

**ADVANCE SHEET**

Pages 488-492

**THE**  
**Dauphin County Reporter**

(USPS 810-200)

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A WEEKLY JOURNAL  
CONTAINING THE DECISIONS RENDERED IN THE  
12th JUDICIAL DISTRICT

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36 Years in Harrisburg

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#### **TERMS**

Advertisements must be received before 12 o'clock noon on Tuesday of each week at the office of the Dauphin County Reporter, 213 North Front Street, Harrisburg, PA 17101.

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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 BRENT G. HEYWOOD, late of Lower Paxton Township, Dauphin County, Pennsylvania. Administratrix: Shirley A. Heywood, 5838 Hidden Lake Drive, Harrisburg, PA 17111. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600. m30-j13

ESTATE OF LINDA I. CHENEY, late of the City of Harrisburg, Dauphin County, Pennsylvania (died May 12, 2008). Executor: William H. Cheney, 1537 Waynesborough Road, Paoli, PA 19301. Attorney: Edward P. Seeber, Esq., James, Smith, Dieterick & Connelly, LLP, Suite C-400, 555 Gettysburg Pike, Mechanicsburg, PA 17055. Telephone (717) 533-3280. m30-j13

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ESTATE OF MARY A. BERDANIER, late of Harrisburg, Dauphin County, Pennsylvania (died April 12, 2008). Executrix: Kathleen A. Gallagher, 7355 Audubon Drive, Harrisburg, PA 17111. Attorney: Paul Taneff, Esq., Ricci & Taneff, 4219 Derry Street, Harrisburg, PA 17111. m30-j13

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ESTATE OF GALE F. BLAKE, late of Middletown Borough, Dauphin County, Pennsylvania (died April 21, 2008). Co-Executors: Carrie A. Blake, 4734 B Villa Circle, Colorado Springs, CO 80918 and Margaret A. Blake, 621 South Route 9, Cape May Courthouse, NJ 08210. Attorney: James B. Pannebaker, Esq., Pannebaker & Mohr, P.C., 4000 Vine Street, Middletown, PA 17057. Telephone (717) 944-1333. m30-j13

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ESTATE OF ELEANORA C. FISHER, late of the City of Harrisburg, Dauphin County, Pennsylvania (died January 13, 2008). Executrix: Dorothy A. Fisher, 109 Levan Street, Harrisburg, PA 17109. Attorney: Kent H. Patterson, 221 Pine Street, Harrisburg, PA 17101. m30-j13

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ESTATE OF DONALD R. COOPER, late of Conewago Township, Dauphin County, Pennsylvania (died March 12, 2008). Personal Representative: Scott A. Cooper, 7047 Schoolhouse Road, Hershey, PA 17033. Attorney: Brian S. Black, Esq., Gibbel Kraybill & Hess LLP, 10 South Broad Street, Lititz, PA 17543. m30-j13

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**FIRST PUBLICATION**

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**Estate Notices**

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ESTATE OF HARRY E. SNYDER, JR., late of Dauphin County, Pennsylvania. Executrix: Virginia A. Berry, 3211 Pennwood Lane, Harrisburg, PA 17110. Attorney: Carl G. Wass, Esq., Caldwell & Kearns, P.C., 3631 North Front Street, Harrisburg, PA 17110. (717) 232-7661.

m30-j13

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ESTATE OF CHARLES R. PATTON, late of Dauphin Borough, Dauphin County, Pennsylvania. Administratrix: Violet M. Shadle, 101 Spruce Street, Millersburg, PA 17061. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600.

m30-j13

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ESTATE OF LEO A. UMHOLTZ, late of Millersburg Borough, Dauphin County, Pennsylvania (died May 1, 2008). Executrix: Diane S. Schreffler, 75 Parmer Drive, Halifax, PA 17032. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, 27 North Front Street, Harrisburg, PA 17101.

m30-j13

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ESTATE OF CHARLES R. PATTON, late of Dauphin Borough, Dauphin County, Pennsylvania. Administratrix: Violet M. Shadle, 101 Spruce Street, Millersburg, PA 17061. Attorney: Earl Richard Etzweiler, Esq., 105 N. Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600.

m30-j13

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ESTATE OF DONALD R. COOPER, late of Conewago Township, Dauphin County, Pennsylvania (died March 12, 2008). Executor: Scott A. Cooper, 7047 Schoolhouse Road, Hershey, PA 17033. Attorney: Brian S. Black, Esq., Gibbel Kraybill & Hess, LLP, 10 South Broad Street, Lititz, PA 17543.

m30-j13

ESTATE OF LENWOOD R. BAUMBACH, late of Middletown Borough, Dauphin County, Pennsylvania (died March 13, 2008). Executrix: Lana R. Ryder, Lancaster, PA. Attorney: Jacqueline A. Kelly, Esq., Jan L. Brown & Associates, 845 Sire Thomas Court, Suite 12, Harrisburg, PA 17109. Telephone (717) 541-5550.

m30-j13

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ESTATE OF HARRY E. HARTER, late of Paxtang Borough, Dauphin County, Pennsylvania (died February 14, 2008). Executrix: Cathy I. Fesler, 329 Kelso Street, Harrisburg, PA 17111. Attorney: Jan L. Brown, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109.

m30-j13

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ESTATE OF JESSE C. STAGO, late of Lower Paxton Township, Dauphin County, Pennsylvania (died March 19, 2008). Administratrix: Karolyn O'Brien. Attorney: Steven P. Miner, Esq., Daley Zucker Meilton Miner & Gingrich, LLC, 1035 Mumma Road, Suite 101, Wormleysburg, PA 17043.

m30-j13

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**SECOND PUBLICATION**

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ESTATE OF EARL C. HORNER, late of Penbrook Borough, Dauphin County, Pennsylvania (died March 21, 2008). Executrix: Debra K. Smith, 2623 Cranberry Circle, Harrisburg, PA 17110. Attorney: Jan L. Brown, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109.

m23-j6

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ESTATE OF BETTY R. RAMSEY, late of Williams Township, Dauphin County, Pennsylvania. Executor: Curt W. Ramsey, 110 Umholtz Street, Williamstown, PA 17098. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethville, PA 17023.

m23-j6

**Pellegrino v. Penn National Gaming, Inc., et al.****Torts — Negligence — Assumption of the Risk — Duty of Care.**

Plaintiff, a professional jockey, was seriously injured after being thrown from her horse before the start of a race. She alleged that the assistant starter, responsible for taking her horse from the pony boy who had led the horse to the starting gate, failed to properly assume control of the horse, allowing it to get loose.

1. The assumption of the risk doctrine is not applicable in an employment context because when a person must assume risks inherent in their employment that assumption cannot be voluntary.

2. In the employment context, reasonable minds could differ as to whether a plaintiff/employee “deliberately and with awareness of specific risks inherent in the activity nonetheless engaged in the activity that produced his injury.” *Staub v. Toy Factory, Inc.*, 749 A.2d 522, 532-533 (Pa. Super. 2000). An employee does not voluntarily or unreasonably assume the risk of a danger during the course of employment because “the competitiveness and pragmatism” of the real world workplace compel employees to either perform risky tasks or suffer various adverse employment consequences. *Id.*, at n. 11.

3. There is no authority holding that one who knowingly and voluntarily participates in a dangerous activity accepts not only the risks inherent in that activity, but also necessarily accepts the risk that those who organize or facilitate the performance of the activity will act negligently.

Defendants’ Motion for Summary Judgment. C.P., Dau. Co., No. 2006 CV 4986. Motion denied.

*Spero T. Lappas*, for Plaintiff

*Michael A. Boomsma*, for Defendants

KLEINFELTER, J., May 13, 2008. – Before the court is defendants’ motion for summary judgment. Plaintiff initiated this action by complaint filed October 26, 2006. Defendants filed an answer with new matter on January 22, 2007. On December 13, 2007, defendants filed the instant motion for summary judgment. Plaintiff answered on January 7, 2008. Subsequent to the filing of briefs by both parties, the matter was assigned to this court for disposition on March 24, 2008. Oral argument was held on April 16, 2008.

Plaintiff, a professional jockey, alleges in her complaint that she was injured by defendants’ negligence while participating in a horse racing event at the Penn National Race Course on June 8, 2005. On that date, plaintiff mounted a thoroughbred race horse and was led to the starting gate by a pony boy, one of several race course employees involved in the process of guiding horses and jockeys into the starting gates before each race. Plaintiff alleges that an assistant starter responsible for taking her horse from the pony boy, failed to properly assume control of the horse,

Pellegrino v. Penn National Gaming, Inc., et al.

allowing it to “get loose” and “begin to travel in the direction opposite to the direction of the race.” (Complaint, paragraph 13). Soon thereafter, plaintiff was thrown from the horse and consequently suffered serious physical injury.

Defendants claim to be entitled to summary judgment because (1) plaintiff voluntarily assumed the risks associated with horse racing and (2) plaintiff has failed to produce facts of record or expert testimony to support her claim that defendants breached a professional standard of care. The Pennsylvania Rules of Civil Procedure provide that summary judgment is appropriate “whenever there is no genuine issue of any material fact as to a necessary element of the cause of action” and the moving party is therefore entitled to judgment as a matter of law. Pa. R.Civ. P. 1035.2(1). The relevant elements necessary to permit summary judgment are as follows:

First, the pleadings, depositions, answers to interrogatories, admissions on file, together with any affidavits, must demonstrate that there exists no genuine issue of fact. Second, the moving party must be entitled to judgment as a matter of law. The moving party has the burden of proving that no genuine issue of material fact exists. However, the non-moving party may not rest upon averments contained in its pleadings; the non-moving party must demonstrate that there is a genuine issue for trial. The court must examine the record in the light most favorable to the non-moving party and resolve all doubts against the moving party. Finally, an entry of summary judgment is granted only in cases where the right is clear and free of doubt.

*Blackman v. Federal Really Inv. Trust*, 664 A.2d 139, 141-142 (Pa. Super. 1995).

We are able to quickly dispose of defendants’ motion as it pertains to the allegations of professional negligence raised in plaintiff’s complaint as plaintiff informed the court at oral argument that she is now abandoning all such claims. Accordingly, we will grant summary judgment as to Paragraph 21, subparagraphs (a), (c), (d), (e), (f) and (g) of plaintiff’s complaint.

Remaining then is plaintiff’s claim of negligence concerning the transfer of her horse from the pony boy to the assistant starter. To this claim, defendants assert an assumption of the risk defense, citing plaintiff’s deposition testimony as proof that she was well-aware of the general risks associated with the sport of horse racing when she chose to

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participate in the event which led to her injuries and was specifically aware that even a properly handled horse could brake free from a pony boy, causing it to flip over on a rider. Plaintiff, however, contends that the assumption of risk doctrine is not applicable in an employment context because when a person must assume risks inherent in their employment that assumption cannot be voluntary. We agree.

“[I]n a negligence action, the question of whether a litigant has assumed the risk is a question of law ... and not a matter for jury determination.” *Staub v. Toy Factory, Inc.*, 749 A.2d 522, 526 (Pa. Super. 2000). “[A]ssumption of the risk is no longer an affirmative defense in most cases;<sup>1</sup> rather, it is incorporated into an analysis of whether the defendant owes a duty to the plaintiff.” *Id.* We may, on motion for summary judgment, “determine that no duty exists only if reasonable minds could not disagree that the plaintiff deliberately and with awareness of specific risks inherent in the activity nonetheless engaged in the activity that produced his injury.” *Id.*, at 527.

In *Staub*, an employee of a sub-contractor hired by defendant Grimm Industries fell through a skylight opening while installing insulation on the roof of a building. The injured employee sued Grimm Industries among others, alleging that defendants’ negligence caused his injuries. The trial court ultimately granted defendants’ motion for summary judgment, finding that while material issues of fact remained as to whether the defendants owed the plaintiff a duty of care, he had knowingly and voluntarily assumed the risk of his injuries. The Superior Court reversed, holding that —

in the employment context, reasonable minds could differ as to whether a plaintiff/employee ‘deliberately and with awareness of specific risks inherent in the activity nonetheless engaged in the activity that produced his injury.’ As a result, we find that the trial court in this case erred in not submitting the case to the jury on a comparative negligence theory.

*Id.*, at 532-33 (citation omitted).

In so holding, the court rejected the trial court’s conclusion that plaintiff “was required to quit his job rather than proceed in the face of an obvious danger.” *Id.*, at 532. Rather, the court found that “a jury should consider all the facts and circumstances of the case, including [the

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1. As the *Staub* court noted, the doctrine of assumption of the risk has “fallen into disfavor” and “[c]ourts and scholars differ as to whether assumption of risk can exist in a comparative negligence jurisdiction.” 749 A.2d at 528. Nevertheless, the court concluded that “until our supreme court or our legislature abrogates assumption of risk in negligence cases, the doctrine remains viable in Pennsylvania. ...” *Id.*

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plaintiff's] alternatives, if any." *Id.* In this regard, the court favorably noted "the modern employee's dilemma," a theory recognized by other jurisdictions which advances the view "that an employee does not voluntarily or unreasonably assume the risk of a danger during the course of employment because 'the competitiveness and pragmatism' of the real world workplace compel [sic] employees to either perform risky tasks or suffer various adverse employment consequences. ..." *Id.*, at n.11.

Here, as in *Staub*, plaintiff was not an employee of defendants; rather, she is a self-employed jockey who worked at the race course as an independent contractor. Had plaintiff been directly employed by defendants, her action would have necessarily proceeded under the Workers Compensation Act. Thus, it seems clear that, as plaintiff asserts in his brief, "nothing in the *Staub* analysis [indicates] that the employer/employee relationship is critical to the general rule that assumption of the risk does not apply in the workplace." (Plaintiff's Brief, pg. 3). Moreover, we agree with plaintiff that "[i]ndependent contractors ... have the same economic incentive to remain at work, and the same economic disincentive from quitting jobs simply because they might be 'risky.'" *Id.* Thus, we conclude that the holding in *Staub* controls here and that, accordingly, defendants' motion should be denied.

However, even were we to find that *Staub* was not applicable, we would nevertheless conclude that reasonable minds could disagree as to whether plaintiff deliberately and with awareness of specific risks inherent in horse racing nonetheless elected to participate in the event which produced her injury. Although plaintiff, as stated in her deposition, was aware of dangers generally associated with the sport of horse racing, we find nothing in the record to support defendant's assertion that plaintiff, by participating in the race, knowingly and willingly accepted the risk that race track staff would act negligently in transferring control of her horse at the starting gate. Indeed, we are aware of no authority holding that one who knowingly and voluntarily participates in a dangerous activity accepts not only the risks inherent in that activity, but also necessarily accepts the risk that those who organize or facilitate the performance of the activity will act negligently. Were we to so hold, plaintiff would necessarily be prohibited from ever complaining of the negligence of a horse race organizer.<sup>2</sup>

Finally, we note that while neither party has cited, nor are we able to find, any Pennsylvania decisions in which an assumption of risk defense is raised in a horse racing context, defendants cite two Superior Court

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2. By the same logic, any person who makes their living by contracting to perform dangerous tasks would be prohibited from complaining of the negligence of those who hire them.

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decisions in which the court affirmed the trial court's grant of summary judgment based upon a finding that the plaintiff voluntarily assumed the risk of injury.

In *Loughran v. The Phillies*, 888 A.2d 872 (Pa. Super. 2005), the court affirmed the granting of summary judgment against a plaintiff spectator at a major league baseball game who was hit in the face when a player tossed a ball into the stands. The court held that the plaintiff's injuries were occasioned by a common, frequent and expected risk inherent risk in attending baseball games. As such, the defendants owed the plaintiff no duty of care with regard to balls tossed into the stands between innings.

In *Zachardy v. Geneva College*, 733 A.2d 648 (Pa. Super. 1999), the court affirmed the granting of summary judgment against a college baseball player who was injured when he stepped into a hole on the playing field during the course of a game. The court held that because the plaintiff observed that the field contained numerous ruts and depressions prior to the start of the game and elected to participate regardless of those conditions, the defendant college owed the plaintiff no duty of care.

We find *Loughran* to be distinguishable from the case at bar because the record does not support a finding that the specific act of negligence alleged by plaintiff is a common, frequent and expected risk inherent in horse racing. Further, *Zachardy* is distinguishable because there is nothing in the record to suggest that prior to participating in the race plaintiff was specifically aware or had good reason to believe that the race course staff would hand-off of her horse in a negligent manner.

Accordingly, we enter the following:

#### ORDER

AND NOW, this 13th day of May 2008, upon consideration of defendants' Motion for Summary Judgment,

IT IS HEREBY ORDERED that said motion is granted as to paragraph 21, subparagraphs (a), (c), (d), (e), (f) and (g) of plaintiff's complaint.

IT IS FURTHER ORDERED that defendants' motion is otherwise denied.

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**SECOND PUBLICATION**

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**Estate Notices**

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ESTATE OF CECILIA MARROQUIN, late of Swatara Township, Dauphin County, Pennsylvania (died October 6, 2006). Executrix: Maria G. Miller. Attorney: Patricia Carey Zucker, Esq., Daley Zucker Meilton Miner & Gingrich, LLC, 1035 Mumma Road, Suite 101, Wormleysburg, PA 17043. m23-j6

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ESTATE OF DORIS J. KELLER, late of Susquehanna Township, Dauphin County, Pennsylvania (died April 29, 2008). Co-Executors: Teri Lynn Davis, 2032 Sauers Road, Harrisburg, PA 17110 and Charles Kenneth Seidel, 5321 Whitney Court, Crestview, FL 32536. Attorney: James G. Morgan, Jr., Esq., Tucker Arensberg, P.C., P.O. Box 889, Harrisburg, PA 17108-0889. m23-j6

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ESTATE OF PEGGY L. HERB, late of Halifax Township, Dauphin County, Pennsylvania. Co-Executors: Scott E. Herb and Ryan L. Herb. Attorney: Samuel L. Andes, Esq., P.O. Box 168, Lemoyne, PA 17043. m23-j6

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ESTATE OF SHIRLEY E. STRAW, late of West Hanover Township, Dauphin County, Pennsylvania (died April 27, 2008). Executrix: Janice A. Keim. Attorney: Marvin Beshore, Esq., 130 State Street, Harrisburg, PA 17101. m23-j6

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ESTATE OF SHIRLEY LEE PATTERSON a/k/a SHIRLEY L. PATTERSON, late of the Township of Susquehanna, Dauphin County, Pennsylvania. Co-Administrators: Kevin Patrick and Michael Ellsworth Patterson. Attorney: Jeffrey A. Keiter, J.D., 226 West Chocolate Avenue, Hershey, PA 17033. m23-j6

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**THIRD PUBLICATION**

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ESTATE OF HAROLD R. LOEW, III, late of Lower Paxton Township, Dauphin County, Pennsylvania (died April 21, 2008). Executrix: Debra K. Loew. Attorney: Stephanie Kleinfelder, Esq., Keefer Wood Allen & Rahal, LLP, 635 North 12th Street, Suite 400, Lemoyne, PA 17043. m16-m30

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ESTATE OF NANCY A. SHUEY, late of Dauphin County, Pennsylvania. Administratrix: Lisa Smith. Attorney: Ernest J. Woolever, Esq., 315 County Line Road, Palmyra, PA 17078. m16-m30

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ESTATE OF HENRY M. LIPTAK a/k/a HENRY MICHAEL LIPTAK, late of Susquehanna Township, Dauphin County, Pennsylvania. Executor: H. Michael Liptak, 4081 Rosewall Court, Harrisburg, PA 17112. Attorney: Christopher M. Cicconi, Esq., Stevens & Lee, 17 North Second Street, 16th Floor, Harrisburg, PA 17101. m16-m30

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ESTATE OF WILLIAM H. WILLIAMS, late of Derry Township, Dauphin County, Pennsylvania (died April 29, 2008). Executor: George L. Williams, 372 Equus Drive, Camp Hill, PA 17011. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, 27 Locust Avenue, Towanda, Harrisburg, PA 17101. m16-m30

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ESTATE OF ROBERT L. KASTER, late of the Borough of Williamstown, Dauphin County, Pennsylvania (died April 11, 2008). Executor: Paul Robert Kaster, 17 Locust Avenue, Towanda, PA 18848. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethville, PA 17023. m16-m30

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**THIRD PUBLICATION**

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**Estate Notices**

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ESTATE OF CHARLES B. CRONIN, late of Middletown Borough, Dauphin County, Pennsylvania (died March 9, 2008). Executor: C. Michael Cronin, 107 Oysterman Drive, Milton, DE 19968. Attorney: Jan L. Brown, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. m16-m30

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ESTATE OF CATHERINE M. McPHILLIPS, late of the City of Harrisburg, Dauphin County, Pennsylvania. Executor: Edward J. McPhillips, 5 Louis Lane, Enola, PA 17025. Attorney: Craig A. Hatch, Esq., Gates, Halbruner & Hatch, P.C., 1013 Mumma Road, Suite 100 Lemoyne, PA 17043. m16-m30

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ESTATE OF ETHEL M. PRINZ, late of Swatara Township, Dauphin County, Pennsylvania (died February 10, 2008). Executor: Michael Lee Prinz, Harrisburg, PA. Attorney: Jacqueline A. Kelly, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. Telephone (717) 541-5550. m16-m30

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ESTATE OF JOHN WILLIAM BORST, late of Derry Township, Dauphin County, Pennsylvania. Executor: Paul Bradford Orr, 50 East High Street, Carlisle, PA 17013. m16-m30

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ESTATE OF BETTY L. HOKE, late of the City of Harrisburg, Dauphin County, Pennsylvania (died March 29, 2008). Executrix: Debra Hoke, 6125 Catherine Street, Harrisburg, PA 17112. Telephone (717) 545-6638. m16-m30

ESTATE OF RUSSEL HARNES, JR., late of Swatara Township, Dauphin County, Pennsylvania (died March 30, 2008). Trustee: Cheryl R. Charlesen, 245 Wallingford Road, Strasburg, PA 17579. Attorney: Jan L. Brown, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. Telephone (717) 541-5550. m16-m30

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ESTATE OF WILLIAM S. BROWN, late of Lower Swatara Township, Dauphin County, Pennsylvania (died February 17, 2008). Executor: Eriq Brown, 1147 S. Harrisburg Street, Oberlin, PA 17113. Attorney: Jill M. Wineka, Esq., Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102. m16-m30

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ESTATE OF NATALIE L. BOYLES, late of Lower Paxton Township, Dauphin County, Pennsylvania (died April 19, 2008). Executor: David Tennant. Attorney: Diane S. Baker, Esq., P.O. Box 6443, Harrisburg, PA 17112-0443. m16-m30

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ESTATE OF NANCY L. RHODES, late of Susquehanna Township, Dauphin County, Pennsylvania (died April 1, 2008). Executor: Edwin D. Rhodes II, 180 Stirrup Lane, Harrisburg, PA 17112. m16-m30

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**FIRST PUBLICATION**

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**Corporate Notices**

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NOTICE IS HEREBY GIVEN that **1ST CHOICE MARKETING, INC.** with a Commercial Registered Office Provider in care of PennCorp Servicegroup, 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. 4129(b). The address of its principal office under the laws of its jurisdiction is 180 East 79th Street, #100, New York, NY 10021. This shall serve as official notice to creditors and taxing authorities. m30

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that an application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on May 7, 2008, by **The Simmons Management Group II, Inc.**, a foreign corporation formed under the laws of the State of Maryland, where its principal office is located at 756 Towne Center Drive #3, Joppa, MD 21085, 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 shall be deemed for venue and official publication purposes to be located c/o Caldwell & Kearns, P.C., Dauphin County, Pennsylvania. m30

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Commonwealth of Pennsylvania. The name of the corporation is **Wolfe Restaurants, Inc.** The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

ANTHONY J. NESTICO, Esq.  
840 East Chocolate Avenue  
Hershey, PA 17033  
(717) 533-5406

m30

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NOTICE IS HEREBY GIVEN that **House Haddon Hardware Company, Persinger Division, Inc.**, a foreign business corporation incorporated under the laws of the State of West Virginia, where its principal office is located at 122 Prichard Industrial Park Road, Prichard, WV 25555-4002, has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at National Registered Agents, Inc., 600 North Second Street, Suite 401, Harrisburg, PA 17101. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. m30

NOTICE IS HEREBY GIVEN that an application was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on May 21, 2008, by **Biometric Equipment & Safety Technology Labs, Inc.**, a Nevada corporation, with its principal office located at c/o Corporate Office Services, 2533 N. Carson Street, Suite 125, Carson City, NV 89706 for a Certificate of Authority to do business within the Commonwealth of Pennsylvania under the provisions of the Business Corporation Law of 1988.

The proposed registered office of the said corporation in the Commonwealth of Pennsylvania will be located at 6130 Old Jonestown Road, Suite C, Harrisburg, PA 17112.

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

m30

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Commonwealth of Pennsylvania. The name of the corporation is **High Pointe in Hershey Unit Owners Association, Inc.** The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

ANTHONY J. NESTICO, Esq.  
840 East Chocolate Avenue  
Hershey, PA 17033  
(717) 533-5406

m30

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 20, 2008, by **LaCosta, Inc.**, a foreign corporation formed under the laws of the State of Illinois, where its principal office is located at 440 Bonner Road, Wauconda, IL 60084, 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 shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania on the 13th day of May, 2008, for the purpose of obtaining a Certificate of Incorporation of a proposed professional corporation to be organized under the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

The name and address of the proposed corporation are **Noori, P.C., 651 Woodthrush Way, Hummelstown, PA 17036.**

The purposes for which it is to be organized are: Psychiatry/psychotherapy.

CHARLES J. DEHART, III, Esq.  
Caldwell & Kearns  
13 East Main Street  
m30 Hummelstown, PA 17036

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **HCWC ACQUISITION COMPANY**, a corporation organized under the Pennsylvania Business Corporation Law of 1988. m30

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 20, 2008, by **SNH Medical Office Properties Trust**, a foreign corporation formed under the laws of the State of Maryland, where its principal office is located at 7 St. Paul Street, Suite 1660, Baltimore, MD 21202, 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 shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 20, 2008, by **PREVISITE AMERICA INC.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 2711 Centerville Road, Suite 400, Wilmington, DE 19808, 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 shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 16, 2008, by **VODAFONE GLOBAL ENTERPRISE INC.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 2999 Oak Road, 7th Floor, Walnut Creek, CA 94597, 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 shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 19, 2008, by **XTO ENERGY INC.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 810 Houston Street, Fort Worth, TX 76102, 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 shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 21, 2008, by **CALLISTO PHARMACEUTICALS, INC.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 2711 Centerville Road, Suite 400, Wilmington, DE 19808, 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 shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 20, 2008, by **TSC SOLUTIONS, INC.**, doing business in the Commonwealth of Pennsylvania under the fictitious name of **TSC SOLUTIONS GROUP, INC.** a foreign corporation formed under the laws of the State of North Carolina, where its principal office is located at 14045 Ballantyne Corp. Place, Suite 100, Charlotte, NC 28277, 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 shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **ALL ABOUT SMILES, INC.**, a corporation organized under the Pennsylvania Business Corporation Law of 1988. m30

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 19, 2008, by **XENYSYS, INC.** a foreign corporation formed under the laws of the State of Michigan, where its principal office is located at 1660 Opdyke Court, Suite 101, Auburn Hills, MI 48326, 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 shall be deemed for venue and official publication purposes to be located at c/o CT Corporation System, Dauphin County. m30

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on May 2, 2008, by **THE CELEDINAS AGENCY, INC.**, a foreign corporation formed under the laws of the State of Florida, where its principal office is located at 4283 Northlake Boulevard, Palm Beach Gardens, FL 33410, 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 shall be deemed for venue and official publication purposes to be located at c/o National Registered Agents, Inc., Dauphin County. m30

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NOTICE IS HEREBY GIVEN that **DEAN & DRAPER INSURANCE AGENCY, INC.**, a Texas Corporation, intends to file an Application for Termination of Authority and the registered office is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. m30

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**FIRST PUBLICATION**

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**Fictitious Notices**

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NOTICE IS HEREBY GIVEN that Jessica A. Baker of 9970 Jonestown Road, P.O. Box 120, Grantville, Pennsylvania 17028, did file in the office of the Secretary of the Commonwealth of Pennsylvania, on April 11, 2008, registration of the name: **Every Spoiled Princess**

Under which she intends to do business at 9970 Jonestown Road, P.O. Box 120, Grantville, Pennsylvania 17028, pursuant to the provisions of the Act of Assembly of December 16, 1982, Chapter 3, known as the "Fictitious Name Act."

WENTZ, WEAVER, KLING,  
m30 GOOD & HARRIS, LLP

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NOTICE IS HEREBY GIVEN that Leroy and Elsie Blank, 330 Amos Stoltzfus, 330 Blanks Lane, Ickesburg, PA 17037, did file in the Office of the Secretary of the Commonwealth of Pennsylvania on May 8, 2008, registration of the name: "**LIBERTY VALLEY BUILDERS**" under which he intends to do business at 330 Blanks Lane, Ickesburg, PA 17037, pursuant to the provisions of the Act of Assembly of December 16, 1982, Chapter 3, known as the "Fictitious Name Act".

LAW OFFICES  
m30 SMOKER GARD ASSOCIATES LLP

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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**NOTICE**

**TO: MELVIN E. MOPPIN, SR.,  
Deceased Mortgagor & Real Owner  
and ALL UNKNOWN HEIRS,  
SUCCESSORS, ASSIGNS AND ALL  
PERSONS, FIRMS OR ASSOCIA-  
TIONS CLAIMING RIGHT, TITLE  
OR INTEREST FROM OR UNDER  
MELVIN E. MOPPIN, SR.**

NOTICE IS HEREBY GIVEN that on 05/08/08, a Writ of Execution was issued by Wachovia Bank, N.A. against you (in the amount of \$67,582.47, with interest continuing from 12/17/07 at the per them of \$14.20 until the date of sale plus costs of suit), filed at Dauphin C.C.C.P. No. 2008-CV-179-MF, for sale of the mortgaged premises located at 227 Penn Street, Highspire Borough, Dauphin County, PA. The sheriff sale is scheduled for 07/10/08 at 10:00 a.m. at the Dauphin County Administration Building, Second and Market Streets, Commissioner's Hearing Room, 4th Floor, Harrisburg, PA 17101.

ANTHONY R. DISTASIO, Esq.  
Linton, Distasio, Edwards & Miller, P.C.  
m30 (610) 374-7320

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

**CIVIL ACTION – LAW**

**No. 2007-CV-8357-MF**

**NOTICE OF SHERIFF'S SALE  
OF REAL PROPERTY**

**BANK OF NEW YORK AS TRUSTEE  
FOR THE CERTIFICATE HOLDERS  
CWABS, INC. ASSET-BACKED  
CERTIFICATES SERIES 2005-3, Plaintiff**

**vs.**

**WILLIAM CAREY, Defendant**

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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**NOTICE**

**TO: WILLIAM CAREY**

TAKE NOTICE that the real estate located at 1704 FULTON STREET, HARRISBURG, PA 17102 is scheduled to be sold at Sheriff's Sale on Thursday, JULY 10, 2008 at 10:00 A.M., Dauphin County Administration Building, 4th Floor, Commissioners Hearing Room, Harrisburg, PA, to enforce the court judgment of \$128,659.86, obtained by BANK OF NEW YORK AS TRUSTEE FOR THE CERTIFICATE HOLDERS CWABS, INC. ASSET-BACKED CERTIFICATES SERIES 2005-3 (the mortgagee).

ALL THAT CERTAIN tract of land situate it the City of Harrisburg, County of Dauphin and Commonwealth of Pennsylvania being more fully bounded and described an follows, to wit:

BEGINNING at a point on the western right-of-way of Fulton Street, said point being located South twenty-nine degrees thirty-seven minutes twenty-six seconds East (S 29 degrees 37 minutes 26 seconds E) a distance of one hundred twenty and zero hundredths (120.00) feet from the intersection of the southern right-of-way of Granite Street and the western right-of-way of Fulton Street; thence along the western right-of-way of Fulton Street South twenty-nine degrees thirty-seven minutes twenty-six seconds East (N 29 degrees 37 minutes 26 seconds E) a distance of twenty-eight and zero hundredths (98.00) feet to a point at lands now or formerly of Dontie L. Brooks; thence along said lands now or formerly of Dontie L. Brooks and continuing along lands now or formerly of Rukuson Yoh South sixty degrees twenty-two minutes thirty-four seconds West (S 60 degrees 22 minutes 34 seconds W) a distance of twenty-four and zero hundredths (24.00) feet to a point at lands now or formerly of Fred W. & Sarah E. Guider; thence along said lands now or formerly of Fred W. & Sarah E. Guider North twenty-nine degrees thirty-seven minutes twenty-six seconds West (N 29 degrees 37 minutes 26 seconds W) a distance of three and zero hundredths (3.00) feet to a point at lands of

the same; thence along the same South sixty degrees twenty-two minutes thirty-four seconds West (S 60 degrees 22 minutes 34 seconds W) a distance of twelve and zero hundredths (12.00) feet to a point at the same; thence along the same South twenty-nine degrees thirty-seven minutes twenty-six seconds East (S 29 degrees 37 minutes 26 seconds E) a distance of three and zero hundredths (3.00) feet to a point at lands now or formerly of Kay F. Reid; thence along said lands now or formerly of Kay F. Reid and continuing along lands now or formerly of Lucille Layton and along other lands now or formerly of Fred W. & Sarah E. Guider South sixty degrees twenty-two minutes thirty-four seconds West (S 60 degrees 22 minutes 34 seconds W) a distance of thirty-six and zero hundredths (36.00) feet to a point at Lot 97 of the above mentioned plan; thence along said Lot No. 97 North twenty-nine degrees thirty-seven minutes twenty-six seconds West (N 29 degrees 37 minutes 26 seconds W) a distance of four and ninety-seven hundredths (4.97) feet to a point at the same; thence along the same South sixty degrees twenty-two minutes thirty-four seconds west (S 60 degrees 22 minutes 34 seconds W) a distance of thirty-two and sixty-nine hundredths (32.69) feet to a point on the eastern right-of-way of Rhoades Alley; thence along the eastern right-of-way of Rhoades Alley North twenty-nine degrees thirty-seven minutes twenty-six seconds West (N 29 degrees 37 minutes 26 seconds W) a distance of twenty-three and three hundredths (23.03) feet to a point at Lot No. 95 of the above mentioned development; thence along said Lot No. 95 North sixty degrees twenty-two minutes thirty-four Seconds East (N 60 degrees 22 minutes 34 seconds E) a distance of one hundred four and sixty-nine hundredths (104.69) feet to a point on the western right-of-way of Fulton Street, the PLACE OF BEGINNING.

BEING LOT NO. 96 of the Revised Preliminary/Final Subdivision Plan of the Capitol Heights Development - Phase II recorded in Plan Book 'R', Volume 8, Page 34.

CONTAINING two thousand seven hundred thirty-three square feet, more or less (2,733).

BEING PREMISES 1704 FULTON STREET, HARRISBURG, PA 17102.

IMPROVEMENTS consist or residential property.

SOLD as the property of WILLIAM CAREY.

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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**CONDITIONS OF SALE:  
THE HIGHEST AND BEST BIDDER  
SHALL BE THE BUYER.**

TERMS: The purchaser will be required to pay the full amount of his bid by TWO O'CLOCK p.m. on the day of the sale, and if complied with, a deed will be tendered by The Sheriff the next Court of Common Pleas for Dauphin County, conveying to the purchaser all the right, title, interest and claim which said defendant has in and to said property at the time of levying the same. ALTHOUGH NOT PART OF THE MINIMUM BID, PROPERTY SOLD FOR MINIMUM BID DOES NOT DISCHARGE DELINQUENT AND/OR OUTSTANDING TAXES AND THE PURCHASER WILL BE RESPONSIBLE FOR SAME. If above conditions be not complied with on the part of the Purchaser, the property will again be offered for sale by the Sheriff at THREE O'CLOCK p.m. on the same day. The said purchaser will be held liable for the deficiencies and additional cost of said sale.

TAKE NOTICE that a Schedule of Distribution will be filed by the Sheriff AUGUST 11, 2008, distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereto.

DANIEL G. SCHMIEG, Esq.  
Suite 1400, One Penn Center  
1617 John F. Kennedy Boulevard  
Philadelphia, PA 19103-1814  
(215) 563-7000

m30

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**IN THE COURT OF COMMON PLEAS**

**OF DAUPHIN COUNTY  
PENNSYLVANIA**

**CIVIL ACTION – LAW**

**No. 2008-CV-2338-MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**WELLS FARGO BANK, N.A. AS  
TRUSTEE FOR OPTION ONE  
MORTGAGE LOAN TRUST  
2007-CP1 ASSET-BACKED  
CERTIFICATES, SERIES 2007-CP1,  
Plaintiff**

**vs.**

**ARTHUR L. BROWN and  
MARIA L. BROWN, Defendants**

**NOTICE OF SALE OF  
REAL PROPERTY**

**To: Arthur L. Brown and  
Maria L. Brown  
6334 Mifflin Avenue  
Harrisburg, PA 17111**

NOTICE IS HEREBY GIVEN that your house (real estate) at 6334 Mifflin Avenue, (Swatara Township) Harrisburg, PA 17111 is scheduled to be sold at the Sheriff's Sale on July 10, 2008 at 10:00 A.M. in the Dauphin County Administration Building, 4th Floor, Second and Market Streets, Harrisburg, PA 17101, to enforce the court judgment of \$147,544.65, obtained by Plaintiff above (the mortgagee) against you. If the sale is postponed, the property will be relisted for the Next Available Sale.

**PROPERTY DESCRIPTION:**

ALL THAT CERTAIN PIECE OR PARCEL OF LAND, WITH ANY BUILDINGS AND IMPROVEMENTS THEREON ERECTED, SITUATE IN THE TOWNSHIP OF SWATARA, COUNTY OF DAUPHIN, COMMONWEALTH OF PENNSYLVANIA, AND BEING DESCRIBED IN ACCORDANCE WITH THE SUBDIVISION PLAN FOR CHATHAM GLENN, PHASE II, SAID PLAN DATED DECEMBER 5, 1986 AND RECORDED IN THE RECORDER OF DEEDS OFFICE IN AND FOR DAUPHIN COUNTY IN PLAN BOOK II, VOLUME 4, PAGE 37, AS FOLLOWS, TO WIT:

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FIRST PUBLICATION

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Miscellaneous Notices

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BEGINNING AT A POINT ON THE NORTHERN RIGHT-OF-WAY OF MIFFLIN AVENUE (60 FEET WIDE), SAID POINT BRING AT THE CORNER OF LOT NO. 41; THENCE ALONG LOT NO. 41 NORTH 11° 25' 40" WEST A DISTANCE OF 99.95 FEET TO A POINT IN LINE OF LOT NO. 49; THENCE EXTENDING ALONG LOT NO. 49 AND PARTIALLY ALONG LOT NO. 50. NORTH 75° 55' 12" EAST A DISTANCE OF 77.03 FEET TO A POINT AT THE CORNER OF LOT NO. 39; THENCE ALONG LOT NO. 39 SOUTH 14° 4' 48" EAST A DISTANCE OF 100.00 FEET TO A POINT ON THE NORTHERN RIGHT-OF-WAY OF MIFFLIN AVENUE; THENCE ALONG MIFFLIN AVENUE SOUTH 75° 55' 12" WEST A DISTANCE OF 68.13 FEET TO A POINT; THENCE ON THE ARC OF A CIRCLE CURVING TO THE RIGHT AND HAVING A RADIUS OF 345.00 FEET AN ARC LENGTH OF 12.52 FEET TO THE FIRST MENTIONED POINT AND PLACE OF BEGINNING.

CONTAINING THEREIN 7,678 SQUARE FEET AND BEING KNOWN AND NUMBERED AS 6334 MIFFLIN AVENUE.

HAVING ERECTED THEREON A ONE-STORY DWELLING WITH ATTACHED GARAGE.

UNDER AND SUBJECT NEVERTHELESS TO EASEMENTS, RIGHTS-OF-WAY AND RESTRICTIONS OF RECORD.

BEING KNOWN AS: 6334 Mifflin Avenue, Harrisburg, PA 17111.

PROPERTY ID No. 63-081-021.

TITLE TO SAID PREMISES IS VESTED IN ARTHUR L. BROWN AND MARIA L. BROWN, HUSBAND AND WIFE BY DEED FROM ROBERT D. FIRKAL, SINGLE PERSON DATED 1/3/02 RECORDED 1/8/02 IN DEED BOOK 4235 PAGE 580.

MARK J. UDREN, Esq.  
Mark J. Udren & Associates  
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The Board of Directors of the Bar Association meets on the third Thursday of the month at the Bar Association headquarters. Anyone wishing to attend or have matters brought before the Board should contact the Bar Association office in advance.

**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*

MAY 2008  
JUNE 2008

Judge Joseph H. KLEINFELTER  
Judge Todd A. HOOVER

*Opinions Not Yet Reported*

May 20, 2008 – Turgeon, J., **Gourley v. Gourley** (No. 616 DR 2004; PACSES 666106266)

**BAR ASSOCIATION PAGE – Continued**  
**MISCELLANEOUS SECTION**

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m30-j6

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m30-j13

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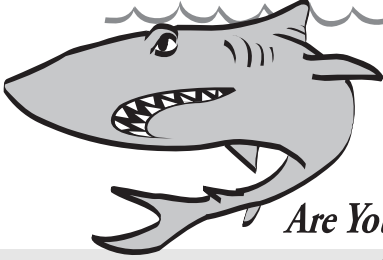
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