt. Joy Township, Adams County, Pennsylvania, being more particularly described as Lot No. 936 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 778, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the rights and subject to the restrictions, conditions, and agreements as contained in Adams County Deed Book 295 at Page 199.

BEING KNOWN as 936 Johnson Drive, Gettysburg, PA 17325

Property ID No.: 9-65

TITLE TO SAID PREMISES IS VESTED IN Georgia A. Solt, by Deed from James H. Gosnell and Dorothy F. Gosnell, husband and wife, recorded 8/31/99, dated 8/27/99, in Deed Book 1905, Page 202.

SEIZED and taken into execution as the property of **Georgia A. Solt a/k/a Georgia A. Rothenhoefer** 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 March 24, 2003, 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.

1/17, 24 & 31

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation will be filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about December 23, 2002, for the purpose of obtaining a Certificate of Incorporation for a proposed business corporation to be organized under the Pennsylvania Business Corporation Law of 1988. The name of the corporation is LEHMAN'S FEED AND HOME CENTER, INC., and the purpose for which it is being organized is for the sale of animal feed, farm supplies, and equipment and household items and all other activities permitted by the PA Business Corporation Law, as amended, within and outside the Commonwealth of Pennsylvania, and the corporation shall have unlimited powers to engage in and to do any lawful act concerning any and all business for which corporations may be incorporated under the Pennsylvania Business Corporation Law of 1988, and for these purposes to have, possess, and enjoy all the rights, benefits and privileges of said Act of Assembly and its supplements and amendments.

The initial registered office of the corporation is 241 Old Harrisburg Road, York Springs, Pennsylvania, 17372.

Wilcox and James
Attorneys at Law
234 Baltimore Street
Gettysburg, PA 17325

1/17

GELCOR VS. STRABAN TWP.

1. Since the Court did not take any additional evidence, the scope of review is limited to determine whether the Zoning Hearing Board abused its discretion, committed error of law or made findings of fact not supported by substantial evidence.

2. Under Pennsylvania law, the owner of property to which a lawful non-conforming use has attached enjoys a vested property right in that use.

3. Failure to use the property for a designated time provided under a discontinuance provision is evidence of the intention to abandon.

4. What is critical is that the intention to abandon is only one element of the burden of proof on the party asserting abandonment. The second element of the burden of proof is actual abandonment of the use for the prescribed period.

5.(Re: Abandonment) the issue of ownership, standing alone, is not determinative. The right to continue a non-conforming use runs with the land and is not limited to any one individual or corporation.

6. The party asserting abandonment carries the burden of proof in affirmatively establishing an intent to abandon.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 01-S-1163, GELCOR GVA WORLDWIDE, VS. STRABAN TOWNSHIP ZONING HEARING BOARD.

Charles M. Suhr, Esq., for Appellant
Catherine J. Gault, Esq., for Appellee
Walton V. Davis, Esq., for Intervenor
George, J., April 19, 2002

OPINION

Gelcor GVA Worldwide (hereinafter referred to as “Gelcor”) files this appeal from the October 5, 2001, decision of the Straban Township Zoning Hearing Board which upheld the enforcement notice issued by the Straban Township Zoning Officer on June 14, 2001. The enforcement notice in question directed that a sign be removed from the property which had formerly housed the Festival Foods Store at 1275 York Road, Straban Township, Adams County, Pennsylvania (hereinafter referred to as the “subject property”).

On May 2, 1998, Gateway Foods of Pennsylvania, operating as Festival Foods (hereinafter referred to as “Festival Foods”), entered

into a twenty-year lease with Lanecor Associates II for the lease of the subject property.¹ Relevant portions of that lease provided:

Section 1802. Tenant's Primary Signs. Tenant shall have the right to place, maintain and replace on a Demised Premises signs of a style, color and design in bearing Tenant's distinctive lettering, similar to those used at other store locations of Tenant and conforming to all applicable laws and ordinances. Tenant shall pay \$3,000 to Landlord for the erection at the Shopping Center pylon. Tenant, at its own cost and expense, shall place its placard on the second position of said pylon.

...

Section 1804. Tenant's Responsibilities. Tenant shall maintain said signs in a good state of repair and save the Landlord harmless from any loss, cost or damage as a result of the erection, maintenance, existence or removal of the same, and shall repair any damage which shall have been caused by the erection, existence, maintenance or removal of such signs. Upon vacating the premises, Tenant shall remove all signs and repair all damage caused by such removal.

Transcript of Zoning Hearing Meeting held on August 23, 2001 (hereinafter referred to as "Tr.") Exhibit #2, pp. 24-25. Sometime subsequent to the execution of the lease but prior to July, 1989, a two-pylon sign was erected on the subject property.² *Tr.*, p. 16. The total height of the sign was approximately 23 feet 4 inches tall with a face measuring approximately 7 feet 4 inches by 14 feet. Included in the face area was a portion of sign which contained electronic scrolling words. During the time period between the sign's erection

¹ The Appellant in this matter, Gelcor, is asset manager of the Peebles Festival Shopping Center located at the subject property. The property is owned by Evans Holding Company, White Realty Company and Festival Gettysburg Associates, LLC. Although the record is not completely clear, at some point between execution of the lease in 1988 and the current appeal, the property was transferred from Lanecor Associates II to its current owners.

² On August 24, 1992, the Straban Township Board of Supervisors adopted the Straban Township Zoning Ordinance. There is agreement among all parties that the sign was erected prior to the adoption of the Straban Township Zoning Ordinance and that the sign continued to exist as a pre-existing non-conforming use.

and February, 2000,³ the sign was used exclusively by Festival Foods. *Tr. p. 31*. At approximately that same time, the Festival Foods Store stopped doing business. Thereafter, they removed the face panel of the sign including the electronic scrolling sign portion. They did not, however, remove the two-pylons or the outer casing. *Tr. pp. 41-42*. On June 30, 2000, Festival Food's lease of the property was formally terminated. *Tr., Exhibit #9*. At some point, Gelcor took steps to place blank lexan faces in the casing.⁴ In anticipation of the lease termination with Festival Food, Gelcor began negotiations with Staples the Office Superstore East Inc., a Delaware corporation (hereinafter referred to as "Staples") for lease of the subject property. Those negotiations continued through January 10, 2001, when the parties formalized their negotiations in a lease agreement. *Tr., Exhibit 8*. The lease included representations concerning Staples' use of the sign in question. Gelcor, apparently in furtherance of its contractual relationship with Staples, raises this appeal from the Zoning Officer's determination that the sign's existence as a pre-existing non-conforming structure has been abandoned and, therefore, must be removed.⁵

In upholding the action of the Straban Township Zoning Officer, the Zoning Hearing Board determined that Festival Foods was the owner of the sign; that the sign was a pre-existing non-conforming use; that Festival Foods abandoned the sign when it moved out and that the sign remained abandoned in excess of one year. *October 5,*

³ Straban Township Zoning Officer Glenn Snyder testified that Festival Foods ceased doing business in February, 2000. N.T. 8. Joseph R. Deerin, was not specific in his testimony as to the exact date that the Festival Foods store closed. A fair reading of his testimony indicates that the store closed sometime between February and April of 2000. *See, Tr. p. 24*.

⁴ The record is unclear as to the exact date of this action. Additionally, the record is vague as to other changes to the sign face during this period of time. A reading of the record in its entirety leads this writer to the conclusion that since May, 2000, the face of the sign has changed, however, the total dimensions of the face have not changed. *See, generally, Tr. pp. 50-52, Exhibit 10*.

⁵ Testimony at the Zoning Hearing and the Township's Brief make reference to an application for a sign permit for the sign in question submitted to the Township by Staples pursuant to the Straban Township Zoning Ordinance. Apparently, that permit was denied and no appeal was taken from its denial. References arise in the context of determining ownership of the sign. Neither this Court, nor the Straban Township Zoning Hearing Board, was presented with the issue of what effect, if any, a denial of that application has on the current proceedings. Accordingly, that issue will not be considered by this Court.

2001, *decision of the Straban Township Zoning Hearing Board*, p. 6. In its appeal, Gelcor argues that the Board's conclusion that the sign in question was owned by Festival Foods is not supported by the record. More specifically, in concluding that the non-conforming sign had been abandoned, the Board failed to take into account the actions or intentions of Gelcor.

Since the Court did not take any additional evidence, the scope of review is limited to determine whether the Zoning Hearing Board abused its discretion, committed error of law or made findings of fact not supported by substantial evidence. *Board of Supervisors of Upper Southampton Tp. v. Zoning Hearing Bd. of Upper Southampton Tp.*, 124 Pa. Cmwlth. 103, 555 A.2d 256 (1989). Accordingly, the Court will not make its own interpretation of the record but rather will consider whether the Board's determination is substantially supported by the record.

After reviewing the record, I find that the Board's conclusion that the sign and supporting pylons were, through February, 2000, owned by Festival Foods is supported by the record. For instance, the record reveals that while Festival Foods operated their business on the property, they had exclusive use of the sign. Although standing alone that finding is unpersuasive since a tenant may contract for exclusive rights through a lease, when combined with other circumstances, including the express terms of the lease, it is clear that the Board's finding of ownership is supported by the record. For instance, the lease between Festival Foods and Lanecor Associates II requires the tenants to pay for installation of the sign. Moreover, these provisions require the tenant to remove the sign at their cost upon vacating the leased premises. *See, Tr., Exhibit 2, p. 25, Section 1804*. Equally revealing is the term of the lease holding the landlord harmless from any loss, cost or damage as a result of the erection, maintenance, existence or removal of the sign. *Tr., Exhibit 2, supra*. Interestingly, similar provisions in the lease do not apply to Festival Foods except in instances where Festival Foods maintains an ownership interest in the respective item. *Compare Exhibit 2, Section 1601 and 1602 with Section 1804*. Whether this Court would reach a different conclusion on this record is immaterial. The critical question is whether there is substantial evidence in the record to gradually support the Zoning Hearing Board's decision. Upon this record, I am satisfied that there is.

Having determined that the Zoning Hearing Board's factual finding is supported by the record, it is now necessary to determine whether or not the Board committed error in applying the applicable law. Initially, I note that the parties agree that the sign in question is a pre-existing non-conforming use.⁶ Under Pennsylvania law, the owner of property to which a lawful non-conforming use has attached enjoys a vested property right in that use. *Gross v. Zoning Board of Adjustment of the City of Philadelphia*, 227 A.2d 824 (Pa. 1967). Additionally, the Straban Township Zoning Ordinance recognizes the right to continue a pre-existing non-conforming use. See, *Straban Township Zoning Ordinance, Section 140-88(B)*. However, "even though zoning ordinances permit the continuance of non-conforming uses, it is the policy of the law to closely restrict such non-conforming uses and to strictly construe provisions in the zoning ordinances which provide for the continuance of non-conforming uses". *Hanna v. Board of Adjustment*, 183 A.2d 539 (Pa. 1962).

As mentioned, the existence of a non-conforming use is not in question. Rather, the issue turns on whether or not the non-conforming use was abandoned. In that regard, the Straban Township Zoning Ordinance provides that a non-conforming use which has been discontinued may not be re-established if the use "has been discontinued for any reason for a period of one year or more,...". *Straban Township Zoning Ordinance, Section 140-88(B)(4)*. The test for abandonment where a zoning ordinance contains a discontinuance provision is most succinctly set forth in *Latrobe Speedway v. Zoning Hearing Bd.*, 720 A.2d 127 (Pa. 1998) wherein the Supreme Court stated:

Failure to use the property for a designated time provided under a discontinuance provision is evidence of the

⁶Use of the property as a shopping center is a permitted use in the zoning district in which the property is located. The current issue does not involve the use of the property as a shopping center but rather focuses on the propriety of a free-standing sign on the property. Therefore, the Township argues that the sign is actually a non-conforming structure rather than a non-conforming use. However, I find this distinction immaterial since my research has been unable to uncover any difference in the treatment of this issue as a result of the distinction. Many of the concepts in dealing with non-conforming uses and non-conforming structures are similar. *Ryan, Pennsylvania Zoning Law in Practice, Section 7.7.1*. Additionally, the Straban Township Zoning Ordinance treats both types of pre-existing non-conformance similarly.

intention to abandon. The burden of persuasion then rests with the party challenging the claim of abandonment. If evidence of a contrary intent is introduced, the presumption is rebutted and the burden of persuasion shifts back to the party claiming abandonment.

What is critical is that the intention to abandon is only one element of the burden of proof on the party asserting abandonment. The second element of the burden of proof is actual abandonment of the use for the prescribed period.

Id. at

The Township argues that the findings of the Zoning Hearing Board were correct in concluding that “Festival Foods abandoned the sign when it moved out and it remained abandoned in excess of one year”. *Decision of the Straban Township Zoning Hearing Board dated October 5, 2001, p. 6.* For the reasons set forth below, I cannot agree.

Although the parties place great weight on the issue of ownership, I think the issue of ownership, standing alone, is not determinative. While ownership is important in examining the intent of the owner at the time of abandonment, Festival Foods’ ownership of the sign and subsequent termination of the lease of the subject property is not conclusive. The right to continue a non-conforming use runs with the land and is not limited to any one individual or corporation. *Eitmier v. Kreitz Corp.*, 172 A.2d 320 (Pa. 1961). “A vested right, unless abandoned, to continue the non-conforming use is in the land.” *Id.*, A2d at 323. It is therefore necessary to examine whether either Festival Foods or Gelcor intended to abandon the sign and actually abandoned the sign at a time when they had control over it.

Analyzing the record under an “presumption of intent to abandon” theory requires consideration of the intentions of both Festival Foods and Gelcor. I reach this conclusion because the Straban Township Zoning Ordinance does not presume an intent to abandon until after the expiration of one year or more. The parties generally agree that the earliest date upon which we can conclude that Festival Foods did not intend to use the sign in question is February, 2000. The record clearly indicates that Festival Foods terminated their interest in the property at the time the lease was formally terminated in June, 2000. Since this is a period of time of less than six (6) months, a “presumed

intent to abandon” must include the period of time during which Gelcor was in control of the property.

When reading the record in a light most favorable to the Township, it reveals that Festival Foods stopped doing business in February, 2000. At approximately that same time, Festival Foods stopped using the sign and removed the messages contained on the face of the sign. I believe, and Gelcor has conceded, that these facts support the Township’s initial burden of proof in establishing a presumption of an intention to abandon. Thus, the burden of persuasion falls to Gelcor, *see, Latrobe Speedway v. Zoning Hearing Board*, supra. Gelcor presented testimony that the physical structure of the sign was not removed but rather left in place by Festival Foods at the request of Gelcor. In that regard, Joseph R. Deerin, the property manager, indicated that: “We did not ask them to remove it. We specifically asked them not to remove it so that the sign would remain for a future tenant.” *Tr. p. 35*. Although the record is not clear as to Festival Foods’ motivation, it is undisputed that the pylons and outer casings were not removed. Additionally, at the approximate time that Festival Foods had terminated their lease of the property, Gelcor took steps to maintain use of the sign by replacing the lexan faces, *see, Tr. p. 50*. In October or November, 2000, Gelcor took steps to repair wind damage to the sign. *Tr. p. 54*. Throughout this time period, they represented use of the sign in their negotiations with the new tenant. Under these circumstances, it is clear that Gelcor rebutted the presumption concerning their intent to abandon the property. At this point, the burden of persuasion shifts back to Straban Township. *See, Latrobe Speedway v. Zoning Hearing Board*, supra. The record, however, is absent of persuasive evidence which would indicate an actual abandonment by Gelcor. I, therefore, find that the Township failed to carry their burden of persuasion in establishing abandonment under this theory.

Regardless of the ordinance provisions allowing a presumptive intent to abandon, the Township may still prevail if it has proved an actual abandonment by Festival Foods. In determining whether Festival Foods actually abandoned the use, it must be shown that there was an intent to abandon and an actual abandonment. *Latrobe Speedway v. Zoning Hearing Board*, supra. The party asserting abandonment carries the burden of proof in affirmatively establishing an

intent to abandon. *Pappas v. Zoning Board of Adjustment of the City of Philadelphia*, 589 A.2d 675 (Pa. 1991). The Township relies upon the removal of the lexan faces and electronic scrolling sign as evidence of the actual intent of Festival Foods. They further urge that termination of the lease agreement with Gelcor is conclusive as to their intent. I cannot agree. Had Festival Foods completely removed the sign including the pylons and casing, abandonment would have been clearly established. *See, Puleo v. Zoning Hearing Board*, 722 A.2d 789 (Pa. 1999); *Corngold v. Zoning Bd. of Adjustment*, 686 A.2d 76 (Pa. Cmwlth. 1992). However, the current facts are much more neutral. Although the sign face was changed, the main structure of the sign remained. The record is absent as to why the structure was not removed. While it can be argued that removal of the face of the sign equated abandonment, it can equally be argued that leaving the structure behind is indicative of an intent to continue the non-conforming use. This argument becomes stronger in light of Gelcor's evidence that they specifically requested Festival Foods to leave the structure in place. Under these circumstances, the Zoning Hearing Board can only speculate as to the intent of Festival Foods. Since the burden of proof falls upon the Township, the decision of the Board cannot be sustained. In reaching this result, I note that the Straban Township Zoning Ordinance generally regulates the size of signs, their location and setback. Had there been an alteration, enlargement or relocation of the sign in question, a different result would be appropriate. The Zoning Ordinance, however, does not regulate the design of the face of a sign and I cannot conclude that changing the message on the sign face under the circumstances of this case is equivalent to an abandonment.⁷

Finally, the Township argues that the sign is an illegal sign since it should have been removed within ten (10) days after "the circumstances leading to" its erection no longer apply. *See, Straban Township Zoning Ordinance, Section 140-77(E)(3)*. The Township's argument apparently equates use of the sign with the tenancy of Festival Foods. However, as mentioned above, pre-existing non-conforming rights run with the land and are not limited to any particular

⁷The Straban Township Zoning Ordinance does prohibit flashing, intermittent or rotating light. *See, Straban Township Zoning Ordinance, Section 140-77(F)(4)*. Any pre-existing rights which may have existed as to this type of sign have been abandoned by Festival Foods.

tenant. The record is full of references that the circumstances leading to the erection of the sign involved the commercial activity at a shopping center located on the subject property. As of the date of this opinion, the property remains in operation as a shopping center. Thus, there is nothing illegal about Gelcor's intent to continue its use of the sign in question. Since the circumstances leading to its erection still apply. To rule otherwise would require that all pre-existing, non-conforming signs be removed upon a change of tenants at the property or upon a change of design of the sign face. Absent a specific direction from our appellate courts, I am unwilling to limit Gelcor's vested right to a pre-existing, non-conforming use in such a manner. Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 19th day of April, 2002, the decision of the Straban Township Zoning Hearing Board is reversed. The Enforcement Notice of the Straban Township Zoning Hearing Officer dated June 14, 2001, is dismissed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described real estate lying and being situate in the Borough of Littlestown, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point along the westerly edge of Apple Grove Lane at a corner of Lot No. 420 on the subdivision plan hereinafter referred to; thence along Lot No. 420, North 61 degrees 18 minutes 33 seconds East, 115.00 feet to a point along lands now or formerly of Hayward E. Wogan; thence along lands now or formerly of Hayward E. Wogan, South 28 degrees 41 minutes 27 seconds East, 35.00 feet to a point at a corner of Lot No. 422; thence along Lot No. 422, South 61 degrees 18 minutes 33 seconds West, 115.00 feet to a point along the westerly edge of Apple Grove Lane, thence along the westerly edge of Apple Grove Lane, North 28 degrees 41 minutes 27 seconds West, 35.00 feet to a point at a corner of Lot No. 420, the place of BEGINNING. Containing 4,023 square feet.

BEING Lot No. 421 on a plan of lots prepared by Group Hanover, Inc. for Appler, dated January 22, 1999, recorded in Adams County Plan Book 77, Page 94-C.

BEING the same real estate which Appler Properties, LLLP, by deed dated September 27, 2001, intended to be recorded immediately prior to the recording of this Mortgage, conveyed to Jeffrey N. Dixon and Shannon M.B. Dixon, Mortgagees herein.

Premises being: 132 Apple Grove Lane, Littlestown, PA 17340

Tax Parcel No. 004-0139-000

SEIZED and taken into execution as the property of **Jeffrey Norman Dixon a/k/a Jeffrey N. Dixon & Shannon M. Dixon a/k/a Shannon M.B. Dixon a/k/a Shannon Meade-Berg Dixon** 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 March 10, 2003, 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.

1/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1036 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of ground situate, lying and being in the Borough of Abbottstown, Adams County, Pennsylvania, known and numbered as Lot No. 15 on a plan of lots for Abbotts Manor Phase II recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plat 73, page 43, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Easterly right of way line of Abbotts Drive at a corner of Lot No. 16 on said plan; thence extending along the said right of way line of Abbotts Drive along a line curving to the left having a radius of 225 feet, an arc distance of 85 feet with a chord bearing North 21 degrees 07 minutes 20 seconds West, 84.50 feet to a point; thence North 58 degrees 03 minutes 19 seconds East, 182.28 feet to a point; thence South 20 degrees 08 minutes 38 seconds East, 152.48 feet to a point, at a corner of Lot No. 16 on said plan; thence extending along said Lot No. 16 South 79 degrees 42 minutes 01 second West, 179.63 feet to the point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Patrick A. McMaster and Katherine M. McMaster by Deed from Garland Construction, Inc. dated 2/22/2000 and recorded 4/11/2000, in Record Book 2029, Page 4.

Premises being: 78 Abbotts Drive, Abbottstown, PA 17301

Tax Parcel No. MAP 5, PARCEL 63

SEIZED and taken into execution as the property of **Patrick A. McMaster & Katherine M. McMaster** 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 March 10, 2003, 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.

1/3, 10 & 17

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that a fictitious name amendment, ROOSTER'S PUB & HOTEL for the conduct of business in Adams County, Pennsylvania, with the principal place of business being 4587 Chambersburg Rd., Biglerville, PA 17307 was made to the Department of State of the Commonwealth of Pennsylvania on December 9, 2002, pursuant to the Act of Assembly of December 16, 1982, Act 295 (54 Pa. C.S. §311). The name and address of the person owning or interested in said business is: Gloria Beecher, Inc., 8795 Pineville Rd., Shippensburg, PA 17257.

James G. Morgan, Jr., Esq.
Tucker Arensberg & Swartz
111 North Front Street
P.O. Box 889
Harrisburg, PA 17108-0889

1/17

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 or about December 19, 2002, 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 BOB'S COLLISION REPAIR CENTER, INC., with a registered office of the corporation being 215 M. Street, Littlestown, PA 17340.

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

1/17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1114 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the property line of Elm Lane at corner of Lot No. 62 on the draft of survey hereinafter referred to; thence along the property line of Elm Lane by a curve to the right, the radius of which is nine hundred fifty (950) feet, an arc length of thirty-five and forty-eight hundredths (35.48) feet, having a long chord bearing and distance of South twenty-four (24) degrees fifty (50) minutes thirty-one (31) seconds East, crossing over a twenty (20) foot Sun Oil Line right-of-way, thirty-five and forty-eight (35.48) feet to a point on the property line of Elm Lane; thence by same, by a curve to the left, the radius of which is three hundred ninety (390) feet, an arc length of fifty-three and sixty-seven hundredths (53.67) feet and having a long chord bearing and distance of South twenty-seven (27) degrees twenty-six (26) minutes fifty-one (51) seconds East fifty-one (51) East, fifty-three and sixty-three hundredths (53.63) feet to a point on the property line of Elm Lane at corner of Lot No. 64; thence along Lot No. 64, South fifty-eight (58) degrees fifty (50) minutes fifty-three (53) seconds West, one hundred seventeen and ninety-eight hundredths (117.98) feet to a point on the rearline of Lot No. 11; thence along a portion of Lots Nos. 11 and 10, North thirty-six (36) degrees zero (00) minutes zero (00) seconds West, eighty-nine and eight hundredths (89.08) feet to a point on the rearline of Lot No. 10 where it intersects with the corner of Lot No. 62; thence along Lot No. 62, North fifty-eight (58) degrees fifty (50) minutes twenty-six (26) seconds East, recrossing the twenty (20) foot Sun Oil Line right-of-way, one hundred thirty-two and eighty-seven hundredths (132.87) feet to a point the place of BEGINNING. Commonly known as 6 Elm Street.

BEING the same premises which Monica C. Stuller, by Deed dated the 20th day of February, 1997, and recorded at Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, on the 1st day of April, 1997, in Record Book 1349, Page 249, granted and conveyed unto Robert H. Ritchey, Jr. and Monica C. Stuller.

Tax ID No.: Dist:35 Map:9 Parcel:30
Premises being: 6 Elm Lane, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Robert H. Ritchey, Jr. & Monica T. Barret a/k/a Monica T. Stuller** 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-915 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING two (2) tracts of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

TRACT NO. 1:

BEGINNING at a point at low water mark on the Conewago Creek at Lot No. 2; thence along Lot No. 2 one hundred five (105) feet, more or less, to a point at a ten (10) feet wide driveway; thence along said driveway, forty-eight (48) feet, more or less, to a point at Lot No. 4; thence along Lot No. 4, one hundred five (105) feet to a point in said Conewago Creek; thence in the Conewago Creek forty-eight (48) feet to the place of BEGINNING.

TRACT NO. 2:

BEGINNING at a point in a road leading Northwestwardly to the East Berlin-Dillsburg Road, at lands now or formerly of Charles Koel and Earnest Schmidt; thence in a Northeastwardly direction along lands now or formerly of Earnest Schmidt, one hundred fifty (150) feet to a point at lands now or formerly of Charles J. Hoffman and Edward A. Hoffman, Co-Partners, T/A Hoffman Brothers; thence

in a Northwestwardly direction forty-eight (48) feet to a point at lands now or formerly of Mabel Rider; thence along the same in a Southwestwardly direction one hundred fifty (150) feet to a point in the aforementioned road; thence along the same in a Southeastwardly direction forty-eight (48) feet to a point; the place of BEGINNING.

HAVING erected thereon a dwelling known as 179 Conewago Park Drive, East Berlin, PA.

BEING known and designated as Tax ID # (36) Map L07 Parcel 44,

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Wayne Slothour, Deed from Mary A. Anthony, Unmarried, Deed dated October 2, 1996, recorded October 13, 1996, in Deed Book 1274, Page 42.

SEIZED and taken into execution as the property of **Wayne E. Slothour** 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-975 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two (2) tracts of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point for a corner in the State Highway marked by an iron pin set back along the line; thence running in said highway, North 3-1/2 degrees East 81 feet to a point in the center of said highway; thence running by land now or formerly of Clair Tate, South 85 degrees East 123 feet to an iron pipe; thence running by land now or formerly of Glenn E. Millhimes, South 17 degrees West 95 feet to an iron pin; thence running by land of formerly the same, North 75-1/4 degrees West 115 feet to a point in the aforesaid State Highway, the place of BEGINNING. CONTAINING 38 perches and 59 square feet.

TRACT NO. 2:

BEGINNING at a point in the East side of a State Highway leading from Gettysburg to Hunterstown; thence along line of land now or formerly of Ari Andrews, South 75 degrees 15 minutes East 115.0 feet to a stake at corner of land now or formerly of Ari Andrews; thence through land now or formerly of Glenn E. Millhimes, Sr., South 17 degrees West, 67.9 feet to a post; thence through same along the North side of a 19.0 foot lane, North 70 degrees West, 109.0 feet to a point on the East side of the above-mentioned State Highway; thence along and in the above State Highway, North 3 degrees 30 minutes East, 61.0 feet to the place of BEGINNING. CONTAINING 26 perches.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Jeffrey G. Millhimes, Deed from Jeffrey G. Millhimes, also known as Jeffrey Grant Millhimes, Single and Jean M. Millhimes, also known as Jean Marie Millhimes, Single, Deed dated July 7, 1994, recorded July 7, 1994, in Deed Book 909, Page 178.

Map #: 38-22-68

BEING KNOWN AS: 2035 Hunterstown Road, Gettysburg, PA 17325.

SEIZED and taken into execution as the property of **Jeffrey Millhimes a/k/a Jeffrey Grant Millhimes** 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 March 24, 2003, 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.

1/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-747 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the property line of Spruce Lane, a fifty (50) foot street, at corner of Lot No. 527 on the hereinafter referred plan of lots; thence by said lot, South fifty-four (54) degrees zero (00) minutes zero (00) seconds West, one hundred ten (110.00) feet to a steel pin at other lands of Oxford Estates; thence by said land, North thirty-six (36) degrees zero (00) minutes zero (00) seconds West, seventy-five (75.00) feet to a steel pin at Lot No. 529; thence by said lot, North fifty-four (54) degrees zero (00) minutes zero (00) seconds East, one hundred ten (110.00) feet to a steel pin on the property line of Spruce Lane; thence by said street, South thirty-six (36) degrees zero (00) minutes zero (00) seconds East, one hundred ten (110.00) feet to a steel pin on the property line of Spruce Lane; thence by said street South thirty-six (36) degrees zero (00) minutes zero (00) seconds East, seventy-five (75.00) feet, the point and place of BEGINNING. (CONTAINING 8,250 square feet and being known as Lot No. 528 on a plan of lots of Oxford Estates, Tract II - Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, Page 66.)

IT BEING part of the same tract of land which Tina M. Wildasin, by deed dated February 8, 1999 and recorded on

February 24, 1999 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 1772, Page 60, granted and conveyed unto Tina M. Wildasin and Steven M. Miller, Sr.

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

Parcel No.: (35) 10-26

SEIZED and taken into execution as the property of **Tina M. Wildasin & Steven M. Miller, 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 March 24, 2003, 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.

1/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-993 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in Reading Township, Adams County, Pennsylvania, known as part of Lot No. 47 on a general plan or plat of a series of lots laid out by W. P. Stoner, which said plat is intended to be recorded, bounded and described as follows:

BEGINNING for a corner at Lot No. 48 and Big Conewago Creek; thence in a Westerly direction along said Lot No. 48 150 feet, more or less, to a 20 feet wide open alley; thence in a Northerly direction along said alley 25 feet, more or less, to a stake for a corner at property of George Wise which was formerly a part of this tract; thence in a Southeasterly direction along said Wise's land 150 feet, more or less, to the Big Conewago Creek aforesaid; thence in a Southerly direction along said creek 71 feet, more or less, to a stake for a corner, the place of BEGINNING.

BEING KNOWN AS 1306 Browns Dam Drive, New Oxford, PA 17350,

Property ID: K8-57

TITLE TO SAID PREMISES IS VESTED IN Dennis Ness and Anna Marie Ness, husband and wife as tenants by the entireties, by deed from Charlie Cockey Precision, a Maryland corporation, dated 05/27/99, recorded 06/04/99, in Deed Book 1845, Page 316.

SEIZED and taken into execution as the property of **Dennis Ness & Anne M. Ness a/k/a Anna Marie Ness** 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-955 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at an iron pin in the center of the State Highway running from York Springs to East Berlin, at corner of land now or formerly of Gilbert and land now or formerly of Guy Musselman; thence in said State Highway and running along lands now or formerly of Guy Musselman South thirty-seven and one-half (37-1/2) degrees East twenty-six and one-tenth (26.1) perches to a point in said State Highway; thence leaving State Highway and running by land now or formerly of Guy Musselman South fifty-five (55) degrees West twelve and twenty-five hundredths (12.25) perches to a post; thence by same South eighty-nine (89) degrees West three (3) perches to a post at corner of land now or formerly of Guy Musselman and land now or formerly of Gilbert; thence along said last mentioned land North five and one-half (5-1/2) degrees West twenty-eight (28) perches to an iron pin, the place of BEGINNING.

CONTAINING 1 acre and 41.7 perches.

THE ABOVE description of the tract of land hereby conveyed having been obtained from draft of survey thereof made on July 2, 1943, by LeRoy H. Winebrenner, Registered Surveyor.

Tax Map #K6 Parcel #16

BEING THE SAME PREMISES conveyed by Chance B. Amos and Kimberly J. Amos, Husband and Wife, to Ronald E. Strausbaugh and Nancy R. Strausbaugh, Husband and Wife, by Deed dated March 29, 2001, and recorded with the Adams County Recorder of Deeds on April 2, 2001, in Record Book Volume 2244, Page 290.

ALSO KNOWN as 903 Germany Road, East Berlin.

SEIZED and taken into execution as the property of **Ronald E. Strausbaugh & Nancy R. Strausbaugh** 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 March 10, 2003,

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.

1/10, 17 & 24

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that on the 18th day of December, 2002, the Petition of Christine Marie Amadure was filed in the Court of Common Pleas of Adams County, Pennsylvania, requesting Order to Change her Name from Christine Marie Amadure to Christine Marie Ameduri.

The Court has fixed the 4th day of February, 2003, at 9:00 a.m. in Courtroom 1, 2 or 3 of the Adams County Courthouse, Gettysburg, Pennsylvania, as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any, why the request of the Petitioner should not be granted.

Christine Marie Amadure
Petitioner

1/17

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 ESTELLA M. LAWRENCE
a/k/a ESTELLA H. LAWRENCE, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executors: Leonora E. McIntyre, 845 Irishtown Rd., New Oxford, PA 17350; Leo P. Lawrence, 76 Peanut Drive, Hanover, PA 17331

ESTATE OF THELMA G. RINEHART,
DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Delroy K. Rinehart, 3680 Castlebury Dr., Chester, VA 23831

ESTATE OF EDNA M. STEICH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Mrs. Joyce M. Hartlaub, 1005 Two Taverns Road, Gettysburg, PA 17325; Mr. John J. Steich, Jr., 2144 Sinsheim Road, Spring Grove, PA 17362

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

SECOND PUBLICATION

ESTATE OF GENEVIEVE C. OHM,
DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Larry E. Ohm, 3701 Coastal Highway, Apt. 206B, Ocean City, MD 21842

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

THIRD PUBLICATION

ESTATE OF THOMAS PATRICK
CAREY, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Administrator: Victor D. Carey

Attorney: Mark David Frankel, Esq., 14 West King Street, York, PA 17401

ESTATE OF ELAINE F. HOMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrices: Nancy H. Rick, 774 Third St., Herndon, VA 20170; Jean H. Pyzik, 2715 Coon Club Rd., Westminster, MD 21157

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

ESTATE OF AUDREY L. LUXON,
DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: Carter L. Luxon, 4520 Robin Avenue, Livingston, CA 95334

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-996 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an existing pipe located along the Southern side of SR0026, known as the Waynesboro Pike, at a corner of land now or formerly of Richard Wagaman; thence by land now or formerly of the said Richard Wagaman, South 18 degrees 38 minutes 30 seconds West 287.77 feet to an existing rebar; thence continuing by land now or formerly of Richard Wagaman and crossing a 22 ft. gravel drive, South 7 degrees 14 minutes 50 seconds West 173.77 feet to an existing rebar at land now or formerly of Robert Harbaugh; thence by land now or formerly of Robert Harbaugh; North 85 degrees 15 minutes 00 seconds West 237.37 feet to an existing steel rod; thence by the same, North 3 degrees 22 minutes 35 seconds West 22.90 feet to an existing rebar; thence by the same, North 23 degrees 00 minutes 35 seconds East 107.70 feet to a 36° ash tree at corner of land now or formerly of Charles Bowermaster; thence by land now or formerly of Charles Bowermaster, North 1 degree 52 minutes 00 seconds West 7.24 feet to an existing pipe; thence by the same, North 40 degrees 18 minutes 05 seconds East 84.65 feet to an existing pipe; thence by the same, North 65 degrees 57 minutes 35 seconds West 124.36 feet to a rebar set along the Eastern side of Cove Hollow Road; thence along Cove Hollow Road, North 42 degrees 44 minutes 20 seconds East 23.32 feet to a rebar set at corner of land now or formerly of Charles Bowermaster; thence by land now or formerly of Charles Bowermaster, South 65 degrees 57 minutes 35 seconds East 116.34 feet to an existing steel rod; thence by the same, North 23 degrees 14 minutes 25 seconds East 103.68 feet to a rebar set; thence by the same, North 47 degrees 24 minutes 05 seconds East 107.82 feet to an existing pipe; thence by the same, North 68 degrees 06 minutes 25 seconds West 96.02 feet to a rebar set at corner of land now or formerly of Earl Harbaugh; thence by land now or formerly of the said Earl Harbaugh, and crossing Miney Branch, North 23 degrees 14 minutes 45 seconds East 77.16 feet to a rebar set; thence along the Southern side of the Waynesboro

Pike, South 71 degrees 01 minute 35 seconds East 214.49 feet to an existing pipe at corner of land now or formerly of Richard Wagaman, the place of BEGINNING.

CONTAINING 2.289 Acres.

The foregoing description was obtained from a draft of survey made by Mark Alan Kuntz, Professional Land Surveyor, date May 22, 1991.

SUBJECT TO a right of way for the purpose of ingress, egress and regress as set forth in a deed from Charles P. Thalheim to Buddy Richard Wagaman and Elizabeth Jean Wagaman dated June 9, 1962 and recorded in Deed Book 239 at page 39.

BEING the same premises which David A. Krietz and Kathy T. Krietz, by Deed dated April 29, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on May 3, 1999, in Deed Book 1822, Page 90, granted and conveyed unto David Bruce Busch. At the time of David Bruce Busch's death, title vest solely in The Unknown Heirs of David Bruce Busch.

Grenen & Birsic, P.C.

By: /s/Kristine M. Anthou, Esq.

Attorneys for Plaintiff

One Gateway Center, Nine West

Pittsburgh, PA 15222

(412) 281-7650

Parcel No.: B17-90

SEIZED and taken into execution as the property of **The Unknown Heirs of David Bruce Busch** 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 March 24, 2003, 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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1/17, 24 & 31

Adams County Legal Journal

Vol. 44

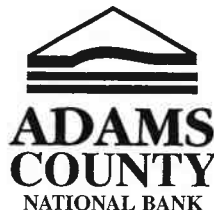
January 24, 2003

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



Member FDIC

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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to a rebar set; thence by the same, North 47 degrees 24 minutes 05 seconds East 107.82 feet to an existing pipe; thence by the same, North 68 degrees 06 minutes 25 seconds West 96.02 feet to a rebar set at corner of land now or formerly of Earl Harbaugh; thence by land now or formerly of the said Earl Harbaugh, and crossing Miney Branch, North 23 degrees 14 minutes 45 seconds East 77.16 feet to a rebar set; thence along the Southern side of the Waynesboro Pike, South 71 degrees 01 minute 35 seconds East 214.49 feet to an existing pipe at corner of land now or formerly of Richard Wagaman, the place of BEGINNING.

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Grenen & Birsic, P.C.

By: /s/Kristine M. Anthou, Esq.,
Attorneys for Plaintiff
One Gateway Center, Nine West
Pittsburgh, PA 15222
(412) 281-7650

Parcel No.: B17-90

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

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1/17, 24 & 31

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, February 4, 2003, at 9:00 o'clock a.m.

BUSINDA—Orphans' Court Action Number OC-71-02. The First and Final Account of Allfirst Trust Company of Pennsylvania, NA, Executor of the Estate of Anna Businda, deceased, late of Franklin Township, Adams County, Pennsylvania.

HANSON—Orphans' Court Action Number OC-147-02. The First and Final Account of PNC Bank, National Association, Executor of the Estate of Anne Keet Hanson, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

1/24 & 31

PENNDOT VS. BAUM

1. In determining whether a police officer has “reasonable grounds” to believe that the motorist was operating a vehicle while under the influence of alcohol, the only valid inquiry is whether, viewing facts and circumstances as they appeared at the time, whether a reasonable person in the position of the officer could have concluded that the motorist was operating a vehicle while under the influence of alcohol. A police officer may rely upon information received from a third party in reaching a conclusion as to whether reasonable grounds exist.

2. Once the Department of Transportation meets its burden of proving the elements (refusal to submit to a test), the burden falls upon the licensee to establish that the refusal was not knowingly or consciously made.

3.the self-serving testimony of the Appellant that he was incapable of providing a knowing and conscious refusal is not sufficient to meet his burden of proof. Although expert testimony is not a *per se* requirement, it is generally required in order to substantiate the testimony of the driver. Expert testimony will not be required, however, if the injuries were obviously severe and incapacitating.

4. Absent a showing of pre-judgment or bias, it should not be assumed that a trial court will not be able to provide a fair trial based solely on prior prosecutorial participation.

5. A party claiming that a judge should be disqualified must make sufficient allegations of bias, prejudice or unfairness necessitating recusal.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 01-S-799, PENNSYLVANIA DEPARTMENT OF
TRANSPORTATION VS. MAYNARD LEE BAUM.

George H. Kabusk, Esq., for PennDOT

Defendant - *pro se*

George, J., April 19, 2002

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

Maynard Lee Baum appeals from this Court’s decision upholding his operator’s license suspension imposed by the Pennsylvania Department of Transportation due to Mr. Baum’s refusal to submit to a blood test pursuant to *75 Pa. C.S.A. §1547*.¹ In response to this Court’s Order directing Mr. Baum to file a concise statement of matters complained of on appeal, he has filed a letterform document raising a variety of issues. A review of that document indicates that a number of those issues involve factual allegations which are not applicable to the current proceeding. For instance, in one paragraph,

¹Despite this Court’s Order of March 25, 2002, as of the date of this Opinion, the Appellant has not taken steps to obtain a transcript of the February 20, 2002, hearing. Accordingly, this Opinion is based upon my notes from that hearing.

the Appellant makes allegations about his “bail” and that he was “found guilty before I ever went to the preliminary hearing”. These matters are clearly outside the scope of the matter which was before the Court and, therefore, will not be addressed.²

Appellant’s statement also raises legal issues which are inapplicable to the civil matter currently under appeal. He claims, for instance, that his attorney did not properly represent him. Although such an issue may be cognizable in a criminal proceeding, *see, 42 Pa. C.S.A. §9541, et seq.*, your undersigned is unaware of any authority indicating that such a claim is viable in a civil proceeding where constitutional protections to counsel are not implicated. Thus, it will not be addressed.

A complete review of the remaining portions of Appellant’s statement leaves this reader with the impression that the Appellant attempts to raise three issues as follows:

- 1) whether this Court abused its discretion or committed error of law in affirming the suspension imposed by the Pennsylvania Department of Transportation;
- 2) whether the Trial Court improperly placed a burden of proof upon the Appellant; and
- 3) whether the Trial Court improperly admitted hearsay testimony.

I will address those issues separately below.

In order to sustain a license suspension for a refusal to submit to a chemical alcohol test, the Pennsylvania Department of Transportation must first prove that the licensee (1) was arrested for driving under the influence of alcohol, (2) was asked to submit to a chemical test, (3) refused to do so, and (4) was specifically warned that refusal would result in the revocation of the driver’s license. *Todd v. Commonwealth Dept. of Transportation, Bureau of Drivers Licensing, 723 A.2d 655 (Pa. 1999)*. In determining whether a police officer has “reasonable grounds” to believe that the motorist was operating a vehicle while under the influence of alcohol, the only valid inquiry is whether, viewing facts and circumstances as they appeared at the time, a reasonable person in the position of the officer

² Appellant’s statement also claims that “Judge Kuhn and Adams County Police also corrupt in my behalf”. A review of the record indicates that President Judge John Kuhn has had absolutely no involvement in the matter currently on appeal.

could have concluded that the motorist was operating a vehicle while under the influence of alcohol. *Incarvite v. Commonwealth Dept. of Transportation, Bureau of Drivers Licensing*, 732 A.2d 39 (Pa. Cmwlth. 1999). A police officer may rely upon information received from a third party in reaching a conclusion as to whether reasonable grounds exist. *Gasper v. Commonwealth Dept. of Transportation, Bureau of Drivers Licensing*, 674 A.2d 1200 (Pa. Cmwlth. 1996), appeal denied, 685 A.2d 546 (Pa. 1996).

In the Order upholding Appellant's license suspension, this Court made findings of fact which I incorporate herein. Although those findings will not be repeated in their entirety, a fair summary of the findings establishes that I determined that the Department of Transportation carried their burden in proving 1) that the Appellant was placed under arrest by Troopers from the Pennsylvania State Police; 2) that Tpr. Robert Gebhart requested the Appellant to submit to a blood test on several occasions both at the scene of the accident and at Gettysburg Hospital; 3) that the Appellant refused to submit to such a test; and 4) that the Trooper specifically advised the Appellant that his refusal would result in revocation of his driver's license. Moreover, a review of the hearing transcript reveals that each of these findings is supported by the record. Accordingly, the testimony was sufficient to support affirmation of the license suspension.

Appellant's second issue implicates the crux of his defense at the license suspension appeal hearing. At hearing, the Appellant attempted to establish that his refusal was not knowing or conscious. Through cross-examination of PennDOT witnesses and through his own testimony, he attempted to establish that he had received injuries in an accident which precluded him from making a knowing refusal to submit to blood alcohol tests.³ Appellant now claims that this Court erred in placing the burden for establishing this issue upon him.

Once the Department of Transportation meets its burden of proving the elements set forth above, the burden falls upon the licensee to establish that the refusal was not knowingly or consciously made. *Todd v. Commonwealth Dept. of Transportation, Bureau of Drivers*

³ Appellant's argument at hearing was essentially that he didn't refuse the blood alcohol test, however, if he did, his injuries precluded him from making a conscious refusal.

Licensing, supra. Moreover, the self-serving testimony of the Appellant that he was incapable of providing a knowing and conscious refusal is not sufficient to meet his burden of proof. *Ostermeyer v. Commonwealth Dept. of Transportation*, 703 A.2d 1075 (Pa. Cmwlth. 1997). Although expert testimony is not a *per se* requirement, it is generally required in order to substantiate the testimony of the driver. *Bureau of Drivers Licensing v. Garland*, 550 A.2d 873 (Pa. Cmwlth. 1988), appeal denied, 563 A.2d 499 (Pa. 1989). Expert testimony will not be required, however, if the injuries were obviously severe and incapacitating.

Appellant's testimony at the hearing is similar to the testimony provided by the driver in *Ostermeyer*, supra, which was rejected as insufficient by the Commonwealth Court. Moreover, there are indications throughout the record that the Appellant was not incapacitated but rather was physically and mentally capable of fleeing the scene. Thus, I did not conclude that the Appellant's alleged injuries were obviously severe or incapacitating. To the contrary, the Appellant's testimony lacked objective corroboration, was self-serving and was insufficient to carry his burden.

Finally, Appellant implies that the Court relied upon inadmissible hearsay evidence in reaching its decision. Apparently, the Appellant is referring to the findings of fact by this Court when he indicates "[t]he document I have received states only what police state, which is hearsay". *Defendant's Statement filed April 8, 2002*. Unfortunately for Appellant, the record does not support his claims. A review of the transcript indicates that the Pennsylvania Department of Transportation called two state troopers as witnesses. Both witnesses testified under oath and were subject to cross-examination by Appellant's counsel. The Court allowed the troopers to testify in regard to information received from third parties only in regard to establishing the reasonableness of their belief that the Appellant was operating a motor vehicle while under the influence of alcohol, *see, Gasper v. Commonwealth Dept. of Transportation, Bureau of Drivers Licensing*, supra. However, all other testimony was properly related to their personal observations. As such, there is no basis to Appellant's complaint.

Although the Appellant does not raise recusal of this Judge as a basis for error, he does request "the Courts to remove Michael A.

George; Judge from this case entirely...”. *Defendant’s Statement filed April 8, 2002*. Accordingly, I will address this issue.

Prior to the hearing in this matter, I conferred with counsel and indicated that I was aware that criminal charges were pending against the Appellant as a result of his alleged driving under the influence of alcohol. Although at the time of the hearing I was unaware as to whether the license suspension arose from the same incident, I assumed that it had. Accordingly, I advised counsel that at the time in question I was District Attorney of Adams County. I further indicated that I had no difficulty in being fair, however, if counsel would request that I recuse myself, I would grant that motion. At that time, counsel indicated that they did not have any concern about me remaining as Judge. Out of an abundance of caution, a colloquy was conducted with the Appellant. Once again he was advised as to my status as District Attorney at the time of the incident. He also indicated that he had no problem with me conducting the hearing.

Although it was indicated that I would grant a motion to recuse, I did so out of an abundance of caution. I have never spoken with any of the witnesses, including the troopers, about the incident in question nor have I ever reviewed the investigative report. The only knowledge which I have about the criminal case is the information contained in the criminal complaint, in the Criminal Information and on Court-scheduling documents, all of which are public record.

Absent a showing of pre-judgment or bias, it should not be assumed that a trial court will not be able to provide a fair trial based solely on prior prosecutorial participation. *Commonwealth v. Darush*, 459 A.2d 727 (1983). Under Pennsylvania law, it is presumed that a trial judge is capable of recognizing whether he can hear and dispose of a case fairly. *Reilly by Reilly v. Southeastern Pa. Dept. of Transportation*, 489 A.2d 1291 (1985). A party claiming that a judge should be disqualified must make sufficient allegations of bias, prejudice or unfairness necessitating recusal. *Id.* A trial judge’s decision to hear and dispose of a case should not be disturbed on review absent an abuse of discretion. *Commonwealth v. O’Shea*, 567 A.2d 1023 (Pa. 1989).

Instantly, the matter before this Judge was a civil action concerning the viability of a license suspension by the Department of Transportation. It is clear that while District Attorney, your

undersigned was not involved in any respects in this matter. There is no indication anywhere in the record that indicated any bias against the Appellant or that the case had been pre-judged. Full disclosure of my service as duly elected District Attorney was provided to the Appellant. Additionally, he was given an unqualified opportunity to ask for this Judge's removal. Perhaps recognizing that there was no bias, he chose not to do so. A subsequent decision adverse to his wishes does not change this fact.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1114 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, situate, lying and being in Oxford Township, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a point on the property line of Elm Lane at corner of Lot No. 62 on the draft of survey hereinafter referred to; thence along the property line of Elm Lane by a curve to the right, the radius of which is nine hundred fifty (950) feet, an arc length of thirty-five and forty-eight hundredths (35.48) feet, having a long chord bearing and distance of South twenty-four (24) degrees fifty (50) minutes thirty-one (31) seconds East, crossing over a twenty (20) foot Sun Oil Line right-of-way, thirty-five and forty-eight (35.48) feet to a point on the property line of Elm Lane; thence by same, by a curve to the left, the radius of which is three hundred ninety (390) feet, an arc length of fifty-three and sixty-seven hundredths (53.67) feet and having a long chord bearing and distance of South twenty-seven (27) degrees twenty-six (26) minutes fifty-one (51) seconds East fifty-one (51) East, fifty-three and sixty-three hundredths (53.63) feet to a point on the property line of Elm Lane at corner of Lot No. 64; thence along Lot No. 64, South fifty-eight (58) degrees fifty (50) minutes fifty-three (53) seconds West, one hundred seventeen and ninety-eight hundredths (117.98) feet to a point on the rearline of Lot No. 11; thence along a portion of Lots Nos. 11 and 10, North thirty-six (36) degrees zero (00) minutes zero (00) seconds West, eighty-nine and eight hundredths (89.08) feet to a point on the rearline of Lot No. 10 where it intersects with the corner of Lot No. 62; thence along Lot No. 62, North fifty-eight (58) degrees fifty (50) minutes twenty-six (26) seconds East, recrossing the twenty (20) foot Sun Oil Line right-of-way, one hundred thirty-two and eighty-seven hundredths (132.87) feet to a point the place of BEGINNING, Commonly known as 6 Elm Street.

BEING the same premises which Monica C. Stuller, by Deed dated the 20th day of February, 1997, and recorded at Adams County in the Office of the Recorder of Deeds, in and for the County of Adams, on the 1st day of April, 1997,

in Record Book 1349, Page 249, granted and conveyed unto Robert H. Ritchey, Jr. and Monica C. Stuller.

Tax ID No.: Dist:35 Map:9 Parcel:30
Premises being: 6 Elm Lane, New Oxford, PA 17350

SEIZED and taken into execution as the property of Robert H. Ritchey, Jr. & Monica T. Barret a/k/a Monica T. Stuller 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-915 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING two (2) tracts of land, together with the improvements thereon erected, situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

TRACT NO. 1:

BEGINNING at a point at low water mark on the Conewago Creek at Lot No. 2; thence along Lot No. 2 one hundred five (105) feet, more or less, to a point at a ten (10) feet wide driveway; thence along said driveway, forty-eight (48) feet, more or less, to a point at Lot No. 4; thence along Lot No. 4, one hundred five (105) feet to a point in said Conewago Creek; thence in the Conewago Creek forty-eight (48) feet to the place of BEGINNING.

TRACT NO. 2:

BEGINNING at a point in a road leading Northwestwardly to the East Berlin-Dillsburg Road, at lands now or formerly of Charles Koel and Earnest Schmidt;

thence in a Northeastwardly direction along lands now or formerly of Earnest Schmidt, one hundred fifty (150) feet to a point at lands now or formerly of Charles J. Hoffman and Edward A. Hoffman, Co-Partners, T/A Hoffman Brothers; thence in a Northwestwardly direction forty-eight (48) feet to a point at lands now or formerly of Mabel Rider; thence along the same in a Southwestwardly direction one hundred fifty (150) feet to a point in the aforementioned road; thence along the same in a Southeastwardly direction forty-eight (48) feet to a point; the place of BEGINNING.

HAVING erected thereon a dwelling known as 179 Conewago Park Drive, East Berlin, PA.

BEING known and designated as Tax ID # (36) Map L07 Parcel 44.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Wayne Slothour, Deed from Mary A. Anthony, Unmarried, Deed dated October 2, 1996, recorded October 13, 1996, in Deed Book 1274, Page 42.

SEIZED and taken into execution as the property of Wayne E. Slothour 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-975 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two (2) tracts of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point for a corner in the State Highway marked by an iron pin set back along the line; thence running in said highway, North 3-1/2 degrees East 81 feet to a point in the center of said highway; thence running by land now or formerly of Clair Tate, South 85 degrees East 123 feet to an iron pipe; thence running by land now or formerly of Glenn E. Millhimes, South 17 degrees West 95 feet to an iron pin; thence running by land of formerly the same, North 75-1/4 degrees West 115 feet to a point in the aforesaid State Highway, the place of BEGINNING. CONTAINING 38 perches and 59 square feet.

TRACT NO. 2:

BEGINNING at a point in the East side of a State Highway leading from Gettysburg to Hunterstown; thence along line of land now or formerly of Arl Andrews, South 75 degrees 15 minutes East 115.0 feet to a stake at corner of land now or formerly of Arl Andrews; thence through land now or formerly of Glenn E. Millhimes, Sr., South 17 degrees West, 67.9 feet to a post; thence through same along the North side of a 19.0 foot lane, North 70 degrees West, 109.0 feet to a point on the East side of the above-mentioned State Highway; thence along and in the above State Highway, North 3 degrees 30 minutes East, 61.0 feet to the place of BEGINNING. CONTAINING 26 perches.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Jeffrey G. Millhimes, Deed from Jeffrey G. Millhimes, also known as Jeffrey Grant Millhimes, Single and Jean M. Millhimes, also known as Jean Marie Millhimes, Single, Deed dated July 7, 1994, recorded July 7, 1994, in Deed Book C09, Page 178.

Map #: 38-22-68

BEING KNOWN AS: 2035 Hunterstown Road, Gettysburg, PA 17325.

SEIZED and taken into execution as the property of **Jeffrey Millhimes a/k/a Jeffrey Grant Millhimes** 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 March 24, 2003, 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.

1/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-747 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the property line of Spruce Lane, a fifty (50) foot street, at corner of Lot No. 527 on the hereinafter referred plan of lots; thence by said lot, South fifty-four (54) degrees zero (00) minutes zero (00) seconds West, one hundred ten (110.00) feet to a steel pin at other lands of Oxford Estates; thence by said land, North thirty-six (36) degrees zero (00) minutes zero (00) seconds West, seventy-five (75.00) feet to a steel pin at Lot No. 529; thence by said lot, North fifty-four (54) degrees zero (00) minutes zero (00) seconds East, one hundred ten (110.00) feet to a steel pin on the property line of Spruce Lane; thence by said street, South thirty-six (36) degrees zero (00) minutes zero (00) seconds East, one hundred ten (110.00) feet to a steel pin on the property line of Spruce Lane; thence by said street South thirty-six (36) degrees zero (00) minutes zero (00) seconds East, seventy-five (75.00) feet, the point and place of BEGINNING. (CONTAINING 8,250 square feet and being known as Lot No. 528 on a plan of lots of Oxford Estates, Tract II - Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, Page 66.)

IT BEING part of the same tract of land which Tina M. Wildasin, by deed dated February 8, 1999 and recorded on

February 24, 1999 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 1772, Page 60, granted and conveyed unto Tina M. Wildasin and Steven M. Miller, Sr.

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

Parcel No.: (35) 10-26

SEIZED and taken into execution as the property of **Tina M. Wildasin & Steven M. Miller, 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 March 24, 2003, 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.

1/17, 24 & 31

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982 - 295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately February 2002, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of MYERS LEGACY BUILDERS, with its principal place of business at 24 Longstreet Dr., P.O. Box 24, East Berlin, PA 17316. The names and addresses of the persons owning or interested in said business are (sole proprietor) Scott G. Myers & Lisa A. Myers, residing at 24 Longstreet Dr., East Berlin, PA 17316. The character or nature of the business is Residential & Light Commercial construction contracting.

1/24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-993 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in Reading Township, Adams County, Pennsylvania, known as part of Lot No. 47 on a general plan or plat of a series of lots laid out by W. P. Stoner, which said plat is intended to be recorded, bounded and described as follows:

BEGINNING for a corner at Lot No. 48 and Big Conewago Creek; thence in a Westerly direction along said Lot No. 48 150 feet, more or less, to a 20 feet wide open alley; thence in a Northerly direction along said alley 25 feet, more or less, to a stake for a corner at property of George Wise which was formerly a part of this tract; thence in a Southeasterly direction along said Wise's land 150 feet, more or less, to the Big Conewago Creek aforesaid; thence in a Southerly direction along said creek 71 feet, more or less, to a stake for a corner, the place of BEGINNING.

BEING KNOWN AS 1306 Browns Dam Drive, New Oxford, PA 17350.

Property ID: K8-57

TITLE TO SAID PREMISES IS VESTED IN Dennis Ness and Anna Marie Ness, husband and wife as tenants by the entireties, by deed from Charlie Cockey Precision, a Maryland corporation, dated 05/27/99, recorded 06/04/99, in Deed Book 1845, Page 316.

SEIZED and taken into execution as the property of **Dennis Ness & Anne M. Ness a/k/a Anna Marie Ness** 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 March 10, 2003, 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.

1/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-955 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Reading Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at an iron pin in the center of the State Highway running from York Springs to East Berlin, at corner of land now or formerly of Gilbert and land now or formerly of Guy Musselman; thence in said State Highway and running along lands now or formerly of Guy Musselman South thirty-seven and one-half (37-1/2) degrees East twenty-six and one-tenth (26.1) perches to a point in said State Highway; thence leaving State Highway and running by land now or formerly of Guy Musselman South fifty-five (55) degrees West twelve and twenty-five hundredths (12.25) perches to a post; thence by same South eighty-nine (89) degrees West three (3) perches to a post at corner of land now or formerly of Guy Musselman and land now or formerly of Gilbert; thence along said last mentioned land North five and one-half (5-1/2) degrees West twenty-eight (28) perches to an iron pin, the place of BEGINNING.

CONTAINING 1 acre and 41.7 perches.

THE ABOVE description of the tract of land hereby conveyed having been obtained from draft of survey thereof made on July 2, 1943, by LeRoy H. Winebrenner, Registered Surveyor.

Tax Map #K6 Parcel #16

BEING THE SAME PREMISES conveyed by Chance B. Amos and Kimberly J. Amos, Husband and Wife, to Ronald E. Strausbaugh and Nancy R. Strausbaugh, Husband and Wife, by Deed dated March 29, 2001, and recorded with the Adams County Recorder of Deeds on April 2, 2001, in Record Book Volume 2244, Page 290.

ALSO KNOWN as 903 Germany Road, East Berlin.

SEIZED and taken into execution as the property of **Ronald E. Strausbaugh & Nancy R. Strausbaugh** 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 March 10, 2003,

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.

1/10, 17 & 24

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF
PENNSYLVANIA
NO. 4:CV 02-1288
Judge Muir
Complaint Filed 7/25/02

UNITED STATES OF AMERICA, Plaintiff
vs.

ROSE M. WARNER, Defendant

NOTICE

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

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

LEGAL AID - LEGAL SERVICES
Mid-Penn Legal Services, Inc.
3540 North Progress Ave., Ste. 102
Harrisburg, PA 17110
Phone: (717) 232-0581

1/24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-931 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING described two (2) tracts of land, situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

TRACT NO. 1:

BEGINNING at a stake for a corner at Lot #12 and a 20-foot wide driveway; thence by said driveway, North fifteen (15) degrees, thirty (30) minutes East, fifty (50) feet to a stake at Lot #14; thence by Lot #14 South seventy-four (74) degrees, thirty (30) minutes East, two hundred sixty-three and one-tenth (263.1) feet through a stake set back 20 feet from the bank at low water, to a point in the Conewago Creek; thence by said Conewago Creek, South twenty (20) degrees, forty-five (45) minutes West, fifty and two-tenths (50.2) feet to a point in said Creek at Lot #12; thence by Lot #12, North seventy-four (74) degrees, thirty (30) minutes West, through a stake set back 20 feet from the bank at low water, two hundred fifty-eight and six-tenths (258.6) feet to a stake and place of BEGINNING.

BEING known as Lot No. 13, Block No. 1 on the Plan of Lots as surveyed August 27, 1955, by George M. Wildasin for Harry A. and Gertie R. Lauchman.

TRACT NO. 2:

BEGINNING for a point on the Eastern side of a twenty (20) feet wide private road at Lot No. 13; thence along and with said Eastern side of said private road North fifteen (15) degrees, thirty (30) minutes East, fifty (50) feet to a point at lands now or formerly of Robert F. Smith and Emma E. Smith, his wife; thence along said last mentioned lands South seventy-four (74) degrees, thirty (30) minutes East, two hundred forty-nine (249) feet to a pin fifteen (15) feet from the bank of the Conewago Creek at low water mark; thence along and with said Conewago Creek South twenty-two (22) degrees fifteen (15) minutes West, fifty and three-tenths (50.3) feet to a point at Lot No. 13; thence along and with said Lot No. 13 other lands now or formerly of Cyril J. Hockensmith and Thelma A. Hockensmith North seventy-four (74) degrees, thirty (30) minutes West, two hundred forty-three and one-tenth (243.1) feet to the point and place of BEGINNING.

CONTAINING 0.282 acres and known as Lot No. 14 on a plot or plan of lots laid

out by George M. Wildasin, Professional Engineer, bearing the date of June 21, 1977.

TITLE TO SAID PREMISES IS VESTED IN Jeffrey L. Jones and Sherry L. Jones, husband and wife by Deed from Cyril J. Hockensmith, Jr. and Gary L. Hockensmith, Personal Representatives of the Estate of Cyril J. Hockensmith, Sr., a/k/a, Cyril J. Hockensmith dated 6/29/1995 and recorded 7/11/1995, in Record Book 1053, Page 17.

Premises being: 280 Conewago Drive, East Berlin, PA 17316

Tax Parcel No. L8-29

SEIZED and taken into execution as the property of **Jeffrey L. Jones & Sherry L. Jones a/k/a Sherry L. Keagy** 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 March 24, 2003, 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.

1/24, 31 & 2/7

IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA CIVIL ACTION—LAW NO. 02-S-1335

IN RE: Daniel Robert Sisson to be known as: Daniel Robert Siglock

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that on December 27, 2002, the Petition of Marlene E. Siglock was filed in the above-named Court, requesting an Order to change the name of Daniel Robert Sisson to Daniel Robert Siglock.

The Court has fixed the day of April 8, 2003, at 9:00 o'clock A.M., in a Courtroom to be designated of the Adams County Courthouse, Gettysburg, Pennsylvania as the time and place for the hearing on said Petition, when and where all interested parties may appear and show cause, if any, why the request of the Petitioner should not be granted.

By the Court: /s/Michael A. George

1/24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1027 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Mt. Joy Township, Adams County, Pennsylvania, being more particularly described as Lot No. 936 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 778, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the rights and subject to the restrictions, conditions, and agreements as contained in Adams County Deed Book 295 at Page 199.

BEING KNOWN as 936 Johnson Drive, Gettysburg, PA 17325

Property ID No.: 9-65

TITLE TO SAID PREMISES IS VESTED IN Georgia A. Solt, by Deed from James H. Gosnell and Dorothy F. Gosnell, husband and wife, recorded 8/31/99, dated 8/27/99, in Deed Book 1905, Page 202.

SEIZED and taken into execution as the property of **Georgia A. Solt a/k/a Georgia A. Rothenhoefer** 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 March 24, 2003, 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.

1/17, 24 & 31

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 DALE E. DEARDORFF, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Robert G. Teeter, 108 West Middle Street, Gettysburg, PA 17325

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

ESTATE OF MARY M. HERR, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Grace Rider, 237 York St., Gettysburg, PA 17325; Terry E. Leach, 2215 Old Harrisburg Rd., Gettysburg, PA 17325

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

ESTATE OF ANN TYSON KUHN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Joanne K. Donato, 1959 Tripp Road, Woodstock, GA 30018; Donald T. Hoff, 5840 Chambers Hill Road, Swatara, PA 17111-3305

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

ESTATE OF SHAWN D. SMILEY, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administrator: David L. Smiley, 150 Tree Lane Road, Aspers, PA 17304

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

ESTATE OF EDNA M. WEIMER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Janice M. Keller, 535 Knoxlyn-Orrtanna Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF ESTELLA M. LAWRENCE a/k/a ESTELLA H. LAWRENCE, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executors: Leonora E. McIntyre, 845 Irishtown Rd., New Oxford, PA 17350; Leo P. Lawrence, 76 Peanut Drive, Hanover, PA 17331

ESTATE OF THELMA G. RINEHART, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Delroy K. Rinehart, 3680 Castlebury Dr., Chester, VA 23831

ESTATE OF EDNA M. STEICH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Mrs. Joyce M. Hartlaub, 1005 Two Taverns Road, Gettysburg, PA 17325; Mr. John J. Steich, Jr., 2144 Sinsheim Road, Spring Grove, PA 17362

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

THIRD PUBLICATION

ESTATE OF GENEVIEVE C. OHM, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: Larry E. Ohm, 3701 Coastal Highway, Apt. 206B, Ocean City, MD 21842

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1152 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

TRACT NO. 1:

BEGINNING at a nail in the center line of Franklin Church Road (LR No. 01008), which is 2,790 feet, more or less, to intersection of Franklin Church Road and Bermudian Creek Road; thence, South 20 degrees 30 minutes East, 28.65 feet to a nail in the center line of Franklin Church Road (LR No. 01008); thence along land now or formerly of A.C. Criswell, North 80 degrees 15 minutes West, for a distance of 1,135.37 feet to an iron pin; thence, North 25 degrees 26 minutes 48 seconds East, 106.30 feet to an iron pin; thence along land now or formerly of Harry Hockenberry, South 80 degrees 15 minutes East, 782 feet to a concrete monument on the corner of Hockenberry land and land now or formerly of William J. Grimm; thence along land of William J. Grimm, South 09 degrees 45 minutes West, 129.57 feet to an iron pin; thence along land of William J. Grimm, South 80 degrees 15 minutes East, 295.57 feet to a nail in the center line of Franklin Church Road (LR No. 01008) and the place of BEGINNING.

CONTAINING 3.79 acres of land.

TAKEN from a survey by Stanley Jarmolenko and Mark Burleson, Registered Surveyors, dated April 30, 1977.

TRACT NO. 2:

BEGINNING at a point in the center of the Braggtown-East Berlin State Highway at lands now or formerly of Myrl I. and M. James Hockenberry; thence by said Hockenberry land, North 80 degrees 15 minutes West, through an iron pin set back 20 feet from the center of said road, 220 feet to a concrete monument at land now or formerly of Sadie M. Criswell; thence by said Criswell land, South 9 degrees 45 minutes West, 129.57 feet to a concrete monument; thence by same, South 80 degrees 15 minutes East, 295.57 feet through a concrete monument set back 25 feet from the center of the aforesaid road, to a point in the center of said road; thence by the center of said road, North 20 degrees 30 minutes West, 150 feet to the point and place of BEGINNING.

THE above description being taken from a draft of survey made September 4, 1956, by John C. Brillhart, R.S., for the use of William J. Grimm and Dolores L. Grimm.

TITLE TO SAID PREMISES IS VESTED IN Victor M. Tsatiris and Kathi Ann Tsatiris, husband and wife by Deed from Keith M. Grimm, single and Mary M. Grimm, single dated 6/24/1996 and recorded 6/25/1996 in Record Book 1216 Page 172.

Premises being: 1611 Braggtown Road, East Berlin, PA 17316

Tax Parcel No. K4-11

SEIZED and taken into execution as the property of **Victor Tsatiris a/k/a Victor M. Tsatiris & Kathi A. Tsatiris a/k/a Kathi Ann Tsatiris** 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 March 24, 2003, 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.

1/24, 31 & 2/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1133 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT lot of ground situate on the South side of Main Street in the Borough of McSherrystown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a steel pin along the edge of the sidewalk along the Southern side of Main Street at corner of land now or formerly of St. Paul's Evangelical Lutheran Church; thence along the edge of said sidewalk, South 63 degrees West, 45 feet to a point at land now or formerly of Patricia L. Orndorff; thence by said land now or formerly of Patricia L. Orndorff, South 28 degrees 9 minutes

30 seconds East, 172.4 feet to a point along a public alley; thence by said public alley, North 63 degrees East, 43 feet to a steel pin at land now or formerly of St. Paul's Evangelical Lutheran Church; thence by said land now or formerly of St. Paul's Evangelical Lutheran Church, North 27 degrees 29 minutes 30 seconds West, 172.37 feet to a steel pin, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Helen M. Pheabus, married woman by Deed from James A. Lawrence and Rebecca A. Lawrence, husband and wife, dated 3/5/2001 and recorded 3/9/2001 in Record Book 2227, Page 329.

Premises being: 404 & 406 Main Street, McSherrystown, PA 17344

Tax Parcel No. 005-0241-000

SEIZED and taken into execution as the property of **Helen Pheabus a/k/a Helen M. Pheabus** 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 March 24, 2003, 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.

1/24, 31 & 2/7

Adams County Legal Journal

Vol. 44

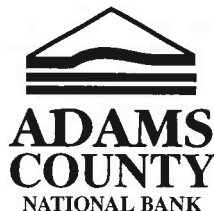
January 31, 2003

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DIVEGLIA VS. SMITH

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ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-996 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Liberty Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an existing pipe located along the Southern side of SR0026, known as the Waynesboro Pike, at a corner of land now or formerly of Richard Wagaman; thence by land now or formerly of the said Richard Wagaman, South 18 degrees 38 minutes 30 seconds West 287.77 feet to an existing rebar; thence continuing by land now or formerly of Richard Wagaman and crossing a 22 ft. gravel drive, South 7 degrees 14 minutes 50 seconds West 173.77 feet to an existing rebar at land now or formerly of Robert Harbaugh; thence by land now or formerly of Robert Harbaugh; North 85 degrees 15 minutes 00 seconds West 237.37 feet to an existing steel rod; thence by the same, North 3 degrees 22 minutes 35 seconds West 22.90 feet to an existing rebar; thence by the same, North 23 degrees 00 minutes 35 seconds East 107.70 feet to a 36° ash tree at corner of land now or formerly of Charles Bowermaster; thence by land now or formerly of Charles Bowermaster, North 1 degree 52 minutes 00 seconds West 7.24 feet to an existing pipe; thence by the same, North 40 degrees 18 minutes 05 seconds East 84.65 feet to an existing pipe; thence by the same, North 65 degrees 57 minutes 35 seconds West 124.36 feet to a rebar set along the Eastern side of Cove Hollow Road; thence along Cove Hollow Road, North 42 degrees 44 minutes 20 seconds East 23.32 feet to a rebar set at corner of land now or formerly of Charles Bowermaster; thence by land now or formerly of Charles Bowermaster, South 65 degrees 57 minutes 35 seconds East 116.34 feet to an existing steel rod; thence by the same, North 23 degrees 14 minutes 25 seconds East 103.68 feet

to a rebar set; thence by the same, North 47 degrees 24 minutes 05 seconds East 107.82 feet to an existing pipe; thence by the same, North 68 degrees 06 minutes 25 seconds West 96.02 feet to a rebar set at corner of land now or formerly of Earl Harbaugh; thence by land now or formerly of the said Earl Harbaugh, and crossing Miney Branch, North 23 degrees 14 minutes 45 seconds East 77.16 feet to a rebar set; thence along the Southern side of the Waynesboro Pike, South 71 degrees 01 minute 35 seconds East 214.49 feet to an existing pipe at corner of land now or formerly of Richard Wagaman, the place of BEGINNING.

CONTAINING 2.289 Acres.

The foregoing description was obtained from a draft of survey made by Mark Alan Kuntz, Professional Land Surveyor, date May 22, 1991.

SUBJECT TO a right of way for the purpose of ingress, egress and regress as set forth in a deed from Charles P. Thalheim to Buddy Richard Wagaman and Elizabeth Jean Wagaman dated June 9, 1962 and recorded in Deed Book 239 at page 39.

BEING the same premises which David A. Krietz and Kathy T. Krietz, by Deed dated April 29, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on May 3, 1999, in Deed Book 1822, Page 90, granted and conveyed unto David Bruce Busch. At the time of David Bruce Busch's death, title vest solely in The Unknown Heirs of David Bruce Busch.

Grenen & Birsic, P.C.

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

Parcel No.: B17-90

SEIZED and taken into execution as the property of **The Unknown Heirs of David Bruce Busch** 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 March 24, 2003,

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.

1/17, 24 & 31

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, February 4, 2003, at 9:00 o'clock a.m.

BUSINDA—Orphans' Court Action Number OC-71-02. The First and Final Account of Allfirst Trust Company of Pennsylvania, NA, Executor of the Estate of Anna Businda, deceased, late of Franklin Township, Adams County, Pennsylvania.

HANSON—Orphans' Court Action Number OC-147-02. The First and Final Account of PNC Bank, National Association, Executor of the Estate of Anne Keet Hanson, deceased, late of the Borough of Gettysburg, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

1/24 & 31

DIVEGLIA VS. SMITH

1. Injunctive relief is appropriate to restrain interference with one's use of an easement. However, a party seeking to enjoin an invasion of his or her right in real property must demonstrate that he or she has a clear right to the property in question.
2.in litigation concerning interference with the use of a right-of-way, it is only necessary to sue the party causing the obstruction or interference.
3.the owner of the servient estate is not an indispensable party to the proceedings absent a showing of some dispute between the landowner and the party seeking injunctive relief.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 01-S-1344, ARCHIE V. DIVEGLIA AND CYNTHIA A. DIVEGLIA VS. CLARK J. SMITH AND KATHARINE J. SMITH.

Archie V. Diveglia Kaylor, Esq., for Plaintiffs

Thomas E. Miller, Esq., for Defendants

George, J., April 24, 2002

OPINION

Archie V. Diveglia and Cynthia A. Diveglia (hereinafter referred to collectively as Diveglia) filed a complaint in equity with the Adams County Court of Common Pleas on December 21, 2001, seeking to enjoin Clark J. Smith and Katharine J. Smith (hereinafter referred to collectively as Smith) from interfering with their use and enjoyment of a right-of-way providing ingress and egress to the rear of their property located at 2 Lincolnway West, New Oxford, Adams County, Pennsylvania. They further request this Court to prohibit Smith from using that right-of-way. Diveglia alleges that Smith has interfered with their use and enjoyment of the right-of-way by placing obstructions at its narrowest point despite having neither a legal interest in the right-of-way nor legal title to the property upon which the right-of-way operates. Diveglia has not joined any property owners whose property abuts the right-of-way nor has identified or joined as a defendant the owners of the servient tenement.

On January 16, 2002, Smith filed preliminary objections alleging non-joinder of indispensable parties. Smith's Preliminary Objections equate Diveglia's complaint for an injunction with an action to quiet title. They argue, therefore, that all adjacent and abutting property owners must be joined as indispensable parties. Diveglia has filed a responsive pleading indicating that the abutting and adjacent property owners are not obstructing or interfering with their right to use the right-of-way and thus are not affected by this litigation.

Failure to include an indispensable party in litigation goes to the Court's subject matter jurisdiction. *Nelson by Nelson v. Dibble*, 353 Pa. Super. 537, 510 A.2d 792 (1986). It is impossible for a Court in Equity to grant relief where all dispensable parties to a litigation have not been joined. *Guthrie Clinic, Ltd. v. Meyer*, 162 Pa. Cmwith. 152, 638 A.2d 400 (1994). A party is indispensable when its rights are so connected with the litigation that a final Order cannot be entered without affecting its rights. *Sprague v. Casey*, 550 A.2d 184 (Pa. 1988). The Pennsylvania Supreme Court sets forth the test as follows:

- 1) Do absent parties have a right or interest related to the claim?
- 2) If so, what is the nature of that right or interest?
- 3) Is that right or interest essential to the merits of the issue?
- 4) Can justice be afforded without violating the due process rights of absent parties?

Mechanicsburg Area School District v. Kline, 431 A.2d 953 (Pa. 1981).

In analyzing the various considerations set forth by the Supreme Court, it is necessary to understand the nature of Diveglia's cause of action. As mentioned, Diveglia seeks to enjoin Smith's interference and obstruction of their use of a right-of-way. Additionally, they seek to enjoin Smith from all use of the right-of-way.

An injunction is an extraordinary remedy which should be granted only with great caution. *School District of City of Pittsburgh v. Zebra*, 325 A.2d 330 (1974). Injunctive relief is appropriate to restrain interference with one's use of an easement. *See, generally, Franklin Land Co. v. Fox Chapel*, 379 A.2d 1356 (1977); *Cannon Brothers, Inc. v. D'Agostino*, 514 A.2d 614 (1986). However, a party seeking to enjoin an invasion of his or her right in real property must demonstrate that he or she has a clear right to the property in question. *Cannon Brothers, Inc. v. D'Agostino*, supra, A.2d at 617.

Diveglia initially requests that Smith be enjoined from interfering with their exercise of the use and enjoyment of a right-of-way granted by deed dated July 27, 2001. This particular request for relief is not aimed at affecting the rights of others to use of the property but rather is narrowly targeted at precluding Smith from interfering with

Diveglia's right or interest in the property. Ultimately, if Diveglia is successful in obtaining this relief, it will not affect the relationship of neighboring property owners in regard to their rights, if any, to the right-of-way in question. Therefore, the due process rights of the abutting property owners are not implicated.

It is important to note that Diveglia is not attempting to establish an easement on a servient tenement. They have attached a title history to their complaint which demonstrates a clear right to the use of the right-of-way in question. Thus, there is no indication in the pleadings of a dispute with the owner of the servient tenement. Accordingly, the issue centers on defining indispensable parties in an action alleging interference with the use of an easement by third parties who allegedly do not have a property interest in the servient tenement.

Although my research has failed to disclose a Pennsylvania case directly on point, jurisdictions in other states have held that in litigation concerning interference with the use of a right-of-way, it is only necessary to sue the party causing the obstruction or interference. *See, Frye v. Shuman*, 806 SW 2d 157, (Mo App 1991) (owners of real estate were not indispensable parties where the record was devoid of evidence that they had any interest in depriving Plaintiffs' use of a road); *Schwertner v. Jones*, 456 SW 2d 956 (Tex Civ App 1970) (owner of servient estate was not an indispensable party where there was no dispute between the owner and Plaintiff); *Borrowman v. Howland*, 457 NE 2d 103 (Ill App 1983) (title holders to the land were not indispensable parties where Plaintiff had no dispute with landowner). The thrust of these cases appears to be that the owner of the servient estate is not an indispensable party to the proceedings absent a showing of some dispute between the landowner and the party seeking injunctive relief.

There are two Pennsylvania cases which have import on my decision. The first is *Barren v. Dubas*, 441 A.2d 1315 (Pa. Super. 1982). In that case, a complaint in equity was filed alleging a prescriptive easement to an alleyway traversing an adjoining parcel of land. The Plaintiffs sought to compel the restoration of access to the alleyway and to prohibit the Defendants from interfering with their use of it. Following a hearing, the Court of Common Pleas entered a decree nisi recognizing the existence of the easement and granting the requested relief. In reversing the lower court, the Pennsylvania

Superior Court indicated that the trial court had lacked jurisdiction to enter the decree since the owners of one of the servient tenements had not been joined as Defendants. While at first glance, this case appears to be on point, further analysis reveals a critical distinction. Namely, the trial court entered an order recognizing the *existence* of a prescriptive easement across the property of a party not joined in the litigation. The *Barren* Order, therefore, had a direct effect on the property rights of the owners of the servient tenement who were not joined as parties to the action.

This critical distinction is acknowledged in the subsequent case of *Burkett v. Smyder*, 535 A.2d 671 (Pa. Super. 1988). In *Burkett*, the Pennsylvania Superior Court dealt with a declaratory judgment action seeking to acknowledge the existence of a prescriptive easement across the Defendant's land. The easement in question not only crossed the Defendant's land but crossed the property of a third party who was not joined in the litigation. In rejecting an argument that the third party was a necessary and indispensable party, the Superior Court recognized that the Plaintiff's relief was limited to a question concerning the existence of a prescriptive easement determinate only to [the Defendant's] property rights. *Burkett v. Smyder*, *supra*, A.2d at 674. In reaching their decision, the Pennsylvania Superior Court specifically distinguished the factual pattern before them from that which was presented in *Barren v. Dubas*, *supra*. I find that distinction critical. In essence, this distinction relies upon the same rationale of the Courts in other jurisdictions which have held that the owner of the servient tenement is not an indispensable party where there is no dispute affecting their rights. This rationale is even more applicable to the abutting landowners whose rights would not be affected by precluding the Defendants from interfering with Plaintiffs' right-of-way.

Diveglia's second request for relief, however, is a slightly different issue. In addition to precluding Smith from interfering with their rights under the right-of-way, Diveglia goes on to request that the Court prohibit Smith from **any** use of the right-of-way. The grant of right-of-way, bestowed upon Diveglia by the deed attached to their complaint, does not vest Diveglia with such authority. Accordingly, the authority for such relief must be found elsewhere. In effect, Diveglia is claiming that their interest in the right-of-way is at least equal, if not greater, than the interest of the owner of the servient tenement. This would also hold true as to the interests of any abutting

property owners who may have an interest in the right-of-way. I find this situation to be much closer to the facts in *Dubas*, supra. As such, the Court will grant Defendants' Preliminary Objections as they relate to this relief.

In compliance with the considerations set forth in *Mechanicsburg Area School District v. Kline*, supra, I find that justice can be afforded without violating the due process rights of absent parties. By limiting the issue before this Court to whether Smith will be enjoined from interfering with Diveglia's use of the right-of-way, the determination will be limited to a determination of the respective rights between the parties to this action. Limiting this action in such a fashion will not affect the relationship between Diveglia and the abutting property owners as part of a final resolution nor will it affect the ability of the owner of the servient tenement to dispute Diveglia's claim to the existence of a right-of-way. In the event that future pleadings disclose that this litigation may affect the due process rights of others who are not joined, the Court, at that time, will revisit this issue. Until that time, however, absent any indication that there are others who have an interest in this dispute, the attached Order is entered.

ORDER OF COURT

AND NOW, this 24th day of April, 2002, the Defendants' Preliminary Objections for failure to join an indispensable party is granted in part and denied in part. To the extent that the Plaintiffs seek to preclude the Defendants' use of the right-of-way, the Preliminary Objections are granted. The Preliminary Objections are denied, however, as they relate to Plaintiffs' request to enjoin the Defendants from interfering with the exercise of the use and enjoyment of the right-of-way in question. Defendants are therefore directed to file an Answer to Plaintiffs' complaint within twenty (20) days of the date of this Order. Failure to do so may result in the entry of judgment in favor of Plaintiffs. Nothing in this Order should be interpreted as precluding the Plaintiffs from continuing to pursue an injunction prohibiting the Defendants from using the right-of-way provided they file an amended complaint which includes joinder of the owners of the servient tenement as well as others having a legal interest in the property.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-975 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two (2) tracts of land situate in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point for a corner in the State Highway marked by an iron pin set back along the line; thence running in said highway, North 3-1/2 degrees East 81 feet to a point in the center of said highway; thence running by land now or formerly of Clair Tate, South 85 degrees East 123 feet to an iron pipe; thence running by land now or formerly of Glenn E. Millhimes, South 17 degrees West 95 feet to an iron pin; thence running by land of formerly the same, North 75-1/4 degrees West 115 feet to a point in the aforesaid State Highway, the place of BEGINNING. CONTAINING 38 perches and 59 square feet.

TRACT NO. 2:

BEGINNING at a point in the East side of a State Highway leading from Gettysburg to Hunterstown; thence along line of land now or formerly of Ari Andrews, South 75 degrees 15 minutes East 115.0 feet to a stake at corner of land now or formerly of Ari Andrews; thence through land now or formerly of Glenn E. Millhimes, Sr., South 17 degrees West, 67.9 feet to a post; thence through same along the North side of a 19.0 foot lane, North 70 degrees West, 109.0 feet to a point on the East side of the above-mentioned State Highway; thence along and in the above State Highway, North 3 degrees 30 minutes East, 61.0 feet to the place of BEGINNING. CONTAINING 26 perches.

RECORD OWNER

TITLE TO SAID PREMISES IS VESTED IN Jeffrey G. Millhimes, Deed from Jeffrey G. Millhimes, also known as Jeffrey Grant Millhimes, Single and Jean M. Millhimes, also known as Jean Marie Millhimes, Single, Deed dated July 7, 1994, recorded July 7, 1994, in Deed Book 909, Page 178.

Map #: 38-22-68

BEING KNOWN AS: 2035 Hunterstown Road, Gettysburg, PA 17325.

SEIZED and taken into execution as the property of **Jeffrey Millhimes a/k/a Jeffrey Grant Millhimes** 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 March 24, 2003, 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.

1/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-747 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point on the property line of Spruce Lane, a fifty (50) foot street, at corner of Lot No. 527 on the hereinafter referred plan of lots; thence by said lot, South fifty-four (54) degrees zero (00) minutes zero (00) seconds West, one hundred ten (110.00) feet to a steel pin at other lands of Oxford Estates; thence by said land, North thirty-six (36) degrees zero (00) minutes zero (00) seconds West, seventy-five (75.00) feet to a steel pin at Lot No. 529; thence by said lot, North fifty-four (54) degrees zero (00) minutes zero (00) seconds East, one hundred ten (110.00) feet to a steel pin on the property line of Spruce Lane; thence by said street, South thirty-six (36) degrees zero (00) minutes zero (00) seconds East, one hundred ten (110.00) feet to a steel pin on the property line of Spruce Lane; thence by said street South thirty-six (36) degrees zero (00) minutes zero (00) seconds East, seventy-five (75.00) feet, the point and place of BEGINNING. (CONTAINING 8,250 square feet and being known as Lot No. 528 on a plan of lots of Oxford Estates, Tract II - Phase Three, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 53, Page 66.)

IT BEING part of the same tract of land which Tina M. Wildasin, by deed dated February 8, 1999 and recorded on

February 24, 1999 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 1772, Page 60, granted and conveyed unto Tina M. Wildasin and Steven M. Miller, Sr.

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

Parcel No.: (35) 10-26

SEIZED and taken into execution as the property of **Tina M. Wildasin & Steven M. Miller, 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 March 24, 2003, 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.

1/17, 24 & 31

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for FRY GUY CORPORATION were filed with the Department of State of the Commonwealth of Pennsylvania on January 6, 2003, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Guthrie, Nonemaker, Yingst & Hart
Solicitor

1/31

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Commonwealth of Pennsylvania. The name of the corporation is: LIBERTY ROAD TAX SERVICE, INC. The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

1/31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-931 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THE FOLLOWING described two (2) tracts of land, situate, lying and being in Reading Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

TRACT NO. 1:

BEGINNING at a stake for a corner at Lot #12 and a 20-foot wide driveway; thence by said driveway, North fifteen (15) degrees, thirty (30) minutes East, fifty (50) feet to a stake at Lot #14; thence by Lot #14 South seventy-four (74) degrees, thirty (30) minutes East, two hundred sixty-three and one-tenth (263.1) feet through a stake set back 20 feet from the bank at low water, to a point in the Conewago Creek; thence by said Conewago Creek, South twenty (20) degrees, forty-five (45) minutes West, fifty and two-tenths (50.2) feet to a point in said Creek at Lot #12; thence by Lot #12, North seventy-four (74) degrees, thirty (30) minutes West, through a stake set back 20 feet from the bank at low water, two hundred fifty-eight and six-tenths (258.6) feet to a stake and place of BEGINNING.

BEING known as Lot No. 13, Block No. 1 on the Plan of Lots as surveyed August 27, 1955, by George M. Wildasin for Harry A. and Gertie R. Lauchman.

TRACT NO. 2:

BEGINNING for a point on the Eastern side of a twenty (20) feet wide private road at Lot No. 13; thence along and with said Eastern side of said private road North fifteen (15) degrees, thirty (30) minutes East, fifty (50) feet to a point at lands now or formerly of Robert F. Smith and Emma E. Smith, his wife; thence along said last mentioned lands South seventy-four (74) degrees, thirty (30) minutes East, two hundred forty-nine (249) feet to a pin fifteen (15) feet from the bank of the Conewago Creek at low water mark; thence along and with said Conewago Creek South twenty-two (22) degrees fifteen (15) minutes West, fifty and three-tenths (50.3) feet to a point at Lot No. 13; thence along and with said Lot No. 13 other lands now or formerly of Cyril J. Hockensmith and Thelma A. Hockensmith North seventy-four (74) degrees, thirty (30) minutes West, two hundred forty-three and one-tenth (243.1) feet to the point and place of BEGINNING.

CONTAINING 0.282 acres and known as Lot No. 14 on a plot or plan of lots laid out by George M. Wildasin, Professional Engineer, bearing the date of June 21, 1977.

TITLE TO SAID PREMISES IS VESTED IN Jeffrey L. Jones and Sherry L. Jones, husband and wife by Deed from Cyril J. Hockensmith, Jr. and Gary L. Hockensmith, Personal Representatives of the Estate of Cyril J. Hockensmith, Sr., a/k/a, Cyril J. Hockensmith dated 6/29/1995 and recorded 7/11/1995, in Record Book 1053, Page 17.

Premises being: 280 Conewago Drive, East Berlin, PA 17316

Tax Parcel No. L8-29

SEIZED and taken into execution as the property of **Jeffrey L. Jones & Sherry L. Jones a/k/a Sherry L. Keagy** 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 March 24, 2003, 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.

1/24, 31 & 2/7

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 or about January 6, 2003, 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 B&T ELECTRICAL SERVICES, INC., with a registered office of the corporation being 208 St. John's Road, Littlestown, PA 17340.

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

1/31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1027 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Mt. Joy Township, Adams County, Pennsylvania, being more particularly described as Lot No. 936 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 778, and subject to all legal highways, easements, rights of way and restrictions of record.

TOGETHER with the rights and subject to the restrictions, conditions, and agreements as contained in Adams County Deed Book 295 at Page 199.

BEING KNOWN as 936 Johnson Drive, Gettysburg, PA 17325

Property ID No.: 9-65

TITLE TO SAID PREMISES IS VESTED IN Georgia A. Solt, by Deed from James H. Gosnell and Dorothy F. Gosnell, husband and wife, recorded 8/31/99, dated 8/27/99, in Deed Book 1905, Page 202.

SEIZED and taken into execution as the property of **Georgia A. Solt a/k/a Georgia A. Rothenhoefer** 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 March 24, 2003, 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.

1/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1152 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

TRACT NO. 1:

BEGINNING at a nail in the center line of Franklin Church Road (LR No. 01008), which is 2,790 feet, more or less, to intersection of Franklin Church Road and Bermudian Creek Road; thence, South 20 degrees 30 minutes East, 28.65 feet to a nail in the center line of Franklin Church Road (LR No. 01008); thence along land now or formerly of A.C. Criswell, North 80 degrees 15 minutes West, for a distance of 1,135.37 feet to an iron pin; thence, North 25 degrees 26 minutes 48 seconds East, 106.30 feet to an iron pin; thence along land now or formerly of Harry Hockenberry, South 80 degrees 15 minutes East, 782 feet to a concrete monument on the corner of Hockenberry land and land now or formerly of William J. Grimm; thence along land of William J. Grimm, South 09 degrees 45 minutes West, 129.57 feet to an iron pin; thence along land of William J. Grimm, South 80 degrees 15 minutes East, 295.57 feet to a nail in the center line of Franklin Church Road (LR No. 01008) and the place of BEGINNING.

CONTAINING 3.79 acres of land.

TAKEN from a survey by Stanley Jarmolenko and Mark Burleson, Registered Surveyors, dated April 30, 1977.

TRACT NO. 2:

BEGINNING at a point in the center of the Braggtown-East Berlin State Highway at lands now or formerly of Myrl I. and M. James Hockenberry; thence by said Hockenberry land, North 80 degrees 15 minutes West, through an iron pin set back 20 feet from the center of said road, 220 feet to a concrete monument at land now or formerly of Sadie M. Criswell; thence by said Criswell land, South 9 degrees 45 minutes West, 129.57 feet to a concrete monument; thence by same, South 80 degrees 15 minutes East, 295.57 feet through a concrete monument set back 25 feet from the center of the aforesaid road, to a point in the center of said road; thence by the center of said road, North 20 degrees 30 minutes West, 150 feet to the point and place of BEGINNING.

THE above description being taken from a draft of survey made September 4, 1956, by John C. Brihart, R.S., for the use of William J. Grimm and Dolores L. Grimm.

TITLE TO SAID PREMISES IS VESTED IN Victor M. Tsatiris and Kathi Ann Tsatiris, husband and wife by Deed from Keith M. Grimm, single and Mary M. Grimm, single dated 6/24/1996 and recorded 6/25/1996 in Record Book 1216 Page 172.

Premises being: 1611 Braggtown Road, East Berlin, PA 17316

Tax Parcel No. K4-11

SEIZED and taken into execution as the property of **Victor Tsatiris a/k/a Victor M. Tsatiris & Kathi A. Tsatiris a/k/a Kathi Ann Tsatiris** 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 March 24, 2003, 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.

1/24, 31 & 2/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1133 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of February, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT lot of ground situate on the South side of Main Street in the Borough of McSherrystown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to wit:

BEGINNING at a steel pin along the edge of the sidewalk along the Southern side of Main Street at corner of land now or formerly of St. Paul's Evangelical Lutheran Church; thence along the edge of said sidewalk, South 63 degrees West, 45 feet to a point at land now or formerly of Patricia L. Omdorff; thence by said land now or formerly of Patricia L. Omdorff, South 28 degrees 9 minutes

30 seconds East, 172.4 feet to a point along a public alley; thence by said public alley, North 63 degrees East, 43 feet to a steel pin at land now or formerly of St. Paul's Evangelical Lutheran Church; thence by said land now or formerly of St. Paul's Evangelical Church, North 27 degrees 29 minutes 30 seconds West, 172.37 feet to a steel pin, the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Helen M. Pheabus, married woman by Deed from James A. Lawrence and Rebecca A. Lawrence, husband and wife, dated 3/5/2001 and recorded 3/9/2001 in Record Book 2227, Page 329.

Premises being: 404 & 406 Main Street, McSherrystown, PA 17344

Tax Parcel No. 005-0241-000

SEIZED and taken into execution as the property of **Helen Pheabus a/k/a Helen M. Pheabus** 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 March 24, 2003, 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.

1/24, 31 & 2/7

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on or about January 24, 2003 for the incorporation of TILY MANUFACTURING, INC. under the Pennsylvania Business Corporation Law of 1988.

Jerome C. Baker, Esq.
13122 Lazy Glen Ct.
Herndon, VA 20171

1/31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1117 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of March, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of land situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

BEGINNING for a point at the Northeast side of the Littlestown Road and Lot No. 66; thence along Lot No. 66, North thirty-nine (39) degrees fifteen (15) minutes zero (0) seconds East, one hundred thirty and nine hundredths (130.09) feet to a point at Lot No. 74; thence along Lot No. 74 and Lot No. 73, South thirty-five (35) degrees forty-one (41) minutes twenty-one (21) seconds East, seventy-seven and sixty-four hundredths (77.64) feet to a point at Lot No. 68; thence along Lot No. 68, South thirty-nine (39) degrees fifteen (15) minutes zero (0) seconds West, one hundred ten (110) feet to a point at the aforementioned Littlestown Road; thence along the Littlestown Road, North fifty (50) degrees forty-five (45) minutes zero (0) seconds West, seventy-five (75) feet to the point and place of BEGINNING. CONTAINING 9,003.3 square feet and identified as Lot No. 67 on a plan of lots known as Bonnie Field, prepared by Edward H. Richardson Associates, Consulting Engineers, on February 26, 1976. Said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 9, page 24.

BEING KNOWN as 87 Maple Street, Littlestown, PA 17340

Property ID No.: 9-81

TITLE TO SAID PREMISES IS VESTED IN Cynthia J. Craig and Gordon L. Craig, wife and husband, as tenants by the enteries, by Deed from E. Patricia Tracey, formerly known as Evelyn Patricia Stambaugh, and Ralph E. Tracey, wife and husband, dated 5/26/92, recorded 6/11/92, in Deed Book 0630, Page 0443.

SEIZED and taken into execution as the property of Gordon L. Craig, Jr. & Cynthia J. Craig 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 April 7, 2003, 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.

1/31, 2/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-123 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of March, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot or tract of land situate on the westerly right of way line of Abbots Drive in the Borough of Abbottstown, Adams County, PA known and numbered as Lot No. 47 on a plan of lots for Abbots Manor, Phase III, recorded in the Office of the Recorder of Deeds in and for Adams County, PA in Subdivision Plan Book 76, page 99, more fully bounded and described as follows, to wit:

BEGINNING at a point on the westerly right of way line of Abbots Drive, at a corner of Lot No. 48 on said plan; thence extending along the said right of way line South 47 degrees 16 minutes 34 seconds East 33.85 feet to a point; thence continuing on a line curving to the right having a radius of 175 feet, an arc distance of 52.05 with a chord bearing South 38 degrees 45 minutes 17 seconds East 51.86 feet to a point; thence extending along Lot No. 46 on a plan of lots for Abbots Manor Phase II, Plan Book 73, page 43, South 59 degrees 46 minutes 00 seconds West 246.01 feet to a point; thence extending along Lot No. 43 on a plan of lots for Abbots Manor Phase II, Plan Book 73, page 43 North 30 degrees 14 minutes 00 seconds West 52.06 feet to a point at a corner of Lot No. 48 on said plan; thence extending along the said Lot No. 48 North 51 degrees 56 minutes 06 seconds East 232.54 feet to the point and place of BEGINNING.

CONTAINING 16,579 Sq. Ft.

BEING the same premises which Garland Construction, Incorporated, by Deed dated November 2, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on November 19, 1999, in Deed Book Volume 1956, Page 21, granted and conveyed unto David L. Rohrer and Laurie A. Rohrer.

Parcel No. #5-43

SEIZED and taken into execution as the property of David L. Rohrer & Laurie A. Rohrer 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 April 7, 2003, 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.

1/31, 2/7 & 14

IN THE COURT
OF COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA
NO. 02-S-1344

IN RE: Change of Name of Scott Allen Decker

NOTICE

NOTICE IS HEREBY GIVEN that, on January 6, 2003, an Order was issued on the petition of Scott Allen Decker, in the above named court, praying for a decree to change his name to Scott Allen Hoff.

The Court has fixed April 8, 2003, at 9:00 A.M., as the time and place for the hearing of said petition when and where all persons interested may appear and show cause, if any they have, why the prayer of the said petition should not be granted.

Michael S. Travis, Esq.
Attorney for Petitioner
4076 Market Street, Suite 209
Camp Hill, PA 17011
(717) 731-9509

1/31

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 THELMA W. BULLEIT, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

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

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

ESTATE OF ROMAINE B. COPENHAVER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrices: Nancy Michael, 1335 Pine Grove Rd., Hanover, PA 17331; Gloria A. Weant, 337 Lumber Street, Littlestown, PA 17340; Linda Kohler, 12181 Highway 117S, Lot 21, Rocky Point, NC 28457

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

ESTATE OF MILDRED A. HOUCK, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executrix: Patricia Kint, 176 S. Main Street, Biglerville, PA 17307

Attorney: J. Ward Cooper, Esq., 4401 Carlisle Road, Gardners, PA 17324

ESTATE OF ETHEL I. McGLAUGHLIN, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executors: James E. McGlaughlin, 90 Crooked Creek Rd., Gettysburg, PA 17325; Dorothy I. Shaffer, 839 Boyer Nursery Rd., Biglerville, PA 17307

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

ESTATE OF ELISSA K. PETERSON a/k/a ELISSA K. WEAVER, DEC'D

Late of the Borough of Hanover, York County, Pennsylvania

Administrator: Kurt A. Blake, Esq., c/o Blake & Gross, LLC, 29 East Philadelphia Street, York, PA 17401

Attorney: Kurt A. Blake, Esq., Blake & Gross, LLC, 29 East Philadelphia Street, York, PA 17401

ESTATE OF RUBY F. REBERT, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executors: John P. Musselman, 15 White Oak Tr., Gettysburg, PA 17325; James D. Rebert, 702 Wright Ave., Gettysburg, PA 17325

ESTATE OF BERNICE STRATZ a/k/a BERNICE G. STRATZ, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Joy Ann Cox, 280 Country Club Lane, Gettysburg, PA 17325

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

ESTATE OF ROBERT W. WEIKERT, DEC'D

Late of Highland Township, Adams County, Pennsylvania

Winifred A. Weikert, 110 Knox Road, Gettysburg, PA 17325

Attorney: Henry O. Heiser, III, Esq., 104 Baltimore Street, Gettysburg, PA 17325

ESTATE OF ROBERT EDWARD WENSCHHOF a/k/a ROBERT E. WENSCHHOF, DEC'D

Late of Freedom Township, Adams County, Pennsylvania

Executrix: Kathleen Joyce Shindle-decker, 76 Pin Oak Lane, Gettysburg, PA 17325

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

ESTATE OF BOYD ALEXANDER WHITLOCK, DEC'D

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

Executrix: Jacqueline L. Harmon, 407 Dale Rd., Millersville, MD 21108

SECOND PUBLICATION

ESTATE OF DALE E. DEARDORFF, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Robert G. Teeter, 108 West Middle Street, Gettysburg, PA 17325

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

ESTATE OF MARY M. HERR, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Grace Rider, 237 York St., Gettysburg, PA 17325; Terry E. Leach, 2215 Old Harrisburg Rd., Gettysburg, PA 17325

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

ESTATE OF ANN TYSON KUHN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executors: Joanne K. Donato, 1959 Tripp Road, Woodstock, GA 30018; Donald T. Hoff, 5840 Chambers Hill Road, Swatara, PA 17111-3305

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

ESTATE OF SHAWN D. SMILEY, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Administrator: David L. Smiley, 150 Tree Lane Road, Aspers, PA 17304

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

ESTATE OF EDNA M. WEIMER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Janice M. Keller, 535 Knoxlyn-Orrtanna Road, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF ESTELLA M. LAWRENCE a/k/a ESTELLA H. LAWRENCE, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executors: Leonora E. McIntyre, 845 Irishtown Rd., New Oxford, PA 17350; Leo P. Lawrence, 76 Peanut Drive, Hanover, PA 17331

ESTATE OF THELMA G. RINEHART, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Delroy K. Rinehart, 3680 Castlebury Dr., Chester, VA 23831

ESTATE OF EDNA M. STEICH, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Mrs. Joyce M. Hartlaub, 1005 Two Taverns Road, Gettysburg, PA 17325; Mr. John J. Steich, Jr., 2144 Sinsheim Road, Spring Grove, PA 17362

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1052 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 14th day of March, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following described tract of real estate lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point along a private street known as Apple Grove Lane at a corner of Lot No. 433 on the plan of lots hereinafter referred to; thence along Lot No. 433, South 61 degrees 18 minutes 33 seconds West, 95.00 feet to a point along Appler - Phase II - Section A; thence along Appler - Phase II - Section A, North 28 degrees 41 minutes 27 seconds West, 20.00 feet to a point at corner of Lot No. 435; thence along Lot No. 435, North 61 degrees 18 minutes 33 seconds East, 95.00 feet to a point at the edge of the private street; thence along said private street, South 28 degrees 41 minutes 27 seconds East, 20.00 feet to a point at a corner of Lot No. 433, the place of BEGINNING. CONTAINING 1,900 square feet.

BEING designated as Lot No. 434 on a plan of lots for Appler prepared by Group Hanover, Inc., dated January 21, 1999, which together with all necessary municipal approvals, is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 77, Pages 94 through 94-C.

HAVING ERECTED THEREON a dwelling known as 143 Apple Grove Lane, Littlestown, Pennsylvania.

BEING THE SAME PREMISES WHICH Appler Properties, LLC by Deed dated March 30, 2001 and recorded April 26, 2001 in Adams County Deed Book 2266, Page 100, granted and conveyed unto Jody W. Oliver and Holly C. Oliver.

SEIZED IN EXECUTION AS THE PROPERTY OF JODY W. OLIVER AND HOLLY C. OLIVER UNDER ADAMS COUNTY JUDGMENT NO. 02-S-1052.

MAP & PARCEL #(27) 4-149

SEIZED and taken into execution as the property of **Holly C. Oliver & Jody W. Oliver** 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 April 7, 2003, 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.

1/31, 2/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-1090 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of March, 2003, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a spike in the center of the Gettysburg-Emmitsburg State Highway at other lands now or formerly of Maurice E. Fissel; thence by said lands and through a railroad spike North 57 degrees West, 115 feet to an iron pin; thence by same North 33 degrees East, 30 feet to a point; thence by same North 57 degrees West, 212.5 feet to a post at lands now or formerly of Russell Reaver; thence by same North 16 degrees East, 121 feet to a post at lands now or formerly of Walter May; thence by same South 53 degrees 24 minutes East, 372.4 feet to a spike in the center of the aforesaid State Highway; thence in said State Highway South 37 degrees 15 minutes West, 122.4 feet to a spike, the place of BEGINNING. CONTAINING 146 perches.

The above description was taken from a draft of survey prepared by Leroy H. Winebrenner, C.S., and dated August 12, 1965.

IT BEING the same premises which Curtis W. Fissel and Betty S. Fissel, husband and wife, by their deed dated July 12, 1989 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 528, page 408, granted and conveyed unto Betty S. Fissel, Grantor herein.

THIS IS A TAX-EXEMPT TRANSFER BETWEEN MOTHER AND SON.

Premises being: 2691 Emmitsburg Road, Gettysburg, PA 17325

Tax Parcel No. E18-58

SEIZED and taken into execution as the property of **Estate of Betty S. Fissel, Michael J. Fissel, Executor, Devisee & All Heirs at Law of the Estate of Betty S. Fissel & Curtis W. Fissel, II, Individually & Devisee of the Estate of Betty S. Fissel** 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 April 14, 2003, 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.

1/31, 2/7 & 14

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on January 10, 2003, for the purpose of obtaining a Certificate of Incorporation organized under the provisions of the Pennsylvania Business Corporation Law, approved December 21, 1988, P.L. 1444, as amended. The name of the corporation is **KIMPLE TRUCKING, INC.** The purpose or purposes for which the corporation is incorporated is that the corporation shall have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under said Business Corporation Law.

Pyle and Entwistle
Attorneys for the Corporation

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