

Adams County Legal Journal

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IN THIS ISSUE

SCHREIBER VS. SCHREIBER

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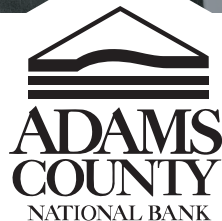
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1864 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of May, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING at a P.K. Nail set in the centerline of the Bullfrog Road (T-321), at corner of other land now or formerly of Carl R. Sturges; thence crossing and leaving said Bullfrog Road (T-321), and by said other land now or formerly of Carl R. Sturges, and through a Reference Rebar set 30.0 feet from the beginning of this course, North 31 degrees 30 minutes 00 seconds East, 350.00 feet to a Rebar set at corner of said other land now or formerly of Carl R. Sturges; thence by said other lands of the Carl R. Sturges, South 58 degrees 30 minutes 00 seconds East, 250.00 feet to a Rebar set at corner of said other land now or formerly of Carl R. Sturges; thence by said other land now or formerly of Carl R. Sturges, and through a Reference Rebar set 30.00 feet back from the end of this course, South 31 degrees 30 minutes 00 seconds West, 350.00 feet to a P.K. Nail set in the centerline of the said Bullfrog Road (T-321), at corner of said other land now or formerly of Carl R. Sturges; thence in and along the centerline of the said Bullfrog Road (T-321), North 58 degrees 30 minutes 00 seconds West, 250.00 feet to a P.K. Nail set in the centerline of the said Bullfrog Road (T-321), at corner of said other land now or formerly of Carl R. Sturges, the point and place of BEGINNING, CONTAINING 2.008 Acres.

The above-description was taken from a draft of survey and final subdivision plan, dated July 20, 1995, by Mark A. Kuntz, Surveyor, which draft of survey and final subdivision plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 67 at Page 81.

TITLE TO SAID PREMISES IS VESTED IN George F. Sturges and L.

Michaëlle Sturges, h/w as tenants of an Estate by the entireties, by Deed from George F. Sturges and L. Michaëlle Sturges, his wife, dated 04/29/2002, recorded 04/30/2002 in Book 2643, Page 0016.

Premises: 4015 Bullfrog Road, Fairfield, PA 17320-9389

Parcel No.: (18) C15-0001

SEIZED and taken into execution as the property of **George F. Sturges & L. Michaëlle Sturges** and to be sold by me.

James W. Muller-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 June 19, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

5/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1834 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of May, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or tract of land with the buildings and improvements thereon erected situate, lying and being in the Township Menallen, County of Adams and State of Pennsylvania, more particularly described as follows:

BEGINNING at a Magnail set in the center line of Boyd's Hollow Road (T-368) at the Southeast corner of Lot No. 2 as shown on the draft of survey referred to below; thence in the center line of said road, South 08 degrees 46 minutes 22 seconds East 18.80 feet to another Magnail set at existing spike in

the center line of said road; thence continuing in the center line of said road, South 03 degrees 00 minutes 01 second East 128.62 feet to a Magnail set at existing spike in the center line of said road; thence by other land now or formerly of Ricky Showers, North 85 degrees 38 minutes 30 seconds West 447.75 feet to an existing rebar at corner post at land now or formerly of Eugene McGlaughlin; thence by said land now or formerly of Eugene McGlaughlin, North 15 degrees 01 minute 20 seconds East 148.44 feet to a rebar set at the Southwest corner of Lot No. 2 as shown on the draft of survey referred to below; thence by said Lot No. 2, South 85 degrees 38 minutes 30 seconds East 399.53 feet to a Magnail set in the center line of Boyd's Hollow Road (T-368); the place of BEGINNING.

TITLE TO SAID PREMISES IS VESTED IN Arthur G. Cease and Kimberlee A. Cease by deed from Arthur G. Cease dated March 27, 2006 and recorded April 6, 2006 in Deed Book 4370, Page 273.

Map and Parcel ID: (29) C06-0043C

BEING KNOWN AS: 94 Boyd Hollow Road, Biglerville, Pennsylvania 17307.

SEIZED and taken into execution as the property of **Arthur G. Cease & Kimberlee A. Cease** and to be sold by me.

James W. Muller-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 June 19, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

5/8, 15 & 22

SCHREIBER VS. SCHREIBER

1. The report of the master is advisory only and the reviewing Court is not bound by it and it does not come to the Court with any preponderate weight or authority which must be overcome.

2. Alimony is not designed to equalize the parties' income or be punitive in nature, but is meant to ensure that the reasonable needs of the person who is able to support himself or herself through appropriate employment are met.

3. Alimony is based upon reasonable needs in accordance with the parties' standard of living established during the marriage and the payor's ability to pay.

4. Alimony is a secondary remedy and is available only where economic justice and the reasonable needs of the parties cannot be achieved by way of an equitable distribution award and development of an appropriate employable skill.

5. In determining the nature, amount, duration and manner of payment of alimony, the court must consider all relevant factors, including those statutorily prescribed for at 23 Pa.C.S.A. §3701.

6. Marital misconduct is not a bar to an award of alimony. It is but one of the many factors to be considered by the trial court in making its determination. Moreover, its significance is lessened by the fact that it is one of fourteen factors.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 05-S-481, MICHAEL R. SCHREIBER VS. CAROLYN A.
SCHREIBER.

Archie V. Diveglia, Esq., for Plaintiff

Timothy J. Shultis, Esq., for Defendant

Bigham, J., July 25, 2008

OPINION

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Michael R. Schreiber (Husband) and Carolyn A. Schreiber (Wife) were married on May 1, 1988 and separated on March 18, 2005. The parties have two daughters, only one of whom was a minor at the time of the Master's hearing. She currently resides with Wife and turned eighteen this June.

Wife is 44 years old and works for a local newspaper. Her tax returns for 2007 reflected income for that year of approximately \$27,000. During the marriage, Wife held a variety of jobs, including working as a photographer, and testified that she was always employed during the marriage. She is a high school graduate with no further education. At the Master's hearing she expressed a desire to go back to school to get an associates degree in paralegal studies, and eventually get a bachelor's degree and go into criminal law. She

vaguely estimated the time it would take at four years, at a cost of \$2,000-5,000 per year. She further stated that she would continue to work full-time while attending school. Husband is 43 years old and works as a supervisor at UTZ. His tax returns for 2007 reflected income for that year of approximately \$52,000-55,000. He is a high school graduate with no further education. Husband was employed with UTZ throughout the marriage, typically working between 50 and 55 hours per week, and has a 401K through his employment. Both parties receive benefits through their employment.

During the marriage, the parties did not live a lavish lifestyle. They never took family vacations, and eating out was occasionally getting fast food take-out. Husband went on hunting trips, and the parties often went racing because Husband owned a micro sprint. The parties bought used cars. Testimony was presented by Wife that Husband had two affairs during the marriage, and that Wife stopped paying bills when she found out about the first affair. Wife also testified that on a few occasions, Husband was physically abusive.

When the parties separated, Husband remained in the marital residence, and Wife and the parties' daughter moved into a smaller, rented, house with one less bedroom. Husband has continued to go on hunting trips, including a cougar hunting trip to Idaho in 2007. Wife testified that she was going to take her daughter on a vacation for her daughter's high school graduation. The parties divided the personal property, including furniture, appliances and vehicles. Wife filed for bankruptcy after separation, and currently has no debt except for a car payment. Husband assumed the mortgage payments, and testified that he has incurred post-separation credit card debt. Husband is currently paying spousal support in the amount of \$130 per month, and paid child support until June 2008.

Husband filed for divorce on May 10, 2005. On June 13, 2007, Wife filed a Petition for equitable distribution, alimony, APL, counsel fees, costs and expenses. On July 24, 2007, Wife filed a motion for the appointment of a Master, and Tracey M. Sheffer was appointed on July 26, 2007. The Master's Hearing was held on February 20, 2008. The parties have signed and filed Affidavits of Consent and Waivers of Notice. On May 7, 2008, Husband filed Exceptions to the Master's Report and Recommendation, and a brief in support on May 29, 2008. Wife filed a brief in opposition on June 20, 2008.

The parties stipulated that the net marital estate is \$192,950.00. The Master stated that the majority of the parties' assets were in the possession of Husband. The Master recommended that Wife receive 55% of the marital estate and Husband receive 45%. Further, the Master recommended that Husband pay Wife \$500 per month in alimony for three years in order for Wife go back to school. The Master declined Wife's request for counsel fees, costs and expenses. To effectuate distribution, the Master recommended Husband transfer a cash payment to Wife of \$50,987.25 as well as a distribution from his 401K in the amount of \$50,978.25 through a QDRO. It was recommended that the parties keep the personal property and vehicles that were currently in their possession. Husband retained the marital residence, and currently lives in the former marital residence with his paramour.

When making her recommendation, the Master stated that Wife was the primary caretaker, and her primary job during the marriage was that of a homemaker. The Master found that Wife does not have the income potential that Husband has, and Wife has struggled since separation to maintain the lifestyle she enjoyed while married. Further, with regard to alimony, the Master found that the most significant factors were Wife's role as a homemaker, and evidence presented by Wife of her need to further her education.

EXCEPTIONS

Husband filed the following Exceptions:

- 1) The Master erred in determining the Defendant should be awarded alimony for three years "to allow the Defendant to complete further education and obtain suitable employment." (Page 3 of Report)
- 2) The Master erred in determining "the most significant factors [for awarding alimony] were the Defendant's role as a homemaker and the Defendant's evidence regarding her need for further education in order to find appropriate employment." (Page 3 of Report)
- 3) The Master erred in determining that alimony was awardable in that "During the marriage, the Defendant's primary job was that of homemaker. This role as homemaker kept the Defendant from the job market for periods of time and has affected her ability to earn enough to support her now." (Page 3 of Report)

- 4) The Master erred in determining “Awarding alimony for three years will allow the Defendant to complete further education and obtain suitable employment.” (Page 3 of Report)
- 5) The Master erred by determining that Defendant “...intends to further her education in a three year business program.” (Page 1 of Report)
- 6) The Master erred in awarding alimony to Defendant when the Master excluded offered testimony of Defendant’s marital misconduct, (NT 35-36 and 43). This exclusion was contrary to her statement “All of the factors in 23 Pa.C.S.A. §3701 were considered in making the recommendation for alimony.” (Page 3 of Report)

DISCUSSION

The trial court’s standard of review of the Master’s Report and Recommendation is as follows:

It is true that the report of the master is entitled to great consideration in that he has heard and seen the witnesses and we have so held on numerous occasions and that it should not be lightly disregarded, but however, it is advisory only and the reviewing Court is not bound by it and it does not come to the Court with any preponderate weight or authority which must be overcome. The reviewing Court must consider the evidence de novo, its weight and the credibility of the witnesses. The master’s report is not controlling either on the lower court or upon the appellate Court.

Arcure v. Arcure, 219 Pa.Super. 415, 281 A.2d 694, 695 (1971) (citations omitted). See also *Moran v. Moran*, 839 A.2d 1091, 1095 (Pa. Super. 2003); *Rothrock v. Rothrock*, 765 A.2d 400, 404 (Pa.Super. 2000). Each of Husband’s Exceptions relate to his challenge of the Master’s award of alimony to Wife in the amount of \$500 per month. He argues against both the actual award of alimony, as well as argues that the Master did not consider all of the factors set forth in 23 Pa.C.S.A. § 3701. For the reasons set forth herein, the Court finds that the Master’s award of alimony to Wife of \$500 per month for three years is fully supported by the facts of this case and will not be reversed.

“Alimony is not designed to equalize the parties’ income or be punitive in nature, but is meant to ensure that the reasonable needs of the person who is able to support himself or herself through appropriate employment are met.” *Dalrymple v. Kilishek*, 920 A.2d 1275 (Pa. Super. 2007). Alimony is “based upon reasonable needs in accordance with the parties’ standard of living established during the marriage, and the payor’s ability to pay.” *Stammero v. Stammero*, 889 A.2d 1251, 1259 (Pa.Super. 2005); *Teodorski v. Teodorski*, 857 A.2d 194, 200 (Pa.Super. 2004). When determining whether or not to award alimony, including the nature, amount, duration and manner of payment of alimony, the Court is required to consider the following statutory factors:

- 1) The relative earnings and earning capacities of the parties.
- 2) The ages and the physical, mental and emotional conditions of the parties.
- 3) The sources of income of both parties, including, but not limited to, medical, retirement, insurance or other benefits.
- 4) The expectancies and inheritances of the parties.
- 5) The duration of the marriage.
- 6) The contribution by one party to the education, training or increased earning power of the other party.
- 7) The extent to which the earning power, expenses or financial obligations of a party will be affected by reason of serving as the custodian of a minor child.
- 8) The standard of living of the parties established during the marriage.
- 9) The relative education of the parties and the time necessary to acquire sufficient education or training to enable the party seeking alimony to find appropriate employment.
- 10) The relative assets and liabilities of the parties.
- 11) The property brought to the marriage by either party.
- 12) The contribution of a spouse as homemaker.
- 13) The relative needs of the parties.
- 14) The marital misconduct of either of the parties during the marriage. The marital misconduct of either of the parties from the date of final separation shall not

be considered by the court in its determinations relative to alimony except that the court shall consider the abuse of one party by the other party. As used in this paragraph, “abuse” shall have the meaning given to it under section 6102 (relating to definitions).

- 15) The Federal, State and local tax ramifications of the alimony award.
- 16) Whether the party seeking alimony lacks sufficient property, including, but not limited to, property distributed under Chapter 35 (relating to property rights), to provide for the party’s reasonable needs.
- 17) Whether the party seeking alimony is incapable of self-support through appropriate employment.

23 Pa.C.S.A. § 3701(b). Additionally, the Court may consider the equitable distribution award. *O’Callaghan v. O’Callaghan*, 530 Pa. 176, 181, 607 A.2d 735, 737 n.5 (1992); *McCoy v. McCoy*, 888 A.2d 906, 909 (Pa.Super. 2005). Alimony is a “secondary remedy and is available only where economic justice and the reasonable needs of the parties cannot be achieved by way of an equitable distribution award and development of an appropriate employable skill.” *Teodorski*, 857 A.2d at 200.

Husband sets forth a number of arguments as to why an alimony award is not warranted under the facts of this case. Husband argues that Wife will have sufficient resources from equitable distribution, because she is debt free as soon as her car is paid off in a few months and will receive an immediate cash distribution of over \$50,000. He maintains that Wife was not a homemaker during the marriage because she worked throughout the course of the marriage. The parties have the same education level, and that Wife could find a part-time job, or a higher paying job using her photography skills. Wife provided no evidence that going back to school would help her earn a better living, or even that she would enroll. Husband notes that Wife stated that her standard of living has not decreased, besides living in a smaller residence, because the parties lived frugally while married. On the other hand, Wife argues that Husband makes twice as much as her, and that even with the \$500 a month alimony award, he still has almost \$1,500 per month more than Wife in discretionary income. She states Husband’s paramour lives with him, and that he continues his racing habit at a loss, continues to go on hunting trips,

and spent \$4,700 on a cougar hunting trip in 2007. Wife agrees her standard of living has not changed other than living in a smaller, rented residence, and stated that she is seeking alimony to maintain a standard of living while she furthers her education.

Regardless of the summary fashion in which the Master's report was prepared, the record fully supports the Master's recommendation that \$500 per month in alimony for three years is necessary to meet Wife's reasonable needs. Analyzing all the factors in 23 Pa.C.S.A. § 3701, a number of the factors clearly support an award of alimony to Wife. The parties were married for seventeen years. Neither party is expecting a large inheritance, and neither party contributed to the education or increased earning power of the other. Although neither party has any post-high school education, Husband earns twice as much as Wife and has a higher earning capacity. He has been fortunate in his position at UTZ and has risen through the ranks to become a supervisor earning over \$50,000. Wife, on the other hand, has maintained employment throughout the marriage, but has lost two of her past jobs due to the place of employment closing. Without any formal post-high school education, she has struggled to find stable, full-time, well-paying employment in order to sustain herself. Husband also has an established retirement fund. Although Wife is to receive a distribution from the marital portion of Husband's 401K, his 401K will continue to grow until his retirement, whereas Wife's employment does not provide her with such a benefit. Husband also retains more of the marital assets than Wife. He is retaining the house, some of the appliances, and all of the farm equipment (bailers, tractors, etc.) and farm animals. Wife was not a homemaker in the traditional sense, because she was consistently employed during the marriage, however, she was the primary caretaker of the home and children during the marriage.¹ Although Wife received 55% of the marital assets, which includes \$50,978.25 in cash through equitable distribution, the Court finds the distribution is not sufficient to meet her reasonable needs. Due to Husband's higher income, and the fact that he no longer has a child support obligation, the Court also finds that Husband is able to pay \$500 per month. Further, alimony paid by Husband to Wife will be deductible by Husband and included by Wife in income tax returns, thereby giving Husband a tax

¹ See M.H.T. pages 6-8 and pages 58-59.

benefit for the monthly alimony payment. The amount of alimony will provide Wife with the resources to meet her reasonable needs, and awarding alimony for three years will enable her to do what is necessary in order to become self-supporting, whether she chooses to go back to school, take refresher courses in photography, find a part-time job, or simply change to a higher paying job. Thus, an award of alimony is warranted, and \$500 per month for three years is reasonable to meet Wife's reasonable needs.

Therefore, Husband's first, second, fourth and fifth Exceptions are denied. Husband's third Exception is granted as to its factual inconsistencies, although the granting of this Exception has no bearing on the ultimate issue of whether Wife should be awarded alimony.²

Husband further argues that the Master erred by excluding offered testimony of Wife's marital misconduct, and therefore did not properly consider all of the factors in 23 Pa.C.S.A. § 3701. "In determining the nature, amount, duration and manner of payment of alimony, the court must consider all relevant factors, including those statutorily prescribed for at 23 Pa.C.S.A. § 3701." *Isralsky v. Isralsky*, 824 A.2d 1178, 1188 (Pa.Super. 2003). The Superior Court has stated that, "we note that marital misconduct is not a bar to an award of alimony. It is but one of the many factors to be considered by the trial court in making its determination. Moreover, its significance is lessened by the fact that it is one of fourteen factors." *Nuttall v. Nuttall*, 386 Pa.Super. 148, 162, 562 A.2d 841, 848 (1989) (analyzing 23 Pa.C.S.A. § 501, which was replaced by 23 Pa.C.S.A.

²Only Husband's first Exception actually challenges the award of alimony; the second, third, fourth, fifth, and sixth Exceptions challenge the Master's analysis and factual determinations. Although the Court agrees with Husband that there were factual errors in the Master's Report, the Court also agrees with the Master's ultimate conclusion. Wife's primary job was not as a homemaker. She worked during the marriage and there was no evidence that she was kept from the job market because of her role as a homemaker. Therefore, the Court will grant Husband's third Exception. However, Husband's second Exception will be denied because it was not an error for the Master to weigh certain factors in 23 Pa.C.S.A. § 3701(b) differently than the Court. Further, the Court will deny Husband's fourth Exception because the award of alimony is based upon Wife's reasonable needs until she is able to support herself, which may require further education in order to find suitable employment. Lastly, Husband's fifth Exception will be denied because Wife testified that she intended to further her education, but was vague about the amount of time it would take. Husband's sixth Exception will be discussed in more detail in the body of this Opinion.

§ 3701). “In applying these Code sections both trial courts and this Court must keep in mind that the overriding goal of alimony in this Commonwealth is the effectuation of economic justice between the parties. We must, therefore, not require an overly mechanistic consideration of the relevant factors where to do so would result in an unjust or unreasonable decision.” *Id.*, quoting *Williams v. Williams*, 373 Pa.Super. 143, 151, 540 A.2d 563, 567 (1988).

Husband sought to offer testimony of a third party, Husband’s father, as to Wife’s dissipation of marital assets during the marriage. Although the Master excluded the third party testimony, stating it was not relevant, the Master was presented testimony by Wife on cross-examination of the alleged marital misconduct when she testified that she stopped paying the marital bills for a period of time. Wife stated that she stopped paying bills when she found out that Husband was having an affair with another woman. The Master is required to consider evidence presented regarding marital misconduct of either of the parties during the marriage, such as the dissipation of marital assets during the marriage, extramarital affairs, and abuse. Although the exclusion of the third party testimony may have been in error, it was a harmless error since the relevant evidence came out on cross-examination of Wife. Husband’s attorney offered that Husband’s father would have testified that Wife borrowed money from him due to her indebtedness without Husband’s knowledge. Nevertheless, Wife later testified that she stopped paying bills with marital funds, using that money instead for herself and her children, when she found out about Husband’s affair, and further stated that she needed to borrow money from Husband’s father.³ The Master allowed this testimony, over objection, and later stated in her report that she considered all the required factors. Thus, because the Master allowed the evidence over objection, and because the Master reiterated in her report that she considered all the factors in 23 Pa.C.S.A. § 3701, this Court believes that the Master did properly consider all seventeen statutory factors. Husband’s sixth Exception is therefore denied.

Accordingly, the attached Order is entered.

³See M.H.T. pages 76-77.

ORDER OF COURT

AND NOW, this 25th day of July 2008, in consideration of Plaintiff's Exceptions to the Master's Report and Recommendation, IT IS ORDERED THAT:

- (1) Plaintiff's Exceptions numbers one, two, four, five and six are denied.
- (2) Plaintiff's Exception number three is granted to the extent of its factual inconsistencies, although the granting of this Exception has no bearing on the ultimate issue of whether Wife should be awarded alimony.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-43 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of May, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

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

BEGINNING for a point along the Westerly right-of-way line of Westview Drive and Lot No. 1 of the hereinafter referred to subdivision plan; thence along said Lot No. 1, South seventy (70) degrees forty (40) minutes thirty-one (31) seconds West, one hundred ten and zero hundredths (110.00) feet to a point at other lands now or formerly of John J. Grim, et ux, et al hereinto be conveyed to McSherrystown Borough; thence along said other lands now or formerly of John J. Grim, et ux, et al, North nineteen (19) degrees nineteen (19) minutes twenty-nine (29) seconds West, forty-two and zero hundredth (42.00) feet to a point at lot No. 2, thence along said Lot No. 2, North seventy (70) degrees forty (40) minutes thirty-one (31) seconds East, one hundred ten and zero hundredths (110.00) feet to a point along the Westerly right-of-way line of Westview Drive; thence along the westerly right-of-way line of Westview Drive; South nineteen (19) degrees nineteen (19) minutes twenty-nine (29) seconds East, forty-two and zero hundredths (42.00) feet to a point, the place of beginning.

CONTAINING 4,620 square feet and being identified as Lot No. 1-A on the final Subdivision plan of McSherrystown West, which plan is recorded in the Adams County Recorder of Deeds Office in Plan Book 64, page 20.

TAX PARCEL NUMBER: (28) 002-0249

IMPROVEMENTS: Residential dwelling

TITLE TO SAID PREMISES IS VESTED IN Lucas A. Hose, Adult individual by Deed from Stephen F. Klunk and Julia A. Klunk, husband and wife, dated 7/14/2003 and recorded 8/4/2003 in Record Book 3224, Page 348.

Premises Being: 5 Westview Drive McSherrystown, PA 17344

SEIZED and taken into execution as the property of **Lucas A. Hose** and to be sold by me.

James W. Muller-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 June 19, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

5/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1173 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of May, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that tract of land situate, lying and being on the West side of Black Horse Tavern Road, T-334, in Cumberland Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

BEGINNING at a P.K. nail located in the center line of Black Horse Tavern Road, T-334 aforesaid at Lot No. 2, lands now or formerly of Victor A. Olswfski, Sr., and as more particularly established on the subdivision plan hereinafter referred to; thence in and along the center line of Black Horse Tavern Road, T-334, South 19 degrees 9 minutes 5 seconds East, 100 feet to a P.K. nail in the center of Black Horse Tavern Road, T-334 at Lot No. 4, other lands now or formerly of Kenneth R. Hostetter; thence leaving said Black Horse Tavern Road, T-334 and through a steel reference rod set 25 feet from the beginning hereof, South 70 degrees 50 minutes 55 seconds West, 180 feet to a steel rod at lands now or formerly of Stanley R. Wolf and E. LeVaughne Wolf; thence by lands now or formerly of Stanley R. Wolf and E. LeVaughne Wolf, North 19 degrees 9 minutes 5 seconds West, 100 feet to a steel rod at lands now or formerly of Victor A. Olswfski, Sr., Lot No. 2; thence by lands now or formerly of Victor A. Olswfski, Sr., Lot No. 2 and through a steel reference rod set back 25 feet from the end hereof, North 70 degrees 50 minutes and 55 seconds East, 180 feet to a P.K. nail in the center of Black Horse Tavern Road, T-334, the point and place of BEGINNING, CONTAINING 18,000 square feet.

The above description was taken from a draft of survey and final subdivision

plan dated November 3, 1985, by Adams County Surveyors, which draft of survey and final subdivision plan was recorded on November 30, 1987, in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plat Book 48, page 67, upon which draft of survey and final subdivision plan in the above-described tract of land is labeled as Lot No. 3.

BEING the same tract of land, which Victor A. Olswfski, Sr., by his deed dated July 8, 1991, sold and conveyed unto Sharon E. Johnson and Philip C. Johnson, and recorded in the office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 593 at page 791, the grantors herein.

The above described lot of ground is subject to a uniform set of restrictions identified as Black Horse Tavern Road Restrictions which is duly recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, on July 27, 1988, in Record Book 495 at page 981, said restrictions being incorporated herein by reference thereto.

Together with the sewer and utility right of way as shown on the plan of lots recorded in Adams County Plat Book 48 at page 67, and as more specifically referred to and set out in Record Book 482 at page 224.

TITLE TO SAID PREMISES IS VESTED IN Cory R. Goff and Gretchen M. Goff, h/w, as tenants of an estate by the entireties, by Deed from Sharon E. Johnson and Philip C. Johnson, h/w, dated 10/24/2003, recorded 11/03/2003 in Book 3365, Page 287.

Tax Parcel: (09) E13-0180

Premises Being: 784 Black Horse Tavern Road, Gettysburg, PA 17325

SEIZED and taken into execution as the property of **Cory R. Goff & Gretchen M. Goff** and to be sold by me.

James W. Muller-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 June 19, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

5/8, 15 & 22

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1566 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 29th day of May, 2009, at 10:00 o'clock in the forenoon at the Sheriff's Office located in the Courthouse, Borough of Gettysburg, Adams County, PA, the following Real Estate, viz.:

ALL that certain lot or piece of ground situate in Carroll Valley Borough, County of Adams, Commonwealth of Pennsylvania, being Lot No. 29CR in Section B, more particularly bounded and described as follows:

BEGINNING at a point in the center of Swallow Trail at Lot No. 30CR; thence by said lot North 60 degrees, 44 minutes East 200 feet to Lot No. 22CR; thence by said lot South 29 degrees, 16 minutes East 100 feet to Lot No. 28CR; thence by said lot South 60 degrees, 44 minutes West 200 feet to a point in the center of said Swallow Trail; thence in said Swallow Trail North 29 degrees, 16 minutes West 100 feet to the place of BEGINNING.

Parcel No # (43) 35-98

Being known and numbered as 61 Swallow Trail, Fairfield, PA 17320.

Being the same premises which Rodney E. Helwig and Beth A. Helwig, husband and wife, by deed dated May 6, 2004 and recorded June 12, 2004 in and for Adams County, Pennsylvania, in Deed Book Volume 3563, Page 232, granted and conveyed unto David Gary Myers.

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

James W. Muller-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 June 19, 2009, and distribution will be made in accordance with said schedule, unless exceptions are filed thereto within 20 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.

5/8, 15 & 22

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 MILDRED E. LITTLE, DEC'D**

Late of Reading Township, Adams County, Pennsylvania

Co-Executors: Eugene F. Little, 2035 East Berlin Road, New Oxford, PA 17350; Theresa A. Shank, 205 Browns Dam Road, New Oxford, PA 17350

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

ESTATE OF IRVIN W. WEIGANDT, DEC'D

Late of Hamiltonban Township, Adams County, Pennsylvania

Executor: Benny M. Akers, 480 Cold Spring Rd., Gettysburg, PA 17325

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

SECOND PUBLICATION**ESTATE OF JAMES W. HARTMAN, DEC'D**

Late of Cumberland Township, Adams County, Pennsylvania

Co-Executors: James A. Hartman, 650 Observatory Drive, Lewisberry, PA 17339; George D. Hartman, 493 Eshelman Street, Highspire, PA 17034

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

ESTATE OF PATRICIA B. KIRVIN, DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executor: Donald Finnegan, 60 Brentwood Ct., Hanover, PA 17331

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

ESTATE OF THOMAS O. OYLER, JR., DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Thomas O. Oyler, III, 122 Rodes Avenue, Gettysburg, PA 17325

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

THIRD PUBLICATION**ESTATE OF JACQUELINE ANN COOK, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executrix: Denise M. Hilliard, 480 Smith Road, Gettysburg, PA 17325

Attorney: Wendy Weikal-Beauchat, Esq., 63 W. High St., Gettysburg, PA 17325

ESTATE OF WILMER K. DIEHL, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Timothy A. Diehl, 40 Rice Avenue, P.O. Box 834, Biglerville, PA 17307

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

ESTATE OF ELMER A. MITCHELL, DEC'D

Late of Mt. Joy Township, Adams County, Pennsylvania

Executrices: Betty Jean Drost, 1125 Cold Spring Rd., Baltimore, MD 21220; Patricia Ann Troxell, 500 Boyds School Rd., Apt. 101, Gettysburg, PA 17325

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

ESTATE OF BARBARA E. RIDER, DEC'D

Late of the Borough of McSherrystown, Adams County, Pennsylvania

Executrix: Angela M. Rider, 24 Shoshone Dr., Hanover, PA 17331

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

THE ADAMS COUNTY DOMESTIC RELATIONS SECTION IS MOVING

The Adams County Domestic Relations Section will be moving to their new facilities on June 2-5, 2009. The office will be closed during this period of time.

The new address will be Domestic Relations Section, 123 Baltimore Street, Gettysburg, PA 17325. It will be next door to the Courthouse, the former American Legion Building. The telephone number for the office will remain the same.

5/15, 22 & 29