

# Adams County Legal Journal

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Vol. 41

January 7, 2000

No. 32, pp. 179-182

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## ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Social Security Disability: The Basics*  
Tuesday, January 25, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–4, Ethics–0
2. *How to Prepare the Federal Estate Tax Return*  
Friday, January 28, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–4, Ethics–0
3. *Confessions of Judgment & Deficiency Judgments in Pennsylvania*  
Wednesday, February 9, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–4, Ethics–0
4. *Fundamentals of Estate & Trust Administration*  
Wednesday, February 16, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–5, Ethics–1

**Registration through P.B.I. 800-247-4724**

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## IN THIS ISSUE

ROBERT A. WILLS, AN ALLEGED  
INCOMPETENT PERSON

## 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-102 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, February 11, 2000, 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 lots of land located in Liberty Township, Adams County, Pennsylvania.

A. The following lots of land located in the Charnita Subdivision as shown on a plan of lots identified as section AD, Charnita, dated January 12, 1970 recorded in Adams County, Pennsylvania, Plat Book 1, page 93, which is incorporated herein by reference: AD 1, AD 2, AD 3, AD 4, AD 14, AD 60, and AD 117. Lots AD 1-4 are part of the larger tract conveyed to Charnita, Inc. by Robert Morgan and Wilma Jane Morgan by deed dated October 15, 1969, and recorded in Adams County, Pennsylvania, Deed Book 278, page 676. Lots AD 60 and AD 117 were conveyed by the same grantors to Charnita, Inc. by deed dated December 17, 1969, in Adams County, Pennsylvania, Deed Book 280, page 941.

B. The following lots of land located in Charnita Subdivision as shown on a plan of lots identified as section AE, Charnita, dated March 3, 1970, and recorded in Adams County, Pennsylvania, Plat Book 1 page 95 which plan is incorporated herein by reference: Lot AE 5 and AE 31. The lots are part of a tract conveyed to Charnita, Inc. by Charles M. Weishaar and Annie M. Weishaar by deed dated December 17, 1969, in Adams County, Pennsylvania, Deed Book 280, page 992.

SEIZED and taken into execution as the property of **Charnita, INC.** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on March 6, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/23, 31 & 1/7

## NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County - Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, January 18, 2000, at 9:00 o'clock a.m.

**CRABBS**—Orphans' Court Action Number OC-142-99. The First and Final Account of Maurice D. Myers, Executor of the Estate of Clinton M. Crabbs, deceased, late of Oxford Township, Adams County, Pennsylvania.

**HEMLER**—Orphans' Court Action Number OC-143-99. The First and Final Account of Terry Lee Hemler, Executor of the Estate of Joyce M. Hemler, deceased, late of Conewago Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

1/7 & 14

## NOTICE OF CHANGE OF NAME

NOTICE IS HEREBY GIVEN that SHANDA MARIE WILLIAMS, a minor, by her guardians, Sylvester E. Earhart and Barbara A. Earhart, has filed with the Court of Common Pleas of Adams County, Pennsylvania, a Petition to change her name from SHANDA MARIE WILLIAMS to SHANDA MARIE EARHART.

Said Court has fixed a Hearing on said Petition for January 18, 2000, at 9:00 a.m., in Courtroom No. 1 or 2 of the Adams County Courthouse in Gettysburg, Pennsylvania, at which time and place all persons interested may appear and show cause, if any, they have as to why the prayer of said Petition should not be granted.

Thomas E. Miller, Esquire  
Miller & Shultis, P.C.  
Attorney for Petitioners

1/7

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-546 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, January 28, 2000, 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 Scott D. Mantz of, in and to:

All the following described real estate situated in the township of Germany, Adams County, Pennsylvania. Having erected thereon a dwelling known and numbered as 50 Bittle Road, Littlestown, Pennsylvania 17340. Deed Book volume 1616, page 288, tax map J -17; parcel 122.

SEIZED and taken into execution as the property of **Scott D. Mantz** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on February 21, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/31, 1/7 & 14

## ROBERT A. WILLS, AN ALLEGED INCOMPETENT PERSON

1. In order to establish standing a party must *plead* facts sufficient to show a direct, immediate, and substantial interest.

2. Generally, agency law governs powers of attorney. An agent owes a duty of loyalty to his principal and, in all matters affecting the subject of his agency, he must act with the utmost good faith in the furtherance and advancement of the interests of his principal. An agent, unless authorized, may not use a principal's money for his own advantage.

In the Court of Common Pleas of Adams County, Pennsylvania Orphans' Court Division. No. OC-156-95. ROBERT A. WILLS, AN ALLEGED INCAPACITATED PERSON.

Val E. Winter, Esq., for Movant

Henry O. Heiser, III, Esq., for Respondent

Gary. E Hartman, Esq., Guardian ad Litem for Robert A. Wills

### OPINION ON MOVANT'S MOTION FOR RECONSIDERATION

Kuhn, J., October 26, 1998.

On February 28, 1996, Patricia G. Willis, Petitioner and adopted daughter of Robert A. Wills, filed a Petition for Appointment of Guardian of the Person and for Incidental Relief Pursuant to 42 Pa.C.S.A. § 323. On May 1, 1998, Debra Sue Orndorff-Wills, Movant and wife of Robert A. Wills, filed a Motion to Dismiss For Lack of Standing. On September 9, 1998, this Court granted the motion with regard to the execution of the will of Robert A. Wills and the request to set aside a real estate conveyance but denied the motion with regard to the issues of guardianship, power of attorney, and marriage. On October 8, 1998, Debra Sue Orndorff-Wills filed a Motion for Reconsideration solely on the issue of the power of attorney. For the following reasons, this motion is denied.

#### LEGAL DISCUSSION

The Opinion of September 9, 1998 states the Court's position on the issue of standing with regard to the power of attorney. However, the Court will address in more detail the arguments raised by Movant in her Motion for Reconsideration.

Initially, it is important to reference the current stage of the pleadings. This case has not proceeded to trial and the current issue solely involves a question of standing. In order to establish standing a party must *plead* facts sufficient to show a direct, immediate, and substantial interest. *William Penn Parking Garage Inc. v. Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975). Thus, the Court is not presently making any determination on the merits of Petitioner's allegations but is simply determining if she has alleged sufficient facts to support standing.

Movant first argues that Petitioner has no interest in the withdrawal of trust income because Robert A. Wills is entitled to all of the income for the duration of his life without limitation. It is true that Clarence A. Wills directed in his will that the trustee is to "pay to my son, Robert A. Wills, for the duration of his natural life, the annual net income arising from this trust in quarterly installments" with no apparent limitation on the spending. (Petition for Appointment of Guardian of the Person and for Incidental Relief Pursuant to 42 Pa.C.S.A. 323, Exhibit D). It is also true that the trustee of the trust is permitted to invade the principal for the "comfort, welfare and support" of Robert A. Wills. (Petition for Appointment of Guardian of the Person and for Incidental Relief Pursuant to 42 Pa.C.S.A. 323, Exhibit D). However, Clarence A. Wills provided in his will that Petitioner have an interest in the remaining trust income and principal:

F. At the death of my son, Robert A. Wills, *the Trustee shall pay the net balance of principal and income remaining in this trust to his children in equal shares*. If he shall leave no children, then the net balance shall be paid to my children, Mary Jane Wills and Mary Elizabeth Beach, in equal shares, or in the event of their death, then to their children, and if Mary Jane shall have died leaving no children, then the entire balance shall be paid to my daughter, Mary Elizabeth Beach, or to her issue.

(Petition for Appointment of Guardian of the Person and for Incidental Relief Pursuant to 42 Pa.C.S.A. 323, Exhibit D) (emphasis added). Although this interest is a future interest it is considered a vested remainder in which Petitioner has an actual property right. *Jones v. Jones*, 344 Pa. 310, 313, 25 A.2d 327, 328-329 (1942). Thus, Petitioner has a valid pecuniary interest in the income and principal of the trust regardless of the fact that Robert A. Wills would have no limit on

the spending of the trust income.

Additionally, even without a limit on the spending of the trust income Movant, as attorney in fact, has certain fiduciary responsibilities in terms of use of the trust income. Generally, agency law governs powers of attorney. *See, e.g.*, 3 Am. Jur. 2d, Agency § 23. “An agent owes a duty of loyalty to his principal and, in all matters affecting the subject of his agency, he must act with the utmost good faith in the furtherance and advancement of the interests of his principal.” *Sylvester v. Beck*, 406 Pa. 607, 610, 178 A.2d 755, 757 (1962). Additionally, “an agent, unless authorized, may not use a principal’s money for his own advantage.” *Robertson v. Pennsylvania Department of Revenue*, 96 Pa. Commw. 151, 155, 506 A.2d 1004, 1006 (1986).

Petitioner has alleged that Movant is using the income for her own expenses and the expenses of her family and friends. (Response of Respondent to Motion for Reconsideration at ¶ 7). Thus, although Robert A. Wills may have no limit on his spending, that does not mean that Movant also has no limits on spending, especially if it is against Mr. Wills’ interests. Although it is true that Movant has not invaded the trust principal and is not entitled to invade the trust principal because she is not the trustee, any mismanagement of the trust income may well require the withdraw of trust principal at a later point in time. If Movant is using the income trust monies for her personal benefit, as alleged by Petitioner, she is ultimately effecting Petitioner’s rights in the income and principal of the trust.

It has been alleged that the annual trust income can rise to approximately \$170,000.00. Mr. Wills is an elderly gentleman with definite medical and nursing needs. He is also incapacitated, without mortgage or loan obligations; therefore his general living expenses are limited. The power of attorney is so general in nature that it grants Movant almost cart blanche authority over Mr. Wills’ financial matters. Abuse of the fiduciary responsibility, if any, under the circumstances of this matter could lead to an invasion of trust principal to accommodate Mr. Wills’ needs which should otherwise be satisfied from annual income.

Movant also argues that Petitioner has no interest because upon the death of Robert A. Wills any undistributed trust income received prior to his death will become part of his estate and be distributed under his will (in which Petitioner has no interest). However, this argument

ignores the fact that Petitioner will still have an interest in the “the *net balance of principal* and income remaining” in the trust. Thus, this argument is without merit.

Furthermore, Movant has failed to take into account the Court’s prior determination that Petitioner also has standing to question the validity of the power of attorney because that power gives Movant the responsibility of making decisions related to Robert A. Wills’ health and physical care. As this Court noted in its previous Opinion, standing generally requires that “a party must (a) have a substantial interest in the subject-matter of the litigation; (b) the interest must be direct; and (c) the interest must be immediate and not a remote consequence.” *Ken R. v. Arthur Z.*, 546 Pa. 49, 53, 682 A.2d 1267, 1270 (1996) (citations omitted). Additionally, the Pennsylvania Supreme Court has held as follows:

A “substantial” interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience of the law. A “direct” interest required a showing that the matter complained of caused harm to the party’s interest. An “immediate” interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or constitutional guarantee in question.

*South Whitehall Township Police Service v. South Whitehall Township*, 521 Pa. 82, 86-87, 555 A.2d 793, 795 (1989) (citations omitted).

Clearly, as the adopted child of Robert A. Wills, Movant has an interest in his health and safety beyond that of a normal citizen. Thus, Petitioner would have standing on those grounds as well.

Accordingly, the attached Order is issued.

#### ORDER OF COURT

AND NOW, this 26<sup>th</sup> day of October 1998, the Motion for Reconsideration filed by Debra Sue Orndorff-Wills on October 8, 1998 is hereby denied.

## 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 RALPH D. BLACK, DEC'D**  
Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Herbert E. Houser, 1002 Stafford Lane, Harpers Ferry, WV 25425

**ESTATE OF KENNETH L. BREIGHNER, DEC'D**

Late of Franklin Township, Adams County, Pennsylvania

Executor: Nancy M. Doersom, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

**ESTATE OF HILDA E. COOL, DEC'D**  
Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administratrix: Mary L. Ecker, 744 Mahan Road, Aberdeen, MD 21001

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF KATHRYN E. RACER, DEC'D**

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

Co-Executors: Roger D. Racer and Laurence W. Racer, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

**ESTATE OF WILLIAM F. WEIL, DEC'D**  
Late of Reading Township, Adams County, Pennsylvania

Co-Executrices: Barbara Boone and Diana Larson, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

## SECOND PUBLICATION

**ESTATE OF DORIS E. MILLER, DEC'D**  
Late of Cumberland Township, Adams County, Pennsylvania

Executors: Charles H. Kemper, Sr., 99 Clapsaddle Road, Gettysburg, PA 17325; Diane M. Kemper, 99 Clapsaddle Road, Gettysburg, PA 17325

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

**ESTATE OF ROBERT E. SHEADS, JR. DEC'D**

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Cynthia S. McCain, 805 North Prospect Street, Ypsilanti, MI 48198  
Attorney: Harold A. Eastman, Jr., Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

**ESTATE OF LORETTA BIRGENSMITH a/k/a MARY L. BIRGENSMITH, DEC'D**  
Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executors: William H. Snyder, Jr., 344 Fairview Avenue, McSherrystown, PA 17344; Gertrude E. Snyder, 344 Fairview Avenue, McSherrystown, PA 17344

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

**ESTATE OF ROY JAMES CARBAUGH, DEC'D**

Late of Tyrone Township, Adams County, Pennsylvania

Executors: David M. Carbaugh, P.O. Box 28, Aspers, PA 17304; George M. Carbaugh, P.O. Box 58, Aspers, PA 17304

Attorney: Clayton R. Wilcox, Esquire, 234 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF MARY V. SNEERINGER, DEC'D**

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executor: John H. Sneeringer, 2405 Bon Ox Road, New Oxford, PA 17350

Attorney: Keith A. Hassler, Esq., 9 North Beaver Street, York, PA 17410

NOTICE OF ACTION IN MORTGAGE  
FORECLOSUREIN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIACIVIL ACTION - LAW  
NO. 99 S 574  
MORTGAGE FORECLOSURE

HOMESIDE LENDING, INC., Plaintiff,

vs.

JAMES MARCELLUS HAMMONS  
AND DAWN HAMMONS, Defendants.TO: James Marcellus Hammons and  
Dawn Hammons:

YOU ARE HEREBY NOTIFIED that on June 21, 1999, Plaintiff, Homeside Lending Inc., filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend against you in the Court of Common Pleas of Adams County, Pennsylvania, docketed to No. 99 S 574 wherein Plaintiff seeks to foreclose its mortgage securing your property located at 18 BIRCHLANE, NEW OXFORD, PA 17350, whereupon your property would be sold by the Sheriff of Adams County.

YOU ARE HEREBY NOTIFIED to plead to the above referenced Complaint on or before 20 DAYS from the date of this publication or a Judgment will be entered against you.

## NOTICE

You have been sued in Court. If you wish to defend, you must enter a written appearance personally or by attorney, and file your defenses of objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a Judgment may be entered against you without further notice for the relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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

LAUREL LEGAL SERVICES  
206 South Water Street  
Kitanning, PA 16201  
(724) 548-7674

Leon P. Haller, Esquire  
1719 North Front Street  
Harrisburg, PA 17102  
717-234-4178

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-836 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, January 21, 2000, 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 Karyl M. Speelman a/k/a/ Karyl M. Jacoby of, in and to the following described property:

ALL the following described real estate situated in the Township of Straban, County of Adams and State of Pennsylvania. Having erected thereon a dwelling being known and numbered as 309 Forrest Drive, Gettysburg, Pennsylvania 17325. Deed Book volume 575, page 664. Parcel number 4-96.

SEIZED and taken into execution as the property of **Karyl M. Speelman a/k/a Karyl M. 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 February 14, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/31, 1/7 & 14

## INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN THAT Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is  
ATTEBERRY BLACK IMPORTS, INC.

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



# Adams County Legal Journal

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Vol. 41

January 14, 2000

No. 33, pp. 183-192

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Credits: Substantive Law–4, Ethics–0
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**Registration through P.B.I. 800-247-4724**

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## IN THIS ISSUE

ROUTSONG  
VS.  
JONES ET AL

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-497 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, 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 the improvements thereon erected, lying and being in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 56 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, in Miscellaneous Book 1 at Page 1.

SEIZED and taken into execution as the property of **William T. Wert & Evonne K. Wert** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/14, 21 & 28

NOTICE OF INCORPORATION

NOTICE is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, with respect to a corporation which has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is YORK SPRINGS AUTO AUCTION, INC.,

Bratic & Portko, Solicitors  
101 Office Center, Suite A  
101 South U.S. Route 15  
Dillsburg, PA 17019

1/14

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County - Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Tuesday, January 18, 2000, at 9:00 o'clock a.m.

**CRABBS**—Orphans' Court Action Number OC-142-99. The First and Final Account of Maurice D. Myers, Executor of the Estate of Clinton M. Crabbs, deceased, late of Oxford Township, Adams County, Pennsylvania.

**HEMLER**—Orphans' Court Action Number OC-143-99. The First and Final Account of Terry Lee Hemler, Executor of the Estate of Joyce M. Hemler, deceased, late of Conewago Township, Adams County, Pennsylvania.

Peggy J. Breighner  
Clerk of Courts

1/7 & 14

NOTICE OF INCORPORATION

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on December 13, 1999 for the purpose of obtaining a Certificate of Incorporation of the Proposed Corporation to be organized under the Business Corporation Law of the Commonwealth of Pennsylvania, approved December 21, 1988, as amended.

The name of the proposed corporation is: RICK'S REPAIR SERVICE, INC.

The purpose or purposes for which it was engaged are: The corporation shall have unlimited powers to engage in and do any lawful acts concerning any and all lawful businesses for which corporations may be incorporated under the Business Corporation Law. Act of December 21, 1988, P.L. 1444, as amended.

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

1/14

SHERIFF'S SALE

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ALL the following described real estate situated in the township of Germany, Adams County, Pennsylvania. Having erected thereon a dwelling known and numbered as 50 Bittle Road, Littlestown, Pennsylvania 17340. Deed Book volume 1616, page 288, tax map J -17; parcel 122.

SEIZED and taken into execution as the property of **Scott D. Mantz** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

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

12/31, 1/7 & 14

NOTICE OF INCORPORATION

NOTICE is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, with respect to a corporation which has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is ROBERT H. CONLEY MOTORS, INC.

Bratic & Portko, Solicitors  
101 Office Center, Suite A  
101 South U.S. Route 15  
Dillsburg, PA 17019

1/14

## ROUTSONG VS. JONES ET AL

1. An easement by prescription arises by adverse, open, continuous, notorious and uninterrupted use for a period of twenty-one years. There is no requirement for unity of title.

2. Unity of title by a common grantor is an element of an easement by necessity. An easement by necessity may be implied when “after severance from adjoining property a piece of land is without access to a public highway.”

3. In order to establish a way of necessity, three elements must be proven:

1. The titles to the alleged dominant and servient properties must have been held by one person.

2. This unity of title must have been severed by a conveyance of one of the tracts.

3. The easement must be necessary in order for the owner of the dominant tenement to use his land, with the necessity existing both at the time of the severance of title and at the time of the exercise of the easement.

4. Pennsylvania courts have utilized two different tests for determining whether an easement by implication has been created. What has traditionally been considered easements by implication and easements by necessity both arise by implication. The latter is distinguished by the extent of the necessity.

5. When a right is of ancient origin and is too remote to be capable of direct proof “a relaxed burden of proof falls upon one claiming such rights.”

6. A party is indispensable when his or her rights are so connected with the claims of the litigants that no decrees can be made without impairing those rights. To determine whether a party is indispensable, a court must consider:

1. Do absent parties have a right or interest related to the claim?

2. If so, what is the nature of that right or interest?

3. Is that right or interest essential to the merits of the issue?

4. Can justice be afforded without violating the due process rights of absent parties?

7. Ordinarily, a plaintiff must be in possession to bring an action to quiet title. However, there is no precise definition of what constitutes possession of real property; the determination of possession is dependent upon the facts of each case, and to a large extent upon the character of the land in question.

8. The meaning of possession in terms of an easement is logically different from the meaning of possession in terms of claims to other real estate interests. If one uses an easement on a consistent basis he/she is arguably in “possession” of that easement.

9. An action to quiet title may be brought only where an action in ejectment will not lie and ejectment is proper where a plaintiff is out of possession, has a right of immediate possession, and has the right to demand that the defendant vacate the land.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, NO. 97-S-231. LEROY ROUTSONG AND WILLIAM O. ROUTSONG A/K/A WILLIAM OSCAR ROUTSONG, JR., PLAINTIFFS, AND DOUGLAS A. JONES AND ANDREA M. JONES, HUSBAND AND WIFE, AND TERRANCE L. DALEY AND KIM H. DALEY, HUSBAND AND WIFE, INVOLUNTARY PARTY PLAINTIFFS, VS. HARRY L. PRITCHARD AND SHARON A.

PRITCHARD, HUSBAND AND WIFE; BRIAN SHOWERS; AND  
GARRETSON ORCHARDS, INC., DEFENDANTS.

John R White, Esq., for Plaintiffs  
Thomas M Shultz, Esq., for Defendants Prichard  
Ronald J. Hagarman, Esq., for Defendant Showers

OPINION ON PRELIMINARY OBJECTIONS

Kuhn, J., October 29, 1998.

On March 7, 1997, Plaintiffs, Leroy Routsong and William O. Routsong, filed an action for declaratory judgment and an action to quiet title against Defendants, Harry L. Pritchard, Sharon A. Pritchard, Brian Showers, and Garretson Orchards, Inc. Plaintiffs filed an Amended Complaint on February 26, 1998. On April 7, 1998, Defendants Pritchard and Showers filed preliminary objections to the Amended Complaint, which are now before this Court for disposition.

STATEMENT OF FACTS

Plaintiffs own real estate located in Menallen Township, Adams County, Pennsylvania. Defendants Pritchard and Showers own real estate adjacent to Plaintiffs. (Amended Complaint, Exhibit 1). Defendant Garretson owns real estate adjacent to that of Defendants Pritchard and Showers. Plaintiffs allege that their real estate does not “abut or adjoin any public road, nor is there any written and/or recorded right-of-way or easement for the same to and from a public road.” (Amended Complaint at ¶ 16). Plaintiffs further allege that although it appears that they have access to their land from private roads known as Maryland Avenue and Ed Avenue they have no legal right-of-way or easement over either road.

Currently, Plaintiffs access their land from an unimproved road running from a public road known as Bendersville-Wenksville Road. This unimproved road runs across the tracts of all named Defendants. Plaintiffs allege that their predecessors in title have used this unimproved road since 1918. (Amended Complaint at ¶ 17). Plaintiffs claim a right-of-way over the unimproved road by prescription and/or

by necessity. (Amended Complaint at ¶¶ 19-20).

Plaintiffs further allege that they entered into an Agreement of Sale with the Involuntary Party Plaintiffs, Douglas and Andrea Jones and Terrance and Kim Daley. Under the Agreement of Sale, Involuntary Party Plaintiffs demanded that Plaintiffs deliver good and marketable title including valid, legal, record access to and from the public road. This Agreement of Sale was entered into on April 27, 1996 but has since been terminated. (Letter from Plaintiffs' counsel to Court dated March 10, 1998).

### LEGAL DISCUSSION

Defendants Pritchard and Showers have both filed preliminary objections to Plaintiffs' Amended Complaint. Defendants Pritchard argue (1) that Plaintiffs fail to sufficiently identify the common grantor of all real estate involved and (2) that Plaintiffs fail to state a claim for an action to quiet title because they are not in possession of the unimproved road. Defendant Showers argues (1) that Plaintiffs have failed to join D.Valuska as an indispensable party, (2) that there is no longer a controversy to be determined because the Agreement of Sale to the Involuntary Party Plaintiffs has been terminated therefore eliminating a cause of action under the Declaratory Judgments Act and thereby eliminating this Court's jurisdiction, and (3) that Plaintiffs fail to state a claim for an action to quiet title because they are not in possession of the unimproved road.

The Court will first address Plaintiffs' alleged failure to sufficiently identify the common grantor. Plaintiffs' claim to the easement is averred in the alternative. First, they claim an easement by prescription. (Amended Complaint at ¶ 19). Second, they claim an easement by necessity. (Amended Complaint at ¶ 20). An easement by prescription arises by adverse, open, continuous, notorious and uninterrupted use for a period of twenty-one years. There is no requirement for unity of title. *Martin v. Sun Pipe Line Co.*, 542 Pa. 281, 287, 666 A.2d 637, 640 (1995); *Moore v. Duran*, 455 Pa. Super. 124, 132, 687 A.2d 822, 826 (1996); *alloc. den.* 700 A.2d 442; *Murphy v. Fairview Fruit Farms*, 28 Ad. Co. L. J. 151, 156 (1986). Plaintiffs' need to allege a common grantor arises from their claim of an easement by necessity. In regard to the easement by necessity, Plaintiffs allege as follows:

Alternatively, under the facts and circumstances alleged herein, Plaintiffs claim, and have acquired, *an easement by necessity* in, over, upon and across the Unimproved Road, to and from Plaintiffs' Lands and the public road, the Bendersville-Wenksville Road (SR #4008), in that *such right-of-way of necessity has arisen by implication*, when what are now Plaintiffs' Lands were originally conveyed by the common owner(s) of what are now the Pritchard Tract, the Showers Tract, the Garretson Tract and Plaintiffs' Lands, the Plaintiffs' Lands are so situated that access to the same from the aforementioned public road can be had only by passing over the remaining lands of the original, common grantor(s), i.e., what are now the Pritchard Tract, the Showers tract and the Garretson Tract.

(Amended Complaint at ¶ 20 (emphasis added)).

Unity of title by a common grantor is an element of an easement by necessity. An easement by necessity may be implied when "after severance from adjoining property a piece of land is without access to a public highway." *Graff v. Scanlan*, \_\_\_ Pa. Commw. \_\_\_, 673 A.2d 1028, 1032 (1996) (citations omitted). When that situation exists, the grantee is entitled to an easement by necessity over the land of the grantor. *Possessky v. Diem*, 440 Pa. Super. 387, 399, 655 A.2d 1004, 1010 (1995). The Graff Court specifically held:

In order to establish a way of necessity, three elements must be proven:

1. The titles to the alleged dominant and servient properties must have been held by one person.
2. This unity of title must have been severed by a conveyance of one of the tracts.
3. The easement must be necessary in order for the owner of the dominant tenement to use his land, with the necessity existing both at the time of the severance of title and at the time of the exercise of the easement.

*Graff v. Scanlan*, 673 A.2d at 1032 (citing 11 Am. Jur. Proof of Facts 3d 601, Way of Necessity § 3).

Thus, unity of title is an element of Plaintiffs' claim of an easement by necessity and a common grantor normally must be identified in order to prevail. However, this case is in the pleading stage and the

issue at present is whether the common grantor must be specifically identified in the Complaint. Plaintiffs allege the existence of a common grantor but not by name or deed reference. Defendants seek more specificity. As this Court has ruled in the past,

Generally, in ruling on such a motion the question to be decided is whether the complaint is sufficiently clear to enable the defendant to prepare a response or whether it informs him with accuracy and completeness of the specific basis on which recovery is sought so he may know, without question, upon what grounds to make his defense. 2 Goodrich Amram 2nd §1017(b):21. The standard of pleading required by Pa.R.C.P. 1019(a) calls for material facts to be stated in a concise and summary form. Broad discretion is allowed because some courts find this standard incapable of precise measurement. See *In re: Barnes Foundation*, \_\_\_ Pa. Super. \_\_\_, \_\_\_, 661 A.2d 889, 895-6 (1995). If the averments are sufficient to enable the responding party to file his answer the motion will be denied. *Tanon v. Knouse*, 34 Ad. Co. L.J. 207, 209 (1992).

*Kimmev v. Hoover*, 38 Ad. Co. L. J. 135, 135-6 (1996); *see also, Michael v. Gettysburg Foundry Specialties Co.*, 38 Ad. Co. L. J. 83, 84 (1995).

This Court believes that sufficient specificity has been provided in the Complaint. It is clear that Plaintiffs claim (1) an easement by necessity, (2) that the easement has arisen by implication, and (3) that the easement arose when there was a severance of Plaintiffs' land from Defendants' lands by a "common owner." Defendants certainly can defend on the basis of lack of a common grantor. Recorded title information is as accessible to the Defendants as it is to the Plaintiffs. Thus, Defendants have been provided with sufficient information with which to file their answer.

We note that Pennsylvania courts have utilized two different tests for determining whether an easement by implication has been created. *Possessky v. Diem*, 440 Pa. Super. at 395, 655 A.2d at 1008; *Murphy v. Fairview Fruit Farms*, 28 Ad. Co. L. J. at 158-9. What has traditionally been considered easements by implication and easements by necessity both arise by implication. *Shearer v. Miller*, 31 Ad. Co. L. J. 213, 219 (1989). The latter is distinguished by the extent of the necessity. What is critical to our discussion is that Plaintiffs contend

in their brief that a title search has revealed “numerous unrecorded deeds in the parties’ chains of title” and the specific identity of a common grantor may not be ascertainable. Discovery may resolve that issue but Plaintiffs should not be precluded from proceeding on the claim at this time merely because the common grantor, if any, is as yet unknown. As pointed out in *Possessky*, “when a right is of ancient origin and is too remote to be capable of direct proof ‘a relaxed burden of proof falls upon one claiming such rights.’” 440 Pa. Super. at 397, 655 A.2d at 1008 (citations omitted). Whether that principle is applicable here must await later determination.

Defendant Showers argues that D.Valuska is an indispensable party to the present action. Superior Court has summarized the law relating to indispensable parties as follows:

The general law regarding joinder of indispensable parties is well established in Pennsylvania. Our Supreme Court explained:

It is true of course, that unless all indispensable parties are made parties to an action, a court is powerless to grant relief. Thus, the absence of such a party goes absolutely to the court’s jurisdiction. *A party is indispensable when his or her rights are so connected with the claims of the litigants that no decrees can be made without impairing those rights.*

*Sprague v. Casey*, 520 Pa. 38, 48, 550 A.2d 184, 189 (1988) (citations omitted). To determine whether a party is indispensable, a court must consider:

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

*Mechanicsburg Area School District v. Kline*, 494 Pa. 476, 481, 431 A.2d 953, 956 (1981).

*Campanaro v. Pennsylvania Elec. Co.*, 440 Pa. Super. 519, 521-22, 656 A.2d 491, 493 (1995), *alloc. den.* 666 A.2d 1049.

D.Valuska’s interest in the present case is described only in Defendant Showers preliminary objections. Defendant Showers alleges as follows:



2. The letter from John R. White, Esquire, Counsel for Plaintiffs, to the Honorable John D. Kuhn, Judge, dated February 13, 1998, contained an exhibit from the Office of David K. James III, Esquire, which contained thereon the words "D.Valuska", copies of which are attached hereto.
3. That David K. James III, Esquire, was listed as an expert witness in the Plaintiffs' Pretrial Conference Memorandum dated October 21, 1997.
4. That during a conference in Chambers on February 18, 1998, it was disclosed by Plaintiffs' Counsel, John R. White, that David K. James III, Esquire, was the attorney for Douglas A. Jones, Andrea M. Jones, Terrance L. Daley and Kim H. Daley.
5. That during the view on December 6, 1997, Harry L. Pritchard related that Dr. David Valuska attempted to negotiate a right of way over the Unimproved Road.
6. That Dr. David Valuska appears on the rolls of the Bear Mountain Owners Association Directory as the purported owner of the Routsong lands E-8.
7. That on or about February 18, 1998, David K. James III, Esquire, an officer of this Court admitted to Counsel for Defendant Brian Showers that the real party in interest was one Dr. David Valuska of 640 Krumsville Road, Kutztown, Pennsylvania, 19530.

(Defendant Brian Showers Preliminary Objections to Plaintiffs' Amended Complaint at ¶¶ 2-7).

Defendant Showers' preliminary objections were accompanied by a Notice to Plead. Plaintiffs failed to answer the objections and therefore the alleged facts may be considered admitted. Pa.R.C.P. 1029, 42 Pa.C.S.A. Thus, the only question for the Court is whether upon the facts alleged there is sufficient evidence to show that D.Valuska is an indispensable party.

The first consideration listed above is whether the absent party has a right or interest related to the claim. Instantly, D.Valuska would be required to have legal or equitable interest in the lands involved. The facts alleged by Defendant Showers do not sufficiently allege such an interest. Thus, D.Valuska can not be considered an indispensable party.

Defendant Showers has also argued that there is no longer a justiciable controversy in the case at hand because the Agreement of Sale

between Plaintiffs and Involuntary Party Plaintiffs has been terminated. Plaintiffs counter that the termination of the Agreement of Sale in no way eliminates the controversy between the parties. The general scope of the Declaratory Judgments Act, 42 Pa.C.S.A. § 7531-7541, is set forth in section 7532 as follows:

Courts of record, within their respective jurisdictions, shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.

42 Pa.C.S.A. § 7532.

Additionally, construction of the Declaratory Judgments Act should be as follows:

(a) **General rule.**-This subchapter is declared to be remedial. Its purpose is to settle and to *afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations, and is to be liberally construed and administered.*

(b) **Effect of alternative remedy.**-The General Assembly finds and determines that the principle rendering declaratory relief unavailable in circumstances where an action at law or in equity or a special statutory remedy is available has unreasonably limited the availability of declaratory relief and such principle is hereby abolished. The availability of declaratory relief shall not be limited by the provisions of 1 Pa.C.S. § 1504 (relating to statutory remedy preferred over common law) and the remedy provided by this subchapter shall be additional and cumulative to all other available remedies except as provided in subsection (c). Where another remedy is available the election of the declaratory judgment remedy rather than another available remedy shall not affect the substantive rights of the parties, and the court may pursuant to general rules change venue, require additional pleadings, fix the order of dis-

covery and proof, and take such other action as may be required in the interest of justice.

(c) **Exceptions.**-Relief shall not be available under this subchapter with respect to any:

(1) Action wherein a divorce or annulment of marriage is sought except as provided by 23 Pa.C.S. § 3306 (relating to proceedings to determine marital status).

(2) Proceeding within the exclusive jurisdiction of a tribunal other than a court.

(3) Proceeding involving an appeal from an order of a tribunal.

42 Pa.C.S.A. § 7541 (emphasis added).

This Court finds no support for the argument that Plaintiffs are not permitted to bring this action under the Declaratory Judgments Act in light of the liberal application of the Act and the Plaintiffs' right to know what their legal rights are with respect to the alleged easement and/or right-of-way. In fact, the enumerated purpose of the Act is realized in the case *sub judice* because disposition will afford Plaintiffs "relief from uncertainty and insecurity with respect to rights, status, and other legal relations" pertaining to the alleged easement. 42 Pa.C.S.A. § 7541. Thus, the current declaratory judgment action is permissible and this Court has jurisdiction thereunder.

Both Defendants Pritchard and Showers argue that Plaintiffs have failed to state a claim for an action to quiet title because Plaintiffs are not in possession of the easement and thus must bring an action in ejectment. It is true that ordinarily, a plaintiff must be in possession to bring an action to quiet title.<sup>1</sup> *Plauchak v. Boling*, 439 Pa. Super. 156, 162, 653 A.2d 671, 674 (1995). However, the Court believes that Plaintiffs have sufficient possession of the alleged easement to enable

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<sup>1</sup>The Court notes that there are exceptions to this general rule. According to Pennsylvania Standard Practice and Procedure:

There is a single action to quiet title. This action, broad in scope, is a consolidation of a large number of former independent actions and proceedings, mostly statutory, and is designed to remove clouds on a title, *to adjudicate title disputes where an action of ejectment will not lie*, and to secure summary possession of land.

Standard Pennsylvania Practice 2d § 120:138 (emphasis added).

Thus, although possession is normally a requirement in an action to quiet title, such an action may also lie where the plaintiff is out of possession and where an action in ejectment will not lie. See, e.g., *Plauchak v. Boling*, 439 Pa. Super. 156, 653 A.2d 671 (1995).

them to bring an action to quiet title. "There is no precise definition of what constitutes possession of real property; the determination of possession is dependent upon the facts of each case, and to a large extent upon the character of the land in question." *Moore v. Duran*, 455 Pa. Super. at 134, 687 A.2d at 827 (addressing the definition of possession in a claim for adverse possession).

The meaning of possession in terms of an easement is logically different from the meaning of possession in terms of claims to other real estate interests. If one uses an easement on a consistent basis he/she is arguably in "possession" of that easement. This conclusion comports with this Court's decision in *Smith v. Lawrence*, 39 Ad. Co. L. J. 163 (1997). In that case, the plaintiffs were required to bring an action in ejectment because the easement had been blocked preventing its use thus causing the plaintiffs to be out of possession. In the case *sub judice*, Plaintiffs allege that the unimproved road has been used by them and their predecessors in title since 1918. (Amended Complaint at ¶ 17). Thus, their "possession" of the easement is sufficient to allow an action to quiet title.

Furthermore, an action to quiet title may be brought only where an action in ejectment will not lie and ejectment is proper where a plaintiff is out of possession, has a right of immediate possession, and has the right to demand that the defendant vacate the land. *Moore v. Duran*, 455 Pa. Super. at 134, 687 A.2d at 827. Here, Plaintiffs are not out of possession and have no right to demand that Defendants vacate the easement.

Accordingly, the attached Order is issued.

#### ORDER OF COURT

AND NOW, this 29<sup>th</sup> day of October 1998, Defendants' Preliminary Objections are hereby granted in part in accordance with the attached opinion.

#### AMENDED ORDER OF COURT

AND NOW, this 3<sup>rd</sup> day of November 1998, in accordance with this Court's Opinion of October 28, 1998, Defendants' Preliminary Objections are hereby denied.

## 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 WENDELL W. BROUGH, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Executors: Larry W. Brough, 554 Pine Grove Furnace Road, Aspers, PA 17304; Maxine M. Millar, 2389 Oxford Road, New Oxford, PA 17350

Attorney: Harold A. Eastman, Jr., Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF CAROLINE P. HOUGH, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrix: Priscilla M. Megela, 105 Kensington Drive, Littlestown, PA 17340

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

## ESTATE OF ANNA MARIE SELL, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Co-Executrices: Lucy V. Breighner, 39 James Avenue, Littlestown, PA 17340; Kandy L. Zeigler, R.D. #1, Box 164D, Thomasville, PA 17364

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

## ESTATE OF LORETTA A. STREVIK, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Lynn B. Strevig, 7709 Gnatstown Road, Hanover, PA 17331

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

## ESTATE OF FRANK WASKO, DEC'D

Late of Liberty Township, Adams County, Pennsylvania

Executrix: Candice Sites Walter, P.O. Box 419, 112 West Main Street, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., P.O. Box 215, 20 West Main Street, Fairfield, PA 17320

## ESTATE OF ARTHUR W. WENGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Thomas J. Wenger, 2234 West Helms Manor, Boothwyn, PA 19061

Attorney: David C. Wertime, Esq., Wertime & Guyer, 50 Eastern Avenue, Greencastle, PA 17225

## SECOND PUBLICATION

## ESTATE OF RALPH D. BLACK, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executor: Herbert E. Houser, 1002

Stafford Lane, Harpers Ferry, WV 25425

## ESTATE OF KENNETH L. BREIGHNER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Nancy M. Doersom, c/o 29

North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., 29

North Duke Street, York, PA 17401

## ESTATE OF HILDA E. COOL, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administratrix: Mary L. Ecker, 744 Mahan Road, Aberdeen, MD 21001

Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF KATHRYN E. RACER, DEC'D

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

Co-Executors: Roger D. Racer and Laurence W. Racer, c/o 29 North

Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., 29

North Duke Street, York, PA 17401

## ESTATE OF WILLIAM F. WEIL, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executrices: Barbara Boone and Diana Larson, c/o 29 North Duke

Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., 29

North Duke Street, York, PA 17401

## THIRD PUBLICATION

## ESTATE OF DORIS E. MILLER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executors: Charles H. Kemper, Sr., 99

Clapsaddle Road, Gettysburg, PA

17325; Diane M. Kemper, 99

Clapsaddle Road, Gettysburg, PA

17325

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

## ESTATE OF ROBERT E. SHEADS, JR. DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Executrix: Cynthia S. McCain, 805 North Prospect Street, Ypsilanti, MI 48198

Attorney: Harold A. Eastman, Jr., Esq.,

Puhl, Eastman & Thrasher, 220 Bal-

timore Street, Gettysburg, PA 17325

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-836 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, January 21, 2000, 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 Karyl M. Speelman a/k/a/ Karyl M. Jacoby of, in and to the following described property:

ALL the following described real estate situated in the Township of Straban, County of Adams and State of Pennsylvania. Having erected thereon a dwelling being known and numbered as 309 Forrest Drive, Gettysburg, Pennsylvania 17325. Deed Book volume 575, page 664. Parcel number 4-96.

SEIZED and taken into execution as the property of **Karyl M. Speelman a/k/a Karyl M. 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 February 14, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

12/31, 1/7 & 14

## NOTICE OF INCORPORATION

NOTICE is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg PA, on December 13, 1999, for the purpose of obtaining a Certificate of Incorporation of a business corporation organized under the Business Corporation Law of the Commonwealth of PA, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is WALTERS CHIROPRACTIC, P.C. The address of its initial registered office is 121 West King Street, East Berlin, Pennsylvania.

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

Jan M. Wiley, Esquire,  
Wiley, Lenox & Colgan  
One South Baltimore Street  
Dillsburg, PA 17019

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-785 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, 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 unit in the property known, named, and identified in the declaration referred to below as SOUTH BRANCHESTATES, located in the Township of Oxford, Adams County Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act. 69 P.S.A. Section 3101, et. seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, of a Land Development Plan dated October 6, 1995, last revised December 14, 1995, and recorded in Book 69, page 23 (together with all amendments and supplements thereto recorded on or before the date hereto) being all designated in such plan as Unit # 46, as more fully bounded and described in such plan, together with a proportionate undivided interest in the common elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for York County, PA in Record Book 1271, page 34.

UNDER AND SUBJECT TO any and all covenants, conditions, and restrictions, rights of way easements, and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in Record Book 69, page 23.

Together with the limited common elements appurtenant as more fully shown on plan 1271, page 34.

TITLE TO SAID PREMISES IS VESTED IN JOSEPH M. MCCOY, A MARRIED MAN, BY DEED FROM PHILLIP R. GARLAND, T/B/D/A GARLAND CONSTRUCTION, DATED 12/18/97, RECORDED 2/5/98, IN BOOK # 1517, PAGE 107

BEING PREMISES KNOWN AS 5 FIDDLER DRIVE, NEW OXFORD, PA 17350

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/14, 21 & 28

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-708 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, known and designated as Lot No. 61 on a certain plan of lots entitled "Breckenridge Village", made by D.P. Raffensperger Associates, Engineers and Surveyors, dated May 7, 1971, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book I at Page 90.

TAX PARCEL #9-185

TITLE TO SAID PREMISES IS VESTED IN Joyce E. Staley, by Deed from Albert H. Oussoren and Stacey L. Oussoren, his wife, dated 7/9/97, recorded 7/9/97, in Record Book 1403, Page 308.

BEING PREMISES KNOWN AS 277 WEST STREET, GETTYSBURG, PA 17325

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/14, 21 & 28

# Adams County Legal Journal

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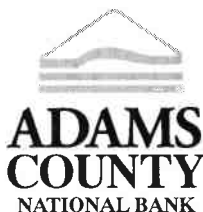
## ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

1. *Social Security Disability: The Basics*  
Tuesday, January 25, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–4, Ethics–0
2. *How to Prepare the Federal Estate Tax Return*  
Friday, January 28, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–4, Ethics–0
3. *Confessions of Judgment & Deficiency Judgments in Pennsylvania*  
Wednesday, February 9, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–4, Ethics–0
4. *Fundamentals of Estate & Trust Administration*  
Wednesday, February 16, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–5, Ethics–1

**Registration through P.B.I. 800-247-4724**

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In times like these,  
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## ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-235 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 17, 2000, at 10:00 o'clock in the forenoon at the Court-house in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, more fully bounded and limited as follows, to wit:

BEGINNING at a corner at a point on the Northeastern edge of White Birch Drive at the southwestern most corner of Lot N, 7-A as shown on the hereinafter referred to Subdivision Plan; thence along said Lot No. 7-A, and lands now or formerly of Rosville V. Topper, III, North forty-six (46) degrees ten (10) minutes twenty-eight (28) seconds East, ninety-two and twenty-seven hundredths (92.27) feet to a point at lands now or formerly of Michael D. Sentz and Lot No. 9 on the hereinafter referred to Subdivision Plan; thence along said Lot No. 9, South forty-three (43) degrees forty-nine minutes thirty-two (32) seconds East, ninety-seven and forty-nine hundredths (97.49) feet to a point on the Northwestern edge of Holly Court on the hereinafter referred to Subdivision Plan; thence along said Holly Court the following three (3) courses and distances; (1) by a curve to the right having a radius of fifteen (15) feet the long chord of which is South twenty-two (22) seconds West, eight and sixty-seven hundredths (8.67) feet for an arc distance of eight and eighty hundredths (8.80) feet to a point; (28) seconds West, sixty and twenty-six hundredths (60.26) feet to a point; (3) North eighty-nine (89) degrees fifty-one (51) minutes fifty-two (52) seconds West, twenty-four and eighty-one hundredths (24.81) feet to a point on the Northeastern edge of White Birch Drive on the hereinafter referred to Subdivision Plan; thence along said Northeastern edge of White Birch Drive the following two (2) courses and distances; (1) by a curve to the left having a radius of one hundred eighty-five (185) feet the long chord of which is North forty-four (44) degrees fifty-one (51) minutes ten (10) seconds West, fifty-two and thirty-two hundredths (52.32) feet for an arc distance of fifty-two and fifty hundredths (52.50) feet to a point; (2) North fifty-two (52) degrees fifty eight (58) minutes fifty-nine (59) seconds West, thirty and eighty-five hundredths (30.85) feet to a point at the Southwestern most corner of Lot No., 7-A on the hereinafter referred to

Subdivision Plan being the point and place of BEGINNING.

BEING THE SAME PREMISES which Jeremy D. Forbes and Peggy L. Forbes, by their Deed dated September 24, 1993 and recorded in Adams County Recorder of Deeds Office on October 1, 1993 in Deed Book 786, page 219, granted and conveyed unto Carrol E. Snyder and Barbara J. Snyder. Barbara J. Snyder is deceased

Seized in execution as the property of Carrol E. Snyder under Adams County Judgement No. 1997-S235.

Parcel: 9-104

SEIZED and taken into execution as the property of Carrol E. Snyder and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 10, 2000 and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/21, 28 & 2/4

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-55 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, at 10:00 o'clock in the forenoon at the Court-house in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land lying and being in Mount Pleasant Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point in the middle of a public road identified as Township Road T-428 (Storms Store Road) and at lands now or formerly of James A. Seymore, Lot No. 1; thence through and across one-half (1/2) of said Township Road T-428 and along lands now or formerly of James A. Seymore, North fifty-three (53) degrees nine (9) minutes forty-two (42) seconds

West, three hundred seven and ninety-seven hundredths (307.97) feet to a steel pin at lands now or formerly of Dacin, Inc., thence along said lands North thirty-five (35) degrees twenty-three (23) minutes fifty (50) seconds East, one hundred thirty and sixteen hundredths (130.16) feet to a steel pin at lands now or formerly of Thomas L. Myerg; thence along said lands and through a steel pin located twenty-three and eighty-five hundredths (23.85) feet from the center of Township Road T-428, South fifty-two (52) degrees forty-nine (49) minutes thirty (30) seconds East, three hundred eleven and twenty-five hundredths (311.25) feet to a point in the middle of the aforementioned Township Road T-428 (Storms Store Road); thence through and along Township Road T-428, South thirty-six (36) degrees fifty (50) minutes eighteen (18) seconds West, One Hundred twenty-eight and twenty-nine hundredths (128.29) feet to a point in the middle of Township Road T-428 (Storms Store Road), the place of BEGINNING. CONTAINING 40,000 square feet.

THE ABOVE described tract of land has been prepared in keeping with a survey and plan rendered by Mort, Brown & Associates and identified as Lot No. 2 on said plan. The subdivision of Lot No. 2 from a larger tract of land has been approved by the Mount Pleasant Township Planning Commission, the Mount Pleasant Township Supervisors and reviewed by Adams County Planning Commission, all in keeping with the Subdivision ordinance of Mount Pleasant Township and said plan has been recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Plan Book 32 at page 13.

Tax Parcel# J-13-35-E

SEIZED and taken into execution as the property of Stephen A. Epley & Pamela J. Epley and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/21, 28 & 2/4



## COMMONWEALTH VS. DYER

1. The act requires an otherwise eligible defendant to file a PCRA petition within one year of final judgment. This provision is jurisdictional.
2. Recantation testimony is generally viewed with suspicion as being unreliable.
3. The possibility of recantation does not lift the time bar to the PCRA petition.
4. Generally, pleas of guilty or nolo contendere are not within the purview of PCRA proceedings because the truth determining process is not implicated. However, relief may be available if there are violations of the constitution, law or treaties.
5. To be eligible for a hearing, defendant was, therefore, required to allege that his pleas of guilty and nolo contendere were unlawfully induced, that circumstances make it likely that the inducement caused him to plead guilty, and that he is innocent.

In the Court of Common Pleas of Adams County, Pennsylvania, Criminal, No. CC-499-96. COMMONWEALTH OF PENNSYLVANIA VS. SCOTT EUGENE DYER.

Michael A. George, Esq., for Commonwealth  
Thomas R. Campbell, Esq., for Defendant

### MEMORANDUM OPINION

Spicer, P.J., November 4, 1998.

On September 30, 1996, defendant appeared with court appointed counsel and entered a plea of guilty to count one, escape, a felony of the third degree, and nolo contendere to counts three and nine, each of which was a charge of aggravated assault. However, count three was a felony of the first degree and subjected defendant to sentencing under second strike provisions of the Sentencing Code, whereas count nine was a felony of the second degree. The net effect of a plea agreement, after aggregating sentences with those defendant was then serving, was twelve to twenty years in a state correctional institution.

Defendant was understandably reluctant to enter the pleas, and unhappy that he was required to make a choice between going to trial and pleading<sup>1</sup>. The plea colloquy, which has been transcribed and filed of record, was quite extensive. It clearly shows that defendant knowingly, intelligently, and voluntarily entered his pleas. It also

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<sup>1</sup> Defendant was charged, along with a number of other prisoners at Adams County Prison with escape. The case attracted a great deal of local publicity and a larger panel of jurors than usual was summoned for the trial term. As the plea colloquy indicates, the undersigned judge, upon hearing about plea negotiations, requested that defendant appear the week before trial to confirm the status of the case. If possible, if a guilty or nolo contendere plea were accepted, this judge wanted to excuse unneeded jurors.

clearly indicates that he was satisfied with the advice and service of plea counsel.

Sentences immediately followed the entry of pleas. In light of the agreement, we think it understandable that no post sentence motions or appeal were filed. Soon after sentencing, defendant was taken into custody by federal authorities and transported to Kentucky to face charges relating to a bank robbery. On December 12, 1997, defendant filed his first PCRA petition, based upon a claim that his co-defendants had recanted statements about his involvement. Counsel was appointed, and a pre-hearing conference occurred on August 25, 1998. Issues were then clarified to include allegations that plea counsel was ineffective for failing to interview Commonwealth witnesses and to investigate defendant's case prior to his pleas. Defendant also suggested the possibility of his arrest warrant being forged and therefore invalid.

Commonwealth has moved for dismissal, citing three grounds: 1) the court lacks jurisdiction to entertain the petition, since it was filed beyond the Act's one year limitation period; 2) defendant's allegations are conclusively refuted by his answers made during the plea colloquy, and; 3) in the absence of an assertion of innocence, reasons advanced by defendant do not entitle him to either relief or a hearing.

We will briefly discuss these points.

**Limitation period:** The act requires an otherwise eligible defendant to file a PCRA petition within one year of final judgment. This provision is jurisdictional. *Commonwealth v. Alcorn*, Pa. Super. , 703 A.2d 1054 (1997). In an attempt to escape the ban, defendant has argued certain exceptions in the Act. 42 Pa.C.S.A. §9545(b)(1)(ii). First, he contends he was unable to file within the allotted time because of interference by government officials.

**Interference:** Other than asserting that he was in the custody of federal officials for a period of seven months, defendant has not supported his argument with allegations of fact. He, therefore, contends that incarceration in a foreign jurisdiction, without more, establishes the exception. The District Attorney concedes that defendant was outside the boundaries of this Commonwealth for the first seven months of his sentence, but argues that he still had five months to comply after his return. Although we are not persuaded that mere absence from the Commonwealth and incarceration elsewhere amounts to governmen-

tal interference, it is clear that defendant had plenty of time to proceed once returned to this jurisdiction.

**After-discovered evidence:** Defendant also submits the possibility of recantation by co-defendants involved in the escape for which defendant has been sentenced. He contends that this constitutes evidence he did not know at the time of pleas, nor could have ascertained through reasonable diligence. During preliminary stages of the present proceedings, it appeared that defendant hoped to subpoena every prisoner who was involved in the jail break, put them on the stand and discover whether they might exculpate him. We suspect that the idea of an Adams County Prison reunion of the escapees may have hastened the District Attorney's request for dismissal.

We deal with pleas, and not a trial. Therefore, this judge has little or no idea what co-defendants may have been prepared to say had the case proceeded to trial. We can recall no plea agreements involving co-defendants that required them to testify truthfully in defendant's trial. Although we are not prepared to say that after-discovered evidence may never be grounds to set aside a guilty or nolo contendere plea, we do not consider the type of testimony described by defendant sufficient to invalidate either of guilty or nolo contendere. If defendant had proceeded to trial, it is reasonable to assume that cross-examination would have exposed waverings, equivocations and favorable statements in accomplices' testimony, assuming they would have testified. Recantation testimony is generally viewed with suspicion as being unreliable, and we do not find that defendant's general assertion establishes a likelihood of a different result (had the case gone to trial) or of innocence. See, *Commonwealth v. Dennis*, Pa. 715 A.2d 404 (1998). It is clear defendant could have discovered the evidence by proceeding to trial, but chose not to do so. The possibility of recantation does not lift the time bar to the PCRA petition.

**Plea Colloquy:** Generally, pleas of guilty or nolo contendere are not within the purview of PCRA proceedings because the truth determining process is not implicated. However, relief may be available if there are violations of the constitution, law or treaties. *Commonwealth v. Boyd*, 547 Pa. 111, 688 A.2d 1172 (1997). This can occur if counsel fails to relay plea offers, and may also occur if counsel is unaware of critical evidence. Therefore, there is superficial validity in defendant's argument that he could not have made an informed deci-

sion about accepting Commonwealth's plea offer without effective assistance of counsel.

However, on closer inspection, the assertion must fail. He has, after all, merely said that he was denied the effective assistance of counsel, because plea counsel did not interview prosecution witnesses or investigate the case. Even assuming it is true that no interview occurred, the record shows that counsel knew enough to meaningfully advise defendant. We can assume that he received this advice because the colloquy establishes that defendant was, at that time, satisfied with plea counsel's advice and service. It is easy to now say that colloquy responses were mistakenly based upon an assumption that plea counsel had done her job and was knowledgeable and informed. A review of the record indicates that defendant was not mistaken. Although plea counsel did not represent defendant at his preliminary hearing, she did prepare, file and litigate a petition for a writ of habeas corpus based upon the preliminary hearing transcript. Two things can be gleaned from this fact: First, plea counsel knew what Commonwealth witnesses would say at the trial of the case. Second, based on the court's ruling, she also knew that such evidence was sufficient to submit to a jury. We have not been told what an interview would have revealed that was not elicited during cross-examination. We do not think defendant can overcome specific assertions, made during the plea colloquy, by vaguely alleging that he was denied the effective assistance of counsel during plea negotiations.

**Innocence:** When PCRA relief is requested from guilty or nolo contendere pleas, Superior Court has held that such petitions must be analyzed under 42 Pa.C.S.A. §9543 (a)(2)(iii). To be eligible for a hearing, defendant was, therefore, required to allege that his pleas of guilty and nolo contendere were unlawfully induced, that circumstances make it likely that the inducement caused him to plead guilty, and that he is innocent. *Commonwealth v. Laszczynski*, Pa. Super. 715 A.2d 1185 (1998). Although he denied personally injuring guards during the escape, the plea colloquy indicates that defendant was acting in concert with those who caused such injury and is not innocent. Here, as in *Laszczynski*, defendant relies on alleged failures of counsel that have little or nothing to do with his actual innocence. His claim must fail.

The attached order is entered.

AND NOW, this 4th day of November, 1998, defendant's PCRA petition is dismissed. This order and opinion shall act as notice, under Pa. R.Crim P. 1507, in accordance with *Commonwealth v. Hardcastle*, 549 Pa.450, 701 A.2d 541 (1997). Defendant is notified that he may either move to vacate this order within ten days hereof, or appeal to Superior Court within thirty days hereof. The Clerk of Courts is directed to provide a copy of this order to counsel, and to mail a copy to the defendant at the state correctional institution where he is housed, by certified mail, return receipt requested.

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### WOOLRIDGE VS. GOBLE

1. Jurisdiction rests upon this Commonwealth's Long Arm Jurisdictional Statute, which confers jurisdiction if defendants caused "harm or tortious injury by an act or omission in this Commonwealth."

2. The Long Arm Statute, *supra*, conferred jurisdiction for both fraud and breach of contract when buyers alleged misrepresentations that concerned latent defects in a house.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-657. EDWARD O. WOOLRIDGE AND ELEANOR M. WOOLRIDGE VS. MELVIN L. GOBLE AND JOANNE M. GOBLE.

Harold A. Eastman, Jr., Esq., for Plaintiffs  
Barbara Jo Entwistle, Esq., for Defendants

### OPINION ON PRELIMINARY OBJECTIONS

Spicer, P.J., November 6, 1998.

According to the complaint, which was filed June 26, 1998, plaintiffs and defendants entered into an agreement of sale for the sale and purchase of residential real estate known as 409 Buchanan Valley Road, Orrtanna, Adams County, Pennsylvania. Plaintiffs, who were the buyers, alleged that they made several oral inquiries about water infiltration into the basement and were assured by Melvin L. Goble "that there was presently no water infiltration issues concerning the basement once Defendants completed final landscaping of the Premises." ¶7. Defendants "also disclaimed any knowledge of any past or present water leakage in the house or other structure," in the property disclosure form required by 68 P.S. §1021 et. seq. Plaintiffs say they relied upon these representations.

Settlement occurred August 25, 1997. On September 11, 1997, it rained and plaintiffs "experienced flooding in the basement." ¶11. They

say that whenever there is a moderate or heavy rainfall, they experience water infiltration, and that, in the course of determining necessary steps to correct the problem, they “have discovered water marks and other evidence of prior water infiltration which would show that Defendants knew or should have known of the water infiltration issue prior to selling the Premises.” ¶13.

A return of service indicates that the complaint was served upon defendants in Maine. They have filed preliminary objections challenging this court’s jurisdiction.

We rule on the basis of allegations in the complaint. *Arnold v. Lachman*, 33 Adams Co. L.J. 175, 9 D&C 4<sup>th</sup> 140 (1991).

It is clear that jurisdiction rests upon this Commonwealth’s Long Arm Jurisdictional Statute, 42 Pa.C.S.A. §5322(a)(3), which confers jurisdiction if defendants caused “harm or tortious injury by an act or omission in this Commonwealth.” Defendants contend they did not do or omit to do anything that fits within the statutory language, but have not really properly raised or addressed the issue. Objections were based solely on issues of jurisdiction, and the sufficiency of the complaint was not directly challenged. Defendants have attempted to raise additional facts and challenges in their brief, by saying they provided the information form required by statute, sold the property “as is,” and that plaintiffs had the responsibility “to satisfy themselves as to the conditions of the property.” Brief p. 3.

We decline to get into an oblique attack on the sufficiency of allegations regarding plaintiffs’ causes of action. The objection could be classified as a “speaking demurrer,” see 2 Goodrich Amram 2d §1017(b):29. Nevertheless, we have read the complaint and its attachments and are satisfied that allegations merit a response. This case bears striking similarity to and is controlled by *Kubik v. Letteri*, 532 Pa. 10, 614 A.2d 1110 (1992), where Supreme Court ruled that the Long Arm Statute, *supra*, conferred jurisdiction for both fraud and breach of contract when buyers alleged misrepresentations that concerned latent defects in a house.

The attached order is entered.

#### ORDER OF COURT

AND NOW, this 6<sup>TH</sup> day of November, 1998, the court overrules preliminary objections and directs defendants to answer the complaint against them within 20 days.

## 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 ANNA R. BANGE, DEC'D**  
Late of Mt. Pleasant Township, Adams County, Pennsylvania  
Co-Executors: Nathan Bange, 3751 Ridge Rd., Gordonville, PA 17529; Lois Strite, 1601 Locust Lane, Manheim, PA 17545

**ESTATE OF LOTTIE V. BREAM, DEC'D**  
Late of Huntington Township, Adams County, Pennsylvania  
Executrix: Mary E. Bobo, 689 Peach-Glen Idaville Road, Gardners, PA 17324  
Attorney: Gary E. Hartman, Esq., Hartman & Yannetti, 126 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF DANIEL GRABILL, DEC'D**  
Late of Oxford Township, Adams County, Pennsylvania  
Co-Executors: Farmers and Merchants Trust Company of Chambersburg, 20 South Main Street, P.O. Box "T", Chambersburg, PA 17201; Chalmers J. Young, Jr., 12802 Short Road, Greencastle, PA 17225  
Attorney: George E. Wenger, Jr., Esquire, Hoskinson & Wenger, 232 Lincoln Way East, Chambersburg, PA 17201

**ESTATE OF WALTER S. MEHRING, DEC'D**  
Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executor: Walter G. Mehring, 1251 William Street, Hanover, PA 17331  
Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

**ESTATE OF HELEN M. MURRAY, DEC'D**  
Late of Straban Township, Adams County, Pennsylvania  
Executor: Elmer H. Miller, Jr., 415 Deerfield Drive, Hanover, PA 17331  
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF HAZEL M. NOEL, DEC'D**  
Late of Mt. Pleasant Township, Adams County, Pennsylvania  
Executrix: Emily Tomic, 491 Flatbush Road, Littlestown, PA 17340  
Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF MARY FRANCES TATE, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania  
Executor: Robert David Tate, 1185 Arendtsville Rd., Biglerville, PA 17307  
Attorney: John R. White, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## SECOND PUBLICATION

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

Late of Menallen Township, Adams County, Pennsylvania  
Co-Executors: Larry W. Brough, 554 Pine Grove Furnace Road, Aspers, PA 17304; Maxine M. Millar, 2389 Oxford Road, New Oxford, PA 17350  
Attorney: Harold A. Eastman, Jr., Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF CAROLINE P. HOUGH, DEC'D

Late of Germany Township, Adams County, Pennsylvania  
Executrix: Priscilla M. Megala, 105 Kensington Drive, Littlestown, PA 17340  
Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

**ESTATE OF ANNA MARIE SELL, DEC'D**  
Late of the Borough of Littlestown, Adams County, Pennsylvania  
Co-Executrices: Lucy V. Breighner, 39 James Avenue, Littlestown, PA 17340; Kandy L. Zeigler, R.D. #1, Box 164D, Thomasville, PA 17364  
Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF LORETTA A. STREVIK, DEC'D

Late of Conewago Township, Adams County, Pennsylvania  
Executor: Lynn B. Strevik, 7709 Gnatstown Road, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

## ESTATE OF FRANK WASKO, DEC'D

Late of Liberty Township, Adams County, Pennsylvania  
Executrix: Candice Sites Walter, P.O. Box 419, 112 West Main Street, Fairfield, PA 17320  
Attorney: Matthew R. Battersby, Esq., P.O. Box 215, 20 West Main Street, Fairfield, PA 17320

## ESTATE OF ARTHUR W. WENGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania  
Executor: Thomas J. Wenger, 2234 West Helms Manor, Boothwyn, PA 19061  
Attorney: David C. Wertime, Esq., Wertime & Guyer, 50 Eastern Avenue, Greencastle, PA 17225

## THIRD PUBLICATION

**ESTATE OF RALPH D. BLACK, DEC'D**  
Late of Mt. Joy Township, Adams County, Pennsylvania  
Executor: Herbert E. Houser, 1002 Stafford Lane, Harpers Ferry, WV 25425

## ESTATE OF KENNETH L. BREIGHNER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania  
Executor: Nancy M. Doersom, c/o 29 North Duke Street, York, PA 17401  
Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

## ESTATE OF HILDA E. COOL, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania  
Administratrix: Mary L. Ecker, 744 Mahan Road, Aberdeen, MD 21001  
Attorney: Charles W. Wolf, Esq., 112 Baltimore Street, Gettysburg, PA 17325

## ESTATE OF KATHRYN E. RACER, DEC'D

Late of the Borough of East Berlin, Adams County, Pennsylvania  
Co-Executors: Roger D. Racer and Laurence W. Racer, c/o 29 North Duke Street, York, PA 17401  
Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

## ESTATE OF WILLIAM F. WEIL, DEC'D

Late of Reading Township, Adams County, Pennsylvania  
Co-Executrices: Barbara Boone and Diana Larson, c/o 29 North Duke Street, York, PA 17401  
Attorney: Sharon E. Myers, Esq., 29 North Duke Street, York, PA 17401

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-785 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, 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 unit in the property known, named, and identified in the declaration referred to below as SOUTH BRANCHESTATES, located in the Township of Oxford, Adams County Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 69 P.S.A. Section 3101, et. seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, of a Land Development Plan dated October 6, 1995, last revised December 14, 1995, and recorded in Book 69, page 23 (together with all amendments and supplements thereto recorded on or before the date hereto) being all designated in such plan as Unit # 46, as more fully bounded and described in such plan, together with a proportionate undivided interest in the common elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for York County, PA in Record Book 1271, page 34.

UNDER AND SUBJECT TO any and all covenants, conditions, and restrictions, rights of way easements, and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in Record Book 69, page 23.

Together with the limited common elements appurtenant as more fully shown on plan 1271, page 34.

TITLE TO SAID PREMISES IS VESTED IN JOSEPH M. MCCOY, A MARRIED MAN, BY DEED FROM PHILLIP R. GARLAND, T/B/D/A GARLAND CONSTRUCTION, DATED 12/18/97, RECORDED 2/5/98, IN BOOK # 1517, PAGE 107

BEING PREMISES KNOWN AS 5 FIDLER DRIVE, NEW OXFORD, PA 17350

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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, which-

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

1/14, 21 & 28

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-708 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, known and designated as Lot No. 61 on a certain plan of lots entitled "Breckenridge Village", made by D.P. Raffensperger Associates, Engineers and Surveyors, dated May 7, 1971, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book I at Page 90.

TAX PARCEL #9-185

TITLE TO SAID PREMISES IS VESTED IN Joyce E. Staley, by Deed from Albert H. Oussoren and Stacey L. Oussoren, his wife, dated 7/9/97, recorded 7/9/97, in Record Book 1403, Page 308.

BEING PREMISES KNOWN AS 277 WEST STREET, GETTYSBURG, PA 17325

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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, which-ever may be the higher, shall be paid forthwith to the Sheriff.

1/14, 21 & 28

INCORPORATION NOTICE

NOTICE is hereby given that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania.

1. The Name of the Corporation is: DELTA TECHNICAL ASSISTANCE, INC.

2. The Corporation has been incorporated under the provisions of the Business Corporation Law of 1988.

John M. Crabbs, Solicitor,  
Crabbs & Crabbs  
202 Broadway  
Hanover, PA 17331

1/21

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-497 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, 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 the improvements thereon erected, lying and being in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 56 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, in Miscellaneous Book 1 at Page 1.

SEIZED and taken into execution as the property of **William T. Wert & Evonne K. Wert** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after 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, which-ever may be the higher, shall be paid forthwith to the Sheriff.

1/14, 21 & 28

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. 1444, No. 177, as amended. The name of the corporation is SCOTT'S BODY SHOP, INC.

1/21

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. 1444, No. 177, as amended. The name of the corporation is SAROJ HOTELS, INC.

1/21



# Adams County Legal Journal

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Vol. 41

January 28, 2000

No. 35, pp. 199-204

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## ANNOUNCEMENT OF CONTINUING LEGAL EDUCATION PROGRAMS

- 1. Confessions of Judgment & Deficiency Judgments in Pennsylvania*  
Wednesday, February 9, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–4, Ethics–0
- 2. Fundamentals of Estate & Trust Administration*  
Wednesday, February 16, 2000–9:00 a.m.  
Room 307, Adams County Courthouse  
Credits: Substantive Law–5, Ethics–1

**Registration through P.B.I. 800-247-4724**

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



Member FDIC

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

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## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 97-S-235 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 17, 2000, at 10:00 o'clock in the forenoon at the Court-house in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land, situate, lying and being in the Borough of Bonneauville, Adams County, Pennsylvania, more fully bounded and limited as follows, to wit:

BEGINNING at a corner at a point on the Northeastern edge of White Birch Drive at the southwestern most corner of Lot N, 7-A as shown on the hereinafter referred to Subdivision Plan; thence along said Lot No. 7-A, and lands now or formerly of Rosville V. Topper, III, North forty-six (46) degrees ten (10) minutes twenty-eight (28) seconds East, ninety-two and twenty-seven hundredths (92.27) feet to a point at lands now or formerly of Michael D. Sentz and Lot No. 9 on the hereinafter referred to Subdivision Plan; thence along said Lot No. 9, South forty-three (43) degrees forty-nine minutes thirty-two (32) seconds East, ninety-seven and forty-nine hundredths (97.49) feet to a point on the Northwestern edge of Holly Court on the hereinafter referred to Subdivision Plan; thence along said Holly Court the following three (3) courses and distances; (1) by a curve to the right having a radius of fifteen (15) feet the long chord of which is South twenty-two (22) seconds West, eight and sixty-seven hundredths (8.67) feet for an arc distance of eight and eighty hundredths (8.80) feet to a point; (2) seconds West, sixty and twenty-six hundredths (60.26) feet to a point; (3) North eighty-nine (89) degrees fifty-one (51) minutes fifty-two (52) seconds West, twenty-four and eighty-one hundredths (24.81) feet to a point on the Northeastern edge of White Birch Drive on the hereinafter referred to Subdivision Plan; thence along said Northeastern edge of White Birch Drive the following two (2) courses and distances; (1) by a curve to the left having a radius of one hundred eighty-five (185) feet the long chord of which is North forty-four (44) degrees fifty-one (51) minutes ten (10) seconds West, fifty-two and thirty-two hundredths (52.32) feet for an arc distance of fifty-two and fifty hundredths (52.50) feet to a point; (2) North fifty-two (52) degrees fifty eight (58) minutes fifty-nine (59) seconds West, thirty and eighty-five hundredths (30.85) feet to a point at the Southwestern most corner of Lot No., 7-A on the hereinafter referred to

Subdivision Plan being the point and place of BEGINNING.

BEING THE SAME PREMISES which Jeremy D. Forbes and Peggy L. Forbes, by their Deed dated September 24, 1993 and recorded in Adams County Recorder of Deeds Office on October 1, 1993 in Deed Book 786, page 219, granted and conveyed unto Carrol E. Snyder and Barbara J. Snyder. Barbara J. Snyder is deceased.

Seized in execution as the property of Carrol E. Snyder under Adams County Judgement No. 1997-s-235.

Parcel: 9-104

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 10, 2000 and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/21, 28 & 2/4

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 98-S-55 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, at 10:00 o'clock in the forenoon at the Court-house in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land lying and being in Mount Pleasant Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point in the middle of a public road identified as Township Road T-428 (Storms Store Road) and at lands now or formerly of James A. Seymore, Lot No. 1; thence through and across one-half (1/2) of said Township Road T-428 and along lands now or formerly of James A. Seymore, North fifty-three (53) degrees nine (9) minutes forty-two (42) seconds

West, three hundred seven and ninety-seven hundredths (307.97) feet to a steel pin at lands now or formerly of Dacin, Inc., thence along said lands North thirty-five (35) degrees twenty-three (23) minutes fifty (50) seconds East, one hundred thirty and sixteen hundredths (130.16) feet to a steel pin at lands now or formerly of Thomas L. Myerg; thence along said lands and through a steel pin located twenty-three and eighty-five hundredths (23.85) feet from the center of Township Road T-428, South fifty-two (52) degrees forty-nine (49) minutes thirty (30) seconds East, three hundred eleven and twenty-five hundredths (311.25) feet to a point in the middle of the aforementioned Township Road T-428 (Storms Store Road); thence through and along Township Road T-428, South thirty-six (36) degrees fifty (50) minutes eighteen (18) seconds West, One Hundred twenty-eight and twenty-nine hundredths (128.29) feet to a point in the middle of Township Road T-428 (Storms Store Road), the place of BEGINNING. CONTAINING 40,000 square feet.

THE ABOVE described tract of land has been prepared in keeping with a survey and plan rendered by Mort, Brown & Associates and identified as Lot No. 2 on said plan. The subdivision of Lot No. 2 from a larger tract of land has been approved by the Mount Pleasant Township Planning Commission, the Mount Pleasant Township Supervisors and reviewed by Adams County Planning Commission, all in keeping with the Subdivision ordinance of Mount Pleasant Township and said plan has been recorded in the Recorder of Deeds Office in and for Adams County, PENNSYLVANIA, in Plan Book 32 at page 13.

Tax Parcel# J-13-35-E

SEIZED and taken into execution as the property of **Stephen A. Epley & Pamela J. Epley** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/21, 28 & 2/4

ARMATHA MARIE FORD ,  
AN ALLEGED INCAPACITATED PERSON

1. A guardianship was not necessary where a valid, durable Power of Attorney existed.

2. However, without taking further testimony or issuing an ultimate opinion on the validity of the Power of Attorney, this Court finds that a limited guardianship is an appropriate solution.

In the Court of Common Pleas of Adams County, Pennsylvania, Orpahns' Court, OC-72-98. ARMATHA MARIE FORD, AN ALLEGED INCAPACITATED PERSON.

Catherine Gault, Esq., for Armatha Marie Ford  
Michael A. Koranda, Esq., for Earl Leese and Belinda Lang  
Larry W. Wolf, Esq., for Junetta D. Ford

PROCEDURAL HISTORY

Bigham, J., November 13, 1998.

Junetta D. Ford ("Daughter") has brought this petition to have her mother, Armatha Marie Ford ("Mother") declared partially incapacitated, and to have herself appointed a limited guardianship for the purpose of representing Mother in an underlying lawsuit. A hearing was held on this Petition in September of 1998; at the conclusion of this hearing, the interested parties were directed to submit briefs on the issue of "whether or not appointing a limited guardian of the estate is appropriate under the circumstances presented in this case." This Court has reviewed those briefs.

FINDINGS OF FACTS

In 1996, Mother was named Defendant in a pending lawsuit on an alleged promise to sell real estate, filed as Adams County No. 96-S-475. This underlying real estate suit is brought by Mother's grandson, Earl E. Leese, Jr. and his girlfriend, Belinda Lang (collectively, "Grandson").

On July 6, 1998, Daughter filed the instant Petition with the Orphan's Court of Adams County. The Petition alleges that Mother was "seriously mentally impaired at the time of the alleged promise," and "unable to provide consistent or reasonable instructions to her counsel in the lawsuit" due to this mental impairment. Daughter

states that this Petition was filed after Mother authorized a settlement of the real estate suit and then denied knowledge of the authorization or settlement.

Attached to the Petition were two letters from Dr. Grace A. Cordts, M.D., who provided a geriatric assessment of Mother in October of 1997, and who has provided follow-up care for Mother. These letters state that Daughter noticed problems with Mother's memory as early as 1993, when Daughter noticed that Mother was unable to keep track of medications and was missing appointments. These memory lapses increased to the point that, approximately four years ago, Daughter began handling Mother's financial affairs. Mother requires reminders to complete a bath, or to eat or not eat. Mother only knows one phone number, and does not shop or drive on her own, or supervise her own medication. When tested by Dr. Cordts in November of 1997, Mother demonstrated deficits in her attention span, in new learning ability. Mother was able to complete neither simple math problems nor interpret proverbs. Dr. Cordts summarized that Mother's deficits were in "immediate registration of items and recall of those items after a few minutes," and in visual/spatial function; for example, Mother was unable to accurately draw the numbers around the perimeter of the clock face, and was unable to correctly place the clock hands at 4:45. Dr. Cordts stated that Mother's history and the results of the examination are consistent with a diagnosis of Alzheimer's Disease. A follow-up visit to Dr. Cordts in February of 1998 revealed that Mother's disease had progressed, which indicated that the disease has been progressing for years. Although Dr. Cordts stated that it was difficult to pinpoint the onset of the disease, she speculated that it would have begun in the early 1990's.

On July 13, 1998, a hearing was scheduled on the Petition of Adjudication of Incapacity; this same Order named Catherine Gault, Esquire, as appointed counsel for Mother.

On September 23, 1998, a hearing was held on the Petition. Daughter presented the testimony of Dr. Cordts, as an expert witness, relating examples and opinions regarding Mother's confusion and memory lapses, and concluding that Mother suffers from a form of dementia, most likely Alzheimer's Disease. Dr. Cordts

stated that the dementia has likely existed since the early 1990's. Testimony was also presented supporting the claim in Daughter's Petition that Mother executed a Power of Attorney in favor of Daughter on January 7, 1997. Daughter testified that she has acted as Mother's attorney-in-fact since that time; Grandson states that no party has suggested that Daughter has acted unwisely in this capacity.

### LEGAL DISCUSSION

This Court is persuaded that a guardianship should be granted to Daughter, limited to the authority to direct representation of Mother in defense of the underlying lawsuit. Sufficient evidence has been presented to support the conclusion that Mother is presently incompetent, and this Court has heard no evidence as to the validity of the Power of Attorney or Mother's capacity at the time of execution.

Grandson argues that there is no need to appoint a limited guardian for Mother because the existing durable Power of Attorney is meeting Mother's needs, and because there is no evidence that Daughter has acted improperly or unwisely. Grandson would have this Court follow the holding in *In Re Sylvester*, 409 Pa.Super. 439 (1991); the *Sylvester* court held that a guardianship was not necessary where a valid, durable Power of Attorney existed. This Court finds *Sylvester* to be factually distinct: first, it appears from the facts that the principal was competent when the Power of Attorney was executed; second, the guardianship proceedings in *Sylvester* were instituted by persons who were not named in the Power of Attorney. The case was decided under §5604(c)(2) of the Probate Code, 20 Pa.C.S.A. §5604(c)(2), and addressed the import of a court's choice of guardian, where the principal made nominations in a Power of Attorney.

Here, it is unclear whether Mother was competent at the time of her execution of the Power of Attorney, but no party has challenged Daughter's authority as attorney-in-fact, or the appropriateness of Daughter as Mother's representative. Dr. Cordts testimony suggests that Mother's deterioration began in the early 1990's, and Daughter marks the onset as early as 1993. This Court is hesitant,

then, to rely on Mother's 1997 Power of Attorney. However, without taking further testimony or issuing an ultimate opinion on the validity of the Power of Attorney, and with all parties in agreement that Daughter is willing and able to handle Mother's affairs, this Court finds that a limited guardianship is an appropriate solution.

Grandson has directed our attentions to *Conover, Incompetent*, 4 Fiduc.Rep. 2<sup>nd</sup>, 200 (1984) and *Aston, Incompetent*, 7 Fiduc.Rep. 2<sup>nd</sup>, 171 (1987), where both courts found the appointment of a guardian unnecessary where a durable Power of Attorney existed and met the needs of the principal. Both of these cases are distinguishable: Mrs. Aston executed the durable Power of Attorney approximately three weeks before suffering the stroke which left her incapacitated; and Mrs. Conover "anticipated" that she would be unable to manage her own affairs and executed the Power of attorney when incapacitated, in that very anticipation. *Conover* at 201. Both courts clearly found the durable powers of attorney to be valid, and this Court has been unable to make that same determination, such that the result must be different.

Our decision here is supported by the Superior Court's reasoning in *Wilhelm v. Wilhelm*, 441 Pa.Super. 230 (1995). In *Wilhelm*, the Court remanded to the trial court the appointment of the son as a guardian for his father, where the father had previously executed a Power of Attorney, naming his wife as his representative. The Superior Court found that, absent a finding that the father did not understand the import of the Power of Attorney, the Power of Attorney was valid. In that event, "there shall be no need for a guardianship decision to be made with regard to the funds in question." *Wilhelm* at 240. If, however, the father was found to be incapacitated when he signed the Power of Attorney and the document subsequently found invalid, then the Court could not support the trial court's decision to name the son as a guardian of the funds in question. The Court remanded the matter for a determination of the validity of the Power of Attorney.

Section §5511 of the Probate Code, 20 Pa.C.S.A. §5511, prohibits persons with interests directly in conflict with those of the incapacitated person from serving as guardians, but also states that

family relationships alone do not present the requisite adversity. The son's interests were found directly adverse to his father's, as the funds in question were to be spent for the father's care, with the son taking any remaining funds as a joint tenant. The *Wilhelm* court did not state whether or not the wife should be considered as a potential guardian on remand. The court simply stated that a "disinterested party" would be appointed, which suggests that the wife was not considered to be disinterested. This is supported by the facts as recited, which allude to 25-year old marital difficulties and a non-prossed divorce action. *Wilhelm* at 241.

Here, like *Wilhelm*, a previously executed Power of Attorney exists and its validity is unknown. However, unlike *Wilhelm*, the named representative is the same as the proposed guardian, and no party alleges that Daughter's interests conflict with those of Mother. Whether Daughter's authority per the Power of Attorney is recognized, or a limited guardianship is granted to Daughter, Mother's interests will be represented wisely and appropriately. In the interests of avoiding the delay, difficulty and expense of a hearing on the validity of the Power of Attorney, the Court grants Daughter's petition for a guardianship limited to representing Mother's interests in the underlying real estate suit.

#### CONCLUSIONS OF LAW

1. Armatha Marie Ford is partially incapacitated in that she lacks sufficient mental capacity to make or communicate responsible decisions concerning the litigation in which she is a party, filed as Adams County No. 96-S-475, and therefore is in need of the appointment of a limited guardian of her estate with regard to matters relating to such litigation.

Accordingly, the attached Decree is entered.

#### DECREE

AND NOW THIS 13<sup>TH</sup> DAY OF NOVEMBER, 1998,  
IT IS ORDERED AND DECREED THAT:

1. Junetta D. Ford is appointed as limited guardian of the estate of Armatha Marie Ford, a partially incapacitated person.

2. Such limited guardian of the estate is authorized to direct all decision making for, and to protect the interest of the partially incapacitated person in, the litigation styled as No. 96-S-475, in the Court of Common Pleas of Adams County, Pennsylvania.
3. Such limited guardian of the estate is further authorized to use such assets, including principal and income, of the partially incapacitated person to pay any and all fees, costs, and expenses, including but not limited to attorneys fees and expert witness fees in connection with the aforementioned litigation.
4. At the conclusion of the aforementioned litigation, meaning after a final verdict, opinion, or order has been entered, and any appropriate appeal period has expired, or after a full and complete settlement of such litigation, the limited guardian shall file with the Court a report including a summary of the final outcome of the litigation and an accounting of all fees, costs, expenses incurred in connection with such litigation.



FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on December 13, 1999 with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of "THE ADDRESS" with its principal office or place of business at 229 Table Rock Road, Gettysburg, PA 17325. The name and address of the Corporation owning or interested in said business is: Roselawn Development Company, a Pennsylvania Corporation, 229 Table Rock Road, Gettysburg, Pennsylvania 17325.

Alan K. Patrono, Esq.

1/28

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on December 10, 1999 with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of "FOURTH STREET STATION" with its principal office or place of business at 229 Table Rock Road, Gettysburg, PA 17325. The name and address of the Corporation owning or interested in said business is: Roselawn Development Company, a Pennsylvania Corporation, 229 Table Rock Road, Gettysburg, Pennsylvania 17325.

Alan K. Patrono, Esq.

1/28

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN pursuant to the provisions of Sec. 311 of the Act of Assembly of December 16, 1982, 54 PA C.S.A. 311, that an application for registration of a fictitious name was filed on January 4, 2000 with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, for the conducting of a business under the fictitious name of QUANTUM HORIZON MEDIA GROUP, INC. with its principal office or place of business at 116 Carlisle Street, Gettysburg, PA 17325. The names and addresses of all persons owning or interested in said business are: Gregory P. Christianson, 116 Carlisle Street, Gettysburg, PA 17325; and Jason Piper, P. O. Box 489, Parkton, MD 21120.

Alan K. Patrono, Esq.

1/28

IN THE COURT OF  
COMMON PLEAS OF  
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION - LAW  
NO.: 00-S-39  
Action to Quiet Title

COUNTY OF ADAMS, Plaintiff,  
VS.

THOMAS PENN, et al., Defendants,

TO: John Penn; Thomas Penn; Richard Penn; Andrew McCury, a/k/a Andrew McCready; Archibald Tate and Jean Tate, his wife; William Tate and James Tate; Henry Weaver; Alexander Russell, Esquire; Henry Hoke; James Scott; Abraham Scott and Robert Hays, Administrators of the Estate of James Scott; Robert Hayes and John McConaughy, Administrators of the Estate of James Scott; Ralph Lashells; Abraham Scott and Margaret Scott, his wife; and Martin Winter, and all of said Defendants' respective heirs, executors, administrators, personal representatives, successors and assigns in title, and all persons and entities unknown claiming any right, title or interest in that certain real estate situate in Cumberland Township, Adams County, Pennsylvania, containing 90.094 acres.

NOTICE

You are hereby notified that the Plaintiff, County of Adams, has commenced an Action To Quiet Title against you by Complaint filed to the above docket number on January 18th, 2000, which action you are required to defend.

You are required to plead to the said Complaint within Twenty (20) days after service has been completed by publication, or judgment by default may be entered against you. The above-captioned action concerns the premises hereafter described:

ALL those six (6) tracts of land, comprised of 90.094 acres, situate in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described in that certain draft of survey, dated April 14, 1992, by Jerry LaRue, P. L. S., attached to the abovementioned Complaint as Exhibit "B".

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice and relief requested by the Plaintiff may be granted. You may lose money or property or other rights important to you.

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

GET LEGAL HELP:

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

County of Adams, Pennsylvania  
Adams County Commissioners,  
Plaintiff

1/28

IN THE COURT OF  
COMMON PLEAS OF ADAMS  
COUNTY, PENNSYLVANIA

NO. 99-S-904  
Action to Quiet Title

AMY M. HETRICK, RICHARD A. HETRICK, and CHARLOTTE M. HETRICK, husband and wife; JANICE E. NEWCOMER; and ROBERT MCGEEHAN, Plaintiffs,  
VS.

NATHANIEL BAKER, his Executors, Administrators, Successors, and Assigns, and all other parties of interest, Defendant.

TO: NATHANIEL BAKER, his Executors, Administrators, Successors, and Assigns, and all other parties of interest, including the Heirs, Successors and Assigns of Mary E. Baker

TAKE NOTICE that on January 11, 2000, the Honorable Oscar F. Spicer entered the following Order with regard to the above-captioned Action to Quiet Title:

ORDER

AND NOW, TO WIT, this 11th day of January, 2000, upon consideration of the attached Motion, it is hereby

ORDERED that Defendant, Nathaniel Baker, his executors, administrators, successors and assigns, and all other parties of interest, in the above-captioned matter be forever barred from asserting any right, lien, title or interest in the land, which is the subject matter of this action, inconsistent with the interest or claim of the Plaintiffs as set forth in their Complaint, unless Defendant, his executors, administrators, successors and assigns, and all other parties of interest, make an appearance or file an Answer to the Complaint within thirty (30) days of this Order.

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

Countess Gilbert Andrews, Esq.  
Joseph C. Adams, Esq.  
Attorneys for Plaintiffs  
29 North Duke Street  
York, PA 17401  
(717) 848-4900

1/28

NOTICE OF INTENTION TO  
INCORPORATE

NOTICE IS HEREBY GIVEN, pursuant to the Pennsylvania Business Corporation Law, 15 Pa.C.S.A. § 1307, of the intention to file Articles of Incorporation. The name of the proposed corporation is JAMES A. MCINTYRE NEW HOMES, INC. The proposed corporation is to be organized under the Business Corporation Law of 1988.

Patrick W. Quinn, Esq.  
Wolfe & Rice  
47 West High Street  
Gettysburg, PA 17325  
Attorneys for Applicant

1/28

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INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for the purposes of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the provisions of the Pennsylvania Business Corporation Law of 1988, approved December 21, 1988, P.L. 1444, No. 177, as amended.

The name of the corporation is PRINCESS PUBLICATIONS, INC.

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

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NOTICE OF INCORPORATION

NOTICE is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, with respect to a corporation which has been incorporated under the provisions of the Business Corporation Law of 1988. The name of the corporation is CONLEY MANAGEMENT, INC.

Bratic & Portko  
Solicitors  
101 Office Center, Ste. A  
101 South U.S. Route 15  
Dillsburg, PA 17019

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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 ROBERT PAUL BEAM, A/K/A R. PAUL BEAM, DEC'D  
Late of Tyrone Township, Adams County, Pennsylvania  
Executors: Linda K. Weidner, 110 Southside Drive, Newville, PA 17241; Donna M. Smith, 25 Pine Grove Road, Gardners, PA 17324; Anthony L. DeLuca, Esq., 113 Front Street, P.O. Box 358, Boiling Springs, PA 17007  
Attorney: Anthony L. DeLuca, Esq., 113 Front Street, P.O. Box 358, Boiling Springs, PA 17007

ESTATE OF WILLIAM LEE BROWN, DEC'D

Late of the Borough of Fairfield, Adams County, Pennsylvania  
Executor: Dorothy Catherine Brown, 2 Echo Trail, Fairfield, PA 17320  
Attorney: Patrick W. Quinn, Esq., Wolfe & Rice, 47 West High Street, Gettysburg, PA 17325

ESTATE OF SARA S. RANDALL, DEC'D  
Late of Conewago Township, Adams County, Pennsylvania

Executors: Phillip Zinn, 3635 Maple Avenue, Hanover, PA 17331; Edward Zinn, 2399 Ridge Road, Glenville, PA 17329  
Attorney: Roy A. Keefer, Esq., Suite 204, 18 Carlisle Street, Gettysburg, PA 17325

## SECOND PUBLICATION

ESTATE OF ANNA R. BANGE, DEC'D  
Late of Mt. Pleasant Township, Adams County, Pennsylvania

Co-Executors: Nathan Bange, 3751 Ridge Rd., Gordonville, PA 17529; Lois Strite, 1601 Locust Lane, Manheim, PA 17545

ESTATE OF LOTTIE V. BREAM, DEC'D  
Late of Huntington Township, Adams County, Pennsylvania

Executrix: Mary E. Bobo, 689 Peach-Glen Idaville Road, Gardners, PA 17324

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

ESTATE OF DANIEL GRABILL, DEC'D  
Late of Oxford Township, Adams County, Pennsylvania

Co-Executors: Farmers and Merchants Trust Company of Chambersburg, 20 South Main Street, P.O. Box "T", Chambersburg, PA 17201; Chalmers J. Young, Jr., 12802 Short Road, Greencastle, PA 17225

Attorney: George E. Wenger, Jr., Esquire, Hoskinson & Wenger, 232 Lincoln Way East, Chambersburg, PA 17201

ESTATE OF WALTER S. MEHRING, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania  
Executor: Walter G. Mehring, 1251 William Street, Hanover, PA 17331  
Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF HELEN M. MURRAY, DEC'D  
Late of Straban Township, Adams County, Pennsylvania

Executor: Elmer H. Miller, Jr., 415 Deerfield Drive, Hanover, PA 17331  
Attorney: Ronald J. Hagarman, Esq., 110 Baltimore Street, Gettysburg, PA 17325

ESTATE OF HAZEL M. NOEL, DEC'D  
Late of Mt. Pleasant Township, Adams County, Pennsylvania

Executrix: Emily Tomic, 491 Flatbush Road, Littlestown, PA 17340  
Attorney: David K. James, III, Esq., 234 Baltimore Street, Gettysburg, PA 17325

ESTATE OF MARY FRANCES TATE, DEC'D

Late of the Borough of Arendtsville, Adams County, Pennsylvania  
Executor: Robert David Tate, 1185 Arendtsville Rd., Biglerville, PA 17307  
Attorney: John R. White, Esq., Campbell & White, 122 Baltimore Street, Gettysburg, PA 17325

## THIRD PUBLICATION

ESTATE OF WENDELL W. BROUGH, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Co-Executors: Larry W. Brough, 554 Pine Grove Furnace Road, Aspers, PA 17304; Maxine M. Millar, 2389 Oxford Road, New Oxford, PA 17350  
Attorney: Harold A. Eastman, Jr., Esq., Puhl, Eastman & Thrasher, 220 Baltimore Street, Gettysburg, PA 17325

ESTATE OF CAROLINE P. HOUGH, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Executrix: Priscilla M. Megela, 105 Kensington Drive, Littlestown, PA 17340

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

ESTATE OF ANNAMARIE SELL, DEC'D  
Late of the Borough of Littlestown, Adams County, Pennsylvania

Co-Executrices: Lucy V. Breighner, 39 James Avenue, Littlestown, PA 17340; Kandy L. Zeigler, R.D. #1, Box 164D, Thomasville, PA 17364

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

ESTATE OF LORETTA A. STREVIG, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Lynn B. Strevig, 7709 Gnatstown Road, Hanover, PA 17331  
Attorney: Elinor Albright Rebert, Esq., 515 Carlisle Street, Hanover, PA 17331

ESTATE OF FRANK WASKO, DEC'D  
Late of Liberty Township, Adams County, Pennsylvania

Executrix: Candice Sites Walter, P.O. Box 419, 112 West Main Street, Fairfield, PA 17320

Attorney: Matthew R. Battersby, Esq., P.O. Box 215, 20 West Main Street, Fairfield, PA 17320

ESTATE OF ARTHUR W. WENGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Thomas J. Wenger, 2234 West Helms Manor, Boothwyn, PA 19061

Attorney: David C. Wertime, Esq., Wertime & Guyer, 50 Eastern Avenue, Greencastle, PA 17225

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-785 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, 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 unit in the property known, named, and identified in the declaration referred to below as SOUTH BRANCH ESTATES, located in the Township of Oxford, Adams County Pennsylvania, which has heretofore been submitted to the provisions of the Pennsylvania Uniform Condominium Act, 69 P.S.A. Section 3101, et. seq., by the recording in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, of a Land Development Plan dated October 6, 1995, last revised December 14, 1995, and recorded in Book 69, page 23 (together with all amendments and supplements thereto recorded on or before the date hereto) being all designated in such plan as Unit # 46, as more fully bounded and described in such plan, together with a proportionate undivided interest in the common elements as defined in a Declaration Plan recorded in the Office of the Recorder of Deeds, in and for York County, PA in Record Book 1271, page 34.

UNDER AND SUBJECT TO any and all covenants, conditions, and restrictions, rights of way easements, and agreements of record, including (but not limited to) those contained in the instruments recorded in the aforesaid Recorder's Office in Record Book 69, page 23.

Together with the limited common elements appurtenant as more fully shown on plan 1271, page 34.

TITLE TO SAID PREMISES IS VESTED IN JOSEPH M. MCCOY, A MARRIED MAN, BY DEED FROM PHILLIP R. GARLAND, T/B/D/A GARLAND CONSTRUCTION, DATED 12/18/97, RECORDED 2/5/98, IN BOOK # 1517, PAGE 107

BEING PREMISES KNOWN AS 5 FIDLER DRIVE, NEW OXFORD, PA 17350

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/14, 21 & 28

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-708 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT TRACT of land situate, lying and being in the Borough of Gettysburg, Adams County, Pennsylvania, known and designated as Lot No. 61 on a certain plan of lots entitled "Breckenridge Village", made by D.P. Raffensperger Associates, Engineers and Surveyors, dated May 7, 1971, which plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book I at Page 90.

TAX PARCEL #9-185

TITLE TO SAID PREMISES IS VESTED IN Joyce E. Staley, by Deed from Albert H. Oussoren and Stacey L. Oussoren, his wife, dated 7/9/97, recorded 7/9/97, in Record Book 1403, Page 308.

BEING PREMISES KNOWN AS 277 WEST STREET, GETTYSBURG, PA 17325

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

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/14, 21 & 28

## SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 99-S-497 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, March 10, 2000, 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 the improvements thereon erected, lying and being in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 56 on a Plan of Lots of Lake Meade Subdivision, duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County, in Miscellaneous Book 1 at Page 1.

SEIZED and taken into execution as the property of **William T. Wert & Evonne K. Wert** and to be sold by me

Raymond W. Newman  
Sheriff

Sheriff's Office, Gettysburg, PA

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on April 3, 2000, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after filing thereof. Purchaser must settle for property on or before filing date.

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

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

1/14, 21 & 28

## FICTITIOUS NAME REGISTRATION

NOTICE is hereby given that an application for Registration of Fictitious Name was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on January 4, 2000, pursuant to the Fictitious Name Act, setting forth that Professional Appraisers, Inc. of 2525 Eastern Boulevard, York, PA 17402 is the only entity owning or interested in a business, the character of which is to provide delivery service and any other activity permitted by law, and that the name, style and designation under which said business is and will be conducted is COLDWELL BANKER BOB YOST - SITES, and the location where said business is and will be conducted is 1270 Fairfield Road, Gettysburg, PA 17325.

Countess Gilbert Andrews  
By: Peter R. Andrews, Esquire  
Countess Gilbert Andrews  
29 North Duke Street  
York, PA 17401

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