

Adams County Legal Journal

Vol. 51

February 12, 2010

No. 39, pp. 259-269

IN THIS ISSUE

NATIONWIDE VS. PATTERSON ESTATE

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

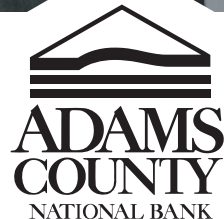
Ryan Fox
Trust Investment Manager



**Trust and investment services from
a bank with a long history of trust.**

For more information or a free
consultation, please call 717.339.5178.

Member FDIC



ADAMS COUNTY LEGAL JOURNAL (USPS 542-600)

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

Subscribers should send subscriptions direct to the business office. Postmaster: Send address changes to Adams County Legal Journal, 117 BALTIMORE ST RM 305 GETTYSBURG PA 17325-2313.

Business Office – 117 BALTIMORE ST RM 305 GETTYSBURG PA 17325-2313. Telephone: (717) 334-1553

Periodicals postage paid at Gettysburg, PA 17325.

Copyright © 1959 by Wm. W. Gaunt & Sons, Inc., for Adams County Bar Association, Gettysburg, PA 17325. All rights reserved.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1596 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 the following described real estate, situate in Hamilton Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at an iron pin, a corner of other lands of Leon R. Baker and Roseann D. Baker and Township Road 304; thence across a dirt road and by lands now or formerly of Waynesboro Water Authority South 67 degrees 23 minutes 0 seconds West 139.94 feet to a concrete marker; thence by the same North 20 degrees 31 minutes 12 seconds West formerly of Clyde Corbaugh North 2 degrees 56 minutes 14 seconds West 219.31 feet to an iron pin; thence by other recording said dirt road North 89 degrees 15 minutes 0 seconds 190.78 feet to an iron pin; thence by other lands of Leon R. Baker and Roseann D. Baker South 0 degrees 45 minutes 0 seconds East 366.18 feet to the place of BEGINNING. CONTAINING 1.607 acres more or less as, per survey of Arrowwood Inc., dated October 11, 1977 a copy of which after being approved by the Board of Supervisors of Hamilton Township on November 7, 1977.

BEING Parcel No.: I8-A12-2IE

BEING the same premises by deed from Leon R. Baker and Roseann S. Baker, husband and wife dated 06/17/94 and recorded 06/23/2004 in Book 903, Page 57, granted and conveyed unto Leon Baker, Jr., single.

BEING known as: 2335 Newman Road, Fayetteville PA 17222

SEIZED and taken into execution as the property of **Leon R. Baker, Jr.**, 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 April 30, 2010

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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1367 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 the following described tract of land, with the improvements thereon erected, situate, lying and being in the Borough of McSherrystown, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at a P.K. nail (set) on the Northern side of Main Street and lands now or formerly of Francis D. Warner; thence along said lands now or formerly of Francis D. Warner, North twenty-three (23) degrees sixteen (16) minutes twenty (20) seconds East, one hundred ninety-nine and thirty-six hundredths (199.36) feet to a steel pin (set) at a sixteen (16) foot wide public alley; thence along said sixteen (16) foot wide public alley, South seventy-one (71) degrees fifteen (15) minutes thirty-six (36) seconds East, thirty-two and sixty-seven hundredths (32.67) feet to a steel pin (set) at No. 417 Main Street of the hereinafter referred to subdivision plan; thence along said No. 417 Main Street South twenty-seven (27) degrees twenty-one (21) minutes two (02) seconds West, one hundred thirty-two and sixty hundredths (132.60) feet to a P.K. nail (set); thence along same and in and along the center of a partition wall, South nineteen (19) degrees fifty-three (53) minutes thirty-five (35) seconds West, sixty-seven and

seventy-seven hundredths (67.77) feet to a point on the northern side of Main Street; thence along the northern side of Main Street, North seventy-one (71) degrees zero (00) minutes zero (00) seconds West, twenty-seven and twenty hundredths (27.20) feet to the point and place of BEGINNING. CONTAINING 5,369 square feet and designated as No. 415 Main Street on a Final Plan prepared by Worley Surveying, for Raymond F. Staub and Blanche A. Staub, dated May 1, 1990.

SUBJECT to all applicable zoning, sewer, subdivision, or other ordinances, regulations and laws and to all applicable conditions, restrictions, easements and rights-of-way of record or apparent on or in the premises; provided, however that none of the foregoing shall be revived hereby if the same shall have expired by limitation, violation, agreement or otherwise howsoever.

TITLE TO SAID premises is vested in Susann M. Kiess, by Deed from Kevin E. Welty and Lisa Helene Welty, his wife, dated 06/30/2005, recorded 07/07/2005 in Book 4031, Page 164.

Tax Parcel: 28,005-0192---000

Premises Being: 415 Main Street, McSherrystown, PA 17344-1806

SEIZED and taken into execution as the property of **Susann M. Kiess**, 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 April 30, 2010 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.

2/12, 19 & 26

NATIONWIDE VS. PATTERSON ESTATE

1. To sustain preliminary objections it must appear with certainty that the law will not permit recovery and any doubt should be resolved by a refusal to sustain them. The court's review is confined to the contents of the complaint.

2. The purpose of the dead man's act is to prevent the injustice that would result from permitting a surviving party to a transaction to testify favorably to himself and adverse to the interest of the decedent when the representative of the decedent would be hampered in attempting to refute the testimony by reason of the death of the decedent.

3. The test for determining whether a witness's interest is adverse to the decedent is whether he will gain or lose as the direct legal operation and effect of the judgment or whether the record would be legal evidence for or against him in a separate action.

4. The Dead Man's Act applies only to oral testimony. Written evidence offered by an adverse surviving party is not rendered incompetent by the Dead Man's Act and is admissible.

5. The Act does not exclude the testimony of agents and employees of a surviving party to a transaction.

6. An action in tort has a two year statute of limitations, a contract a four year limitation, and other civil actions are subject to a six year limitation.

7. Subrogation is the substitution of one entity in the place of another with reference to a lawful claim, demand, or right, so that he who is substituted succeeds to the rights of the other in relation to the debt or claim, and its rights, remedies, or securities.

8. Limitation periods are computed from the time a cause of action accrues. A cause of action accrues when the Plaintiff could have first maintained the action to a successful conclusion.

9. However, in some situations, although the right to institute a suit may arise, a party may not, despite the exercise of due diligence, reasonably discover that he has been injured. In these situations, the discovery rule applies and the statute of limitations is tolled until the plaintiff knows, or in the exercise of reasonable diligence should have known, that he has been injured and that the injury was caused by another's conduct.

10. A plaintiff relying on the discovery rule has the burden of establishing his inability to know of the injury despite the exercise of due diligence.

11. Courts in this Commonwealth have routinely applied the discovery rule to negligent tort claims and claims brought under the UTPCPL.

12. A determination concerning the plaintiff's awareness of the injury and its cause is fact intensive and ordinarily a question for the jury to decide.

13. The tort discovery rule does not apply to breach of warranty actions. The applicable statute of limitations for breach of warranty allows an action to be brought within four years of tender of delivery of the goods.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 09-S-175, NATIONWIDE MUTUAL FIRE INSURANCE CO., AS SUBROGEE OF DOUGLASS AND MARSHA WILLIAMS VS. ESTATE OF RALPH F. PATTERSON, BY AND THROUGH ITS ADMINISTRATRIX DEBORAH LAWVER.

Steven L. Smith, Esq., for Plaintiff

Gary E. Hartman, Esq., for Defendant

Kuhn, P.J., May 7, 2009

ORDER

AND NOW, this 7th day of May, 2009, in consideration of Defendant's Preliminary Objections filed March 3, 2009 the Court enters the following:

PROCEDURAL BACKGROUND

- 1) On February 11, 2009 Plaintiff filed a Complaint against the decedent's estate, alleging negligence (Count I), breach of warranty (Count II), strict liability (Count III), negligent misrepresentation (Count IV) and violation of Pennsylvania's Unfair Trade Practices Law (UTCPL) (Count V) stemming from the purchase and installation of a pellet stove and ventilation system purchased from American Hearth.
- 2) On March 3, 2009 Defendant filed Preliminary Objections, with a brief filed March 5th, alleging that the Complaint should be dismissed because it is barred by the Dead Man's Statute and the Statute of Limitations.
- 3) Plaintiff filed a Response on March 9, 2009, with brief filed March 16, 2009.
- 4) Defendant filed a Supplemental Brief on April 15, 2009.
- 5) Plaintiff answered on April 27, 2009.

FACTUAL BACKGROUND

- 1) Plaintiff has alleged the following facts:
 - a) Plaintiff ("Nationwide") is an Ohio corporation with a principle place of business in Columbus, OH. At all times relevant to the present action, Plaintiff was conducting business in Pennsylvania, including providing fire insurance coverage to Douglas and Marsha Williams.
 - b) Decedent ("Patterson") was an adult individual residing in Gettysburg in or about March, 2001, and died on January 12, 2008. Deborah Lawver ("Lawver") is the administratrix of his estate and lives in Gettysburg, Pennsylvania.
 - c) American Hearth is a Pennsylvania Corporation with a principle place of business located in Gettysburg. At all times relevant to the action, American Hearth was in the business of selling and installing pellet stoves and their associated venting systems.

- d) In or about March, 2001, American Hearth sold the Williams a pellet stove and the associated ventilation system and contracted to install it at their home.
- e) Patterson installed the system, passing himself off as an American Hearth employee when in reality he was not.
- f) Patterson improperly installed, assembled, connected, or inspected and/or tested the system including, but not limited to, providing insufficient clearance between the vent pipe and combustible landscaping materials.
- g) On or about February 12, 2007, the Williams sustained property damage and personal injuries as a result of a fire caused by the improper installation of the system. The damages were in excess of \$100,000.00.
- h) The Williams submitted an insurance claim to Plaintiff. Plaintiff has paid, and may continue to pay, on the claim an amount exceeding \$100,000.00.
- i) Nationwide is subrogated to the rights of its insured and may pursue recovery of payments from any and all responsible third parties.

ISSUES

- 1) Whether Plaintiff's complaint should be dismissed because the allegations cannot be established without violating the Dead Man's Act.
- 2) Whether the complaint should be dismissed because it was filed after the expiration of the Statute of Limitations.

CONCLUSIONS OF LAW

- 1) The Complaint should not be dismissed because the allegations violate the Dead Man's Act.
- 2) Count II, Breach of Warranty, should be dismissed because it was filed beyond the statute of limitations; the remaining counts should not be dismissed for violating the statute of limitations.

DISCUSSION

In ruling on Preliminary Objections the court must accept as true all well-pleaded material allegations as well as inferences reasonably deduced from them. *Envirotest Partners v. Dept. of Transp.*, 664 A.2d 208 (Conn. Ct. 1995). The Court need not accept as true conclusions of law, unwarranted inferences from facts, argumentative

allegations, or expressions of opinion. *Id.* To sustain preliminary objections it must appear with certainty that the law will not permit recovery and any doubt should be resolved by a refusal to sustain them. *Id.* The court's review is confined to the contents of the complaint. *In Re Adoption of S.P.T.*, 783 A.2d 779, 782 (Pa. Super. 2001). The court may not consider any evidence or facts outside the four corners of the pleadings. *Id.* The relative merits of the complaint have no bearing on the disposition of the matter. *Id.*

Preliminary objections are governed by Pa. R. Civ. P. 1028. Although Defendant does not specify which subsection of Rule 1028 it is bringing this motion under, since it is alleging the suit is barred by statute, it is reasonable to conclude the objections are brought under Rule 1028(a)(4), legal insufficiency of a pleading (demurrer).

Defendant's first preliminary objection is brought pursuant to the Dead Man's Act, 42 Pa.C.S.A. § 5930. The Dead Man's Act provides, rather unclearly,

Except as otherwise provided in this subchapter, in any civil action or proceeding, where any party to a thing or contract in action is dead...and his right thereto or therein has passed, either by his own act or by the act of the law, to a party on the record who represents his interest in the subject in controversy, neither any surviving or remaining party to such thing or contract, nor any other person whose interest shall be adverse to the said right of such deceased...party, shall be a competent witness to any matter occurring before the death of said party...unless the action or proceeding is by or against the surviving or remaining partners, joint promisors or joint promisees, of such deceased...party, and the matter occurred between such surviving or remaining partners, joint promisors or joint promisees and the other party on the record, or between such surviving or remaining partners, promisors or promisees and the person having an interest adverse to them, in which case any person may testify to such matters...¹

¹ The Dead Man's Act applies to personal injury tort actions. *Kuhns v. Brugger*, 135 A.2d 395, 402 (Pa. 1957) ("Under the Act of 1887, supra-applicable to trespass actions, including actions to recover damages for personal injuries..."). The Act of 1887 is an earlier enactment of the Dead Man's Act. *Thomas v. Tomay*, 147 A.2d 321, 325 (Pa. 1959) (applying the Dead Man's Act in a tort action).

Defendant alleges that the Dead Man's Act effectively states that "where...there is an act or statement that was made by one who is deceased now, any party with an adverse interest in the matter is incompetent as a witness to the act or statement." **Defendant's Brief, Pg. 2.** Defendant asserts that the only witnesses available to testify in this matter are the owners/employees of American Hearth and the Williams. Defendant claims these parties all stand to gain or lose as a direct result of any judgment entered and therefore are incompetent to testify. Defendant asserts that Plaintiff cannot establish that Patterson improperly held himself out as an employee of American Hearth or that he improperly installed the system without violating the Dead Man's Act.

Plaintiff counters that Mr. and Mrs. Williams have no interest in the litigation and therefore the Dead Man's Act does not apply to them. Specifically, Plaintiff alleges that the Williams have already been paid for the damage and therefore have no financial interest. Plaintiff further contends that Patterson's testimony would not be necessary to the suit because it can be proven through a non-party, American Hearth, that the Williams purchased the system through American Hearth and contracted for its installation. Further, Plaintiff asserts that business records of American Hearth can show that installation was assigned to Patterson. Additionally, Plaintiff claims the condition of the property can be testified to by the Williams because they are the owners and nothing in the Dead Man's Act prevents a property owner from testifying about the condition of the property. Finally, Plaintiff alleges that any issue pertaining to conversations between the Williams and decedent regarding decedent's relationship with American Hearth can be discovered with testimony concerning conversations held between the Williams and American Hearth.

Superior Court has held:

The purpose of the dead man's act is to prevent the injustice that would result from permitting a surviving party to a transaction to testify favorably to himself and adversely to the interest of the decedent when the representative of the decedent would be hampered in attempting to refute the testimony by reason of the death of the decedent...The theory is that because the decedent's representative is unable to present evidence regarding the

transaction, the other party to the transaction should be similarly restricted. The rule is inapplicable, however, when the witness does not have an interest in the outcome of the proceeding, for in that case the witness would have no reason to misrepresent his dealing with the decedent.

Visscher v. O'Brien, 418 A.2d 454, 458 (Pa. Super. 1980). For a witness to be disqualified from testifying under the statute, the “deceased must have had an actual right or interest in the matter at issue, the interest of the witness, not simply the testimony, must be adverse to that of the decedent; and a right of the deceased must have passed to a party of record who represents the deceased’s interest.” *Olson v. North American Industrial Supply, Inc.*, 658 A.2d 358, 364 (Pa. Super. 1995). The test for determining whether a witness’s interest is adverse to the decedent is whether he will gain or lose as the direct legal operation and effect of the judgment or whether the record would be legal evidence for or against him in a separate action. *In the Matter of Kulbitsky*, 536 A.2d 458, 461 (Pa. Commw. 1988). Because competency of a witness is the rule and incompetency the exception, courts construe the Dead Man’s Act narrowly. *Mt. Airy Insurance Co. v. Angst & Associates*, 954 F.Supp. 1040, 1043 (E.D.P.A. 1997).

Initially, I note that the “Dead Man’s Act applies only to oral testimony. Written evidence offered by an adverse surviving party is not rendered incompetent by the Dead Man’s Act and is admissible.” *Larkin v. Metz*, 580 A.2d 1150, 1153 (Pa. Super. 1990). Therefore, any business records Plaintiff seeks to admit demonstrating the existence of an assignment of installation duties from American Hearth to decedent would not be made inadmissible by the Dead Man’s Act. Additionally, records of American Hearth showing the number of hours and day the work occurred would also not be rendered inadmissible by the Dead Man’s Act.

Furthermore, the Williams are not an interested party and therefore their testimony is not prohibited by the Dead Man’s Act. “Specifically, the application of the Dead Man’s Rule requires that the interest of the proposed witness be adverse to the interest of the decedent’s estate.” *Punxsutawney Municipal Airport Authority v. Lellock*, 745 A.2d 666, 670 (Pa. Super. 2000). To be adverse, the proposed witness must either gain or lose as a direct legal operation

and effect of the judgment. *Gibbs v. Herman*, 714 A.2d 432, 436 (Pa. Super. 1998). The evidence suggests that the Williams do not meet this test. Plaintiff alleges that the Williams have already been paid for damages as a result of the fire and will continue to be paid. The allegations allege that payment is not dependent on whether or not Plaintiff is able to obtain indemnification from decedent's estate. Defendant has offered nothing to suggest that the Williams are going to benefit or lose if their insurer is able to recover from decedent's estate the amounts which were paid out under the policy. Therefore, because the evidence viewed in a light most favorable to the Plaintiff indicates that the outcome of this matter will have no effect on whether or not the Williams' claims continue to be covered, they are not interested parties and therefore their testimony is not prohibited by the Dead Man's Act.²

In its Supplemental Brief, Defendant claims the Williams will directly benefit because of a \$50,000 claim filed against decedent's estate. Defendant alleges that the Williams' claims against the estate are dependent on the same facts, law, and outcome, and the record in this case "could, and will, become legal evidence for or against the Estate of" decedent. This issue is irrelevant to the discussion sub judice unless or until the cases would be consolidated for trial.

Even if the Dead Man's Act prohibits the Williams from testifying, dismissal of the action is not appropriate because testimony from American Hearth employees may not be prohibited by the Act. "[T]he Act does not exclude the testimony of agents and employees of a surviving party to a transaction." *Mt. Airy Insurance Co.*, 954 F.Supp. at 1044. It is unclear at this point what relationship decedent had with American Hearth. Looking at the evidence in a light most favorable to the Plaintiff, decedent had some form of relationship with American Hearth (perhaps as an agent); therefore the testimony

² The Court recognizes that were this suit brought by the Williams against the Estate, the Dead Man's Act might preclude testimony from the Williams. In the matter sub judice, the Plaintiff has acquired the Williams' right to sue. It does not appear to this Court to be good policy to allow the Plaintiff to acquire the Williams' right to sue and, in turn, present testimony the Williams could not present. Such a circumstance seems to make a mockery of the policy behind the Dead Man's Act because one could simply assign his rights to the cause of action to another and allow the latter to do his bidding. However, neither party has presented authority concerning the application of the Dead Man's Act in the case of subrogation or assignment and the Court's research has not discovered any.

of surviving employees of American Hearth would not be prohibited. There is simply not enough information on the record at this point to determine what the relationship was, if any, between decedent and American Hearth and therefore dismissing the complaint would be inappropriate at this time.³

As indicated from the discussions above, there is not enough evidence on record to conclusively establish whether any of the testimony Plaintiff plans to offer to prove its case will be prohibited by the Dead Man's Act. Discovery has not been had in this matter and the exact relationship between the parties is not clear. Therefore, Defendant's first preliminary objection is overruled.

Defendant's second preliminary objection is that the Complaint is barred by the statute of limitations. Plaintiff's Complaint alleges negligence, breach of warranty, strict liability, negligent misrepresentation, and a violation of the UTPCPL. These may be classified as contract and tort claims. An action in tort has a two year statute of limitations, **42 Pa.C.S.A. § 5524**,⁴ contract a four year limitation, **42 Pa.C.S.A. § 5525**,⁵ and other civil actions are subject to a six year limitation. **42 Pa.C.S.A. § 5527**.⁶

The alleged improper installation by decedent occurred in 2001 and the Complaint was not filed until February 11, 2009. However, the fire did not allegedly occur until February 12, 2007. If the statute of limitations commenced in 2001, the time of the alleged negligent

³The Court notes that there is perhaps a Rule 1019 issue because Plaintiff has failed to attach any writings upon which the Complaint is based. However, Defendant has not raised that issue and therefore the Court will not address it.

⁴Negligence, Negligent Misrepresentation, and Strict Liability claims are all actions in Tort; therefore the applicable statute of limitations is two years. **42 Pa.C.S.A. § 5524(7)** ("The following actions and proceedings must be commenced within two years:...(7) Any other action or proceeding to recover damages for injury to person or property which is founded on negligent, intentional, or otherwise tortious conduct..."). Although Defendant alleges Negligent Misrepresentation is a contract claim, courts have applied the two year limitation period to Negligent Misrepresentation claims. *Toy v. Metropolitan Life Ins. Co.*, 863 A.2d 1, 9 (Pa. Super. 2004).

⁵A breach of warranty claim is covered by a four year statute of limitations. *Williams v. West Penn Power Co.*, 467 A.2d 811, 813 (Pa. 1983) (holding that the four-year statute of limitations provided in the Uniform Commercial Code is applicable to all breach of warranty claims, including those for personal injury. Thus, the four year limitations period for breach of warranty is applicable even if an action involves a tort related claim.)

⁶This "catch all" limitation period applies to actions under the UTPCPL. *Lesoon v. Metropolitan Life Ins. Co.*, 898 A.2d 620, 627 (Pa. Super. 2006).

act, the limitations period has passed and the suit is barred. If, however, the limitation period commenced on the date of the alleged malfunction or display of defect, then none of three aforementioned limitations periods have passed and the suit is not time barred.

Initially, the Plaintiff in this action is a subrogee of a non-party. “Subrogation is the ‘substitution of one [entity] in the place of another with reference to a lawful claim, demand, or right, so that he who is substituted succeeds to the rights of the other in relation to the debt or claim, and its rights, remedies, or securities.’” *Public Service Mutual Ins. Co. v. Kidder-Friedman*, 743 A.2d 485, 488 (Pa. Super. 1999). Therefore, Plaintiff has the same rights as the Williams, and if the statute of limitations has passed for the Williams, it has passed for Plaintiff.

Limitation periods are computed from the time a cause of action accrues. *Fine v. Checcio*, 870 A.2d 850, 857 (Pa. 2005). A cause of action accrues when the Plaintiff could have first maintained the action to a successful conclusion. *Id.* Once a cause of action has accrued and the statutory period has run, an injured party is barred from bringing a cause of action. *Id.*

However, in some situations, although the right to institute a suit may arise, a party may not, despite the exercise of due diligence, reasonably discover that he has been injured. *Toy v. Metropolitan Life Ins. Co.*, 863 A.2d 1, 7 (Pa. Super. 2005). In these situations, the discovery rule applies and the statute of limitations is tolled until the plaintiff knows, or in the exercise of reasonable diligence should have known, that he has been injured and that the injury was caused by another’s conduct. *Id.* The purpose of the discovery rule is to exclude from the running of the statute of limitations the period of time which an injured party has not suffered an immediately ascertainable injury and is reasonably unaware he has been injured so that he has essentially the same rights as one who has suffered such an injury. *Fine*, 870 A.2d at 858. A plaintiff relying on the discovery rule has the burden of establishing his inability to know of the injury despite the exercise of due diligence. *Toy*, 863 A.2d at 7.

When the court is presented with the assertion of the discovery rule, it must address the ability of the damaged party, exercising reasonable diligence, to ascertain that he has been injured and by what cause. *Fine*, 870 A.2d at 859. “Since the question involves a factual

determination as to whether a party was able, in the exercise of due diligence, to know of his injury and its cause, ordinarily, a jury is to decide it. Where, however, reasonable minds would not differ in finding that a party knew or should have known...of his injury and its cause...the discovery rule does not apply as a matter of law.” *Id.* at 858-59. “[T]he discovery rule applies to toll the statute of limitations in any case where a party neither knows nor reasonably should have known of his injury and its case at the time his right to institute suit arises.” *Id.* at 859.

Courts in this Commonwealth have routinely applied the discovery rule to negligent tort claims (see *Fine and Toy*) and claims brought under the UTPCPL (*Lesoon v. Metropolitan Life Ins. Co.*, 898 A.2d 620, 627 (Pa. Super. 2006)). At this stage in the proceedings it would be inappropriate to dismiss the Complaint based on a violation of the statute of limitations. Discovery has not been conducted and this Court cannot possibly determine whether Plaintiff or the Williams acted with reasonable diligence. Whether Plaintiff or the Williams knew, or should have known, of the alleged faulty product and installation is a factual determination that cannot be decided until additional facts are placed on the record. A determination concerning the plaintiff’s awareness of the injury and its cause is fact intensive and ordinarily a question for the jury to decide. *Wilson v. El-Daief*, 964 A.2d 354, 362 (Pa. 2009). There are simply not enough facts present to make this determination.

However, despite *Fine’s* blanket application of the discovery rule to all matters, it does not apply to the breach of warranty claim. “[T]he tort discovery rule does not apply to breach of warranty actions.” *Northampton County Area Community College v. Dow Chemical, U.S.A.*, 566 A.2d 591, 599 (Pa. Super. 1989). The applicable statute of limitations for breach of warranty allows an action to be brought within four years of tender of delivery of the goods. *Id.* Tender of the stove and ventilation system was sometime in 2001 and therefore the limitations period would have expired in 2005. A plaintiff cannot benefit under the discovery rule in a breach of warranty claim. *Connaught Laboratories, Inc. v. Lewis by Lewis*, 557 A.2d 40, 43 (Pa. Commw. 1989). There is an exception to this rule for latent real estate construction defects, however, that is not applicable here since Plaintiff does not allege that the installation and purchase of the

stove and ventilation system occurred during construction of the premises. Accordingly, Plaintiff's claim under breach of warranty is time barred.

Therefore, Defendant's second preliminary objection is granted with respect to the breach of warranty claim and denied with respect to the other claims.

Accordingly, Defendant's preliminary objections are granted in part, denied in part. Count II of the Complaint, Breach of Warranty, is dismissed.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1478 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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, with any improvements thereon erected, situate, lying and being in Tyrone Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in Route No. 234, said point being South 79 degrees 30 minutes West, 240 feet, more or less, from the end of the North 70-1/2 degrees East, 32 perch line of Deed recorded in Deed Book 197 at page 321, and at land now or formerly of Rissler; thence by said Rissler lands passing through a steel pin set 25.00 feet from place of Beginning, South 10 degrees 30 minutes East, 435.60 feet to a steel pin; thence by same, South 79 degrees 30 minutes West, 100.00 feet to a steel pin; thence by same, North 10 degrees 30 minutes West, 435.60 feet passing through a steel pin 25.00 feet from next mentioned point, to a point in aforesaid Route No. 234; thence in and along said Route No. 234, North 79 degrees 30 minutes East, 100.00 feet to a point, the place of BEGINNING.

The above description was taken from a draft of survey prepared by J. H. Rife, R.E., dated January 5, 1973.

TITLE TO SAID PREMISES IS VESTED IN David T. Batts and Heather R. Batts, h/w, by Deed from Virginia A. Livingston, widow, dated 03/27/2007, recorded 04/03/2007 in Book 4791, Page 145.

Tax Parcel: 40, H07-0079-000

Premises Being: 2503 Heidlersburg Road, Gettysburg, PA 17325-7620

SEIZED and taken into execution as the property of **David T. Batts & Heather R. Batts**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1633 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 Reading Township, County of Adams, Commonwealth of Pennsylvania, as more fully described in Deed Book 3609, Page 258, ID# 1239, being known and designated as Lot 922: Lake Meade Subdivision, filed in Plat Book 1, Page 6, metes and bounds property. Described AS Lot 992 on a plan of lots of Lake Meade Subdivision which PLAN IS DULY entered and APPEARING of record in the Office of the Recorder of Deeds in and for Adams County Pennsylvania. In Misc., Deed Book 1, Page 6 Deed from Lisa M. Bechtel Lisa M. Williams and Warren L. Bechtel as set forth in Deed Book 3609, Page 258 dated June 7, 2004 and recorded August 17, 2004, Adams County Records. Commonwealth of Pennsylvania.

BEING the same premises by deed from Lisa M. Bechtel, f/k/a Lisa M. Williams and Warren L. Bechtel dated: 06/07/2004 and recorded 06/17/2004 on Book 3609 Page 258. Granted and conveyed unto Lisa M. Bechtel.

TAX PARCEL No.: 12-39

BEING known as: 13 Halleck Drive, East Berlin, PA 17316

SEIZED and taken into execution as the property of **Lisa Marie Bechtel**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1536 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 in Carroll Valley Borough, County of Adams, Commonwealth of Pennsylvania, being known as Lot No. 133, in Section R1, more particularly bounded and described as follows:

BEGINNING at a point in the center of Kramer Trail at Lot No. 132: thence by said lot North 2 degrees 37 minutes 20 seconds East 225 feet to Lot No. 128: thence by said lot South 87 degrees 22 minutes 40 seconds East 100 feet to Lot No. 134; thence by said lot South 2 degrees 37 minutes 20 seconds West 225 feet to a point in the center of said Kramer Trail: thence in said Kramer Trail North 87 degrees 22 minutes 40 seconds West 100 feet to the place of BEGINNING.

BEING known as: 4 Peach Tree Trail, Fairfield, Pennsylvania 17320.

Title to said premises is vested in Shawn M. Burns and Cindi D. Burns by deed from Brain D. Carson, a single man, dated October 21, 2005 and recorded November 1, 2005 in Deed Book 4189, Page 26 Instrument 200500023515.

TAX ID.: 43-041-0008-000

SEIZED and taken into execution as the property of **Shawn M. Burns & Cindi D. Burns**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1686 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 situated, lying and being in Cumberland Township, Adams County, Pennsylvania, being known as Unit No. 10 in Roselawn, a planned community, more particularly bounded and described in the as built house location plan dated May 14, 2003 and recorded 9-17-03 in the Office of the Recorder of Deeds for Adams County, Pennsylvania in miscellaneous drawer, Record Book 3302 at Page 6 and the declaration plan relating to Roselawn, a planned residential community, recorded on June 18, 2002 in the Office of the Recorder of Deeds for Adams County, Pennsylvania, in Record Book 2702 at Page 326, and the declaration plat recorded in the aforementioned declaration plan as exhibit 'nd' and recorded in the office of the Recorder of Deeds for Adams County, Pennsylvania in the miscellaneous drawer as set forth in plan Book 76 at Page 51 which unit includes an undivided interest in the common expenses as defined and provided for in said declaration all as amended which amendment is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 2948 at Page 29. Together with the right to use and enjoyment of the common elements as defined and provided for in said declaration. Subject nevertheless to conditions and covenants contained in the said declaration and exhibits thereto as well as the bylaws for the Roselawn Homeowners Association, Inc. recorded June 18, 2002 in the Office of the Recorder of Deeds for Adams County, Pennsylvania in Record Book 2703 at Page 1.

BEING KNOWN AS: 8 Dinwiddie Track a/k/a 8 Dinwiddie Court, Unit No. 10 Gettysburg, PA 17325

PROPERTY ID No. : 09-F12-0239

Title to said premises is vested in David H. Corradetti and Kimberly Corradetti, as sole owners by deed from Roselawn L.L.C., a Maryland limited liability company dated 6/19/03 recorded 9/17/03 in Deed Book 3302 Page 6.

SEIZED and taken into execution as the property of **David H. Corradetti & Kimberly S. Corradetti**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1360 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 Oxford Township, Adams County, bounded and described as follows:

BEGINNING at a point near the centerline of Storms Store Road at Lot No 5 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 5 North thirty-five (35) degrees thirty-seven (37) minutes forty-seven (47) seconds West, twenty-four and thirty-two hundredths (24.32) feet to an iron pin set on the 25 foot dedicated right-of-way line of Storms Store Road; thence continuing along Lot No. 5 North thirty-five (35) degrees thirty-seven (37) minutes forty-seven (47) seconds West, two hundred fifty-six and zero hundredths (256.00) feet to a point at Lots No 30 and 29 as shown on the hereinafter referenced subdivision plan; thence running along Lot No 29 North fifty-four (54) degrees twenty-nine (29) minutes thirty-six (36) seconds East, one hundred fifteen and zero hundredths (115.00) feet to a point at Lots No 28 and 7 as shown on the hereinafter referenced subdivision plan; thence running along Lot No. 7 South thirty-five (35) degrees thirty-seven (37) minutes forty-eight (48) seconds East, two hundred fifty-five and seventy-four hundredths (255.74) feet to an iron pin set on the 25 foot dedicated right-of-way line of Storms Store Road South thirty-five (35) degrees thirty-

seven (37) minutes forty-eight (48) seconds East, twenty-four and fifty hundredths (24.50) feet to a point near the centerline of Storms Store Road; thence running in Storms Store Road South fifty-four (54) degrees twenty-seven (27) minutes (23) seconds West, one hundred fifteen and zero hundredths (115.00) to an iron pin set near the centerline of Storms Store Road at Lot No. 5 the point and place of BEGINNING. CONTAINING 32,232 square feet. The above description being Lot No. 6 on the final subdivision plan for Simme Valley Estates-Phase 2, by Byers & Runyon Surveying dated March 19, 2003, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 85 at Page 55.

TITLE TO SAID premises is vested in David S. Poling and Deborah S. Poling, h/w, as tenants by the entireties, by deed from Palmer Development Group, Inc., a Pennsylvania Corporation and New Age Associates, Inc., a Pennsylvania Corporation, dated 12/15/2004, recorded 12/28/2004 in Book 3818, Page 215. Note: Deed of Correction. Previous deed contained incorrect footage for two courses.

Tax Parcel: 35-J12-0208-000

PREMISES BEING: 2008 Storms Store Road, Simme Valley Estates, New Oxford, PA 17350-9541

SEIZED and taken into execution as the property of **David S. Poling & Deborah S. Poling**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1624 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 of ground situate lying and being in Union Township, Adams County, Pennsylvania, bounded and limited as follows:

BEGINNING for a corner at a point in the center of Township Road No. T-459 (commonly referred to as Bails Church Road) at Lot No. 11 on the hereinafter referred to subdivision plan; thence along the centerline of said Township Road No. T-459, North 12 degrees 29 minutes 52 seconds West 193.54 feet to a point in the center of said Township Road T-459 and land now or formerly of Edward H. Zumbrum as shown on said subdivision plan; thence along Zumbrum's land and land now or formerly of Gary L. Mummert, North 55 degrees 43 minutes East 413.12 feet to an iron pin; thence South 29 degrees 17 minutes 10 seconds East 359.34 feet to an iron pin at Lot No. 11; thence along Lot No. 11, South 77 degrees 10 minutes 8 seconds West 487.42 feet to a point in the center of said Township Road T-459, the point and place of BEGINNING. CONTAINING 2.760 acres of land.

BEING the same premises Angelo Grandinetti, Jr. by deed from Peyton L. Pool and Brenda K. Pool, husband and wife dated: 2/26/08 and recorded: 3/3/08 in Book 5126 Page 146 granted and conveyed unto Angelo Grandinetti, Jr.

TAX PARCEL No: (41) K17-0077 C

KNOWN AS: 450 Barts Church Road, Hanover, PA 17331

SEIZED and taken into execution as the property of **Angelo Grandinetti, Jr.**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1347 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 or parcel of land situate in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot 302 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, Pennsylvania in Plat Book 1, Page 1, and subject to all legal highways, easements, rights-of-way, and restrictions of record.

UNDER AND SUBJECT to all the restrictions, conditions, and agreements as set forth in the deed from Lake Meade, Inc. to Elmer N. Myers and Janet B. Myers, his wife, dated June 28, 1967 and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Record Book 302, Page 950.

PARCEL ID No: 37-014-0038-000

TITLE TO SAID premises is vested in Kim E. Houser, by Deed from Tenny Baer, a Pennsylvania General Partnership, dated 12/09/2004, recorded 12/16/2004 in Book 3808, Page 37.

PROPERTY KNOWN AS 523 Lake Meade Drive, East Berlin, PA 17316

SEIZED and taken into execution as the property of **Kim Houser**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-303 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 situated, lying and being in Carroll Valley Borough, formerly Liberty Township, Adams County, Pennsylvania, being known as Lot No. 51 in Section A, more particularly bounded and described as follows:

BEGINNING at a point in Hilltop Trail at Lot No. 50; thence by said lot, North 01 degree 33 minutes 20 seconds West, 250 feet to Lot No. 62; thence by said lot, North 88 degrees 26 minutes 40 seconds East, 100 feet to Lot No. 52; thence by said lot, South 01 degree 33 minutes 20 seconds East, 250 feet to a point in the center of said Hilltop Trail; thence in said Hilltop Trail, South 88 degrees 26 minutes 40 seconds West, 100 feet to the place of BEGINNING.

BEING known as Parcel No. 023-0023

BEING known as: 24 Hilltop Trail, Fairfield, PA 17320.

BEING the same premises which Ernest E. Fannin, Jr. a/k/a Ernest Fannin and Christy M. Fannin, husband and wife, by Deed dated March 30, 2007 and recorded on April 5, 2007 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Book 4794, Page 9, sold and conveyed unto Ernest E. Fannin, Jr. a/k/a Ernest Fannin.

SEIZED and taken into execution as the property of **Ernest Fannin, Jr. & Christy M. Fannin**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-828 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 the following described tract of real estate lying and being situate in Borough of Littlestown, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point on the right of way line of South Gala and corner of Lot No. 440 of the hereinafter referred to subdivision plan; thence along Lot No. 440, South 60 degrees 03 minutes 07 seconds East, 120.18 feet to a point along lands now or formerly owned by David S. Weinberg, et al., designated as Appler-Phase II, Future Development, said point also being in a 5 feet wide pedestrian easement; thence along said land now or formerly of David S. Weinberg, et al., and in and along said pedestrian easement, South 45 degrees 37 minutes 43 seconds West, 20.77 feet to a point at corner of Lot No. 442 of the hereinafter referred to subdivision plan; thence along Lot No. 442, North 60 degrees 03 minutes 07 seconds West, 114.56 feet to a point on the right of way line of South Gala, aforesaid; thence along the right of way line of South Gala, North 29 degrees 56 minutes 53 seconds East, 20.00 feet to the point and place of beginning.

BEING designated as Lot No. 441 on subdivision plan of Appler Development prepared by Group Hanover, Inc. as revised, Project No. 951674, which said plan is recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Plan Book 72, Page 23.

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

TITLE TO SAID premises is vested in Robert J. Grill and Connie L. Grill, h/w, by Deed from Robert J. Grill and Connie L. Grill, t/k/a, Connie L. Gorleski, h/w, dated 09/22/2005, recorded 09/28/2005 in Book 4143, Page 57.

Parcel #: 27-004-0092

Premises Being: 105 South Gala Court, Littlestown, PA 17340-1153

SEIZED and taken into execution as the property of **Robert J. Grill & Connie L. Grill a/k/a Connie L. Gorleski t/k/a Connie Lee Gorleski**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-156 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 with the buildings and improvements thereon erected, situate in Conewago Township, Adams County, Pennsylvania, and described according to a survey made by Donald W. Resh, Registered Surveyor, on July 24, 1954:

BEGINNING at a point on the Northerly side of Diller Road at a corner of Lot No. 10 on Plan of Conewago Acres, at the distance of two hundred sixty (260) feet measured south eighty-eight (88) degrees two (02) minutes East along the said side of Diller Road from the Easterly side of Lincoln Drive; thence extending along Lot No. 10, North one (1) degree fifty-eight (58) minutes East, one hundred fifty-three and twelve hundredths (153.12) feet to a point for a corner at Myers Memorial Playground; thence extending along said lands South eighty-eight (88) degrees two (02) minutes East, sixty (60) feet to a point at Lot No. 8; thence extending along said Lot No. 8, South one (01) degree fifty-eight (58) minutes West, one hundred fifty-three and twelve hundredths (153.12) feet to a point on the Northerly side of Diller Road; thence extending along said side of Diller Road North eighty-eight (88) degrees two (02) minutes West, sixty (60) feet to first mentioned point and place of BEGINNING. BEING known as Lot No. 9 on Plan of Conewago Acres.

1. The tract of land hereby conveyed shall be used for residential purposes only and no residences shall be erected

thereon unless the exterior surfaces thereof shall be of brick, stone or clapboard construction, or any combination of such materials.

2. No structures or improvements of any kind shall be erected upon the tract of land hereby conveyed within thirty (30) feet of the street line of Diller Road or Lincoln Drive, nor within five (5) feet of the boundaries between the tract of land hereby conveyed and the land adjoining thereto on either side.

TITLE TO SAID premises is vested in Lonney L. Stambaugh, single person, by Deed from Lonney L. Stambaugh, single person and Carolyn Rode, single person, dated 05/24/2007, recorded 06/01/2007 in Book 4856, Page 304.

Tax Parcel: 08-009-0078-000

Premises Being: 317 Diller Road, Hanover, PA 17331-4902

SEIZED and taken into execution as the property of **Lonney L. Stambaugh**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1811 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 on the north side of Third Street in the Village of Midway, Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING at a stake for a corner on Third Street, formerly the Hanover & McSherrystown Turnpike at corner of lot now or formerly of George Bunty; thence with said lot now or formerly of George Bunty in a northward direction 200 feet to a stake for a corner at line of a 20 foot wide alley; thence westward along said alley 30 feet to corner of lot now or formerly of Jeremiah Millheim; thence along said lot now or formerly of Jeremiah Millheim southward 200 feet to said Third Street; thence eastward along said Third Street 30 feet to the place of beginning.

BEING known as: 363 3rd Street a/k/a 363 Third Street, Hanover (Conewago Township), PA 17331

Property ID No: (8) 08-0197

TITLE TO SAID premises is vested in Robert E. Warner and Brenda J. Warner, husband and wife, as tenants by the entireties by deed from Bernard F. Aumen, Jr. and Bernadette E. Aumen, husband and wife dated 5/31/07 recorded 6/5/07 in Deed Book 4861 Page 64.

SEIZED and taken into execution as the property of **Robert E. Warner & Brenda J. Warner**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-794 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 Gettysburg Borough, County of Adams, Commonwealth of Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a drill hole on the South side of East Middle Street in the Borough of Gettysburg at corner of Lot No. 2 on the hereinafter referred to draft of survey; thence by said Lot No. 2 South 06 degrees 07 minutes West, 180.03 feet to a steel rod on the North side of 12-foot public alley known as Legion Alley East; thence along the North side of said alley North 85 degrees 00 minutes 00 seconds West, 36 feet to a steel rod at lands now or formerly of Joseph Dougherty; thence by said lands North 06 degrees 07 minutes 00 seconds East, 180.03 feet to a drill hole on the South side of East Middle Street; thence along the South side of said East Middle Street South 85 degrees 00 minutes 00 seconds East, 36 feet to the place of BEGINNING. CONTAINING 6,480 Square Feet.

SAID description was taken from a draft of survey dated May 22, 2002, by Adams County Surveyors and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania in Plat Book 83 at Page 22, designating the above as Lot No. 1 thereon.

TITLE TO said premises is vested in Aaron L. Smith, by Deed from Kevin G. Peart, joined by his wife, Stefanie Peart, dated 11/10/2006, recorded 11/13/2006 in Book 4639, Page 260.

Tax Parcel: 16, 010-0138---000

Premises Being: 119 East Middle Street, Gettysburg, PA 17325-1918

SEIZED and taken into execution as the property of **Aaron L. Smith**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-370 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 partly in the Borough of Bendersville, Adams County Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point on the West curb line of Main Street at corner of land now or formerly of John W. Black and wife; thence by said land now or formerly of John W. Black and wife and running through a steel pin located 10 feet from said curb line South 75 degrees 45 minutes West 125 feet a steel pin; thence South 27 degrees East 96.9 feet to a steel pin; thence North 71 degrees 45 minutes East 103.86 feet to a crack in the sidewalk; thence along the West curb line of Main Street North 14 degrees 15 minutes West 87.25 feet to a point at the place of BEGINNING.

BEING known as: 131 South Main Street, Bendersville, PA 17306

PROPERTY ID: (03) 004-0066-000

Title to said premises is vested in Jeffrey C. Taylor, a single individual by deed from D. Grayson Taylor and Connie R. Taylor, husband and wife dated 8/23/2001 recorded 8/23/2001 in Deed Book 2384 Page 0296.

SEIZED and taken into execution as the property of **Jeffrey Taylor a/k/a Jeffrey C. Taylor**, 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 April 30, 2010 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.

2/12, 19 & 26

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 SAMUEL F. COOL, SR., DEC'D

Late of Highland Township, Adams County, Pennsylvania

Co-Executors: Samuel F. Cool, Jr., 935 Mt. Hope Road, Fairfield, PA 17320; Bradley S. Cool, 895 Knoxlyn Road, Gettysburg, PA 17325

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325

ESTATE OF JOHN D. EVANS, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Doris D. Evans, 51 Bristol Dr., Hanover, PA 17331

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

ESTATE OF RICHARD D. GILBERT, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Donald A. Gilbert, 37 Water Street, Fairfield, PA 17320

Attorney: Robert E. Campbell, Esq., Campbell & White, P.C., 112 Baltimore Street, Suite 1, Gettysburg, PA 17325-2311

ESTATE OF CHARLES M. KRISE, DEC'D

Late of Littlestown Borough, Adams County, Pennsylvania

Executrix: Ms. Sonia L. Oaster, 12120 Glenbauer Road, Kingsville, MD 21087

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

ESTATE OF ROBERT C. MULLEN, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Mark M. Mullen, 1360 Columbia Drive, Apt. D, Hershey, PA 17033

SECOND PUBLICATION

ESTATE OF WILLIAM R. ALDER, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executrix: Lori Martin, 145 Sachs Road, Gettysburg, PA 17325

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

ESTATE OF ANNE MARIE AVERSA, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Cecilia Burkle Jankura, 72 Covered Bridge Road, Newburg, PA 17240

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

ESTATE OF CLARA MARGARET COLLINS, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Donald E. Collins, 1900 Fish & Game Road, Littlestown, PA 17340

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

ESTATE OF FRANCES L. IRVIN, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Harry P. Irvin, 245 Milltenberger Road, Orrtanna, PA 17353

Attorney: Gary J. Heim, Esq., Persun & Heim, P.C., 1700 Bent Creek Boulevard, Suite 160, Mechanicsburg, PA 17050

ESTATE OF SHARON A. LASHER A/K/A SHARON ALICE LASHER, DEC'D

Late of Germany Township, Adams County, Pennsylvania

Administrator: Norma Sapp, 1264 Fish & Game Road, Littlestown, PA 17340

Attorney: Donald W. Dorr, Dorr Law Office, 846 Broadway, Hanover, PA 17331

ESTATE OF VITO A. SCRIPTUNAS, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Executor: Neil Scriptunas, 225 Baltic St. #3F, Brooklyn, NY 11201

ESTATE OF STANLEY E. SPRANKLE, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executrix: Jean E. Sprankle, c/o R. Thomas Murphy & Associates, P.C., 2005 East Main Street,

Waynesboro, PA 17268

Attorney: R. Thomas Murphy, Esq., R. Thomas Murphy & Associates, P.C., 2005 East Main Street, Waynesboro, PA 17268

ESTATE OF ZELMA K. TAYLOR, DEC'D

Late of Arendtsville Borough, Adams County, Pennsylvania

Executor: James R. Taylor, 840 Prospect Drive, Shippensburg, PA 17257

Attorney: Robert E. Campbell, Campbell & White, P.C., 112 Baltimore St., Suite 1, Gettysburg, PA 17325

THIRD PUBLICATION

ESTATE OF JUDITH M. CULLISON, DEC'D

Late of Menallen Township, Adams County, Pennsylvania

Richard F. Cullison, 106 B Brysonia School Road, Biglerville, PA 17307

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

ESTATE OF WILMA C. CUNNINGHAM, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Personal Representative: Doran R. Cunningham, 22814 Welty Church Road, Smithsburg, MD 21783

Attorney: Wertime & Guyer LLP, 35 North Carlisle Street, Suite A, Greencastle, PA 17225

ESTATE OF LESLIE DEANN KING, DEC'D

Late of Carroll Valley Borough, Adams County, Pennsylvania

Personal Representative: Michael A. King, c/o Donald L. Kornfield, Esq., 17 North Church Street, Waynesboro, PA 17268

Attorney: Donald L. Kornfield, Esq., Kornfield and Benchoff, 17 North Church Street, Waynesboro, PA 17268

ESTATE OF PAULINE M. MILLER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Executor: Ricky Lee Miller, 599 Barlow-Greenmount Road, Gettysburg, PA 17325

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

(continued on page 13)

Third Publication Cont'd**ESTATE OF CARRIE J. SAGER, DEC'D**

Late of Union Township, Adams County, Pennsylvania

Executor: R. Thomas Sager, 474F Hershey Heights Rd., Hanover, PA 17331

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

ESTATE OF KATHLEEN M. SHARRAH, DEC'D

Late of Franklin Township, Adams County, Pennsylvania

Executor: Stanley D. Sharrah, Jr., 1980 Chambersburg Road, Gettysburg, PA 17325

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1404 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 situated, lying and being in Reading Township, Adams County, Pennsylvania, bounded and described as follows, to wit:

BEGINNING for a point on the center line of Township Road T-542, known as Turkey Pit Road, and Lot No. 2 of the hereinafter referenced subdivision plan; thence along the center line of said Turkey Pit Road, South forty-three (43) degrees seventeen (17) minutes twenty (20) seconds east, two hundred seventy-five (275.00) feet to a point at Lot No. 1 of the hereinafter referenced subdivision plan; thence along same, and through a steel pin on line set back twenty-five (25.00) feet from the center line of said road, South forty-six (46) degrees forty-two (42) minutes forty (40) seconds West, seven hundred fifty and twenty-eight hundredths (750.28) feet to a steel pin; thence continuing along Lot No. 1 of said plan, North forty-three (43) degrees fifty-one (51) minutes thirty-four (34) seconds West, two hundred seventy-five and one hundredths (275.01) feet to a granite stone at Lot No. 2 of said plan; thence along same, and through a steel pin on line set back twenty-five (25.00) feet from the termination of this courses, North forty-six (46) degrees forty-two (42) minutes forty (40) seconds East, seven hundred fifty-three and one hundredth (753.01) feet to a point on the center line of Turkey Pit Road, the point

and place of BEGINNING. CONTAINING 4.7452 acres and identified as Lot No. 3 on a plan of lots prepared by Donald E. Worley, registered surveyor, on August 4, 1989. Said plan is recorded in the Recorder of Deeds Office in and for Adams County, Pennsylvania, in Plat Book 54, Page 95. It being a part of the same tract of land which Edward J. Conrad, Jr. et ux, et al., by their deed dated December 8, 1980, and recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 355, Page 830, granted and conveyed unto Larry A. Allingham and Barbara J. Allingham, husband and wife, grantors herein. BEING the same premises conveyed to Marvin C. Westfall and Joan M. Westfall, husband and wife, as tenants by the entireties from Larry A. Allingham and Barbara J. Allingham, husband and wife by deed dated 10/16/1992, and recorded on 10/26/1992, at Book 0646, Page 0486, in Adams County, PA.

TITLE TO SAID premises is vested in Marvin C. Westfall and Joan M. Westfall, h/w as tenants by the entireties, by Deed from Larry A. Allingham and Barbara J. Allingham, h/w, dated 10/16/1992, recorded 10/26/1992 in Book 646, Page 486.

Tax Parcel: 36,J09-0008B--000

Premises Being: 680 Turkey Pit Road, New Oxford, PA 17350-9744

SEIZED and taken into execution as the property of **Marvin C. Westfall & Joan M. Westfall**, 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 April 30, 2010 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.

2/12, 19 & 26

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment Number, 09-S-1449 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 9th day of April, 2010, 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 of ground, situate in the Township of Menallen, County of Adams and Commonwealth of Pennsylvania, being more particularly bounded and described as follows, to-wit;

BEGINNING at a stone for a corner in Public Road; thence along said road North 79.5° degrees East sixty-one (61) feet to a stone in road; thence along lands now or formerly of E. E. Epplenman or original, South 23.5° East one hundred sixty (160) feet to a stone and a fourteen (14) feet alley; thence along said alley South 77° West sixty-one (61) feet to a post on land now or formerly of Sidney R. Peters; thence along land now or formerly of Sidney R. Peters North 23.5° West one hundred seventy (170) feet to the place of BEGINNING.

HAVING ERECTED THEREON a detached, two story single family residential dwelling.

BEING the same premises as E. Eugene Pyles, Executor of the Estate of Flossie S. Pyles, Deceased, by Deed Dated May 1, 1973, and Recorded on May 1, 1973, in the Office of the Recorder of Deeds of Adams County in Record Book 306, at Page 693, granted and conveyed unto Ray Ness and Nora Ness, as Tenants by the Entireties.

THE SAID Nora Ness having departed this life on September 18, 2007, vesting title solely unto Ray Ness by Right of Survivorship.

BEING KNOWN and numbered as: 67 Aspers North Road, Aspers, PA 17304.

Tax Parcel No. (29) 001-0036.

SEIZED and taken into execution as the property of **Ray Ness**, 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 April 30, 2010 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.

2/12, 19 & 26