

ADVANCE SHEET

Pages 310-324

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Bar Association Page

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Estate Notices

DECEDENTS ESTATES

NOTICE IS HEREBY GIVEN that letters testamentary or of administration have been granted in the following estates. All persons indebted to the estate are required to make payment, and those having claims or demands to present the same without delay to the administrators or executors or their attorneys named below.

FIRST PUBLICATION

ESTATE OF PAUL W. RUNKLE, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Gladys S. Dixon, 890 Oak Oval, Mechanicsburg, PA 17055. Attorney: Gerald J. Brinsler, Esq. a6-a20

ESTATE OF KATHRYN L. TOULOUMES, late of Middle Paxton Township, Dauphin County, Pennsylvania (died January 24, 2006). Administrator: Samuel N. Touloumes, 721 Sam Hill Lane, Dauphin, PA 17018-9695. Attorney: Steve C. Nicholas, Esq., Nicholas Law Offices PC, 2215 Forest Hills Drive, Suite 37, Harrisburg, PA 17112-1099. a6-a20

ESTATE OF TODD L. CONNER, late of Derry Township, Dauphin County, Pennsylvania. Executor: Thomas E. Conner. Attorney: Anthony J. Nestico, Esq., Nestico, Druby & Hildabrand LLP, 840 East Chocolate Avenue, Hershey, PA 17033. a6-a20

ESTATE OF JOHN V. STENGEL, late of East Hanover Township, Dauphin County, Pennsylvania (died February 8, 2007). Executrix: Susan M. Stengel-Gehring, 1121 W. Highland Street, Whitehall, PA 18052. Attorney: Richard S. Friedman, Esq., Friedman & King, P.C., P.O. Box 984, Harrisburg, PA 17108. a6-a20

ESTATE OF ORVILLE E. HAWKINS, late of Penbrook, Dauphin County, Pennsylvania (died November 12, 2006). Administrator: Manufacturers and Traders Trust Company, Attn: Ruth Ann McMillen, 213 Market Street, Harrisburg, PA 17101. Attorney: Thomas S. Beckley, 213 North Third Street, Harrisburg, PA 17101. a6-a20

ESTATE OF ARLINE L. KOONS, late of East Hanover Township, Dauphin County, Pennsylvania (died March 10, 2007). Executrix: Mildred Boyer, 227 Shells Church Road, Grantville, PA 17028. a6-a20

SECOND PUBLICATION

ESTATE OF FLORENCE J. RAYSOR, late of Susquehanna Township, Dauphin County, Pennsylvania (died March 2, 2007). Co-Executors: Kenneth R. Short and John Swartz. Attorney: David H. Radcliff, Esq., 20 Erford Road, Suite 200, Lemoyne, PA 17043. m30-a13

SECOND PUBLICATION

Estate Notices

ESTATE OF VIRGINIA V. GAMBLER, late of Susquehanna Township, Dauphin County, Pennsylvania (died March 13, 2007). Executor/Attorney: Robert L. Knupp, Esq., 407 North Front Street, P.O. Box 630, Harrisburg, PA 17108. m30-a13

ESTATE OF E. ARLENE SHOAP, late of Swatara Township, Dauphin County, Pennsylvania (died December 14, 2006). Executrix: Barbara E. Anderson, 51 Rosewood Lane, Harrisburg, PA 17111. Attorney: Lloyd R. Persun, Esq., Mette, Evans & Woodside, P.O. Box 5950, Harrisburg, PA 17110-0950. m30-a13

ESTATE OF DOROTHY H. SMITH, late of Harrisburg, Dauphin County, Pennsylvania (died March 19, 2007). Executrix: Ellen Zicca, 4150 Idlewild Road, Burlington, KY 41005. Attorney: Paul Taneff, Esq., Ricci & Taneff, 4219 Derry Street, Harrisburg, PA 17111. m30-a13

ESTATE OF LEE M. ZIMMERMAN, late of the Township of Halifax, Dauphin County, Pennsylvania (died February 21, 2007). Co-Executors: Ralph Zimmerman, 1344 Camp Hebron Road, Halifax, PA 17032 and Ruth A. Miller, 200 Millers Church Road, Halifax, PA 17032. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethville, PA 17023. m30-a13

ESTATE OF ANNA T. YANCOFSKY, late of South Hanover Township, Dauphin County, Pennsylvania (died February 26, 2007). Executrix: Helen Jo Fazio, 388 Pleasant View Road, Hummelstown, PA 17036. Attorney: John W. Purcell, Esq., Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102-2392. m30-a13

ESTATE OF CATHERINE R. BURTON, late of the Borough of Steelton, Dauphin County, Pennsylvania (died November 12, 2006). Executrix: Louyenne Hunter. Attorney: Timothy M. Finnerty, Esq., McNees Wallace & Nurick LLC, 100 Pine Street, P.O. Box 116, Harrisburg, PA 17108. Phone (717) 232-8000. m30-a13

ESTATE OF BARBARA J. KENES, late of Swatara Township, Dauphin County, Pennsylvania. Executor: Randolph A. Williams. Attorney: Leonard Tintner, Esq., Boswell, Tintner, Piccola & Alford, 315 North Front Street, Post Office Box 741, Harrisburg, PA 17108. m30-a13

ESTATE OF EVELYN E. KAUFFMAN, late of the Borough of Middletown, Dauphin County, Pennsylvania (died March 1, 2007). Executrix: Ruth K. Hoffer, 22 Grandview Road, Hummelstown, PA 17036. Attorney: John S. Davidson, Esq., 320 West Chocolate Avenue, P.O. Box 437, Hershey, PA 17033-0437. m30-a13

ESTATE OF ROBERT G. REIDER, SR., late of the Borough of Steelton, Dauphin County, Pennsylvania (died February 4, 2007). Executor: Douglas A. Reider, 2550 S. 4th Street, Steelton, PA 17113-3031. Attorney: Steve C. Nicholas, Esq., Nicholas Law Offices PC, 2215 Forest Hills Drive, Suite 37, Harrisburg, PA 17112-1099. m30-a13

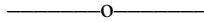
ESTATE OF EDWARD ROMAN a/k/a EDWARD F. ROMAN, late of Lower Paxton Township, Dauphin County, Pennsylvania. Administratrix: Mindy F. Freeman. Attorney: Roger M. Morgenthal, Esq., 2515 North Front Street, Harrisburg, PA 17110-1150. m30-a13

ESTATE OF RONALD H. JURY, late of the City of Harrisburg, Dauphin County, Pennsylvania (died February 18, 2007). Executrix: Marjorie Jury English. Attorney: Stephanie Kleinfelter, Esq., Keefer Wood Allen & Rahal, LLP, 635 N. 12th Street, Suite 400, Lemoyne, PA 17043. m30-a13

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periods of physical custody. In light of this testimony and previous conduct, and in light of the fact mother has arranged her nursing schedule around the parties' custody arrangement, this court's direction that father pay for child care costs mother incurs as a result of his failure to abide by the custody terms is a reasonable consequence to ensure his future compliance or, should he so fail, will alleviate the need for mother to bring this issue before the court for each violation.⁶ *See, Flannery v. Iberti*, 763 A.2d 927, 929-930 (Pa. Super. 2000) (custody order may anticipate and address potential future noncompliance). This court also stresses that this provision in no way increases father's child support obligation. Under the November 21, 2006 custody order, father is not required to pay mother any amount of child support, through child care costs or otherwise. He is directed under the order only to compensate mother when his noncompliance results in her incurring this particular out-of-pocket expense.

Accordingly, I entered the November 21, 2006 and November 30, 2006 orders.



**AFSCME District Council 90, Local 521 v.
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Equity — Temporary Restraining Order — Preliminary Injunction.

Plaintiff is the exclusive collective bargaining representative of thirty-eight (38) city employees who operated a solid waste incinerator pursuant to an agreement between the Defendant and a separate municipal authority, which solely owns the facility. The municipal authority decided not to renew the agreement and instead contracted with a private corporation for plant operation. The Plaintiff then filed a grievance under the parties' collective bargaining agreement and also sought equitable relief from the Court requiring the Defendant to continue paying the employees' salaries and benefits after the operating agreement was terminated by the municipal authority. However, the Court held that Plaintiff failed to establish the prerequisite likelihood of success on the merits, and also determined that greater injury would result from granting the injunctive relief than denying it, and that it was not in the public

6. This court notes that since the children are getting older, the need for child care will eventually cease.

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interest. Additionally, the Court found that the conduct of Plaintiff's legal counsel in pursuing this action with factual allegations it could not prove was arbitrary, vexatious and in bad faith, and expressed its intent to entertain a request from the Defendant for an award of attorney's fees, costs and expenses.

1. There are six essential prerequisites that a party must establish prior to obtaining preliminary injunctive relief. The party must show: 1) That the injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages; 2) That the greater injury would result from refusing an injunction than from granting it, and, concomitantly, that issuance of an injunction will not substantially harm other interested parties in the proceedings; 3) That a preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; 4) That the activity it seeks to restrain is actionable, that its right to relief is clear, and that the wrong is manifest, or, in other words, must show that it is likely to prevail on the merits; 5) That the injunction it seeks is reasonably suited to abate the offending activity; and 6) That a preliminary injunction will not adversely affect the public interest. The burden is on the party who requested preliminary injunctive relief. ... *Warehime v. Warehime*, 580 Pa. 201, 860 A.2d 41, 46-47 (2004), citations and quotations omitted.

Motion for Temporary Restraining Order and Preliminary Injunction, C.P., Dau. Co., No. 2007 CV 1040 EQ. Motion denied, with permission to file a Motion for Sanctions.

Amy L. Rosenberger, for Plaintiff

Steven R. Dade, for Defendant

CLARK, J., February 26, 2007. –

BACKGROUND

This case springs from the Plaintiff's action in filing a Complaint and invoking the equity jurisdiction and power of the Court, via its (Plaintiff's) request for a Temporary Restraining Order and Preliminary Injunction, to enjoin certain alleged unlawful actions by the Defendant. In order to properly set the table for a meaningful discussion of these issues, it will be necessary to articulate the legal and factual status of certain parties and matters that might seem apparent to the legally informed reader, but may not be so obvious to a lay person.

The Defendant, City of Harrisburg (City), is a city of the Third Class, situated in the County of Dauphin, Commonwealth of Pennsylvania and operates pursuant to the Act of July 15, 1957 (P.L. 901, No. 399), known as the Optional Third Class City Charter Law. The Harrisburg Authority (Authority) is a municipal authority organized and existing pursuant to the Municipalities Authorities Act, 53

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Pa.C.S.A. §5601, *et seq.* The City and the Authority are two separate and distinct entities, and both are considered (at least for the issues presented in this case) to be political subdivisions of the Commonwealth.

Prior to December 1993, the City owned and operated an incinerator facility that would burn waste while simultaneously creating useable energy (i.e. a mass burn solid waste disposal, resource recovery, steam generation, and electric cogeneration facility). This facility is known as the Harrisburg Materials, Energy, Recycling and Recovery Facility (Incinerator) and is located at 1670 South Nineteenth Street, Harrisburg, Dauphin County, Pennsylvania.

In December of 1993, the City sold the Incinerator to the Authority. Although the Authority became the owner of the Incinerator, it (Authority) decided to hire the City to continue operating the Incinerator. The City and Authority entered into a contract entitled the Solid Waste Management Agreement (Operating Agreement). Pursuant to this Agreement, the Authority remunerated the City for operating the Incinerator. The Operating Agreement was in effect for an initial one year term, ending on December 31, 1994, but became a self-renewing yearly contract unless either party notified the other in writing of its determination to cancel the Operating Agreement on or before October 1st of any calendar year.

In performance under the Operating Agreement, the City assigned thirty-eight (38) of its employees to operate the Incinerator (City Workers). In essence, the City performed the function of an employment agency by providing manpower to the Authority to run the Incinerator. The City Workers are within the bargaining unit known as Local 521, Council 90, of the American Federation of State, County and Municipal Employees (AFSCME or Union). AFSCME is the exclusive collective bargaining representative for all the covered City employees who have been heretofore working at the Incinerator.

AFSCME and the City have been the signatories to a number of labor agreements over the years, and most recently entered into a Collective Bargaining Agreement (Bargaining Agreement) which was signed on April 22, 2005. Among the numerous contract provisions in that Bargaining Agreement, there are specific provisions which control when and how the City can terminate the employment of City Workers that are AFSCME members, and whose employment wages, hours and working conditions fall under that Agreement. Both the City and AFSCME have stipulated to the Court that they consider the Bargaining Agreement to

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currently be in effect despite its (Bargaining Agreement's) official expiration date of December 31, 2006, due to the fact that the parties are currently engaged in collective bargaining for a successor agreement, and no labor strike has occurred. However, and of great significance in the case at bar, it is specifically noted that there is NO concomitant labor agreement of any kind between AFSCME and the Authority, nor is the Authority a party or signatory to the current Bargaining Agreement between the City and AFSCME.

On September 29, 2006, the Authority gave formal written notice to the City that it (Authority) was not renewing the Operating Agreement for the year 2007. Therefore, pursuant to the specific terms and conditions of the Operating Agreement, as of January 2, 2007, the City and its employees were no longer contracted to operate the Incinerator. Instead of allowing the self-renewal provisions of the Operating Agreement to become effective for calendar year 2007, the Authority opted to enter into a contract with Covanta Development Company, LLC, (Covanta) under which the Authority pays Covanta to operate the Incinerator. This termination of the City's provision of a work force at the Incinerator likewise resulted in a cessation of a revenue stream to the City for such work, effective at the close of calendar year 2006.

As a result of the cancellation of the Operating Agreement, and the concomitant loss of that work, the City has informed AFSCME that it cannot find or create employment positions for most of the approximately thirty-three (33) people who worked at the Incinerator, but who were not retained by Covanta. Therefore, the City has initiated the process of "bumping," i.e. displacing and laying-off AFSCME employees based upon their lack of seniority, as mandated by the Bargaining Agreement. The City expects to effectuate the bumping process at the end of the last shift beginning February 25, 2007, and the layoffs on February 26, 2007. The final number of employees to be laid off has not been determined.

Under the dispute resolutions provisions of the current Bargaining Agreement, AFSCME filed a grievance, (Grievance) with the City, dated January 24, 2007, claiming that the City violated that Agreement. AFSCME alleges that the City, not the Authority, hired Covanta to operate the Incinerator in place of the City Workers. Further, AFSCME has filed the instant lawsuit requesting that this Court issue a Preliminary Injunction to require the City to continue paying the City Workers' salaries and benefits pending the outcome of the Grievance.

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Unfortunately, the City is currently experiencing severe financial difficulties, and the discretionary options available to it are extremely limited. The City reported an approximately Fourteen Million Dollar (\$14,000,000.00) deficit for the year 2006. Part of the reason the City has a deficit is because the Authority has been unable to pay the City for operating the Incinerator. At the end of the year 2006, the Authority owed the City approximately Four Million Dollars (\$4,000,000.00). It is undisputed that the City has not sued the Authority to attempt to collect the money owed to it (City).

Despite its financial difficulties, the City agreed to continue paying the City Workers' salaries and benefits until February 26, 2007. The City Workers' salaries and benefits amount to approximately One-Hundred-and-Forty-Thousand Dollars (\$140,000.00) per month.

As is required in dire situations such as this, this Court held a prompt Evidentiary Hearing on February 16, 2007. At that Evidentiary Hearing, the President of Local 521, Mr. Edward C. Egenrieder, testified that Ms. Linda Lingle, the City's Business Administrator, allegedly told him, "we're paying Covanta, our money is going to Covanta." Mr. David Gash, one of the State Representatives for AFSCME, and Mr. Bryan Brookmyer, another Union Officer, testified that Ms. Lingle testified before the Harrisburg City Council that, "our money is going to Covanta."

On direct examination, Ms. Lingle adamantly denied that any City money was being paid to Covanta. Although not specifically addressing the comments she allegedly made to Mr. Egenrieder, Ms. Lingle explained that her statements were merely her way of expressing that the revenue that had been heretofore paid to the City by the Authority ("our money"), was now being paid by the Authority to Covanta.

At the conclusion of the Evidentiary Hearing, and despite Ms. Lingle's uncontradicted testimony, and further, despite the Plaintiff having absolutely no evidence whatsoever (other than the misconstrued statements of Ms. Lingle) to support its claim of payment by the City to Covanta, counsel for AFSCME refused to concede that the City had not hired Covanta. As a result, this Court ordered the parties to conduct expedited discovery so the Plaintiff could verify, independent of Ms. Lingle's oral testimony, whether or not the City contracted with Covanta to operate the Incinerator, and used any City funds to do so.

On February 22, 2007, a set of Stipulations were filed with the Court. These Stipulations added into the record the Plaintiff's request

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for documents / interrogatories pursuant to a subpoena as well as the City's Responses. Significantly, these Responses reflect that no City documents exist showing any payments by the City to Covanta. The Responses also reflect that the City has made no payments to the Authority since December 2006 pursuant to the Operation Agreement. However, the City continues to remit money to the Authority for water and Incinerator receipts. Finally, the City has no agreement with the Authority to postpone or forego payment of its (Authority's) debt to the City.

PROCEDURAL BACKGROUND

On February 2, 2007 the Plaintiff, AFSCME, filed a Complaint as well as a Motion for Temporary Restraining Order and Preliminary Injunctive Relief against the City. On February 9, 2007, the City filed its Answer to the Plaintiff's Motion. An Evidentiary Hearing was held on February 16, 2007. Stipulations and Briefs were filed by the parties on February 22, 2007.

ISSUE

Should the Court grant the Plaintiff's Motion for Preliminary Injunctive Relief and Order the City to continue paying the salaries and benefits of the City Workers pending the final outcome of the Grievance proceedings?

DISCUSSION

The Pennsylvania Supreme Court has explained that the test to determine whether a Preliminary Injunction should be granted is as follows:

There are six essential prerequisites that a party must establish prior to obtaining preliminary injunctive relief. The party must show: 1) That the injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages; 2) That the greater injury would result from refusing an injunction than from granting it, and, concomitantly, that issuance of an injunction will not substantially harm other interested parties in the proceedings; 3) That a preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; 4) That the activity it seeks to restrain is actionable, that its right to relief is clear, and that the wrong is manifest, or, in other words, must show that it is likely to

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prevail on the merits; 5) That the injunction it seeks is reasonably suited to abate the offending activity; and 6) That a preliminary injunction will not adversely affect the public interest. The burden is on the party who requested preliminary injunctive relief. . . .

Warehime v. Warehime, 580 Pa. 201, 860 A.2d 41, 46-47 (2004), citations and quotations omitted.

In this case, the Plaintiff, who is the moving party, woefully did not meet its burden in establishing these six prerequisite factors. In particular, the Plaintiff failed to show that its right to relief is clear and that it is likely to prevail on the merits of this case.

This case can be summed up by again restating the pivotal and salient fact that the Incinerator is owned solely by the Authority. As such, it is entirely the Authority's prerogative to determine who will operate the Incinerator and who will work at that facility. Although the Authority had a contract with the City to operate the Incinerator, the Authority terminated that contract (Operating Agreement) on September 29, 2006. Under the terms of the Operating Agreement, the Authority was perfectly within its legal rights to effectuate that termination and the City was powerless to stop it. Although the Plaintiff's legal counsel has refused to even acknowledge that pivotal and salient fact, and has attempted to distort this issue and clothe it in some rather creative rhetoric, the naked truth of the matter is that the Incinerator work ceased to belong to the City once the Authority bought the Incinerator more than a decade ago, in 1993!

Since the Incinerator jobs did not belong to the City in the first place, in our analysis of this matter for purposes of the issuance of the Preliminary Injunction, we find that the City has not violated the Bargaining Agreement. The Bargaining Agreement states, *inter alia*,

Section 1. The management and direction of the working force is the responsibility of the City, including the right to hire, assign, or transfer, promote, retain, discipline, discharge for proper cause, maintain efficient operations, relieve employees from duty for lack of work, determine and regulate the methods, processes and means of performance, schedule the work force on the existing shifts, introduce new or improved methods or facilities, and to extend, limit or curtail its operations when, in its opinion, it may deem it advisable to do so,

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provided this will not be used for the purpose of discrimination against the Union or any employee or to avoid any of the provisions of this Agreement or applicable law.

Collective Bargaining Agreement, April 22, 2005, Article II, Section 1, emphasis added.

In the case at bar, the City, rather suddenly and through no fault of its own, finds itself with thirty-three (33) extra employees. The work which these employees were hired to perform no longer exists because the owner of the work, i.e. the Authority, has hired someone else to perform it. We cannot think of a better example for the term “lack of work.” Under these circumstances we find that the City is likewise not in violation of the Bargaining Agreement for failing to create positions for the City Workers.

Since the Incinerator belongs to the Authority, the City has no power to restore the Incinerator jobs to the City Workers. The City certainly cannot force the Authority to accept City employees. As a result, we fail to comprehend the remedy AFSCME is requesting of the City in its Grievance. The Union must be able to establish its claim of right to the work at issue in such matter. This is a fundamental predicate to any grievance of this type. In reviewing the facts that have been presented to us, we cannot fathom how the Union will be able to establish its right to the work at the Incinerator, when it has absolutely no contractual relationship with the Incinerator’s lawful owner, the Authority. Therefore, based upon the foregoing, we cannot lawfully grant the Preliminary Injunction.

The Plaintiff’s legal counsel also has attempted to evade the pivotal and salient fact that the City no longer owns the Incinerator by raising a number of “Red Herrings.” First of all, the Plaintiff’s counsel baldly alleges that the City has breached the Bargaining Agreement by allegedly hiring Covanta to operate the Incinerator. Counsel claims that this action falls within the rubric of “contracting out bargaining work,” which is prohibited under Article II, Section 3, of the Bargaining Agreement. In doing so, Plaintiff’s counsel again refuses to acknowledge the aforementioned pivotal and salient fact, AND has produced absolutely NO EVIDENCE of such assertions, which would support that contention. The continued maintenance of such an assertion by the Plaintiff’s counsel is nothing short of astounding, especially in light of the total lack of factual basis and evidence to support such a claim.

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In response, the City adamantly denies that it ever hired Covanta for any purposes. However, even if the City were to pay Covanta for some unknown reason, that does not change the fact that it is solely up to the Authority to decide who works at its Incinerator. The City's operation of the Incinerator has ended.

Not only is the Union's claim irrelevant to this case, but it is illogical. One must ask the rhetorical question, why would the City pay Covanta to perform labor for an Incinerator that it (City) neither owns nor operates?

Finally, not only is the Plaintiff's claim irrelevant and illogical, but it is simply not true. This is probably the most troubling aspect of the Plaintiff's conduct in this case. AFSCME's counsel has failed to produce any tangible evidence to support the allegation that the City is paying Covanta to operate the Incinerator. For example, AFSCME has failed to produce a contract between the City and Covanta. It (AFSCME) has also failed to produce any checks or other proof of payments made by the City to Covanta. Further, AFSCME failed to produce any Covanta employees to testify to any such an arrangement. Finally, AFSCME has failed to produce any documents authored by either the City or Covanta to substantiate this alleged contract.

At the Evidentiary Hearing, the only evidence proffered by AFSCME was the misconstrued statements allegedly made by Linda Lingle. In fact, Ms. Lingle testified that her statements were being misconstrued, and reasonably explained the true meaning and context of those statements. We found her testimony to be eminently credible. Further, regardless of what statements she may have made, Ms. Lingle clearly and unequivocally testified that the City has not retained Covanta to perform any work, and the Plaintiff has absolutely no proof to the contrary.

We note that Plaintiff's legal counsel, as an officer of the Court, had an affirmative duty to reasonably investigate the underlying facts before filing a lawsuit of this magnitude in our Court. The Plaintiff's counsel appears to have relied solely and unreasonably on the speculations, conjectures and misconceptions of her laymen clients as to the meaning of Ms. Lingle's words. We are not unmindful that this whole situation has been extremely traumatic, indeed devastating, upon the City Workers affected by this loss of work, and its equally serious impact upon the Union as a body. We have great empathy and compassion for the scores of employees who will be displaced or unemployed by the bumping provisions of the Bargaining Agreement. No

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one, and most especially this Court, wants to see this happen to the hard working employees of the City, and we are hopeful that some replacement employment can be found in the immediate future to alleviate their individual and collective distress. Nor do we necessarily fault the Union leadership from seeking to enforce their hopeful legal rights under the Bargaining Agreement. Indeed it is the Union's fundamental duty to protect and assist its members in any lawful way that it can.

However, we cannot be so solicitous of the professional conduct of the Plaintiff's legal counsel in this matter. Had the Plaintiff's legal counsel even done a rudimentary investigation of the true facts and circumstances underlying this case, she would have known that there was no factual or legal basis for initiating or advancing this lawsuit. For instance, Plaintiff's legal counsel could have easily contacted Ms. Lingle to determine if Ms. Lingle contested AFSCME's belief and interpretation of her (Lingle's) words. The uncontradicted testimony at the Evidentiary Hearing established that the Union has regular, ongoing, probably daily contact with Ms. Lingle on all manner of issues relating to the administration and implementation of the Bargaining Agreement. In this fundamental respect, the parties and their representatives are certainly no strangers to each other. Even the most basic inquiry about the quoted remarks of Ms. Lingle would have surely resulted in an instant clarification of this issue.

More importantly, the Plaintiff's counsel could have easily determined if the City had paid any monies to Covanta by conducting a simple independent investigation. Under the Right to Know Law, 65 P.S. §66.1 *et seq.*, any account, voucher, or contract dealing with the receipt or disbursement of funds of any political subdivision of the Commonwealth is a public record. The Plaintiff's counsel merely had to request the information she required, and by law, the City would have been obligated to provide it to her. Nevertheless, the Plaintiff's counsel failed to request this information prior to filing the Grievance and the instant lawsuit.

Of even greater significance, however, is that at the conclusion of the Evidentiary Hearing, we afforded AFSCME the extraordinary opportunity to proceed with expedited discovery to determine whether or not the City had hired Covanta, or paid them money. AFSCME filed a subpoena requesting any records relating to any payments from the City to Covanta. The City responded that no such records existed.

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Despite this clear response, we were dismayed, to say the least, to observe that the Plaintiff's counsel nevertheless continued to request that this Court find that a contract between the City and Covanta does/did, in fact, exist. If the only evidence before the Court was the conflicting testimony of the Union witnesses and Ms. Lingle, despite Ms. Lingle's overwhelmingly convincing testimony, we could still give the Plaintiff's counsel the benefit of any doubt that we may have had as to whether or not she was acting in good faith. However, once an independent check of the City's records revealed absolutely no contract and likewise no records of any payments by the City to Covanta, the issue was proven, and the Plaintiff's counsel was professionally obligated to concede that her position was incorrect. Instead, not only did Plaintiff's counsel not withdraw that assertion, she submitted a brief wherein she further advanced that matter, as if it had some factual basis. We find on this issue that Plaintiff's legal counsel has not been candid with the Court; and, therefore has advanced this matter in bad faith. Inasmuch as it is our intention, as will be discussed hereinafter, to entertain the Defendant's request for counsel fees, expenses and costs, it is necessary to make the foregoing finding regarding the Plaintiff's counsel's professional conduct, as a predicate to such other considerations. Unfortunately, apparently as a result of her unreasonably ardent advocacy, the Plaintiff's counsel has lost sight of the factual realities of the case, and has likewise forgotten her overriding affirmative and continuing duty to present the truth to the Court.

Since the City records evidence no payments by the City to Covanta, and since we find Ms. Lingle's testimony to be totally credible, we find as a factual matter that the City is not paying Covanta to operate the Incinerator. Therefore, the Union's request for a Preliminary Injunction based upon the City allegedly contracting out Union work in violation of the Bargaining Agreement must likewise be denied.

The other red herring argued by the Plaintiff's counsel is that even if the City does not have a contract with Covanta, the City should still be found to have violated the Bargaining Agreement. The Union notes that the Authority owes a substantial amount of money to the City. The Union argues that by not attempting to collect the money owed to it (City) by the Authority, the City is enabling the Authority to pay funds to Covanta that should be paid to the City. Thus, the Union appears to be asserting, through some quite perverse "logic," that the City is indirectly paying Covanta to perform Union work. The Authority's obligation to pay a debt to the City is a wholly distinct issue from who has the right to control the work at the Incinerator.

AFSCME District Council 90, Local 521 v. City of Harrisburg, et al.

The Union is essentially requesting that the City be required to use its leverage (by threatening to sue for money owed) to force the Authority to re-hire the City Workers. Fortunately, and in keeping with the public policy of this Commonwealth, the City is not required under the Bargaining Agreement to threaten and force other entities to hire City employees.

The Union has cited to two sections in the Bargaining Agreement that allegedly support its argument. These sections are the following:

ARTICLE II

MANGEMENT RIGHTS/WORKING RULES

. . .

Section 3

- (a) *The Employer agrees that it will not contract out any bargaining unit work that would result in a lay-off or downgrading of any employee or prevent the recall from layoff of an available competent employee except for legitimate operational reasons resulting in a reasonable cost savings or improved delivery service.*
- (b) *If a proposed contract will result in the layoff, downgrading or delay in recall from layoff of an available, competent employee, the Employer agrees to meet and discuss the proposed contract with the Union. Disputes regarding the Employer's actions under Section 3 of this Article may be submitted to the grievance procedure. There will be no layoff of AFSCME bargaining-unit employees through 12/31/06.*

ARTICLE XXXV

SUCCESSORS

In the event the Employer sells, leases, transfers or assigns any of its facilities to other sub-divisions, corporations, or persons, and such sale, lease, transfer or assignment would result in the layoff, furlough or termination of employees covered by this Agreement, the Employer shall attempt in good faith to arrange for the placement of such employees with the new employer. The

AFSCME District Council 90, Local 521 v. City of Harrisburg, et al.

Employer shall notify the Union in writing, at least thirty (30) days in advance of such sale, lease, transfer, or assignment.

Article II, Section 3, prohibits the Employer (i.e. the City) from contracting out bargaining unit work. However, there is no requirement that the City attempt to prohibit other employers (the Authority) from contracting out work that had heretofore been performed by the Union. Although the Union attempts to characterize the City's failure to sue the Authority as "indirectly hiring Covanta," we find this argument to be a prostitution of any reasonable meaning of the term "contract out" as utilized in the Bargaining Agreement. Therefore, we find that this Section does not require the City to use any leverage, if any it may have, to force the Authority to re-hire the City Workers.

Article XXXV requires that in the event the City sells a facility, the City must "attempt in good faith to arrange for the placement of such employees with the new employer." This provision is obviously prospective. Again, we are astounded that Plaintiff's counsel has asserted a claim such as this. The City sold the Incinerator to the Authority in December of 1993. That was over eleven (11) years prior to the existence of the current Bargaining Agreement which was signed on April 22, 2005. There is no language in Article XXXV that states it applies retroactively to facilities sold prior to the existence of the current Bargaining Agreement. Therefore, the City is under no obligation to attempt any good faith efforts to arrange for placement of City Workers with Covanta or the Authority.

Since the Bargaining Agreement does not mandate that the City attempt to force other employers to retain City employees, we find that the City has not violated the Bargaining Agreement by failing to sue the Authority. As a result, we find that the Preliminary Injunction must be denied for lack of likelihood of success on the merits.

Aside from the Union's failure to prove that it is likely to succeed on the merits, we also find that the Union has failed to carry its burden with regard to other elements of a Preliminary Injunction.

We are not unmindful of the needs of the Union employees to retain their employment positions, salaries and benefits. And certainly, it is likewise important for the Union to maintain its bargaining position with the City. However, we find that the greater injury will result from granting the Preliminary Injunction than for denying it. The strain on the shareholders of the City, the taxpayers, is nearing the breaking point.

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Further, we find that granting the Preliminary Injunction is not in the public interest, since the City would be forced to incur a debt of One-Hundred-and-Forty-Thousand Dollars (\$140,000.00) per month in Union salaries and benefits pending the resolution of the Grievance; a Grievance which we find has no merit in the first place. Additionally, there is no telling how many months will pass before that Grievance is decided. The City simply cannot afford to pay this money. The City is already operating under a deficit and will have to enter into more debt to pay these Union salaries. It is not the province of this Court, or any grievance arbitrator, to tell the City what work it must have. That is a management prerogative, and is the law of this Commonwealth.

Additionally, we cannot ignore the fact that the Union obviously acquiesced when the Incinerator was originally sold by the City to the Authority over a decade ago. It is equally obvious that there has been no action by the Union to somehow engraft the Authority into the Bargaining Agreement. However, the present state of affairs distills to the fact that the Authority is the master of its own house. Under the facts and circumstances presented in this case, it is likely that the Union could not have protected the work at the Incinerator for its (Union's) members. The layering of the City in between the Union and the Authority immunized the Authority from ever being the actual employer of the Union Workers.

The final issue that has arisen in the case is indeed unpleasant and distressing, namely, the professional conduct of the Plaintiff's legal counsel in advancing and advocating matters within this lawsuit which are arbitrary, vexatious and in bad faith. The City has itself raised this issue in its latest pleadings, and has requested that the Court award it (City) attorney's fees, costs and expenses. It is our intention to entertain the request by the City for that extraordinary relief pursuant to the provisions of 42 Pa.C.S. §2503, as defined and discussed by our Supreme Court in *Thunberg v. Estate of Gazey*, 545 Pa. 607; 682 A.2d 295 (1996).

For the reasons set forth above, we find that the Plaintiff has failed to meet its substantial burden in this matter. Therefore, as a matter of law, we cannot lawfully grant the Plaintiff's requested relief.

WHEREFORE, pursuant to our Decree of even date herewith, the Motion for Temporary Restraining Order and Preliminary Injunctive Relief is DENIED and the Defendant may file a Motion for Sanctions with the Court.

ISSUED AT HARRISBURG, this 26th day of February, 2007.

AFSCME District Council 90, Local 521 v. City of Harrisburg, et al.

DECREE

AND NOW, to wit, this 26th day of February, 2007, pursuant to our Opinion of even date herewith, IT IS HEREBY DECREED that the Motion for Temporary Restraining Order and Preliminary Injunctive Relief filed by the Plaintiff, AMERICAN FEDERATION OF STATE, COUNTY, and MUNICIPAL EMPLOYEES, DISTRICT COUNCIL 90, LOCAL 521, against the Defendant, CITY OF HARRISBURG (City), is DENIED.

Furthermore, pursuant to the City's previous prayer for relief, it (City) shall be permitted to file a Motion for Sanctions requesting the Court to award it (City) attorney's fees, costs and expenses in the above captioned matter. Said Motion must be filed with the Court within TEN (10) days from receipt of a copy of this Decree. Upon receipt of the Motion, the Court will establish by further Order a briefing and hearing schedule.

—————o—————

SECOND PUBLICATION

Estate Notices

ESTATE OF LOUISE S. DITLOW, late of Swatara Township, Dauphin County, Pennsylvania (died February 14, 2007). Executor: Christopher R. Ditlow, 1011 Red Road, Harrisburg, PA 17110. Attorney: John W. Purcell, Esq., Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102-2392. m30-a13

ESTATE OF DOROTHY E. ESPENSHADE, late of East Hanover Township, Dauphin County, Pennsylvania (died January 13, 2007). Executrix: Iva Rodemaker, 1903 Sand Beach Road, Hummelstown, PA 17036. m30-a13

THIRD PUBLICATION

ESTATE OF BOYD R. HESS a/k/a BOBBY HESS, late of Lower Paxton Township, Dauphin County, Pennsylvania (died February 8, 2007). Executrix: Paulette A. Cassel (Hess), 6611 Union Deposit Road, Harrisburg, PA 17111. Attorney: Gary L. Rothschild, Esq., 2215 Forest Hills Drive, Suite 35, Harrisburg, PA 17112. m23-a6

ESTATE OF DANIEL J. PREAST, late of the Borough of Middletown, Dauphin County, Pennsylvania. Co-Executors: Rebecca J. Rychak, 2 Westwind Drive, Lemoyne, PA 17043 and James T. Heslop, 1245 Wissler Lane, Mount Joy, PA 17552. Attorney: Lowell R. Gates, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043. m23-a6

ESTATE OF DOROTHY D. FLOOD, late of the City of Harrisburg, Dauphin County, Pennsylvania (died February 5, 2007). Executrix: Joan F. Swetz. Attorney: Marielle F. Hazen, Esq., 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110. m23-a6

ESTATE OF ELIZA J. LESTER, late of Susquehanna Township, Dauphin County, Pennsylvania (died March 23, 1983). Administratrix, D.B.N. — C.T.A.: Grace M. Jones, 2417 Highland Avenue, Harrisburg, PA 17109. Attorney: Clarence B. Turns, Jr., Esq., Corporate Plaza — Suite 101, 2080 Linglestown Road, Harrisburg, PA 17110-9670. m23-a6

ESTATE OF JOEL S. KLEIN, late of Susquehanna Township, Dauphin County, Pennsylvania (died September 27, 2007). Executrix: Marilyn R. Klein. Attorney: Elizabeth P. Mullaugh, Esq., McNees Wallace & Nurick LLC, 100 Pine Street, P.O. Box 1166, Harrisburg, PA 17108. Phone (717) 232-8000. m23-a6

ESTATE OF MERVIN C. MARTIN, late of Dauphin County, Pennsylvania. Executor: Todd A. Martin, 3820 Inspiration Drive, Colorado Springs, CO 80917. Attorney: Daryl J. Gerber, Esq., Gerber, Ferry & Tanner, 46 E. Main Street, Palmyra, PA 17078. m23-a6

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Corporation Bureau of the Department of State of the Commonwealth of Pennsylvania:

- (1) The name of the corporation is:
CK FUNDING, INC.
- (2) The corporation has been organized under Title 15 of the Pennsylvania Consolidated Statutes §§1101-4162 (the Business Corporation Law, as amended).

ROBERT C. MAY, Esq.
The Law Firm of May & May, P.C.
4330 Carlisle Pike
Camp Hill, PA 17011
(717) 612-0102

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN that Articles of Incorporation for a domestic non-profit corporation were filed in the Department of State of the Commonwealth of Pennsylvania for **The Business of Entertainment Charter Preparatory School of Philadelphia** on March 20, 2007. This corporation is incorporated under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988, as amended. a6

NOTICE IS HEREBY GIVEN that Nonprofit Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on March 26, 2007, for the purpose of obtaining a Certificate of Incorporation under the provisions of the Nonprofit Corporation Law of 1988. The name of the proposed nonprofit corporation is **Forest Hills Condominium Association**.

The purpose for which it will be organized is: To be a condominium unit owners' association which provides for the management, maintenance and care of the residential condominium project located in Lower Paxton Township, Dauphin County, Pennsylvania, known as The Townes at Forest Hills, A Condominium.

McNEES WALLACE & NURICK LLC
100 Pine Street
a6 Harrisburg, PA 17101

NOTICE IS HEREBY GIVEN that an Application was filed with the Department of State of the Commonwealth of Pennsylvania on or about March 23, 2007, by **Ampex Data Systems Corporation**, a foreign business corporation incorporated under the laws of the State of Delaware, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988. The address of its principal office under the laws of its jurisdiction of incorporation is 1228 Douglas Avenue, Redwood City, CA 94063, Attn: General Counsel. Its registered office in this Commonwealth is c/o Corporation Service Company, which is deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that **Ryan Companies US, Inc.**, a foreign business corporation incorporated under the laws of the State of Minnesota, where its principal office is located at 50 South Tenth Street, Suite 300, Minneapolis, MN 55403, has applied for a Certificate of Authority in Pennsylvania, where its registered agent is located at National Registered Agents, Inc. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. a6

NOTICE IS HEREBY GIVEN that **NL Ventures V Division, L.P.** with a commercial registered office provider in care of Capitol Corporate Services, Inc. in Dauphin County does hereby give notice of its intention to withdraw from doing business in this Commonwealth as per 15 Pa.C.S. 8586. The address of its principal office under the laws of its jurisdiction is 8080 N. Central Expressway, Suite 1220, Dallas, TX 75206. This shall serve as official notice to creditors and taxing authorities. a6

NOTICE IS HEREBY GIVEN that a Certificate of Organization has been filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, for **Home Team Advantage, LLC**. The Certificate of Organization was filed on March 13, 2007. Said Limited Liability Company intends to be organized under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania of 1988. The initial registered office of the company is in care of Anthony J. Nestico, Esquire, 840 East Chocolate Avenue, Hershey, PA 17033, (717) 533-5406, Attorney for Home Team Advantage, LLC. a6

NOTICE IS HEREBY GIVEN that **NL Ventures V Division Management, L.L.C.** with a commercial registered office provider in care of Capitol Corporate Services, Inc. in Dauphin County does hereby give notice of its intention to withdraw from doing business in this Commonwealth as per 15 Pa.C.S. 8586. The address of its principal office under the laws of its jurisdiction is 8080 N. Central Expressway, Suite 1220, Dallas, TX 75206. This shall serve as official notice to creditors and taxing authorities. a6

FIRST PUBLICATION

Corporate Notices

NOTICE IS HEREBY GIVEN in compliance with the requirements of Section 8511 of the Pennsylvania Revised Uniform Limited Partnership Act that a Certificate of Limited Partnership was filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, on March 27, 2007, for the purpose of obtaining a Certificate of Limited Partnership for a limited partnership to do business in the Commonwealth of Pennsylvania. The name of the limited partnership is: **SZELES CAPITAL DEVELOPMENT COMPANY, LP.**

The purpose for which the limited partnership was organized is: To engage in and do any lawful act concerning any and all lawful business for which limited partnership may be incorporated under the Revised Uniform Limited Partnership Act of the Commonwealth of Pennsylvania.

PETER R. WILSON, Esq.
Reager & Adler, PC
2331 Market Street
Camp Hill, PA 17011
(717) 763-1383

a6

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on March 16, 2007, by **ADCHEMY, INC.**, doing business in the Commonwealth of Pennsylvania under the fictitious name of RateMarketplace, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at c/o The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania is located at c/o CT Corporation System, Dauphin County.

a6

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **CLASSIC TENT RENTALS AND PARTYSUPPLIES, INC.**, a corporation organized under the Pennsylvania Business Corporation Law of 1988. a6

FIRST PUBLICATION

Fictitious Notices

NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name to register the fictitious name: **Misty Meadows Nursery**, to conduct business in Dauphin County, Pennsylvania with the principal place of business being located at: 1940 S. Geysers Church Road, Middletown, Dauphin County, Pennsylvania 17057, was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, PA, on March 14, 2007, pursuant to the provisions of the Act of Assembly of December 16, 1982, Act 295, entitled "Fictitious Names Act of 1982," 54 Pa.C.S. §301, et, seq., and its amendments and supplements.

The name and address of the entity owning or interested in the said business is: Misty Meadows Landscape, Inc., 993 Swatara Creek Road, Middletown, PA 17057.

GARY L. ROTHSCHILD, Esq.
2215 Forest Hills Drive, Suite 35
Harrisburg, PA 17112
(717) 540-3510

a6

FIRST PUBLICATION

Miscellaneous Notices

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

ORPHANS' COURT DIVISION

No. 0196-1996

**IN THE MATTER OF
THE ESTATE OF
LYDIA M. TESTA,
LATE OF THE CITY OF HARRISBURG,
DAUPHIN COUNTY, PENNSYLVANIA,
DECEASED**

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Miscellaneous Notices

**TO: ANY INTERESTED
PARTIES OF THE ESTATE OF
LYDIA M. TESTA**

YOU ARE HEREBY NOTIFIED that on January 31, 2007, Luther E. Milspaw, Jr., Esquire, the attorney of record for the Estate of Lydia M. Testa filed a Motion for Leave to Withdraw as Counsel with the Court, wherein the attorney of record for the Estate seeks to withdraw his representation as counsel for the estate. On February 2, 2007, the Court entered an Order and Rule upon all interested parties to show cause why such relief requested in said Motion should not be granted. Said Rule is returnable twenty (20) days after service.

NOTICE

IF YOU WISH TO DEFEND, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court, on or before twenty (20) days from the date of publication of this notice. You are warned that if you fail to do so, the case may proceed without you and judgment may be entered against you without further notice for the relief requested by the Petitioner. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICE TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

DAUPHIN COUNTY
LAWYER REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA

CIVIL ACTION – EJECTMENT

No. 596-CV-2007

ARLINGTON LOAN SERVICING LLC,
4 State Road, #520
Media, PA 19063, Plaintiff

vs.

MICHAEL W. MATHIAS and ANY and
ALL UNKNOWN OCCUPANTS
13 Donald Avenue
Middletown, PA 17057, Defendants

NOTICE

YOU ARE HEREBY NOTIFIED that you have been sued in Court. If you wish to defend against the claims set forth in the following, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below. This office can provide you with information about hiring a lawyer.

If you cannot afford to hire a lawyer, this office may be able to provide you with information about agencies that may offer legal services to eligible persons at a reduced fee or no fee.

DAUPHIN COUNTY
LAWYER REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

NOTICIA

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Usted debe presentar una aparicion escrita o en persona o por abogado y archivar en

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Miscellaneous Notices

la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede entrar una orden contra usted sin pervio aviso o notificacion y por cualquier queja o alivio que es pedido en la peticion de demanda. Usted puede perder dinero o sus propiedades o otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

DAUPHIN COUNTY LAWYER
REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

a6

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 4401 CV 2006

**NOTICE OF SHERIFF'S SALE
OF REAL ESTATE
PURSUANT TO Pa.R.C.P. 3129**

**THE LEGACY BANK s/b/m to
FIRST NATIONAL BANK, Plaintiff**

vs.

PAMELA J. FETTERMAN, Defendant

TO: Pamela J. Fetterman

YOU ARE HEREBY NOTIFIED that the Sheriff's Sale of Real Property (Real Estate) will be held in the Commissioner's Hearing Room,

Dauphin County Administration Building (formerly the Mellon Bank Building). Please enter through the Market Square Entrance, take the elevator to the 4th Floor and turn right. Hearing Room is on the left, Harrisburg, Pennsylvania 17101 on Thursday, May 31, 2007 at 10:00 a.m. prevailing local time.

THE PROPERTY TO BE SOLD is delineated in detail in a legal description consisting of a statement of the measured boundaries of the property, together with a brief mention of the buildings and any other major improvements erected on the land.

The LOCATION of your property to be sold is: 719 Swatara Avenue, Hershey, PA 17033, Dauphin County.

The JUDGMENT under or pursuant to which your property is being sold is docketed to: No. 4401 CV 2006 MF.

A complete copy of the Notice of Sheriff's Sale will be sent to you upon request to the Attorney for the Plaintiff, Scott A. Dieterick, Esquire, P.O. Box 650, Hershey, PA 17033. Phone (717) 533-3280.

**THIS IS A NOTICE
OF THE TIME AND PLACE
OF THE SALE OF YOUR PROPERTY.**

**IT HAS BEEN ISSUED
BECAUSE THERE IS A JUDGMENT
AGAINST YOU.**

**IT MAY CAUSE YOUR PROPERTY
TO BE HELD, TO BE SOLD
OR TAKEN TO PAY THE JUDGMENT.**

YOU MAY HAVE LEGAL RIGHTS to prevent your property from being taken away. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, YOU MUST ACT PROMPTLY.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET FREE LEGAL ADVICE:

DAUPHIN COUNTY
LAWYER REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

a6

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Miscellaneous Notices

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 2007-CV-01589-MF

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**NATIONAL CITY MORTGAGE CO.,
Plaintiff**

vs.

**BENJAMIN W. GREXON and
AMY L. GREXON, Defendants**

**TO: BENJAMIN W. GREXON and
AMY L. GREXON, Defendants,
whose last known address is
322 Church Street
Millersburg, PA 17061**

**COMPLAINT IN
MORTGAGE FORECLOSURE**

YOU ARE HEREBY NOTIFIED that Plaintiff, NATIONAL CITY MORTGAGE CO., has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Dauphin County, Pennsylvania, docketed to 2007-CV-01589-MF, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 322 Church Street, Millersburg, PA 17061, whereupon your property would be sold by the Sheriff of Dauphin County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money

claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

DAUPHIN COUNTY
LAWYER REFERRAL SERVICE
213 North Front Street
Harrisburg, PA 17101
(717) 232-7536

MARK J. UDREN, Esq.
Udren Law Offices, P.C.
111 Woodcrest Road, Suite 200
Cherry Hill, NJ 08003
(856) 482-6900

a6

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 2007-CV-00803-MF

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**THE BANK OF NEW YORK AS
SUCCESSOR TO JP MORGAN CHASE
BANK, NATIONAL ASSOCIATION,
AS TRUSTEE FOR THE C-BASS
MORTGAGE LOAN ASSET-BACKED
CERTIFICATES, SERIES 2005-CB4,
Plaintiff**

vs.

DOUGLAS M. ZARKER, Defendant

**TO: DOUGLAS M. ZARKER, Defendant,
whose last known address is
653 North 2nd Street
Lykens, PA 17048**

FIRST PUBLICATION

Miscellaneous Notices

**COMPLAINT IN
MORTGAGE FORECLOSURE**

YOU ARE HEREBY NOTIFIED that Plaintiff, THE BANK OF NEW YORK AS SUCCESSOR TO JP MORGAN CHASE BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE C-BASS MORTGAGE LOAN ASSET-BACKED CERTIFICATES, SERIES 2005-CB4, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Dauphin County, Pennsylvania, docketed to 2007-CV-00803-MF, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 653 North 2nd Street, Lykens, PA 17048, whereupon your property would be sold by the Sheriff of Dauphin County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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MARK J. UDREN, Esq.
Udren Law Offices, P.C.

111 Woodcrest Road, Suite 200
Cherry Hill, NJ 08003
(856) 482-6900

a6

**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 2006-CV-1732-MF

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**JP MORGAN CHASE BANK f/k/a
THE CHASE MANHATTAN BANK
s/b/m TO CHASE BANK OF TEXAS, N.A.,
f/k/a TEXAS COMMERCE BANK,
N.A. AS TRUSTEE FOR FIRST
FRANKLIN MORTGAGE LOAN TRUST
2005-FF1 BY SAXON MORTGAGE
SERVICES, INC. AS ITS ATTORNEY-IN-
FACT, Plaintiff**

vs.

SHERYL F. RAIN-NIEVES, Defendant

**TO: SHERYL F. RAIN-NIEVES,
Defendant, whose last
known address is
772 North 2nd Street
Steelton, PA 17113**

**COMPLAINT IN
MORTGAGE FORECLOSURE**

YOU ARE HEREBY NOTIFIED that Plaintiff, JP MORGAN CHASE BANK f/k/a THE CHASE MANHATTAN BANK s/b/m TO CHASE BANK OF TEXAS, N.A., f/k/a TEXAS COMMERCE BANK, N.A. AS TRUSTEE FOR FIRST FRANKLIN MORTGAGE LOAN TRUST 2005-FF1 BY SAXON MORTGAGE SERVICES, INC. AS ITS ATTORNEY-IN-FACT, has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Dauphin County, Pennsylvania, docketed to

FIRST PUBLICATION

Miscellaneous Notices

2006-CV-1732-MF, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 772 North 2nd Street, Steelton, PA 17113, whereupon your property would be sold by the Sheriff of Dauphin County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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**IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA**

CIVIL ACTION – LAW

No. 2007-CV-00137-MF

**NOTICE OF ACTION IN
MORTGAGE FORECLOSURE**

**HOUSEHOLD FINANCE CONSUMER
DISCOUNT CO., Plaintiff**

vs.

JOAN L. GIPE, Defendant

**TO: JOAN L. GIPE, Defendant,
whose last known address is
502 2nd Street
Highspire, PA 17034**

**COMPLAINT IN
MORTGAGE FORECLOSURE**

YOU ARE HEREBY NOTIFIED that Plaintiff, HOUSEHOLD FINANCE CONSUMER DISCOUNT CO., has filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Dauphin County, Pennsylvania, docketed to No. 2007-CV-00137-MF, wherein Plaintiff seeks to foreclose on the mortgage secured on your property located, 502 2nd Street, Highspire, PA 17034, whereupon your property would be sold by the Sheriff of Dauphin County.

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the notice above, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

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Miscellaneous Notices

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH THE INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA

PETITION FOR CHANGE OF NAME

NOTICE

NOTICE IS HEREBY GIVEN that on March 28, 2007, the Petition of **Samuel Hayden Bury** was filed in the above named court, requesting a decree to change his name to **Samuel Hayden Murray**.

The Court has fixed May 16, 2007 in Courtroom No. 8 at 1:30 p.m., Dauphin County Courthouse, Front and Market Streets, Harrisburg, PA as the time and place for the hearing on said Petition, when and where all persons interested may appear and show cause if any they have, why the prayer of the said Petition should not be granted. a6

IN THE COURT OF COMMON PLEAS
OF DAUPHIN COUNTY
PENNSYLVANIA

PETITION FOR CHANGE OF NAME

NOTICE

NOTICE IS HEREBY GIVEN that on March 28, 2007, the Petition of **Caleb Christopher Bury** was filed in the above named court, requesting a decree to change his name to **Caleb Christopher Murray**.

The Court has fixed May 16, 2007 in Courtroom No. 8 at 1:30 p.m., Dauphin County Courthouse, Front and Market Streets, Harrisburg, PA as the time and place for the hearing on said Petition, when and where all persons interested may appear and show cause if any they have, why the prayer of the said Petition should not be granted. a6

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Miscellaneous Notices

NOTICE OF PROPOSED TERMINATION OF COURT CASE

The court intends to terminate the cases listed below without further notice because the docket shows no activity in the case for at least two years.

YOU MAY STOP THE COURT FROM TERMINATING THE CASE BY FILING A STATEMENT OF INTENTION TO PROCEED. THE STATEMENT OF INTENTION TO PROCEED SHOULD BE FILED WITH THE PROTHONOTARY OF THE COURT AT DAUPHIN COUNTY COURTHOUSE, FRONT AND MARKET STREETS, HARRISBURG, PENNSYLVANIA ON OR BEFORE SIXTY (60) DAYS FROM DATE OF PUBLICATION.

IF YOU FAIL TO FILE THE REQUIRED STATEMENT OF INTENTION TO PROCEED, THE CASE WILL BE TERMINATED.

BY THE COURT:
JOSEPH H. KLEINFELTER, *Judge*

NOTICE BY MAIL COULD NOT BE GIVEN OR HAS BEEN RETURNED UNDELIVERABLE IN THE FOLLOWING MATTERS; ACCORDINGLY, NOTICE BY PUBLICATION IS HEREBY BEING GIVEN.

NAME OF CASE	DOCKET NUMBER
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City of Harrisburg v. Chase Manhattan	518 CV 2003
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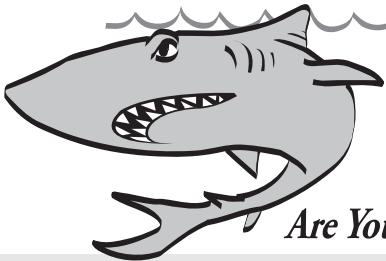
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REPORTING OF ERRORS IN ADVANCE SHEET

The Bench and Bar will contribute to the accuracy in matters of detail of the permanent edition of the Dauphin County Reporter by sending to the editor promptly, notice of all errors appearing in this advance sheet. Inasmuch as corrections are made on a continuous basis, there can be no assurance that corrections can be made later than thirty (30) days from the date of this issue but this should not discourage the submission of notice of errors after thirty (30) days since they will be handled in some way if at all possible. Please send such notice of errors to: Dauphin County Reporter, Dauphin County Bar Association, 213 North Front Street, Harrisburg, PA 17101-1493.

DAUPHIN COUNTY COURT SECTION

Motion Judge of the Month

APRIL 2007
MAY 2007

Judge Scott A. EVANS
Judge Joseph H. KLEINFELTER

Opinions Not Yet Reported

March 2, 2007 – Kleinfelter, J., **McAfee v. Pinnacle Health Systems** (No. 2006
CV 3618 MM)

March 6, 2007 – Kleinfelter, J., **In re: Taylor, A.S., Minor Child** (No. 6564-2006)

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MISCELLANEOUS SECTION

Opinions Not Yet Reported

March 23, 2007 – Clark, J., **Acumix, Inc. v Bulk Conveyor Specialists, Inc.**
(No. 2003 CV 424)

March 28, 2007 – Hoover, J., **Commonwealth v. Floyd** (No. 3031, 3032 CR 2006)

March 28, 2007 – Hoover, J., **Foley v. BARC Properties, et al.** (No. 2003 CV 2295)

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BAR ASSOCIATION PAGE – Continued
MISCELLANEOUS SECTION

SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE

NOTICE OF PROPOSED RECOMMENDATIONS 222, 223 and 224

Proposed Amendment of Rule 223.1

Governing Trial by Jury

Proposed Recission of Rule 1307(b)

Governing Lien of an Award in Compulsory Arbitration

Proposed Amendment of Rule 227.4

Governing Entry of Judgment upon Praecipe of a Party

The Civil Procedural Rules Committee is proposing the amendment of Rule of Civil Procedure 223.1 governing conduct of the jury trial, the rescission of Rule of Civil Procedure 1307(b) governing the lien of an award in compulsory arbitration, and the amendment of Rule 227.4 governing entry of judgment upon praecipe of a party.

The recommendations are published in full in the *Pennsylvania Bulletin*, the advance reports of *West's Atlantic* and *Pennsylvania Reporters*, the *Pennsylvania Law Weekly*, the *Philadelphia Legal Intelligencer* and the *Pittsburgh Legal Journal*. The recommendations are also published electronically as part of the Home Page of the Administrative Office of Pennsylvania Courts at "<http://www.aopc.org>".

The proposed recommendations are being submitted to the bench and bar for comments and suggestions prior to their submission to the Supreme Court of Pennsylvania. All communications should be sent not later than **June 1, 2007** to:

Harold K. Don, Jr.
Counsel

Civil Procedural Rules Committee
5035 Ritter Road, Suite 700

Mechanicsburg, Pennsylvania 17055
or E-Mail to
civil.rules@pacourts.us

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