

**ADVANCE SHEET**  
**THE**  
**Dauphin County Reporter**

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12th JUDICIAL DISTRICT

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Website: [www.h-hpc.com](http://www.h-hpc.com)

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**ELIZABETH G. SIMCOX**  
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**Estate Notices**

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**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 DOROTHY TOSHEFF, late of Lower Paxton Township, Dauphin County, Pennsylvania, (died January 4, 2014). Executrix: SusanMarie Smith, P.O. Box 198, Summerdale, PA 17093. Attorney: Elizabeth H. Feather, Esq., Caldwell & Kearns, P.C., 3631 North Front Street Harrisburg, PA 17110. j24-f7

ESTATE OF DEBORA A. ROWE A/K/A DEBORA ANN ROWE-BLACK A/K/A DEBORA A. ROWE BLACK, late of Lower Paxton Township, Dauphin County, Pennsylvania, (died September 9, 2013). Executor: Eric Rowe, 1164 Queen Esther Drive, Sayre, PA 18840. Attorney: Jill M. Wineka, Esq., Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102. j24-f7

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ESTATE OF HELEN B. METZGER, late of Susquehanna Township, Dauphin County, Pennsylvania, (died November 25, 2013). Co-Executors: Holly Leggett, 515 Benton Road, Camp Hill, PA 17011 and Julie O. Metzger, 2889 Oakwood Drive, Harrisburg, PA 17110. Attorney: Charles B. Zwally, Esq., Mette, Evans & Woodside, 3401 North Front Street Harrisburg, PA 17110. j24-f7

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ESTATE OF OLIVER L. SLINKER, late of the Township of Lower Paxton, Dauphin County, Pennsylvania. Executrix: Dolores A. Slinker, 1185 Fairmont Drive, Harrisburg, PA 17112. Attorney: Craig A. Hatch, Esq., Halbruner, Hatch & Guise, LLP, 2109 Market Street, Camp Hill, PA 17011. j24-f7

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ESTATE OF JOSEPH PATRICK DEARING, late of Dauphin County, Pennsylvania, (died July 16, 2013). Executrix: Shirley A. Dearing. Attorney: Patricia Carey Zucker, Esq., Daley Zucker Meilton & Miner, LLC, 635 N. 12th Street, Suite 101, Lemoyne, PA 17043. j24-f7

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ESTATE OF MAX G. SHEAFFER, late of West Hanover Township, Dauphin County, Pennsylvania, (died on December 8, 2013). Co-Executors: Sally S. Hamilton, 7012 Hemlock Road, Harrisburg, PA 17112 and Joel C. Sheaffer, 7476 Sterling Road, Harrisburg, PA 17112. Attorney: Jean D. Seibert, Esq., Caldwell & Kearns, PC, 3631 North Front Street, Harrisburg, PA 17110. j24-f7

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**FIRST PUBLICATION**

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**Estate Notices**

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ESTATE OF RUTH J. SCHREIBER, late of Dauphin County, Pennsylvania, (died January 2, 2014). Executrix: Stephanie Schrolucke; Attorney: Patricia Carey Zucker, Esq., Daley Zucker Meilton & Miner, LLC, 635 N. 12th Street, Suite 101, Lemoyne, PA 17043. j24-f7

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ESTATE OF LEE ANN SHULTZ, late of Lykens Borough, Dauphin County, Pennsylvania, (died January 5, 2014). Co-Executors: John R. Shultz, 26 West Main Street, Lykens, PA 17048 and Jeff E. Shultz, 656 North Second Street, Lykens, PA 17048. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, Pennsylvania, 17023. j24-f7

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ESTATE OF BEATRICE CONSTANCE BEASLEY, late of Swatara Township, Dauphin County, Pennsylvania, (died December 29, 2013). Administratrix: Sandra M. Parrish, 1020 Reservoir Road, Steelton, PA 17113. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023. j24-f7

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ESTATE OF HARRY D. STRAUB, late of the Township of Upper Paxton, County of Dauphin and Commonwealth of Pennsylvania. Executor: Larry Straub, 144 Vista Road, Klingerstown, PA 17941. Attorney: Joseph C. Michetti, Jr., Esq., Diehl, Dluge, Jones & Michetti, 921 Market Street, Trevorton, PA 17881. j24-f7

ESTATE OF ALDA E. MUTH, late of the Township of Lykens, County of Dauphin and Commonwealth of Pennsylvania. Co-Executors: Donna E. Kratzer, 187 Hebe Church Road, Herndon, PA 17830 or Charles H. Muth, 523 S. Pine Street, Lykens, PA 17048. Attorney: Joseph C. Michetti, Jr., Esq., Diehl, Dluge, Jones & Michetti, 921 Market Street, Trevorton, PA 17881. j24-f7

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ESTATE OF LARRY T. SHEAFFER, late of Londonderry Township, Pennsylvania, (died December 24, 2013). Executor/Administrator: Robin A. Sheaffer, 4024 Parkside Court, Mount Joy, PA 17552. Attorney: Michael S. Grab, Esq., 327 Locust Street, Columbia, PA 17512. j24-f7

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ESTATE OF GLENN S. WAMBOLD, late of Susquehanna Township, Dauphin County, (died 12/1/2013. Executor/Administrator: Janet Parker, 3915-510 Union Deposit Road, Harrisburg, PA 17109. j24-f7

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ESTATE OF THEODORA A. SWATSKY, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Janet H. Davis. Attorney: Melanie Walz Scaringi, Esq., Scaringi & Scaringi, P.C., 2000 Linglestown Road, Suite 106, Harrisburg, PA 17110. j24-f7

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**SECOND PUBLICATION**

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**Estate Notices**

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ESTATE OF CATHERINE B. BUNJEVAC, late of Harrisburg, Dauphin County, Pennsylvania. Executrix: Yvonne A. Whisenant, 1521 Inverness Drive, Mechanicsburg, PA 17050. Attorney: John R. Zonarich, Esq., Skarlatos-Zonarich LLC, 17 South 2nd Street, Floor 6, Harrisburg, PA 17101. j17-j31

Commonwealth v. Chavious

Accordingly, I enter the following:

**ORDER**

AND NOW, this 23rd day of October, 2013, following an evidentiary hearing, and for the reasons set forth above, Petitioner Daniel Chavious' request for PCRA relief petition is hereby GRANTED. Petitioner's judgment of sentence, entered December 16, 2009, is hereby VACATED and a new trial ordered.

BY THE COURT

Jeannine Turgeon, Judge

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**P.D.D. v. K.M.D.**

**Domestic Relations - Divorce - Child Support -  
Marital Settlement Agreement**

Plaintiff filed a motion seeking to reduce or terminate his child support obligation pursuant to the parties' marital settlement agreement, while Defendant petitioned to enforce the obligation.

1. Marital settlement agreements are "private undertakings" between two parties, each having responded to the "give and take" of negotiations and bargained consideration." *Stamerro v. Stamerro*, 889 A.2d 1251, 1258 (Pa. Super. 2005). The parties have a right to "make an agreement as to child support if it is fair and reasonable, made without fraud or coercion, and does not prejudice the welfare of the children." *Kraisinger v. Kraisinger*, 928 A.2d 333, 340 (Pa. Super. 2007).

2. The Divorce Code provides that "[a] provision of an agreement regarding child support, visitation or custody shall be subject to modification by the court upon a showing of changed circumstances." 23 Pa.C.S.A. §3105(b). Accordingly, all agreements containing child support provisions are subject to court review upon changed circumstances, whether the moving party is seeking to modify child support upward or downward. *See, Nicholson v. Combs*, 703 A.2d 407, 411 (PA. 1997) and *Patterson v. Robbins*, 703 A.2d 1049, 1051 (Pa. Super. 1997).

3. When modification of a child support order is sought, the moving party has the burden of proving by competent evidence that a material and substantial change of circumstances has occurred since the entry of the original or modified order. *Samii v. Samii*, 847 A.2d 691 at 695 (Pa. Super. 2004). Downward modification of an agreed order of support under Section 3105(b), on the basis of changed circumstances, is warranted with proof of an inability to pay. *Boullianne v. Russo*, 819 A.2d 577, 580-81 (Pa. Super. 2003).

Motion to Modify or Terminate Child Support (Denied). Petition to Enforce Marital Settlement Agreement (Granted in part). C.P., Dau.Co., No. 2007 CV 9358 DV

*James R. Demmel*, for Plaintiff

*Barbara Sumple-Sullivan*, for Defendant

P.D.D. v. K.M.D.

**OPINION**

Turgeon, J., November 25, 2013 – Before the court is Father’s Motion seeking to reduce or terminate his child support obligation pursuant to the parties’ marital settlement agreement. Also before the court Mother’s Petition to enforce the child support obligation and other provisions of their marital settlement agreement. For the reasons set forth below, I deny Father’s Motion and grant in part Mother’s Petition to enforce.

**BACKGROUND**

Father P.D.D. and Mother K.M.D. were married in 1994 and separated in 2007. They are the parents of two children, one currently thirteen years old (DOB 5/00) and the other eighteen years old (DOB 2/95). The eldest child became legally emancipated in June 2013 and began attending college this Fall.

During the course of the parties’ marriage, Mother primarily stayed home and raised the children, though she has worked part-time since 2002 as a psychiatric nurse. (N.T. 45)<sup>1</sup> Father has been at all relevant time employed as a district manager selling medical equipment. It is undisputed that Mother has battled alcoholism during the course of the marriage and in the years since the parties’ separation. (N.T. 35)

On May 26, 2010, to resolve all issues related to the dissolution of their marriage, including equitable distribution and support, Father and Mother entered into a marital settlement agreement (“agreement”). (Exbt. D-1) Both parties were represented by legal counsel in reaching this agreement. At the time, Mother’s annual gross income was approximately \$7,000 and Father’s \$300,000. (N.T. 36) Under the agreement, Mother kept the marital home, with sole responsibility for its re-financing and payment of the mortgage while Father was awarded a home purchased post-separation (Paragraph 6). Each party additionally received their own pension and employment benefits, approximately \$10,000 for Mother and \$94,000 for Father (Paragraph 8). Father also agreed to make a lump sum payment of \$25,000 to Mother (Paragraph 10).<sup>2</sup>

The agreement also included a child support provision, requiring Father pay Mother \$3,500 per month until the youngest child became emancipated (Paragraph 12). The agreement also included a provision that Father pay Mother \$500 per month alimony for twelve months, commencing on the date of divorce (Paragraph 13).

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1. All citations to the Notes of Testimony are to those from the July 17, 2013, hearing, unless otherwise noted.

2. Each party also retained possession of their various miscellaneous accounts, the value of which is not recited in the agreement (Paragraph 9).

At the time of the agreement, the parties were subject to an April 2008 custody order providing Father primary physical custody of both children and Mother partial physical custody consisting of alternating weekends and one weekday evening per week (a physical custody split of approximately 83% for Father and 17% for Mother).<sup>3</sup> Despite the custody terms, the parties were sharing physical custody roughly equally at the time. (N.T. 5; Mother's Answer to Father's Motion, ¶5)

The child support provision in the agreement explicitly prohibits any modification of child support "as a result of a change in the custodial arrangement," as well as for the emancipation of the oldest child, or "any change in the income of or financial condition of either party." (Paragraph 12). The only basis for modification under the agreement was if Father's gross income involuntarily falls below \$250,000 per year, in which case child support cannot be reduced below \$2,800 per month (Paragraph 12). Furthermore, in the event that child support was reduced below \$3,500 per month, Father was required under the agreement to immediately re-commence \$500 monthly alimony payments, until the emancipation of both children (Paragraph 13). Thus, under the parties' agreement, Mother would never receive a combined child support and alimony payment below \$3,300 per month through the emancipation date of the younger child (in approximately June 2018).

The agreement provided that Father pay one-half of the children's extracurricular expenses and 90% of the children's non-reimbursable medical expenses (above the first \$250 per child) until each child reached 23 years of age (Paragraph 12). Father was also responsible for paying Mother's COBRA health insurance for thirty-six months commencing from the date of divorce (Paragraph 15). The parties additionally agreed that a non-breaching party could sue for attorney's fees from the breaching party (Paragraph 21), that the terms of the agreement had been voluntarily reached and that the agreement was "fair and equitable" (Paragraph 23). Finally, the parties agreed to the incorporation of the agreement in any subsequent divorce decree for purposes of enforcement (Paragraph 25).

In January 2012, Father reduced his monthly child support to \$3,322. He sent further reduced payments to Mother in February, March and

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3. P.D.D. v. K.M.D., 2008-CV-03307-CU (Dauphin County).

April of \$3,122, \$3,122 and \$3,322, respectively.<sup>4</sup> (Exbt. D-2). In unilaterally reducing his payments, Father did not rely upon the child support provision in the parties' agreement, which permitted modification only if his gross income fell below \$250,000. Father's income in fact was approximately \$275,000 in 2011 and would rise to \$320,000 in 2012. (N.T. 8, 10; Exbts. P-1, P-2) Instead, Father sent a letter to Mother explaining that he was unable to afford paying the agreed amount due to a change in his employment causing him to earn 30% less than he earned in 2010, when the agreement was executed.<sup>5</sup> (N.T. 18; Exbt. D-3) Father also testified that he believed a reduction was warranted at the time because the children had started to reside with him almost exclusively, with the exception of one overnight a week with Mother. (N.T. 18-19)

Around that same time, in February and March 2012, Mother admittedly suffered a relapse with her alcoholism. (N.T. 37) Father filed an emergency custody petition in March 2012 alleging that Mother was endangering the children due to her substance abuse and seeking primary physical custody of both children. Following a conciliation conference, the parties reached an agreed custody order March 28, 2012, whereby Father was granted temporary primary physical custody of both children and Mother's partial physical custody was reduced to one overnight per week plus two week nights, until Mother completed a drug and alcohol evaluation and followed through with other provisions in the order (a physical custody split of approximately 86% for Father and 14% for Mother).

In May 2012, Father further unilaterally reduced his monthly child support payment to \$2,322. Father again ignored the terms of the parties' agreement, claiming instead that the reduction was warranted due to further changes the parties' custodial arrangement causing him financial hardship. Father continued to pay this reduced amount through March 2013.

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4. Father arrived at the \$3,322 figure by obtaining an estimate through the Domestic Relations Section of his support obligation under the Support Guidelines, roughly \$1,800 per month, and then adding to that \$522 he owed for COBRA payment plus another \$1,000 in order to be fair to Mother. (Exbt. D-3) Father attached to his letter a copy of a worksheet created through the Domestic Relations Section including the child support estimate applying income figures he had supplied, assigning to himself a gross income of only \$254,000 and \$60,000 to Mother. (Exbt. D-3)

5. As noted, Father would ultimately earn more in 2012 (\$320,000 gross) than he had in 2010 (\$300,000 gross), thus, his claim of a 30% decrease would prove significantly inaccurate. (N.T. 8; Exbt. P-2)

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During the period of his reduced support payments, Father continued to have primary physical custody as defined under the March 28, 2012 custody order (an approximate 86% - 14% custody split),<sup>6</sup> through February 5, 2013, when, following additional custody proceedings, the Hon. Lawrence Clark issued an order granting Father sole legal and primary physical custody of the younger child and changed Mother's custodial period to an undefined period to be negotiated between Mother and the younger child.<sup>7</sup>

It was not until April 2, 2013, that Father filed a Motion to modify or terminate his child support obligation, seeking retroactive application of his Motion to February 2012. In Father's Motion, he claimed a right to pay reduced child support because he had been, since February 2012, and currently was the primary physical custodian and that it was not in the children's best interests for him to continue paying child support to Mother, depleting his financial resources. Father ceased all child support payments upon filing his Motion. At the time, Father's projected gross income for 2013 was between \$320,00 and \$403,000. (N.T. 9, 28; Exbt. P-3)

On April 19, 2013, Mother filed a Petition to enforce the terms of the marital settlement agreement requesting an order requiring Father pay all child support owed to date (\$17,031) plus the full amount to be owed in the future. Mother also sought payment of delinquent COBRA payments. Father had made only a single monthly payment of her COBRA

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6. In August 2012, Father filed a petition to decrease Mother's physical custody due to renewed concerns about her substance abuse, and following a custody conciliation, the parties agreed to an order whereby Father retained temporary primary physical custody and Mother the same partial physical custody schedule from the March 28, 2012 order, with additional requirements addressing Mother's substance abuse issues. P.D.D. v. K.M.D., 2008-CV-03307-CU (Dauphin County).

7. The older child had turned eighteen in January 2013 and was no longer subject to the custody order. Judge Clark's February 5, 2013 order granted Mother supervised visitation with the younger child according to a schedule "on which Mother and the minor child shall agree." The undefined schedule proved unworkable and the parties later reached an agreement in May 2013, suggested by their co-parenting therapist, Deborah Salem, CAADC, LPC, to a defined visitation schedule consisting of one six hour period per week (on alternating Saturdays and Sundays).

Following further hearings in July 2013, the parties reached an agreement, reflected in a July 30, 2013 court order signed by Judge Clark, again granting Father sole legal and primary physical custody of the minor child "pending further Order of Court or agreement of the parties," and reserving judgment on whether Mother should re-obtain legal custody pending review by Ms. Salem. The order also granted Mother partial custody every Saturday for two hours, for a period of four weeks, supervised by grandmother. Thereafter, Judge Clark awarded Mother another two-hour supervised partial custody period on Mondays. The order allowed that additional time could be negotiated between the parties. P.D.D. v. K.M.D., 2008-CV-03307-CU (Dauphin County).



obligation through April 2013. To the extent Father is granted a right to reduce his child support payment, Mother seeks re-activation of his \$500 alimony obligation, as mandated under the parties' agreement. Finally, Mother seeks imposition of counsel fees due to Father's breach of the agreement.

I held a hearing July 17, 2013 on the issues presented. At the conclusion of that hearing, I entered an interim order directing that Father pay a portion of his unpaid COBRA payments. I also found that the extracurricular activity expenses had not been shared equally and took that issue under advisement. Finally, I stated that the marital settlement agreement was modifiable upon changed circumstances and was subject to revision after further review.<sup>8</sup> Upon request, I held a second hearing on August 26, 2013 to permit further testimony and cross examination regarding Mother's current income and expenses.

#### LEGAL DISCUSSION

Father asserts that his contractual child support obligation should be reduced or terminated pursuant to Section 3105(b) of the Divorce Code (discussed *infra*), which permits modification of child support agreements reached in divorce proceedings upon a showing of "changed circumstances." 23 Pa.C.S.A. § 3105(b). Father claims he is entitled to such relief due to a change in the custodial arrangement, noting that in May 2010, when he and Mother reached their agreement, the parties shared physical custody of their children. Since January 2012, however, he has become the primary physical custodian of both children, an arrangement he asserts he never contemplated when he signed the agreement. Father suggests that it is not in the children's best interests for him to pay Mother \$3,500 child support per month while simultaneously paying for all of the children's financial needs, including all the costs of the older child's college tuition commencing in Fall 2013. He claims imposition on him of full payment of his obligation will deplete him of adequate financial resources to adequately support their child support.

Father additionally claims that his contractual child support obligation is invalid and unenforceable as against the public interest "because it defeats the children's rights to support." Father asserts that he invalidly agreed to pay Mother support even where funds would be better used in his household to provide for the children's needs and that this amounts to him having bargained away the rights of his children. He seeks a reduction in his support obligation retroactive to February 2012,

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8. As is evident in this Opinion, I vacate that finding, for the reasons explained below.

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and that as of February 5, 2013, his obligation be terminated due to him having been awarded sole legal and primary physical custody of the younger minor child.

Mother argues that Father is bound by the terms of the agreement whereby he voluntarily agreed to make a \$3,500 monthly payment and explicitly agreed in very clear terms that this amount was non-modifiable based upon a change in the custodial arrangement. She notes that Father had no legal obligation to pay her any child support at the time and that she in fact would have owed him support. Father nevertheless voluntarily agreed to incur this obligation by contract. Parties are free to contractually fix child support at an amount that would exceed the guideline amount. Mother further maintains that the entirety of the agreement established a plan of financial security for both homes and that it was their intent to allow Mother to maintain her household with guaranteed monthly funds of at least \$3,300 (a floor of \$2,800 child support and reactivated \$500 per month alimony), an amount she relied upon when negotiating the parties' marital settlement agreement.

Mother denies Father's right to any reduction to the \$2,800 child support "floor" amount, noting Father's gross income (in 2012) was over \$300,000, much greater than the \$250,000 limit which would trigger a child support reduction under the agreement. In any event, Mother asserts Father has failed to prove the requisite changed circumstances warranting a reduction in his contractually mandated child support because he has ample earnings to meet his obligation. In fact, Mother claims his decreased and late child support payments caused economic instability in her home and imbalance in the parties' financial conditions such that it is in the best interests of the children for Father to continue to pay the required amount. She notes that due to Father's cessation of payments, she has had to meet her expenses by cashing out an IRA and life insurance policy, by taking out loans and paying bills by credit card. (N.T. 39-40, 42; N.T. 8/26/13 at 6, 12)

Mother claims that Father also clearly breached the agreement by failing to make her COBRA payments. She seeks attorney fees and interest for these alleged breaches. She also claims that under the agreement, she is entitled to re-commencement of the \$500 alimony payment due to his breach of the agreement, whereby he unilaterally reduced child support payments.

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## RETROACTIVITY

Before addressing the primary issue, this court quickly disposes of Father's claim that any court ordered modification or termination of his child support obligation should be retroactive to February 2012, when his total custodial time increased and he unilaterally reduced his support payments. There is no legal support for Father's retroactivity claim, and he has offered none. Generally, in the context of court ordered support and alimony, a petition for modification or termination is only effective as of the date of filing. *See* Pa.R.C.P. 1910.17(a) (support) and 23 Pa.C.S.A. § 3701(e) (alimony). Orders modifying all types of support obligations may be made retroactive where the filing was delayed due to a misrepresentation by another party, so long as the petition is filed in a timely fashion upon discovery of the misrepresentation. *Simmons v. Simmons*, 723 A.2d 221, 223 (Pa. Super. 1998) (citation omitted). Retroactivity is also permitted, in the context of court ordered child and spousal support/alimony pendente lite, where a petitioner is precluded from filing due to a significant physical or mental disability, other compelling reason, as well as misrepresentation, so long as modification is promptly sought. Pa.R.C.P. 1910.17(a). These concepts would appear equally applicable where party seeks modification pursuant to Section 3105(b) of the Divorce Code of an existing agreement (contract) for child support. Since Father has raised no claim of misrepresentation, physical or mental disability, or other compelling reason, he is not be entitled to retroactive application of his Motion to modify or terminate child support.

## THE PARTIES' AGREEMENT (CHILD SUPPORT)

The parties' agreement sets forth the following language concerning Father's child support obligation and the bases for modification or non-modification:

12. CHILD SUPPORT. As a material term and condition of this Martial Settlement Agreement, the parties agree that Husband shall pay the sum of \$3,500.00 per month as child support to Wife until the parties' youngest daughter, [X], graduates from high school or turns eighteen (18) years of age (whichever is later). Except as set forth below, **this provision is intended to be non-modifiable and shall be in effect regardless of any future custodial arrangement between the parties related to [X] and [Y] and shall not be modifiable even in the event of a change in the custodial arrangement or**

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**[Y's] emancipation. This provision is also intended to be non-modifiable and shall continue in effect regardless of any change in income of or financial circumstances of either party.** This sum shall be paid through Domestic Relations and shall be effectuated by wage attachment of Husband's employment.

Notwithstanding the above, **the parties agree that Husband's support obligation shall only be subject to downward modification or adjustment in the event that Husband's gross income from all sources is reduced below \$250,000.00 annually.** In order to allow for modification, the reduction in Father's income must not be the result of any voluntary act or fault of Father. In the event that Father's gross income from all sources is less than \$250,000.00, the state support guidelines shall be utilized to calculate child support. Notwithstanding the agreement to use the state support guidelines, **the parties agree that even in the event Father's circumstances warrant a reduction in support in accordance with this Agreement, the child support award shall never be lower than \$2,800.00 per month.** It shall be immaterial whether the child support claim is for one or two children. The guaranteed minimum monthly support payment of \$2,800.00 per month shall be in existence until the parties' children are both emancipated pursuant to this Agreement.

(Exbt. D-1) (emphasis added).

Marital settlement agreements are "private undertakings between two parties, each having responded to the 'give and take' of negotiations and bargained consideration." *Stamerro v. Stamerro*, 889 A.2d 1251, 1258 (Pa. Super. 2005) (citation omitted). Our courts have recognized the right of parties to "make an agreement as to child support if it is fair and reasonable, made without fraud or coercion, and does not prejudice the welfare of the children." *Kraisinger v. Kraisinger*, 928 A.2d 333, 340 (Pa. Super. 2007) (citing *Roberts v. Furst*, 561 A.2d 802, 803 (Pa. Super. 1989)).

Neither party has suggested that the agreement, when entered, was not fair and reasonable, was induced by fraud or coercion, or that it prejudiced the children in any manner. Notwithstanding Father's current

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belief that “I signed an agreement that I should not have” (N.T. 24), he and Mother then indicated that it had been voluntarily executed and that the provisions of the agreement and their legal effect “have been fully explained to the parties [by their attorneys], and each party acknowledges that the Agreement is fair and equitable, that full disclosure has been made by each respective party to the other, that it is being entered into voluntarily, and that it is not the result of any duress or undue influence ...” (Paragraph 23).

It is notable that at the time the parties agreed to the terms of the marital settlement agreement, Father’s child support obligation under support law, for two children, would most likely have been significantly lower than the \$3,500 per month he agreed to pay. Father in fact testified that he believed the agreement “was high but fair” when signed and that he had been led to believe that under the Support Guidelines, he would have owed only about \$1,800 per month child support (presumably for two children). (N.T. 17, 25)

Father also testified that he understood that when he signed the agreement in May 2010, he was the designated *de jure* primary physical custodian and Mother the partial physical custodian pursuant to the April 2008 custody order then in effect. (N.T. 15) As the primary physical custodian, Father would have in fact owed Mother no child support under the Support Guidelines. Instead, Mother would most likely have owed Father a minimal amount of support.<sup>9</sup> Father would have only owed Mother support to the extent she would have been entitled to a deviation from the award under the concepts set forth in *Colonna v. Colonna*, 855 A.2d 648 (Pa. 2004). There, our Supreme Court held that where the incomes of the parents differ significantly, it is an abuse of discretion for the trial court to fail to consider a deviation from the support guidelines (under Rule 1910.16-5(b)), even where the result would be to order child support for a parent who is not the primary custodial parent. *Id.* at 652. The court explained the policy behind this finding, as follows:

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9. This court’s estimate of Mother’s basic child support obligation where Father is deemed the primary physical custodian shows she would have been obligated to pay Father approximately \$73 per month for two children. Her obligation for the younger child alone (following the older child’s emancipation) would have been approximately \$52 per month. For the purpose of estimating these figures, this court assigned Father’s 2010 net income as 70% of his gross (\$300,000) and Mother’s 2010 net income as 80% of her gross (\$7,000). Father’s monthly net income is thus estimated at \$17,500 and Mother’s at \$467. The basic child support obligation in May 2010 under the Support Guidelines for their combined monthly net income of \$17,967 (rounded to \$18,000) would have been \$2,804 for two children and \$1,989 for one child. Pa.R.C.P. 1910.16-3. Mother’s income represents 2.6% of their combined income, and thus, her share of child support, without any adjustments or deviations (including under *Colonna*), is her share multiplied by the total support owed ( $2.6\% \times \$2,804 = \$73$  and  $2.6\% \times \$1,989 = \$52$ ).

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Where the parent who does not have primary custody has a less significant income than the custodial parent, it is likely that he or she will not be able to provide an environment that resembles the one in which the children are accustomed to living with the custodial parent. While a downward adjustment in lifestyle is a frequent consequence of divorce that affects both adults and children, we would be remiss in failing to ignore the reality of what happens when children are required to live vastly different lives depending upon which parent has custody on any given day. To expect that quality of the contact between the non-custodial parent and the children will not be negatively impacted by that parent's comparative penury vis-à-vis the custodial parent is not realistic. Issuing a support order that allows such a situation to exist clearly is not in the best interests of the children.

*Colonna* at 651.

Even in a situation where the parties equally shared custody under their *de facto* arrangement, Father's obligation under the Support Guidelines in May 2010, for two children, would have been approximately \$2,170 per month, and only \$1,539 for one child (following the older child's emancipation), absent any further adjustments or deviations.<sup>10</sup> He nevertheless voluntarily agreed to pay child support significantly higher than either this amount or the amount he believed he owed for two children under the Support Guidelines, \$1,800, and considerably more than he would have owed to support one child only, upon emancipation of the older child (an occurrence just three years into the life of the agreement). As noted above, the parties were represented by competent counsel who it must be presumed informed them of the controlling applicable law.

The child support provision was just one of many provisions within the parties' agreement. Mother suggests that the entirety of the agreement established a plan of financial security for both homes and that it was their intent was to assure she would always have sufficient income

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10. For the purpose of estimating these figures, this court used the same monthly net income figures cited in the previous footnote. Under the guidelines, where the parties are deemed as sharing custody equally, Father's proportional share of the parties' net income, of 97.4%, would be reduced by 20% to 77.4%. Pa.R.C.P. 1910.16-4(a) (Parts I and II) and 1910.16-4(c)(2). Thus, Father's basic child support obligation to Mother under this scenario would be \$2,170 for two children (77.4% x \$2,804) and \$1,539 for one child (77.4% x \$1,989.)

P.D.D. v. K.M.D.

to maintain her household, noting Father's reluctance to pay her alimony, which as recited above, was merely \$500 monthly for just one year. (N.T. 36) Though this court is prohibited from considering extrinsic evidence when looking at unambiguous language of a writing, we must assume that Father's agreement to pay a relatively high amount of child support was a bargained for provision which was part of the "give and take" of the parties' contract negotiations. *Stammerro, supra* .

Thus, to summarize, under the parties' negotiated, counseled agreement, Father voluntarily agreed to pay Mother monthly child support of \$3,500 until the emancipation of younger child. Father agreed to make this payment regardless of the custody arrangement between the parties or of the financial condition of either party unless his gross income involuntarily fell below \$250,000 (in which case the child support amount could not be reduced below \$2,800 per month). The evidence presented established that Father's income never fell below \$250,000; instead, his income increased. In 2012, when Father unilaterally reduced his child support payments, his gross income was approximately \$320,000. His projected gross income for 2013, is between \$320,000 and \$403,000 based upon his earnings through May 2013. Nevertheless, Father seeks to negate the terms of the agreement due the change in the parties' custodial arrangement and/or due to his financial condition under Section 3105(b).

#### *Modification of Child Support Agreement*

##### *Due to Changed Circumstances - Section 3105(b)*

Although the parties' agreement recites that it is "non-modifiable," the Divorce Code provides that "[a] provision of an agreement regarding child support, visitation or custody shall be subject to modification by the court upon a showing of changed circumstances." 23 Pa.C.S.A. § 3105(b). Accordingly, all agreements containing child support provisions are subject to court review upon changed circumstances, whether the moving party is seeking to modify child support upward or downward. *See, Nicholson v. Combs*, 703 A.2d 407, 411 (Pa. 1997) and *Patterson v. Robbins*, 703 A.2d 1049, 1051 (Pa. Super. 1997).

Prior to the 1988 enactment of Section 3105(b) (formerly 23 P.S. § 401.1(b)),<sup>11</sup> child support provisions reached by an incorporated but unmerged agreement were never subject to court ordered downward

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11. 23 P.S. § 401.1(b), effective February 12, 1988, repealed by Act of December 19, 1990, P.L. 1240, No. 206, § 6, effective in 90 days, reenacted as 23 Pa.C.S.A. § 3105(b). Section 3105(b) contains the exact language as the provision it replaced.

modification; however, in order to protect the best interests of the children, such agreements were always subject to upward modification under the “well-reasoned public policy” that parents can never bargain away the rights of their children. *Nicholson v. Combs* at 411-12. Indeed, the duty to support one’s children is absolute and the purpose of child support is to promote the children’s best interests. *McClain v. McClain*, 872 A.2d 856, 860 (Pa. Super. 2005) (citation omitted).

Since the enactment of Section 3105(b), there have been few cases addressing the “changed circumstances” which warrant downward modification of a contractually based child support obligation. One case, which this court finds particularly instructive, is *Boullianne v. Russo*, 819 A.2d 577 (Pa. Super. 2003). There the parents reached an agreement requiring father to pay all of the children’s unreimbursed medical expenses. Father sought a reduction in his proportional share and following a support conference, the parents agreed to an order reducing his responsibility to 82%. Mother did not appeal but later filed a petition to increase his obligation back to 100%, as required under the parties’ agreement. The superior court initially held that mother’s petition was in essence an untimely appeal from the order reducing father’s expenses. Nevertheless, in *dicta*, it held that if it were to address the substance of mother’s appeal, it would have held the downward modification of support was proper under the law, stating as follows:

... [A] family court’s power to modify a support order downward is not precluded by the existence of an agreement upon which the support order is based. **“In [a] support action, ... the payee may not claim that the [agreement] prevents the family court from modifying the order downward if such reduction is necessary to prevent payor from having to comply with an order that he cannot pay due to changed circumstances.”** *Nicholson*, 550 Pa. at 44, 703 A.2d at 417. **“Because failure to comply with a support order can lead to incarceration, the court must be able to reduce the amount if the payor establishes an inability to pay.”** *Nicholson*, 550 Pa. at 43, 703 A.2d at 416-417.

Similarly, statutory law effective at the time the parties entered into their counseled support agreement permits a court to modify the agreement itself. 23 Pa.C.S.A. § 3105 provides that “[a] provision of an agreement regarding child support, visitation, or custody shall be subject to modification by the court upon a showing of changed cir-



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cumstances.” 23 Pa.C.S.A. § 3105(b). While the [family court] order did not actually effect a downward modification of the parties’ agreement, but instead reduced Father’s support obligations strictly on an analysis of the parties’ respective incomes, **Section 3105 clearly would have permitted modification of the agreement if Father demonstrated an inability to pay.** We, therefore, reject Mother’s “law of the case” argument that previous court approval of the parties’ agreement foreclosed the possibility of court modification of support where circumstances warrant.

*Boullianne v. Russo* at 580-81 (emphasis added) (footnote omitted).

Also relevant to this court’s decision is *McClain, supra* . There, the superior court rejected a father’s claim to reduce his child support obligation. Father was subject to both a Texas divorce decree and a separate agreement incorporated into the decree under which father agreed to pay \$4,000 monthly child support. The decree permitted the court to modify support while the agreement was silent on modification. Father later registered the decree in Pennsylvania and filed a petition to reduce his child support obligation claiming decreased income. In deciding whether to grant a decrease, the trial court, adopting the reasoning of the support master, considered the decree and agreement in conjunction with each other. Father challenged that reasoning on appeal, claiming the court should only have considered the decree and evaluated modification without considering the agreement terms (which among other things stated that father agreed to pay support well above the Texas guidelines in exchange for a greater share of the parties’ property in equitable distribution). The superior court rejected his argument, noting that it made no difference whether father sought modification under the decree or the agreement, since in either case the analysis would be the same. The court stated:

Finally though, we are at a loss to understand Father’s emphasis on the court’s reliance on the Agreement in the present action. Whether or not the Decree and the Agreement merge is of no moment to the decision here, since the Decree itself is a court order that establishes the \$4000 child support obligation, a sum to which Father had acquiesced. The Decree also provides for a court ordered modification. Moreover, as noted above, 23 Pa.C.S. § 3105[b] provides for court modification of sup-

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port provisions in agreements. Father's problem in actuality stems from his inability to meet his burden of proof.

When modification of a child support order is sought, the moving party has the burden of proving by competent evidence that a material and substantial change of circumstances has occurred since the entry of the original or modified order. The lower court must consider all pertinent circumstances and base its decision upon facts appearing in the record which indicate that the moving party did or did not meet the burden of proof as to changed conditions.

*Samii [v. Samii]*, 847 A.2d [691] at 695 [(Pa. Super. 2004)], (quoting *Commonwealth ex rel. Sladek v. Sladek*, 386 Pa. Super. 490, 563 A.2d 172, 173 (1989)).

*McClain* at 863. The court then went on to affirm the trial court, agreeing that father failed to prove a "change in circumstances that would allow for a lowering of the amount of support ... noting particularly that Father had not suffered a substantial, involuntary decrease in employment income." *Id.*

In this court's interpretation, *Boullianne* equates the right to downward modification of an agreed order of support under Section 3105(b), on the basis of changed circumstances, with proof of an inability to pay. *McClain* additionally holds that the "changed circumstances" required to obtain modification of an agreed order of support under Section 3105(b) is essentially the same standard required to obtain modification of court-ordered child support, which is "a material and substantial change of circumstances." *McClain* further holds, under its specific facts, that the moving party fails to meet his burden of proving the requisite change in circumstances where he has not suffered a substantial, involuntary decrease in income.

Father here has claimed two related bases for modification of his contractual child support obligation: a change in the custodial arrangement and an inability to pay. As set forth above, inability to pay is clearly recognized as a "changed circumstance" warranting downward modification of child support, whether required under an agreement or as court-ordered. *Boullianne* and *McClain*, *supra*. This court additionally finds, that a change in the custodial arrangement in this case is not a basis for modification except insofar as the change in custodial arrangement results in an inability to pay. *Id.* Under the specific facts of this

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case, the parties indicated a very clear intent that any change to the custodial arrangement would never be a basis for modification of the agreed child support award. The agreement was explicit and repetitive on this point: it states that the child support provision “shall be in effect regardless of any future custodial arrangement between the parties related to [X] and [Y] and shall not be modifiable even in the event of a change in the custodial arrangement ...” (Agreement, Paragraph 12) Father additionally admitted that he understood at the time the agreement was reached, that he was the primary physical custodian under the then applicable child custody order. (N.T. 15) Father’s claim that he never contemplated a change in the custody arrangement such that he would become the primary physical custodian is simply not credible.

Thus, the sole inquiry before the court is whether Father proved an inability to pay his \$3,500 per month obligation. As of the date Father filed his Motion to modify or terminate support, on April 2, 2013, he was projected to earn a 2013 gross income of between \$320,000 and \$403,000. Although Father offered few specifics of his alleged financial shortfall, he did provide an expense statement to the court in which he recites monthly expenses of \$20,503, inclusive of his \$3,500 child support expense. (Exbt. P-4) Father also submitted a separate expense statement for expenditures he has made for the children, which for 2013 average \$804 per month and which are presumably expenses not repeated in his own expense statement. (Exbt. P-5) Father did not indicate what he considers is his monthly net income, though it would be approximately \$18,667 for a gross income of \$320,000 and \$23,508 for a gross income of \$403,000.<sup>12</sup> Under the higher figure, there exists no *prima facie* showing of an inability to pay inasmuch as his income exceeds his expenses.

Under the lower projected monthly net income figure, however, Father showed that his claimed expenses (including the monthly expenditure for his children) exceed his approximate income by \$2,640. This fact does not necessarily result in the conclusion that he is unable to pay his child support obligation. For instance, Father has listed unusually high monthly expenses for food (\$2,300) and clothing (\$1,000). He also lists the older child’s college tuition as a \$2,500 monthly expense, an obligation Father is not required to pay. Generally, parties to contracts may not avoid their obligations by voluntarily assuming other obligations or expenses. *Goss v. Timblin*, 622 A.2d 347, 350 n. 1 (1993). Father

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12. For the purpose of estimating these figures, this court assigned Father’s net income as 70% of his gross.

certainly has the financial flexibility to meet his contractual obligation given his current total monthly net income (between \$18,667 and \$23,508) and his ability to manipulate expenses which are unusually high or not clear obligations. He additionally failed to prove he will be unable to maintain sufficient funds within his own household to provide adequate support to the younger child.

This court further notes that under the May 2010 agreement, Father clearly indicated that he considered a gross income of \$250,000 sufficient to meet his child support obligation. While this court cites the agreement not as dispositive of the baseline income he needs to meet his child support obligation, it is nevertheless evidence of what Father then considered income adequate to meet his child support payment. Since then, his income has only increased. Father did not prove he is unable to now meet his reasonable living expenses given his increase in income. Accordingly, since Father failed to meet his burden of proving an inability to pay his contractual support obligation, I deny his Motion to modify or terminate his support obligation.

Finally, I address Father's argument that Mother's financial condition is a proper consideration in assessing his Motion to modify or terminate support and that, in fact, Mother should be paying Father child support. Father cites *Saunders v. Saunders*, 908 A.2d 356 (Pa. Super. 2006) in support. At the time the parties entered into their agreement, Mother had been primarily a stay-at-home parent earning a minimal income. Since then, however, she has increased her part-time employment and earned \$29,000 gross in 2012. (N.T. 45-46, 50; Exbt. 6) Father asserts her earning capacity is closer to twice that amount.

Since I have found that the parties' agreement is not modifiable under Section 3105(b), the child support terms remain governed by the parties' agreement. Under the agreement, the child support award is explicitly non-modifiable "regardless of any change in income of or financial circumstances of either party" (Paragraph 12). Thus, the agreement excludes Mother's financial change as a basis for modification. This court would only consider Mother's income or earning capacity, as well as her expenses, if this court's charge were to determine the parties' child support obligation(s) under the Support Guidelines. *Saunders* is similarly inapplicable because it involved application of the Support Guidelines and whether the non-custodial parent was entitled to receive child support under a *Colonna* deviation. *Saunders* at 363. Because the Support Guidelines are not applicable here, I conclude that Mother's financial condition is an irrelevant consideration to the enforcement of the parties' agreement.

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*COBRA Payments, Extracurricular Expenses and Medical Expenses*

Father admitted he had failed to make all but one of the thirty-six COBRA payments due Mother under the agreement terms and that he was \$18,760 in arrears as of the July hearing. (N.T. 30) In my July 17, 2013 interim order, I directed Father pay \$1,500 immediately and \$1,500 per month thereafter until I issued my final decision. As such, if Father is current with his payments through November 2013, he still owes Mother \$16,260.

Regarding extracurricular expenses, the parties produced detailed statements of these expenditures for the children, which under the agreement are to be shared equally by the parties. The details and accounting issues of which expenditures fall within the terms of the agreement shall be addressed by the parties' Domestic Relations Office Enforcement Officer to whom both parties shall provide verifiable copies of all required receipts within 30 days.

Regarding the children's uninsured medical expenditures, of which Father is required to pay 90% under the agreement (after Mother pays the first \$250 for each child), Father claims Mother owes him various unpaid contributions. The details of these expenditures shall be similarly addressed to the parties' Enforcement Officer, to whom both parties shall provide verifiable copies of all relevant receipts within 30 days.

*Attorney's Fees*

Under the parties' agreement, a party who breaches its terms may be responsible for paying the attorney fees of the non-breaching party. In this case, Father breached of Paragraph 12 of the agreement by unilaterally reducing his child support payment between January 2012 and March 2013 without seeking court approval. He also breached Paragraph 15 by failing to make the required COBRA payments for thirty-five out of thirty-six months required. A separate hearing shall be scheduled to determine reasonable attorney fees.

Accordingly, I enter the following:

**ORDER**

AND NOW, this 25th day of November, 2013, upon consideration of the filings of the parties, and following two hearings, I direct as follows: Father's Motion to Modify or Terminate Child Support is DENIED. Mother's Petition to Enforce the Agreement is GRANTED in part, as set forth above. This court finds that Father owes Mother \$44,363 for child support due through November 2013, pursuant to the parties'

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Agreement.<sup>13</sup> Father additionally owes Mother \$16,260 in outstanding COBRA fees.<sup>14</sup> Any monies the parties may owe each other for the children's extracurricular expenses and their uninsured medical expenditures will be determined by the parties' Domestic Relations Office Enforcement Officer, to whom both parties shall provide verifiable copies of all required receipts within 30 days.

A hearing on attorney's fees shall be held on **January 21, 2014 at 10:00 AM**, Courtroom 7, Dauphin County Courthouse. The parties agree that Father is entitled to an offset of \$2,500 for attorney fees owed by Mother to Father as ordered by Judge Clark in February 5, 2013. (N.T. 32) The court will consider Father's payment schedule for the obligations listed above and any other enforcement issues at that time of the hearing.

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13. Under the Agreement, Father owed \$80,500 in child support between January 2012 to date (through November 2013) and has paid \$36,137. (Exbt. D-2)

14. This assumes Father is current on his obligation to pay Mother \$1,500 per month towards COBRA as I directed in my interim order of July 17, 2013.

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**SECOND PUBLICATION**

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**Estate Notices**

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ESTATE OF GLENN JONES, late of Williamstown Borough, Dauphin County, (died August 23, 2013). Executor/Administrator: Brenda Jones, 239 E. Broad Street, Williamstown, PA 17089. Attorney: Kari E. Mellinger, Esq., R.J. Marzella & Associates, 3513 North Front Street, Harrisburg, PA 17110. j17-j31

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ESTATE OF JUDITH ANN REIFSNYDER, late of Hershey, Derry Township, Dauphin County, Pennsylvania, (died December 17, 2013). Executor: James Reifsnnyder, 28 N. Lincoln Street, Palmyra, PA 17078. Attorney: A. Mark Winter, Esq., 310 W. Chocolate Ave, Hershey, PA 17033. j17-j31

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ESTATE OF WILLIAM S. SAUNDERS, late of Middletown Borough, Dauphin County, Pennsylvania, (died November 10, 2013). Administrator: Theodore Solomon, 1711 Forster Street, Harrisburg, PA 17103. Attorney: Christa M. Aplin, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. j17-j31

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ESTATE OF TIMOTHY N. PICKEL, late of Middletown, Dauphin County, Pennsylvania, (died December 24, 2013). Co-Administrators: Nolan M. Pickel and Jessica M. Pickel. Attorney: Bruce J. Warshawsky, Esq., Cunningham & Chernicoff, P.C., 2320 North Second Street, Harrisburg, PA 17110. j17-j31

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ESTATE OF GERALDINE FERTIG a/k/a GERALDINE L. FERTIG, late of Susquehanna Township, Dauphin County, Pennsylvania, (died November 10, 2013). Executor: Wayne Fertig, 2128 Sycamore Drive, Harrisburg, PA 17112. Attorney: Elyse E. Rogers, Esq., Saidis, Sullivan & Rogers, 635 North 12th Street, Suite 400, Lemoyne, PA 17043. j17-j31

ESTATE OF ANTHONY ALEXANDER, late of Susquehanna Township, Dauphin County, Pennsylvania, (died 12/15/2013). Executrix: Consilia Minnich, 85 Keswick Drive, Mechanicsburg, PA 17050. Attorney: Kari E. Mellinger, Esq., R.J. Marzella & Associates, 3513 North Front Street, Harrisburg, PA 17110. j17-j31

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ESTATE OF MAUREEN CALLAHAN, late of the Township of Susquehanna, County of Dauphin and Commonwealth of Pennsylvania. Executor: Roger H. Ostdahl, 1050 Mountain View Road, Harrisburg, PA 17110. Attorney: Douglas C. Lovinsky, Esq., 1500 West College Avenue, State College, PA 16801. j17-j31

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ESTATE OF CHRISTOPHER MICHAEL METZLER, late of Middletown Borough, Dauphin County, Pennsylvania, (died September 7, 2013). Administratrix: Jamie Metzler, 526 N. Spring Street, Middletown, PA 17057. Attorney: Robert G. Radebach, Esq., 912 North River Road, Halifax, PA 17032. j17-j31

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ESTATE OF LETA E. REEHER, late of Susquehanna Township, Dauphin County, Pennsylvania, (died December 23, 2013). Executor: Arthur B. Reeher, 115 Brook Lane, Marysville, PA 17053. Attorney: Terrence J. Kerwin, Esquire, Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023. j17-j31

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ESTATE OF EDWARD L. STENE, late of Hershey, Dauphin County, Pennsylvania, (died December 24, 2013). Executor: John K. Stene, Jr. Attorney: David C. Miller, Jr., Esq., 1100 Spring Garden Drive, Suite A, Middletown, PA 17057. j17-j31

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**SECOND PUBLICATION**

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**Estate Notices**

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ESTATE OF PAUL I. WEAVER, SR., late of Halifax Township, Pennsylvania, (died October 6, 2013). Executor: Paul I. Weaver, Jr., 168 Hershey Road, Halifax, PA 17032. Attorney: Robert G. Radebach, Esq., 912 North River Road, Halifax, PA 17032. j17-j31

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ESTATE OF JAMES D. SELVIG, late of the Borough of Steelton, Dauphin County, Pennsylvania. Executrix: Jeanann Wydra, 1029 Melrose Street, Harrisburg, PA 17104. Attorney: Theresa L. Shade Wix, Esq., Wix, Wenger & Weidner, 4705 Duke Street, Harrisburg, PA 17109-3041. j17-j31

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**THIRD PUBLICATION**

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**Estate Notices**

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ESTATE OF ANGEL GABRIEL ESTRADA, late of Lower Paxton Township, Dauphin County, Pennsylvania, (died June 21, 2013). Executrix: Ariel Estrada, 27 S. 24th Street, Harrisburg, Pennsylvania 17103. Attorney: Ronald L. Finck, Esq., Mette, Evans & Woodside, 3401 North Front Street, Harrisburg, PA 17110. j10-j24

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ESTATE OF BECHTEL, JAMES EDWIN A/K/A BECHTEL, JAMES E. late of the Township of Conewago, County of Dauphin and Commonwealth of Pennsylvania. Administratrix: Debra K. Neidinger, c/o Gingrich, Smith, Klingensmith & Dolan, 222 S. Market St., Suite 201, P.O. Box 267, Elizabethtown, PA 17022. Attorney: Julie M. Cooper, Esq., Gingrich, Smith, Klingensmith & Dolan, 222 S. Market St., Suite 201, P.O. Box 267, Elizabethtown, PA 17022. j10-j24

ESTATE JANET STINE, late of Susquehanna Township, Dauphin County, Pennsylvania, (died September 26, 2013). Executor: Gerald Stine, c/o Hazen Elder Law, 2000 Lingelstown Road, Suite 202, Harrisburg, PA 17110. Attorney: Hazen Elder Law, 2000 Lingelstown Road, Suite 202, Harrisburg, PA 17110. j10-j24

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ESTATE OF RALPH R. WOLF, JR., late of Swatara Township, Dauphin County, Pennsylvania. Executrix: Gale Ann Hill, 6161 Pine Street, Harrisburg, PA 17112-1850. Attorney: Steve C. Nicholas, Esq., Nicholas Law Offices, PC, 2215 Forest Hills Drive, Suite 37, Harrisburg, PA 17112-1099. j10-j24

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ESTATE OF ANNA T. GRABAR, of Swatara Township, Dauphin County, Pennsylvania. Executor: Gregory M. Pogasic, 330 Spruce Street, Steelton, PA 17113. Attorney: Elizabeth B. Place, Esq., SkarlatosZonarich LLC, 17 South 2nd Street, Floor 6, Harrisburg, PA 17101. j10-j24

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ESTATE OF STEVEN C. MAHEK, JR., late of the Township of Lower Paxton, County of Dauphin and Commonwealth of Pennsylvania. Executor: Thomas A. Mahek, 125 Holloway Drive, Smithfield, VA 23430. Attorney: Johanna H. Rehkamp, Esq., Turner and O'Connell, 4701 North Front Street, Harrisburg, PA 17110. j10-j24

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ESTATE OF EDWARD M. RITTER, A/K/A EDWARD M. RITTER, JR., late of Swatara Township, Dauphin County, Pennsylvania. Executor: Stephen A. Ritter, Placey & Wright, 3621 North Front Street, Harrisburg, PA 17110. j10-j24



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THIRD PUBLICATION

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Estate Notices

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ESTATE OF LINDA C. VANSICKLE, late of Harrisburg, Pennsylvania, (died September 4, 2013). Executrix: Laura L. VanSickle, 116 Short Street, Harrisburg, PA 17111. Attorney: Amy M. Moya, Esq., 5011 Locust Lane, Harrisburg, PA 17109. j10-j24

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ESTATE OF HELEN ELIZABETH FOLTZ, late of Swatara Township, Dauphin County, Pennsylvania, (died December 16, 2013). Co-Executors: Deborah K. Ginter, 1258 Highland Street, Oberlin, PA 17113, and Dennis J. Foltz, 1941 Stony Creek Road, Dauphin, PA 17018. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kelwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023. j10-j24

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ESTATE OF LAWRENCE H. MILLER late of the Borough of Lykens, County of Dauphin, Pennsylvania, (died December 8, 2013). Executrix: Patricia L. Smeltz, 209 Market Street, P.O. Box 95, Pillow, Pennsylvania 17080. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, Pennsylvania 17023. j10-j24

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that **WHPacific, Inc.**, a foreign business corporation incorporated under the laws of the State of Alaska, where its principal office is located at 300 W. 31st St., Anchorage, AK 99503, has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at Corporation Service Company, 2595 Interstate Drive, Ste 300, Harrisburg, PA 17110, Dauphin County.

The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. j24

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Hardee's Food Systems, Inc.**, a corporation incorporated under the laws of the State of North Carolina with its principal office located at 6307 Carpinteria Ave., Ste. A, Carpinteria, CA 93013 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 12/22/1971, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State. j24

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NOTICE IS HEREBY GIVEN that **Food Tech, Inc.**, a foreign business corporation incorporated under the laws of New York, with its princ. office located at c/o Corporation Service Co., 80 State St., Albany, NY 12207, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is c/o: Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. j24

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Philly Portfolio, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at c/o Investcorp, 280 Park Ave., 36W., Attn: Michelle Kaler, NY, NY 10017 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 6/17/2005, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Horizon CC Invest, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at c/o Investcorp, 280 Park Ave., 36W., Attn: Michelle Kaler, NY, NY 10017 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 6/17/2005, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Malvern Invest, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at c/o Investcorp, 280 Park Ave., 36W., Attn: Michelle Kaler, NY, NY 10017 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 6/17/2005, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Norristown Invest, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at c/o Investcorp, 280 Park Ave., 36W., Attn: Michelle Kaler, NY, NY 10017 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 6/17/2005, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Rittenhouse Invest, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at c/o Investcorp, 280 Park Ave., 36W., Attn: Michelle Kaler, NY, NY 10017 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 6/17/2005, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Otis Invest, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at c/o Investcorp, 280 Park Ave., 36W., Attn: Michelle Kaler, NY, NY 10017 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 6/17/2005, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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NOTICE IS HEREBY GIVEN that, pursuant to Section 4129 of the PA Business Corporation Law, **Sharebridge Private Equity Consolidated, Inc.**, a corporation incorporated under the laws of the jurisdiction of DE with its principal office at 1185 Ave. of the Americas, 36th FL, New York, NY 10036, and having a Commercial Registered Office Provider and County of Venue as follows: c/o CT Corporation System, Dauphin County, has filed an Application for Termination of Authority with the PA Department of State. j24

NOTICE IS HEREBY GIVEN that an Application for Certificate of Authority has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on or about December 27, 2013, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **Red Gate Software, Inc.** c/o National Registered Agents, Inc.

This corporation is incorporated under the laws of California. The address of its principal office under the laws of its jurisdiction in which it is incorporated is 144 W. Colorado Boulevard, Suite 200, Pasadena, CA 91105. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. j24

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NOTICE IS HEREBY GIVEN that **Cynergy Systems, Inc.**, a foreign business corporation under the laws of the Maryland, where its principal office is located at 505 South Exeter St., Baltimore, MD 21202, has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at c/o InCorp Services, Inc. Dauphin County. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. j24

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NOTICE IS HEREBY GIVEN that an Application for Certificate of Authority has been filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on or about January 2, 2014, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **Endweld Supply Corporation** c/o AAAgent Services, LLC.

This corporation is incorporated under the laws of New York. The address of its principal office under the laws of its jurisdiction in which it is incorporated is 266 Corliss Avenue, Johnson City, NY 13790. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. j24

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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, by **Enstar (US) Inc.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 1209 Orange St., 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 shall be deemed for venue and official publication purposes to be located at c/o CT Corporation System, Dauphin County. j24

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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, on January 13, 2014, by **Cru Global, Inc.**, a foreign corporation formed under the laws of the State of California, where its principal office is located at 221 N. Figueroa St., Ste. 1200, Los Angeles, CA 90012, 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. j24

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NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, **DHR, Inc.**, a corporation of the State of Nevada, with principal office located at 5870 Stoneridge Mall Rd., Ste. 208, Pleasanton, CA 94588, and having a Commercial registered office Provider and county of venue as follows: Business Fillings Incorporated, Dauphin County, which on March 19, 2013, was granted a Certificate of Authority, to transact business in the Commonwealth, intends to file an Application for Termination of Authority with the Department of State.

j24

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NOTICE IS HEREBY GIVEN of the filing of Articles of Incorporation as follows:

1. The name of the corporation is **Mercado Burrito, Inc.**

2. The location of the registered office of the corporation is 50 Blue Hill Rd., Northumberland, Pa. 17857.

3. The Articles of Incorporation were filed under the provisions of the Business Corporation Law of 1988.

4. The corporation shall have unlimited power to engage in and do any lawful act concerning any or all lawful business for which corporations may be incorporated under the Business Corporation Law.

5. The Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania and approved by said Department on the 15th day of January, 2014.

j24

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NOTICE IS HEREBY GIVEN that **ACP LabChem, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 2711 Centerville Rd., Ste. 400, Wilmington, DE 19808, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County. j24

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FIRST PUBLICATION

Corporate Notices

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **JJG Capital Corporation**, a corporation incorporated under the laws of the State of Delaware with its principal office located at 333 So. Anita Dr., Ste. 400, Orange, CA 92868 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 2/11/2010, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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NOTICE IS HEREBY GIVEN that **CWD-USA**, a foreign business corporation incorporated under the laws of California, with its princ. office located at 1000 West Oak St., Burbank, CA 91506, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. Fictitious Name: CWD-USA, INC. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County.

j24

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NOTICE IS HEREBY GIVEN that **Lavazza Premium Coffees Corp.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at 2711 Centerville Rd., Ste. 400, Wilmington, DE 19808, has applied for a Certificate of Authority in Pennsylvania under the PA Bus. Corp. Law of 1988. The commercial registered office provider in PA is Corporation Service Co., and shall be deemed for venue and official publication purposes to be located in Dauphin County.

j24

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on January 10, 2014 for the purpose of obtaining a Certificate of Incorporation of a proposed business corporation to be organized under the Business Corporation Law of 1988.

The name of the proposed corporation is:

**Property Inc.**

Steven J. Schiffman, Esq.  
Serratelli, Schiffman  
& Brown, PC

Suite 201, 2080 Linglestown Road  
Harrisburg PA, 17110

j24

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Saxon Mortgage, Inc.**, a corporation incorporated under the laws of the State of Virginia with its principal office located at 4718 Mercantile Drive North, Fort Worth, TX 76137 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 5/20/1994, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129/6129 of the Pennsylvania (PA) Bus. Corp. Law of 1988, **Douglas Oil Company of California**, a corporation incorporated under the laws of the State of California with its principal office located at 3010 Briarpark, Houston, TX 77042 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 11/29/1995, was granted a Certificate of Authority to transact business in the Commonwealth of PA, intends to file an Application for Termination of Authority with the Dept. of State.

j24

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FIRST PUBLICATION

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**Fictitious Notices**

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NOTICE IS HEREBY GIVEN that an Application for Registration of a Fictitious Name of **Alkalyzed Water Generator Systems** for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 179 Summers Road, Millersburg, PA 17061, was filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania, on October 18, 2013, pursuant to the provisions of the Fictitious Name Act of December 16, 1982, Act 295, (54 Pa.C.S. §311, et seq.), and its amendments and supplements.

The names and addresses of all persons owning or interested in said business are: John Lee Stoltzfus, 179 Summers Road, Millersburg, PA 17061 and Katie Mae Stoltzfus 179 Summers Road, Millersburg, PA 17061.

Earl Richard Etzweiler, Esq.  
105 North Front Street  
Harrisburg, PA 17101  
(717) 234-5600

j24

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NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, **CynSys, Inc.**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 505 South Exeter St., Baltimore, MD 21202 was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 16th day of December, 2013 pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the only person or persons owning or interested in the said business are: Cynergy Systems, Inc., 505 South Exeter St., Baltimore, MD 21202. j24

NOTICE IS HEREBY GIVEN that an application for registration of a fictitious name, **Pennsylvania Realty Associates**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 113 Potomac St., Suite 101, Hagerstown, MD 21740 was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 10th day of January, 2014 pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the only person or persons owning or interested in the said business are: Charles J Derr & Roberto Gonzalez 113 S. Potomac St., Suite 101, Hagerstown, MD 21740. j24

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FIRST PUBLICATION

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**Miscellaneous Notices**

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NOTICE IS HEREBY GIVEN that the Lower Paxton Township Authority, with a registered office located at 425 Prince Street, Harrisburg, Dauphin County, Pennsylvania 17109, intends to file Articles of Amendment with the Secretary of the Commonwealth of Pennsylvania pursuant to Section 5605 of the Municipality Authorities Act, 53 Pa.C.S. §5605. The Articles of Amendment would increase the number of members of the board of the Lower Paxton Township Authority from five to seven members. The Lower Paxton Township Authority will file the Articles of Amendment with the Secretary of the Commonwealth of Pennsylvania on February 21, 2014. j24

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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

**NO. 2013-CV-1239-MF**

**NOTICE OF SHERIFF'S SALE**

**JPMORGAN CHASE BANK,  
NATIONAL ASSOCIATION, AS  
ATTORNEY IN FACT FOR THE  
FEDERAL DEPOSIT INSURANCE  
CORPORATION AS RECEIVER OF  
WASHINGTON MUTUAL BANK F/K/A  
WASHINGTON MUTUAL BANK FA  
SUCCESSOR IN INTEREST TO  
WASHINGTON MUTUAL HOME  
LOANS, INC. SUCCESSOR BY  
MERGER TO FLEET MORTGAGE  
CORP.,  
Plaintiff**

vs.

**BRENDA S. CORNELIUS,  
Defendant**

**NOTICE TO: GORDON A.  
CORNELIUS and  
BRENDA S. CORNELIUS,  
Defendants**

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

BEING PREMISES: 461 HOCK-  
ERSVILLE ROAD, HERSHEY, PA 17033-  
2077.

BEING in DERRY TOWNSHIP, County of  
DAUPHIN, Commonwealth of Pennsylvania,  
24-038-007-000-0000.

IMPROVEMENTS consist of residential  
property.

SOLD AS the property of GORDON A.  
CORNELIUS and BRENDA S. COR-  
NELIUS.

YOUR HOUSE (real estate) at 461 HOCK-  
ERSVILLE ROAD, HERSHEY, PA 17033-  
2077 is scheduled to be sold at the Sheriff's  
Sale on 04/17/2014 at 10:00 AM, at the  
DAUPHIN County Courthouse, 101 Market

Street, Harrisburg, PA 17107-2012, to enforce  
the Court Judgment of \$92,000.26 obtained  
by, JPMORGAN CHASE BANK, NATION-  
AL ASSOCIATION, AS ATTORNEY IN  
FACT FOR THE FEDERAL DEPOSIT IN-  
SURANCE CORPORATION AS RECEIV-  
ER OF WASHINGTON MUTUAL BANK  
F/K/A WASHINGTON MUTUAL BANK FA  
SUCCESSOR IN INTEREST TO WASH-  
INGTON MUTUAL HOME LOANS, INC.  
SUCCESSOR BY MERGER TO FLEET  
MORTGAGE CORP. (the mortgagee), against  
the above premises.

j24

PHELAN HALLINAN, LLP

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

**NO. 2013-CV-946-MF**

**NOTICE OF SHERIFF'S SALE**

**SUNTRUST MORTGAGE, INC.,  
Plaintiff**

vs.

**EMILIE TYSON,  
Defendant**

**NOTICE TO: EMILIE TYSON**

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

BEING PREMISES: 1501 VERNON  
STREET, HARRISBURG, PA 17104-1105.

BEING in HARRISBURG CITY, County  
of DAUPHIN, Commonwealth of Pennsyl-  
vania, 09-069-001-000-0000.

IMPROVEMENTS consist of residential  
property.

SOLD AS the property of EMILIE  
TYSON.

YOUR HOUSE (real estate) at 1501 VER-  
NON STREET, HARRISBURG, PA 17104-  
1105 is scheduled to be sold at the Sheriff's  
Sale on 03/06/2014 at 10:00 AM, at the  
DAUPHIN County Courthouse, 101 Market  
Street, Harrisburg, PA 17107-2012, to enforce  
the Court Judgment of \$65,302.35 obtained  
by, SUNTRUST MORTGAGE, INC. (the  
mortgagee), against the above premises.

j24

PHELAN HALLINAN, LLP

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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

**CIVIL ACTION - LAW**

**NO. 2013-CV-07837-MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**HSBC BANK USA, NATIONAL  
ASSOCIATION AS TRUSTEE IN TRUST  
FOR CITIGROUP MORTGAGE LOAN  
TRUST INC., ASSET BACKED PASS  
THROUGH CERTIFICATES SERIES  
2003-HE3,  
Plaintiff**

**vs.**

**HELEN A. ANDERSON,  
Defendant**

**NOTICE**

**To : HELEN A. ANDERSON**

YOU ARE HEREBY NOTIFIED that on September 6, 2013, Plaintiff, HSBC BANK USA, NATIONAL ASSOCIATION AS TRUSTEE IN TRUST FOR CITIGROUP MORTGAGE LOAN TRUST INC., ASSET BACKED PASS THROUGH CERTIFICATES SERIES 2003-HE3, 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. 2013-CV-07837-MF. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 1435 NORTH 15TH STREET, HARRISBURG, PA 17103-1214 whereupon your property would be sold by the Sheriff of DAUPHIN County.

YOU ARE HEREBY NOTIFIED to plead to the above referenced Complaint on or before 20 days from the date of this publication or a Judgment will be entered against you.

**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. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the 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

j24



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FIRST PUBLICATION

Miscellaneous Notices

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IN THE COURT OF COMMON PLEAS  
OF DAUPHIN COUNTY,  
PENNSYLVANIA

NO. 2013-CV-8479-MF

CIVIL ACTION-LAW

EverBank,  
Plaintiff  
vs.

Unknown Heirs, Successors, Assigns,  
and All Persons, Firms, or Associations  
Claiming Right, Title or Interest from  
or under Oney B. Doyle, Sr., deceased,  
Defendant(s)

NOTICE OF SHERIFF'S SALE OF  
REAL PROPERTY

TO: Unknown Heirs, Successors,  
Assigns, and All Persons, Firms,  
or Associations Claiming Right,  
Title or Interest from or under  
Oney B. Doyle, Sr., deceased,  
Defendant(s), whose last known  
address is  
260 North 72nd Street  
Harrisburg, PA 17111

YOUR HOUSE (real estate) at: 260 North 72nd Street, Harrisburg, PA 17111, 63-084-062, is scheduled to be sold at Sheriff's Sale on April 17, 2014, at 10:00 AM, at Dauphin County Admin. Bldg., 4th Fl., Commissioners Hearing Rm., Market sq., (former Mellon Bank Bldg.), Harrisburg, PA 17101, to enforce the court judgment of \$150, 186.09, obtained by EverBank (the mortgagee) against you. NOTICE OF OWNER'S RIGHTS - YOU MAY BE ABLE TO PREVENT THIS SHERIFF'S SALE - To prevent this Sheriff's Sale you must take immediate action:

1. The sale will be cancelled if you pay back to EverBank, the amount of the judgment plus costs or the back payments, late charges, costs, and reasonable attorneys fees due. To find out how much you must pay, you may call: 610-278-6800.

2. You may be able to stop the sale by filing a petition asking the Court to strike or open the judgment, if the judgment was improperly entered. You may also ask the Court to postpone the sale for good cause.

3. You may be able to stop the sale through other legal proceedings.

4. You may need an attorney to assert your rights. The sooner you contact one, the more chance you will have of stopping the sale. (See notice below on how to obtain an attorney.) - YOU MAY STILL BE ABLE TO SAVE YOUR PROPERTY AND YOU HAVE OTHER RIGHTS EVEN IF THE SHERIFF'S SALE DOES TAKE PLACE.

5. If the Sheriff's Sale is not stopped, your property will be sold to the highest bidder. You may find out the price bid by calling 610-278-6800.

6. You may be able to petition the Court to set aside the sale if the bid price was grossly inadequate compared to the value of your property.

7. The sale will go through only if the buyer pays the Sheriff the full amount due in the sale. To find out if this has happened you may call 717-255.2660.

8. If the amount due from the buyer is not paid to the Sheriff, you will remain the owner of the property as if the sale never happened.

9. You have a right to remain in the property until the full amount due is paid to the Sheriff and the Sheriff gives a deed to the buyer. At that time, the buyer may bring legal proceedings to evict you.

10. You may be entitled to a share of the money, which was paid for your house. A schedule of distribution of the money bid for your house will be filed by the Sheriff no later than thirty days after the Sheriff Sale. This schedule will state who will be receiving the money. The money will be paid out in accordance with this schedule unless exceptions (reasons why the proposed distribution is wrong) are filed with the Sheriff within ten (10) days after the date of filing of said schedule.

11. You may also have other rights and defenses or ways of getting your house back, if you act immediately after the sale.

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE LISTED BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

DAUPHIN COUNTY  
LAWYER REFERRAL SERVICE  
213 N. Front St.  
Harrisburg, PA 17101  
717.232.7536

PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT YOU ARE ADVISED THAT THIS LAW FIRM IS DEEMED TO BE A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

CHRISTOPHER A. DeNARDO, Esq.  
CAITLIN M. DONNELLY, Esq.  
AMY GLASS, Esq.  
BRADLEY J. OSBORNE, Esq.  
SHAPIRO & DeNARDO, LLC  
3600 Horizon Dr. Ste. 150  
King of Prussia, PA 19406  
610.278.6800

j24

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

**CIVIL ACTION - LAW**

**NO. 2013-CV-06583-MF**

**NOTICE OF SHERIFF SALE OF REAL  
ESTATE PURSUANT TO PA.R.C.P. 3129**

**Susquehanna Bank,  
Plaintiff**

**vs.**

**Gina A. Murphy,  
Defendant**

**TO: Gina A. Murphy**

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, March 6, 2014 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: 461 E. Market Street, Williamstown, Pennsylvania 17098, Dauphin County.

THE JUDGMENT under or pursuant to which your property is being sold is docketed to: No.: 2013-CV-06583-MF.

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

THIS PAPER 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 N. Front St.  
Harrisburg, PA 17101  
717.232.7536

j24

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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

**NO. 2012CV9027MF**

**OneWest Bank, FSB,  
Plaintiff  
vs.**

**Aurelia Lewis, Known Surviving Heir  
of Dora P. Sample, Deceased Mortgagor  
and Real Owner and All Unknown  
Surviving Heirs of Dora P. Sample,  
Deceased Mortgagor and Real Owner,  
Defendants**

**NOTICE OF SHERIFF'S SALE OF  
REAL ESTATE PURSUANT TO  
PENNSYLVANIA RULE OF CIVIL  
PROCEDURE 3129**

**TO: Aurelia Lewis, Known Surviving  
Heir of Dora P. Sample, Deceased  
Mortgagor and Real Owner 1816  
Mocassin Court, 212A Conway,  
South Carolina 2952,  
All Unknown Surviving Heirs of  
Dora P. Sample, Deceased  
Mortgagor and Real Owner,  
85 North 16th Street,  
Harrisburg, Pennsylvania 17103,**

**Aurelia Lewis, Known Surviving  
Heir of Dora P. Sample, Deceased  
Mortgagor and Real Owner 85  
North 16th Street, Harrisburg,  
Pennsylvania 17103.**

**TAKE NOTICE:**

That the Sheriff's Sale of Real Property  
(real estate) will be held:

DATE: March 6, 2014

TIME: 10:00 a.m.

LOCATION: Sheriff's Office, Dauphin  
County Administration Building, Commis-  
sioner's Hearing Room, 4th Floor - Market  
Square, Harrisburg, Pennsylvania 17101.

THE PROPERTY TO BE SOLD is delin-  
eated in detail in a legal description mainly  
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.

(SEE DESCRIPTION ATTACHED)

THE LOCATION of your property to be  
sold is 85 North 16th Street, Harrisburg,  
Pennsylvania 17103.

THE JUDGMENT under or pursuant to  
which your property is being sold is docketed  
in the within Commonwealth and County to:  
Number 2012CV9027MF.

THE NAME OF THE OWNER OR RE-  
PUTED OWNER of this property is: Aurelia  
Lewis, Known Surviving Heir of Dora P.  
Sample, Deceased Mortgagor and Real  
Owner and All Unknown Surviving Heirs of  
Dora P. Sample, Deceased Mortgagor and  
Real Owner.

A SCHEDULE DISTRIBUTION, being a  
list of the persons and/or governmental or cor-  
porate entities or agencies being entitled to re-  
ceive part of the proceeds of the sale received  
and to be disbursed by the Sheriff (for exam-  
ple, to banks that hold mortgages and munici-  
palities that are owed taxes) will be filed by  
the Sheriff of this County thirty (30) days after  
the sale and distribution of the proceed of sale  
in accordance with this schedule will, in fact,  
be made unless someone objects by filing ex-  
ceptions to it within ten ( 10 ) days of the date  
it is filed.

Information about the Schedule of  
Distribution may be obtained from the Sheriff  
of the Court of Common Pleas of the within  
County at the Courthouse address specified  
herein.

THIS PAPER 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.

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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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. 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.

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THE LEGAL RIGHTS YOU MAY HAVE ARE:

1. You may file a petition with the Court of Common Pleas of the within County to open the judgment if you have a meritorious defense against the person or company that has entered judgment against you. You may also file a petition with the same Court if you are aware of a legal defect in the obligation or the procedure used against you.

2. After the Sheriff's Sale, you may file a petition with the Court of Common Pleas of the within County to set aside the sale for a grossly inadequate price or for other proper cause. This petition MUST BE FILED BEFORE THE SHERIFF'S DEED IS DELIVERED.

3. A petition or petitions raising the legal issues or rights mentioned in the preceding paragraphs must be presented to the Court of Common Pleas of the within County. The petition must be served on the attorney for the creditor or on the creditor before presentation to the Court and a proposed order or rule must be attached to the petition.

If a specific return date is desired, such date must be obtained from the Court Administrator's Office - Civil Division, of the within County Courthouse, before a presentation to the Court.

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**Miscellaneous Notices**

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

**NO. 2013-CV-06864-MF**

**NOTICE OF SHERIFF'S SALE**

**JPMORGAN CHASE BANK, N.A.  
S/B/M TO CHASE HOME  
FINANCE, LLC.,  
Plaintiff**

**vs.**

**SHAKIRA N. CLARK,  
Defendant**

**NOTICE TO: SHAKIRA N. CLARK**

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

BEING PREMISES: 1506 ALLISON STREET, HARRISBURG, PA 17104-3137.

BEING in HARRISBURG CITY, County of DAUPHIN, Commonwealth of Pennsylvania, 01-035-307-000-0000.

IMPROVEMENTS consist of residential property.

SOLD AS the property of SHAKIRA N. CLARK.

YOUR HOUSE (real estate) at 1506 ALLISON STREET, HARRISBURG, PA 17104-3137 is scheduled to be sold at the Sheriff's Sale on 04/17/2014 at 10:00 AM, at the DAUPHIN County Courthouse, 101 Market Street, Harrisburg, PA 17107-2012, to enforce the Court Judgment of \$95,199.32 obtained by, JPMORGAN CHASE BANK, N.A. S/B/M TO CHASE HOME FINANCE, LLC. (the mortgagee), against the above premises.

j24

PHELAN HALLINAN, LLP

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

**NO. 2013-CV-05438-MF**

**NOTICE OF SHERIFF'S SALE**

**WELLS FARGO BANK, N.A., AS  
TRUSTEE, IN TRUST FOR SASCO  
2007-MLN1 TRUST FUND,  
Plaintiff**

**vs.**

**PAUL C. BALOGH and THE UNITED  
STATES OF AMERICA C/O THE  
UNITED STATES ATTORNEY FOR  
THE MIDDLE DISTRICT OF PA,  
Defendants**

**NOTICE TO: PAUL C. BALOGH**

BEING PREMISES: 146 SOUTH 2ND STREET, STEELTON, PA 17113-2501.

Being in STEELTON BOROUGH, County of DAUPHIN, Commonwealth of Pennsylvania, 58-012-016-000-0000.

IMPROVEMENTS consist of residential property.

SOLD AS the property of PAUL C. BALOGH and THE UNITED STATES OF AMERICA C/O THE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF PA.

YOUR HOUSE (real estate) at 146 SOUTH 2ND STREET, STEELTON, PA 17113-2501 is scheduled to be sold at the Sheriff's Sale on 04/17/2014 at 10:00 AM, at the DAUPHIN County Courthouse, 101 Market Street, Harrisburg, PA 17107-2012, to enforce the Court Judgment of \$59,614.33 obtained by, WELLS FARGO BANK, N.A., AS TRUSTEE, IN TRUST FOR SASCO 2007-MLN1 TRUST FUND (the mortgagee), against the above premises.

j24

PHELAN HALLINAN, LLP

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**Miscellaneous Notices**

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IN THE COURT OF COMMON PLEAS  
OF DAUPHIN COUNTY,  
PENNSYLVANIA

NO. 2013-CV-3671-MF

**NOTICE OF SHERIFF'S SALE**

**BANK OF AMERICA, N.A., AS  
SUCCESSOR BY MERGER TO BAG  
HOME LOANS SERVICING, LP  
F/K/A COUNTRYWIDE HOME  
LOANS SERVICING, LP,**

**Plaintiff**

**vs.**

**ROBERT W. WISSINGER and  
MELENA WISSINGER A/K/A  
MELENA M. WISSINGER,  
Defendants**

**NOTICE TO: ROBERT W. WISSINGER  
AND MELENA WISSINGER  
A/K/A MELENA M. WISSINGER**

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

BEING PREMISES: 1812 PEBBLE COURT,  
HARRISBURG, PA 17110-8904.

BEING in SUSQUEHANNA TOWNSHIP,  
County of DAUPHIN, Commonwealth of  
Pennsylvania, 62-082-050-000-0000.

IMPROVEMENTS consist of residential  
property.

SOLD AS the property of ROBERT W.  
WISSINGER and MELENA WISSINGER  
A/K/A MELENA M. WISSINGER.

YOUR HOUSE (real estate) at 1812 PEB-  
BLE COURT, HARRISBURG, PA 17110-  
8904 is scheduled to be sold at the Sheriff's  
Sale on 04/17/2014 at 10:00 AM, at the  
DAUPHIN County Courthouse, 101 Market  
Street, Harrisburg, PA 17107-2012, to enforce  
the Court Judgment of \$174,879.87 obtained  
by, BANK OF AMERICA, N.A., AS SUC-  
CESSOR BY MERGER TO BAC HOME  
LOANS SERVICING, LP F/K/A COUN-  
TRYWIDE HOME LOANS SERVICING, LP  
(the mortgagee), against the above premises.

j24

PHELAN HALLINAN, LLP

IN THE COURT OF COMMON PLEAS  
OF DAUPHIN COUNTY,  
PENNSYLVANIA

NO. 2013-CV-2725-MF

**NOTICE OF SHERIFF'S SALE**

**PHH MORTGAGE CORPORATION,  
Plaintiff**

**vs.**

**STACY M. FAZENBAKER  
and RYAN E. STAHL,  
Defendants**

**NOTICE TO: STACY M.  
FAZENBAKER AND RYAN E. STAHL**

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

BEING PREMISES: 216 NISSLEY STREET,  
MIDDLETOWN, PA 17057-1421.

BEING IN MIDDLETOWN BOROUGH,  
County of DAUPHIN, Commonwealth of  
Pennsylvania, 41-022-033-000-0000.

IMPROVEMENTS consist of residential  
property.

SOLD AS the property of STACY M.  
FAZENBAKER and RYAN E. STAHL.

YOUR HOUSE (real estate) at 216 NISS-  
LEY STREET, MIDDLETOWN, PA 17057-  
1421 is scheduled to be sold at the Sheriff's  
Sale on 03/06/2014 at 10:00 AM, at the  
DAUPHIN County Courthouse, 101 Market  
Street, Harrisburg, PA 17107-2012, to enforce  
the Court Judgment of \$74,237.93 obtained  
by, PHH MORTGAGE CORPORATION (the  
mortgagee), against the above premises.

j24

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Miscellaneous Notices

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IN THE COURT OF COMMON PLEAS  
OF DAUPHIN COUNTY,  
PENNSYLVANIA

DOCKET NO. 2013 CV 9121 NC

PETITION FOR CHANGE OF NAME

NOTICE

NOTICE IS HEREBY GIVEN that on January 9, 2014, the Petition of **Maria Nicola** was filed in the above named court, requesting a decree to change his/her name from **Maria Nicola** to **Maria Nicola Gooderham**. The Court has fixed March 11, 2014 in Courtroom No. 11, at 1:30pm at the Juvenile Justice Center, 25 South Front Street, 7th Floor, 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. j24

# **TRIAL AHEAD?**

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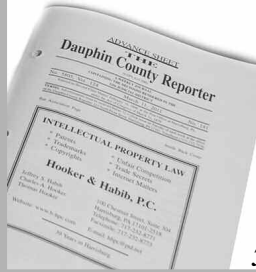
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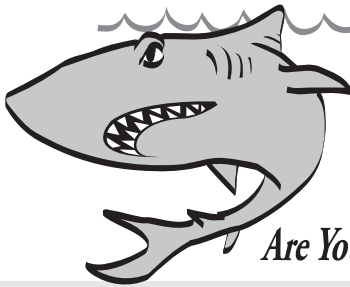
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The Board of Directors of the Bar Association meets on the third Thursday of the month at the Bar Association headquarters. Anyone wishing to attend or have matters brought before the Board should contact the Bar Association office in advance.

**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**

*Opinions Not Yet Reported*

January 8, 2014 – Turgeon, J., Rapp v. Rapp., C.P. Dau.Co., No. 2010 CV 486 DV

**BAR ASSOCIATION PAGE – Continued**

**MISCELLANEOUS SECTION**

*Opinions Not Yet Reported*

**CLERK OF COURT - SCRANTON, PA (13-01R)**

**2nd Posting**

The United States District Court for the Middle District of Pennsylvania is seeking additional applications for the position of Clerk of Court. All prior applications received remain active and will be considered. There is no need to re-apply.

The Clerk of Court is a senior management position which is responsible for managing the administrative and operational functions of the Clerk's Office, including preparing the annual budget, ensuring compliance with statutory requirements and directing policy implementation and long-range planning. The official duty station of the Clerk of Court is Scranton, Pennsylvania, and the position requires residency within daily commuting distance of our Scranton headquarters. The position also involves travel among all of our vicinages. The salary range for the position is JSP 16-1 (\$134,722) to JSP 17-10 (\$167,000). Please refer to the court's web site at [www.pamd.uscourts.gov](http://www.pamd.uscourts.gov) to view the complete Vacancy Announcement. The closing date for applications is February 14, 2014. j17-j31

DEPUTY COURT ADMINISTRATOR – The 12th Judicial District of PA, Dauphin County, is seeking candidates for Deputy Court Administrator. This state-level mgmt position is responsible for overseeing the day-to-day operations & administrative functions of the Dauphin county Court of Common Pleas, Criminal Division. Responsibilities include coordinating the activities which set in motion the criminal court scheduling to assure the efficient & timely disposition of cases.

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