

Adams County Legal Journal

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IN THIS ISSUE

SPERTZEL ET AL VS. BEVERLY ENTERPRISES ET AL

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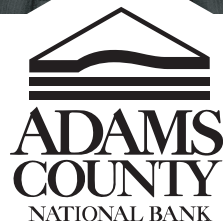
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SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-489 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 31st day of July, 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 THE FOLLOWING piece, parcel or tract of land, with the improvements thereon erected, situate, lying and being in the Borough of New Oxford, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a point on the Eastern side of Paradise Court, a 50 feet wide street, at a point on Lot No. 23 of the Subdivision known as 'Oxford Heights'; extending thence along said land, North 88 degrees 27 minutes 00 seconds East, 127.17 feet to a point; extending thence south 3 degrees 11 minutes 00 seconds East, 75.03 feet to a point at Lot No. 21; extending thence along said land, South 88 degrees 27 minutes 00 seconds West, 129.31 feet to a point on the Eastern side of Paradise Court; extending thence along said street, North 1 degrees 33 minutes 00 seconds west, 75 feet to a point and the place of BEGINNING.

BEING Lot No. 22 on a Plan of Lots known as 'Re-division of Oxford Heights' and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plan Book 15, page 31.

TITLE TO SAID PREMISES IS VESTED IN Jeffrey L. Cox and Kathy L. Cox, h/w, by Deed from Gregory E. Kepner, dated 07/13/2001, recorded 08/13/2001, in Deed Book 2370, page 226.

Tax Parcel: (34) 007-0057

Premises Being: 6 Paradise Court, New Oxford, PA 17350

SEIZED and taken into execution as the property of **Jeffrey L. Cox a/k/a Jeffrey Cox & Kathy L. Cox a/k/a Kathy Cox** 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 August 21, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1859 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 31st day of July, 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 of ground situate in Hamilton Township, Adams County, Pennsylvania, more particularly bounded and described as follows, to wit:

BEGINNING at a steel pin at Lot No. 11 and a fifty (50) feet wide right of way known as Foxtown Drive of the hereinafter referenced subdivision plan; thence along and with Foxtown Drive by a curve to the left with a radius of two hundred fifty and zero hundredths (250.00) feet, an arc distance of one hundred sixty and zero hundredths (160.00) feet and a long chord bearing and distance of South thirty-six (36) degrees thirty-two (32) minutes thirty-two (32) seconds West, one hundred fifty-seven and twenty-eight hundredths (157.28) feet to a steel pin; thence continuing along and with Foxtown Drive South eighteen (18) degrees twelve (12) minutes twenty-eight (28) seconds West twenty-four and three hundredths (24.03) feet to a steel pin located at Lot No. 9 on the hereinafter referenced subdivision plan; thence continuing along Lot No. 9 North forty-two (42) degrees forty-two (42) minutes thirty-four (34) seconds West two hundred seventy-six and seventy-one hundredths (276.71) feet to a steel pin set at lands now or formerly of Carol E. Carbaugh; thence along said Carbaugh lands North sixty-six (66) degrees fifteen (15) zero (00)

seconds East seventy-seven and zero (77.00) feet to a steel pin set at lands now or formerly of Christopher J. Newman; thence along said Newman lands North fifty-four (54) degrees fifty-seven (57) minutes thirty-four (34) seconds East one hundred twenty-nine and sixty-one hundredths (129.61) feet to a steel pin located at Lot No. 11; thence along Lot No. 11 South thirty-five (35) degrees seven (07) minutes twenty-three (23) seconds East one hundred ninety-five and nine hundredths (195.09) feet to a steel pin set along Foxtown Drive, the point and place of BEGINNING, CONTAINING 0.950 acres and being identified as Lot No. 10 on the Plan of Greystone Manor, Phase 3, in Plat Book 80, Page 62.

UNDER AND SUBJECT TO restrictions and conditions as now appear of record.

IT BEING the same premises which Dramka, Inc., a Pennsylvania corporation, by its Deed dated November 6, 2002, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 2870, Page 317, granted and conveyed unto Scott A. Aschemeier and Diana N. Aschemeier, husband and wife.

Address Being: 161 Foxtown Drive, Abbottstown, PA 17301

Lot Number: (17) L 09 - 0179

SEIZED and taken into execution as the property of **Scott A. Aschemeier & Diana N. Aschemeier** 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 August 21, 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.

7/10, 17 & 24

SPERTZEL ET AL VS. BEVERLY ENTERPRISES ET AL

1. In general, Pennsylvania favors the dispute settlement through arbitration as a way to promote swift and orderly disposition of claims.

2. Where a party to a civil action seeks to compel arbitration of that action, a two-part test is employed to determine if arbitration is required. First, the trial court must determine if a valid agreement to arbitrate exists between the parties. Second, if the trial court determines that such an agreement does exist, it must then determine if the dispute involved is within the scope of the arbitration provision.

3. Whether the power “to authorize my admission to a medical, nursing, residential or similar facility, and to enter into agreements for my care” empowers an attorney-in-fact to sign an optional Arbitration Agreement is an issue of first impression in Pennsylvania.

4. This Court finds that the authorization in the Spertzel Power-of-Attorney “To arrange for my entrance to and care at any hospital, nursing home, health center, convalescent home, retirement home, or similar institution” does not confer the power to sign *optional* arbitration agreements because they are not *required*, as defined in the statute.

5. However, because the power “to pursue claims and litigation” includes the power to arbitrate, this Court concludes that it also includes the power to sign an agreement to arbitrate, such as the binding Arbitration Agreement at issue. Therefore, pursuant to the power “To sue and settle suits of any kind in my name and for my benefit,” Plaintiff did have authority to sign the Arbitration Agreement.

6. Negligence per se establishes both duty and breach of duty when an individual violates an applicable statute. Liability per se enables plaintiffs to establish as a matter of law that the defendant’s conduct constituted a breach of duty in a negligence action, so that only causation and damages need to be proved.

7. In order to prove a claim based on negligence per se, the following four requirements must be met: (1) The purpose of the statute must be, at least in part, to protect the interest of a group of individuals, as opposed to the public generally; (2) The statute or regulation must clearly apply to the conduct of the defendant; (3) The defendant must violate the statute or regulation; (4) The violation of the statute or regulation must be the proximate cause of the plaintiff’s injuries.

8. Negligence per se is distinguishable from an independent cause of action under a statute. Negligence per se establishes, by reference to a statutory scheme, the standard of care appropriate to the underlying tort. Whereas an independent cause of action is created in the statute and provides that violation of the statute itself is a cause of action.

9. A statute may still be used as the basis for a negligence per se claim when it is clear that, despite the absence of a private right of action, the policy of the statute will be furthered by such a claim and its purpose is to protect a particular group of individuals.

10. The Court finds that neither the Dependent Person Statute nor the Older Adult Protective Services Act provides a private cause of action, and further that neither statute can be the basis for a negligence per se claim.

11. A picture of the alleged injury is not appropriate at this stage in the pleadings. The photograph is irrelevant to the Court’s determination of whether the allegations in the Second Amended Complaint are sufficient to plead a cause of action.

In the Court of Common Pleas of Adams County, Pennsylvania,
Civil, No. 07-S-935, BETTY SPERTZEL, BY AND THROUGH
HER ATTORNEY-IN-FACT, MARGARET SPERTZEL, VS.

BEVERLY ENTERPRISES – PENNSYLVANIA, INC. D/B/A BEVERLY HEALTHCARE – GETTYSBURG; BEVERLY HEALTH AND REHABILITATION SERVICES, INC. AND BARBARA SEEBOLD, NHA.

William P. Murray, III, Esq., for Plaintiff

Patrick L. Mechas, Esq., for Defendants

Bigham, J., October 10, 2008

OPINION

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Margaret A. Spertzel (hereinafter referred to as “Plaintiff”) was appointed attorney-in-fact for her mother-in-law, Betty Spertzel, on February 17, 2001. On August 3, 2005, Betty Spertzel was admitted to a nursing home located in Gettysburg, Pennsylvania, owned and operated by Defendants Beverly Enterprises-Pennsylvania, Inc., Beverly Health and Rehabilitation Services, Inc. and Beverly Enterprises, Inc. (hereinafter referred to as “Beverly”). Defendant Barbara Seebold, NHA was the administrator of the nursing home, and was the individual who provided the paperwork to Plaintiff upon Betty Spertzel’s admission. (All named Defendants will hereinafter be referred to as “Defendants”).

Plaintiff reviewed and signed all the paperwork to have Betty Spertzel admitted to Beverly. The paperwork she signed included all the documents necessary for admission to Beverly, as well as an Arbitration Agreement not required for admission. Plaintiff did not seek legal advice regarding the signing of the Arbitration Agreement, nor did she rescind the Arbitration Agreement within the thirty-day period allotted by the Agreement.

At the time of her admission, Betty Spertzel was not in good health. While at Beverly, her health deteriorated, and she was taken to the hospital twice during her three-month stay. Plaintiff alleges that during those three months, Betty Spertzel suffered skin tears, urinary tract infections, dehydration, a fall, and was left lying on a fracture pan (bed pan) for a substantial period of time causing a painful and disfiguring wound.

Plaintiff commenced the action against the Defendants by the filing of a Praecipe for Writ of Summons on August 3, 2007, and three

subsequent Praecipes to Reissue Writ of Summons. She filed a Complaint on November 16, 2007, an Amended Complaint on January 3, 2008, and a Second Amended Complaint on February 4, 2008. Plaintiff's Second Amended Complaint includes the following counts: (1) Count One: Negligence, (2) Count Two: Negligence Per Se for violations of Neglect of Care-Dependent Person, 18 Pa.C.S.A. §2713, and (3) Count Three: Negligence Per Se for violations of the Pennsylvania Older Adults Protective Services Act, 35 P.S. §10225.101, et seq. Plaintiff attached a photograph of Betty Spertzel's alleged bed pan injury to the Second Amended Complaint. Defendants filed Preliminary Objections to Plaintiff's Second Amended Complaint and a brief in support on February 14, 2008. Plaintiff filed an initial response on February 29, 2008, in which she indicated to the Court that the parties wished to engage in limited discovery on the issue of the Arbitration Agreement. On March 18, 2008 the Court granted the parties ninety days of discovery limited to the issue of the Arbitration Agreement, after which Plaintiff had twenty days to file a response to Defendants' Preliminary Objections. She responded timely, and all briefs were timely filed, and oral argument was held.

PRELIMINARY OBJECTIONS

1. Pursuant to the contract between the parties, Plaintiff's claims must be resolved by arbitration pursuant to the contract between the parties.
2. Assuming, *arguendo*, that this Court maintains jurisdiction over the subject matter of this case, Count II of Plaintiff's Amended Complaint should be dismissed as Plaintiff has failed to set forth a claim under the Neglect of Care – Dependent Person Statute.
3. Assuming, *arguendo*, that this Court maintains jurisdiction over the subject matter of this case, Count III of Plaintiff's Amended Complaint should be dismissed as Plaintiff has failed to set forth a claim under the Older Adult Protective Services Act.
4. Assuming, *arguendo*, this Court maintains jurisdiction over the subject matter of this case, the inclusion of scandalous and impertinent material in Plaintiff's Second Amended Complaint should be stricken.
5. Assuming, *arguendo*, this Court maintains jurisdiction over the subject matter of this case, Plaintiff's claim for punitive damages should be stricken as a matter of law to the Defendants.

DISCUSSION

Arbitration Agreement

The first issue involves the applicability and enforceability of an Arbitration Agreement signed by Plaintiff at the time she signed the admissions paperwork to have Betty Spertzel admitted to Beverly. Because the Court finds that Plaintiff did have authority to sign the Arbitration Agreement pursuant to the power to “Sue and settle suits of any kind in my name or for my benefit,” the Court will sustain Defendants’ first preliminary objection and the parties must submit to arbitration.

Plaintiff’s primary argument is that she lacked the authority to waive Betty Spertzel’s constitutional right to a jury trial. She maintains that she did not have actual authority under the terms of the power of attorney, which only include the power to “Sue and settle suits” and to arrange for her entrance to a medical facility, and she did not have apparent authority because she was never empowered by the principal to be her agent with regard to the Arbitration Agreement. Conversely, Defendants argue that a valid agreement to arbitration exists between the parties because Plaintiff had authority to sign on Betty Spertzel’s behalf pursuant to the Power-of-Attorney, and the dispute involved is within the scope of the arbitration provision. Defendants maintain that the power to “Sue and settle suits” and the power to arrange for entrance to a medical facility both include the power to sign the arbitration agreement.

The Arbitration Agreement signed by Plaintiff provides that the parties will resolve disputes through binding arbitration. The Arbitration Agreement states that:

It is understood and agreed by Facility and Resident that any and all claims, disputes, and controversies arising out of, or in connection with, or relating in any way to the Admission Agreement or any service or health care provided by the Facility to the Resident shall be resolved exclusively by binding arbitration to be conducted at a place agreed upon by the Parties.

At the top of the Arbitration Agreement, it states: “NOT A CONDITION OF ADMISSION – READ CAREFULLY.” On the second page of the Arbitration Agreement, the Agreement provides the following:

The Resident understands that (1) he/she has the right to seek legal counsel concerning this Arbitration Agreement, (2) that execution of this Arbitration Agreement is not a precondition to admission or to the furnishing of services to the Resident by the Facility, and (3) this Arbitration Agreement may be rescinded by written notice to the Facility from the Resident within thirty days of signature.

The Agreement further states that:

The undersigned certifies that he/she has read this Arbitration Agreement and that it has been fully explained to him/her, that he/she understands its contents, and has received a copy of the provision and that he/she is the Resident, or a person duly authorized by the Resident or otherwise to execute this agreement and accept its terms.

Pennsylvania favors arbitration. See *Borgia v. Prudential Ins. Co.*, 561 Pa. 434, 447, 750 A.2d 843, 851 (2000) (finding that construing the arbitration clause broadly “comports with the principle that public policy favors arbitration.”); *Flightways Corp. v. Keystone Helicopter Corp.*, 459 Pa. 660, 662-63, 331 A.2d 184, 185 (1975) (stating that “our statutes encourage arbitration and with our dockets crowded and in some jurisdictions congested arbitration is favored by the courts.”); *Midomo Co. v. Presbyterian Hous. Dev. Co.*, 739 A.2d 180, 190 (Pa.Super. 1999) (“In general, Pennsylvania favors the dispute settlement through arbitration as a way to promote swift and orderly disposition of claims.”); *In re Fellman*, 412 Pa.Super. 577, 582, 604 A.2d 263, 265 (1992) (“Arbitration agreements are generally encouraged as a prompt, economical and adequate solution of controversies.”). “Arbitration agreements are contracts and should be interpreted using contract principles.” *Bucks Orthopaedic Surgery Associates, P.C. v. Ruth*, 925 A.2d 868, 872 (Pa.Super. 2007) (citations omitted). “The purpose of arbitration agreements is to reduce litigation and provide a prompt and inexpensive method of resolving disputes.” *Id.* “Where a party to a civil action seeks to compel arbitration of that action, a two-part test is employed to determine if arbitration is required. First, the trial court must determine if a valid agreement to arbitrate exists between the parties. Second, if the trial court determines that such an

agreement does exist, it must then determine if the dispute involved is within the scope of the arbitration provision.” *Pittsburgh Logistics Systems, Inc. v. Professional Transportation and Logistics, Inc.*, 803 A.2d 776, 779 (Pa. Super. 2002).

The Court is charged with determining whether a valid agreement to arbitrate exists, thus, whether Plaintiff had the authority to sign the Arbitration Agreement on behalf of Betty Spertzel. In order to determine whether Margaret Spertzel had the authority to sign an Arbitration Agreement, the Court must examine the language of the Power-of-Attorney executed by Betty Spertzel. The Power-of-Attorney includes two sections which may provide authority for Plaintiff to sign the Arbitration Agreement on behalf of Betty Spertzel: one regarding her entrance to a nursing home, and the other regarding her right to sue.

The Power-of-Attorney executed by Betty Spertzel grants the attorney-in-fact the power “To arrange for my entrance to and care at any hospital, nursing home, health center, convalescent home, retirement home, or similar institution,” and the power “To sue and settle suits of any kind in my name or for my benefit.” The Pennsylvania legislature has authorized that certain powers may be granted by a principal to a power-of-attorney, and the statute states that a principal may empower an agent “To authorize my admission to a medical, nursing, residential or similar facility and to enter into agreements for my care.” 20 Pa.C.S.A. § 5602(a)(8). The legislature defined this statement in 20 Pa.C.S.A. § 5603(h):

(1) A power “to authorize my admission to a medical, nursing, residential or similar facility, and to enter into agreements for my care” shall mean that the agent may apply for the admission of the principal to a medical, nursing, residential or other similar facility, execute any consent or admission forms required by such facility which are consistent with this paragraph, and enter into agreements for the care of the principal by such facility or elsewhere during his lifetime or for such lesser period of time as the agent may designate, including the retention of nurses for the principal.

Additionally, the Pennsylvania legislature has authorized principals to grant an attorney-in-fact the power “To pursue claims and litigation.”

20 Pa.C.S.A. § 5602(a)(20). “To pursue claims and litigation” is specifically defined in 20 Pa.C.S.A. § 5603(s) as the power to:

- (1) Institute, prosecute, defend, abandon, arbitrate, compromise, settle or otherwise dispose of, and appear for the principal in, any legal proceedings before any tribunal regarding any claim relating to the principal or to any property interest of the principal.
- (2) Collect and receipt for any claim or settlement proceeds; waive or release rights of the principal; employ and discharge attorneys and others on such terms (including contingent fee arrangements) as the agent deems appropriate.
- (3) In general, exercise all powers with respect to claims and litigation that the principal could if present.

Although the language in the Spertzel Power of Attorney is not the exact language used in the statutes, the language used is permissible to confer the powers in § 5602(a) unto an attorney-in-fact as defined in § 5603. Parties do not need to use the exact language stated in 20 Pa.C.S.A. § 5602(a) in order to grant one of the listed powers to an attorney-in-fact, and when similar language is used to confer a power in § 5602(a), that power is then defined by the definitions in § 5603. The statute states that “[a] principal may, by inclusion of the language quoted in any of the following paragraphs or by inclusion of other language showing a similar intent on the part of the principal, empower an agent to do any of the following, each of which is defined in section 5603.” 20 Pa.C.S.A. § 5602(a). The Pennsylvania Supreme Court has stated that “general language may be used to show the similar intent on the part of the principal, if such general language, according to its common usage, encompasses such power or powers.” *In re Weidner*, 595 Pa. 263, 38 A.2d 354, 360 (2007), quoting *In re Estate of Reifsneider*, 531 Pa. 19, 610 A.2d 958 (1992). “And when an attorney-in-fact performs one of the activities listed in §5602(a) under authority of general language, section 5603 provides the definitions and limitations that circumscribe his activity. *In re Estate of Reifsneider*, 610 A.2d at 692.

Two recent opinions of the Court of Common Pleas involve a similar fact pattern: Judge Wettick’s Opinion in *Freeman-Whitted v. Beverly Enterprises*, No. GD06-15111 (C.P. Allg. June 25, 2008) and

Judge Arner's Opinion in *Painter v. Beverly Enterprises*, No. 1519 CD 2007 (C.P. Clar. Aug. 11, 2008). Whether the power "to authorize my admission to a medical, nursing, residential or similar facility, and to enter into agreements for my care" empowers an attorney-in-fact to sign an optional Arbitration Agreement is an issue of first impression in Pennsylvania. The *Freeman* and *Painter* Courts are the first to set a standard in this unexplored area of the law, and therefore warrant examination by this Court.

In *Freeman*, the plaintiff was the attorney-in-fact for his mother and signed an Arbitration Agreement while signing admission paperwork to have her admitted to Beverly. *Freeman*, Page 1. The Arbitration Agreement was not a precondition to admission, and is exactly the same Arbitration Agreement that is before this Court. *Id.* at 2. Beverly argued that the attorney-in-fact had the authority to sign the Arbitration Agreement pursuant to authorization provided in the power-of-attorney, specifically the power "To authorize my admission to a medical, nursing, residential or similar facility and to enter into agreements for my care." *Id.* The Court disagreed. Judge Wettick examined 20 Pa.C.S.A. § 5603(h), which states that the power given to the attorney-in-fact included authorization to "execute any consent or admission forms *required* by such facility." *Id.* at 3. (emphasis added). Because the Arbitration Agreement was not required for admission, the Court held that plaintiff's attorney-in-fact was only authorized to sign the Admission Agreement and not the optional Arbitration Agreement. *Id.* at 4.

Similarly in *Painter*, the plaintiff was the attorney-in-fact for her mother, and she signed the same Arbitration Agreement as in *Freeman* and the case at bar. *Painter*, Page 3. The Plaintiff's power-of-attorney stated the same language as in *Freeman* regarding the principal's admission to a medical, nursing, residential or similar facility. *Id.* Judge Arner examined Judge Wettick's opinion in *Freeman* and agreed with his reasoning and conclusion. *Id.* Thus, the Court similarly held that because the Arbitration Agreement was not required for admittance to Beverly, plaintiff was not granted the authority to waive the principal's constitutional right to a jury trial. *Id.* at 5.

This Court finds the reasoning of Judge Wettick persuasive and agrees with his determination. Thus, this Court finds that the authorization in the Spertzel Power-of-Attorney "To arrange for my

entrance to and care at any hospital, nursing home, health center, convalescent home, retirement home, or similar institution” does not confer the power to sign *optional* arbitration agreements because they are not *required*, as defined in the statute. Nevertheless, this Court has come to a different overall conclusion. The difference in outcome is not because this Court disagrees with Judge Wettick, but instead it is because it is not clear in Judge Wettick’s opinion whether either party raised the issue of whether the power “To pursue claim and litigation,” as provided in paragraph seven of the Freeman Power-of-Attorney, grants the attorney-in-fact the power to sign an optional arbitration agreement.¹ The claims and litigation clause in the Freeman Power-of-Attorney was not analyzed, because apparently the parties did not raise it as an issue. In the case at bar, the Court finds that the power “To sue and settle suits of any kind in my name or for my benefit” grants the power “To pursue claims and litigation” provided in § 5602(a). “To pursue claims and litigation” is specifically defined in 20 Pa.C.S.A. § 5603(s) as the power to “institute, prosecute, defend, abandon, *arbitrate*, compromise, settle or otherwise dispose of, and appear for the principal in, any legal proceedings before any tribunal regarding any claim relating to the principal or to any property interest of the principal.” (emphasis added). Because that power includes the power to arbitrate, this Court concludes that it also includes the power to sign an agreement to arbitrate, such as the binding Arbitration Agreement at issue. Therefore, pursuant to the power “To sue and settle suits of any kind in my name or for my benefit,” Plaintiff did have authority to sign the Arbitration Agreement.

Because Plaintiff had authority to sign the Arbitration Agreement, Defendants’ first Preliminary Objection is granted, the parties must submit to arbitration. Although the Court will relinquish jurisdiction, the Court will address the remainder of the Preliminary Objections below.

Continued to next issue (7/24/2009)

¹ The Court notes that portions of paragraph eight of the *Freeman* Power-of-Attorney are unclear. The Court made inquiries of both attorneys of record, and was informed that the copy as presented is the only copy in the attorneys’ records, and is the copy of record in the *Freeman* case. The Court was assured that the language in paragraph eight had no bearing on the issues presented in *Freeman*.

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1492 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 31st day of July, 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 THOSE TWO (2) tracts of land situate, lying and being in Franklin Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

TRACT No. 1:

BEGINNING at stones along land now or formerly of Jacob Sharrah; thence along said land, North 77-1/2 degrees West, 100 feet to stone; thence along other land now or formerly of Jacob Sharrah, South 77-1/2 degrees West, 146 feet to stone; thence by land now or formerly of Jacob Sharrah, South 12-1/2 degrees East, 100 feet to the place of BEGINNING.

TRACT No. 2:

BEGINNING at a stone for a corner; thence running with private roadway, South 7 degrees East, 100 feet to a stone; thence by lands of Jacob Sharrah, South 77-1/2 degrees West, 146 feet to a stone; thence by the same, North 7 degrees West, 100 feet to a stone; thence by the land now or formerly of William and Carrie Woodward, North 77-1/2 degrees East, 146 feet to the place of BEGINNING.

Being known as: 2350 Old Route 30, Orrtanna, Pennsylvania 17353.

TITLE TO SAID PREMISES IS VESTED IN Richard Wiatrak a/k/a Richard D. Wiatrak and Carol J. Wiatrak, husband and wife, as tenants of the estate by entirety, by deed from Daniel J. Yeager and Lisa A. Yeager, husband and wife, dated April 21, 1995 and recorded May 4, 1995 in Deed Book 1025, Page 75.

TAX ID. #: (12) B 10-52

SEIZED and taken into execution as the property of **Richard D. Wiatrak, Richard Wiatrak & Carol J. Wiatrak, Carol Wiatrak** 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 August 21, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-117 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 31st day of July, 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 in the Township of Franklin, County of Adams, and Commonwealth of Pennsylvania, being more particularly bounded and described as follows, to wit:

BEGINNING at a steel pin set in the centerline of Mt. Carmel Road (T-3 12), said pin marking the common point of adjointer of Lots #10 and #11 on the hereinafter mentioned plan of subdivision with the centerline of said roadway; thence departing from the centerline of Mt. Carmel Road, and extending along Lot #10, North seventy-two (72) degrees eighteen (18) minutes thirty-seven (37) seconds West, through a steel pin set on the Westernmost dedicated right-of-way line of Mt. Carmel Road, a distance of twenty-five and no hundredths (25.00) feet from the origin of this call, for a total distance of two hundred thirty-three and one hundredths (233.01) feet to a concrete monument which marks the common point of adjointer of Lot #9, #10, and #11 on the hereinafter mentioned plan; thence along Lot #9 North fifty-one (51) degrees eight (8) minutes twenty (20) seconds West, for a distance of one hundred eighty and no hundredths (180.00) feet to a steel pin at Lot 12 on the hereinafter mentioned plan; thence extending along Lot #12 the following two (2) courses and distance: North thirty-eight (38) degrees forty-five (45) minutes fifty-six (56) seconds East, for a distance of ninety-one and eight hundredths (91.08) feet to a steel pin; thence continuing South seventy-two (72) degrees eighteen (18) minutes thirty-seven (37) seconds East, through a steel pin set on the westernmost dedicated right-of-way line of Mt. Carmel Road, a distance of twenty-five and no hundredths (25.00) feet from the terminus of this call, for a total distance of three hundred sixty-eight and eleven hundredths (368.11) feet to a steel pin set in the centerline of Mt. Carmel Road; thence extending in and through the centerline of Mt. Carmel Road, South seventeen (17) degrees forty-one (41) minutes

twenty-two (22) seconds West, for a distance of one hundred fifty and no hundredths (150.00) feet to a steel pin set in the centerline of said roadway at Lot #10 on this hereinafter mentioned plan, said pin marking the place of BEGINNING.

CONTAINING 1.14 acres to the dedicated right-of-way line and 1.22 acres to the centerline of Mt. Carmel Road, and being designated as Lot #11 on a final plan of the Hidden Valley Subdivision prepared for Harry H. Fox, Jr. by Walter N. Heins Associates, Inc., Consulting Engineers, dated March 12, 1990, and recorded in the Office of the Recorder of Deeds in and for the Adams County, Pennsylvania, in Plat Book 80, at Page 45.

The improvements thereon being commonly known as 685 Mt. Carmel Road, Orrtanna, Pennsylvania 17353.

Being the same lot or parcel of ground which by deed dated December 23, 2002 and recorded among the land records of Adams County in Book 2926 Page 276, was granted and conveyed by Bon Ton Builders, Inc., a Pennsylvania corporation, unto Joseph T. Ponzillo and Erika L. Ponzillo, husband and wife, as tenants by the entirety.

Parcel # (12) C12-0141

Property Address: 685 Mount Carmel Road, Orrtanna, PA 17353

SEIZED and taken into execution as the property of **Erika L. Ponzillo** 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 August 21, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-325 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 31st day of July, 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 Mt. Pleasant Township, Adams County, Pennsylvania, more particularly bounded and described as follows:

BEGINNING at a point in or near the center of Township Road No. T-493 running between Legislative Route No. 01067 and U.S. Route 30, at corner of lands now or formerly of James A. Fry, formerly a part hereof; thence running in or near the center of said state highway, North 29 degrees 30 minutes East 200 feet to a point; thence along land now or formerly of James E. Sponseller, and running through a pin set 20 feet from the beginning of this course, South 62 degrees 58 minutes East 427.5 feet to a pin at land now or formerly of Lewis H. Richstine; thence along said Richstine's land South 35 degrees West 200 feet to a pin at the Northeast corner of said lot now or formerly of James A. Fry; thence along said Fry's land running through a pin set 20 feet from the terminus of this course North 63 degrees 13 minutes West 408.4 feet to the point and place of beginning CONTAINING 1.908 acres.

THE above description was based upon a draft of survey made by George M. Wildasin, Registered Professional Engineer dated May 24, 1969, for the use of Charles E. Sponseller.

Map and Parcel ID: (32) J11-0058B

TITLE TO SAID PREMISES IS VESTED IN Marie A. Wilt by deed from Clifford M. Wilt and Marie A. Wilt, both single persons, dated 5/7/2004 and recorded 5/14/2007 in Record Book 3567 Page 161.

BEING KNOWN AS: 810 Fleshman Mill Road, New Oxford, Pennsylvania 17350.

SEIZED and taken into execution as the property of **Marie A. Wilt** 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 August 21, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1642 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 31st day of July, 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 the following described lot of ground situate in Conewago Township, Adams County, Pennsylvania, bounded and limited as follows, to wit:

BEGINNING for a corner on the Hanover and McSherrytown Turnpike and a fourteen feet wide alley; thence along said alley South forty-four and one-fourth degrees West, one hundred and eighty-seven feet ten inches to a fourteen feet wide alley in the rear, thence along last mentioned alley, North fifty-six degrees West, thirty-two feet to lot now or formerly of A. F. Rife; thence along said lot, North forty-four and one-fourth degrees East, one hundred and ninety-three feet four inches to the aforesaid Turnpike; and thence along said Pike, South forty-six degrees East, thirty-one feet to the place of BEGINNING.

PARCEL (8) 8-227

Property Address: 634 3rd Street, Hanover, PA 17331

SEIZED and taken into execution as the property of **Judith A. Laughman & Ralph W. Laughman** 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 August 21, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-66 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of August, 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 property situated in the Borough of Gettysburg, in the County of Adams, Commonwealth of Pennsylvania, and being described as follows: 10-70. Being more fully described in a deed dated November 14, 2003, and recorded November 17, 2003 among the land records of the County and State set forth above, in Deed Volume 3382 and Page 137.

Permanent Parcel Number: (16) 10-70
AARON L. SMITH

BEING KNOWN AS: 154 East Middle Street, Gettysburg, PA 17325

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 August 28, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1860 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of August, 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 those three (3) tracts of land, situate, lying and being in Freedom Township, Adams County, Pennsylvania, being more particularly bounded and described as follows:

Tract No. 1 — BEGINNING at a spike driven in the center of the State Highway running between Fairfield and the Gettysburg-Emmitsburg State Highway; thence running in the center of said State Highway south 20 degrees East, 200 feet to a railroad spike driven in the center of said State Highway; thence through lands now or formerly of Margaret Elizabeth Shrob, and running parallel with and 17 feet North of land now or formerly of J. Leslie Bowling, South 69 degrees 05 minutes West, 200 feet to an iron pin; thence continuing through said lands now or formerly of Margaret Elizabeth Shrob, North 20 degrees West, 200 feet to an iron pin; thence continuing through same, North 69 degrees 05 minutes East, 200 feet, running through an iron pin on the West side of said State Highway, to the above described place of BEGINNING, CONTAINING 146.9 Perches.

The above description was taken from a draft of survey dated April 10, 1967, made by LeRoy H. Winebrenner, C.S.

Tract No. 2 — BEGINNING at a point in the center of Pennsylvania Legislative Route No. 01025 running between Fairplay in a Northwesterly direction towards Fairfield, which point of beginning is at the Northeast corner of a 146.9 perch tract (Tract No. 1 herein); thence by said other tract, South 69 degrees 05 minutes West, 200 feet to the Northwest corner of said other tract; thence continuing by same, South 20 degrees East, 200 feet to the Southwest corner of said other tract; thence by the Northern side of a private road or lane, South 69 degrees 05 minutes West, 15.8 feet to a point, thence by land now or formerly of Maurice F. Shrob, widower, North 43 degrees 43 minutes 54 seconds West, 316.72 feet to a point; thence continuing by same, North 58 degrees 32 minutes 05 seconds West, 41.56 feet to a point; thence North 68 degrees 51 minutes East, 369.20 feet (running through a steel pin near the West side of said Legislative Route 01025) to a point in the center of said State Highway; thence running in the center of said State

Highway, South 20 degrees East, 126.40 feet to the above described place of BEGINNING, CONTAINING 1.2309 Acres, neat measure (53,616 Square Feet).

The above description was taken from a draft of survey made for Maurice F. Shrob by J.H. Registered Engineer, dated March 14, 1974, his Field Book 164, page 30, File No. B-942.

Tract No. 3 — BEGINNING at a magnetic spike in the centerline of Bullfrog Road (SR. 3005) at corner of land now or formerly of Marlin M. Shrob, of which this lot was formerly a part; thence by said land now or formerly of Marlin M. Shrob and running through a reference steel rod 30 feet from the beginning of this course, North 70 degrees 48 minutes 40 seconds East, 1.06565 feet to a inch pipe on line of land now or formerly of Leon C. Young; thence by said land now or formerly of Leon C. Young, South 11 degrees 17 minutes 05 seconds East, 40.78 feet to an existing inch pipe; thence by the same, South 30 degrees 24 minutes 05 seconds East, 174.50 feet to an existing 3/4 pipe on line of land now or formerly of Steven Mott; thence by said land now or formerly of Steven Mott, South 71 degrees 09 minutes 20 seconds West, 262.21 feet to an existing eye bolt at corner of abutting lands now or formerly of Roger Johnson and James Hobbs, Jr.; thence by said lands now or formerly of James Hobbs, Jr. and running through an existing reference steel rod 30 feet from the end of this course, South 70 degrees 48 minutes 40 seconds West, 830 feet to an existing railroad spike in the centerline of Bullfrog Road; thence in the centerline of said Bullfrog Road, North 19 degrees 40 minutes 15 seconds West, 210 feet to the above described place of BEGINNING, CONTAINING 5.179 Acres.

The above description was taken from a Lot Addition Subdivision: Plan prepared for the use of Marlin M. Shrob, by J. Riley Redding, Registered Professional Land Surveyor, of Adams County surveyors, dated May 19, 1998 and recorded in Adams County Plat Book 75 at page 40, the above lot being Lot No. 2 designated thereon.

BEING THE SAME PREMISES which David M. Kaas and Juanita S. Kaas, husband and wife, by, Deed Dated January 26, 2006 and recorded January 30, 2006, in the Office for the Recorder of Deeds in and for the County of Adams, in Deed Book 4297 Page 232, granted and conveyed unto the Bruno Grela-Mpoko, in fee.

SEIZED and taken into execution as the property of **Bruno Grela-Mpoko** 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 August 28, 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.

7/10, 17 & 24

IN THE COURT OF
COMMON PLEAS OF
ADAMS COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW
NO. 09-S-194

EDWARD H. SPENCE, SR. and
EDWARD H. SPENCE, JR., Co-Partners,
trading as SPECO, Plaintiffs

vs.

HANSON L. SPENCE, also known as H. LYNN SPENCE, also known as H. L. SPENCE, his heirs, devisees, personal representatives, successors and assigns, the ESTATE OF HANSON L. SPENCE, also known as the ESTATE OF H. LYNN SPENCE, also known as the ESTATE OF H. L. SPENCE, his heirs and assigns

ORDER OF COURT

AND NOW, this 10 th day of July, 2009, upon consideration of the attached Motion for Judgment, IT IS HEREBY ORDERED that the Defendants in the above-captioned action be forever barred from asserting any right, lien, title or interest in the subject real estate inconsistent with the interest or claim of the Plaintiffs as set forth in their Complaint, unless the Defendant or Defendants bring an action in ejectment within thirty (30) days of notice of this Order pursuant to Pa. R.C.P. 1066(b)(1). If such action is not taken within the thirty (30) day period, the Prothonotary, on Praecipe from the Plaintiffs, shall enter final judgment if appropriate.

Service of this Order of Court upon the Defendant shall be made by publication once in the *Adams County Legal Journal* and once in *The Gettysburg Times*.

BY THE COURT:

/s/ Oscar F. Spicer, Senior Judge

7/17

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 09-S-21 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of August, 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 those two (2) tracts of land situate, lying and being in Franklin Township, Adams County, Pennsylvania, bounded and described as to follows:

BEGINNING at a black oak stump, a corner of land formerly of H. Powell and the Jacob Sharrah Estate: thence by said Sharrah Estate land South 85 degrees West, 124 feet to a point; thence by the same South 16 degrees 45 minutes West, 165 feet to a point; thence by the same South 62 degrees 15 minutes West, 155 feet to a point; thence by the same South 1 degrees 30 minutes East 83 feet to a point on the north side of Marsh Creek; thence along the north side of Marsh Creek for the, following three (3) courses; North 54 degrees 30 minutes West, 155 feet to a point; North 78 degrees 30 minutes West, 187 feet to a point; South 51 degrees 15 minutes West, 112 feet to a point, a corner of, land formerly of Charles Forsythe; thence by said Forsythe land North 16 degrees West, 1393 feet to stones at corner of land formerly of John Sharrah; thence by said Sharrah land North 85 degrees East, 769 feet to stones at corner of land formerly of H. Powell; thence by said Powell land South 15 degrees East, 1152 feet to a black oak stump, the place of BEGINNING, CONTAINING 22.4 acres, more or less.

The above description was taken from a draft drawn from recorded by J.R. Hershey, Registered Engineer, 28 September 1964.

LESS, HOWEVER, the western portion of a tract which Philip Bower and Eva D. Bower, husband and wife, by deed dated March 4, 1966, sold and conveyed unto Eugene Ojanen, recorded in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Deed Book 255-1041.

TRACT NO. 2:

BEGINNING at a stone, at corner of land formerly of George Kane and land now or formerly of Jacob Sharrah; thence along said Sharrah land North 47 degrees West, 15-1/2 perches to a stone; thence along same North 54-1/2 degrees West, 9.4 perches to a stone; thence along land now or formerly of Peter Emley North 78-1/2 degrees West, 11, perches to stone; thence along same South 51-1/4 degrees West, 6.8 perches to stone; thence along land now or

formerly of Susan Kuhn South 11 degrees West, 27.2 perches to stone; thence along same South 70 degrees East, 15.6 perches to stone; thence along same South 84-3/4 degrees East, 15.2 perches to stone at land now or formerly of George Kane; thence along said Kane land North 20-1/2 degrees East, 4.4 perches to stone; thence along same North 28-1/2 degrees East, 18 perches to the place of BEGINNING, CONTAINING 6 acres and 76 perches.

BEING the same premises WHICH Frederick J. Bower and Dorothy D. Bower, by Deed dated January 28, 1998 and recorded in the Office of the Recorder of Deeds of Adams County on February 2, 1998, in Deed Book 1513, Page 338, granted and conveyed unto Nolan S. Huffaker.

SEIZED and taken into execution as the property of **Nolan S. Huffaker** 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 August 28, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 07-S-1279 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of August, 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 in Menallen Township, Adams County, Pennsylvania, bounded and described as follows:

BEGINNING at a point in the center of a 33-foot right-of-way at land now or formerly of Grayson P. Showers, et ux. South 69-1/2 degrees West, 180 feet to a point; thence in said 33-foot right-of-way by land of same North 83-3/4 degrees West, 342 feet to a point; thence leaving said 33-foot right-of-way and by other land now or formerly of Grayson P. Showers, et ux., aforesaid, North 37-1/4

degrees West, 131.5 feet to an iron pin; thence by said other lands now or formerly of Grayson P. Showers North 77-1/4 degrees East, 447.8 feet to an iron pin in the center of another 33-foot right-of-way; thence in the center of said 33-foot right-of-way and by other land now or formerly of Grayson P. Showers South 39-1/2 degrees East, 230 feet to a point, the place of BEGINNING, CONTAINING 1 acre and 151.968 square perches.

The above description was taken from a draft of survey by Curvin A. Wentz, R.S., dated October, 1966.

SUBJECT TO the restrictions and responsibilities as fully set forth in Record Book 1880, Page 25.

BEING THE SAME PREMISES which Brendan F. Hornbake, a/k/a Brendan Hornbake, by his agent, Helen F. Hornbake, by Deed dated December 17, 2003, and recorded December 17, 2003 in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Record Book 3419, Page 48, granted and conveyed unto Craig Schmitz and Marion Schmitz, husband and wife, as tenants of an estate by the entireties, GRANTORS HEREIN.

PARCEL IDENTIFICATION NO: (29)
E 05-0098A-000

TITLE TO SAID PREMISES IS VESTED IN Frank A. Brown, Single, by Deed from Craig Schmitz and Marion Schmitz, husband and wife, dated 12/28/2004, recorded 01/11/2005, in Deed Book 3836, page 72.

Premises Being: 795 Maryland Avenue, Aspers, PA 17304

SEIZED and taken into execution as the property of **Frank A. Brown** 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 August 28, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1307 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of August, 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 of land being situated in Reading Township, Adams County, Pennsylvania, being more particularly described as Lot No. 755 on a plan of lots of Lake Meade Subdivision duly entered and appearing of record in the Office of the Recorder of Deeds of Adams County in Plat Book 1, pages, and subject to all legal highways, easements, rights of way and restrictions of record.

IT BEING the same which Jeffrey D. Guise and Kellie A. Shearer, now by marriage Kellie A. Guise, husband and wife, by their deed dated January 28, 1999 and recorded February 8, 1999 in the Office of the Recorder of Deeds of Adams County, Pennsylvania, in Record Book 1760 at page 180, sold and conveyed unto Edward W. Smith, Jr. And Amber J. Smith, husband and wife, as tenants of an estate by the entireties.

Having thereon erected a residential dwelling known and numbered as 485 Lake Meade Drive, East Berlin, PA 17316.

TITLE TO SAID PREMISES IS VESTED IN Tracy M. Saracco Sr. and Linda A. Saracco, Husband and Wife, as tenants of an estate by the entireties by deed dated March 15, 2005 and recorded March 30, 2005 in Deed Book Volume 3912 Page 246.

TAX ID No., (37) 13-100

SEIZED and taken into execution as the property of **Tracy M. Saracco, Sr. & Linda A. Saracco** 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 August 28, 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.

7/10, 17 & 24

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-1641 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of August, 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 piece, parcel or tract of land, situate, lying and being in the Borough of Littlestown, Adams County, Pennsylvania, more particularly bounded, limited and described as follows, to-wit:

BEGINNING for a point on the right-of-way line and cartway of Independence Drive at Lot No. 6 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 6; North fifty (50) degrees forty-three (43) minutes twenty-six (26) seconds West, one hundred twenty and seventeen hundredths (120.17) feet to a point along Boyer Street as shown on the hereinafter referenced subdivision plan; thence along Boyer Street, North thirty-nine (39) degrees sixteen (16) minutes thirty-four (34) seconds East, Sixty-six and forty-six hundredths (66.46) feet to a point at Lot No. 4 as shown on the hereinafter referenced subdivision plan; thence along said Lot No. 4, South fifty (50) degrees forty-three (43) minutes twenty-six (26) seconds East, one hundred twenty-two and fifty hundredths (122.50) feet to a point on the right-of-way line and cartway of Independence Drive: thence along the right-of-way line and cartway of Independence Drive, South forty-one (41) degrees seventeen (17) minutes two (02) seconds West, sixty-five and fifty hundredths (65.50) feet to a point, the point and place of BEGINNING, CONTAINING 8,064.69 square feet/ 0.19 acres.

The above description being Lot No. 5 on the Final Subdivision Plan of Heritage Hill -Phase 2, for New Age Associates, prepared by James R. Holley & Associates, Inc., dated January 20, 1993, designated as Project 921120, which said subdivision plan is recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania in Plat Book 63, page 58.

ALSO, SUBJECT, NEVERTHELESS, to the protective Covenants of "Heritage Hill" dated November 13, 1992, and recorded in the Office of the Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 656, at Page 146 and amended in Record Book 833, at Page 240 and in Extension of Restrictions in Record Book 779, at Page 212. The above described lot being part of the premises which LaRay Enterprises, Inc., by deed dated October 9, 1992, and recorded in the Office of the

Recorder of Deeds in and for Adams County, Pennsylvania, in Record Book 644 at page 930, granted and conveyed unto Harry P. McKean, trading and doing business as New Age Associates.

TOGETHER with all and singular the buildings, improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, Hereditaments and appurtenances, whatsoever unto the hereby granted Premises belonging, or in any wise appertaining, and the reversions and remainders, rents issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of them, the said Grantor, as well at law as in equity of the and to the same.

TO HAVE and to hold the said lot or piece of ground above described with the buildings and improvements thereon erected, Hereditaments and premises hereby granted, or mentioned, and intended so to be, with the appurtenances, unto the said Grantee, his heirs and assigns, to and for the only proper use and behalf of the said Grantee, his heirs and assigns forever.

TAX PARCEL # (27) 11-196

BEING KNOWN AS: 174 Boyer Street, Littlestown, PA 17340

SEIZED and taken into execution as the property of **Mark A. Weber** 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 August 28, 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.

7/10, 17 & 24

ESTATE NOTICES

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

FIRST PUBLICATION**ESTATE OF JENNIE M. ERNST, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: Gregory P. Ernst, 47 700 Road, New Oxford, PA 17350

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

ESTATE OF MARGARET L. McCLEAF, DEC'D

Late of the Borough of Gettysburg, Adams County, Pennsylvania

Constance M. Howe, 102 Knoxlyn Rd., Gettysburg, PA 17325

Attorney: Phillips & Phillips, 101 West Middle Street, Gettysburg, PA 17325

ESTATE OF ARTHUR L. MYERS, JR., DEC'D

Late of Oxford Township, Adams County, Pennsylvania

Executors: Gregory A. Myers, 181 Easy Road, Carlisle, PA 17013; Gordon L. Myers, 427 Larkspur Lane, Lebanon, PA 17042

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

ESTATE OF MARY V. SPANGLER, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Ann M. Shelleman, 237 Baer Avenue, Hanover, PA 17331

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

SECOND PUBLICATION**ESTATE OF RAY BLACK a/k/a RAY M. BLACK, DEC'D**

Late of Straban Township, Adams County, Pennsylvania

Executrix: Alma L. Black, 1587 Shrivvers Corner Road, Gettysburg, PA 17325

ESTATE OF IRENE E. COOL a/k/a IRENE EMMA COOL, DEC'D

Late of Cumberland Township, Adams County, Pennsylvania

Susan M. Fogle, 1295 Bullfrog Road, Fairfield, PA 17320; Lavanna K. Nestor, 5619 Bartonsville Rd., Frederick, MD 21704

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

ESTATE OF FRANCIS E. LIVELS-BERGER, DEC'D

Late of Straban Township, Adams County, Pennsylvania

Thomas F. Livelsberger, 12 Lookout Court, Gettysburg, PA 17325

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

THIRD PUBLICATION**ESTATE OF CURRY B. BECKNER, DEC'D**

Late of Oxford Township, Adams County, Pennsylvania

Executor: Max B. Beckner, 4187 Smoketown Rd., Glenville, PA 17329

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

ESTATE OF JAMES K. GILBERT, DEC'D

Late of the Borough of Biglerville, Adams County, Pennsylvania

Executor: Travis J. Gilbert, 380 Bonner's Hill Road, York Springs, PA 17372

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

ESTATE OF MICHAEL E. KLINEDINST, DEC'D

Late of Conewago Township, Adams County, Pennsylvania

Executrix: Melissa B. Harlacher, 3531 Partridge Dr., Dover, PA 17315

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

ESTATE OF GENEVIEVE A. SANDERS, DEC'D

Late of Mt. Pleasant Township, Adams County, Pennsylvania

Personal Representative: Louise A. Kopp, 4410 Hanover Rd., Hanover, PA 17331

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

SHERIFF'S SALE

IN PURSUANCE of a Writ of Execution, Judgment No. 08-S-58 issuing out of Court of Common Pleas Adams County, and to me directed, will be exposed to Public Sale on Friday, the 7th day of August, 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 parcel of land in Township of Straban, Adams County, Commonwealth of Pennsylvania, as more fully described in Deed Book 4025, Page 255. ID# 22-92, being known and designated as metes and bounds property.

TRACT NO. 1: BEGINNING at a point at the West side of a public road leading from Hunterstown to the Lincoln Highway; thence running by land now or formerly of James E. Ford, North 76-1/4 degrees West, 252 feet to an iron pin; thence running by land now or formerly of Charles Baird, North 17-1/2 degrees East, 180 feet to an iron pin; thence running by land now or formerly of Vaughn W. Smith, South 76-1/2 degrees East 258.3 feet to a point in said public road, with an iron pin set back along the line; thence running in said road, South 23 degrees West, 69.9 feet to a point in said road; thence running across said road, North 84-1/2 degrees West 8.2 feet to a point at the West side of said road; thence running along the West side of said road, South 20-1/2 degrees West 30 feet to a point at the West side of said road, with an iron pin set back along the line, the point and place of the BEGINNING, CONTAINING 93 perches and 191 square feet.

TRACT 2: BEGINNING at a point in the center of a public road leading from Hunterstown to Granite Station; thence running through an iron pin set back along the line and by lands now or formerly of James E. Ford, North 77-1/4 degrees West 258.3 feet to a stone and iron pin; thence running by lands now or formerly of Charles Baird, North 17-1/4 degrees East 50 feet to a stone and iron pin; thence running by lands of the same North 10 degrees West 56 feet to an iron pin; thence running by lands now or formerly of William King, South 76-1/4 degrees East 144 feet to a point; thence running by lands now or formerly of Dervin C. Wileman, South 23 degrees West 100 feet to a point; thence running lands of the same, South 77-1/4 degrees East 150 feet to a point in the center of said highway; thence running in the center of said highway, South 23 degrees West 17 feet to a point the place of BEGINNING.

Dwelling Known as 2372 Granite Station Road, Gettysburg, PA 17325.

IDENTIFIED AS TAX/PARCEL ID#: (38) 022-0092 in the Deed Registry Office of Adams County, Pennsylvania.

SEIZED and taken into execution as the property of **Eric Huffer & Patricia A. Huffer** 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 August 28, 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.

7/17, 24 & 31