

# Adams County Legal Journal

Vol. 43

June 1, 2001

No. 1, pp. 1-3

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-188 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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 Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a nail in the center of Pond Road (T-395) in the middle of railroad tracks at the corner of land now or formerly of George K. Hawbaker; thence by said railroad tracks and by said Hawbaker land, by a curve to the left, the radius of which is 718.55 feet, the arc distance of which is 266.85 feet, the long chord of which is North 27 degrees 30 minutes 05 seconds East, 265.32 feet to a point on line of land now or formerly of Gettysburg Industrial Development Association (for the benefit of Knouse Foods Cooperative, Inc.); thence by said land South 84 degrees 25 minutes 30 seconds East, 202.67 feet to an eye bolt; thence by the same South 00 degrees 12 minutes 05 seconds East, 206.39 feet to an existing railroad spike near the center line of Pond Road (T-395); thence continuing in or near the center of said road North 85 degrees 07 minutes 00 seconds West, 127.89 feet to a railroad spike; thence continuing in or near the center of said road South 84 degrees 10 minutes 30 seconds West, 198.55 feet to a nail in the center of said road and the center of the railroad tracks, the place of BEGINNING. CONTAINING 1.238 Acres, more or less.

The above description was taken from a draft of survey dated April 13, 1988, prepared by Boyer Surveys, Richard W. Boyer, P.L.S., and recorded in Adams County Plat Book 50 at page 47, identified as Lot No. 2 thereon.

The above-described tract of land being the same which Richard E. Weidner and Cindy M. Weidner, husband and wife, and Ronnie E. Weidner, single, by their deed dated July 24, 1996 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 1231 at page 242, granted and conveyed unto Ronnie E. Weidner, one of the Defendants herein.

IMPROVED WITH a single family residence with detached 2 car garage.

Property Address: 184 Pond Road, Gardners, PA 17324

Map & Parcel: G5 at 3B

SEIZED and taken into execution as the property of **Ronnie E. & Cindy Weidner** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-307 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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, together with improvements, situate in Latimore Township, Adams County, Pennsylvania, more particularly described as Lot No. 1274 on the Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, at page 7.

Premises being: 30 Fisher Drive, East Berlin, PA 17316

Tax Parcel No. Tax Map 3, Parcel 21

SEIZED and taken into execution as the property of **Kerry A. & Lisa J. Bollinger** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13,

2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation and Articles of Conversion-Domestic Business to Nonprofit Corporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on or about April 30, 2001 for the incorporation of **GLORY GYM, INC.** as a nonprofit corporation under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of the operation of a boxing gymnasium, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 123 Baltimore Street, Gettysburg, Pennsylvania 17325.

Bernard A. Yannetti, Jr., Esq.  
Hartman & Yannetti  
Solicitor

6/1

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Statement of Registration-Registered Limited Liability Partnership was filed with the Commonwealth of Pennsylvania, Department of State, in Harrisburg, Pennsylvania, on December 19, 2000, under the provisions of the Registered Limited Liability Partnership Law of 1994 as amended.

The name of the Limited Liability Partnership is **LINDEN MILL CENTER, LLP.**

Linden Mill Center, LLP has as its purpose the engaging in all lawful business for which limited liability partnerships may be organized.

Arthur J. Becker, Jr., Esq.  
Attorney for Linden Mill Center, LLP

6/1

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

Business Office - 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

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IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 00-S-642  
Action to Quiet Title

DENNIS R. BISHOP, Plaintiff  
vs.

WILLIAM MALONE, TOBIAS MILLER, HENRY KNOUSE, MILTON KNOUSE, SARAH JANE KNOUSE, aka JANI KNOUSE, ANN KNOUSE, WILLIAM KNOUSE, GEORGE KNOUSE, DANIEL HEIGES, ELIZABETH HEIGES, LEVI HEIGES, HIRAM F. HEIGES, AARON HEIGES, LENA PETERS, SARAH ORR, LEVI MINTER, MAGDALENA MINTER, DANIEL C. JACOBS, PETER BALL, CATHARINE BALL, JOHN BALL, ALOYSIUS F. BAKER, JACOB MICKLEY, WILLIAM E. BAKER, JOHN MCDONALD, CLIFFORD B. PRICE, JR., MARY H. PRICE, BARRY L. SHOWERS, EDNA R. SHOWERS, THOMAS REEVE, JOAN E. REEVE, WAYNE E. BAKER, BARBARA A. BAKER, JAMES A. PENNINGTON, JOYCE R. PENNINGTON, HAROLD W. SANDUSKY, PATRICIA A. SANDUSKY, NANCY C. SANDUSKY KRASOWSKI, ANDREW T. KRASOWSKI, JON WEIRETHER, DAVID B. THOMAS, JOSEPH H. G. BERGER, H. G. HESS AND SUMMIT MINING CORPORATION, their respective heirs, successors and assigns, Defendants.

TO: William Malone, Tobias Miller, Henry Knouse, Milton Knouse, Sarah Jane Knouse - aka Jani Knouse, Ann Knouse, William Knouse, George Knouse, Levi Minter, Jacob Mickley, William Baker, Daniel Heiges, Elizabeth Heiges, Levi Heiges, Hiram Heiges, Aaron Heiges, Lena Peters, Sarah Orr, Magdalena Minter, Daniel C. Jacobs, Aloysius F. Baker, Peter Ball, Catharine Ball, John Ball, and their respective heirs and/or assigns:

IMPORTANT NOTICE

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF

YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator  
Adams County Courthouse  
Gettysburg, PA 17325  
Telephone Number: (717) 337-9846  
Toll Free: 1-888-337-9846

Puhl, Eastman & Thrasher  
By /s/Edward G. Puhl, Esquire  
Attorney for Plaintiff  
220 Baltimore Street  
Gettysburg, PA 17325

6/1

IN THE COURT  
OF COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

NOTICE

TO: KATHY ELIZABETH JONES

NO. RT-1-01(B)

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for July 12, 2001, at 9:00 a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to your child.

You should contact 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.

Court Administrator  
Adams County Courthouse  
111-117 Baltimore Street  
Gettysburg, PA 17325  
Telephone number: 717-337-9846, or  
1-888-337-9846

Chester G. Schultz, Attorney at Law  
145 Baltimore Street  
Gettysburg, PA 17325

5/18, 25 & 6/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-179 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on June 29, 2001 Sale Continued To: Friday, the 21st day of September, 2001, 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 along the eastern side of Gettysburg Street in the Borough of Arendtsville, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a spike in Gettysburg Street, at corner of land now or formerly of William R. Hale; thence by land of William R. Hale, North 78 degrees 55 minutes East, 141.3 feet to an iron pin; thence by the same, North 7 degrees 10 minutes East, 152 feet to an iron pin; thence by land formerly of Ernest Bushman, North 87 degrees 4 minutes West, 200 feet to a point in Gettysburg Street; thence in Gettysburg Street, South 12 degrees 30 minutes East, 192.5 feet to a spike, the place of BEGINNING.

Tax Parcel #6-98

SEIZED and taken into execution as the property of **Kitty M. Clouse** and to be sold by me

Raymond W. Newmar  
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 October 15, 2001, 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.

5/18, 25 & 6/1

## SPIELMAN VS. COMMONWEALTH

1. Although the act (Young Drivers Act) should be construed to operate prospectively, consideration of prior points does not involve retroactivity. A statute does not operate retroactively merely because some predicate facts existed prior to its effective date.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 2000-S-316, KEVIN C. SPIELMAN VS. COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION.

Samuel E. Teeter, Esq., for Plaintiff  
George H. Kabusk, Esq., for Defendant  
Spicer, P.J., July 26, 2000.

### OPINION ON LICENSE SUSPENSION APPEAL

Kevin Charles Spielman (petitioner) appeals from a suspension<sup>1</sup> of his operating privileges, imposed by the Pennsylvania Department of Transportation (PennDOT). His license was suspended under provisions of the Young Drivers Act<sup>2</sup>, and he argues that PennDOT erred when it considered points assessed for violations committed prior to the act's effective date.

A hearing was convened June 26, 2000, at which time PennDOT introduced its official record and rested. Petitioner presented no evidence, advancing as the sole basis for his appeal a purely legal question. Although the issue is one of retroactivity, petitioner presents two related arguments: first, in the absence of clear expression of retroactivity, the statute must be construed prospectively. Second, plain language of the act indicates a legislative intent that it act prospectively. These contentions are meant to buttress petitioner's ultimate argument that PennDOT was constrained to consider only points assessed after the act's effective date. This proposition

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<sup>1</sup> PennDOT imposed a 90-day suspension, effective April 5, 2000, as a result of a speeding violation on February 9, 2000.

<sup>2</sup> In 1999, the General Assembly enacted Act 23 of 1999, the Young Drivers Act, effective December 22, 1999 which added subsection (e) to § 1538. School, examination or hearing on accumulation of points or excessive speeding.

involves interpretation of a portion of 75 Pa.C.S.A. § 1538(e)<sup>3</sup> that reads “accumulates six or more points under the provisions of section 1525.”

PennDOT, on the other hand, argues that the act clearly requires that it consider points assessed prior to the amendment.

The act’s language gives no indication that the legislature intended to wipe the record clean and allow young drivers to start afresh on the effective date. The meaning of “accumulates” involves consideration of a total pile<sup>4</sup> and the act’s language clearly refers to points assessed under other provisions of the Vehicle Code.

Although the act (Young Drivers Act) should be construed to operate prospectively, 1 Pa. C.S.A. § 1926, consideration of prior points does not involve retroactivity. A statute does not operate retroactively merely because some predicate facts existed prior to its effective date. *Touring v. Commonwealth of Pennsylvania, Department of Transportation*, Pa. Cmwlth., 712 A.2d 349 (1998). In that case, conduct (driving under the influence) occurred prior to the effective date of the driver’s license compact, while conviction

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<sup>3</sup> § 1538 (e) provides:

(e) Additional suspension of operating privilege.

(1) In addition to any other provisions of law relating to the suspension or revocation or operating privileges, a person’s operating privilege shall be suspended under any of the following circumstances:

(i) Prior to reaching age 18, the person violates section 3362 (relating to maximum speed limits) by traveling 26 miles per hour or more over the posted speed limit and the violation results in a conviction, guilty plea or plea of no contest before or after the person reaches age 18.

(ii) The person accumulates six or more points under the provisions of section 1535 (relating to schedule of convictions and points) and the violations resulting in points accumulation were committed before the person reached age 18.

(2) The first suspension under paragraph (1) shall be for a period of 90 days with every subsequent suspension under paragraph (1) to be for a period of 120 days. Suspensions under paragraph (1) shall be imposed consecutively to each other and to any other suspension. A suspension under paragraph (1) shall be considered a subsequent suspension even if it is imposed contemporaneously with a first suspension imposed under paragraph (1). (Emphasis added).

<sup>4</sup>The word is derived from the Latin *acumulare*: *ad-*, in addition + *cumulare*, to pile up. The American Heritage Dictionary (1981). Petitioner’s latest speeding violation added to the pile of points that had been assessed prior to the amendment.

occurred after its effective date. Commonwealth Court upheld suspension, holding that conviction triggered sanctions and made the statute prospective. In the case before us, both the conduct (January 28, 2000), and conviction (February 9, 2000) occurred after the act's effective date. Petitioner had notice of its provisions and the critical, triggering events in the ongoing process of accumulation happened after the effective date.<sup>5</sup> Other areas of the law, such as sentencing enhancements, reflect the view that a person brings his own baggage when committing a crime. See, generally, *Commonwealth v. Marks*, Pa. Super. , 704 A.2d 1095 (1997); alloc. denied 555 Pa. 687, 722 A.2d 1056 (1998). Petitioner carried points in his baggage when he was convicted of speeding.

For the above stated reasons, we affirm the agency's action and deny the appeal.

The attached order is entered.

#### ORDER OF THE COURT

AND NOW, this 26th day of July, 2000, the Agency's action is affirmed.

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<sup>5</sup>We note that had the Department retroactively applied the statute, Spielman's license would have been suspended as of the effective date of the Act. Spielman had 7 points as of December 17, 1999, that was subsequently reduced February 3, 2000 by 2 points as a result of his having passed a special point examination.

## 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 CAROLYN C. BELENSKI, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Calvin R. Clickner, 11 Garfield Road, Troy, NY 12180

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

## ESTATE OF ETHEL L. SHRIVER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Leah C. Miller, 120 S. Orange Street, New Oxford, PA 17350

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

## SECOND PUBLICATION

## ESTATE OF ELIZABETH F. BIXBY, DEC'D

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

Executors: Virginia F. Bixby, 6333 LaJolla Boulevard #169, LaJolla, CA 92037; Charles Andrew Bixby, 5748 Wild Berry Court, Parker, CO 80134; Sarah E. Puckett, 110 Lincoln Way West, New Oxford, PA 17350; Robert Lewis Bixby, 312 Broadway, Hanover, PA 17331

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

## ESTATE OF HELEN W. JONES, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Samuel L. Jones, Jr., c/o John E. Slike, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

Attorney: John E. Slike, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

## ESTATE OF JOANNA N. KOONTZ, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executors: Donna Koontz Riley, 1221 Carolina Loop, Hillsborough, NC 27278; Gary P. Koontz, 5063 Baltimore Pike, Littlestown, PA 17340

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

## THIRD PUBLICATION

## ESTATE OF CHARLES ISREAL GRIM a/k/a CHARLES I. GRIM, DEC'D

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

Executors: Susan A. Spangler and Paul A. Grim, c/o Kagen, MacDonald & France, P.C., 2675 Eastern Boulevard, York, PA 17402

Attorney: Andrew F. Kagen, Esq., 2675 Eastern Boulevard, York, PA 17402

## ESTATE OF SARAH E. HARNER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Barbara J. Zumbum, 243 Bollinger Road, Littlestown, PA 17340

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

## ESTATE OF STANLEY W. HULL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Louise S. Hull, 970 Mummasburg Road, Gettysburg, PA 17325

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

## ESTATE OF RAYMOND W. LUCKEN-BAUGH, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Gary Luckenbaugh, 20405 Rainbowview Terrace, Montgomery Village, MD 20886; Eric Luckenbaugh, 31 Hetrick Court, Palmyra, PA 17078

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

## ESTATE OF STERLING N. McCAUSLIN, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Maurice E. Pitzer, Jr., 859 Brysonia-Wenksville Road, Biglerville, PA 17307

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

## ESTATE OF EDNA MARY SOWERS a/k/a EDNA M. SOWERS, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Executors: Roger K. Sowers, 786 White Oak Tree Rd., Gardners, PA 17324; Anne M. Heller, 107 Georgetown Rd., Gardners, PA 17324; Ted E. Sowers, 339 Balltown Rd., Gardners, PA 17324

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

## ESTATE OF LESTER M. TAYLOR, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executor: Jeffrey D. McCleaf, 1120 Center Mills Road, Aspers, PA 17304

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-161 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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 Butler Township, Adams County, Pennsylvania, bounded and described as follows:

TRACT NO. 1:

BEGINNING at a point in the center of Township Road T-348 at the northernmost corner of Lot No. 3 on said plan of lots referred to below; thence in said Township Road, North 49 degrees East 155.75 feet to a railroad spike in the center of said Road; thence by land now or formerly of Nellie M. Deckert and running through a reference pipe located 25 feet from the beginning of this line, South 41 degrees East 175 feet to a pipe; thence by the same, South 49 degrees West 155.75 feet to a point at the easternmost corner of Lot No. 3 on a plan of lots referred to below; thence by said Lot No. 3, North 41 degrees West 175 feet to a point in the center of Township Road T-348, the place of BEGINNING.

CONTAINING 27,256 square feet, and designated as Lot No. 4 on the plan of lots referred to below.

THE foregoing description was obtained from a plan of lots prepared by Adams County Surveyors, J. Riley Redding, Registered Surveyor, dated September 24, 1976, which plan of lots is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 12 at Page 25.

Premises being: 1365 Belmont Road, Gettysburg, PA 17325

Tax Parcel No. E10-90

SEIZED and taken into execution as the property of **Robert Smith & Geraldine M. Smith (deceased)** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, 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.

5/18, 25 & 6/1

IN THE COURT  
OF COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA  
ORPHANS' COURT DIVISION

In re: Adoption of HJMH, KLH, JDH

No.: RT-11-01

TO: JOSEPH EUGENE HECKARD

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to HJMH, KLH, and JDH, has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for June 14, 2001 at 8:30 a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the Adoption/ Involuntary Termination of Your Parental Rights with respect to your child. You should contact 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 help.

COURT ADMINISTRATOR  
ADAMS COUNTY COURTHOUSE  
111-117 BALTIMORE STREET  
GETTYSBURG, PENNSYLVANIA 17325  
TELEPHONE NUMBER:  
1-717-337-9846 OR 1-888-337-9846

5/25, 6/1 & 8

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 May 8, 2001, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is AMERICAN FLOOR COVERING, INC.

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

American Floor Covering, Inc.  
209 Lincoln Way East  
New Oxford, PA 17350

6/1

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-272 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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, Adams County, Pennsylvania, being known as Lot No. 64 Section "RI", more particularly bounded and described as follows:

BEGINNING at a point in the center of Fruitwood Trail (formerly stated as McLaughlin Trail) at Lot No. 63; thence by said lot South 02 degrees 37 minutes 20 seconds West 225 feet to other lands now or formerly of Charnita, Inc.; thence by said lands North 87 degrees 22 minutes 40 seconds West 100 feet to Lot No. 65; thence by said lot North 02 degrees 37 minutes 20 seconds East 225 feet to a point in the center of said Fruitwood Trail (formerly stated as McLaughlin Trail); thence in said Fruitwood Trail (formerly stated as McLaughlin Trail) South 87 degrees 22 minutes 40 seconds East 100 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a plan of lots labeled "Section RI of Charnita, Inc." dated May 29, 1970, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at Page 83.

TOGETHER WITH AND SUBJECT TO the covenants, conditions, restrictions, and reservations set forth in original Charnita Deed recorded in Deed Book 293 at Page 725.

Premises being: 67 Fruitwood Trl, Fairfield, PA 17320

Tax Parcel No. 40-55

SEIZED and taken into execution as the property of **Frank C. Scofield** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

# Adams County Legal Journal

Vol. 43

June 8, 2001

No. 2, pp. 4-9

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-188 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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 Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a nail in the center of Pond Road (T-395) in the middle of railroad tracks at the corner of land now or formerly of George K. Hawbaker; thence by said railroad tracks and by said Hawbaker land, by a curve to the left, the radius of which is 718.55 feet, the arc distance of which is 266.85 feet, the long chord of which is North 27 degrees 30 minutes 05 seconds East, 265.32 feet to a point on line of land now or formerly of Gettysburg Industrial Development Association (for the benefit of Knouse Foods Cooperative, Inc.); thence by said land South 84 degrees 25 minutes 30 seconds East, 202.67 feet to an eye bolt; thence by the same South 00 degrees 12 minutes 05 seconds East, 206.39 feet to an existing railroad spike near the center line of Pond Road (T-395); thence continuing in or near the center of said road North 85 degrees 07 minutes 00 seconds West, 127.89 feet to a railroad spike; thence continuing in or near the center of said road South 84 degrees 10 minutes 30 seconds West, 198.55 feet to a nail in the center of said road and the center of the railroad tracks, the place of BEGINNING. CONTAINING 1.238 Acres, more or less.

The above description was taken from a draft of survey dated April 13, 1988, prepared by Boyer Surveys, Richard W. Boyer, P.L.S., and recorded in Adams County Plat Book 50 at page 47, identified as Lot No. 2 thereon.

The above-described tract of land being the same which Richard E. Weidner and Cindy M. Weidner, husband and wife, and Ronnie E. Weidner, single, by their deed dated July 24, 1996 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 1231 at page 242, granted and conveyed unto Ronnie E. Weidner, one of the Defendants herein.

IMPROVED WITH a single family residence with detached 2 car garage.

Property Address: 184 Pond Road, Gardners, PA 17324

Map & Parcel: G5 at 3B

SEIZED and taken into execution as the property of **Ronnie E. & Cindy Weidner** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

## 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 March 19, 2001 for the incorporation of VIRGIL LOVE BOXING, INC. under the Pennsylvania Business Corporation Law of 1988. The corporation shall engage in the business of a boxing gym, together with any legal function of a corporation under PA law. The initial registered office of the corporation is 123 Baltimore Street, Gettysburg, Pennsylvania 17325.

Bernard A. Yannetti, Jr., Esq.  
Hartman & Yannetti  
Solicitor

6/8

## IN THE COURT OF COMMON PLEAS OF ADAMS COUNTY, PENNSYLVANIA ORPHANS' COURT DIVISION

In re: Adoption of HJMH, KLH, JDH

No.: RT-11-01

TO: JOSEPH EUGENE HECKARD

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to HJMH, KLH, and JDH, has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for June 14, 2001 at 8:30 a.m., prevailing time, at the Courthouse at Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the Adoption/ Involuntary Termination of Your Parental Rights with respect to your child. You should contact 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 help.

COURT ADMINISTRATOR  
ADAMS COUNTY COURTHOUSE  
111-117 BALTIMORE STREET  
GETTYSBURG, PENNSYLVANIA 17325  
TELEPHONE NUMBER:  
1-717-337-9846 OR 1-888-337-9846

5/25, 6/1 & 8

## ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

Business Office - 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336  
Periodicals postage paid at Gettysburg, PA 17325.

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1028 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 together with any and all improvements thereon erected, Situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of Township Road 574 at a corner of lands now or formerly of Donald Linebaugh, thence along the lands of said Donald Linebaugh and through a reference pin set back ten and eight-tenths (10.8) feet from the corner of said road, North fifty-eight (58) degrees East three hundred (300) feet to a point at lands now or formerly of Joseph L. Eshelman and wife, of which this was formerly a part; thence along same South fifty-one (51) degrees thirty (30) minutes East one hundred fifty (150) feet to a point at lands now or formerly of Joseph L. Eshelman and wife; thence along same South fifty-eight (58) degrees West three hundred (300) feet to a point at the center line of Township Road 574; thence in and through the said center line of Township Road North fifty-one (51) degrees thirty (30) minutes West one hundred fifty (150) feet to a point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Reginald R. Bush, a single man by Deed from James R. Cousler, Jr., et al. dated 8/25/98, recorded 9/9/98, in Record Book 1657 page 150.

Tax Parcel: #L-7-23-C

SEIZED and taken into execution as the property of **Reginald R. Bush** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/8, 15 & 22

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1001 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 right, title, interest and claim of Curtis J. Eger and Wanda M. Eger, of, in and to:

ALL the following described real estate situated in township of Mt. Joy, County of Adams, Commonwealth of Pennsylvania. Having erected thereon a dwelling known and numbered as 2746 Baltimore Pike, Gettysburg, PA 17325. Deed Book Volume 919, Page 175, Parcel No. H15-9B.

CIVIL ACTION NO: 00-S-1001

SEIZED and taken into execution as the property of **Curtis J. Eger & Wanda M. Eger** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/8, 15 & 22

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-307 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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, together with improvements, situate in Latimore Township, Adams County, Pennsylvania, more particularly described as Lot No. 1274 on the Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, at page 7.

Premises being: 30 Fisher Drive, East Berlin, PA 17316

Tax Parcel No. Tax Map 3, Parcel 21

SEIZED and taken into execution as the property of **Kerry A. & Lisa J. Bollinger** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

## COMMONWEALTH VS. BEVERAGE TRANSPORTATION

1. Under Pennsylvania law it is clear that when a police officer stops a vehicle and the occupants are detained that a seizure has occurred which is subject to constitutional restraint.

2. However, the expectation of privacy varies according to location, extent and time of the search as well as the governmental interest involved. Whether a particular seizure is reasonable is determined by utilizing a balancing analysis "wherein the intrusion on the individual of a particular law enforcement practice is balanced against the government's promotion of legitimate interests."

3. Our courts have held that certain seizures are permitted on less than probable cause, especially when commercial vehicles are detained and the search is limited to minimal intrusion.

4. (Systematic) roadblocks are permissible when certain guidelines are substantially followed.

5. The (Pennsylvania) Supreme Court utilized the *Talbert* guidelines in upholding a roadblock conducted to detect license, registration and equipment violations. Again, the court noted that "substantial compliance with the guidelines is all that is required to reduce the intrusiveness of the search to a constitutionally acceptable level."

6. Owners of certain closely regulated businesses should expect their businesses would be subject to warrantless administrative searches.

7. Trucking is a closely regulated industry....a systematic inspection does further the regulatory scheme of detecting unsafe trucks before accidents occur....§4707 permits systematic inspections for the purpose of checking the equipment and that a brief detention for that purpose is within that statutory objective.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-152-00, **COMMONWEALTH VS. BEVERAGE TRANSPORTATION, INC.**

Christine Simpson, Esq., Asst. District Attorney

Curtis Stambaugh, Esq., for Defendant

Kuhn, J., August 1, 2000.

### MEMORANDUM OPINION

The factual background is set forth in an Order filed contemporaneously herewith. The issue before the Court is whether the stop of Defendant's vehicle effectuated by Officer Alspaugh was constitutionally invalid.

Under Pennsylvania law it is clear that when a police officer stops a vehicle and the occupants are detained that a seizure has occurred which is subject to constitutional restraint. *Commonwealth v. Tarbert*, 517 Pa. 277, 284, 535 A.2d 1035, 1038 (1987); *Commonwealth v. Berry*, 305 Pa. Super. 8, 12, 451 A.2d 4, 6 (1982). Both the Fourth Amendment to the United States Constitution and

Article I, Section 8 of the Pennsylvania Constitution protect persons from unreasonable invasions of their privacy. However, the expectation of privacy varies according to location, extent and time of the search as well as the governmental interest involved. *Id.* Whether a particular seizure is reasonable is determined by utilizing a balancing analysis “wherein the intrusion on the individual of a particular law enforcement practice is balanced against the government’s promotion of legitimate interests.” *Commonwealth v. Blouse*, 611 A.2d 1177, 1178 (Pa. 1992).

In this case, the officer intended to detain commercial vehicles weighing in excess of 26,000 pounds pursuant to authority set forth in 75 Pa. C.S.A. §4704 which provides, in pertinent part,

(a) Authority to inspect –

...  
(2) Systematic vehicle inspection programs. – Any...qualified Commonwealth employee engaged in a systematic vehicle inspection program may inspect any vehicle, driver, documents, equipment and load to determine whether they meet standards established in department regulations.

Defendant’s vehicle was the first, and only, vehicle detained by the officer on this occasion and, but for the authority granted by §4702(a)(2), there was no probable cause to effectuate the stop.

Our courts have held that certain seizures are permitted on less than probable cause, especially when commercial vehicles are detained and the search is limited to minimal intrusion. *Berry, supra.* In *Tarbet* our Supreme Court addressed the issue “whether the police may set up systematic roadblocks for the purpose of stopping and observing drivers to determine whether they are operating a motor vehicle under the influence of alcohol.” 535 A.2d at 1036. Relying upon the reasoning set forth in *United States v. Martinez-Fuerte*, 428 U.S. 543, 96 S. Ct. 3074, 49 L.Ed.2d. 1116 (1976), the Court held that such (systematic) roadblocks are permissible when certain guidelines are substantially followed. Factors which the Court balanced in reaching this conclusion included the reduced expectation of privacy in a vehicle, the pervasive governmental regulations of vehicles, including periodic inspections, the government’s compelling interest in promoting highway safety, the inadequacy of more traditional law enforcement practices to detect violations of the law,

and the minimal intrusion that would be involved. Specifically, *Tarbert* held drunk-driving roadblocks would be constitutionally acceptable if managed and conducted so that the intrusiveness and arbitrariness of the stop is minimized. The guidelines set forth included that:

1. The roadblock is conducted so that it requires only a momentary stop to allow the police to make a trained observation of the violation(s) being targeted.
2. The existence of the roadblock is ascertainable from a reasonable distance or otherwise made known in advance in order to avoid unnecessary surprise.
3. The decision to conduct a roadblock as well as its time and location should be reserved for prior administrative approval rather than relying upon the discretion of the officer in the field.
4. The road selected and the time of the roadblock should be based upon local experience as a roadway and time likely traveled by the targeted vehicles.
5. Which vehicles are being targeted to be detained should be determined in accordance with standards prefixed by administrative decision rather than upon the discretion of the officer in the field.

517 Pa. at 293, 535 A.2d at 1043.

In *Commonwealth v. Blouse*, 611 A.2d 1177 (Pa. 1992) the (PA) Supreme Court utilized the *Tarbert* guidelines in upholding a roadblock conducted to detect license, registration and equipment violations. Again, the Court noted that “substantial compliance with the guidelines is all that is required to reduce the intrusiveness of the search to a constitutionally acceptable level.” 611 A.2d at 1180 (emphasis added). There, the roadblock was conducted in substantial compliance with the *Tarbert* guidelines. The roadblock was conducted pursuant to a written departmental policy. The shift commander authorized the particular roadblock. Flares were placed to give warning to the public. Every vehicle was stopped. The location of the roadblock was based on a large number of license, equipment and inspection violations detected during evening hours while carrying out other routine traffic stops. The roadblock was carried out pursuant to authority in 75 Pa. C.S.A. §6308(b).

In *Commonwealth v. Petroll*, 738 A.2d 993 (Pa. 1999), the Supreme Court took a slightly different approach to this constitutional issue. There the Court was asked to determine whether the seizure of a logbook, shipping invoices and a radar detector from the cab of a truck involved in an accident was unconstitutional. In language, which for the most part, involved dicta, the Court noted that administrative searches of a business premise does not require a showing of probable cause and that “owners of certain closely regulated businesses should expect their businesses would be subject to warrantless administrative searches.” 738 A.2d at 1000.

In *Petroll*, the Court followed the criteria set forth in *New York v. Burger*, 482 U.S. 691, 107 S. Ct. 2636, 96 L.Ed.2d. 601 (1987) for determining whether a warrantless search of a closely regulated business is reasonable. That criteria included:

1. There must be a “substantial” governmental interest that informs the regulatory scheme pursuant to which the inspection is made.
2. The inspection must necessarily further the regulatory scheme; and
3. The statute’s inspection program, in terms of the certainty and regularity of its application must provide a constitutionally adequate substitute for a warrant by advising the commercial owner that the search is being made pursuant to the law, that the scope and frequency of the inspection is reasonably restricted to achieve the statutory objective and it must limit the discretion of the inspecting officer.

738 A.2d at 1000-1; 1004.

In analyzing each of these criteria, *Petroll* noted 1) that trucking is a closely regulated industry, see 75 Pa. C.S.A. §4701 et seq., 67 Pa. Code §229.364 (implementing 75 Pa. C.S.A. §4704), and 2) that §4704(a)(2) authorizes systematic inspections to prevent future harm by attempting to remove unsafe vehicles from the roadways. *Petroll* did not address the adequacy of §4704 as a substitute for the warrant requirement. 738 A.2d at 1005.

With the aforementioned discussion in mind, we consider the systematic inspection conducted by Officer Alspagh:

First, the detention was designed to be relatively short in duration. Specifically, the officer was performing a Level 2 Safety Inspection.<sup>1</sup>

Second, there was no notice or warning to the public that an inspection would be effectuated along S.R. 16.

Third, this particular systematic inspection detail was not authorized in advance or directed by the officer's supervisor. Instead, the time and place of the inspection was selected by Officer Alspaugh. However, the officer's supervisor had previously approved this particular site for an inspection detail.

Fourth, the roadway selected was one well traveled by truck traffic. The officer testified that other inspections done at this location on prior occasions yielded inspection citations.

Fifth, the record contains no information relating to whether the targeted vehicles are likely to be traveling on S.R. 16 at the time the inspection detail was set up.

Sixth, the record contains no information that the type of vehicles to be detained was determined in accordance with administrative standards. Instead, the officer simply stated that he decided to pull over trucks weighing in excess of 26,000 pounds and going in an easterly direction.

Seventh, as noted above, trucking is a closely regulated industry.

Eighth, traditional police procedures are inadequate to detect violations of safety provisions and a systematic inspection does further the regulatory scheme of detecting unsafe trucks before accidents occur.

Ninth, Defendant should have been aware that §4704 permits systematic inspections for the purpose of checking the equipment and that a brief detention for that purpose is within that statutory objective.

After careful consideration of the relevant factors, we reach the conclusion that although there was some compliance with *Tarbert* and *Petroll*, there was not substantial compliance with the criteria

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<sup>1</sup> Our record fails to indicate what action is involved in a Level 2 inspection. However, in *Delaware v. Faircloth*, 1995 Del. Super. Lexis 293 (1995) the Delaware Superior Court noted that "a level one inspection involves checking the entire truck's components, including underneath the truck, as well as checking the driver and his records. A level two inspection involves walking around the truck and then checking the driver and his records." In each case the officer is looking for a violation of federal regulations incorporated into state law and completes an inspection report.

involved in determining whether this warrantless detention and seizure was constitutionally valid. Primarily, our concern rests upon the unrestrained discretion by the officer to choose the location, time and scope of the inspection detail. In addition, as did the court in *Delaware v. Faircloth, supra.*, we do not believe this procedure satisfies the third prong in *Burger* because §4704 gives no notice when a stop may occur. Simply inferring from the statute that a stop can occur at any time results in the exercise of unfettered discretion by the officer.

Accordingly, we feel constrained to grant Defendant's Motion to Suppress.

## 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 DORA C. CARBAUGH, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executors: Dorothy C. Socks, 8946 Stottliemyer Rd., Waynesboro, PA 17268; Robert E. Carbaugh, 680 Old Waynesboro Rd., Fairfield, PA 17320; R. Elaine Gilland, 2535 Iron Springs Rd., Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

ESTATE OF JANET K. HUGHES a/k/a JANET RUTH HUGHES, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Co-Executors: A. James Mayer, 406 Cockeyes Mill Road, Reisterstown, MD 21136; Paul F. Miller, Jr., 115 Maple Hill Road, Gladwyne, PA 19035

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

ESTATE OF JOHN B. KENDLEHART, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Neal S. Kendlehart, 2493 Hunterstown-Hampton Road, New Oxford, PA 17350

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

ESTATE OF WENDELL W. NAUGLE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Gregory W. Naugle, 2882 Cold Springs Road, Orrtanna, PA 17353

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

ESTATE OF ALICE M. SNYDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Jeffrey Mummert, 11 Bugle Call Path, Gettysburg, PA 17325

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

## SECOND PUBLICATION

ESTATE OF CAROLYN C. BELENSKI, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Calvin R. Clickner, 11 Garfield Road, Troy, NY 12180

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

ESTATE OF ETHEL L. SHRIVER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Leah C. Miller, 120 S. Orange Street, New Oxford, PA 17350

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

## THIRD PUBLICATION

ESTATE OF ELIZABETH F. BIXBY, DEC'D

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

Executors: Virginia F. Bixby, 6333 LaJolla Boulevard #169, LaJolla, CA 92037; Charles Andrew Bixby, 5748 Wild Berry Court, Parker, CO 80134; Sarah E. Puckett, 110 Lincoln Way West, New Oxford, PA 17350; Robert Lewis Bixby, 312 Broadway, Hanover, PA 17331

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

ESTATE OF HELEN W. JONES, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Samuel L. Jones, Jr., c/o John E. Slike, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

Attorney: John E. Slike, Esq., Saidis, Shuff, Flower & Lindsay, 2109 Market Street, Camp Hill, PA 17011

ESTATE OF JOANNA N. KOONTZ, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executors: Donna Koontz Riley, 1221 Carolina Loop, Hillsborough, NC 27278; Gary P. Koontz, 5063 Baltimore Pike, Littlestown, PA 17340

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

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 01-S-364  
Complaint in Ejectment

COUNTRYWIDE HOME LOANS INC.,  
Plaintiff

vs.

CHARLES D. RIEBLING, VIRGINIA A.  
RIEBLING and/or OCCUPANTS,  
Defendant(s).

TO the above named Defendants, whose  
last known address is 564 Bendersville-  
Wenksville Rd., Aspers, PA 17304:

TAKE NOTICE that a Complaint in  
Ejectment has been filed against you in  
the above named Court. Plaintiff has  
acquired title to premises 564  
Bendersville-Wenksville Rd., Aspers, PA  
17304 and a Judgment in Ejectment has  
been entered in favor of Plaintiff on May  
8, 2001. Person(s) in possession of said  
premises are Defendant(s) and are  
occupying premises without right or  
claim to title.

Plaintiff has demanded possession of  
premises from Defendant(s) who have  
refused to deliver up possession thereof.

WHEREFORE, Plaintiff demands  
judgment for immediate possession of  
premises, issuance of a Writ of  
Possession and a judgment of its costs  
and disbursement in this action.

NOTICE

YOU HAVE BEEN SUED IN COURT. If  
you wish to defend against the claims set  
forth in the above, you must take action  
within twenty (20) days after this com-  
plaint and notice are served, by entering  
a written appearance personally or by  
attorney and filing in writing with the  
Court your defenses or objections to the  
claims set forth against you. You are  
warned that if you fail to do so the case  
may proceed without you and a judg-  
ment may be entered against you by the  
Court without further notice for any

money claimed in the complaint or for  
any other claim or relief requested by the  
plaintiff. You may lose money or property  
or other rights important to you.

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

PENNSYLVANIA BAR ASSOCIATION  
P.O. Box 186  
Harrisburg, PA 17108  
(800) 692-7375  
LEGAL SERVICES INC.  
132 S. Washington Street  
Gettysburg, PA 17325  
(717) 334-7623

Joseph A. Goldbeck, Jr.  
Attorney for Plaintiff  
Goldbeck McCafferty & McKeever  
Suite 500, The Bourse Bldg.  
Philadelphia, PA 19106  
(215) 627-1322

6/8

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution,  
Judgment No. 01-S-272 issued out of  
the Court of Common Pleas of Adams  
County, and to me directed, will be ex-  
posed to Public Sale on Friday, the 20th  
day of July, 2001, 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 situ-  
ated, lying, and being in the Borough  
of Carroll Valley, Adams County,  
Pennsylvania, being known as Lot No.  
64 Section "RI", more particularly  
bounded and described as follows:

BEGINNING at a point in the center of  
Fruitwood Trail (formerly stated as  
McGlaughlin Trail) at Lot No. 63; thence  
by said lot South 02 degrees 37 minutes  
20 seconds West 225 feet to other lands  
now or formerly of Charnita, Inc.; thence

by said lands North 87 degrees 22 min-  
utes 40 seconds West 100 feet to Lot No.  
65; thence by said lot North 02 degrees  
37 minutes 20 seconds East 225 feet to  
a point in the center of said Fruitwood  
Trail (formerly stated as McGlaughlin  
Trail); thence in said Fruitwood Trail (for-  
merly stated as McGlaughlin Trail) South  
87 degrees 22 minutes 40 seconds East  
100 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION was  
taken from a plan of lots labeled "Section  
RI of Chamita, Inc." dated May 29, 1970,  
prepared by Gordon L. Brown, R.S.,  
recorded in Adams County Plat Book No.  
1 at Page 83.

TOGETHER WITH AND SUBJECT TO  
the covenants, conditions, restrictions,  
and reservations set forth in original  
Chamita Deed recorded in Deed Book  
293 at Page 725.

Premises being: 67 Fruitwood Trl,  
Fairfield, PA 17320

Tax Parcel No. 40-55

SEIZED and taken into execution as  
the property of Frank C. Scofield and to  
be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

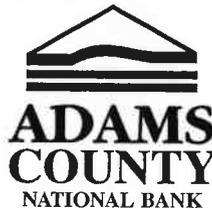
TO ALL PARTIES IN INTEREST AND  
CLAIMANTS: You are notified that a  
schedule of distribution will be filed by  
the Sheriff in his office on August 13,  
2001, and distribution will be made in  
accordance with said schedule, unless  
exceptions are filed thereto within 10  
days after the filing thereof. Purchaser  
must settle for property on or before filing  
date.

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

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

6/1, 8 & 15

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



Member FDIC

# Adams County Legal Journal

Vol. 43

June 15, 2001

No. 3, pp. 10-14

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-188 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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 Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a nail in the center of Pond Road (T-395) in the middle of railroad tracks at the corner of land now or formerly of George K. Hawbaker; thence by said railroad tracks and by said Hawbaker land, by a curve to the left, the radius of which is 718.55 feet, the arc distance of which is 266.85 feet, the long chord of which is North 27 degrees 30 minutes 05 seconds East, 265.32 feet to a point on line of land now or formerly of Gettysburg Industrial Development Association (for the benefit of Knouse Foods Cooperative, Inc.); thence by said land South 84 degrees 25 minutes 30 seconds East, 202.67 feet to an eye bolt; thence by the same South 00 degrees 12 minutes 05 seconds East, 206.39 feet to an existing railroad spike near the center line of Pond Road (T-395); thence continuing in or near the center of said road North 85 degrees 07 minutes 00 seconds West, 127.89 feet to a railroad spike; thence continuing in or near the center of said road South 84 degrees 10 minutes 30 seconds West, 198.55 feet to a nail in the center of said road and the center of the railroad tracks, the place of BEGINNING. CONTAINING 1.238 Acres, more or less.

The above description was taken from a draft of survey dated April 13, 1988, prepared by Boyer Surveys, Richard W. Boyer, P.L.S., and recorded in Adams County Plat Book 50 at page 47, identified as Lot No. 2 thereon.

The above-described tract of land being the same which Richard E. Weidner and Cindy M. Weidner, husband and wife, and Ronnie E. Weidner, single, by their deed dated July 24, 1996 and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 1231 at page 242, granted and conveyed unto Ronnie E. Weidner, one of the Defendants herein.

IMPROVED WITH a single family residence with detached 2 car garage.

Property Address: 184 Pond Road, Gardners, PA 17324

Map & Parcel: G5 at 3B

SEIZED and taken into execution as the property of **Ronnie E. & Cindy Weidner** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-272 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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 situated, lying, and being in the Borough of Carroll Valley, Adams County, Pennsylvania, being known as Lot No. 64 Section "RI", more particularly bounded and described as follows:

BEGINNING at a point in the center of Fruitwood Trail (formerly stated as McGlaughlin Trail) at Lot No. 63; thence by said lot South 02 degrees 37 minutes 20 seconds West 225 feet to other lands now or formerly of Chamita, Inc.; thence by said lands North 87 degrees 22 minutes 40 seconds West 100 feet to Lot No. 65; thence by said lot North 02 degrees 37 minutes 20 seconds East 225 feet to a point in the center of said Fruitwood Trail (formerly stated as McGlaughlin Trail); thence in said Fruitwood Trail (formerly stated as McGlaughlin Trail) South 87 degrees 22 minutes 40 seconds East 100 feet to the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a plan of lots labeled "Section RI of Chamita, Inc." dated May 29, 1970, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at Page 83.

TOGETHER WITH AND SUBJECT TO the covenants, conditions, restrictions, and reservations set forth in original Chamita Deed recorded in Deed Book 293 at Page 725.

Premises being: 67 Fruitwood Tri, Fairfield, PA 17320

Tax Parcel No. 40-55

SEIZED and taken into execution as the property of **Frank C. Scofield** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

## 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 May 31, 2001.

The name of the corporation is ECOWATER SYSTEMS OF YORK SPRINGS, INC.

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

John R. White  
Campbell & White  
112 Baltimore Street  
Gettysburg, PA 17325  
Attorneys for the Corporation

6/15

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

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

Business Office - 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336

Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1028 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 together with any and all improvements thereon erected, Situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of Township Road 574 at a corner of lands now or formerly of Donald Linebaugh, thence along the lands of said Donald Linebaugh and through a reference pin set back ten and eight-tenths (10.8) feet from the corner of said road, North fifty-eight (58) degrees East three hundred (300) feet to a point at lands now or formerly of Joseph L. Eshelman and wife, of which this was formerly a part; thence along same South fifty-one (51) degrees thirty (30) minutes East one hundred fifty (150) feet to a point at lands now or formerly of Joseph L. Eshelman and wife; thence along same South fifty-eight (58) degrees West three hundred (300) feet to a point at the center line of Township Road 574; thence in and through the said center line of Township Road North fifty-one (51) degrees thirty (30) minutes West one hundred fifty (150) feet to a point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Reginald R. Bush, a single man by Deed from James R. Cousler, Jr., et al. dated 8/25/98, recorded 9/9/98, in Record Book 1657 page 150.

Tax Parcel: #L-7-23-C

SEIZED and taken into execution as the property of Reginald R. Bush and to be sold by me

Raymond W. Newman Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1001 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 right, title, interest and claim of Curtis J. Eger and Wanda M. Eger of, in and to:

ALL the following described real estate situated in township of Mt. Joy, County of Adams, Commonwealth of Pennsylvania. Having erected thereon a dwelling known and numbered as 2746 Baltimore Pike, Gettysburg, PA 17325. Deed Book Volume 919, Page 175, Parcel No. H15-9B.

CIVIL ACTION NO: 00-S-1001

SEIZED and taken into execution as the property of Curtis J. Eger & Wanda M. Eger and to be sold by me

Raymond W. Newman Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-307 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 20th day of July, 2001, 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, together with improvements, situate in Latimore Township, Adams County, Pennsylvania, more particularly described as Lot No. 1274 on the Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 1, at page 7.

Premises being: 30 Fisher Drive, East Berlin, PA 17316

Tax Parcel No. Tax Map 3, Parcel 21

SEIZED and taken into execution as the property of Kerry A. & Lisa J. Bollinger and to be sold by me

Raymond W. Newman Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 13, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/1, 8 & 15

## SINES ET AL VS. GERMANY TOWNSHIP ET AL

1. The defense (of governmental immunity) can be raised through preliminary objections and not as New Matter, unless plaintiffs file preliminary objections to the manner in which it is raised.
2. It seems clear that a municipality has a duty to keep its highways reasonably safe for their intended purposes. However, it seems equally clear that Township cannot be liable for injuries caused by dangerous conditions on roads owned by DOT, without a contractual duty of maintenance and repair.
3. The status of a public highway is a matter that can be determined by reference to official documents of which we can take judicial notice. Such notice may be taken at any stage of the proceeding, and whether or not a party has requested it. A government map is considered an unimpeachable source.
4. Exceptions to governmental immunity must be strictly and narrowly construed. Failure to require landowners to bring properties into compliance with Township directives are not exempted.
5. Punitive damages are not included, and are not recoverable against municipalities.
6. Other than cases involving life insurance, recovery for damages is limited to the amount exceeding insurance benefits.
7. It (the Act) makes no exceptions for suits brought by insurance carriers as subrogees of persons injured under circumstances falling within the exceptions. The equitable doctrine of subrogation places the subrogee in the precise position of the one to whose rights and disabilities he is subrogated.

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

L. Paul Johnston, Jr., Esq., for Plaintiff  
Thomas Z. McAndrew, Jr., Esq., for Defendant Germany Township  
Jay W. Stark, Esq., for Defendant Pennsylvania Department of Transportation  
Spicer, P.J., August 9, 2000.

### OPINION ON PRELIMINARY OBJECTIONS

In their complaint, filed May 26, 2000, Darlene Sines and Loren Sines (Sines) identify themselves as husband and wife. Progressive Casualty Insurance Co. (Progressive) describes itself as a corporation that issued a motor vehicle insurance policy to Sines and joins in the suit to assert subrogation rights under the policy.

Plaintiffs have sued the Commonwealth of Pennsylvania, Department of Transportation (DOT), a landowner (Fabric) whose property is "in the vicinity of Frederick Pike (State Route 194) and

Georgetown Road (State Route 2014), in Germany Township, Adams County, Pennsylvania,” (§8), and Germany Township (Township). They have alleged that Mr. Sines was operating his car “on a curve on Frederick Pike (State Route 194) in the vicinity of Georgetown Road (State Route 2014),” on January 29, 1998 when he hit a patch of ice and spun into an oncoming vehicle and “other static objects.” (§23). Although plaintiffs have distinguished between property damage and personal injuries in two separate counts, they have included all defendants in those two counts.<sup>1</sup>

The complaint alleges that Township and DOT are owners of record of the roads, have concurrent and joint responsibility for their design, building and maintenance, and are responsible for enforcing the law with respect to the two roads. Plaintiffs also assert liability against Township on a nuisance theory and possibly because Township has not required Fabric to prevent the discharge of water and ice from his property onto the roadway.

Township has filed preliminary objections, raising governmental immunity. The defense can be raised through preliminary objections, and not as New Matter, unless plaintiffs file preliminary objections to the manner in which it is raised. *Jackson v. Southeastern Pennsylvania Transportation Authority*, 129 Pa. Commonwealth 596, 566 A.2d 638 (1989); alloc. dn. 527 Pa. 656, 593 A.2d 426 (1990). Although plaintiffs have filed such objections, it is because they claim Township’s objections are speaking demurrers. They argue that ruling on the objection requires the court to resort to facts that do not appear of record. They insist that the court must consider as true their allegations that DOT and Township exercise joint ownership and control of the roads in question.

At oral argument, plaintiffs’ counsel could offer no proof of the assertion, but stoutly maintained that it is too early to require a resolution of ownership and control of the roads. In some respect, the court has been asked to treat the complaint as a summons and allow time for discovery.

Preliminary objections do not sink to speaking demurrers. The complaint, as previously indicated, clearly identifies the two roads as state highways. Thus, objections are based upon allegations in the

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<sup>1</sup> Pleading in this fashion makes it somewhat difficult to determine whether some allegations are relevant only to Fabric, or attempt to assert dereliction by Township.

complaint. Of course, there are contradictory averments, and the question is whether we can sustain objections based upon some allegations and ignore others.

Because of the particular nature of the issue in dispute, the court holds that it can.

Township's objections may be sustained only if it is clear that the law will not permit recovery against it. We must consider all well pleaded facts most favorably to plaintiffs, but are not bound by conclusions of law. *Edwards v. Germantown Hospital*, Pa. Super. , 736 A.2d 612 (1999).

Except as otherwise provided by law, the legislature has announced that "no local agency shall be liable for any damages on account of any injury to a person or property caused by any act of the local agency or an employee thereof or any other person," 42 Pa. C.S.A. §8541. Section 8542 describes 8 exceptions, the only one of which is or might be applicable to plaintiffs' claim being "(6) streets." Under this subsection, liability may be premised on either ownership of the roads or a written contract for maintenance or repair thereof between Township and DOT.

The allegations of ¶9 in the complaint can be fairly read only to encompass ownership. Nothing is said about a contract, written or otherwise. Allegations in ¶10 asserting joint responsibility are legal conclusions and entitled to no weight.

It seems clear that a municipality has a duty to keep its highways reasonably safe for their intended purposes. See dissent in *Starr v. Veneziano*, 560 Pa. 650, 747 A.2d 867 (2000), citing *McCalla v. Mura*, 538 Pa. 527, 649 A.2d 646 (1994) (plurality opinion). However, it seems equally clear that Township cannot be liable for injuries caused by dangerous conditions on roads owned by DOT, without a contractual duty of maintenance and repair. *Jackson v. Southeastern Transportation Authority*, supra.

We find that allegations in the complaint that 194 and 2014 are state highways must take priority over allegations to the contrary. The status of a public highway is a matter that can be determined by reference to official documents of which we can take judicial notice. Pa. R.E. 201 allows the court to take judicial notice of facts that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Such notice may

be taken at any stage of the proceeding, and whether or not a party has requested it. A government map is considered an unimpeachable source. Ohlbaum on Pennsylvania Evidence, §201.07 (3)(a). DOT highway maps for Adams County are readily available in the mapping office of county government. Those maps can also be accessed through DOT's web page. DOT maps clearly identify 194 and 2014 as state highways. We attach a copy of a portion of DOT's map for Adams County to this opinion.

Township cannot be held responsible to conditions on a state highway. *Jackson*, supra.

Other claims for relief cannot be sustained. Exceptions to governmental immunity must be strictly and narrowly construed. *Lockwood v. City of Pittsburgh*, Pa. , 751 A.2d 1136 (2000). Actions for nuisances are not authorized. Failure to require landowners to bring properties into compliance with Township directives are not exempted from the statute's bane.

Section 8553 recognizes the classes of damages for which recovery can be made. Punitive damages are not included, and are not recoverable against municipalities. *Feingold v. Southeastern Pennsylvania Transportation Authority*, 512 Pa. 567, 517 A.2d 1270 (1986). *Satterfield v. Borough of Schuylkill Haven*, E.D. Pa. 1998, 12 F.Supp.2d 423.

Other than cases involving life insurance, recovery for damages is limited by §8553 (d) to the amount exceeding insurance benefits. Progressive's action is thus barred. As Commonwealth Court observed in *Michel v. City of Bethlehem*, 84 Commonwealth 43, 46, 478 A.2d 164, 166 (1984):

First, as noted, the Act provides political subdivisions with immunity from suits except for those injuries resulting from the eight described causes. It makes no exceptions for suits brought by insurance carriers as subrogees of persons injured under circumstances falling within the exceptions. Hence, State Farm's suit is barred by the terms of the Act.

Second, the equitable doctrine of subrogation places the subrogee in the precise position of the one to whose rights and disabilities he is subrogated. (citation omitted). The Michels, being insured, have no claim against the

City of Bethlehem for the damages covered by their insurance policy; hence, there is no claim to which State Farm can be subrogated.

We sustain the preliminary objections filed in this case. Although 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. The order will reflect this right.

#### ORDER OF COURT

And Now, this 9th day of August, 2000, Germany Township's preliminary objections are sustained. The complaint against it shall be dismissed unless plaintiffs file, within 20 days after service, an amended complaint, an amendment to the complaint, and/or a motion for reconsideration.

## 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 KERMIT L. BECHTEL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Mr. John C. Bechtel, 1140 Humpert Schoolhouse Road, Westminster, MD 21158; Mrs. Edna B. Koontz, 54 Patrick Avenue, Littlestown, PA 17340

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

ESTATE OF JOHN E. HOSTETTER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Janet E. Hostetter, 165 Old Mill Road, Gettysburg, PA 17325

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

ESTATE OF ARTHUR R. ROGERS, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrator: Richard V. Rogers, 38 East Middle Street, Gettysburg, PA 17325

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

## SECOND PUBLICATION

ESTATE OF DORA C. CARBAUGH, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executors: Dorothy C. Socks, 8946 Stottlemeyer Rd., Waynesboro, PA 17268; Robert E. Carbaugh, 680 Old Waynesboro Rd., Fairfield, PA 17320; R. Elaine Gilland, 2535 Iron Springs Rd., Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

ESTATE OF JANET K. HUGHES a/k/a JANET RUTH HUGHES, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Co-Executors: A. James Mayer, 406 Cockeys Mill Road, Reisterstown, MD 21136; Paul F. Miller, Jr., 115 Maple Hill Road, Gladwyne, PA 19035

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

ESTATE OF JOHN B. KENDLEHART, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Neal S. Kendlehart, 2493 Hunterstown-Hampton Road, New Oxford, PA 17350

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

ESTATE OF WENDELL W. NAUGLE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Gregory W. Naugle, 2882 Cold Springs Road, Orrtanna, PA 17353

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

ESTATE OF ALICE M. SNYDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Jeffrey Mummert, 11 Bugle Call Path, Gettysburg, PA 17325

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

## THIRD PUBLICATION

ESTATE OF CAROLYN C. BELENSKI, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Calvin R. Clickner, 11 Garfield Road, Troy, NY 12180

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

ESTATE OF ETHEL L. SHRIVER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Leah C. Miller, 120 S. Orange Street, New Oxford, PA 17350

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

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for BENTLEY'S FAMILY RESTAURANT, INC., have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about May 15, 2001, for the purpose of obtaining a Certificate of Incorporation to be organized under the provisions of Pennsylvania Business 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 registered office of the corporation is 425 North Queen Street, Littlestown, PA 17340.

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

6/15

NOTICE

ON THE 9th day of July, 2001, at 9:00 a.m., a hearing will be held in Courtroom No. 1 of the Adams County Courthouse, to determine whether the Gettysburg Area School District shall sell its student built house located at 20 Creekside Court, (Cumberland Township), Gettysburg, Pennsylvania, 17325 (Lot No. 22 of the Oakland Estates Subdivision) to Amy C. Morton for the purchase price of \$150,000, upon terms and conditions set forth in an Agreement of Sale dated May 21, 2001.

Any person who wishes to oppose the sale must attend the hearing and be heard.

Robert L. McQuaide  
Solicitor  
(717) 337-1360

6/15, 22 & 29

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for MR INVESTORS, INC., were filed under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

Miller & Shultis, P.C.  
Solicitors

6/15

FICTITIOUS NAME NOTICE

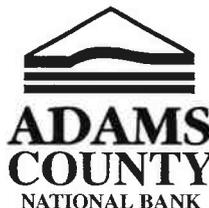
NOTICE IS HEREBY GIVEN that the Application for Registration of Fictitious Name was filed by MID STATE AIR with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purpose of registering under 54 Pa. C.S. Ch. 3, relating to fictitious names.

Samuel A. Gates, Esq.  
Solicitor

6/15



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



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# Adams County Legal Journal

Vol. 43

June 22, 2001

No. 4, pp. 15-17

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-296 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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, lying and being in Mt. Pleasant Township, Adams County, Pennsylvania, being (Lot No. 11) of Colonial Ridge Subdivision, more particularly bounded and described as follows:

BEGINNING at an iron pin on the edge of a 50 foot right of way known as Cannon Lane at the corner of Lot No. 10, as shown on the hereinafter identified draft of survey; thence by Lot No. 10 and running through the center of a party wall in a four unit townhouse separating Lot No. 10 and the lot hereby conveyed, North 42 degrees 17 minutes 22 seconds West, 125.00 feet to a point on line of Lot No. 8, as shown on said survey; thence by Lot No. 8, North 47 degrees 42 minutes 38 seconds East, 20.0 feet to a point at the corner of Lot No. 12, as shown on said survey; thence by Lot No. 12 and running through the center of a party wall in a four unit townhouse separating Lot No. 12 and the lot hereby conveyed, South 42 degrees 17 minutes 22 seconds East, 125.00 feet to an iron pin on the edge of a 50 foot right of way known as Cannon Lane; thence by same, along Cannon Lane, South 47 degrees 42 minutes 38 seconds West, 20.0 feet to an iron pin on the edge of a 50 foot right of way known as Cannon Lane at the corner of Lot No. 10, as shown on said survey, the point and place of BEGINNING. CONTAINING 2,500 square feet.

THE above description was taken from draft of survey, prepared by Gettysburg Engineering Company, Inc., dated January 9, 1981, revised February 1991, June 7, 1992, July 2, 1991, March 13, 1992, and May 4, 1992, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 60 at Page 69.

Premises being: 3 Cannon Lane, Gettysburg, PA 17325  
Tax Parcel No. 11-10

SEIZED and taken into execution as the property of **David E. Hadlock** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/22, 29 & 7/6

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-312 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 tract of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

BEGINNING at a steel pin on the southern right of way line of Starlite Drive at corner of Lot No 19 on the plan of lots hereinbelow identified thence by said lot No 19 south 44 degrees 22 minutes 32 seconds east 100.00 feet to a steel pin at corner of Lot No 13 of Lakeview Village-Phase one; thence by said No 13 south 45 degrees 37 minutes 28 seconds west, 36.00 feet to a steel pin at corner of Lot No 17; thence by said Lot No 17 north 44 degrees 22 minutes 32 seconds west 100.00 feet to a steel pin on the southern right of way line of Starlite Drive, thence by said southern right of way line of Starlite Drive, north 45 degrees 37 minutes 28 seconds East, 36.00 feet to the above described place of BEGINNING.

OWNER AND SUBJECT to the restrictions, reservations, conditions and protective covenants for "Lakeview Village-Phase Two" set forth in the declaration of restrictions, reservations, conditions and protective covenants dated June 8, 1990 and recorded in the office of the recorder of deeds of Adams County, Pennsylvania,

in record book 559 at page 653 as well as the restrictions, comments and notations as set forth on the subdivision for "Lakeview Village-Phase two" recorded in said office in Plat Book 54 at page 65 (2 pages)

TOGETHER WITH AND SUBJECT TO a 58 foot right of way in, through and along the streets known as Crescent Lane and Starlite Drive, to be used in common with other lot owners of lots in "Lakeview Village-Phase two" as shown on the subdivision plan hereinabove referenced.

Map #: 12-71

BEING KNOWN AS: 28 Starlite Drive, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Martin W. Jacoby & Glenda Jacoby** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/22, 29 & 7/6

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Pennsylvania Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 144, No. 177, as amended. The name of the corporation is **RAY M. HEISEY TRUCKING, INC.**

6/22

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

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

Business Office - 111 Baltimore Street, Room 305, Gettysburg, PA 17325. Telephone: (717) 334-6781 ext 336  
Periodicals postage paid at Gettysburg, PA 17325.

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-1028 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 together with any and all improvements thereon erected, Situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of Township Road 574 at a corner of lands now or formerly of Donald Linebaugh, thence along the lands of said Donald Linebaugh and through a reference pin set back ten and eight-tenths (10.8) feet from the corner of said road, North fifty-eight (58) degrees East three hundred (300) feet to a point at lands now or formerly of Joseph L. Eshelman and wife, of which this was formerly a part; thence along same South fifty-one (51) degrees thirty (30) minutes East one hundred fifty (150) feet to a point at lands now or formerly of Joseph L. Eshelman and wife; thence along same South fifty-eight (58) degrees West three hundred (300) feet to a point at the center line of Township Road 574; thence in and through the said center line of Township Road North fifty-one (51) degrees thirty (30) minutes West one hundred fifty (150) feet to a point and place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Reginald R. Bush, a single man by Deed from James R. Cousler, Jr., et al. dated 8/25/98, recorded 9/9/98, in Record Book 1657 page 150.

Tax Parcel: #L-7-23-C

SEIZED and taken into execution as the property of **Reginald R. Bush** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA  
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1001 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 right, title, interest and claim of Curtis J. Eger and Wanda M. Eger of, in and to:

ALL the following described real estate situated in township of Mt. Joy, County of Adams, Commonwealth of Pennsylvania. Having erected thereon a dwelling known and numbered as 2746 Baltimore Pike, Gettysburg, PA 17325. Deed Book Volume 919, Page 175, Parcel No. H15-9B.

CIVIL ACTION NO: 00-S-1001

SEIZED and taken into execution as the property of **Curtis J. Eger & Wanda M. Eger** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA  
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/8, 15 & 22

NOTICE

ON THE 9th day of July, 2001, at 9:00 a.m., a hearing will be held in Courtroom No. 1 of the Adams County Courthouse, to determine whether the Gettysburg Area School District shall sell its student built house located at 20 Creekside Court, (Cumberland Township), Gettysburg, Pennsylvania, 17325 (Lot No. 22 of the Oakland Estates Subdivision) to Amy C. Morton for the purchase price of \$150,000, upon terms and conditions set forth in an Agreement of Sale dated May 21, 2001.

Any person who wishes to oppose the sale must attend the hearing and be heard.

Robert L. McQuaide  
Solicitor  
(717) 337-1360

6/15, 22 & 29

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW  
NO. 01-S-467

IN THE MATTER OF A PETITION FOR  
THE CHANGE OF NAME OF KYLE  
GABRIEL COHEN

NOTICE

NOTICE IS HEREBY GIVEN, that on the 3rd day of May, 2001, the Petition of Kyle Gabriel Cohen was filed in the above-named Court, requesting an Order to Change his Name from Kyle Gabriel Cohen to Kyle Gabriel Camac.

The Court has fixed the 9th day of July, 2001, at 9:00 a.m. in Courtroom 1 or 2 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.

Robert E. Campbell  
Campbell & White  
Attorneys for Petitioner  
112 Baltimore Street  
Gettysburg, PA 17325

6/22

## COMMONWEALTH VS. RAGER

1. At the preliminary hearing, Commonwealth was required to present evidence with regard to each and every element of the charge and establish sufficient probable cause to warrant a belief that defendant committed the crime. The Commonwealth may rely upon circumstantial evidence as long as the requirements are met.

2. Although our conclusion that defendant drove on a public highway while under the influence makes it unnecessary to consider arguments about actual physical control, we also hold that the lot and driveway possessed sufficient public flavor to qualify as a trafficway.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-468-00, COMMONWEALTH OF PENNSYLVANIA VS. JEFFREY ALLEN RAGER.

Michael A. George, District Attorney, for Commonwealth  
Ronald J. Gross, Esq., for Defendant.

Spicer, P.J., August 22, 2000.

### MEMORANDUM OPINION ON HABEAS CORPUS

Defendant seeks dismissal of the information filed against him through a writ of habeas corpus. The Commonwealth has introduced no new evidence and the court's consideration is restricted to a transcript of proceedings before a district justice. Although defendant contends that all charges, including two summary offenses, should be dismissed, we consider only whether Commonwealth established a prima facie case on the misdemeanor charges. The summaries are made court cases only because of being associated with a misdemeanor, and the district justice's function was to forward these for bench trials if he held misdemeanor charges over for court.

At the preliminary hearing, Commonwealth was required to present evidence with regard to each and every element of the charge and establish sufficient probable cause to warrant a belief that defendant committed the crime. *Commonwealth v. Lutz*, 443 Pa. Super. 262, 661 A.2d 405 (1995). The Commonwealth may rely upon circumstantial evidence, as long as the requirements are met, *Commonwealth v. Zelosko*, 454 Pa. Super. 635, 686 A.2d 825 (1996).

The district justice held three charges over for court action: driving under the influence, and the summary offenses of disorderly conduct and public drunkenness. Although defendant raises some interesting questions in his petition, the court finds that sufficient evidence was produced to establish a prima facie case for driving under

the influence. Since the two summaries arose out of the same incident, the district justice properly referred them to court.

Four persons testified at the preliminary hearing. Generally, we focus on testimony of the prosecuting officer, Daniel Lanious, Christina Frey, and Ronald Frey. Defendant's sister, Barbara Mayall, also testified but added little to the presentation.

At the time of the incident, April 22, 2000, Mr. and Mrs. Frey resided in one of three apartments in a building located at 780-A Abbottstown Pike, Hanover (Berwick Township), Adams County, Pennsylvania. Defendant lived in another and the third was vacant. A driveway from Abbottstown Pike and a parking lot provide access and parking for the building. Obviously, the driveway connects to the public road and the lot is "real close to the road." Transcript 4. The parking lot will accommodate about six cars.

A neighbor's house, located on several acres of land, was described as being right across the public road.

The Freys returned home around 2:30 a.m. on the morning in question. No other cars were present in the driveway or lot. Roughly ten minutes later, while lying in bed, Mrs. Frey heard a car slow down on Abbottstown Pike, as if preparing to enter the driveway. Shortly thereafter, she heard a horn blow. Mr. Frey said he heard a dog bark. Mr. Frey also testified that he saw defendant standing next to defendant's car, and reach in to blow the horn. Thinking that defendant had possibly struck the Frey car, the couple got dressed and went outside. Defendant, with the engine running and himself in the driver's seat, rocked his car back and forth, apparently because it was stuck. He continued blowing the horn. Upon seeing the Freys, he exited the automobile, and became belligerent and loud. Mr. Frey said defendant was very drunk. Both Freys described the defendant stumbling around, falling and yelling insults and threats. A confrontation ensued.

Officer Lanious described the defendant's condition as involving a high level of intoxication.

Defendant argued that a driveway and parking lot that is used by two families is neither a public place nor a trafficway.

This is not a situation as was presented in *Commonwealth v. Byers*, 437 Pa. Super. 502, 650 A.2d 468 (1994), where a driver parked in a lot at a tavern. The evidence was equally consistent with

that driver having fallen under the influence at the bar after parking. No evidence supports a finding that defendant drank after arriving. The short sequence of events can lead to only one conclusion. Defendant was under the influence when he pulled from Abbottstown Pike. Furthermore, by operating his car (rocking back and forth) he was in actual physical control of it.

We may not have large numbers of the public, such as may have been present and affected in a shopping mall, *Commonwealth v. Proctor*, 425 Pa. Super. 527, 625 A.2d 1221 (1993), *alloc. dn.*, 535 Pa. 661, 634 A.2d 223 (1993), or a multiple story apartment building, *Commonwealth v. Cameron*, 447 Pa. Super. 233, 668 A.2d 1163 (1995), *alloc. dn.*, 544 Pa. 653, 676 A.2d 1194 (1996). However, as Superior Court observed, tenants deserve protection. *Id.*

Although our conclusion that defendant drove on a public highway while under the influence makes it unnecessary to consider arguments about actual physical control, we also hold that the lot and driveway possessed sufficient public flavor to qualify as a trafficway.

#### ORDER

AND NOW, this 22nd day of August, 2000, the writ is discharged.

## 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 DORIS C. ADAMS, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Barbara Diane Shultz, 336 Green Ridge Road, Orrtanna, PA 17353; Rodney Jay Adams, 1399 Knoxlyn Road, Gettysburg, PA 17325

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

## ESTATE OF BERNADINE S. BOLIN a/k/a BERNADINE VERONICA BOLIN, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Phyllis Hicks, 316 Vincent Drive, McSherrystown, PA 17344

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

## ESTATE OF THOMAS E. HADLOCK, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrators: Teresa L. Fowler, 925 Old Waynesboro Road, Fairfield, PA 17320; David E. Hadlock, 3 Cannon Lane, Gettysburg, PA 17325

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

## ESTATE OF MARGARET E. LOBAUGH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Guy M. Barbour, 6375 Chambersburg Road, Fayetteville, PA 17222

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

## ESTATE OF ANNA ELIZABETH QUINN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Patricia A. Behre, 1020 Hunterstown-Hampton Road, New Oxford, PA 17350

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

## ESTATE OF ARCHIE V. STRICKLAND, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Mary A. Strickland, 1040 Heritage Drive, Gettysburg, PA 17325

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

## ESTATE OF THOMAS A. ZIMMERMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Beverly K. Zimmerman, 105 Tiffany Lane, Gettysburg, PA 17325

Attorney: Buzgon Davis Law Offices, 525 South Eighth Street, PO Box 49, Lebanon, PA 17042-0049

## SECOND PUBLICATION

## ESTATE OF KERMIT L. BECHTEL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Mr. John C. Bechtel, 1140 Humpert Schoolhouse Road, Westminster, MD 21158; Mrs. Edna B. Koontz, 54 Patrick Avenue, Littlestown, PA 17340

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

## ESTATE OF JOHN E. HOSTETTER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Janet E. Hostetter, 165 Old Mill Road, Gettysburg, PA 17325

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

## ESTATE OF ARTHUR R. ROGERS, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrator: Richard V. Rogers, 38 East Middle Street, Gettysburg, PA 17325

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

## THIRD PUBLICATION

## ESTATE OF DORA C. CARBAUGH, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executors: Dorothy C. Socks, 8946 Stottlemeyer Rd., Waynesboro, PA 17268; Robert E. Carbaugh, 680 Old Waynesboro Rd., Fairfield, PA 17320; R. Elaine Gilland, 2535 Iron Springs Rd., Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, P.O. Box 215, Fairfield, PA 17320

## ESTATE OF JANET K. HUGHES a/k/a JANET RUTH HUGHES, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Co-Executors: A. James Mayer, 406 Cockeys Mill Road, Reisterstown, MD 21136; Paul F. Miller, Jr., 115 Maple Hill Road, Gladwyne, PA 19035

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

## ESTATE OF JOHN B. KENDLEHART, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Neal S. Kandlehart, 2493 Hunterstown-Hampton Road, New Oxford, PA 17350

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

## ESTATE OF WENDELL W. NAUGLE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Gregory W. Naugle, 2882 Cold Springs Road, Orrtanna, PA 17353

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

## ESTATE OF ALICE M. SNYDER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executor: Jeffrey Mummert, 11 Bugle Call Path, Gettysburg, PA 17325

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

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW  
NO. 00-S-642  
Action to Quiet Title

DENNIS R. BISHOP, Plaintiff  
vs.

WILLIAM MALONE, TOBIAS MILLER,  
HENRY KNOUSE, MILTON KNOUSE,  
SARAH JANE KNOUSE, aka JANI  
KNOUSE, ANN KNOUSE, WILLIAM  
KNOUSE, GEORGE KNOUSE, DANIEL  
HEIGES, ELIZABETH HEIGES, LEVI  
HEIGES, HIRAM F. HEIGES, AARON  
HEIGES, LENA PETERS, SARAH ORR,  
LEVI MINTER, MAGDALENA MINTER,  
DANIEL C. JACOBS, PETER BALL,  
CATHARINE BALL, JOHN BALL,  
ALOYSIUS F. BAKER, JACOB MICKLEY,  
WILLIAM E. BAKER, JOHN McDONALD,  
CLIFFORD B. PRICE, JR., MARY H.  
PRICE, BARRY L. SHOWERS, EDNA R.  
SHOWERS, THOMAS REEVE, JOAN E.  
REEVE, WAYNE E. BAKER, BARBARA  
A. BAKER, JAMES A. PENNINGTON,  
JOYCE R. PENNINGTON, HAROLD W.  
SANDUSKY, PATRICIA A. SANDUSKY,  
NANCY C. SANDUSKY KRASOWSKI,  
ANDREW T. KRASOWSKI, JON  
WEIRETHER, DAVID B. THOMAS,  
JOSEPH H. G. BERGER, H. G. HESS  
AND SUMMIT MINING CORPORATION,  
their respective heirs, successors and  
assigns, Defendants.

ORDER OF COURT

AND NOW, this 12th day of June,  
2001, upon consideration of the attached  
Motion for Judgment, IT IS HEREBY

ORDERED that Defendants, William  
Malone, Tobias Miller, Henry Knouse,  
Milton Knouse, Sarah Jane Knouse - aka  
Jani Knouse, Ann Knouse, William  
Knouse, George Knouse, Levi Minter,  
Jacob Mickley, William Baker, Daniel  
Heiges, Elizabeth Heiges, Levi Heiges,  
Hiram Heiges, Aaron Heiges, Lena  
Peters, Sarah Orr, Magdalena Minter,  
Daniel C. Jacobs, Aloysius F. Baker,  
Peter Ball, Catharine Ball, John Ball,  
John McDonald, Clifford B. Price, Jr.,  
Mary H. Price, Barry L. Showers, Edna  
R. Showers, Thomas Reeve, Joan E.  
Reeve, Wayne E. Baker, Barbara A.  
Baker, James A. Pennington, Joyce R.  
Pennington, Jon Weirether, David B.  
Thomas, and H. G. Hess now known as  
Summit Mining Corporation, and their  
respective successors, heirs and/or  
assigns, be forever barred from assert-  
ing any right, lien, title or interest in the  
subject real estate inconsistent with the  
interest or claim that the Plaintiff has set  
forth in his complaint, unless the  
Defendant or Defendants enter an  
appearance and file an answer to the  
complaint within 30 days of notice of this  
order. If such action is not taken within  
the 30-day period, the Prothonotary, on  
praecipe from the Plaintiff, shall enter  
final judgment, if appropriate.

Service of this Order of Court upon the  
Defendants, William Malone, Tobias  
Miller, Henry Knouse, Milton Knouse,  
Sarah Jane Knouse - aka Jani Knouse,  
Ann Knouse, William Knouse, George  
Knouse, Levi Minter, Jacob Mickley,  
William Baker, Daniel Heiges, Elizabeth  
Heiges, Levi Heiges, Hiram Heiges,  
Aaron Heiges, Lena Peters, Sarah Orr,  
Magdalena Minter, Daniel C. Jacobs,

Aloysius F. Baker, Peter Ball, Catharine  
Ball, John Ball, and their respective heirs  
and/or assigns, shall be made by publi-  
cation once in the Adams County Legal  
Journal and once in the Gettysburg  
Times newspaper, and upon the  
Defendants, John McDonald, Clifford B.  
Price, Jr., Mary H. Price, Barry L.  
Showers, Edna R. Showers, Thomas  
Reeve, Joan E. Reeve, Wayne E. Baker,  
Barbara A. Baker, James A. Pennington,  
Joyce R. Pennington, Jon Weirether,  
David B. Thomas, and H. G. Hess, now  
known as Summit Mining Corporation,  
and their respective successors, heirs  
and/or assigns, by first class mail,  
postage prepaid.

BY THE COURT:  
/s/Oscar F. Spicer  
President Judge

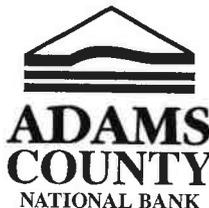
6/22

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that  
Articles of Incorporation have been filed  
with the Pennsylvania Department of  
State of the Commonwealth of  
Pennsylvania at Harrisburg, Pennsylvania,  
for the purposes of obtaining a  
Certificate of Incorporation of a proposed  
corporation to be organized under the  
provisions of the Pennsylvania Business  
Corporation Law of 1988, approved  
December 21, 1988, P.L. 144, No. 177,  
as amended. The name of the corpora-  
tion is PROVERBIAL STAMPERS, INC.

6/22

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



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# Adams County Legal Journal

Vol. 43

June 29, 2001

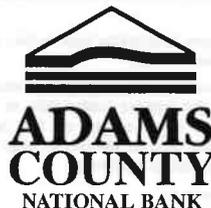
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## IN THIS ISSUE

WILLIAMS VS. WILLIAMS

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



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#### SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-137 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of August, 2001, 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 known as Lot 1 as shown on a Final Minor Subdivision Plan for GCW Properties, Inc., dated January 5, 1998 (hereinafter, the "Plan"), located in East Berlin Borough, Adams County, Pennsylvania, more particularly described as follows to wit.

BEGINNING at a point on the northern right-of-way of North Avenue at the common property corner of Lot 1 and Lot 2 as shown on said Plan; thence, from said point of beginning the following eleven courses and distances:

Along the northern right-of-way of North Avenue North 61 degrees 58 minutes 34 seconds West a distance of 464.64 feet to a point; thence,

North 11 degrees 33 minutes 30 seconds East a distance of 75.99 feet to a point; thence,

North 62 degrees 35 minutes 47 seconds West a distance of 49.84 feet to a point; thence,

North 11 degrees 13 minutes 23 seconds East a distance of 751.16 feet to a point at the southern bank of Conewago Creek; thence,

Along the southern bank of Conewago Creek North 82 degrees 51 minutes 16 seconds East a distance of 207.75 feet to a point; thence,

Along the southern bank of Conewago Creek South 85 degrees 39 minutes 5 seconds East a distance of 428.49 feet to a point; thence,

Along lands now or formerly of Clark E. and Faith L. Renoll and lands now or formerly of Frederick and Jessie M. Allhouse South 14 degrees 15 minutes 00 seconds West a distance of 531.73 feet to a point; thence,

Along lands now or formerly of Frederick and Jessie M. Allhouse, lands now or formerly of Dale R. and Edna M. Kennedy and lands now or formerly of Herbert and Roberta Walters South 72 degrees 30 minutes 00 seconds East a distance of 776.32 feet to a point at Fourth Avenue, a private road, thence,

Along Fourth Avenue, a private road, South 37 degrees 00 minutes 00 seconds West a distance of 328.88 feet to a point; thence,

Along Lot 2 North 64 degrees 00 minutes 00 seconds West a distance of 660.82 feet to a point; thence,

Along Lot 2 South 26 degrees 00 minutes 00 seconds West a distance of 360.53 feet to a point; the point of BEGINNING.

Said Lot 1 contains 757,404.86 square feet or 17.3877 acres, more or less, according to said Plan.

The foregoing description is intended to describe Lot 1 as shown on the Plan, which Plan was recorded on March 27, 1998 in the Office of the Recorder of Deeds for Adams County, Pennsylvania, at Book 73, Page 46.

IT BEING the same premises which Jerome I. Lunder, together with the joiner of his wife, Ruth Lunder, as to an undivided one-half interest, and Elinor Lunder, Deborah Lunder, a/k/a Deborah R. Lunder, and Mark A. Levy, Trustees of the Bruce A. Lunder Trust of October 6, 1978, as to an undivided one-half interest, by their Deed dated October 26, 1998, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 1697, Page 231, granted and conveyed unto Gary C. Wesner.

District 10

Map 002, Parcel 0004

SEIZED and taken into execution as the property of **Gary C. Wesner** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 27, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/29, 7/6 & 13

#### NOTICE

ON THE 9th day of July, 2001, at 9:00 a.m., a hearing will be held in Courtroom No. 1 of the Adams County Courthouse, to determine whether the Gettysburg Area School District shall sell its student built house located at 20 Creekside Court, (Cumberland Township), Gettysburg, Pennsylvania, 17325 (Lot No. 22 of the Oakland Estates Subdivision) to Amy C. Morton for the purchase price of \$150,000, upon terms and conditions set forth in an Agreement of Sale dated May 21, 2001.

Any person who wishes to oppose the sale must attend the hearing and be heard.

Robert L. McQuaide  
Solicitor  
(717) 337-1360

6/15, 22 & 29

#### 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 May 21, 2001, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is J. S. & E. TRUCKING, INC.

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

J. S. & E. Trucking, Inc.  
305 Brough Road  
Abbottstown, PA 17301

6/29

## WILLIAMS VS. WILLIAMS

1. This Court believes that the intent of the statute (23 Pa.C.S.A. §5313(b)) is to require twelve consecutive months. This Court also believes that the mere presence of a natural parent in the household of a third party seeking standing should not automatically prevent the third party from establishing that they have assumed the role and responsibility of parent.

2. The burden of proof assigned to a third party on the issue of standing in a case versus natural parents is a *clear and convincing* standard.

3. The phrase *in loco parentis* refers to a third party who has put himself in the position of a natural parent by assuming the obligations incident to a parental relationship without legally adopting the child. To be *in loco parentis*, one must have assumed the duties and obligations of a parent.

In the Court of Common Pleas of Adams County, Pennsylvania,  
Civil, No. 93-S-527. TED SCOTT WILLIAMS VS. DONNA  
LOUISE WILLIAMS.

Samuel A. Gates, Esq., and Kevin G. Robinson, Esq., for Plaintiff  
Andrew B. Brown, Esq., for Defendant

Bigham, J., August 29, 2000

### OPINION PURSUANT TO PA.R.APP.P. 1925(A)

By way of explanation, the parties and persons involved are as follows:

1. Plaintiff is Ted Scott Williams, natural father of the children, herein called "Father;"
2. Defendant is Donna Louise Williams, natural mother of the children, herein called "Mother;"
3. Troy Williams, date of birth January 26, 1989, and Todd Williams, date of birth January 21, 1991, are the children of Mother and Father and are herein called "Troy" and "Todd." At the time of the trial, Todd was a healthy and normal nine-year-old youngster and Troy, age eleven, was a special needs child suffering from ADHD, oppositional defiant disorder, enuretic behavior and difficulty in controlling his anger;
4. Clarence and Rosemary Williams are the paternal grandparents of the children and are herein called "Grandparents;"
5. Terri Williams is the wife of Father and is herein called "Terri."

## PROCEDURAL HISTORY

This case began in 1993 when the parents separated and Mother moved to Ohio. The first Order of this Court dated August 13, 1993 entered an interim physical custody schedule pending a trial. One month later the Court clarified its prior Order of Court dated September 3, 1993 to indicate that Mother would have majority physical custody and Father would have partial physical custody, all subject to the outcome of the trial. A subsequent Court Order by agreement continued the custody trial to the call of either party. By Order of Court dated October 30, 1995, resulting from a custody conference, the physical custody schedule was amended and a custody trial was anticipated in the following year. By Order of Court dated January 30, 1996, the physical custody schedule was amended due to a change in Mother's work schedule. Another custody conference was held on May 16, 1996, resulting in an Order of Court dated June 6, 1996, further amending the physical custody schedule by agreement. Judge Lipsitt, specially assigned from Dauphin County, conducted a two-day custody trial on August 26, 1996 and August 27, 1996, resulting in an Order of Court dated August 27, 1996, wherein shared legal custody of the children was ordered. Father was designated the majority physical custodian during the school year and Mother was designated the majority physical custodian from June 1 to September 1 of each year. A custody schedule was set forth for each parent when they were the partial physical custodians. Objections were filed to such Order of Court. By Order of Court dated October 7, 1996, the Court ordered shared legal custody and essentially reaffirmed the arrangement of Father being the primary physical custodian during the school year, and Mother being the primary physical custodian during the summer months.

In July 1999, Grandparents filed a Petition for Modification of Custody wherein they sought to intervene and be awarded primary physical custody of the children. Father, who in the meantime had remarried, objected to Grandparents' petition based on the issue of standing and filed an Answer with New Matter denying the allegation by grandparents that Father and Terri were putting Troy in an institution. The Answer with New Matter raised issues of interference by Grandparents and attempts to undermine Father's relationship with the children. By Order of Court dated November 8, 1999,

the Court indicated that it would deal with the issue of standing as part of the hearing on the underlying custody issue. A trial date would not be set until the attorneys of record told the Court when the psychological evaluation would be completed. The trial was eventually held on June 23, 2000. At the conclusion of the trial, the Court entered a comprehensive Order of Court setting forth a custody schedule, specific directives with regard to treatment for Troy, holiday schedules and a determination that Grandparents did not have legal standing in these proceedings. The Court notes, however, that in its Order, Grandparents were in fact granted the right to exercise physical custody of the children for two (2) weekends per month, such weekends to be selected by agreement of the parties. This was done because of the stipulation of the parties referred to later in this Opinion.

Grandparents have now filed an appeal claiming that the Court erred as a matter of law in ruling that Grandparents lacked legal standing to seek majority physical custody of the children.

#### FACTUAL BACKGROUND

Mother and Father had an on-again, off-again living arrangement. Grandmother testified that when Mother and Father were living together, Grandmother provided most of the babysitting. In April 1993, Mother moved to Ohio and took the children with her. At that time, Father moved in with Grandparents. In February 1994, Mother and Father reconciled and moved back to their former residence (not with Grandparents). Mother and Father then separated again in October 1995 and Father moved in with Grandparents. Mother moved to another community, but not back to Ohio where she had gone in 1993. The children moved in with Father at Grandparents' home. Mother saw the children on certain days under this arrangement. Grandfather and Father were truck drivers and customarily left the home very early in the morning and returned around mid-afternoon. While Father and Grandfather were on the road, Grandmother would feed, dress and get the children on the school bus. Father testified that he performed childcare and parental duties upon his return from work on a typical day.

Mother and Father were divorced in November 1995. In October 1996, Father was awarded primary physical custody during the school year. Troy and Todd stayed with Grandparents until January

1997. It was Grandmother's testimony that from October 1995 to January 1997 the children were continuously residing in the home of Grandparents. Grandmother also testified that Father resided with the children and Grandparents from October 1995 until October 1996. Father testified that he resided with children and Grandparents from October 1995 until December 18, 1996 and that for the period of approximately one month that the children resided with Grandparents until January 1997, Father had the children on weekends. For a period of time in 1998, Troy went back to live with Grandparents and Todd remained with Father and Terri. In the summer of 1998, Todd and Troy were with Mother. From 1997 to 1998, Grandparents still saw the children "a lot" according to Grandmother and Grandmother provided childcare. Grandmother claims she did the cooking, the laundry and the shopping for the household when Father and the children were residing with Grandparents. Grandmother also claims that she took the children to the doctor when necessary and that she bathed the children and saw to it that they brushed their teeth. In his testimony, Father did not deny that Grandmother provided numerous services for the household and provided babysitting duties for the children, including bathing and food preparation, but Father claims that he also prepared meals for the children, bathed the children and performed parental duties when he was there. Father testified that he took the children with him on occasion when driving his truck and they enjoyed being with him when he did certain maintenance work on the trucks or at home (home was the headquarters for the trucking company.) It was Father's position that it was his work schedule that prevented him from being with the children in the early morning hours when certain childcare activities occurred. Father also testified that he took the children to school and that he attended parent/teacher conferences on their behalf.

Mother was present at the trial, but did not testify. She was represented by an attorney at the many conferences that preceded trial, and her attorney cross-examined witnesses during the trial. According to her attorney, Mother was reasonably well satisfied with her summer custodial time, but felt like she was "out of the loop" with regard to the treatment and plans for Troy. She was particularly concerned that her custodial time this summer was being interrupted by the possibility of some sort of inpatient program for Troy. Kevin Behr, a social worker employed by Edgewater, a psychiatric hospital

in Harrisburg, Pennsylvania, testified at length about Troy's needs and current treatment schedule. Kevin Behr explained that the possible inpatient treatment program being discussed, was actually a diagnostic program which included follow-up care with Dr. Karen Kennedy, the psychiatrist currently treating Troy. The funding for this program was uncertain and that is what made scheduling for the summer difficult for everyone. According to Kevin Behr, it is very likely that Troy will need treatment over a long period of time. Kevin Behr also testified that during the summer, Troy should have intensive in-home therapy at least twice per week. He went on to testify that he has observed nothing that suggests that Terri is a threat to the children. Troy had told Kevin Behr nothing that would suggest that Troy is in an unsafe environment. These observations overcame anything mentioned by the boys in the *in camera* interviews about being mistreated or unfairly treated by Father or Terri.

#### LEGAL DISCUSSION

Although not very specifically set forth in their Statement of Matters Complained Of On Appeal, it would appear that Grandparents argue that they have standing pursuant to statute (23 Pa.C.S.A. §5313(b)) as well as under the *in loco parentis* doctrine, as enunciated in numerous Pennsylvania Appellate Court decisions.

Grandparents claimed that it was "uncontested ..." that the twelve month requirement of the statute was met. Based on the testimony of the parties as set forth in the previous Factual Background section, the Court does not recall that there was any consecutive twelve month period when Troy and Todd resided with Grandparents without at least one parent also residing in the same household. This Court believes that the intent of the statute (23 Pa.C.S.A. §5313(b)) is to require twelve consecutive months. This Court also believes that the mere presence of a natural parent in the household of a third party seeking standing should not automatically prevent the third party from establishing that they have assumed the role and responsibility of parent. However, Grandparents in this case fall short of proving by a *clear and convincing* standard that they assumed the role of parent for twelve consecutive months. They did not sufficiently overcome Father's testimony that he performed parental duties while he resided in the household with the children. His truck-driving schedule prevented his presence during certain of the children's waking hours

but he did perform childcare and parental duties when in the household.

The burden of proof assigned to a third party on the issue of standing in a case versus natural parents is a *clear and convincing* standard. *Charles v. Stehlik*, 744 A.2d 1255 (Pa.2000) In *Charles*, the Pennsylvania Supreme Court noted by way of a footnote the plurality decision in *Rowles v. Rowles* 668 A.2d 126 (Pa. 1995) and the burden of proof standard originally set forth in *Ellerbe v. Hooks* 416 A.2d 512 (Pa. 1980). Although this Court agrees with the Concurring Opinion of Justice Flaherty in *Ellerbe*, and now Chief Justice Flaherty's Concurring Opinion in *Charles*, wherein Chief Justice Flaherty favors abandonment of all presumptions in favor of a *preponderance of the evidence* standard, that is not the law in Pennsylvania at this time. Therefore the Court assigned to Grandparents a *clear and convincing* standard of burden of proof. Grandparents failed to establish by a *clear and convincing* standard that they stood *in loco parentis* to the children. They did not establish by a *clear and convincing* standard an intent by Father to relinquish or abandon his parental duties. The phrase *in loco parentis* refers to a third party who has put himself in the position of a natural parent by assuming the obligations incident to a parental relationship without legally adopting the child. To be *in loco parentis*, one must have assumed the duties and obligations of a parent, *Butler v. Illes*, 747 A.2d 943 Pa.Super.54 (February 28, 2000.) What Grandparents established was that they were diligent caretakers who had a strong Grandparent/Grandchild bond.

This Court followed the procedural direction in *Kellogg v. Kellogg*, 646 A.2d 1246 435 Pa. Super. 581, which allows the Court to make the determination on standing, even at the end of the hearing held on the merits of the custody issue itself. The first four witnesses were Dr. Stanley Schneider, *in camera* interview of Troy, *in camera* interview of Todd, and Kevin Behr. At the conclusion of Kevin Behr's testimony, the parties entered into a stipulation that should the Court find that Grandparents had no standing, the custodial time of Grandparents would be increased from one weekend per month to two weekends per month. The Court believes this stipulation was based on the fact that everyone seemed to understand that Grandparents wished to have more time with the children and vice versa. Dr. Schneider, the licensed psychologist evaluator, specifically

recommended more contact between Grandparents and the children, even though the evaluator felt that Terri was the adult most meeting the children's needs currently.

Of particular interest to the Court was the fact that Grandparents seem to think that the third party professional help being given to Troy is in fact counterproductive to the best interests of Troy. Troy is a child with a variety of special needs which could not possibly be managed by a parent or parents or grandparents and the love of such people alone. It seems that what triggered the filing of the petition by Grandparents was Grandparents' perception that Father and Terri were promoting the notion that Troy should be institutionalized. The testimony clearly indicated to the contrary. Father and Terri were simply willing to seek third party professional help, consider the advice of such third party professional help, but in the end chose not to institutionalize Troy. Instead, Father and Terri utilized "wrap around" services (where professionals come to the home of, and go to school with, the child). Testimony from one of the medical professionals indicated that certain short-term, in-patient therapy sessions might be ideal for Troy, but this falls far short of a long-term institutionalization of Troy, as is apparently feared by Grandparents.

The clinical psychologist evaluator in this case is Dr. Stanley Schneider, a professional well known to this Court and highly respected in his field. The testimony of Dr. Schneider very clearly indicated that Terri has been the assertive one amongst all the adults to see to it that Troy gets what he needs. Dr. Schneider made reference to the fact that neither Grandparent answered two key questions in a questionnaire given to them regarding the children. Dr. Schneider was convinced that Terri was the adult most serving the needs of Troy. This kind of information confirmed the Court's opinion that Grandparents had not really stepped into the role of parents because they did not grasp the extent of Troy's needs. They have been wonderful Grandparents. They have provided all sorts of child-care and dearly love both children, but they have not assumed the role of parents.

In his October 7, 1996 Opinion, visiting Judge Lipsitt acknowledged the same sort of involvement by Grandparents. It clearly influenced his decision after a two-day trial to award primary physical custody during the school year to Father because Father and

children were then used to living in the same household with Grandparents. This Court has the same opinion that Judge Lipsitt had in 1996, except that Terri's presence now makes the difference for Father.

Based on the testimony presented, the Court came to the same conclusion that Dr. Schneider did, i.e. the one adult in the group who has best assumed the role of parent is Terri, the stepmother. Terri and Father, with the help of the "wrap-around" services, are managing the household, which includes Terri's children and Troy and Todd, during the school year. Two weekends a month contact between Troy, Todd and Grandparents provides the necessary contact between Troy, Todd and Grandparents to foster the Grandparent/Grandchild relationship and gives Father and Terri a bit of a break on the number of children in the household. It should be noted that in paragraphs five through eight of its June 23, 2000 Order, this Court went to some considerable length to assure continuity of a treatment for Troy and counseling for the adults. This Court saw good reason to expand Grandparents time, but saw no reason to change the school year for Father and summer for Mother arrangement. Grandparents have an excellent relationship with their former daughter-in-law, Mother, and they will probably pick up some extra time with Troy and Todd in the summer, if only because they assist Mother in providing some transportation to and from Ohio. This is the appropriate mix for these children at this time. To grant Grandparents standing to pursue primary/majority physical custody would be an unnecessary intrusion in the dynamics of these families.

This Opinion was prepared from court notes and not from a transcript.

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-312 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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 tract of land situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, bounded, limited and described as follows, to wit:

BEGINNING at a steel pin on the southern right of way line of Starlite Drive at corner of Lot No. 19 on the plan of lots hereinbelow identified thence by said Lot No. 19 south 44 degrees 22 minutes 32 seconds east 100.00 feet to a steel pin at corner of Lot No. 13 of Lakeview Village-Phase one; thence by said No. 13 south 45 degrees 37 minutes 28 seconds west, 36.00 feet to a steel pin at corner of Lot No. 17; thence by said Lot No. 17 north 44 degrees 22 minutes 32 seconds west 100.00 feet to a steel pin on the southern right of way line of Starlite Drive, thence by said southern right of way line of Starlite Drive, north 45 degrees 37 minutes 28 seconds East, 36.00 feet to the above described place of BEGINNING.

OWNER AND SUBJECT to the restrictions, reservations, conditions and protective covenants for "Lakeview Village-Phase Two" set forth in the declaration of restrictions, reservations, conditions and protective covenants dated June 8, 1990 and recorded in the office of the recorder of deeds of Adams County, Pennsylvania, in record book 559 at page 653 as well as the restrictions, comments and notations as set forth on the subdivision for "Lakeview Village-Phase two" recorded in said office in Plat Book 54 at page 65 (2 pages)

TOGETHER WITH AND SUBJECT TO a 58 foot right of way in, through and along the streets known as Crescent Lane and Starlite Drive, to be used in common with other lot owners of lots in "Lakeview Village-Phase two" as shown on the subdivision plan hereinabove referenced.

Map #: 12-71

BEING KNOWN AS: 28 Starlite Drive, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Martin W. Jacoby & Glenda Jacoby** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/22, 29 & 7/6

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-296 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 27th day of July, 2001, 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, lying and being in Mt. Pleasant Township, Adams County, Pennsylvania, being (Lot No. 11) of Colonial Ridge Subdivision, more particularly bounded and described as follows:

BEGINNING at an iron pin on the edge of a 50 foot right of way known as Cannon Lane at the corner of Lot No. 10, as shown on the hereinafter identified draft of survey; thence by Lot No. 10 and running through the center of a party wall in a four unit townhouse separating Lot No. 10 and the lot hereby conveyed, North 42 degrees 17 minutes 22 seconds West, 125.00 feet to a point on line of Lot No. 8, as shown on said survey; thence by Lot No. 8, North 47 degrees 42 minutes 38 seconds East, 20.0 feet to a point at the corner of Lot No. 12, as shown on said survey; thence by Lot No. 12 and running through the center of a party wall in a four unit townhouse separating Lot No. 12 and the lot hereby conveyed, South 42 degrees 17 minutes 22 seconds East, 125.00 feet to an iron pin on the edge of a 50 foot right of way known as Cannon Lane; thence by same, along Cannon Lane, South 47 degrees 42 minutes 38 seconds West, 20.0 feet to an iron pin on the edge of a 50 foot right of way known as Cannon Lane at the corner of Lot No. 10, as shown on said survey, the point and place of BEGINNING. CONTAINING 2,500 square feet.

The above description was taken from draft of survey, prepared by Gettysburg Engineering Company, Inc., dated January 9, 1981, revised February 1991, June 7, 1992, July 2, 1991, March 13, 1992, and May 4, 1992, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 60 at Page 69.

Premises being: 3 Cannon Lane, Gettysburg, PA 17325

Tax Parcel No. 11-10

SEIZED and taken into execution as the property of **David E. Hadlock** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 20, 2001, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

6/22, 29 & 7/6

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that on May 25, 2001, a certificate will be filed under the Fictitious Name Act approved December 21, 1988, P.L. 1444, in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that Inez M. Rizer, 166 Boyer St., Littlestown, PA 17340, and Gretchen R. Glas, 212 S. Columbus Ave., Littlestown, PA 17340 are the only person(s) owning or interested in a business, the character of which is Retail sale of school supplies to teachers and that the name, style and designation under which said business is and will be conducted is SCHOOLHOUSE CREATIONS and the location where said business is and will be located is 99 W. Eisenhower Dr., Suite A., Hanover, PA 17331.

6/29

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIACIVIL ACTION—LAW  
NO. 01-S-638

IN RE: DYLAN XAVIER COOL TO BE KNOWN AS: DYLAN XAVIER SHOWERS

## LEGAL NOTICE

NOTICE IS HEREBY GIVEN that on June 11, 2001, the Petition of Aimee L. Showers was filed in the above-named Court, requesting an Order to change the name of Dylan Xavier Cool to Dylan Xavier Showers.

The Court has fixed the day of August 8, 2001, 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 Petition should not be granted.

BY THE COURT:  
/s/Oscar F. Spicer, P.J.

6/29

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-381 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of August, 2001, 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 Mount Joy Township, Adams County, Pennsylvania, bounded, limited and described as follows:

**TRACT NO. 1:** BEGINNING at a corner at a point in the centerline of Township Road No. T-673 (Shottie Road) at lands now or formerly of Richard Rummell; thence along said Rummell's lands, and through a steel pin set back thirty (30) feet from the beginning of this course, North eighty-four (84) degrees forty-eight (48) minutes thirty-seven (37) seconds East ninety-one and twelve hundredths (91.12) feet to a steel pin; thence along the same North fourteen (14) degrees fifty-five (55) minutes thirty-seven (37) seconds West three hundred eight and forty-five hundredths (308.45) feet to a steel pin at lands now or formerly of Curvin Study; thence along said Study's lands North eighty-four (84) degrees fifty-eight (58) minutes nineteen (19) seconds East one hundred forty and four hundredths (140.04) feet to a steel pin at lands now or formerly of Eli Byler; thence along said Byler's lands South fourteen (14) degrees thirty-two (32) minutes thirty seconds East five hundred fifteen and seventy-five hundredths (515.75) feet to a steel pin at lands now or formerly of Francis Stainer; thence along said Stainer's lands North sixty (60) degrees no (00) minutes no (00) seconds West one hundred ninety-four (194) feet to a steel pin; thence along the same and through a steel pin set back thirty (30) feet from the terms of this course, South forty-five (45) degrees fifteen (15) minutes no (00) seconds West one hundred (100) feet to a point in the centerline of Township Road T-673, aforesaid; thence along the centerline of said Township Road T-673 North fifteen (15) degrees no (00) minutes no (00) seconds West one hundred fifty-nine and fifty hundredths (159.50) feet to the point and place of BEGINNING. CONTAINING 1.7038 Acres, neat measure. The foregoing description has been prepared in accordance with the survey of J.H. Rife, Registered Engineer, dated September 5, 1972.

**TRACT NO. 2:** BEGINNING at a spike in the center of the public road leading to the Hamey-Littlestown Highway, said spike being on line of other lands now or formerly of Granville A. Study and being south forty-five (45) degrees thirty (30) minutes West from a rail post along the South side of said public road; thence along other lands now or formerly of

Granville A. Study and through said rail post North forty-five (45) degrees thirty (30) minutes East one hundred (100) feet to a stake; thence by same South sixty (60) degrees East three hundred sixty-three and three-tenths (363.3) feet to a rail post; thence by same South sixty-three and three-tenths (363.3) feet to a rail post; thence by same South sixty-three (63) degrees fifty-six (56) minutes West three hundred fifty-one (351) feet through a stake to a spike in the center of said public road, said stake being North sixty-three (63) degrees fifty-six (56) minutes East sixteen and five-tenths (16.5) feet from the spike in the middle of said public road; thence along the middle of said public road North fifteen (15) degrees West two hundred seventy-five (275) feet to a spike, the place of BEGINNING. CONTAINING 1 acre and 77 perches. This description was taken from a Draft of survey made March 15, 1952, by LeRoy H. Winebrenner, R.S.

TITLE TO SAID PREMISES IS VESTED IN Michael W. Meadows and M. Susan Meadows, husband and wife by Deed from Wayne L. Sentz and Laurel L. Sentz, husband and wife dated 11/30/88, recorded 12/5/88, in Record Book 508, page 1045.

Premises being: 40 Schottie Road, Littlestown, PA 17340

Tax Parcel No. G18-30

SEIZED and taken into execution as the property of **Michael W. Meadows & M. Susan Meadows** and to be sold by me

Raymond W. Newman-Sheriff  
Sheriff's Office, Gettysburg, PA  
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 27, 2001, 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.

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6/29, 7/6 & 13

## 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, July 9, 2001, at 9:00 o'clock a.m.

**WALLEN**—Orphans' Court Action Number OC-44-01. The First and Final Account of Michael C. Wallen, Sr., Executor under the will of Elizabeth L. Wallen, deceased, late of East Berlin Borough, Adams County, Pennsylvania.

**LOSS**—Orphans' Court Action Number OC-45-01. The First and Final Account of Mary Lee Loss, Executrix of the Estate of Gary L. Loss, deceased, late of Conewago Township, Adams County, Pennsylvania.

**WOLFE**—Orphans' Court Action Number OC-55-01. The First and Final Account of Susan J. Hassinger and Richard J. Wolfe, Co-Executors of the Estate of J. Arthur Wolfe a/k/a John Arthur Wolfe, deceased, late of Oxford Township, Adams County, Pennsylvania.

**WEHLER**—Orphans' Court Action Number OC-62-01. The First and Final Account of Robert Wehler, Executor of the Estate of Pauline Wehler, deceased, late of Mt. Joy Township, Adams County, Pennsylvania.

**SMITH**—Orphans' Court Action Number OC-63-01. The First and Final Account of Karen A. Shepherd, Administratrix of the Estate of Roger Lee Smith, deceased, late of Gettysburg Borough, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

6/29 & 7/6

## FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN, in compliance with the requirements of Section 311, of Act 1982-295 (54 Pa. C.S. 311), the undersigned entity (ies) announce their intention to file in the Office of the Secretary of the Commonwealth of Pennsylvania, on approximately 5-22-01, a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of B & M SPECIALTIES, with its principal place of business at 15 Ed Ave., Aspers, PA 17304. The names and addresses of the persons owning or interested in said business are Barry A. and Mary J. Hush, residing at 15 Ed Ave., Aspers, PA 17304. The character or nature of the business is Auto and other general repairs.

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## 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 CALVIN F. BREAM, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Co-Executors: Calvin F. Bream, 7903 Hope Valley Court, Adamstown, MD 21710; Thomas W. Bream, 4690 Charles Road, Mechanicsburg, PA 17055

Attorney: Matthew R. Battersby, Esq., Battersby & Sheffer, P O Box 215, Fairfield, PA 17320

## ESTATE OF IVORY R. ENSOR, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Administrator: Judy I. Sheppard, 170 Woodland Road, Huntingdon Valley, PA 19006

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

## ESTATE OF WELDO W. FUNT, DEC'D

Late of Butler Township, Adams County, Pennsylvania

Executor: Daniel Allen Funt, 18 Loop Drive, Hanover, PA 17331

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

## ESTATE OF KATHRYN C. RYON, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: William Louis Ryon, Jr., 9003 Barb Anne Court, Springfield, VA 22152; James Percival Ryon, 121 Ruth Avenue, Hanover, PA 17331; Roderick Naylor Ryon, 904 Chestnut Hill Avenue, Baltimore, MD 21218

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

## SECOND PUBLICATION

## ESTATE OF DORIS C. ADAMS, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executors: Barbara Diane Shultz, 336 Green Ridge Road, Orrtanna, PA 17353; Rodney Jay Adams, 1399 Knoxlyn Road, Gettysburg, PA 17325

Attorney: Robert L. McQuaide, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

## ESTATE OF BERNADINE S. BOLIN a/k/a BERNADINE VERONICA BOLIN, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Phyllis Hicks, 316 Vincent Drive, McSherrystown, PA 17344

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

## ESTATE OF THOMAS E. HADLOCK, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrators: Teresa L. Fowler, 925 Old Waynesboro Road, Fairfield, PA 17320; David E. Hadlock, 3 Cannon Lane, Gettysburg, PA 17325

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

## ESTATE OF MARGARET E. LOBAUGH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Guy M. Barbour, 6375 Chambersburg Road, Fayetteville, PA 17222

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

## ESTATE OF ANNA ELIZABETH QUINN, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Patricia A. Behre, 1020 Hunterstown-Hampton Road, New Oxford, PA 17350

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

## ESTATE OF ARCHIE V. STRICKLAND, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrix: Mary A. Strickland, 1040 Heritage Drive, Gettysburg, PA 17325

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

## ESTATE OF THOMAS A. ZIMMERMAN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Beverly K. Zimmerman, 105 Tiffany Lane, Gettysburg, PA 17325

Attorney: Buzgon Davis Law Offices, 525 South Eighth Street, PO Box 49, Lebanon, PA 17042-0049

## THIRD PUBLICATION

## ESTATE OF KERMIT L. BECHTEL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Mr. John C. Bechtel, 1140 Humpert Schoolhouse Road, Westminster, MD 21158; Mrs. Edna B. Koontz, 54 Patrick Avenue, Littlestown, PA 17340

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

## ESTATE OF JOHN E. HOSTETTER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Janet E. Hostetter, 165 Old Mill Road, Gettysburg, PA 17325

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

## ESTATE OF ARTHUR R. ROGERS, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Administrator: Richard V. Rogers, 38 East Middle Street, Gettysburg, PA 17325

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

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-330 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 3rd day of August, 2001, 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 Berwick Township, Adams County, Pennsylvania, further bounded and limited as follows, to-wit:

BEGINNING for a corner at an existing steel pin on the southerly edge of Applewood Drive at previously approved Lot No. 3 as shown on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 3, the following two (2) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West three hundred twenty-six and twenty-three hundredths (326.23) feet to an existing steel pin; 2) South seventy-two (72) degrees seven (07) minutes three (03) seconds West three hundred eighty-six and twenty-seven hundredths (386.27) feet to an existing steel pin at lands now or formerly of Charles R. Chubb as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Charles R. Chubb, South eighty-five (85) degrees five (05) minutes twenty (20) seconds West two hundred fifty-five and eighty hundredths (255.80) feet to a steel pin (set) at lands now or formerly of Warren T. Becker as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Warren T. Becker, North thirty-two (32) degrees fifty-one (51) minutes thirty (30) seconds West, one thousand four hundred twenty-six and thirty-seven hundredths (1,426.37) feet to an existing stone at lands now or formerly of Raymond G. Burkett and Martha E. Fisher as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Raymond G. Burkett and Martha E. Fisher and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North twenty-six (26) degrees no (00) minutes no (00) seconds East eight hundred forty-five and twenty-eight hundredths (845.28) feet to a steel pin (set) at lands now or formerly of Donald J. Sneeringer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Donald J. Sneeringer and also along lands now or formerly of Paul C. Sipe, Jr. as shown on the hereinafter referred to Subdivision Plan, North eighty-eight (88) degrees fifty-two (52) minutes ten (10) seconds, East seven hundred thirty-five and ninety hundredths (735.90) feet to an existing steel pin at lands now or formerly of Elmer H. Miller, Jr. as shown on the hereinafter referred to Subdivision Plan; thence along

said last mentioned lands now or formerly of Elmer H. Miller, Jr., South thirteen (13) degrees forty-eight (48) minutes thirty (30) seconds East three hundred eighteen and forty-two hundredths (318.42) feet to a point at lands now or formerly of Mitchell O. Diviney as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Mitchell O. Diviney, South thirteen (13) degrees twenty-one (21) minutes ten (10) seconds East two hundred sixty-six and forty-one hundredths (266.41) feet to a steel pin (set) at lands now or formerly of John C. Leese as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of John C. Leese, South seventy-eight (78) degrees fifty-nine (59) minutes twenty-two (22) seconds West one hundred fifty-eight and thirty-seven hundredths (158.37) feet to an existing steel pin at previously approved Lot No. 5 on the hereinafter referred to Subdivision Plan; thence along said previously approved Lot No. 5, the following two (2) courses and distances: 1) South forty-nine (49) degrees fifty-nine (59) minutes twenty-four (24) seconds West one hundred eighty-eight and twenty-five hundredths (188.25) feet to an existing steel pin; 2) South forty (40) degrees no (00) minutes thirty-six (36) seconds East, seven hundred twenty-seven and thirty-five hundredths (727.35) feet to an existing steel pin at lands now or formerly of Robert E. Lawyer as shown on the hereinafter referred to Subdivision Plan; thence along said last mentioned lands now or formerly of Robert E. Lawyer, the following three (3) courses and distances: 1) South eleven (11) degrees fifty-eight (58) minutes seven (07) seconds West one hundred seventy and two hundredths (170.02) feet to an existing steel pin; 2) South seventy-eight (78) degrees one (01) minute fifty-three (53) seconds East four hundred forty-two and sixty-three hundredths (442.63) feet to a point; 3) by a curve to the right having a radius of two hundred eighty (280.00) feet, the long chord of which is South sixty-six (66) degrees forty-nine (49) minutes one (01) second East one hundred eight and ninety-one hundredths (108.91) feet for an arc distance of one hundred nine and sixty-one hundredths (109.61) feet to a point on the northerly edge of Applewood Drive aforesaid, where it intersects with Township Road (T-706) as shown on the hereinafter referred to Subdivision Plan; thence in and along Township Road (T-306), South twenty-eight (28) degrees fifty-three (53) minutes fifty-three (53) seconds East one hundred sixty-two and forty-one hundredths (162.41) feet to a point in the centerline of SR-0194 (Abbottstown Pike) as shown on the hereinafter referred to Subdivision Plan; thence crossing said SR-0194 (Abbottstown Pike) North seventy-eight (78) degrees six (06) minutes twelve (12) seconds West twenty-seven and fifty-nine hundredths (27.59) feet to a point on the aforesaid southerly edge of Applewood Drive; thence in and along the southerly

edge of Applewood Drive, the following three (3) courses and distances: 1) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North thirty-two (32) degrees twelve (12) minutes one (01) second West sixty-three and forty-seven hundredths (63.47) feet for an arc distance of sixty-three and sixty-seven hundredths (63.67) feet to an existing steel pin; 2) by a curve to the left having a radius of two hundred thirty (230.00) feet, the long chord of which is North fifty-nine (59) degrees forty (40) minutes fifty-two (52) seconds West one hundred forty-nine and thirty-eight hundredths (149.38) feet for an arc distance of one hundred fifty-two and fourteen hundredths (152.14) feet to a point; 3) North seventy-eight (78) degrees one (01) minute fifty-three (53) seconds West three hundred forty-two and sixty-three hundredths (342.63) feet to the point and place of BEGINNING. CONTAINING 42.276 acres.

The above description was taken from a Survey prepared by Mort, Brown and Assoc. for TRIPLO, INC., dated April 3, 1989, bearing File No. E-496.

SEIZED and taken into execution as the property of **Joseph A. & Wanda J. Lawrence** and to be sold by me

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 27, 2001, 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.

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## CERTIFICATE OF AUTHORITY

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 29, 2001, by Farmers & Mechanics Bank, a foreign corporation formed under the laws of the State of Maryland, where its principal office is located at 110 Thomas Johnson Drive, Frederick, Maryland 21702, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located in Adams County.

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