

Adams County Legal Journal

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IN THIS ISSUE

PERRONE VS. GEORGE

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-179 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 94 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 plan of lots Book 1, page 1, and subject to all legal highways, easements, rights of way and restrictions of record.

Being the same premises which Lake Meade, Inc., by deed dated November 1, 1966, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 261 Page 573, granted and conveyed unto Samuel O. & Lilly B. Wiseman, Grantor herein.

Premises being: 31 Scofield Drive, East Berlin, PA 17316

Tax Parcel No. #37-008-0089-000

SEIZED and taken into execution as the property of **Brian T. Rostad & Seleena R. Rostad** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing

thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-129 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate on the North side of Main Street in the Borough of York Springs, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point, said point being on the Northeast side of Pennsylvania Route 94 (SR-0094) formerly known as the Hanover-Carlisle Turnpike road; thence along lands now or formerly of T. Ruppert, North 47-1/4 degrees East, 57 feet, 4 inches to a point; thence along same North 42-3/4 degrees West, 3 feet to a point; thence along same, North 47-1/4 degrees East, 92 feet, 8 inches to a post on the Southwest side of a 12 foot public alley; thence along the Southwest side of said public alley South 42-3/4 degrees East, 60 feet to a post; thence along an alley 5

feet in width between the lot herein conveyed and land now or formerly of H. Fair, South 47-1/4 degrees West, 150 feet to a post on the Northeast side of said state highway; thence along the Northeast side of said state highway, North 42-3/4 degrees West, 57 feet to a point, the place of BEGINNING. CONTAINING 8,828 square feet.

TITLE TO SAID PREMISES IS VESTED IN Linda L. Hayes, Single by Deed from Abram O. Myers and Sandra S. Myers, his wife dated 4/24/1997 and recorded 4/28/1997 in Record Book 1362, Page 279.

Premises being: 114 Main Street, York Springs, PA 17372

Tax Parcel No. #5-54

SEIZED and taken into execution as the property of **Linda L. Hayes** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-106 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of June, 2002, 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 lying and situate in the Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. 267 in Section K, more particularly bounded and described as follows:

BEGINNING at a point in the center of Snow Plow Trail at Lot No. 268; thence by said lot, North 64 degrees 44 minutes 25 seconds West, 225.16 feet to Lot No. 265; thence by said lot, North 27 degrees 27 minutes 2 seconds East, 115 feet to Lot No. 266; thence by said lot, South 64 degrees 44 minutes 25 seconds East, 225.16 feet to a point in the center of Snow Plow Trail; thence in said Snow Plow Trail, North 27 degrees 27 minutes 2 seconds West, 115 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section K, Chamita", dated March 3, 1969, prepared by Evans, Hagan & Holdefer and recorded in Adams County Plat Book No. 1 at page 42.

TITLE TO SAID PREMISES IS VESTED IN Vera E. Kugler, a single woman by Deed from Richard L. Kelley, joined by his wife Cynthia A. Kelley dated 12/4/1995 and recorded 12/8/1995 in Record Book 1119, Page 316.

Premises being: 11 Snow Plow Trail, Fairfield, PA 17320

Tax Parcel No. Map 7, Parcel 6

SEIZED and taken into execution as the property of Vera E. Kugler 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 July 1, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/19, 26 & 5/3

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-62 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

Tract No. 1:

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

BEGINNING at a stone on the line of lands now or formerly of Daniel Kline; thence with the same South seventy-two and one-fourth (72-1/4) degrees West nine and five-tenths (9.5) perches to a stone; thence with other lands now or formerly of Daniel Kline South twenty-two (22) degrees East thirty-four and one-tenth (34.1) perches to a stone; thence with lands now or formerly of Pius Unger North seventy-two and one-fourth (72-1/4) degrees East nine and five-tenths (9.5) perches to a stone; thence with lands now or formerly of the heirs of John Weisensale North twenty-two (22) degrees West thirty-four and one-tenth (34.1) perches to the place of BEGINNING. CONTAINING two (2) Acres and one (1) Perch of land, more or less.

Tract No. 2:

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

BEGINNING at a point at lands now or formerly of G. Roscoe Worley and Mary J. Worley; thence by lands now or formerly of David Bayer, North seventy-two and one-fourth (72-1/4) degrees East, nine and five-tenths (9.5) perches to a point at lands formerly of Daniel Sell; thence by the same, South twenty-two (22) degrees East, thirty-four and one-tenth (34.1) perches to a point at other lands formerly of Daniel Sell; thence by same, South seventy-two and one-fourth (72-1/4) degrees West, nine and five-tenths (9.5) perches to a point at lands

now or formerly of G. Roscoe Worley and Mary J. Worley; thence by the same, North twenty-two (22) degrees West, thirty-four and one-tenth (34.1) perches to a point, the point and place of BEGINNING. CONTAINING 2 Acres and 1 Perch, more or less.

SEIZED and taken into execution as the property of Kerry David Blettner 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 July 1, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/19, 26 & 5/3

PERRONE VS. GEORGE

1. Mandamus is an extraordinary remedy to compel an official to perform a ministerial act or a mandatory duty. There must be a clear right in the petitioner, a corresponding duty in the defendant and the lack or want of an appropriate and adequate remedy.

2. Mandamus cannot be used to control the exercise of discretion or judgment and cannot be used to compel the district attorney to prosecute a case.

3. A state prisoner's request to proceed in forma pauperis can be denied if the underlying cause of action is frivolous.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 01-S-1101, ANTHONY PERRONE VS. ADAMS
COUNTY D.A. MICHAEL A. GEORGE

Plaintiff *pro se*

Shawn Wagner, Esq., for Defendant

Spicer, P.J., October 19, 2001

MEMORANDUM AND ORDER

Plaintiff, a prisoner at the State Correctional Institution at Graterford, has filed a complaint in mandamus against the Adams County District Attorney, Michael A. George. Contemporaneously, he has sought leave to proceed in forma pauperis.

The complaint contains a number of allegations regarding plaintiff's attempts to prosecute various individuals for wrong doing. He alleges telephone contacts with Mark Beauchat, District Justice, and with Mr. George's office. He seeks a writ of mandamus to require Mr. George to make a decision concerning prosecution and also seeks monetary damages for Mr. George's lack of action.

Mandamus is an extraordinary remedy to compel an official to perform a ministerial act or a mandatory duty. There must be a clear right in the petitioner, a corresponding duty in the defendant and the lack or want of an appropriate and adequate remedy.

Mandamus cannot be used to control the exercise of discretion or judgment and cannot be used to compel the district attorney to prosecute a case. *Konya v. District Attorney of Northampton County*, 543 Pa. 32, 669 A.2d 890 (1995).

Plaintiff appears to understand these principles, because he couches his demand for relief in terms of forcing the District Attorney to decide one way or the other. However, the complaint makes clear that Mr. George has, by way of silence, refused

plaintiff's request. In the posture of this case, official notification makes absolutely no difference, since plaintiff cannot compel prosecution through a mandamus action.

Procedure for approval of private complaints is established in Pa.R.Crim.P. 506. Plaintiff has an adequate remedy without invoking the extraordinary relief of mandamus.

A state prisoner's request to proceed in forma pauperis can be denied if the underlying cause of action is frivolous. Pa.R.C.P. 240(j); *Thomas v. Holtz*, 707 A.2d 569 (Pa. Commw. 1998); *Bronson v Lechward*, 624 A.2d 799 (Pa. Commw. 1993).

Rule 240(j) authorizes dismissal of the underlying cause if the request for in forma pauperis status is filed simultaneously with the commencement of the action, if the court is satisfied that the action is frivolous. This action is obviously frivolous.

ORDER

AND NOW, this 19th day of October, 2001, the application for leave to proceed in forma pauperis is refused and the complaint is dismissed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1170 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

EXHIBIT A

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

BEGINNING at an existing iron pin at the private road and land of Charles Businda; thence with the land of Charles Businda, North 31 degrees 15 minutes West, 237.90 feet to a railroad spike in Township Road 361; thence through the same, North 87 degrees 42 minutes East, 412.42 feet to a railroad spike; thence across the said road and old Township Road 361, South 05 degrees 30 minutes East, 65.00 feet to an iron pin in said old Township Road 361; thence through the same, South 57 degrees 00 minutes West, 115.00 feet to an iron pin; thence with the said private road, South 79 degrees 34 minutes West, 72.44 feet to an iron pin; thence with the same, South 58 degrees 00 minutes West, 150.00 feet to an existing iron pin, the place of BEGINNING. CONTAINING 1.21 acres, as shown on a draft made by Myra Hargett by Nassaux-Hemsley Incorporated dated June 27, 1974.

The above described tract of land is the same tract which Rodney D. Taylor and Deborah Renee Taylor, his wife, by their Deed dated September 15, 1989, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 533, at page 939, sold and conveyed unto Daniel R. Chase and Jennifer L. Chase, husband and wife, Mortgagees herein.

The real estate herein described is conveyed SUBJECT to the restrictions, conditions and easements referred to in the deed recorded in Deed Book 233, at Page 241.

SEIZED and taken into execution as the property of Daniel R. & Jennifer L. Chase 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 July 1, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the

purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

4/19, 26 & 5/3

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1116 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 997 on a plan of lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Plan Book 1, at page 6, and subject to all legal highways, easements, rights-of-way and restrictions of record.

UNDER AND SUBJECT to the restrictions, covenants and conditions as set forth in Deed Book 291, page 645.

BEING the same premises which Harry P. McKean, single man, trading and doing business as New Age Associates, by Deed dated November 8, 1993 and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Deed Book 805, page 69, granted and conveyed unto Lewis D. Loughlin, Jr.

Premises being: 46 Sedgewick Drive, East Berlin, PA 17316

Tax Parcel No. #37-12-24

SEIZED and taken into execution as the property of Donald Struthers a/k/a Donald A. Struthers, Jr. & Lisa A. Struthers 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 July 1, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/19, 26 & 5/3

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-831 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground, together with improvements thereon, situate on the North side of North Street in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on North Street aforesaid at land now or formerly of Thomas P. Lawrence; thence by said land in a Northerly direction for a distance of one hundred forty-three (143) feet, more or less, to a point at a public alley known as Cherry Alley; thence by said alley in a Westerly direction for a distance of thirty (30) feet to a point at land now or formerly of Carroll J. Funk; thence by the same in a Southerly direction for a distance of one hundred forty-three (143) feet, more or less, to a point on North Street aforesaid; thence by the same in an Easterly direction for a distance of thirty (30) feet to a point, the place of BEGINNING.

BEING the same premises which Brian M. Colgan and Christina Colgan, by Deed dated October 25, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on November 3, 1999, in Deed Book Volume 1946, Page 142, granted and conveyed unto Michael P. Mumaw and Nicole L. Cronon.

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

Parcel No. (28) 001-0084

SEIZED and taken into execution as the property of Michael P. Mumaw & Nicole L. Cronon 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-748 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of June, 2002, 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 Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin at the easternmost corner of Lot No. 71, now or formerly of Charles R. Thompson, the southernmost corner of Lot No. 72, and the westernmost corner of Lot No. 79; thence by said Lot No. 79, South 45 degrees 14 minutes 35 seconds East, 429.01 feet to an iron pin on line of land now or formerly of Eugene E. McGlaughlin; thence by said land now or formerly of Eugene E. McGlaughlin, South 46 degrees 08 minutes 35 seconds West, 173.92 feet to an iron pin at corner of Lot No. 77; thence by said Lot No. 77, North 45 degrees 14 minutes 35 seconds West, 409.73 feet to an iron pin at Lot No. 71, aforesaid; thence by Lot No. 71, North 39 degrees 48 minutes 10 seconds East, 174.52 feet to an iron pin, the place of BEGINNING. CONTAINING 1.674 acres. Being known as Lot No. 78 on the hereinafter draft of survey.

The above description was taken from a draft of survey by Boyer-Price Surveys, Inc., dated November 8, 1974; revised June 2, 1975 to show 6.442 acre tract; revised September 11, 1975, to show Lot Nos. 71 and 82.

BEING the same premises which Philip A. Altland, Jr. and Laurie D. Altland, by Deed dated July 8, 1998 and recorded in Adams County on July 10, 1998 at Deed Book Volume 1618, Page 98 granted and conveyed to Philip A. Altland.

Weltman, Weinberg & Reis, Co., L.P.A.
/s/Kimberly J. Hong, Esq.
Attorney for Plaintiff
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219

Parcel No. C6-40T

SEIZED and taken into execution as the property of **Philip A. Altland, Jr.** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 1, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-148 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

LEGAL DESCRIPTION

ALL those two certain tracts of land situated, lying, and being in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1

BEGINNING at a point in U.S. Route 30 at corner of lands now or formerly of Charles L. Long and H. Diane Wintrade; thence continuing along lands of Wintrade through a steel pin set back ten feet (10') from beginning of this course South 17 degrees 16 minutes 38 seconds East 74.44 feet to a steel pin; thence continuing along same South 22 degrees 04 minutes 23 seconds East 224.97 feet to an iron pin at Lot No. 2A; thence continuing along Lot No. 2A South 71 degrees 19 minutes 50 seconds West 121.31 feet to an iron pin at Lot No. 2; thence along Lot No. 2 and through a steel pin set back ten feet (10') from the end of this course North 18 degrees 15 minutes 10 seconds West 316.29 feet to a point in U.S. Route 30; thence in the right of way of U.S. Route 30 North 80 degrees 28 minutes 17 seconds East 108.85 feet to a point, the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a final Subdivision Plan by Mort, Brown & Assoc. dated June 5, 1992 and recorded July 28, 1992 in the Office of the Recorder of Deeds for Adams County, Pennsylvania in Plat Book 61 at page 9 and designated as Lot No. 1.

BEING THE SAME which Larry R. Kline and Phyllis M. Kline, husband and wife, by their deed dated November 20, 1990 and recorded November 21, 1990, in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 573 at Page 821 granted and conveyed unto Stephen L. Unger and Lisa M. Unger, husband and wife, the GRANTORS herein.

TRACT NO. 2

BEGINNING at a steel pin (set) on the southwest corner of Lot No. 1 as shown on the herebelow identified subdivision plan; thence by said lot and along land now or formerly of Charles L. Long and

H. Diane Wintrade, North 71 degrees 19 minutes 50 seconds East 127.31 feet to an existing steel pin on line of land now or formerly of Charles L. Long and H. Diane Wintrade; thence by land of same, South 21 degrees 07 minutes 20 seconds East 60.06 feet to a steel pin (set) at corner of Lot No. 1A as shown on the herebelow identified subdivision plan; thence by said lot, South 71 degrees 19 minutes 50 seconds West 130.32 feet to a steel pin (set); thence North 18 degrees 15 minutes 10 seconds West 60.00 feet to a steel pin (set) on the Southwest corner of Lot No. 1, the place of BEGINNING. CONTAINING 0.177 Acre.

THE ABOVE DESCRIPTION was taken from the Final Subdivision Plan prepared by Mort, Brown & Associates dated June 5, 1992 and recorded July 28, 1992 in the Office of the Recorder of Deeds for Adams County, Pennsylvania in Plat Book 61 at Page 9 and designated as Lot No. 2A thereon.

BEING THE SAME which Larry R. Kline and Phyllis M. Kline, husband and wife, by their deed dated July 20, 1992 and recorded July 28, 1992, in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 636 at Page 180 granted and conveyed unto Stephen L. Unger and Lisa M. Unger, husband and wife, the GRANTORS herein.

Premises being: 2045 York Road, Gettysburg, PA 17325

Tax Parcel No. TAX MAP H-12, PARCEL 46

SEIZED and taken into execution as the property of **James E. Klingensmith** 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 July 15, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-969 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point at the corner of Lot No. 2 on the hereinafter referred to subdivision plan and a public right of way known as Water Drive; thence along said Water Drive South twenty-three (23) degrees eleven (11) minutes ten (10) seconds East, one hundred sixteen and forty-six hundredths (116.46) feet to a point at the intersection of Water Drive and Witmer Road; thence leaving Water Drive and continuing along Witmer Road South twenty-two (22) degrees fifteen (15) minutes ten (10) seconds West, thirty-five and sixty-three hundredths (35.63) feet to a point; thence continuing along said Witmer Road South sixty-six (66) degrees forty-five (45) minutes five (05) seconds West; one hundred thirty and forty-seven hundredths (130.47) feet to a point at land now or formerly of Chad W. Blank; thence along said last mentioned lands North twenty-three (23) degrees thirteen (13) minutes twenty-seven (27) seconds West, one hundred forty and twenty hundredths (140.20) feet to a point at Lot No. 2 on the hereinafter referred to subdivision plan; thence along said Lot No. 2 North sixty-six (66) degrees forty-eight (48) minutes fifty (50) seconds East, one hundred fifty-four and ninety-two hundredths (154.92) feet to the point and place of BEGINNING. CONTAINING 21,385 square feet and being known as Lot No. 3 on a final subdivision plan prepared for Charles R. Clark dated May 12, 1988 and recorded in the Office of the Recorder of Deeds for Adams County, Pennsylvania, in Plan Book 51, Page 50.

Being known as 1035 Water Drive, Hanover, PA 17331

Property ID No. K-14-140-C

TITLE TO SAID PREMISES IS VESTED IN Dennis M. Mundell and Rebecca J. Mundell, husband and wife by deed from Charles R. Clark, married individual, and Geraldine V. Clark, married individual, by her attorney-in-fact Lillian Hicks, dated 12/3/1999, recorded 12/7/1999, in Deed Book 1965, Page 303.

SEIZED and taken into execution as the property of **Dennis M. Mundell & Rebecca J. Mundell** 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 July 15, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1233 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those tracts of land situate, lying and being in the Township of Huntingdon, County of Adams, and the State of Pennsylvania, bounded and described as follows, to wit:

TRACT A: BEGINNING at a point in the center of State Highway Route 15 leading from Harrisburg to Gettysburg, said point known as Station "A"; thence running in center of said Highway, South thirty-six and three-fourths (36-3/4) degrees West, one hundred seventy-nine and four-tenths (179.4) feet to another point in the center of same, said point marked by an iron pin set back on line along land now or formerly of Elmer E. Yeagy, bearing North fifty-one and three-fourths (51-3/4) degrees West, three hundred forty and two-tenths (340.2) feet to an iron pin; thence running by land now or formerly of Clarence Tanger, North thirty-six (36) degrees East, one hundred eighty-two (182) feet to an iron pin on the West side of a public road; thence running in said road, along land of same, South fifty-one (51) degrees East, three hundred forty-one and four-tenths (341.4) feet to Station "A", the place of BEGINNING. CONTAINING one (1) acre and eight (8) perches and two hundred sixty (260) square feet.

TRACT B: BEGINNING for a corner at a point in Township Road T-596, which said point is the end of the line North thirty-five (35) degrees East, thirty-five and six-tenths (35.6) perches in deed recorded in Deed Book 232 at page 249, hereinafter referred to; thence along land now or formerly of Livingston, and through a steel pin set 30 feet from the place of beginning, South thirty-five (35) degrees West, two hundred five (205) feet to a steel pin at land now or formerly of Clarence Tanger; thence along said last

mentioned land, North twenty-eight (28) degrees twenty-one (21) minutes West, two hundred eighty-nine and eighty-three hundredths (289.83) feet to a steel pin; thence along land of same, and through a steel pin set forty (40) feet from the terminus of this line, North fifty (50) degrees twenty-four (24) minutes East, two hundred sixty-eight and twenty-four hundredths (268.24) feet to a point at the eastern edge of Township Road T-596, aforesaid; thence in and through said Township Road, South seven (7) degrees forty-four (44) minutes East, two hundred fifty (250) feet to a point; thence again in and through said Township Road, South fifty-five (55) degrees thirty (30) minutes East, eighteen and fifteen hundredths (18.15) feet to the point and place of BEGINNING.

HAVING ERRECTED THEREON a dwelling known as 6414 Old Harrisburg Road, York Springs, Pennsylvania.

BEING THE SAME PREMISES WHICH Richard W. Weaver by Deed dated June 9, 1995 and recorded June 16, 1995 in Adams County Deed Book 1042, Page 196, granted and conveyed unto Michael A. Trcka and Bobbie A. Trcka.

SEIZED IN EXECUTION AS THE PROPERTY OF BOBBIE A. TRCKA AND MICHAEL A. TRCKA UNDER ADAMS COUNTY JUDGMENT NO. 01-S-1233

MAP & PARCEL #15-34

SEIZED and taken into execution as the property of **Michael A. Trcka & Bobbie Anne Trcka** 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 July 15, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-181 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

By virtue of a Writ of Execution No. 01-S-181, issued out of the Court of Common Pleas of Adams County, directed to me, there will be exposed to public Sale, by vendue or outcry to the highest and best bidders, for cash in the Courthouse, in Gettysburg, Adams County, Pennsylvania.

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

BEGINNING at an iron pin in the middle of the public road leading from Carlisle to Gettysburg (Table Rock Road);

THENCE along said public road, North 35 degrees East, 135 feet to an iron pin in the middle of said road;

THENCE along land now or formerly of William W. Funt, South 57-3/4 degrees East, 202 feet to a post at an alley;

THENCE along the North side of said alley, South 30-1/4 degrees West, 134.5 feet to a post at an alley;

THENCE along the East side of said alley, North 58-1/4 degrees West, 211.5 feet to an iron pin, the place of BEGINNING.

CONTAINING 101 perches and 108 square feet, neat measure known as Lot No. 4.

KNOWN AS 2355 Table Rock Road, Biglerville, Pennsylvania 17307.

BEING the same premises conveyed to Michael L. Sprenkle, by Deed of Michael L. Sprenkle and Mary J. Sprenkle, husband and wife, dated March 25, 1997 and recorded March 26, 1997 in the Office of the Recorder of Deeds in and for the County of Adams in Deed Book 1346, Page 49.

IMPROVED upon there on by dwelling known as: 2355 Table Rock Road, Biglerville, PA 17307.

SUBJECT to the same exceptions, conditions, reservations, restrictions, etc., as contained in prior chain of title.

TAX PARCEL NO. F9-26.

SEIZED AND TAKEN into execution at the suit of PNC Bank National Association against Michael L. Sprenkle, and will be sold by: Sheriff of Adams County.

Richard G. Reed, Attorney for Plaintiff

SEIZED and taken into execution as the property of Michael L. Sprenkle 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-182 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

By virtue of a Writ of Execution No. 01-S-182, issued out of the Court of Common Pleas of Adams County, directed to me, there will be exposed to public Sale, by vendue or outcry to the highest and best bidders, for cash in the Courthouse, in Gettysburg, Adams County, Pennsylvania.

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

BEGINNING at an iron pin in the middle of the public road leading from Carlisle to Gettysburg (Table Rock Road);

THENCE along said public road, North 35 degrees East, 135 feet to an iron pin in the middle of said road;

THENCE along land now or formerly of William W. Funt, South 57-3/4 degrees East, 202 feet to a post at an alley;

THENCE along the North side of said alley, South 30-1/4 degrees West, 134.5 feet to a post at an alley;

THENCE along the East side of said alley, North 58-1/4 degrees West, 211.5 feet to an iron pin, the place of BEGINNING.

CONTAINING 101 perches and 108 square feet, neat measure known as Lot No. 4.

KNOWN AS 2355 Table Rock Road, Biglerville, Pennsylvania 17307.

BEING the same premises conveyed to Michael L. Sprenkle, by Deed of Michael L. Sprenkle and Mary J. Sprenkle, husband and wife, dated March 25, 1997 and recorded March 26, 1997 in the Office of the Recorder of Deeds in and for the County of Adams in Deed Book 1346, Page 49.

IMPROVED upon there on by dwelling known as: 2355 Table Rock Road, Biglerville, PA 17307.

SUBJECT to the same exceptions, conditions, reservations, restrictions, etc., as contained in prior chain of title.

TAX PARCEL NO. F9-26.

SEIZED AND TAKEN into execution at the suit of PNC Bank National Association against Michael L. Sprenkle, and will be sold by: Sheriff of Adams County.

Richard G. Reed, Attorney for Plaintiff

SEIZED and taken into execution as the property of Michael L. Sprenkle 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF CHARLES L. STAMBAUGH, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: James A. Stambaugh, 356 Hill-N-Dale Drive, York, PA 17403

Attorney: Judith Koper Morris, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF FELICITAS R. STAUB, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Philip B. Staub, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

SECOND PUBLICATION

ESTATE OF FAIRY B. KING, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Alice M. King, c/o Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

ESTATE OF ELIZABETH MARIE SMALL, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executors: Edgar S. Kuhn, 194 Cottage Drive, New Oxford, PA 17350; Daniel F. Goulden, 20 Bair Road, New Oxford, PA 17350

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

ESTATE OF WILLIAM EDWIN SMITH, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrix: George Anna Smith, c/o William W. Hafer, Esq., 215 Baltimore St., Hanover, PA 17331

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

ESTATE OF ONEIDA S. STALEY, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Richard W. Staley, 78 Maple Avenue, Littlestown, PA 17340

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

ESTATE OF M. ELEANOR WEAVER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Charles L. Weaver, Jr., 825 Cottonwood Drive, Severna Park, MD 21146

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

THIRD PUBLICATION

ESTATE OF ELEANOR G. BENSER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Alma Benser Scordato, 6600 Whitegate Rd., Clarksville, MD 21029

ESTATE OF STERLING H. BLACK, DEC'D

Late of Huntington Township, Adams County, Pennsylvania

Dorothy M. Starner, 3710 Carlisle Road, Gardners, PA 17324

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

ESTATE OF MARY L. BOYER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: William Boyer Lower, 405 Boyer Nursery Road, Biglerville, PA 17307

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

ESTATE OF HERMAN W. HILKER, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrices: Ethel Hilker Wilson, 242 Chestnut Hill Road, Hanover, PA 17331; Mildred Hilker Kline, 159 East Myrtle Street, Littlestown, PA 17340

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF RODERICK LUTHER MONTGOMERY, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Administrator: Diane E. Linebaugh, 518 South Avenue, East Berlin, PA 17316

Attorney: Larry W. Wolf, Esq., 215 Broadway, Hanover, PA 17331

ESTATE OF MARTHA A. SNYDER, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Dorothy A. Elgin and Arlene I. Jacobs, c/o 29 North Duke Street, York, PA 17401

Attorney: Sharon E. Myers, Esq., CGA Law Firm, Countess Gilbert Andrews, PC, 29 North Duke Street, York, PA 17401

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-26 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

BEGINNING at a point in the center of Valley Trail at Lot No. 26; thence by said lot and by Lot No. 25 North 88 degrees 47 minutes East, 290.51 feet to lands now or late of Ivan Riley and Brooks Hull, thence by said South 01 degree 25 minutes 20 seconds East, 100 feet to Lot No. 29; thence by said lot and by Lot No. 28 South 88 degrees 47 minutes West, 269.05 feet to a point in the center of said Valley Trail; thence in said Valley Trail North 17 degrees 24 minutes West, 52.59 feet to a point in said Valley Trail; thence continuing in said Valley Trail North 09 degrees 27 minutes West, 50.01 feet to the place of BEGINNING.

BEING the same premises which Dennis M. Didio and Terri H. Didio, by deed dated November 13, 1992 and recorded November 19, 1992 in the Recorder's Office in and for Adams, Pennsylvania in Deed Book Volume 656 Page 7, granted and conveyed unto Dennis M. Didio the mortgagor herein.

SEIZED and taken into execution as the property of **Dennis M. Didio** 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 July 15, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing

thereof. Purchaser must settle for property on or before filing date.

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

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

4/19, 26 & 5/3

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-174 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Bonneauville Borough, Adams County, Pennsylvania, and more specifically described as follows, to wit:

LOT 22: BEGINNING at a point at the only common corner of Lots 22, 23 and Southwestern edge of White Birch Drive on the plan described below; thence along Northwestern edge of Lot 23, South 39 degrees 12 minutes 38 seconds West, 110.00 feet to a point at lands now or formerly of James A. Orndorff; thence along the Northeastern edge of said lands, North 50 degrees 47 minutes 22 seconds West, 75.00 feet to a point at the corner of Lot 21 of said plan; thence along the Southeastern edge of Lot 21, North 39 degrees 12 minutes 38 seconds East, 110.00 feet to a point on the Southwestern edge of White Birch Drive; thence along said Drive, South 50 degrees 47 minutes 22 seconds East, 75.00 feet to a point at the corner of Lot 23 of said plan, the point and place of BEGINNING.

CONTAINING 8,250 square feet.

THE above description, being known as Lot 22, was taken from a plan of lots entitled "Final Plan Section Two - Hickory Ridge", prepared by Worley Surveying dated November 11, 1992 and revised August 24, 1993, File No. C-1264, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 64, Page 70, on April 21, 1994.

TITLE TO SAID PREMISES IS VESTED IN Michael H. Meyer and Elizabeth L. Meyer, his wife by Deed from James A. Orndorff and Brenda G. Orndorff, his wife dated 11/14/1995 and recorded 11/20/1995 in Record Book 1110 Page 245.

Premises being: 15 White Birch Drive, Littlestown, PA 17340

Tax Parcel No. 10-23

SEIZED and taken into execution as the property of **Michael H. Meyer & Elizabeth L. Meyer** and to be sold by me.

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

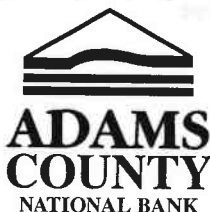
TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

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



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Adams County Legal Journal

Vol. 43

May 10, 2002

No. 50, pp. 273-281

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MARYLAND PERMANENT VS. STAMBAUGH

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-129 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situated on the North side of Main Street in the Borough of York Springs, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point, said point being on the Northeast side of Pennsylvania Route 94 (SR-0094) formerly known as the Hanover-Carlisle Turnpike road; thence along lands now or formerly of T. Ruppert, North 47-1/4 degrees East, 57 feet, 4 inches to a point; thence along same North 42-3/4 degrees West, 3 feet to a point; thence along same, North 47-1/4 degrees East, 92 feet, 8 inches to a post on the Southwest side of a 12 foot public alley; thence along the Southwest side of said public alley South 42-3/4 degrees East, 60 feet to a post; thence along an alley 5 feet in width between the lot herein conveyed and land now or formerly of H. Fair, South 47-1/4 degrees West, 150 feet to a post on the Northeast side of said state highway; thence along the Northeast side of said state highway, North 42-3/4 degrees West, 57 feet to a point, the place of BEGINNING. CONTAINING 8,828 square feet.

TITLE TO SAID PREMISES IS VESTED IN Linda L. Hayes, Single by Deed from Abram O. Myers and Sandra S. Myers, his wife dated 4/24/1997 and recorded 4/28/1997 in Record Book 1362, Page 279.

Premises being: 114 Main Street, York Springs, PA 17372

Tax Parcel No. #5-54

SEIZED and taken into execution as the property of Linda L. Hayes 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation for LOS HERMANOS, INC., were filed with the Pennsylvania Department of State Corporation Bureau on or about May 1, 2002, under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444.

Wolfe & Rice, LLC
Solicitor
47 West High Street
Gettysburg, PA 17325

5/10

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on March 19, 2002, for the purpose of obtaining a Certificate of Incorporation of a proposed corporation to be organized under the provisions of the Pennsylvania Business Law of 1988, P.L. 1444, No. 177, as amended. The name of the corporation is MENDOZA, INC., with a registered office of the corporation being 10 Center Square, New Oxford, Adams County, Pennsylvania 17350.

Jeffery M. Cook
234 Baltimore Street
Gettysburg, PA 17325

5/10

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the first and final account of Sterling Financial Trust Company (successor to Bank of Hanover and Trust Company), Trustee under Deed of Trust dated August 6, 1982, as amended and restated January 31, 1985 and December 31, 1989, for the benefit of Frank Karam between Irvin A. Karam, Settlor and Bank of Hanover and Trust Company, as Trustee, has been filed in the office of the Clerk of Orphans' Court of Adams County, Pennsylvania, and the same will be called for audit on Wednesday, May 29, 2002, at 9:00 A.M. in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania.

Beverly J. Points, Esq.
Attorney for Sterling Financial
Trust Company, Trustee

5/10, 17 & 24

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner of West Myrtle Street and a 15 foot wide public alley; thence in a Westerly direction along said West Myrtle Street for a distance of 75 feet to a stake; thence in a Southerly direction for a distance of 100 feet to a stake on the Northern boundary line of Lot No. 21-A; thence in an Easterly direction along said Lot No. 21-A for a distance of 75 feet to a 15 foot wide alley; thence in a Northerly direction along said 15 foot wide alley for a distance of 100 feet to West Myrtle Street the place of BEGINNING.

THE above described lot of ground is comprised of the Eastern one-half of Lot Nos. 23-A, 23, 22-A according to the plan and resurvey made November, 1935, by LeRoy Winebrenner, the same being part of the land included in T.C. McSherry's First Addition to the Borough of Littlestown, Adams County, Pennsylvania, and known as "McSherry Park."

Tax Parcel #26

Being known as 434 W. Myrtle Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Gregory E. Arentz & Deborah A. Arentz** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-174 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in Bonneauville Borough, Adams County, Pennsylvania, and more specifically described as follows, to wit:

LOT 22: BEGINNING at a point at the only common corner of Lots 22, 23 and Southwestern edge of White Birch Drive on the plan described below; thence along Northwestern edge of Lot 23, South 39 degrees 12 minutes 38 seconds West, 110.00 feet to a point at lands now or formerly of James A. Orndorff; thence along the Northeastern edge of said lands, North 50 degrees 47 minutes 22 seconds West, 75.00 feet to a point at the corner of Lot 21 of said plan; thence along the Southeastern edge of Lot 21, North 39 degrees 12 minutes 38 seconds East, 110.00 feet to a point on the Southwestern edge of White Birch Drive; thence along said Drive, South 50 degrees 47 minutes 22 seconds East, 75.00 feet to a point at the corner of Lot 23 of said plan, the point and place of BEGINNING.

CONTAINING 8,250 square feet.

THE above description, being known as Lot 22, was taken from a plan of lots entitled "Final Plan Section Two - Hickory Ridge", prepared by Worley Surveying dated November 11, 1992 and revised August 24, 1993, File No. C-1264, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 64, Page 70, on April 21, 1994.

TITLE TO SAID PREMISES IS VESTED IN Michael H. Meyer and Elizabeth L. Meyer, his wife by Deed from James A. Orndorff and Brenda G. Orndorff, his wife dated 11/14/1995 and recorded 11/20/1995 in Record Book 1110 Page 245.

Premises being: 15 White Birch Drive, Littlestown, PA 17340

Tax Parcel No. 10-23

SEIZED and taken into execution as the property of **Michael H. Meyer & Elizabeth L. Meyer** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Department of State of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, for the purpose of obtaining a Certificate of Incorporation of a business corporation to engage in and do all lawful business for which corporations may be incorporated and organized under the Business Corporation Law of 1988, Act of December 21, 1988, P.L. 1444, as amended.

The name of the corporation incorporated and organized under the Pennsylvania Business Corporation Law of 1988 is **BLACK CONSULTING SERVICES, INC.**

Andrew C. Sheely, Esq.
127 S. Market Street
P.O. Box 95
Mechanicsburg, PA 17055

5/10

MARYLAND PERMANENT VS. STAMBAUGH

1. The marshaling doctrine was most recently stated as,
When one creditor has a claim against two funds as security and another creditor has a claim against only one of these funds, the claim of the former must be first satisfied out of that fund which is security for his loan only. However the creditor who seeks to invoke marshaling must show that the rights of his co-creditor will be neither endangered nor injuriously delayed, and that there is no reasonable doubt of the availability of another fund to satisfy his co-creditor's demand Furthermore, these conditions must be shown to have existed at the time the common fund became available for distribution.
2. Where a creditor has a lien upon two funds, both of which are subject to junior liens, he is not obliged to resort to one rather than the other to satisfy his debt.
3. In certain circumstances, a creditor has a right to expect that marshaling of assets will occur.
4. The rule of marshaling does not prevail except where both funds are in the hands of a common debtor of both creditors or unless the fund not taken is one which in equity is primarily liable.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 00-S-770, MARYLAND PERMANENT BANK & TRUST COMPANY VS. E. MATTHEW STAMBAUGH AND EMILY D. STAMBAUGH

Clayton W. Davidson, Esq., for Plaintiff

Defendants *pro se*

William F. Hoffmeyer, Esq., for First American Title Insurance Co. and Valley Pine Mortgage

Kuhn, J., November 1, 2001.

MEMORANDUM OPINION ON MOTION TO STAY FORECLOSURE SALE AND TO REQUEST MARSHALING OF ASSETS

Before the Court is a request for partial stay of a sheriff's sale in a mortgage foreclosure action. This memorandum is written based upon the pleadings and conversations with counsel held off the record because of the undersigned's unavailability to conduct a timely hearing. We assume the following background to be true for purposes of this Opinion. Where facts are disputed, we lean toward facts asserted by the moving parties because if their claim is of arguable merit, we will grant the stay but if not, it will be denied.

There are two Adams County tracts of real estate at issue. The first tract is real estate owned by Defendant, E. Matthew Stambaugh, located at 5815 York Road, Oxford Township, known currently as Woody's Restaurant and Nightclub, which is identified as tax map

parcel K-11-70. The second tract is owned by Defendant, Emily D. Stambaugh, located at 1121 Church Road, Reading Township, and being tax map parcels J-6-23, J-6-23.01 and J-6-23.02. They shall be referred to herein as the Oxford property and Reading property, respectfully. E. Matthew Stambaugh is the son of Emily D. Stambaugh.

The following lien history is relevant:

1. On January 4, 1998, Defendants executed a mortgage in favor of Valley Pine Mortgage, Inc. in the amount of \$375,000 against the Reading property.
2. On September 11, 1998, Defendants executed a mortgage in favor of Valley Pine Mortgage, Inc. in the amount of \$425,000 and recorded on September 15, 1998, against both the Oxford and Reading properties. This mortgage constituted a first lien on the Oxford property and a second lien on the Reading property.
3. On February 19, 1999, Defendants executed a mortgage in favor of Valley Pine Mortgage, Inc. in the amount of \$450,000 and recorded on February 16, 1999, against the Reading property. The mortgage was used to pay off and re-finance the January 4, 1998 mortgage.
4. On March 29, 1999, Valley Pine Mortgage, Inc. assigned the September 11, 1998 note and mortgage to Plaintiff, Maryland Permanent Bank and Trust (hereinafter "Maryland"), which assignment was recorded June 28, 1999.
5. On June 24, 1999, Defendants executed two mortgages in favor of V.P. Mortgage in the amounts of \$350,000 and \$130,000, both recorded June 28, 1999, against the Reading property. These mortgages were used to pay off and refinance the February 19, 1999 mortgage.
6. On December 10, 1998, a judgment lien was entered in 91-N-585 against the Oxford property in favor of Bank of Hanover Trust Company, Gary L. Landis, Assignee 3, in the amount of \$236,830.46.
7. On January 19, 1999, a judgment lien was entered in 98-N-860 against the Oxford property in favor of Bank of Hanover Trust Company, Gary L. Landis, Assignee 4, in the amount of \$236,830.46.

8. On October 6, 2000, a judgment lien was entered in 00-S-866 against the Oxford property in favor of Republic Leasing Company, Inc. in the amount of \$37,202.48.
9. On June 7, 2001, V.P. Mortgage assigned the June 24, 1999, \$350,000 mortgage to American General Financial Group (hereinafter "American General").
10. On October 4, 2001, V.P. Mortgage assigned the June 24, 1999, \$130,000 mortgage to Alegis Group Loan Servicing LLC (hereinafter "Alegis").

The following procedural history is relevant:

1. On July 27, 2000, Maryland filed a Complaint in mortgage foreclosure against Defendants.
2. On September 8, 2000, default judgment was entered.
3. On October 3, 2000, Maryland filed a praecipe for writ of execution. A sheriff's sale was scheduled for December 15, 2000.
4. On December 12, 2000, First American Title Insurance Company filed a Motion to Stay Foreclosure Sale and to Request Marshaling of Assets. First American alleged that it had insured the September 11, 1998, the February 19, 1999, and both June 24, 1999 mortgages and was authorized to represent Valley Pine's interests.
5. Pursuant to an agreement, an Order was entered on December 13, 2000, allowing the sale of the Oxford property to proceed but staying the sale of the Reading property for 45 days.
6. On December 14, 2000, Defendants filed for bankruptcy, thereby staying the sheriff's sale.
7. On February 13, 2001, Defendants filed a motion to dismiss their bankruptcy petitions, which was granted the following day.
8. Shortly thereafter, Maryland initiated proceeds to schedule another sheriff's sale for March 16, 2001.
9. On March 8, 2001, First American filed another Motion to Stay Foreclosure Sale and to Request Marshaling of Assets.
10. Before that motion could be addressed, Defendants filed a second bankruptcy proceeding.
11. On June 12, 2001, the second bankruptcy petitions were dismissed.

12. On August 15, 2001, Maryland filed a praecipe for writ of execution.
13. A sheriff's sale was scheduled for November 2, 2001, and notice was mailed by Maryland to interested parties on September 28, 2001.
14. On October 17, 2001, Maryland filed a Reply to the motion to stay filed by First American on March 8, 2001. While not conceding that First American's motion was still effective, counsel for Maryland stated that the Reply was filed out of an abundance of caution.
15. On October 29, 2001, American General and Alegis filed a Petition for Intervention for the purpose of being substituted for First American on their respective mortgages and to pursue the March 8, 2001 motion to stay.

During discussion held with all counsel on October 31, 2001, the following additional facts were presented:

1. American General and Alegis allege that all funds secured by the various mortgage loans originating out of Valley Pine (a/k/a V.P.) were used by Mr. Stambaugh in and for the Oxford property.
2. Although Maryland's mortgage has secured the Oxford real estate, it is not clear whether Maryland also holds a lien or security interest in the liquor license, equipment or inventory used as part of Woody's Restaurant and Nightclub.
3. One party allegedly has an appraisal for the Oxford real estate only of approximately \$260,000.
4. Existing appraisals on the Reading property allegedly range from \$650,000 - \$910,000.
5. Maryland claims it is owed principal of \$423,077.11, interest as of August 2, 2001 of \$148,596.46 plus \$278.19 per day thereafter,¹ late fees as of July 16, 2001 of \$14,726.93 plus additional late fees of \$866.29 per month each month thereafter,² reasonable attorney fees and costs. Counsel estimated the total to be in excess of \$650,000.

¹ As of November 2, 2001, additional interest would be $\$278.19 \times 92 \text{ days} = \$25,593.48$.

² Through October 16, 2001, additional late fees would be \$2,598.87.

ISSUE

1. Are American General and Alegis (hereinafter collectively, "Petitioners") entitled to a stay of the sale of the Reading property?

DISCUSSION

Petitioners argue that they are entitled to a stay of the Reading property pursuant to the doctrine of marshaling. The marshaling doctrine was most recently stated as,

When one creditor has a claim against two funds as security and another creditor has a claim against only one of these funds, the claim of the former must be first satisfied out of that fund which is security for his loan only...It is founded...in equity, being designed to promote fair dealing and justice. Its purpose is to prevent the arbitrary action of a senior lienor or creditor having less security ...However, the creditor who seeks to invoke marshaling must show that the rights of his co-creditor will be neither endangered nor injuriously delayed, and that there is no reasonable doubt of the availability of another fund to satisfy his co-creditor's demand...Furthermore, these conditions must be shown to have existed at the time the common fund became available for distribution. Otherwise, the junior creditors would be tempted to delay distribution of the common fund as long as possible in hopes that the requirements for marshaling could be subsequently fulfilled. *American National Insurance Company v. Vine-Wood Realty Co.*, 199 A.2d 449, 454 (Pa. 1964).

Maryland has a claim against two funds (Oxford and Reading properties) as security and Petitioners have a claim against only one of these funds (Reading property). Therefore, Petitioners contend, Maryland's claim must be first satisfied out of the Oxford property. Subsequently, if any deficiency exists, Petitioners acknowledge that Maryland could seek satisfaction from the Reading property. Maryland desires to sell both properties but is likely to request that the Reading property be sold first. At first glance, there appears to be logic to Petitioners' position. However, for reasons set forth

herein below, we agree with Maryland that marshaling is not appropriate in this case.

Before proceeding further, we must address a timeliness issue raised by Maryland who contends that Petitioners have waited to this late hour to pursue the stay and, therefore, for that reason alone, should be denied relief. We disagree. Defendants' bankruptcy action effectively stayed the March 16, 2001 sheriff's sale and eliminated the need to litigate the March 8, 2001 motion to stay. There was no compelling reason for First American, Valley Pine, Petitioners or any other interested party to pursue another stay until a sale was again scheduled. Notices of the pending sale were not mailed until September 28, 2001. Nineteen days later, Maryland filed its Reply to the March 8, 2001 motion to stay. We conclude, under the circumstances, that Maryland recognized the potential viability of that motion and that Petitioners assumed its viability. In fact, Petitioners sought intervention on October 29, 2001 to pursue that very motion. We find that Petitioners have standing to intervene and that there was not a need, in this case, to file yet another motion to preserve the issue.

First, on the merits, Maryland suggests that because each tract is subject to liens junior to its lien that it cannot be compelled to proceed against the Oxford property first. This argument is supported in *Johnson v. Sharon Building Association*, 16 Pa. Super. 311, 1901 WL 3118, 4 (1901), which cites *Jennings v. Loeffler*, 184 Pa. 318 (1898) for the proposition "that where a creditor has a lien upon two funds, both of which are subject to junior liens, he is not obliged to resort to one rather than the other to satisfy his debt." That is exactly the situation presently.

We concede that Petitioners' liens precede the filing dates of the junior liens on the Oxford property. Equitable considerations given to that priority might, in other situations, override the rule in *Jennings*. The Pennsylvania Superior Court has indicated that, in certain circumstances, a creditor has a right to expect that marshaling of assets will occur. For example, in *Kendig et al. v. Landis*, 135 Pa. 612, 19 A. 1058 (1890), a judgment creditor attempted to invoke the marshaling doctrine. He held a first lien on two separate tracts of land (Tract A and Tract B). The lien on Tract A was followed by a mechanic's lien. After the mechanic's lien attached to the first

property, the same creditor acquired and entered a judgment which constituted a lien on both Tract A and Tract B. Therefore, the judgment entered subsequent to the attachment of the mechanics lien constituted a third lien on Tract A and a second lien on Tract B. The Court determined that the creditor could not apply Tract A to the satisfaction of his judgment until he had exhausted the proceeds of Tract B. The Court stated that when the mechanics put their work and materials on Tract A, they could see that Tract A was encumbered by a lien that resulted from the creditor's first judgment. The Court further stated that the mechanics also knew that the same judgment was a lien on Tract B. The Court determined that the mechanics had a right to expect that the creditor would seek to get his money out of Tract B, and not deprive them of the security of their liens.

Based on the Superior Court's holding in *Kendig*, this Court acknowledges that there are certain circumstances in which a creditor may expect the marshaling doctrine to apply. The facts of this case, however, do not allow such expectations. As previously noted, Maryland has a claim against two funds (Oxford and Reading properties) as security and Petitioners have a claim against only one of these funds (Reading property). However, both properties are also subject to liens junior to Maryland's lien. In *Kendig*, this was not the case; Tract B was not subject to any liens junior to the creditor's lien on that tract.

Second, Maryland argues that it will be injuriously delayed if the sale is stayed. This is not a situation where a liquid fund is readily available for distribution or real estate exists which, upon sale, will clearly satisfy the debt. As stated earlier, more than \$650,000 is needed to satisfy Maryland's debt. The Oxford real estate is worth substantially less than that amount. Even if the liquor license³ were secured (which is reported not to be the case) there would not be sufficient value to satisfy the debt. Our research has not uncovered any guidance as to the meaning of "injuriously delay". One can envision delay before the Oxford property generates cash as being substantial.

If a buyer would not bid sufficiently at the sheriff's sale on the Oxford property, one would expect Maryland to obtain it for a minimal sum. The property has to be marketed in an effort to satisfy at least a portion of the mortgage. A viable purchaser may be difficult

³ Petitioners claim it would be worth nearly \$100,000.

to obtain. In the interim, interest and late fees alone (accepting Maryland's figures) would increase the debt over \$9,000 per month. Maryland is also concerned about liability to which it could be exposed if the bar continues operating during the marketing period. Inevitably, it appears that even if the Oxford property is sold first, both American General and Alegis might have to make substantial bids at a subsequent sale of the Reading property to satisfy the balance of Maryland's debt.

Petitioners contend that because all borrowed funds were used in or for the Oxford property, the Reading property was surety for the debt of Mr. Stambaugh, the principal obligor. In this regard, they cite *Miller Lumber & Coal Co. v. Berkheimer*, 20 A.2d 772 (Pa. 1941). There, husband owned two parcels in his name alone and he and his wife owned another by the entireties. A bank had a mortgage against each parcel. Miller Lumber had subsequent judgments against husband's two parcels. Husband died, leaving wife as sole owner of the entireties parcel. When the bank refused to sell its mortgage to Miller Lumber, the latter argued that the bank's lien should be first satisfied out of wife's parcel so the other lots would be available to satisfy its lien. Our Supreme Court disagreed. It was stated that,

The rule of marshaling does not prevail except where both funds are in the hands of a common debtor of both creditors or unless the fund not taken is one which in equity is primarily liable.

202 A.2d at 773. All debts were, in fact, husband's debts and the court concluded it would be inequitable to insist upon wife's parcel being sold before husband's parcels to satisfy the debts. See also *Lloyd v. Galbraith*, 32 Pa. 103 (1858).⁴

This argument, however, belongs to Mrs. Stambaugh and is not one that should be raised by Petitioners.

Petitioners also contend that pursuant to the doctrine of equitable subrogation, a portion of their mortgages constitutes a first lien on

⁴That court commented that "where one creditor has a judgment against principal and surety, and another has a judgment against the surety alone" and the creditor of both collects his debt from the surety "the other creditor is entitled to use his judgment against the principal." This right of subrogation seemingly would entitle Petitioners to seek their satisfaction from the Oxford property, if necessary, if Maryland is satisfied from the sale of the Reading property.

the Reading property. They contend that the mortgages dated February 19, 1999 and June 24, 1999 were intended as refinancing of the January 4, 1998 original Valley Pine mortgage and intended to maintain first lien position, at least as to the extent of the indebtedness secured by the original first mortgage, plus interest. Accepting this argument for purposes of this discussion, Petitioners would then be in a position to force Maryland to substantially satisfy their liens before securing its own equity. However, if Petitioners wanted to protect the balance of the sums owed, then they would nevertheless have to bid the sheriff's sale to a point that would satisfy Maryland.

Therefore, it appearing that both properties will ultimately have to be sold in order to satisfy Petitioner's liens, there seems to be no equitable purpose to delay either sale.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 1st day of November, 2001, the Motion to Stay Foreclosure Sale and to Request Marshaling of Assets is denied for reasons set forth in the attached Memorandum Opinion.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-172 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, 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 real estate lying and being situate in the Borough of Littlestown, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point along the Westerly edge of North Gala at corner of Lot No. 397 on the subdivision plan hereinafter referred to; thence along Lot No. 397, North 60 degrees 03 minutes 07 seconds West, 95.00 feet to a point at Lot No. 389; thence along Lot No. 389, North 29 degrees 56 minutes 63 seconds East, 20.00 feet to a point at corner of Lot No. 399; thence along Lot No. 399, South 60 degrees 03 minutes 07 seconds East, 95.00 feet to a point along the Westerly edge of North Gala; thence along the Westerly edge of North Gala, South 29 degrees 56 minutes 53 seconds West, 20.00 feet to a corner of Lot No. 397, the place of BEGINNING.

CONTAINING 1,900 square feet.

BEING Lot No. 398 on a plan of lots dated July 15, 1994, prepared by Group Hanover, Inc. which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 65, Page 89-F.

TITLE TO SAID PREMISES IS VESTED IN Carla Rae Meinecke and Eric William Meinecke, Their Heirs and Assigns, by Deed from Appler Properties, LLC, dated 4/28/2000 and recorded 5/15/2000 in Record Book 2049, Page 260.

Premises being: 60 North Gala, Littlestown, PA 17343

Tax Parcel No. 4-47

SEIZED and taken into execution as the property of **Carla R. Meinecke & Eric W. Meinecke** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-831 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground, together with improvements thereon, situate on the North side of North Street in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on North Street aforesaid at land now or formerly of Thomas P. Lawrence; thence by said land in a Northerly direction for a distance of one hundred forty-three (143) feet, more or less, to a point at a public alley known as Cherry Alley; thence by said alley in a Westerly direction for a distance of thirty (30) feet to a point at land now or formerly of Carroll J. Funk; thence by the same in a Southerly direction for a distance of one hundred forty-three (143) feet, more or less, to a point on North Street aforesaid; thence by the same in an Easterly direction for a distance of thirty (30) feet to a point, the place of BEGINNING.

BEING the same premises which Brian M. Colgan and Christina Colgan, by Deed dated October 25, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on November 3, 1999, in Deed Book Volume 1946, Page 142, granted and conveyed unto Michael P. Mumaw and Nicole L. Cronon.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.
Attorneys for Plaintiff

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

Parcel No. (28) 001-0084

SEIZED and taken into execution as the property of **Michael P. Mumaw & Nicole L. Cronon** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1247 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, 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 improved tract of land situate in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the Ridge Road 473.5 feet Southwardly from the corner of lands now or formerly of Emory Glosser at said road; thence in and along said road, South 23 1/2 degrees West, 200 feet to a point in said road; thence by other lands now or formerly of Camillo Kiessling and wife, North 66 1/2 degrees West, 217.8 feet to a stake; thence by same, North 23 1/2 degrees East, 200 feet to a stake; thence by same, South 66 1/2 degrees East, 217.8 feet to a point in road, the place of BEGINNING.

CONTAINING 1 Acre, neat measure.

BEING the same premises which Carrie P. Norgan, widow, by Deed dated September 15, 1980, and recorded in the Office of the Recorder of Deeds of Adams County, in Deed Book 353, Page 736, granted and conveyed unto Gary L. Eberle and Irene A. Eberle, husband and wife.

This deed has been held in escrow by Larrabee & Cunningham, attorneys at law. It is being delivered by Larrabee & Cunningham to Grantee(s) on October 18, 1990, and is effective as to the Grantee(s) as of this date, and not the date of its execution or acknowledgment.

Premises being: 235 Herrs Ridge Road, Gettysburg, PA 17325

Tax Parcel No. F11-25

SEIZED and taken into execution as the property of **Sherman Hoy** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-748 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of June, 2002, 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 Menallen Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at an iron pin at the easternmost corner of Lot No. 71, now or formerly of Charles R. Thompson, the southernmost corner of Lot No. 72, and the westernmost corner of Lot No. 79; thence by said Lot No. 79, South 45 degrees 14 minutes 35 seconds East, 429.01 feet to an iron pin on line of land now or formerly of Eugene E. McGlaughlin; thence by said land now or formerly of Eugene E. McGlaughlin, South 46 degrees 08 minutes 35 seconds West, 173.92 feet to an iron pin at corner of Lot No. 77; thence by said Lot No. 77, North 45 degrees 14 minutes 35 seconds West, 409.73 feet to an iron pin at Lot No. 71, aforesaid; thence by Lot No. 71, North 39 degrees 48 minutes 10 seconds East, 174.52 feet to an iron pin, the place of BEGINNING. CONTAINING 1.674 acres. Being known as Lot No. 78 on the hereinafter draft of survey.

The above description was taken from a draft of survey by Boyer-Price Surveys, Inc., dated November 8, 1974; revised June 2, 1975 to show 6.442 acre tract; revised September 11, 1975, to show Lot Nos. 71 and 82.

BEING the same premises which Philip A. Altland, Jr. and Laurie D. Altland, by Deed dated July 8, 1998 and recorded in Adams County on July 10, 1998 at Deed Book Volume 1618, Page 98 granted and conveyed to Philip A. Altland.

Weltman, Weinberg & Reis, Co., L.P.A.
/s/Kimberly J. Hong, Esq.
Attorney for Plaintiff
2718 Koppers Building
436 Seventh Avenue
Pittsburgh, Pennsylvania 15219
Parcel No. C6-40T

SEIZED and taken into execution as the property of **Philip A. Altland, Jr.** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on July 1, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-148 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

LEGAL DESCRIPTION

ALL those two certain tracts of land situated, lying, and being in Straban Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT NO. 1

BEGINNING at a point in U.S. Route 30 at corner of lands now or formerly of Charles L. Long and H. Diane Wintrade; thence continuing along lands of Wintrade through a steel pin set back ten feet (10') from beginning of this course South 17 degrees 16 minutes 38 seconds East 74.44 feet to a steel pin; thence continuing along same South 22 degrees 04 minutes 23 seconds East 224.97 feet to an iron pin at Lot No. 2A; thence continuing along Lot No. 2A South 71 degrees 19 minutes 50 seconds West 121.31 feet to an iron pin at Lot No. 2; thence along Lot No. 2 and through a steel pin set back ten feet (10') from the end of this course North 18 degrees 15 minutes 10 seconds West 316.29 feet to a point in U.S. Route 30; thence in the right of way of U.S. Route 30 North 80 degrees 28 minutes 17 seconds East 108.85 feet to a point, the place of BEGINNING.

THE ABOVE DESCRIPTION was taken from a final Subdivision Plan by Mort, Brown & Assoc. dated June 5, 1992 and recorded July 28, 1992 in the Office of the Recorder of Deeds for Adams County, Pennsylvania in Plat Book 61 at page 9 and designated as Lot No. 1.

BEING THE SAME which Larry R. Kline and Phyllis M. Kline, husband and wife, by their deed dated November 20, 1990 and recorded November 21, 1990, in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 573 at Page 821 granted and conveyed unto Stephen L. Unger and Lisa M. Unger, husband and wife, the GRANTORS herein.

TRACT NO. 2

BEGINNING at a steel pin (set) on the southwest corner of Lot No. 1 as shown on the herebelow identified subdivision plan; thence by said lot and along land now or formerly of Charles L. Long and

H. Diane Wintrade, North 71 degrees 19 minutes 50 seconds East 127.31 feet to an existing steel pin on line of land now or formerly of Charles L. Long and H. Diane Wintrade; thence by land of same, South 21 degrees 07 minutes 20 seconds East 60.06 feet to a steel pin (set) at corner of Lot No. 1A as shown on the herebelow identified subdivision plan; thence by said lot, South 71 degrees 19 minutes 50 seconds West 130.32 feet to a steel pin (set); thence North 18 degrees 15 minutes 10 seconds West 60.00 feet to a steel pin (set) on the Southwest corner of Lot No. 1, the place of BEGINNING. CONTAINING 0.177 Acre.

THE ABOVE DESCRIPTION was taken from the Final Subdivision Plan prepared by Mort, Brown & Associates dated June 5, 1992 and recorded July 28, 1992 in the Office of the Recorder of Deeds for Adams County, Pennsylvania in Plat Book 61 at Page 9 and designated as Lot No. 2A thereon.

BEING THE SAME which Larry R. Kline and Phyllis M. Kline, husband and wife, by their deed dated July 20, 1992 and recorded July 28, 1992, in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 636 at Page 180 granted and conveyed unto Stephen L. Unger and Lisa M. Unger, husband and wife, the GRANTORS herein.

Premises being: 2045 York Road, Gettysburg, PA 17325

Tax Parcel No. TAX MAP H-12, PARCEL 46

SEIZED and taken into execution as the property of **James E. Klingensmith** 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 July 15, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-969 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN piece, parcel or tract of land, together with the improvements thereon erected, situate in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a point at the corner of Lot No. 2 on the hereinafter referred to subdivision plan and a public right of way known as Water Drive; thence along said Water Drive South twenty-three (23) degrees eleven (11) minutes ten (10) seconds East, one hundred sixteen and forty-six hundredths (116.46) feet to a point at the intersection of Water Drive and Witmer Road; thence leaving Water Drive and continuing along Witmer Road South twenty-two (22) degrees fifteen (15) minutes ten (10) seconds West, thirty-five and sixty-three hundredths (35.63) feet to a point; thence continuing along said Witmer Road South sixty-six (66) degrees forty-five (45) minutes five (05) seconds West; one hundred thirty and forty-seven hundredths (130.47) feet to a point at land now or formerly of Chad W. Blank; thence along said last mentioned lands North twenty-three (23) degrees thirteen (13) minutes twenty-seven (27) seconds West, one hundred forty and twenty hundredths (140.20) feet to a point at Lot No. 2 on the hereinafter referred to subdivision plan; thence along said Lot No. 2 North sixty-six (66) degrees forty-eight (48) minutes fifty (50) seconds East, one hundred fifty-four and ninety-two hundredths (154.92) feet to the point and place of BEGINNING. CONTAINING 21,385 square feet and being known as Lot No. 3 on a final subdivision plan prepared for Charles R. Clark dated May 12, 1988 and recorded in the Office of the Recorder of Deeds for Adams County, Pennsylvania, in Plan Book 51, Page 50.

Being known as 1035 Water Drive, Hanover, PA 17331

Property ID No. K-14-140-C

TITLE TO SAID PREMISES IS VESTED IN Dennis M. Mundell and Rebecca J. Mundell, husband and wife by deed from Charles R. Clark, married individual, and Geraldine V. Clark, married individual, by her attorney-in-fact Lillian Hicks, dated 12/3/1999, recorded 12/7/1999, in Deed Book 1965, Page 303.

SEIZED and taken into execution as the property of **Dennis M. Mundell & Rebecca J. Mundell** 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 July 15, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1233 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 21st day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those tracts of land situate, lying and being in the Township of Huntington, County of Adams, and the State of Pennsylvania, bounded and described as follows, to wit:

TRACT A: BEGINNING at a point in the center of State Highway Route 15 leading from Harrisburg to Gettysburg, said point known as Station "A"; thence running in center of said Highway, South thirty-six and three-fourths (36-3/4) degrees West, one hundred seventy-nine and four-tenths (179.4) feet to another point in the center of same, said point marked by an iron pin set back on line along land now or formerly of Elmer E. Yeagy, bearing North fifty-one and three-fourths (51-3/4) degrees West, three hundred forty and two-tenths (340.2) feet to an iron pin; thence running by land now or formerly of Clarence Tanger, North thirty-six (36) degrees East, one hundred eighty-two (182) feet to an iron pin on the West side of a public road; thence running in said road, along land of same, South fifty-one (51) degrees East, three hundred forty-one and four-tenths (341.4) feet to Station "A", the place of BEGINNING. CONTAINING one (1) acre and eight (8) perches and two hundred sixty (260) square feet.

TRACT B: BEGINNING for a corner at a point in Township Road T-596, which said point is the end of the line North thirty-five (35) degrees East, thirty-five and six-tenths (35.6) perches in deed recorded in Deed Book 232 at page 249, hereinafter referred to, thence along land now or formerly of Livingston, and through a steel pin set 30 feet from the place of beginning, South thirty-five (35) degrees West, two hundred five (205) feet to a steel pin at land now or formerly of Clarence Tanger; thence along said last

mentioned land, North twenty-eight (28) degrees twenty-one (21) minutes West, two hundred eighty-nine and eighty-three hundredths (289.83) feet to a steel pin; thence along land of same, and through a steel pin set forty (40) feet from the terminus of this line, North fifty (50) degrees twenty-four (24) minutes East, two hundred sixty-eight and twenty-four hundredths (268.24) feet to a point at the eastern edge of Township Road T-596, aforesaid; thence in and through said Township Road, South seven (7) degrees forty-four (44) minutes East, two hundred fifty (250) feet to a point; thence again in and through said Township Road, South fifty-five (55) degrees thirty (30) minutes East, eight-eighths and fifteen hundredths (18.15) feet to the point and place of BEGINNING.

HAVING ERECTED THEREON a dwelling known as 6414 Old Harrisburg Road, York Springs, Pennsylvania.

BEING THE SAME PREMISES WHICH Richard W. Weaver by Deed dated June 9, 1995 and recorded June 16, 1995 in Adams County Deed Book 1042, Page 196, granted and conveyed unto Michael A. Trcka and Bobbie A. Trcka.

SEIZED IN EXECUTION AS THE PROPERTY OF BOBBIE A. TRCKA AND MICHAEL A. TRCKA UNDER ADAMS COUNTY JUDGMENT NO. 01-S-1233

MAP & PARCEL #15-34

SEIZED and taken into execution as the property of **Michael A. Trcka & Bobbie Anne Trcka** 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 July 15, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-181 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

By virtue of a Writ of Execution No. 01-S-181, issued out of the Court of Common Pleas of Adams County, directed to me, there will be exposed to public Sale, by vendue or outcry to the highest and best bidders, for cash in the Courthouse, in Gettysburg, Adams County, Pennsylvania.

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

BEGINNING at an iron pin in the middle of the public road leading from Carlisle to Gettysburg (Table Rock Road);

THENCE along said public road, North 35 degrees East, 135 feet to an iron pin in the middle of said road;

THENCE along land now or formerly of William W. Funt, South 57-3/4 degrees East, 202 feet to a post at an alley;

THENCE along the North side of said alley, South 30-1/4 degrees West, 134.5 feet to a post at an alley;

THENCE along the East side of said alley, North 58-1/4 degrees West, 211.5 feet to an iron pin, the place of BEGINNING.

CONTAINING 101 perches and 108 square feet, neat measure known as Lot No. 4.

KNOWN AS 2355 Table Rock Road, Biglerville, Pennsylvania 17307.

BEING the same premises conveyed to Michael L. Sprenkle, by Deed of Michael L. Sprenkle and Mary J. Sprenkle, husband and wife, dated March 25, 1997 and recorded March 26, 1997 in the Office of the Recorder of Deeds in and for the County of Adams in Deed Book 1346, Page 49.

IMPROVED upon there on by dwelling known as: 2355 Table Rock Road, Biglerville, PA 17307.

SUBJECT to the same exceptions, conditions, reservations, restrictions, etc., as contained in prior chain of title.

TAX PARCEL NO. F9-26.

SEIZED AND TAKEN into execution at the suit of PNC Bank National Association against Michael L. Sprenkle, and will be sold by: Sheriff of Adams County.

Richard G. Reed, Attorney for Plaintiff

SEIZED and taken into execution as the property of **Michael L. Sprenkle** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-182 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

By virtue of a Writ of Execution No. 01-S-182, issued out of the Court of Common Pleas of Adams County, directed to me, there will be exposed to public Sale, by vendue or outcry to the highest and best bidders, for cash in the Courthouse, in Gettysburg, Adams County, Pennsylvania.

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

BEGINNING at an iron pin in the middle of the public road leading from Carlisle to Gettysburg (Table Rock Road);

THENCE along said public road, North 35 degrees East, 135 feet to an iron pin in the middle of said road;

THENCE along land now or formerly of William W. Funt, South 57-3/4 degrees East, 202 feet to a post at an alley;

THENCE along the North side of said alley, South 30-1/4 degrees West, 134.5 feet to a post at an alley;

THENCE along the East side of said alley, North 58-1/4 degrees West, 211.5 feet to an iron pin, the place of BEGINNING.

CONTAINING 101 perches and 108 square feet, neat measure known as Lot No. 4.

KNOWN AS 2355 Table Rock Road, Biglerville, Pennsylvania 17307.

BEING the same premises conveyed to Michael L. Sprenkle, by Deed of Michael L. Sprenkle and Mary J. Sprenkle, husband and wife, dated March 25, 1997 and recorded March 26, 1997 in the Office of the Recorder of Deeds in and for the County of Adams in Deed Book 1346, Page 49.

IMPROVED upon there on by dwelling known as: 2355 Table Rock Road, Biglerville, PA 17307.

SUBJECT to the same exceptions, conditions, reservations, restrictions, etc., as contained in prior chain of title.

TAX PARCEL NO. F9-26.

SEIZED AND TAKEN into execution at the suit of PNC Bank National Association against Michael L. Sprenkle, and will be sold by: Sheriff of Adams County.

Richard G. Reed, Attorney for Plaintiff

SEIZED and taken into execution as the property of **Michael L. Sprenkle** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

4/26, 5/3 & 10

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on February 26, 2002 for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is: J.A. MELTON, INC.

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

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

5/10

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF GUY W. BEAMER, DEC'D
Late of Menallen Township, Adams County, Pennsylvania

Executrix: Rowena Shaffer, 64 Greenhouse Road, Gardners, PA 17324

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

ESTATE OF PAULINE M. EPLEY, DEC'D
Late of Conewago Township, Adams County, Pennsylvania

Executor: Robert A. Epley, 1008 Shannon Lane, Carlisle, PA 17013

Attorney: Keith A. Hassler, Esq., Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF MIRIAM PIHO HARTLEY, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: John David Pihon, 114 Valley Drive, Birdsboro, PA 19508

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

ESTATE OF RALPH B. JACKSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Lillian S. Jackson, 958 Mummasburg Rd., Gettysburg, PA 17325

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

ESTATE OF JANE BRITTON GRASMICK MICHAEL a/k/a HAZEL JANE GRASMICK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Susan Grasmick Guinn & Christopher B. Grasmick, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

ESTATE OF JEANNE M. ORNER, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executrix: Cherylann M. Batdorf, c/o James D. Hughes, Esq., 60 West Pomfret Street, Carlisle, PA 17013

Attorney: James D. Hughes, Esq., Irwin, McKnight & Hughes, 60 West Pomfret Street, Carlisle, PA 17013

ESTATE OF MARY LAMANDA STERNER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: John Robert Sterner, 4850 Stoney Lane, Manchester, MD 21102

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

SECOND PUBLICATION

ESTATE OF CHARLES L. STAMBAUGH, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: James A. Stambaugh, 356 Hill-N-Dale Drive, York, PA 17403

Attorney: Judith Koper Morris, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF FELICITAS R. STAUB, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Philip B. Staub, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

THIRD PUBLICATION

ESTATE OF FAIRY B. KING, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Alice M. King, c/o Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

Attorney: Robert Clofine, Esq., 120 Pine Grove Commons, York, PA 17403

ESTATE OF ELIZABETH MARIE SMALL, DEC'D

Late of Hamilton Township, Adams County, Pennsylvania

Executors: Edgar S. Kuhn, 194 Cottage Drive, New Oxford, PA 17350; Daniel F. Goulden, 20 Bair Road, New Oxford, PA 17350

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

ESTATE OF WILLIAM EDWIN SMITH, DEC'D

Late of Union Township, Adams County, Pennsylvania

Executrix: George Anna Smith, c/o William W. Hafer, Esq., 215 Baltimore St., Hanover, PA 17331

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

ESTATE OF ONEIDA S. STALEY, DEC'D

Late of the Borough of Littlestown, Adams County, Pennsylvania

Executor: Richard W. Staley, 78 Maple Avenue, Littlestown, PA 17340

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

ESTATE OF M. ELEANOR WEAVER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Charles L. Weaver, Jr., 825 Cottonwood Drive, Severna Park, MD 21146

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-179 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 94 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 plan of lots Book 1, page 1, and subject to all legal highways, easements, rights of way and restrictions of record.

Being the same premises which Lake Meade, Inc., by deed dated November 1, 1966, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 261 Page 573, granted and conveyed unto Samuel O. & Lilly B. Wiseman, Grantor herein.

Premises being: 31 Scofield Drive, East Berlin, PA 17316

Tax Parcel No. #37-008-0089-000

SEIZED and taken into execution as the property of **Brian T. Rostad & Seleena R. Rostad** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the

purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

5/3, 10 & 17

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—EQUITY
NO. 02-S-270
Action to Quiet Title

ROGER W. SCHLAGHECK and
ROSARIO SCHLAGHECK, husband
and wife, Plaintiffs

vs.

CHARLES H. FOGEL, Defendant

TO: Charles H. Fogel, His heirs,
administrators, successors and assigns

TAKE NOTICE that on March 12, 2002, Roger W. Schlagheck and Rosario Schlagheck, husband and wife, filed a Complaint in Action to Quiet Title, against Charles H. Fogel, his heirs, administrators, successors and assigns, averring that Roger W. Schlagheck and Rosario Schlagheck are the owners of the real property described herein. The Complaint requests the Court to satisfy an open mortgage you may have on said real estate. The subject property is a tract of land situate in Hamiltonban Township, Adams County, Pennsylvania, most recently described in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Deed Book 305 at page 684.

The Complaint requested the Court to enter a Decree and Order that the mortgage recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Mortgage Book 48 at page 535 be marked satisfied and that the Defendants be forever barred from asserting any right, lien, title or interest in the said land inconsistent with the interests of the Plaintiffs as set forth in their Complaint.

WHEREFORE, by Order dated March 13, 2002, the Court of Common Pleas of

Adams County, Pennsylvania, has ordered that service of the Complaint be made on the above Defendant, his respective heirs, personal representatives, successors and assigns, by publication. Plaintiffs will request the Court to enter a final judgment ordering that any possible legal interest the Defendant might have had in the property be extinguished.

NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the Complaint filed in the Adams County Court of Common Pleas at No. 02-S-270 and described hereinabove, you must take action within **twenty (20) days** after this publication by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for the relief requested by the Plaintiffs. You may lose property or other rights important to you.

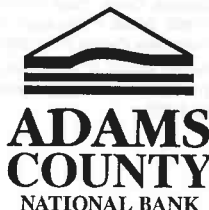
YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Adams County Courthouse
Gettysburg, PA 17325
717-334-6781

Hartman & Yannetti
Gary E. Hartman, Esq.
Attorney for Plaintiffs
126 Baltimore Street
Gettysburg, PA 17325
717-334-3105

5/10

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Adams County Legal Journal

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CONTINUING LEGAL EDUCATION PROGRAM

Malpractice Avoidance

May 21, 2002 – 1:30 p.m. - 3:00 p.m.

Credits: Substantive Law – 0, Ethics – 1.5

Attending firms receive 5% discount on PBA

sponsored professional liability insurance

Gettysburg Hotel

Register with PBA at 800-932-0311 x2227

General Practitioners' Update 2002

June 26, 2002 – 9:00 a.m. - 4:30 p.m.

Credits: Substantive Law – 6, Ethics – 0

Satellite Presentation at Gettysburg College,

Media Theater

Register through PBI at 800-247-4724

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-129 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate on the North side of Main Street in the Borough of York Springs, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point, said point being on the Northeast side of Pennsylvania Route 94 (SR-0094) formerly known as the Hanover-Carlisle Turnpike road; thence along lands now or formerly of T. Ruppert, North 47-1/4 degrees East, 57 feet, 4 inches to a point; thence along same North 42-3/4 degrees West, 3 feet to a point; thence along same, North 47-1/4 degrees East, 92 feet, 8 inches to a post on the Southwest side of a 12 foot public alley; thence along the Southwest side of said public alley South 42-3/4 degrees East, 60 feet to a post; thence along an alley 5 feet in width between the lot herein conveyed and land now or formerly of H.

Fair, South 47-1/4 degrees West, 150 feet to a post on the Northeast side of said state highway; thence along the Northeast side of said state highway, North 42-3/4 degrees West, 57 feet to a point, the place of BEGINNING. CONTAINING 8,828 square feet.

TITLE TO SAID PREMISES IS VESTED IN Linda L. Hayes, Single by Deed from Abram O. Myers and Sandra S. Myers, his wife dated 4/24/1997 and recorded 4/28/1997 in Record Book 1362, Page 279.

Premises being: 114 Main Street, York Springs, PA 17372

Tax Parcel No. #5-54

SEIZED and taken into execution as the property of Linda L. Hayes 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the first and final account of Sterling Financial Trust Company (successor to Bank of Hanover and Trust Company), Trustee under Deed of Trust dated August 6, 1982, as amended and restated January 31, 1985 and December 31, 1989, for the benefit of Frank Karam between Irvin A. Karam, Settlor and Bank of Hanover and Trust Company, as Trustee, has been filed in the office of the Clerk of Orphans' Court of Adams County, Pennsylvania, and the same will be called for audit on Wednesday, May 29, 2002, at 9:00 A.M. in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania.

Beverly J. Points, Esq.
Attorney for Sterling Financial
Trust Company, Trustee

5/10, 17 & 24

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.

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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. 02-S-122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner of West Myrtle Street and a 15 foot wide public alley; thence in a Westerly direction along said West Myrtle Street for a distance of 75 feet to a stake; thence in a Southerly direction for a distance of 100 feet to a stake on the Northern boundary line of Lot No. 21-A; thence in an Easterly direction along said Lot No. 21-A for a distance of 75 feet to a 15 foot wide alley; thence in a Northerly direction along said 15 foot wide alley for a distance of 100 feet to West Myrtle Street the place of BEGINNING.

THE above described lot of ground is comprised of the Eastern one-half of Lot Nos. 23-A, 23, 22-A according to the plan and resurvey made November, 1935, by LeRoy Winebrenner, the same being part of the land included in T.C. McSherry's First Addition to the Borough of Littlestown, Adams County, Pennsylvania, and known as "McSherry Park."

Tax Parcel #26

Being known as 434 W. Myrtle Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Gregory E. Arentz & Deborah A. Arentz** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-174 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate in **Bonneauville** Borough, Adams County, Pennsylvania, and more specifically described as follows, to wit:

LOT 22: BEGINNING at a point at the only common corner of Lots 22, 23 and Southwestern edge of White Birch Drive on the plan described below; thence along Northwestern edge of Lot 23, South 39 degrees 12 minutes 38 seconds West, 110.00 feet to a point at lands now or formerly of James A. Orndorff; thence along the Northeastern edge of said lands, North 50 degrees 47 minutes 22 seconds West, 75.00 feet to a point at the corner of Lot 21 of said plan; thence along the Southeastern edge of Lot 21, North 39 degrees 12 minutes 38 seconds East, 110.00 feet to a point on the Southwestern edge of White Birch Drive; thence along said Drive, South 50 degrees 47 minutes 22 seconds East, 75.00 feet to a point at the corner of Lot 23 of said plan, the point and place of BEGINNING.

CONTAINING 8,250 square feet.

THE above description, being known as Lot 22, was taken from a plan of lots entitled "Final Plan Section Two - Hickory Ridge", prepared by Worley Surveying dated November 11, 1992 and revised August 24, 1993, File No. C-1264, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 64, Page 70, on April 21, 1994.

TITLE TO SAID PREMISES IS VESTED IN **Michael H. Meyer** and **Elizabeth L. Meyer**, his wife by Deed from **James A. Orndorff** and **Brenda G. Orndorff**, his wife dated 11/14/1995 and recorded 11/20/1995 in Record Book 1110 Page 245.

Premises being: 15 White Birch Drive, Littlestown, PA 17340

Tax Parcel No. 10-23

SEIZED and taken into execution as the property of **Michael H. Meyer & Elizabeth L. Meyer** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

CHANGE OF NAME NOTICE

NOTICE IS HEREBY GIVEN that **James Duffy Schulteis, Jr.**, has filed with the Court of Common Pleas of Adams County, Pennsylvania, a Petition to change his name from **James Duffy Schulteis, Jr.**, to **James Shaw Duffy**.

Said Court has fixed a hearing on said Petition for May 29, 2002, at 9:00 a.m. in Courtroom No. 1, 2 or 3 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.

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

5/17

WIVELL VS. TYLER ET AL

1. In order to recover under a theory of unjust enrichment, the plaintiff must prove damages. Where improvements are made to real estate, the damages recoverable are the extent to which the property has been benefitted. If the improvement increased the market value of the real estate the amount recoverable is that increase, not the amount of the invoices submitted.

2. There are four grounds upon which an agency relationship exists and upon which a principal is bound by the act of the agent as against a third party. Those grounds include where the agent had 1) express authority granted by the principal to bind the principal as to certain matters, 2) implied authority to bind the principal to those acts of the agent that are necessary, proper and usual in the exercise of the agent's express authority, 3) apparent authority, i.e., authority that the principal has by words or conduct held the alleged agent out as having, and 4) authority that the principal is estopped to deny.

3. Under Pennsylvania law, there is a presumption with respect to property held by the entireties that either spouse has the power to act for both without specific authority, so long as the benefit of such action inures to both. "The presumption then stands unless and until the other spouse establishes by a preponderance of the evidence that, at the time the contract was made and the services were performed under it, the contracting spouse was in fact not authorized to act for and to bind her in contracting for improvement of the entireties property, the benefits of which ran in favor of both tenants by the entireties."

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 00-S-625, SAMUEL K. WIVELL VS. NORMAN E. TYLER, MARY ANN TYLER, EARL E. HARRINGTON AND MARY JANE HARRINGTON.

Robert G. Teeter, Esq., for Plaintiff
Arthur W. Boyce, Esq., for Defendants
Kuhn, J., November 7, 2001.

MEMORANDUM OPINION

This case involves a claim for an unpaid "extra" on a residential construction project. Below we have set forth the facts and conclusions we considered in arriving at our verdict entered after a non-jury trial. We are doing so from our trial notes and without the benefit of a transcript.

FACTUAL FINDINGS

1. Plaintiff, Samuel K. Wivell, is a builder operating out of Taneytown, Maryland; who has done contracting work for 26 years.

2. Defendants, Earl E. Harrington and Mary Jane Harrington, husband and wife, of 9134 Waynesboro Pike, Emmitsburg, Maryland, are owners of certain real estate in Liberty Township, Adams County, Pennsylvania.
3. Defendant, Mary Ann Tyler, is the daughter of Mr. and Mrs. Harrington.
4. Mrs. Tyler and her husband, Defendant, Norman E. Tyler, reside at 85 Waynesboro Pike, Fairfield, Pennsylvania.
5. Plaintiff's daughter is married to Mrs. Tyler's brother.
6. The Tylers contacted Plaintiff for the purpose of constructing a home for them on the Harrington real estate.
7. The terms of the construction project were set forth in a written document dated May 25, 1999 (PX 1 and 2).
8. The Tylers both executed one copy of the contract (PX 1).
9. Knowing that the Harringtons owned the land, Plaintiff requested that Mr. Harrington also sign a copy of the contract, to which the latter consented (PX 2).
10. Mr. Harrington never discussed the project with Plaintiff before or after May 25, 1999. The contract was delivered to him and returned to Plaintiff by the Tylers. Specifically, he "had nothing to do with" the project and turned all decision making over to the Tylers.
11. The contract was for an initial price of \$167,772, but included allowances for a stone driveway (\$1,500), poured concrete walls (\$3,740), concrete porch with railing (\$7,800), carpet (\$20/sq. yd.), foyer flooring (\$6/sq. ft.), lighting (\$500), master bathtub (\$1,000), well (\$1,700), and septic system (\$5,500).
12. The septic system specifications were dated October, 1997.
13. Prior to May 25, 1999, Mr. Tyler offered Plaintiff a copy of the septic system specifications but he declined to accept them at that time.
14. Plaintiff's last sand mound installation in Pennsylvania was two years before May, 1999, and cost \$5,000, therefore, in estimating the septic system allowance for this contract, he just added \$500 to that prior figure.

15. The contract included a provision that,
...any item(s) which shall exceed allowances...shall be considered an Extra and charged for as time and material.
16. Both the Harringtons and the Tylers executed a mortgage in the amount of \$178,000 on August 13, 1999, for the purpose of financing the construction project (PX 6).
17. The first and second draws were due upon completion of the foundation.
18. The footers were completed by July 27, 1999.
19. On September 15, 1999, construction commenced on the main structure of the house.
20. Adjustments to the contract were documented in a billing addressed to the Tylers, dated September 25, 1999, in the amount of \$22,958. Credits were given for the excavation (\$750), footers (\$3,200), foundation block (\$3,740), and well (\$1,700). (The Tylers had other persons do the foundation and well work.) The Tylers were charged extra for changes in the front door (\$2,622), two side front doors (\$200), second floor window (\$568), and the sunroom window (\$596). On September 27, 1999, Plaintiff received payment of \$22,162. These extras were all requested by and agreed to in advance by the Tylers even though there was not a separate change order for each item.
21. In late October, 1999, Plaintiff obtained a copy of the septic system specifications from Mr. Tyler.
22. The following day, Plaintiff met with and requested Gary Sanders to give him a quote for constructing and installing the sand mound septic system. Plaintiff presented Mr. Sanders with a copy of the specifications at that time.
23. On or about November 15, 1999, Plaintiff received a bid in the amount of \$10,000 from Mr. Sanders (PX 3). Mr. Sanders testified that this sand mound was at least 20% larger than the average sand mound. When Plaintiff asked Mr. Sanders to "cut me a break" because he did not expect to be charged that much, the bid was adjusted to \$9,500.

24. Mr. Sanders began the sand mound work on November 23, 1999, and the same day received a down payment of \$5,000 from Plaintiff's wife. This portion of the project was completed within several days.
25. On December 4, 1999, Plaintiff billed the Tylers for the fifth draw (\$32,000) and the amount over the septic system allowance (\$4,000) (PX 4).
26. Plaintiff did not forward a copy of the December 4, 1999 bill to the Harringtons.
27. The Tylers paid for the fifth draw but not for the extra over the septic system allowance.
28. The construction project was completed on December 24, 1999.
29. At no time did Plaintiff specifically ask the Harringtons to approve the extra for the sand mound.
30. The Tylers did not specifically advise Plaintiff that they were acting on behalf of the Harringtons with respect to the construction project.
31. Despite demand, Defendants have refused to pay for the sand mound overrun.

CONCLUSIONS

1. This Court has jurisdiction.
2. Plaintiff has not proven damages under his claim for unjust enrichment (Count II).
3. Changes to the contract for extras had to be approved in advance by Defendants.
4. The Tylers had express authority to act on behalf of Mr. Harrington.
5. Mr. Harrington was acting on behalf of his wife when he executed the construction contract and when he authorized the Tylers to make all the decisions regarding the project.
6. Mr. Tyler was acting on behalf of his wife when dealing with Plaintiff on any aspect of the project.
7. Plaintiff has failed to prove that Mr. Tyler approved the extra charge of \$4,000 for the septic system.

DISCUSSION

Plaintiff filed a Complaint with two counts seeking judgment for the \$4,000 extra. Initially, we will address Count II, which is a claim for unjust enrichment. This claim must fail.

In order to recover under a theory of unjust enrichment, the plaintiff must prove damages.¹ Where improvements are made to real estate, the damages recoverable are the extent to which the property has been benefited. If the improvement increased the market value of the real estate the amount recoverable is that increase, not the amount of the invoices submitted. *Cambria-Stoltz Enterprises v. TNT Investments*, 747 A.2d 947 (Pa. Super. 2000).

Here, Plaintiff offered no evidence that the real estate was benefited except to argue that a residence with a septic system must be worth at least \$4,000 more than a residence without a septic system. However, that contention, in recent political jargon, is “fuzzy math.” In order to recover any sum under this count, Plaintiff would have to prove that the property was benefited to an extent greater than \$5,500 because that is the amount that the Tylers have already paid for the system. We can assume that installation of a septic system benefits real estate, but we cannot speculate as to the extent of that benefit.

Count I of the Complaint alleges breach of contract. Within this count are several issues; 1) whether the contract contemplated approval in advance before extra costs could be incurred, 2) whether all the defendants are liable for the extras, and 3) whether there was approval to incur extra costs related to the septic system.

The contract is clear that allowances were made for certain parts of the project. Defendants contend that no extra could be incurred without their express approval in advance. This contract does not expressly provide for executed written change orders,² however, we believe that the requirement of mutual consent is implied in every contract before expenses can be incurred beyond contractual allowances.

¹ Because resolution is easily facilitated by addressing the issue of damages, it is unnecessary to discuss whether Plaintiffs have proven other elements relevant to the cause of action.

² The undersigned is constantly amazed that contractors continually expose themselves to dispute, litigation and ill will by not insisting upon written change orders signed by all parties. The “trust me” approach is bad business practice when problems can be avoided so easily.

The Harringtons contend that they have no liability for the disputed extra. Plaintiff does not suggest that there was express approval relayed to him by the Harringtons to incur that expense. Therefore, Plaintiff was required to prove that the Tylers (or at least Mr. Tyler) were the Harringtons' agent with respect to the project. *Sullivan v. Ski Liberty*, 42 A.C.L.J. 13, 15 (1999).

There are four grounds upon which an agency relationship exists and upon which a principal is bound by the act of the agent as against a third party. Those grounds include where the agent had 1) express authority granted by the principal to bind the principal as to certain matters, 2) implied authority to bind the principal to those acts of the agent that are necessary, proper and usual in the exercise of the agent's express authority, 3) apparent authority, i.e. authority that the principal has by words or conduct held the alleged agent out as having, and 4) authority that the principal is estopped to deny. *Bolus v. United Penn Bank*, 525 A.2d 1215, 1221 (Pa. Super. 1986), alloc. den. 541 A.2d 1138.

In this case, Mr. Harrington was called by Plaintiff, as on cross-examination. He admitted signing the construction contract when it was presented to him by the Tylers. He knew or should have known that the contract provided for allowances and that deviations could result in extra costs. Mr. Harrington knew the house would be constructed on land owned by him and executed a mortgage pledging that land as security for the construction financing. He also stated that he turned all decisions regarding the project over to the Tylers and had nothing further to do with it. Under these circumstances, it is clear that, with regard to this construction project, Mr. Harrington authorized the Tylers to act on his behalf and to make all decisions related thereto, including, but not limited to, extras. Because we find express authority, it matters not whether Mr. Tyler expressly told Plaintiff that he was acting on behalf of Mr. Harrington.

Wedge within the disposition of the agency question is the issue of whether Mr. Harrington was acting on behalf of his wife in granting the Tylers express authority to act and whether Mr. Tyler was acting on behalf of his wife when he allegedly told Plaintiff (as will be discussed below) to proceed with the installation of the sand mound in the face of the cost overrun.

Superior Court in *Brinich v. Jencka*, 757 A.2d 388 (Pa. Super. 2000) recently set forth the applicable law.

[U]nder Pennsylvania law, there is a presumption with respect to property held by the entirety that either spouse has the power to act for both without specific authority, so long as the benefit of such action inures to both. "The presumption then stands unless and until the other spouse establishes by a preponderance of the evidence that, at the time the contract was made and the services were performed under it, the contracting spouse was in fact not authorized to act for and to bind her in contracting for improvement of the entirety property, the benefits of which ran in favor of both tenants by the entirety."

757 A.2d at 401 (citations omitted).

Here, only Mr. Harrington executed the construction contract. His wife did not execute the contract but she did execute the mortgage pledging their real estate owned by the entirety. As discussed above, Mr. Harrington then authorized the Tylers to make all decisions regarding the project. A presumption existed that Mr. Harrington was acting on behalf of his wife. She did not testify (or even appear) nor did she offer any evidence to rebut the presumption. Therefore, we conclude that Mr. Harrington acted as agent for his wife. *Id.*

The same discussion holds true for the Tylers. Mr. Tyler's work place was close to the project. He admitted that because of his proximity, he was the lead person in terms of discussions with Plaintiff. Mrs. Tyler was present at trial and only testified on surrebuttal to an issue unrelated to agency. She, likewise, offered no evidence to rebut the presumption that her husband had authority to act on her behalf on matters related to the project. We must conclude that Mr. Tyler acted as agent for his wife.

The primary focus of this dispute is whether approval was given to proceed with the installation of the sand mound in the face of a \$9,500 bid. Plaintiff alleges that on or about November 17, 1999, he went to Mr. Tyler's place of employment and advised him of the bid

and the \$4,000 overrun. He alleges that Mr. Tyler responded, "Well, it has to be done so go ahead." In fact, Plaintiff states he offered Mr. Tyler the opportunity to do the drywall work in order to save him approximately \$900 on the cost of the project.

Mr. Tyler testified that early on in the project, he questioned Plaintiff whether he could have the sand mound installed for \$5,500 because Mr. Tyler had a quote for \$8,000. He claims Plaintiff assured him it could be done for the lesser figure. Mr. Tyler denies having the conversation with Plaintiff on November 17, or even being aware of the extra charge until he received the bill dated December 4, 1999.

There is no easy way to resolve this discrepancy. Both sides apparently believe they are right on this issue and have litigated it through three hearings.³ As noted, Plaintiff is an experienced builder. For reasons not entirely understood he admittedly waited until five months after the contract was signed to even seek out an excavator to install the sand mound. Suddenly, he was faced with a bid 73% in excess of the allowance. The project was within six weeks of completion. One can imagine the embarrassment he felt. Perhaps he hoped the defendants would understand and pay the bill because there was no alternative but to install the septic system.

At the same time, it is clear that the Tylers paid for every change they initiated. The only extra in dispute is the one initiated by Plaintiff. Certainly, one can imagine a scene where Mr. Tyler is anxiously anticipating moving into his new home and, when suddenly faced with the prospect of no septic system and no viable alternative, concedes the issue, and hopes to come up with the money later. One can also imagine a young couple with limited resources and Mr. Tyler hesitating (as many marital partners would do) until having an opportunity to consult with his wife and in-laws before incurring an expense that exceeds their budget. The family relations also add an interesting twist in trying to decipher what happened.

Considering the fact that Plaintiff has the burden of proof by a preponderance of the evidence and the fact that, despite lengthy deliberation, we have not been able to reconcile the testimony of Plaintiff

³ A district justice hearing, an arbitration hearing and a non-jury trial. It would be interesting to examine the combined legal expenses incurred and compare that total to the sum at issue in this case.

and Mr. Tyler, we are left to conclude that Plaintiff has failed to satisfy his burden.⁴

Accordingly, the attached Verdict is entered.

VERDICT

AND NOW, this 7th day of November, 2001, after a non-jury trial, the Court does hereby enter judgment in favor of Defendants and against Plaintiff.

⁴We confess that, to some degree, we are persuaded by the equities. Plaintiff was the person in the best position to avoid this issue by getting approval to proceed with Mr. Sanders in writing. Having failed to do so, he must bear the risk of not being able to convince the fact finder of the merits of his position.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-172 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, 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 real estate lying and being situate in the Borough of Littlestown, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point along the Western edge of North Gala at corner of Lot No. 397 on the subdivision plan hereinafter referred to; thence along Lot No. 397, North 60 degrees 03 minutes 07 seconds West, 95.00 feet to a point at Lot No. 389; thence along Lot No. 389, North 29 degrees 56 minutes 63 seconds East, 20.00 feet to a point at corner of Lot No. 399; thence along Lot No. 399, South 60 degrees 03 minutes 07 seconds East, 95.00 feet to a point along the Westerly edge of North Gala; thence along the Westerly edge of North Gala, South 29 degrees 56 minutes 53 seconds West, 20.00 feet to a corner of Lot No. 397, the place of BEGINNING.

CONTAINING 1,900 square feet.

BEING Lot No. 398 on a plan of lots dated July 15, 1994, prepared by Group Hanover, Inc. which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 65, Page 89-F.

TITLE TO SAID PREMISES IS VESTED IN Carla Rae Meinecke and Eric William Meinecke, Their Heirs and Assigns, by Deed from Appler Properties, LLC, dated 4/28/2000 and recorded 5/15/2000 in Record Book 2049, Page 260.

Premises being: 60 North Gala, Littlestown, PA 17343

Tax Parcel No. 4-47

SEIZED and taken into execution as the property of **Carla R. Meinecke & Eric W. Meinecke** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-831 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot of ground, together with improvements thereon, situate on the North side of North Street in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on North Street aforesaid at land now or formerly of Thomas P. Lawrence; thence by said land in a Northerly direction for a distance of one hundred forty-three (143) feet, more or less, to a point at a public alley known as Cherry Alley; thence by said alley in a Westerly direction for a distance of thirty (30) feet to a point at land now or formerly of Carroll J. Funk; thence by the same in a Southerly direction for a distance of one hundred forty-three (143) feet, more or less, to a point on North Street aforesaid; thence by the same in an Easterly direction for a distance of thirty (30) feet to a point, the place of BEGINNING.

BEING the same premises which Brian M. Colgan and Christina Colgan, by Deed dated October 25, 1999 and recorded in the Office of the Recorder of Deeds of Adams County on November 3, 1999, in Deed Book Volume 1946, Page 142, granted and conveyed unto Michael P. Mumaw and Nicole L. Cronon.

Grenen & Birsic, P.C.
By: /s/Kristine M. Faust, Esq.
Attorneys for Plaintiff

One Gateway Center, Nine West
Pittsburgh, PA 15222

(412) 281-7650

Parcel No. (28) 001-0084

SEIZED and taken into execution as the property of **Michael P. Mumaw & Nicole L. Cronon** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1247 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, 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 improved tract of land situate in Cumberland Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in the Ridge Road 473.5 feet Southwardly from the corner of lands now or formerly of Emory Glosser at said road; thence in and along said road, South 23 1/2 degrees West, 200 feet to a point in said road; thence by other lands now or formerly of Camillo Kiessling and wife, North 66 1/2 degrees West, 217.8 feet to a stake; thence by same, North 23 1/2 degrees East, 200 feet to a stake; thence by same, South 66 1/2 degrees East, 217.8 feet to a point in road, the place of BEGINNING.

CONTAINING 1 Acre, neat measure.

BEING the same premises which Carrie P. Norgan, widow, by Deed dated September 15, 1980, and recorded in the Office of the Recorder of Deeds of Adams County, in Deed Book 353, Page 736, granted and conveyed unto Gary L. Eberle and Irene A. Eberle, husband and wife.

This deed has been held in escrow by Larrabee & Cunningham, attorneys at law. It is being delivered by Larrabee & Cunningham to Grantee(s) on October 18, 1990, and is effective as to the Grantee(s) as of this date, and not the date of its execution or acknowledgment.

Premises being: 235 Herrs Ridge Road, Gettysburg, PA 17325

Tax Parcel No. F11-25

SEIZED and taken into execution as the property of **Sherman Hoy** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-208 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two certain lots of land situated, lying and being in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

LOT NO. 1:

BEGINNING at a point in the center of State Highway leading from Cashtown to Orrtanna with an iron pin set back along the line; thence in the center of said Highway South 17-1/2 degrees West 60 feet to a point in the center of aforesaid Highway with an iron pin set back along the line; thence by lands now or formerly of Jacob D. McDannell North 72-1/2 degrees West 165 feet to an iron pin; thence by land of same North 17-1/2 degrees East 60 feet to an iron pin; thence by land now or formerly of John Fritz South 72-1/2 degrees East 165 feet to a point in the center of State Highway with an iron pin set back along the line the place of BEGINNING. CONTAINING 36 perches and 99 square feet.

LOT NO. 2:

BEGINNING at a point in the center of the State Highway leading from Cashtown to Orrtanna; thence in the center of said State Highway and by land now or formerly of John, Clarence and George Bucher South 17-1/2 degrees West 60 feet to a point in the center of said State Highway; thence by land now or formerly of Jacob D. McDannell North 72-1/2 degrees West 165 feet to an iron pin; thence by other land now or formerly of Jacob D. McDannell North 17-1/2 degrees East 60 feet to an iron pin; thence by other land now or formerly of Jacob D. McDannell South 72-1/2 degrees East 165 feet to a point in the center of the aforesaid State Highway the place of BEGINNING. CONTAINING 36 perches and 99 square feet.

BEING THE SAME which Timothy C. Small and Linda A. Small, husband and wife, by their deed dated February 8, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 584 at Page 529 granted and conveyed unto Brian D. Beamer and Kelly J. Beamer, husband and wife, the Grantors herein.

AND, the said Grantors hereby covenant and agree that they will warrant specially the property hereby conveyed, subject to recorded and/or visible easements and restrictions, if any.

Premises being: 165 Orrtanna Road, Orrtanna, PA 17353

Tax Parcel No. C10-205

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-171 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Butler Township, Adams County, Pennsylvania, known as Lot #15, more particularly bounded and described as follows:

BEGINNING at a point at the Southeast corner of Lot #16 and South View Drive; thence along South View Drive, South 56 degrees 02 minutes 59 seconds East, along an arc measuring 85.00 feet, with a radius of 150.00 feet, and a chord length of 83.87 feet to another point along South View Drive, and the Northwest corner of Lot #14; thence South 51 degrees 38 minutes 54 seconds West, 329.52 feet to a point at the Southwest corner of Lot #14 and lands now or formerly owned by Settle; thence along lands now or formerly owned by Settle, South 86 degrees 48 minutes 44 seconds West, 98.45 feet to a point at the corner of lands now or formerly owned by Settle, and lands now or formerly owned by Warner; thence along lands now or formerly owned by Warner, North 02 degrees 52 minutes 55 seconds East, 211.75 feet to a point at the corner of lands now or formerly owned by Warner, lands now or formerly owned by Dettinburn, and the Southwest corner of Lot #16; thence along the Southern border of Lot #16, North 80 degrees 41 minutes 50 seconds East, 280.18 feet to a point at the Southeast corner of Lot #16, and South View Drive, the place of BEGINNING. CONTAINING approximately 1.232 acres or 53,659 square feet.

SUBJECT, nevertheless, to all rights-of-way, easements and setbacks of record, and subject to the restrictions and requirements as referred to in the above recited deed.

Being known as 55 Southview Drive, Biglerville, PA 17307

Property ID: 100-E8

TITLE TO SAID PREMISES IS VESTED IN Philip G. Barnett and Mary J. Barnett, husband and wife, as tenants of an estate by the entireties, by deed from Robin G. Ochterbeck, single, dated 11/29/1993, recorded 12/1/1993, in Deed Book 814, Page 199.

SEIZED and taken into execution as the property of **Philip G. Barnett & Mary J. Barnett** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

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
SCHOOL SAFARIS, INC.

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

5/17

ESTATE NOTICES

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

FIRST PUBLICATION

ESTATE OF PAUL S. MacDOWELL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Joseph P. MacDowell, 190 Longstreet Drive, Gettysburg, PA 17325

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

ESTATE OF JOHN H. MILLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Kenneth J. Miller, 3081 York Road, Gettysburg, PA 17325

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

SECOND PUBLICATION

ESTATE OF GUY W. BEAMER, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Rowena Shaffer, 64 Greenhouse Road, Gardners, PA 17324

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

ESTATE OF PAULINE M. EPLEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Robert A. Epley, 1008 Shannon Lane, Carlisle, PA 17013

Attorney: Keith A. Hassler, Esq., Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF MIRIAM PIHO HARTLEY, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: John David Pihø, 114 Valley Drive, Birdsboro, PA 19508

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

ESTATE OF RALPH B. JACKSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Lillian S. Jackson, 958 Mummasburg Rd., Gettysburg, PA 17325

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

ESTATE OF JANE BRITTON GRAS-MICK MICHAEL a/k/a HAZEL JANE GRASMICK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Susan Grasmick Guinn & Christopher B. Grasmick, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

ESTATE OF JEANNE M. ORNER, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executrix: Cherylann M. Batdorf, c/o James D. Hughes, Esq., 60 West Pomfret Street, Carlisle, PA 17013

Attorney: James D. Hughes, Esq., Irwin, McKnight & Hughes, 60 West Pomfret Street, Carlisle, PA 17013

ESTATE OF MARY LAMANDA STERNER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: John Robert Sterner, 4850 Stoney Lane, Manchester, MD 21102

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

THIRD PUBLICATION

ESTATE OF CHARLES L. STAM-BAUGH, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executor: James A. Stambaugh, 356 Hill-N-Dale Drive, York, PA 17403

Attorney: Judith Koper Morris, Esq., Mooney & Associates, 230 York Street, Hanover, PA 17331

ESTATE OF FELICITAS R. STAUB, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Philip B. Staub, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-179 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 28th day of June, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN lot of land situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 94 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 plan of lots Book 1, page 1, and subject to all legal highways, easements, rights of way and restrictions of record.

Being the same premises which Lake Meade, Inc., by deed dated November 1, 1966, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 261 Page 573, granted and conveyed unto Samuel O. & Lilly B. Wiseman, Grantor herein.

Premises being: 31 Scofield Drive, East Berlin, PA 17316

Tax Parcel No. #37-008-0089-000

SEIZED and taken into execution as the property of **Brian T. Rostad & Seleena R. Rostad** 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 July 22, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/3, 10 & 17

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Pennsylvania Department of State on May 1, 2002, to incorporate the proposed business corporation, ZEIGLER TRUCKING, INC., under the provisions of the Business Corporation Law of 1988.

Robert P. Kline, Esq.
Kline Law Office
714 Bridge Street
Post Office Box 461
New Cumberland, PA 17070-0461
(717) 770-2540

5/17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

Being known as 358 Park Street, Gettysburg, PA 17325

Property ID No. 12-12

TITLE TO SAID PREMISES IS VESTED IN Michael H. Flowers and Susan A. Flowers, husband and wife, as tenants of the estate by the entireties by deed from Dale E. Deardorff and William K. Grover, executors of the will of Mildred D. Shover, deceased, dated 12/28/1996, recorded 1/3/1997, in Deed Book 1312, Page 313.

SEIZED and taken into execution as the property of **Michael H. Flowers & Susan A. Flowers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Wednesday, May 29, 2002, at 9:00 o'clock a.m.

GUISE—Orphans' Court Action Number OC-47-02. The First and Final Account of Donald E. Guise, Executor of the Last Will and Testament of Harold S. Guise, deceased, late of Menallen Township, Adams County, Pennsylvania.

SUMNER—Orphans' Court Action Number OC-49-02. The First and Final Account of PNC Bank, National Association, Executor of the Estate of Elsie B. Sumner, deceased, late of Straban Township, Adams County, Pennsylvania.

FUNT—Orphans' Court Action Number OC-51-02. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Carol L. Funt, deceased, late of Straban Township, Adams County, Pennsylvania.

SIRMACK—Orphans' Court Action Number OC-52-02. The First and Final Account of Charles Himmelreich, Executor of the Estate of Ruth N. Sirmack, deceased, late of Cumberland Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

5/17 & 24

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN that application to register the business name "BEYOND COMFORT MOCCASINS" under the Fictitious Name Act has been filed with the Dept. of State of PA. The principal place of business and the main office is located at 1659 Buchanan Valley Road, Orrtanna, PA. Bonnie Fox, 1659 Buchanan Valley Road, Orrtanna, PA, is the only individual party to this registration.

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Adams County Legal Journal

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May 24, 2002

No. 52, pp. 291-296

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1217 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, 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 Straban Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point in the center of State Highway Route 15, leading from Gettysburg to Harrisburg, with an iron pin set back along the line; thence running by land now or formerly of W. Earle Buehl, South 57-1/4 degrees East, 215 feet to an iron pin; thence running by land of the same, South 32-3/4 degrees West, 100 feet to an iron pin; thence running by land of the same, North 57-1/4 degrees West, 215 feet to a point in the center of said highway with an iron pin set back along the line; thence running in the center of said highway, North 32-3/4 degrees East, 100 feet to a point in the center of said highway with an iron pin set back along the line, the place of BEGINNING. CONTAINING 75 perches and 81 square feet.

BEING that which Jeffrey T. Newman, single, by deed dated September 3, 1991, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 598 at page 970, sold and conveyed unto Angelo M. DeRita and Barbara J.

DeRita, husband and wife, the Grantors herein.

SUBJECT, NEVERTHELESS, to the restrictions as contained in Deed Book 326 at page 350.

AND the said Grantors hereby covenant and agree that they will warrant Specially the property hereby conveyed.

IN WITNESS WHEREOF, said Grantors have hereunto set their hands and seals the day and year first above-written.

Tax Parcel No: 38-G10-0022

Being known as 2275 Old Harrisburg Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Ronald B. Scott Estate** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/24, 31 & 6/7

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation will be filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on or about May 9, 2002, for the purpose of obtaining a Certificate of Incorporation for a proposed business corporation to be organized under the Pennsylvania Business Corporation Law of 1988. The name of the corporation is CENTRAL TILE AND STONE, and the purpose for which it is being organized is for the provision of tile and masonry services and all other activities permitted by the PA business Corporation Law, as amended, within and outside the Commonwealth of Pennsylvania, and the corporation shall have unlimited powers to engage in and to do any lawful act concerning any and all business for which corporations may be incorporated under the Pennsylvania Business Corporation Law of 1988, and for these purposes to have, possess, and enjoy all the rights, benefits and privileges of said Act of Assembly and its supplements and amendments.

The initial registered office of the corporation is 34 Preakness Street, Hanover, Pennsylvania 17331.

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

5/24

ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-208 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two certain lots of land situated, lying and being in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

LOT NO. 1:

BEGINNING at a point in the center of State Highway leading from Cashtown to Orrtanna with an iron pin set back along the line; thence in the center of said Highway South 17-1/2 degrees West 60 feet to a point in the center of aforesaid Highway with an iron pin set back along the line; thence by lands now or formerly of Jacob D. McDannell North 72-1/2 degrees West 165 feet to an iron pin; thence by land of same North 17-1/2 degrees East 60 feet to an iron pin; thence by land now or formerly of John Fritz South 72-1/2 degrees East 165 feet to a point in the center of State Highway with an iron pin set back along the line the place of BEGINNING. CONTAINING 36 perches and 99 square feet.

LOT NO. 2:

BEGINNING at a point in the center of the State Highway leading from Cashtown to Orrtanna; thence in the center of said State Highway and by land now or formerly of John, Clarence and George Bucher South 17-1/2 degrees West 60 feet to a point in the center of said State Highway; thence by land now or formerly of Jacob D. McDannell North 72-1/2 degrees West 165 feet to an iron pin; thence by other land now or formerly of Jacob D. McDannell North 17-1/2 degrees East 60 feet to an iron pin; thence by other land now or formerly of Jacob D. McDannell South 72-1/2 degrees East 165 feet to a point in the center of the aforesaid State Highway the place of BEGINNING. CONTAINING 36 perches and 99 square feet.

BEING THE SAME which Timothy C. Small and Linda A. Small, husband and wife, by their deed dated February 8, 1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 584 at

Page 529 granted and conveyed unto Brian D. Beamer and Kelly J. Beamer, husband and wife, the Grantors herein.

AND, the said Grantors hereby covenant and agree that they will warrant specially the property hereby conveyed, subject to recorded and/or visible easements and restrictions, if any.

Premises being: 165 Orrtanna Road, Orrtanna, PA 17353

Tax Parcel No. C10-205

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, Harrisburg, Pennsylvania, on or about May 8, 2002.

The name of the corporation is CHRISTIAN EDUCATION SERVICES, INC. The corporation has been incorporated under the provisions of the Pennsylvania Nonprofit Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988 (P.L. 1444, No. 177).

The registered address is 37 Mason Dixon Drive, Littlestown, Pennsylvania, 17340.

Wilcox and James
234 Baltimore Street
Gettysburg, PA 17325

5/24

FICTITIOUS NAME NOTICE

NOTICE IS HEREBY GIVEN in compliance with the requirements of the "Fictitious Name Act", Section 311, Act of 1982-295 (54 Pa. C.S.A. 311), of the filing of an application in the Office of the Secretary of the Commonwealth of Pennsylvania, on May 7, 2002, for a certificate for the conduct of a business in Adams County, Pennsylvania, under the assumed or fictitious name, style or designation of THE GETTYSBURG CAR WASH with its principal place of business at 4 Table Rock Road, Gettysburg, Pennsylvania 17325. The purpose of the business is operation of a car wash under the name of THE GETTYSBURG CAR WASH. The names and addresses of the persons owning or interested in said business are Richard H. Seifert and Susan B. Seifert, 1450 Hunterstown-Hampton Road, New Oxford, PA 17350.

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

5/24

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on May 6, 2002 for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is: A & E TURF SUPPLY, INC.

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

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

5/24

LIPPY VS. A2Z USA, INC. ET AL

1. A demurrer is properly sustained where the complaint indicates on its face that the plaintiff's claim cannot be sustained, and the law will not permit recovery. If there is any doubt as to the propriety of a judgment in favor of a demurring party, it should not be entered.
2. In pleading a condition precedent "it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of such performance or occurrence shall be made specifically and with particularity."
3. Forum Non Conveniens is properly raised by petition, not as a preliminary objection.
4. 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.
5. To determine whether a party is indispensable, a court must consider:
 - Do absent parties have a right or interest related to the claim?
 - If so, what is the nature of that right or interest?
 - Is that right or interest essential to the merits of the issue?
 - Can justice be afforded without violating the due process rights of the absent parties?

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 00-S-1003, ROBERT LIPPY AND JANICE LIPPY, HUSBAND AND WIFE, VS. A2Z, USA, INC. AND STEVE MORAN.

Stephen K. Portko, Esq., for Plaintiffs
Patrick W. Quinn, Esq., for Defendants
Kuhn, J., November 21, 2001.

OPINION REGARDING DEFENDANTS' PRELIMINARY OBJECTIONS

Plaintiffs, Robert and Laura Lippy, filed a complaint seeking rescission and restitution of money paid under a contract to purchase online franchises. The four causes of action are identified as Action for Declaratory Judgment – Failure of Conditions Precedent (Count I); Action for Declaratory Judgment – Violation of California Franchise Investment Law (Count II); Negligent Misrepresentation (Count III); and Fraud (Count IV). Defendants, A2Z USA and Steve Moran, filed preliminary objections raising issues of personal and subject matter jurisdiction, venue, failure to join a necessary party, failure to adhere to an arbitration provision, legal insufficiency of the pleading, and insufficient specificity in the pleading. Those objections are before the Court for disposition under Adams County Civil Rule 211.

STATEMENT OF FACTS

The Complaint avers the following background. Plaintiffs reside in Adams County, Pennsylvania (Compl. ¶2). Defendants are A2Z USA, Inc. and Steve Moran whose principal place of business is in San Diego, California (Compl. ¶¶3, 4). Defendant Moran is alleged to be A2Z's chief executive officer (Compl. ¶4).

In May 2000, Plaintiffs received unsolicited email from Defendants, offering investments in an online store (Compl. ¶5). Plaintiffs called the Defendants to find out more about the investment opportunity (Compl. ¶6).

Defendants' agents directed Plaintiffs to a web site, which explained the investment (Compl. ¶¶7, 8). Additionally, during numerous phone calls between May 2000 and June 6, 2000 (some placed by Plaintiffs to California and some placed by Defendants' agents to Pennsylvania), Defendants' agents explained that the investment would require Plaintiffs to purchase "units" of an online store, which would be managed and operated by the investors (Compl. ¶¶9, 11, 31).

Defendants, through their agents, advised Plaintiffs that the store would not open for business until 75 units of the store were purchased (Compl. ¶13). The store was part of an online mall and was to sell Hewlett Packard equipment. The store would be managed and operated by Defendants (Compl. ¶¶11, 12).

On June 6, 2000, Plaintiffs signed a Subscription Form and Information for Execution of the Operating & Membership Agreement and Store Owner Lease and Service Agreement for Bizaccessories, LLC (subscription agreement) in Pennsylvania, binding them to the provisions of 12 other documents (Compl. ¶14, Ex. A). Those 12 other documents have not been included in the pleadings because of their volume (Compl. ¶14).

On June 7, 2000, Plaintiffs sent Defendants a check for \$12,000 (Compl. ¶¶15, 32). On June 9, 2000, Plaintiffs sent Defendants a check for \$30,000 (Compl. ¶¶15, 32). With the \$42,000, Plaintiffs purchased six units of the store (Compl. ¶15).

On June 2, 2000, Defendant Moran prepared a document stating that the company was no longer going to sell merchandise, but was going to sell advertising at the online mall; that the CEO and other key officers of the corporation had resigned, that litigation was

underway against them, and that Defendants might suspend the sale of any future units, so the number of stores at the mall would never increase (Compl. ¶¶33, 34). The contents of that letter were not disclosed to Plaintiffs (Compl. ¶36). Plaintiffs assert that they would not have invested if they had known of the facts set forth in the June 2, 2000 letter (Compl. ¶¶40, 45).

LEGAL DISCUSSION

Jurisdiction

Personal jurisdiction is properly raised by preliminary objection. Pa. R.C.P. 1028(a)(1). However, such objections cannot be determined from facts of record. Depositions regarding personal jurisdiction are pending and disposition of this objection will be suspended until they are complete and the Court has had time to review them. *Schmitt v. Seaspray-Sharkline, Inc.*, 531 A.2d 801, 803 (Pa. Super. 1987).

Defendants also object to subject matter jurisdiction on the basis that the Complaint and the contract require interpretation pursuant to California law. This Court is not restrained from deciding a case simply because another state's law is applicable. *See generally, Griffith v. United Air Lines, Inc.*, 203 A.2d 796 (Pa. 1964).

Additionally, Defendants have failed to attach the contract portion upon which they rely to object to the subject matter jurisdiction of this Court. Furthermore, the Defendants have failed to brief their objection to this Court's subject matter jurisdiction. Thus, the Court will not decide the objection at this time.

Demurrer

In deciding an objection in the nature of a demurrer, the Pennsylvania Supreme Court has stated that “[a] demurrer admits every well-pleaded material fact set forth in the pleadings to which it is addressed as well as all inferences reasonably deducible therefrom, but not conclusions of law.” *Gekas v. Shap*, 469 Pa. 1, 5, 364 A.2d 691, 693 (1976). A demurrer is properly sustained where the complaint indicates on its face that the plaintiff's claim cannot be sustained, and the law will not permit recovery. *Lobdell v. Leichtenberger*, 442 Pa. Super. 21, 24, 658 A.2d 399, 401 (1995) (citations omitted). If there is any doubt as to the propriety of a judgment in favor of a demurring party, it should not be entered.

Creeger Brick & Building Supply, Inc. v. Mid-State Bank and Trust Co., 385 Pa. Super. 30, 32-33, 560 A.2d 151, 152 (1989).

Specifically, Defendants contend that Plaintiffs failed to set forth in Count I what conditions precedent have not been met which would, therefore, entitle them to rescission. In the Complaint Plaintiffs aver

19. All contracts executed by Plaintiffs or to which they agreed to be bound explicitly and implicitly provided that they would become binding and effective only when all units in a store had been sold.

20. The conditions precedent in those contracts have not occurred, so Plaintiff is entitled to a rescission of those contracts and restitution of the money they invested with Defendants.

Pa. R.C.P. 1019(c) provides that in pleading a condition precedent "it is sufficient to aver generally that all conditions precedent have been performed or have occurred. A denial of such performance or occurrence shall be made specifically and with particularity."

The only condition precedent averred by Plaintiffs in Paragraphs 1-19, inclusive, is the sale of all units in a store. Thus, in Paragraph 20, they can only be referring to that condition as having not been satisfied. Although the averments could have been more artfully drafted, they are sufficient to overcome a demurrer. If Defendants had requested a more specific pleading, their objection may have been on more solid foundation.

Specificity of Pleading

Defendants argue that because Plaintiffs failed to attach the contracts, they have failed to specify the causal relationship between Defendants and the damage alleged. However, Defendants failed to brief this objection and it is thus waived.

Venue

Defendants raise an objection to venue and present an argument based on the convenience of the parties. Forum Non Conveniens is properly raised by petition, not as a preliminary objection. Pa. R.C.P. No. 1006(d)(1); 1028(a)(1); *Okkerse v. Howe*, 556 A.2d 827, 830 (Pa. 1989), footnote 3. Therefore, this issue is not properly before the Court.

Agreement for Alternative Dispute Resolution

Defendants object based on an Arbitration clause in the contract and point out that Plaintiffs have failed to attach the contract. However, Defendants also fail to provide a copy of the contract, or the relevant part thereof, on which they rely to argue that this dispute is subject to arbitration. Therefore, this issue is waived unless and until properly raised. Because of this defect, it is unnecessary to even discuss whether issues related to rescission can be arbitrated. *Midomo Company, Inc. v. Presbyterian Homes, Inc.*, 739 A.2d 180 (Pa. Super. 1999).

Nonjoinder of a Necessary Party

Defendants object due to nonjoinder of indispensable parties pursuant to Pa. R.C.P. 1028(a)(5). Defendants argue that Bizaccessories, LLC should have been joined as a defendant in this action. Defendants cited no authority for their argument that Bizaccessories is a necessary party. Regardless, in the interest of judicial expediency, the Court will decide the matter on its merits.

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 the absent parties?

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

Routsong v. Jones, et al., 14 Adams Co. L.J. 183 (1998) (citations omitted).

Bizaccessories is listed on the subscription form as the online store in which Plaintiffs invested. Defendants have not set forth any right or interest related to the claim held by the store. Taking the well-pleaded facts as true, the store appears to be an instrument of Defendants' fraud, not an injured or otherwise interested party. There is no evidence that the store made any promise or passed any consideration, therefore, this objection must fail.

Accordingly, the attached Order is entered.

ORDER OF COURT

AND NOW, this 21st day of November, 2001, Defendants' Preliminary Objections are denied, except the challenge to personal jurisdiction. Until that issue is resolved, Defendants are not required to file an answer to Plaintiffs' Complaint.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

Being known as 358 Park Street, Gettysburg, PA 17325

Property ID No. 12-12

TITLE TO SAID PREMISES IS VESTED IN Michael H. Flowers and Susan A. Flowers, husband and wife, as tenants of the estate by the entireties by deed from Dale E. Deardorff and William K. Grover, executors of the will of Mildred D. Shower, deceased, dated 12/28/1996, recorded 1/3/1997, in Deed Book 1312, Page 313.

SEIZED and taken into execution as the property of **Michael H. Flowers & Susan A. Flowers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-171 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Butler Township, Adams County, Pennsylvania, known as Lot #15, more particularly bounded and described as follows:

BEGINNING at a point at the Southeast corner of Lot #16 and South View Drive; thence along South View Drive, South 56 degrees 02 minutes 59 seconds East, along an arc measuring 85.00 feet, with a radius of 150.00 feet, and a chord length of 83.87 feet to another point along South View Drive, and the Northwest corner of Lot #14; thence South 51 degrees 38 minutes 54 seconds West, 329.52 feet to a point at the Southwest corner of Lot #14 and lands now or formerly owned by Settle; thence along lands now or formerly owned by Settle, South 86 degrees 48 minutes 44 seconds West, 98.45 feet to a point at the corner of lands now or formerly owned by Warner; thence along lands now or formerly owned by Warner, North 02 degrees 52 minutes 55 seconds East, 211.75 feet to a point at the corner of lands now or formerly owned by Warner, lands now or formerly owned by Dettinburn, and the Southwest corner of Lot #16; thence along the Southern border of Lot #16, North 80 degrees 41 minutes 50 seconds East, 280.18 feet to a point at the Southeast corner of Lot #16, and South View Drive, the place of BEGINNING. CONTAINING approximately 1.232 acres or 53,659 square feet.

SUBJECT, nevertheless, to all rights-of-way, easements and setbacks of record, and subject to the restrictions and requirements as referred to in the above recited deed.

Being known as 55 Southview Drive, Biglerville, PA 17307

Property ID: 100-E8

TITLE TO SAID PREMISES IS VESTED IN Philip G. Barnett and Mary J. Barnett, husband and wife, as tenants of an estate by the entireties, by deed from Robin G. Ochterbeck, single, dated 11/29/1993, recorded 12/1/1993, in Deed Book 814, Page 199.

SEIZED and taken into execution as the property of **Philip G. Barnett & Mary J. Barnett** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002,

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

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

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

5/17, 24 & 31

NOTICE BY THE ADAMS COUNTY CLERK OF COURTS

NOTICE IS HEREBY GIVEN to all heirs, legatees and other persons concerned that the following accounts with statement of proposed distribution filed therewith have been filed in the Office of the Adams County Clerk of Courts and will be presented to the Court of Common Pleas of Adams County—Orphans' Court, Gettysburg, Pennsylvania, for confirmation of accounts and entering decrees of distribution on Wednesday, May 29, 2002, at 9:00 o'clock a.m.

GUISE—Orphans' Court Action Number OC-47-02. The First and Final Account of Donald E. Guise, Executor of the Last Will and Testament of Harold S. Guise, deceased, late of Menallen Township, Adams County, Pennsylvania.

SUMNER—Orphans' Court Action Number OC-49-02. The First and Final Account of PNC Bank, National Association, Executor of the Estate of Elsie B. Sumner, deceased, late of Straban Township, Adams County, Pennsylvania.

FUNT—Orphans' Court Action Number OC-51-02. The First and Final Account of Adams County National Bank, Executor of the Last Will and Testament of Carol L. Funt, deceased, late of Straban Township, Adams County, Pennsylvania.

SIRMACK—Orphans' Court Action Number OC-52-02. The First and Final Account of Charles Himmelreich, Executor of the Estate of Ruth N. Sirmack, deceased, late of Cumberland Township, Adams County, Pennsylvania.

Peggy J. Breighner
Clerk of Courts

5/17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-275 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point at the corner of Lot No. 445 on the subdivision plan; hereinafter referred to; thence along Lot No. 445, South 25 degrees 46 minutes 54 seconds West, 120.38 feet to a point on the property line of Lot No. 53; thence along Lot No. 53, North 69 degrees 59 minutes 58 seconds West, 20.10 feet to a point at the corner of Lot No. 447; thence by Lot No. 447, North 25 degrees 46 minutes 54 seconds East, 122.40 feet to a point along the curbline of a parking area as shown on the subdivision plan hereinafter referred to; thence along said parking area, South 64 degrees 13 minutes 06 seconds East, 20.00 feet to a point, the place of BEGINNING. CONTAINING 2,428 square feet.

SUBJECT to all easements, conditions and restrictions of record, including but not limited to those set forth on the aforementioned plan and prior deeds of record.

Being known as 95 South Gala, Littlestown, PA 17340

Property ID: 4-97

TITLE TO SAID PREMISES IS VESTED IN Wayne F. Strausbaugh and Sharon M. Strausbaugh, husband and wife, by deed from Appler Properties, LLC, a Maryland limited liability company, dated 8/5/1999, recorded 8/18/1999, in Deed Book 1897, Page 110.

SEIZED and taken into execution as the property of **Wayne F. & Sharon M. Strausbaugh** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/24, 31 & 6/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1062 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN tracts of land situated, lying and being in the Borough of Carroll Valley, Adams County, Pennsylvania, bounded and described as follows:

TRACT No. 1

BEGINNING at a point in the center of Deep Hollow Drive at Lot No. 92; thence by said Lot, South 21 degrees 19 minutes West, 200 feet to Lot No. 100; thence by said Lot, North 68 degrees 41 minutes, 100 feet to Lot No. 94; thence by said Lot, North 21 degrees 19 minutes East, 200 feet to a point in the center of said Deep Hollow Drive; thence in said Deep Hollow Drive, South 68 degrees 41 minutes East, 100 feet to the place of BEGINNING.

TRACT No. 2

BEGINNING at a point in the center of Deep Hollow Drive at Lot No. 93; thence by said Lot, South 21 degrees 19 minutes West, 200 feet to Lot No. 99; thence by said Lot, North 68 degrees 41 minutes West, 100 feet to Lot No. 95; thence by said Lot, North 21 degrees 19 minutes East, 200 feet to a point in the center of said Deep Hollow Drive; thence in said Deep Hollow Drive, South 68 degrees 41 minutes East, 100 feet to the place of BEGINNING.

Tax Parcel # (43) 012-0045

Being known as Deep Hollow Trail, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Robert G. Sprenkle & Pamela M. Sprenkle** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/24, 31 & 6/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-122 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a corner of West Myrtle Street and a 15 foot wide public alley; thence in a Westerly direction along said West Myrtle Street for a distance of 75 feet to a stake; thence in a Southerly direction for a distance of 100 feet to a stake on the Northern boundary line of Lot No. 21-A; thence in an Easterly direction along said Lot No. 21-A for a distance of 75 feet to a 15 foot wide alley; thence in a Northerly direction along said 15 foot wide alley for a distance of 100 feet to West Myrtle Street the place of BEGINNING.

THE above described lot of ground is comprised of the Eastern one-half of Lot Nos. 23-A, 23, 22-A according to the plan and resurvey made November, 1935, by LeRoy Winebrenner, the same being part of the land included in T.C. McSherry's First Addition to the Borough of Littlestown, Adams County, Pennsylvania, and known as "McSherry Park."

Tax Parcel #26

Being known as 434 W. Myrtle Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Gregory E. Arentz & Deborah A. Arentz** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/10, 17 & 24

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 W. TROXELL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Robert O. Troxell, 449 West Middle Street, Hanover, PA 17331

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

SECOND PUBLICATION

ESTATE OF PAUL S. MacDOWELL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Joseph P. MacDowell, 190 Longstreet Drive, Gettysburg, PA 17325

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

ESTATE OF JOHN H. MILLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Kenneth J. Miller, 3081 York Road, Gettysburg, PA 17325

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

THIRD PUBLICATION

ESTATE OF GUY W. BEAMER, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Executrix: Rowena Shaffer, 64 Greenhouse Road, Gardners, PA 17324

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

ESTATE OF PAULINE M. EPLEY, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executor: Robert A. Epley, 1008 Shannon Lane, Carlisle, PA 17013

Attorney: Keith A. Hassler, Esq., Attorney at Law, 9 North Beaver Street, York, PA 17401

ESTATE OF MIRIAM PIHO HARTLEY, DEC'D

Late of Reading Township, Adams County, Pennsylvania

Executor: John David Pihø, 114 Valley Drive, Birdsboro, PA 19508

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

ESTATE OF RALPH B. JACKSON, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Lillian S. Jackson, 958 Mummasburg Rd., Gettysburg, PA 17325

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

ESTATE OF JANE BRITTON GRASMICK MICHAEL a/k/a HAZEL JANE GRASMICK, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Susan Grasmick Guinn & Christopher B. Grasmick, c/o Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

Attorney: Alan M. Cashman, Esq., 141 Broadway, Suite 230, Hanover, PA 17331

ESTATE OF JEANNE M. ORNER, DEC'D

Late of the Borough of Bendersville, Adams County, Pennsylvania

Executrix: Cherylann M. Baldorf, c/o James D. Hughes, Esq., 60 West Pomfret Street, Carlisle, PA 17013

Attorney: James D. Hughes, Esq., Irwin, McKnight & Hughes, 60 West Pomfret Street, Carlisle, PA 17013

ESTATE OF MARY LAMANDA STERNER, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: John Robert Sterner, 4850 Stoney Lane, Manchester, MD 21102

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1236 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the curb of Railroad Street, at corner of land now or formerly of Melvin Bream; thence along land of the said Melvin Bream North 19-1/2 degrees East, 178 feet to an iron pin at a 15-foot alley; thence along said 15-foot alley and land now or formerly of Bendersville Community Fire Company South 59-1/2 degrees East, 113.50 feet to an iron pin; thence along land now or formerly of Cameron Barbour South 19-1/2 degrees West, 180 feet to a point on the curb of said Railroad Street; thence along said Railroad Street North 59-1/2 degrees West, 113.50 feet to the point, the place of BEGINNING. CONTAINING 70 perches and 159 square feet, more or less.

The above description was obtained from a draft of survey prepared by P. S. Orner, County Surveyor, dated April 29, 1955.

HAVING ERECTED THEREON a dwelling known as 132 Park Street, Bendersville, Pennsylvania.

BEING THE SAME PREMISES WHICH Allen W. Beckett t/d/b/a Allen Beckett Construction by Deed dated May 27, 1994 and recorded May 31, 1994 in Adams County Deed Book 892, Page 134, granted and conveyed unto Joseph S. Buchheister and Juanita M. Buchheister.

SEIZED in execution as the property of Joseph S. Buchheister and Juanita M. Buchheister under Adams County Judgment No. 01-S-1236.

Map & Parcel #4-18

SEIZED and taken into execution as the property of **Joseph S. & Juanita M. Buchheister** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the

purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

5/24, 31 & 6/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-172 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, 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 real estate lying and being situate in the Borough of Littlestown, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING at a point along the Westerly edge of North Gala at corner of Lot No. 397 on the subdivision plan hereinafter referred to; thence along Lot No. 397, North 60 degrees 03 minutes 07 seconds West, 95.00 feet to a point at Lot No. 389; thence along Lot No. 389, North 29 degrees 56 minutes 63 seconds East, 20.00 feet to a point at corner of Lot No. 399; thence along Lot No. 399, South 60 degrees 03 minutes 07 seconds East, 95.00 feet to a point along the Westerly edge of North Gala; thence along the Westerly edge of North Gala, South 29 degrees 56 minutes 53 seconds West, 20.00 feet to a corner of Lot No. 397, the place of BEGINNING.

CONTAINING 1,900 square feet.

BEING Lot No. 398 on a plan of lots dated July 15, 1994, prepared by Group Hanover, Inc. which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plan Book 65, Page 89-F.

TITLE TO SAID PREMISES IS VESTED IN Carla Rae Meinecke and Eric William Meinecke, Their Heirs and Assigns, by Deed from Appler Properties, LLC, dated 4/28/2000 and recorded 5/15/2000 in Record Book 2049, Page 260.

Premises being: 60 North Gala, Littlestown, PA 17343

Tax Parcel No. 4-47

SEIZED and taken into execution as the property of **Carla R. Meinecke & Eric W. Meinecke** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/10, 17 & 24

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State, of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on April 8, 2002, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is M & N TRUCKING, INC.

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

M & N Trucking, Inc.
13 Pin Oak Drive
Gettysburg, PA 17325

5/24

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that the first and final account of Sterling Financial Trust Company (successor to Bank of Hanover and Trust Company), Trustee under Deed of Trust dated August 6, 1982, as amended and restated January 31, 1985 and December 31, 1989, for the benefit of Frank Karam between Irvin A. Karam, Settlor and Bank of Hanover and Trust Company, as Trustee, has been filed in the office of the Clerk of Orphans' Court of Adams County, Pennsylvania, and the same will be called for audit on Wednesday, May 29, 2002, at 9:00 A.M. in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania.

Beverly J. Points, Esq.
Attorney for Sterling Financial
Trust Company, Trustee

5/10, 17 & 24

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RHOADS VS. DAVIES INS. ET AL

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-315 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

Fronting twenty-six (26) feet on the West side of North Peter Street, and running back to a public alley (now known as Eagle Street) in the rear, bounded on the North by land formerly of J. Kaiser, now or formerly of Lloyd D. Stock, and on the South by land formerly of M. Huffman, now or formerly of Kathleen M. Kaiser.

Being that parcel of land conveyed to John B. Wolf and Judith A. Wolf, his wife from Joseph A. Myers and Genevieve R. Lookenbill by that deed dated 10/10/1985 and recorded 10/11/1985 in deed book 410, at page 779 of the Adams County, PA Public Registry.

1 Premises being: 111 North Peter Street, New Oxford, PA 17350-121

Tax Parcel No. 2-18

SEIZED and taken into execution as the property of **John B. Wolf (Deceased) & Judy A. Wolf a/k/a Judith A. Wolf** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a

schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/31, 6/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1062 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THOSE TWO CERTAIN tracts of land situated, lying and being in the Borough of Carroll Valley, Adams County, Pennsylvania, bounded and described as follows:

TRACT No. 1

BEGINNING at a point in the center of Deep Hollow Drive at Lot No. 92; thence by said Lot, South 21 degrees 19 minutes West, 200 feet to Lot No. 100; thence by said Lot, North 68 degrees 41 minutes, 100 feet to Lot No. 94; thence by said Lot, North 21 degrees 19 minutes East, 200 feet to a point in the center of said Deep Hollow Drive; thence in said Deep Hollow Drive, South 68 degrees 41

minutes East, 100 feet to the place of BEGINNING.

TRACT No. 2

BEGINNING at a point in the center of Deep Hollow Drive at Lot No. 93; thence by said Lot, South 21 degrees 19 minutes West, 200 feet to Lot No. 99; thence by said Lot, North 68 degrees 41 minutes West, 100 feet to Lot No. 95; thence by said Lot, North 21 degrees 19 minutes East, 200 feet to a point in the center of said Deep Hollow Drive; thence in said Deep Hollow Drive, South 68 degrees 41 minutes East, 100 feet to the place of BEGINNING.

Tax Parcel # (43) 012-0045

Being known as Deep Hollow Trail, Fairfield, PA 17320

SEIZED and taken into execution as the property of **Robert G. Sprenkle & Pamela M. Sprenkle** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/24, 31 & 6/7

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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-208 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL those two certain lots of land situated, lying and being in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

LOT NO. 1:

BEGINNING at a point in the center of State Highway leading from Cashtown to Orrtanna with an iron pin set back along the line; thence in the center of said Highway South 17-1/2 degrees West 60 feet to a point in the center of aforesaid Highway with an iron pin set back along the line; thence by lands now or formerly of Jacob D. McDannell North 72-1/2 degrees West 165 feet to an iron pin; thence by land of same North 17-1/2 degrees East 60 feet to an iron pin; thence by land now or formerly of John Fritz South 72-1/2 degrees East 165 feet to a point in the center of State Highway with an iron pin set back along the line the place of BEGINNING. CONTAINING 36 perches and 99 square feet.

LOT NO. 2:

BEGINNING at a point in the center of the State Highway leading from Cashtown to Orrtanna; thence in the center of said State Highway and by land now or formerly of John, Clarence and George Bucher South 17-1/2 degrees West 60 feet to a point in the center of said State Highway; thence by land now or formerly of Jacob D. McDannell North 72-1/2 degrees West 165 feet to an iron pin; thence by other land now or formerly of Jacob D. McDannell North 17-1/2 degrees East 60 feet to an iron pin; thence by other land now or formerly of Jacob D. McDannell South 72-1/2 degrees East 165 feet to a point in the center of the aforesaid State Highway the place of BEGINNING. CONTAINING 36 perches and 99 square feet.

BEING THE SAME which Timothy C. Small and Linda A. Small, husband and wife, by their deed dated February 8,

1991 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 584 at Page 529 granted and conveyed unto Brian D. Beamer and Kelly J. Beamer, husband and wife, the Grantors herein.

AND, the said Grantors hereby covenant and agree that they will warrant specially the property hereby conveyed, subject to recorded and/or visible easements and restrictions, if any.

Premises being: 165 Orrtanna Road, Orrtanna, PA 17353

Tax Parcel No. C10-205

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

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-249 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, 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 parcel of land lying and situate in Carroll Valley Borough, Adams County, Pennsylvania, being Lot No. 17 in Section W, more particularly bounded and described as follows:

BEGINNING at a point in the center of Diane Trail at Lot No. 16; thence by said lot South 46 degrees 6 minutes East,

225 feet to Lot No. 24; thence by said lot South 43 degrees 54 minutes West, 100 feet to Lot No. 18; thence by said lot North 46 degrees 6 minutes West, 225 feet to a point in the center of said Diane Trail; thence in said Diane Trail North 43 degrees 54 minutes East, 100 feet to the place of BEGINNING.

The above description was taken from a plan of lots labeled "Section W of Charnita, Inc." dated January 3, 1970, prepared by Gordon L. Brown, R.S., recorded in Adams County Plat Book No. 1 at page 66.

BEING THE SAME WHICH Timothy P. Myers and Karolyne A. Myers (erroneously referred to in former deed as Karolyne A. Myers), husband and wife, by deed dated November 13, 1998, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1701 at Page 338 sold and conveyed unto Robert W. Copsky and Kristin M. Copsky, husband and wife, Mortgagors herein.

Premises being: 11 Diane Trail, Fairhill, PA 17320

Tax Parcel No. Map 21 Parcel 25

SEIZED and taken into execution as the property of **Robert W. & Kristin M. Copsky** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/31, 6/7 & 14

RHOADS VS. DAVIES INS. ET AL

1. Whether to grant or deny a party's request to amend is a matter left to the sound discretion of the court. Nevertheless, the right to amend should be granted liberally unless to do so would constitute an error of law or result in prejudice to the other party.

2. An amendment will not be permitted where it states a new cause of action after the statute of limitations has run. However, if the proposed amendment amplifies the averments already made rather than set forth a new cause of action, it should be allowed even if the statute has expired.

3. The right to recover punitive damages is incidental to the underlying cause of action and is an element of damages a jury is entitled to consider in a proper case. A request for punitive damages does not constitute a cause of action in and of itself.

4. Punitive damages are not permitted in a breach of contract action. Thus, Defendant cannot amend that cause of action to include a claim for punitive damages.

5. Our Superior Court set forth the definition of conversion as:

"the deprivation of another's right of property in, or use or possession of, a chattel, or other interference therewith, without the owner's consent and without lawful justification".....Although the exercise of control over the chattel must be intentional, the tort of conversion does not rest on proof of specific intent to commit a wrong.

6. Money can be the subject of conversion. The intent required of the defendant is the intent "to exercise dominion or control over the goods which is in fact inconsistent with the plaintiff's rights....."

7. Just because Defendants did not originally set forth a count for conversion does not mean that they are raising a new cause of action by doing so at this time.....a new cause of action is not stated if the operative facts are the same but only a different legal theory is being claimed. The primary focus being the facts originally averred.....

8. Punitive damages can be awarded where the conversion is outrageous. If the underlying facts, as originally pled, do not justify a claim for punitive damages it would be improper to allow Defendants to make that claim now. Pleading an intentional fraud is sufficiently outrageous conduct to sustain a punitive damages claim.

In the Court of Common Pleas of Adams County, Pennsylvania, Civil, No. 98-S-719, ROBERT S. RHOADS VS. DAVIES INSURANCE AGENCY, INC., AND DAVIES INSURANCE AGENCY, INC., T/D/B/A DAVIES, KREISHER & McCOY INSURANCE AND FINANCIAL SERVICES.

Walter A. Tilley, Esq., for Plaintiff

Gary E. Hartman, Esq., for Defendants

Kuhn, J., December 4, 2001

OPINION ON DEFENDANTS' PETITION TO AMEND
THE ANSWER, NEW MATTER, SET-OFF
AND COUNTERCLAIM

BACKGROUND

Before the Court is a Petition filed by Defendants to amend their initial responsive pleading. For the reasons set forth herein, that petition is granted.

Plaintiff, Robert S. Rhoads, filed a complaint wherein he alleges breach of contract. The complaint states that Plaintiff and Defendants were parties to an "Independent Contractor Producer Agreement" dated January 1, 1990, but signed February 9, 1990 (Compl. Para. 4). Pursuant to the contract, Plaintiff was to act as an independent insurance agent in Defendants' office, subject to terms and conditions of the agreement.

Articles X and XI of the contract spell out what happens if Plaintiff should terminate the agreement. Plaintiff claims he terminated the contract on October 1, 1997. He avers that pursuant to the contract, Defendants were to pay him on a monthly basis 30% of the renewed commissions on accounts, which he sold, for the life of those accounts (Comp. Para. 7). He avers being entitled to \$4,000-5,000 per month (Compl. Para. 10). Plaintiff alleges that in January, 1998, Defendants stopped making payments under the contract, and informed Plaintiff that they did not intend to honor the contract (Compl. Paras. 11, 12).

Defendants filed an answer wherein they averred that Plaintiff breached the contract, and is, therefore, not entitled to commissions (Answer Para. 10). In New Matter, Defendants allege that:

16. . . . [P]laintiff submitted erroneous summaries of accounts for the purpose of calculating commissions. . . . [T]hese erroneous summaries were submitted monthly for an as yet to be determined period of time but in excess of two years. . . . [T]he erroneous summaries generated overpayment from Defendants to Plaintiff for a period in excess of two years in an amount as yet to be determined but in excess of \$25,000.00.

17. . . . [P]laintiff knew or should have known that the summaries being submitted for calculations of commissions were erroneous and included clients and business of other producers.

(Answer Paras. 16, 17).

Finally, in their Set Off and Counterclaim, Defendants allege that:

18. In the alternative, without abandoning the primary defense of excused non-performance under the contract, Defendants further allege that the overpayment of commissions from Defendants to Plaintiff is a set off against any obligation owed from Defendants to Plaintiff under the contract.

19. In the alternative, without abandoning the primary defense of excused non-performance under the contract, Defendants further allege that the submission of erroneous summaries of accounts for the purpose of generating commissions in excess of those rightfully claimed by Plaintiff constitutes a breach of the contract and Defendants demand judgment against Plaintiff for the overpayments made from Defendants to Plaintiff resulting from such breach.

Defendants filed a Petition for Leave to Amend Pleadings on September 21, 2000. Defendants desire to renumber Paragraphs 18 and 19 of their responsive pleading to Paragraphs 19 and 20, respectively, and to plead the following additional paragraphs:

18. Defendants specifically aver that Plaintiff intentionally and with malice falsified his Calculations of Commissions, and that such conduct constituted theft from the Defendants.

21. Defendants hereby demand punitive damages from Plaintiff in such amount as shall be determined, for the malicious, intentional theft of commissions over a period of four (4) years prior to the filing of the original Answer, New Matter and Set Off and Counterclaim.

Defendants contend that they used inaccurate language in their original Answer to describe the conduct of Plaintiff, and that they

failed to make a claim for punitive damages in the Answer despite allegations which would support such a claim for relief. Plaintiff argues that he would be prejudiced by such a late amendment but, more importantly, the amendment would set forth a new cause of action after the expiration of the statute of limitations.

DISCUSSION

Amendment of a pleading is governed by Pa. R.C.P. 1033, which provides in pertinent part,

A party, by leave of court, may at any time . . . amend his pleading. The amended pleading may aver transactions or occurrences which have happened before or after the filing of the original pleading, even though they give rise to a new cause of action or defense . . .

Whether to grant or deny a party's request to amend is a matter left to the sound discretion of the court. Nevertheless, the right to amend should be granted liberally unless to do so would constitute an error of law or result in prejudice to the other party. *Werner v. Zazyczny*, 681 A.2d 1331, 1338 (Pa. 1996). Where possible, the goal is to have cases decided on their merits, not on the basis of technical pleading rules. *Hamilton v. Bechtel*, 657 A.2d 980, 981 (Pa. Super. 1995).

Despite the aforementioned general rule, an amendment will not be permitted where it states a new cause of action after the statute of limitations has run. *Somerset Community Hospital v. Allan B. Mitchell & Associates, Inc.*, 685 A.2d 141, 147 (Pa. Super. 1996). However, if the proposed amendment amplifies the averments already made rather than set forth a new cause of action, it should be allowed even if the statute has expired. *Reynolds v. Thomas Jefferson University Hospital*, 676 A.2d 1205, 1210 (Pa. Super. 1996). The *Reynolds* opinion stated that our Supreme Court has never adopted a comprehensive definition of "cause of action", however,

. . . A new cause of action does not exist if plaintiff's amendment merely adds to or amplifies the original complaint or if the original complaint states a cause of action showing that the plaintiff has a legal right to recover what is claimed in the subsequent complaint . . . A new cause of action does arise, however, if the amendment proposes a different theory or a different kind of negligence than

the one previously raised or if the operative facts supporting the claim are changed.

Id.

The right to recover punitive damages is incidental to the underlying cause of action and is an element of damages a jury is entitled to consider in a proper case. *Feingold v. SEPTA*, 517 A.2d 1270, 1276 (Pa. 1986). A request for punitive damages does not constitute a cause of action in and of itself. *Lennon v. Wyeth-Ayerst Laboratories, Inc.*, 2001WL755944 (Pa. Super. 6/14/01). Therefore, to the extent Defendants are entitled to amend their claim for punitive damages, such damages must be appropriate for the cause of action alleged.

In Defendants' original counterclaim (Paragraph 19) they alleged a cause of action for breach of contract as the basis to recover overpaid commissions. Punitive damages are not permitted in a breach of contract action. *Johnson v. Hyundai Motor America*, 698 A.2d 631, 639 (Pa. Super. 1997); *Hess v. Hess*, 580 A.2d 357, 358 (Pa. Super. 1990). Thus, Defendant cannot amend that cause of action to include a claim for punitive damages.

Defendants argue that they are attempting to state a cause of action for conversion which would entitle them to seek punitive damages. The statute of limitations for conversion is two years. *Shonberger v. Oswell*, 530 A.2d 112, 114 Pa. Super. 1987); 42 Pa. C.S.A. §5524. By the time Defendants requested amendment, that period had expired.

In *L.B. Foster Company v. Charles Caracciolo Steel & Metal Yard, Inc.*, 777 A.2d 1090 (Pa. Super. 2001) our Superior Court set forth the definition of conversion as:

“the deprivation of another’s right of property in, or use or possession of, a chattel, or other interference therewith, without the owner’s consent and without lawful justification” . . . Although the exercise of control over the chattel must be intentional, the tort of conversion does not rest on proof of specific intent to commit a wrong.

777 A.2d at 1095 (citations omitted).

Money can be the subject of conversion. *Francis J. Bernhardt, III, P.C. v. Needleman*, 705 A.2d 875, 878 (Pa. Super. 1997). See also *McKeeman v. Corestates Bank, N.A.*, 751 A.2d 655, 659 (Pa. Super.

2000) footnote 3. The intent required of the defendant is the intent “to exercise dominion or control over the goods which is in fact inconsistent with the plaintiff’s rights. . .” *Shonberger v. Oswell*, 530 A.2d 112, 114 (Pa. Super. 1987). Punitive damages can be awarded where the conduct constituting the conversion is outrageous. *Bernhardt, supra.*, 705 A.2d at 879.

When we examine Defendants’ original pleading we find that the facts are present to state a cause of action for conversion. Defendants averred that Plaintiff deprived them of their use and possession of property by acquiring money. They aver that he acquired that money without their consent. In that regard, Defendants averred that Plaintiff submitted statements that he knew were erroneous. Such misrepresentations could arguably cause apparent consent to be, in fact, non-consensual. Submission of statements to which Plaintiff allegedly knew were erroneous would be sufficient to show that his acquisition and detention of the money was without lawful justification.¹

Just because Defendants did not originally set forth a count for conversion does not mean that they are raising a new cause of action by doing so at this time. This may sound confusing because, as noted above, the *Reynolds* opinion said that a new cause of action does arise if the amendment proposes a different legal theory. However, the phrase “different legal theory” seems to be a theory which could not have been garnered from the operative facts originally pled.

In *Kusis v. Baldwin-Lima-Hamilton Corp.*, 319 A.2d 914 (Pa. 1974) the Plaintiff first set forth a claim for the negligent design and manufacture of a crane with a defective braking system which allegedly caused his injuries. After the statute of limitations had expired, plaintiff was permitted to add a claim in strict liability under §402A of the Restatement (Second) of Torts. The court felt that the §402A claim added nothing new to the legal theory of how the accident occurred. Significantly, it stated,

It is of no moment that the theories of negligence and strict liability may be subject to different defenses and require different measures of proof . . . both causes were stated in the original complaint.

319 A.2d at 918.

¹Although not suggested by Defendants, their original averments seem to support a cause of action for fraud, albeit not with the desired exactitude.

Likewise, in *County of Lehigh v. A.L. Wiesenberger*, 21 D & C 3d 386 (Lehigh Co. 1981) the original complaint was for breach of contract and after the statute of limitations expired the plaintiff sought leave to amend to add a count in trespass. There, the amendment was granted. The court determined that a new cause of action is not stated if the operative facts are the same but only a different legal theory is being claimed. The primary focus being the facts originally averred, the two counts were merely clarifying a cause of action stated in the original complaint.

As noted above, punitive damages can be awarded where the conversion is outrageous. If the underlying facts, as originally pled, do not justify a claim for punitive damages it would be improper to allow Defendants to make that claim now. *Willett v. Evergreen Homes, Inc.*, 595 A.2d 164 (Pa. Super. 1991) (changing allegations of ordinary negligence to add facts justifying punitive damages after the statute of limitations has expired is not proper).

Here, however, Defendants are not adding new averments to justify punitive damages. We concede that Defendants' amendment would aver that Plaintiff acted "intentionally and with malice" when he allegedly submitted false commission statements. However, the question is not whether Defendants originally averred that Plaintiff acted with malice. The question is whether the facts support an award of punitive damages. *Taylor v. Ryder Truck Rental, Inc.*, 41 D & C3d 396 (Chester Co. 1984). Clearly, Defendants originally pled that Plaintiff "knew" the statements were erroneous but submitted them nevertheless. Thus, they claimed that Plaintiff was acting intentionally and deceptively in attempting to secure money from them. Pleading an intentional fraud is sufficiently outrageous conduct to sustain a punitive damages claim. *Epply Income Partners v. Olinger*, 40 ACLJ 105, 177 (1997).

Accordingly, we conclude that Defendants are entitled to amend.

ORDER OF COURT

AND NOW, this 4th day of December, 2001, in accordance with the attached Opinion, Defendants' Petition to Amend the Answer, New Matter, Set-Off and Counterclaim is granted.

Plaintiff is granted twenty (20) days from the date of mailing of this Order to file a responsive pleading to Defendants' Paragraphs 16-21, inclusive.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-171 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate in Butler Township, Adams County, Pennsylvania, known as Lot #15, more particularly bounded and described as follows:

BEGINNING at a point at the Southeast corner of Lot #16 and South View Drive; thence along South View Drive, South 56 degrees 02 minutes 59 seconds East, along an arc measuring 85.00 feet, with a radius of 150.00 feet, and a chord length of 83.87 feet to another point along South View Drive, and the Northwest corner of Lot #14; thence South 51 degrees 38 minutes 54 seconds West, 329.52 feet to a point at the Southwest corner of Lot #14 and lands now or formerly owned by Settle; thence along lands now or formerly owned by Settle, South 86 degrees 48 minutes 44 seconds West, 98.45 feet to a point at the corner of lands now or formerly owned by Settle, and lands now or formerly owned by Warner; thence along lands now or formerly owned by Warner, North 02 degrees 52 minutes 55 seconds East, 211.75 feet to a point at the corner of lands now or formerly owned by Warner, lands now or formerly owned by Dettinburn, and the Southwest corner of Lot #16; thence along the Southern border of Lot #16, North 80 degrees 41 minutes 50 seconds East, 280.18 feet to a point at the Southeast corner of Lot #16, and South View Drive, the place of BEGINNING. CONTAINING approximately 1.232 acres or 53,659 square feet.

SUBJECT, nevertheless, to all rights-of-way, easements and setbacks of record, and subject to the restrictions and requirements as referred to in the above recited deed.

Being known as 55 Southview Drive, Biglerville, PA 17307

Property ID: 100-E8

TITLE TO SAID PREMISES IS VESTED IN Philip G. Barnett and Mary J. Barnett, husband and wife, as tenants of an estate by the entireties, by deed from Robin G. Ochterbeck, single, dated 11/29/1993, recorded 12/1/1993, in Deed Book 814, Page 199.

SEIZED and taken into execution as the property of **Phillip G. Barnett & Mary J. Barnett** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-972 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 12th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

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

Being known as 358 Park Street, Gettysburg, PA 17325

Property ID No. 12-12

TITLE TO SAID PREMISES IS VESTED IN Michael H. Flowers and Susan A. Flowers, husband and wife, as tenants of the estate by the entireties by deed from Dale E. Deardorff and William K. Grover, executors of the will of Mildred D. Shover, deceased, dated 12/28/1996, recorded 1/3/1997, in Deed Book 1312, Page 313.

SEIZED and taken into execution as the property of **Michael H. Flowers & Susan A. Flowers** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 5, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/17, 24 & 31

INCORPORATION NOTICE

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State, of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on April 26, 2002, for the purpose of obtaining a Certificate of Incorporation of a business Corporation organized under the Business Corporation Law of the Commonwealth of Pennsylvania, Act of December 21, 1988, P.L. 1444, No. 177.

The name of the corporation is C. A. GROFF PLUMBING, INC.

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

C. A. Groff Plumbing, Inc.
370 Railroad Lane
Orrtanna, PA 17353

5/31

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 00-S-1228 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL the following two (2) tracts in Reading Township, Adams County, Pennsylvania, described more fully as follows, to wit:

TRACT NO. 1: ALL that certain piece, parcel or tract of land, situate, lying and being in Reading Township, Adams County, Pennsylvania, more specifically bounded, limited and described as follows:

BEGINNING at a stake for a corner at Lot No. 25 and a 20 feet wide driveway; thence by said driveway North 15 degrees 30 minutes East 50 feet to a stake at Lot No. 27; thence by Lot No. 27 South 74 degrees 30 minutes East 248.4 feet, through a stake set back 20 feet from the bank of lot water, to a point in the Conewago Creek; thence by said Conewago Creek South 9 degrees 30 minutes West 50.3 feet to a point in said Creek at Lot No. 25; thence by Lot No. 25 North 74 degrees 30 minutes West, through a stake set back 20 feet from the bank at low water, 253.6 feet to a stake and place of BEGINNING.

BEING known as Lot No. 26, Block No. 1 on the Plan of Lots as surveyed August 27, 1955, by George M. Wildasin for Harry A. and Gertie R. Lauchman.

TRACT NO. 2: ALL that certain tract of land situate in Reading Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin on the East side of a twenty (20) feet wide driveway at Lot No. 24, lands now or formerly of Dennis L. Seeley and Rita J. Seeley; thence along said twenty (20) feet wide drive-way North fifteen (15) degrees thirty (30) minutes East fifty (50) feet to an iron pin at Lot No. 26; thence by said Lot No. 26, South seventy-four (74) degrees thirty (30) minutes East two hundred fifty-three and six-tenths (253.6) feet to a point in the Conewago Creek; thence along said Conewago Creek South thirteen (13) degrees thirty (30) minutes West fifty and one-tenth (50.1) feet to a point at Lot No. 24 aforesaid; thence along said Lot No. 24 North seventy-four (74) degrees thirty (30) minutes West two hundred fifty-five and three-tenths (255.3) feet to an iron pin the place of BEGINNING. This description is taken from a survey made by Donald W. Resh, Registered Surveyor, dated August 27, 1960, being known as No. 25,

Block 1 on a Plan of Lots as surveyed August 27, 1955 by George M. Wildasin for Harry A. and Gertie R. Lauchman.

SUBJECT, NEVERTHELESS to the following restriction: That no building of any character shall be erected or constructed on the front of said lot beyond a distance of fifty-five (55) feet from the East side of the twenty (20) feet wide driveway in the rear.

IT BEING the same premises which Scott Handshew a/k/a Scott A. Handshew and Donald R. Handshew, by their Deed dated September 13, 1993, and recorded in the Office of the Recorder of Deeds, in and for Adams County, Pennsylvania, in Book 782, Page 95 granted and conveyed unto Scott A. Handshew and Deborah K. Handshew, his wife, the Grantors herein.

Tax Parcel: #L-8, 21

SEIZED and taken into execution as the property of **Harold E. Coburn & Ruth A. Martin (Coburn)** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/31, 6/7 & 14

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1217 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, 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 Straban Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a point in the center of State Highway Route 15, leading from Gettysburg to Harrisburg, with an iron pin set back along the line; thence running by land now or formerly of W. Earle Buehl, South 57-1/4 degrees East, 215

feet to an iron pin; thence running by land of the same, South 32-3/4 degrees West, 100 feet to an iron pin; thence running by land of the same, North 57-1/4 degrees West, 215 feet to a point in the center of said highway with an iron pin set back along the line; thence running in the center of said highway, North 32-3/4 degrees East, 100 feet to a point in the center of said highway with an iron pin set back along the line, the place of BEGINNING. CONTAINING 75 perches and 81 square feet.

BEING that which Jeffrey T. Newman, single, by deed dated September 3, 1991, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 598 at page 970, sold and conveyed unto Angelo M. DeRita and Barbara J. DeRita, husband and wife, the Grantors herein.

SUBJECT, NEVERTHELESS, to the restrictions as contained in Deed Book 326 at page 350.

AND the said Grantors hereby covenant and agree that they will warrant Specially the property hereby conveyed.

IN WITNESS WHEREOF, said Grantors have hereunto set their hands and seals the day and year first above-written.

Tax Parcel No: 38-G10-0022

Being known as 2275 Old Harrisburg Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Ronald B. Scott Estate** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/24, 31 & 6/7

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 MABEL JOAN GILLESPIE, DEC'D

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

Executors: Karen Merry Britt, 194 Poplar Trace, Elizabethtown, KY 42701; Billy M. Gillespie, 9 Rebecca Trail, Fairfield, PA 17320

Attorney: Barbara Jo Entwistle, Esq., Pyle and Entwistle, 25 South Washington Street, Gettysburg, PA 17325

ESTATE OF IDA JANE KOONTZ, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Co-Executrixes: Martha L. Clapsaddle, 132 Grant Drive, Hanover, PA 17331; Betty Jane Jones, Box 247, Bendersville, PA 17306

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

ESTATE OF DOROTHY V. RAF-FENSPERGER, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

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

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

SECOND PUBLICATION

ESTATE OF ROBERT W. TROXELL, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Robert O. Troxell, 449 West Middle Street, Hanover, PA 17331

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

THIRD PUBLICATION

ESTATE OF PAUL S. MacDOWELL, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Joseph P. MacDowell, 190 Longstreet Drive, Gettysburg, PA 17325

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

ESTATE OF JOHN H. MILLER, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Kenneth J. Miller, 3081 York Road, Gettysburg, PA 17325

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 02-S-275 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a point at the corner of Lot No. 445 on the subdivision plan; hereinafter referred to; thence along Lot No. 445, South 25 degrees 46 minutes 54 seconds West, 120.38 feet to a point on the property line of Lot No. 53; thence along Lot No. 53, North 69 degrees 59 minutes 58 seconds West, 20.10 feet to a point at the corner of Lot No. 447; thence by Lot No. 447, North 25 degrees 46 minutes 54 seconds East, 122.40 feet to a point along the curblin of a parking area as shown on the subdivision plan hereinafter referred to; thence along said parking area, South 64 degrees 13 minutes 06 seconds East, 20.00 feet to a point, the place of BEGINNING. CONTAINING 2,428 square feet.

SUBJECT to all easements, conditions and restrictions of record, including but not limited to those set forth on the aforementioned plan and prior deeds of record.

Being known as 95 South Gala, Littlestown, PA 17340

Property ID: 4-97

TITLE TO SAID PREMISES IS VESTED IN Wayne F. Strausbaugh and Sharon M. Strausbaugh, husband and wife, by deed from Appler Properties, LLC, a Maryland limited liability company, dated 8/5/1999, recorded 8/18/1999, in Deed Book 1897, Page 110.

SEIZED and taken into execution as the property of **Wayne F. & Sharon M. Strausbaugh** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

As soon as the property is declared sold to the highest bidder 20% of the

purchase price or all of the cost, whichever may be the higher, shall be paid forthwith to the Sheriff.

5/24, 31 & 6/7

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 01-S-1236 issuing out of the Court of Common Pleas of Adams County, and to me directed, will be exposed to Public Sale on Friday, the 26th day of July, 2002, at 10:00 o'clock in the forenoon at the Courthouse in the Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL THAT CERTAIN tract of land situate, lying and being in the Borough of Bendersville, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING at a point on the curb of Railroad Street, at corner of land now or formerly of Melvin Bream; thence along land of the said Melvin Bream North 19-1/2 degrees East, 178 feet to an iron pin at a 15-foot alley; thence along said 15-foot alley and land now or formerly of Bendersville Community Fire Company South 59-1/2 degrees East, 113.50 feet to an iron pin; thence along land now or formerly of Cameron Barbour South 19-1/2 degrees West, 180 feet to a point on the curb of said Railroad Street; thence along said Railroad Street North 59-1/2 degrees West, 113.50 feet to the point, the place of BEGINNING. CONTAINING 70 perches and 159 square feet, more or less.

The above description was obtained from a draft of survey prepared by P. S. Ormer, County Surveyor, dated April 29, 1955.

HAVING ERECTED THEREON a dwelling known as 132 Park Street, Bendersville, Pennsylvania.

BEING THE SAME PREMISES WHICH Allen W. Beckett t/d/b/a Allen Beckett Construction by Deed dated May 27, 1994 and recorded May 31, 1994 in Adams County Deed Book 892, Page 134, granted and conveyed unto Joseph S. Buchheister and Juanita M. Buchheister.

SEIZED in execution as the property of Joseph S. Buchheister and Juanita M. Buchheister under Adams County Judgment No. 01-S-1236.

Map & Parcel #4-18

SEIZED and taken into execution as the property of **Joseph S. & Juanita M. Buchheister** and to be sold by me.

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

TO ALL PARTIES IN INTEREST AND CLAIMANTS: You are notified that a schedule of distribution will be filed by the

Sheriff in his office on August 19, 2002, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 10 days after the filing thereof. Purchaser must settle for property on or before filing date.

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

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

5/24, 31 & 6/7

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

In Re: Adoption of Gabriela Elizabeth Raver

NOTICE

To: ISIDRO OLGUIN ZAMUDIO
No. RT-7 of 2002

YOU ARE HEREBY NOTIFIED that a Petition for Involuntary Termination of Parental Rights to Child has been filed in the Orphans' Court Division of the Court of Common Pleas of Adams County, Pennsylvania. A hearing has been set for June 13, 2002, at 3:00 o'clock p.m., prevailing time, in Courtroom No. 3, of the Adams County Courthouse, 111-117 Baltimore Street, Gettysburg, Adams County, Pennsylvania, for the purpose of determining whether or not statutory grounds exist for the involuntary termination of your parental rights with respect to Gabriela Elizabeth Raver.

If you wish to defend or contest this matter, 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 an Order may be entered without further notice to you terminating your parental rights with respect to Gabriela Elizabeth Raver.

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 HELP.

COURT ADMINISTRATOR
ADAMS COUNTY COURTHOUSE
111-117 BALTIMORE STREET
GETTYSBURG, PA 17325
TELEPHONE NO. (717) 337-9846

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