

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

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Facsimile: 717-232-8773  
E-mail: [hpc@ptd.net](mailto:hpc@ptd.net)  
Website: [www.h-hpc.com](http://www.h-hpc.com)

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42 Years in Harrisburg

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**(717) 232-7536**

**ELIZABETH G. SIMCOX  
Executive Director**

**JOYCE TAMBOLAS  
Administrative Assistant**

**BRIDGETTE L. HILBISH  
Office Assistant**

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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 CHRISTOPHER A. HARDEN, late of the City of Harrisburg, Dauphin County, Pennsylvania. Executrix: Nancy L. Harden. Attorney: Michael L. Bangs, Esq., Bangs Law Office, LLC, 429 South 18th Street, Camp Hill, PA 17011.

n9-n23

ESTATE OF WINIFRED G. FABULA, late of Lower Swatara Township, Dauphin County, Pennsylvania (died October 3, 2012). Personal Representative: Frederick Blair, 8150 Derry Street, Suite C, Harrisburg, PA 17111. Attorney: Chad J. Julius, Esq., 8150 Derry Street, Suite A, Harrisburg, PA 17111.

n9-n23

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ESTATE OF AIMEE F. REX, late of Paxtang Borough, Dauphin County, Pennsylvania (died October 6, 2012). Personal Representatives: David P. Rex and Elinor A. Uhrich. Attorney: Vance E. Antonacci, Esq., McNees Wallace & Nurick LLC, 570 Lausch Lane, Suite 200, Lancaster, PA 17601. Telephone (717) 581-3701.

n9-n23

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ESTATE OF MARGARET E. BEISTEL, late of Middle Paxton Township, Dauphin County, Pennsylvania. Executor: Jack E. Beistel, 700 Killinger Road, Dauphin, PA 17018. Attorney: Earl Richard Eitzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600.

n9-n23

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ESTATE OF PATRICK R. MURRAY, late of Williamstown Borough, Dauphin County, Pennsylvania (died September 7, 2012). Administrator: Joseph G. Murray, 2515 Route 6, Suite 4, Hawley, PA 18428. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethville, PA 17023.

n9-n23

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ESTATE OF SAMUEL R. DAVIS, late of Susquehanna Township, Dauphin County, Pennsylvania (died September 9, 2012). Executrix: Christina Berryhill, P.O. Box 271, Hershey, PA 17033. Attorney: Jill M. Wineka, Esq., Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102.

n9-n23

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**FIRST PUBLICATION**

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**Estate Notices**

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ESTATE OF MARY E. TOPPER, late of Dauphin County, Pennsylvania (died October 1, 2012). Executrix: Marianne Ortenzio. Attorney: Patricia Carey Zucker, Esq., Daley Zucker Meilton Miner & Gingrich, LLC, 635 North 12th Street, Suite 101, Lemoyne, PA 17043. n9-n23

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ESTATE OF ETHEL TERRIS, late of the Borough of Hummelstown, Dauphin County, Pennsylvania (died September 22, 2012). Executor/Attorney: Jeffrey M. Mottern, Esq., 28 East Main Street, P.O. Box 87, Hummelstown, PA 17036. n9-n23

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ESTATE OF MARGARET M. HOFFMAN, late of Swatara Township, Dauphin County, Pennsylvania (died October 30, 2011). Executor/Administrator: Mary Anne Hoffman-Oaks (Hoffman) 740 Redstone Road, Washington, PA 15301. n9-n23

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ESTATE OF JAMES LAMAR GEYER, A/K/A JAMES L. GEYER, SR., late of the Township of Swatara, Dauphin County, Pennsylvania (died October 6, 2012). Executrix: Paula L. Geyer, 204 N. Johnson Street, Harrisburg, PA 17112. Attorney: Harry M. Baturin, Esq., Baturin & Baturin, 2604 North Second Street, Harrisburg, PA 17110 n9-n23

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ESTATE OF WILLIAM R. HARDER, JR., late of Susquehanna Township, Dauphin County, Pennsylvania. Personal Representatives: Daniel Harder, Nancy Sheaf, and Janet Moyer. Attorney: Alina L. Andreoli, Esq., Nestico Druby, P.C., 1135 East Chocolate Avenue, Suite 300, Hershey, PA 17033. n9-n23

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ESTATE OF WILLENE B. SNAVELY, late of Middletown Borough, Dauphin County, Pennsylvania (died October 18, 2012). Administratrix-cta: Ann E. Rhoads, 119 Locust Street, P.O. Box 11847, Harrisburg, PA 17108-1847. Attorneys: Cleckner and Fearen, 119 Locust Street, P.O. Box 11847, Harrisburg, PA 17108-1847. n9-n23

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ESTATE OF JAMES B. ALTER, late of the Borough of Hummelstown, Dauphin County, Pennsylvania (died September 26, 2012). Co-Executors: Earl H. Spillers, 31 Ceymore Road, Hummelstown, PA 17036 or The Bryn Mawr Trust Company, attn. Jesse S. Ashcroft, One West Chocolate Avenue, Suite 200, Hershey, PA 17033. Attorney: Stanley A. Smith, Esq., Rhoades & Sinon LLP, One S. Market Square. P.O. Box 1146, Harrisburg, PA 17108-1146. n9-n23

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ESTATE OF ELSIE M. CAPP, late of the Township of Conewago, Dauphin County, Pennsylvania. Administrator: Donna K. Spittle. Attorney: James R. Clark, Esq., 277 Millwood Road, Lancaster, PA 17603. n9-n23

Myshin v. Myshin

Finally, the proposed injunction is narrowly tailored. As detailed above, Defendant remains able to exercise his speech rights and will continue to have access to children who seek him out outside the twenty-yard zone. This zone is nevertheless sufficiently broad so that the school children are protected from and may avoid Defendant's physical approach.

Accordingly, I enter the following:

ORDER

AND NOW, this 20th day of September, 2012, it is hereby directed that a permanent injunction is granted, as follows: Defendant Stephen Garisto is directed to maintain a safe distance of no less than twenty (20) yards from any designated bus stop / school bus loading zone established by the Central Dauphin School District where children are waiting to board or de-board school buses.

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**Myshin v. Myshin**

**Domestic Relations — Spousal Support — Oral Contract — Breach — Counsel Fees.**

Plaintiff/husband sought enforcement of an alleged oral agreement with his wife, which required her to pay him support following their separation. The parties disputed the existence of the agreement, the amounts due to the plaintiff under a subsequent spousal support order, and whether either party owed the other counsel fees.

1. A contract is formed when (1) there is an offer and acceptance; i.e. a mutual understanding manifesting an intent by the parties to be bound by the terms of the agreement, (2) the terms of their bargain are shown with sufficient clarity and (3) there is an exchange of consideration. *Weavertown Transport Leasing, Inc. v. Moran*, 834 A.2d 1169, 1172 (Pa. Super. 2003).

2. An offer may be accepted by conduct, and what the parties do pursuant to the offer is germane to show whether the offer is accepted. *O'Brien v. Nationwide Mut. Ins. Co.*, 455 Pa. Super. 568, 689 A.2d 254, 259 (1997). Whether particular conduct expresses an offer and acceptance must be determined on the basis of what a reasonable person in the position of the parties would be led to understand by such conduct under all of the surrounding circumstances. *Temple Univ. Hosp., Inc. v. Healthcare Mgmt. Alternatives, Inc.*, 764 A.2d 587, 593 (Pa. Super. 2000).

3. In the case of a disputed oral contract, what was said and done by the parties, as well as what was intended by what was said and done by the parties, are questions of fact

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to be resolved by the trier of fact. *Johnston the Florist, Inc. v. TEDCO Const. Corp.*, 657 A.2d 511, 516 (Pa. Super. 1995). The burden is on the plaintiff to prove by a preponderance of the evidence the existence of the contract to which the defendant is a party. *Id.* (quoting *Viso v. Werner*, 369 A.2d 1185, 1187 (Pa. 1977)).

4. A contract is validly modified if the party which did not propose the change is shown to acquiesce in the modification through a course of conduct consistent with acceptance. *United States v. LeCroy*, 348 F. Supp. 2d 375, 384 (E.D. Pa. 2004).

5. Whether a contract is supported by consideration presents a question of law. *Davis & Warde, Inc. v. Tripodi*, 420 Pa. Super. 450, 616 A.2d 1384 (Pa. Super. 1992).

6. Although non-voluntary retirement contributions are excluded from a party's net income for support purposes, voluntary retirement contributions must be included. In addition, employer contributions to an individual's 401(k) account, less the penalty incurred for withdrawal, must be considered additional income for support purposes if the employee can access the employer contributions. *Portugal v. Portugal*, 798 A.2d 246, 253 (Pa. Super. 2002).

7. Where a motion for sanctions is denied, the party defending the motion shall be awarded reasonable expenses, including attorney's fees, unless the court finds that the making of the motion for sanctions was substantially justified. *Pa.R.C.P. 4019(g)(2)*.

C.P., Dau. Co., No. 2011 CV 7607 CV; No. 1552 DR 2009; PACSES 024111075.

*Sandra L. Meilton and Quintana M. Laudermilch*, for Plaintiff/  
Obligee

*John J. Connelly, Jr. and Christine Taylor Brann*, for Defendant/  
Obligor

TURGEON, J., October 15, 2012. – The issues before the court concern whether the parties, following their separation but prior to the entry of a spousal support order, reached an oral agreement requiring Wife to pay Husband support; whether, under the subsequent spousal support order, Wife owes additional sums to Husband and/or whether Wife is entitled to a credit for overpaid support; and whether either party owes the other counsel fees.

## BACKGROUND

The parties, Daniel and Heidi Myshin, were married in 1988 and separated August 17, 2007. Husband is a lawyer and Wife a prosthodontist who had a higher income than Husband at separation and for several years preceding. Following separation, Wife made direct deposits into a joint bank account. Husband alleges these payments, which Wife deposited for almost two years, were made pursuant to an oral contract under which she agreed to pay him monthly spousal support. Husband claims she failed to make four agreed deposits totaling \$6,000 between August 2008 and May 2009, precipitating his civil action asserting a breach of contract claim

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against Wife. (No. 2011 CV 7607 CV) Wife claims all payments were voluntary and not made pursuant to an agreement. Under this action, this Court must decide whether a valid oral contract existed.

In August 2009, Husband filed a complaint seeking spousal support with the Domestic Relations Section. (No. 1552 DR 2009) Prior to the scheduled support conference, the parties reached an agreement memorialized in an order entered under the Domestic Relations Section docket. That order, effective August 12, 2009, required Wife to pay Husband \$2,600 per month spousal support as well as 40% of her net income above \$180,000 gross per year. During the course of this order, Wife reported her gross income did not exceed \$180,000 so she paid Husband no additional support. Effective September 30, 2010, Wife's spousal support obligation was suspended pursuant to the parties' marital settlement agreement. On March 16, 2012, Husband filed a petition to reopen the spousal support matter claiming Wife's income exceeded \$180,000 gross in both 2009 and 2010 and that she thus owed him additional spousal support. Wife denies she owes additional support. She additionally claims that the agreed \$2,600 monthly spousal support should be recomputed based upon new income figures and retroactively reduced, resulting in credits to her for both 2009 and 2010. Under this action, this Court must thus determine whether Wife's income exceeded the \$180,000 threshold and/or whether Wife is entitled to retroactive reduction in support.

Finally, Wife has filed a motion seeking sanctions, including counsel fees, due to Husband's alleged failure to provide discovery. Husband responded with a counterclaim seeking recovery of his own counsel fees.

I held a hearing on all issues on July 19, 2012. Following receipt of the transcript, I permitted the parties to file supplemental accountant reports concerning Wife's 2009 and 2010 gross income. Wife produced a supplemental report while Husband elected not to produce his own. Thereafter, both parties filed briefs on all issues presented. Following a conference call regarding questions raised in Wife's supplemental report, Wife's accountant was permitted to submit a clarifying report and Husband a letter response thereto.

**DISCUSSION***Oral Contract for Spousal Support*

Husband claims that between September 1, 2007 and August 12, 2009, the parties had an oral contract under which Wife agreed to pay him spousal support, Husband asserts that Wife breached the contract

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terms by failing to make four required payments totaling \$6,000. Wife denies that there existed any oral contract and that all payments she made to Husband were entirely voluntary.

A contract is formed when (1) there is an offer and acceptance; i.e. a mutual understanding manifesting an intent by the parties to be bound by the terms of the agreement, (2) the terms of their bargain are shown with sufficient clarity and (3) there is an exchange of consideration. *Weavertown Transport Leasing, Inc. v. Moran* 834 A.2d 1169, 1172 (Pa. Super. 2003); *Yoder v. Am. Travellers Life Ins. Co.*, 814 A.2d 229, 233 (Pa. Super. 2002); *Johnston the Florist, Inc. v. TEDCO Const. Corp.*, 657 A.2d 511, 516 (Pa. Super. 1995). Furthermore, as set forth by the Superior Court, citing pre-eminent contract law scholar Professor John E. Murray, Jr.:

“ ‘[A]n offer may be accepted by conduct and what the parties d[o] pursuant to th[e] offer is germane to show whether the offer is accepted.’ ” *O’Brien v. Nationwide Mut. Ins. Co.*, 455 Pa.Super. 568, 689 A.2d 254, 259 (1997), quoting *Accu-Weather, Inc. v. Thomas Broadcasting Co.*, 425 Pa.Super. 335, 625 A.2d 75, 78 (1993) (other citations omitted). Furthermore, “ ‘[i]t is a basic principle of the law of contracts that an acceptance must be unconditional and absolute.’ ” *O’Brien*, 689 A.2d at 258, quoting *Thomas A. Armbruster, Inc. v. Barron*, 341 Pa.Super. 409, 491 A.2d 882, 887 (1985). “Whether particular conduct expresses an offer and acceptance must be determined on the basis of what a reasonable person in the position of the parties would be led to understand by such conduct under all of the surrounding circumstances.” John Edward Murray, Jr., *Murray on Contracts* § 37, at 82 (3rd ed. 1990).

*Temple Univ. Hosp., Inc. v. Healthcare Mgmt. Alternatives, Inc.*, 764 A.2d 587, 593 (Pa. Super. 2000). “[I]n the case of a disputed oral contract, what was said and done by the parties, as well as what was intended by what was said and done by the parties, are questions of fact to be resolved by the trier of fact ...” *Johnston the Florist* at 516 (1995) (citation omitted). “‘The burden is on the plaintiff to prove by a preponderance of the evidence the existence of the contract to which the defendant is a party’ ” *Id.* (quoting *Viso v. Werner* 369 A.2d 1185, 1187 (Pa. 1977)).

The evidence submitted to the court establishes that the parties reached a mutual agreement for the payment of spousal support,

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that they indicated the terms of this agreement with sufficient clarity (that Wife would pay Husband the initial amount of \$4,000 per month, later amended to \$3,000 per month), and that there was an exchange of consideration.

Husband testified that within a few weeks of their August 17, 2007 separation, he and Wife had a series of “long and involved discussions” concerning spousal support and ultimately agreed that she would pay him \$4,000 per month, arrived at by applying the Pennsylvania Support Guidelines<sup>1</sup> to their respective net monthly incomes as reported in their joint income tax return from the prior tax year.<sup>2</sup> (N.T. 8-10, 44) As consideration, he agreed to forgo filing a formal support action with Domestic Relations and thus avoid expenses related to such a proceeding. (See P-3 (5/11/09 email))

Because Wife, who owns her prosthodontist practice, paid herself and her employees on the 15th and last day of each month, Husband testified that she agreed to make semi-monthly deposits of \$2,000 into a joint account. (N.T. 10) Wife made an initial deposit of \$2,000 on September 14, 2007 and continued to make regular \$2,000 bi-monthly deposits thereafter through mid-May 2008, a total of fifteen deposits. (P-3)

According to Husband, in the spring of 2008, the parties exchanged their 2007 income information as prepared by their accountant Scott Staiger for the purpose of considering whether a change in the spousal support payment amounts was warranted, (N.T. 9-10) Husband asserts that it was the parties’ understanding that they would revisit the total spousal support owed each spring after their tax returns were prepared. He claimed that after additional “long and involved conversations,” they agreed to amend their oral contract by reducing Wife’s monthly spousal support obligation from \$4,000 to \$3,000. (N.T. 44-45) Wife thereafter began to make bi-monthly deposits of \$1,500 into their joint account commencing May 15, 2008. (P-3) Wife continued to make these bi-monthly deposits until August 3, 2009, a total of twenty-six deposits, with the exception of four missed payments, occurring in mid-August and mid-November 2008, and mid-March and mid-May 2009. (P-3; N.T. 11-12)

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1. Pa.R.C.P. 1910.16-1 et seq.

2. The bulk of the testimony offered at the hearing was made by offer of proof by the attorneys, which offers were adopted by each party as his or her own testimony. (N.T. 24, 37-38)



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In addition to the payment history, Husband produced a series of emails between the parties which reveal that he explicitly considered his receipt of these payments as a fulfillment of Wife's obligation under their oral contract to pay him spousal support. The emails further reveal that he sought spousal support from Wife outside of formal support proceedings in order that both parties would save litigation expenses. (P-1; P-2)

In an email dated August 29, 2007, sent to Wife less than two weeks following separation, Husband wrote: "I only need \$2,000.00 from each pay period to continue to pay the household bills, etc. I would appreciate it if you could make that deposit as well." (N.T. 10; P-1) Consistent with Husband's email, Wife made the requested deposit into the parties' joint account. In a September 11, 2007 email, Husband directly discussed the payments as part of Wife's spousal support obligation and his attempt to arrive at an accurate amount, as follows:

Although I'm happy to exchange our 2007 income figures, please understand that the current year is not very helpful for making the proper spousal support/APL calculations. ...

At the same time, you should understand that while having [our accountant] Scott [Staiger] do a partial year return is possibly more accurate, it will be only marginally so. Especially when we are seeking to determine 40% of the difference between our net monthly incomes.<sup>3</sup> We must balance the increased accuracy against the additional cost and bother of having Scott do a 2nd return. In my opinion, it's not worth it. ... I was willing to accept less than what the [support] guidelines called for anyway. It's your call.

(P-1 (9/11/07 email, ¶¶3, 4))

Most important to the issue at hand, in a September 24, 2007 email, Husband specifically identifies Wife's deposits as having been made pursuant to their oral agreement, as follows:

... Although there is no question among reasonable persons that spouses owe each other a duty of econom-  
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3. Husband accurately conveyed to Wife the general spousal support obligation under the Support Guidelines, which require that the obligor spouse generally owes the obligee spouse support 40% of the difference between their net incomes. See Pa.R.C.P. 1910. 16-4(a) (Part IV).

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support [,] in Pennsylvania, the economically advantaged spouse owes the disadvantaged spouse 40% of the difference between their net monthly incomes. That is simply the law, your misinterpretation of [your attorney's] advice notwithstanding. Rather than quibble or incur the expense of having Scott Staiger do a mid-year return, **we agreed that \$2000.00 each paycheck is reasonable** with the understanding that when the annual returns are completed at the end of this year, we can adjust the calculation for the following year. Aside from that obligation of support, we jointly owe money to various creditors ....

(P-1 (9/24/07 email, ¶3)) (emphasis added). In a later email, Husband, after expressing frustration over the lack of “regular spousal support payments,” told her “I would rather not incur the expense and face the humiliation of filing for spousal support” but would do so if given no choice. (P-3 (5/11/09 email)) Subsequent emails Husband sent to Wife are consistent in revealing his understanding of the payments as spousal support and that she owed him these sums as part of her obligation under the law. (P-3)<sup>4</sup>

Husband also produced emails he sent to Wife corroborating his understanding of the parties’ oral contract as including a provision that they would revisit the amount of spousal support owed each spring upon the exchange of their respective net income information. (P-3) These include, in addition to the email quoted above, emails he sent on May 11, July 13 and July 20, 2009. (P-1 (9/24/07 email, ¶3; P-3))

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4. Husband made at least five additional references in emails he sent to Wife between December 11, 2008 and July 28, 2009. In the December 11, 2008 email, he stated: “I would appreciate if you can catch up on [three] spousal support payments you have missed.” (P-3 (12/11/08 email)) On July 9, 2009, he sent an email in which the “subject” line was “spousal support” and requesting confirmation of the payment due at the end of June, (P-3 (7/9/09 email)) On July 13, 2009, Husband requested that he and Wife “discuss the change in spousal support to reflect the change in income” in order that his attorney can “do the calculation based upon our respective net monthly incomes as compared to the statewide support guidelines.” (P-3 (7/13/09 email)) On July 20, 2009, in response to Wife’s question, Husband explained that based upon their 2008 tax returns, he believed she owed him more than \$3,000 per month spousal support under the support guidelines and proposed a higher payment commence July 15th. (P-3 (7/20/09 email)) Finally, on July 28, 2009, Husband wrote to Wife imploring her to “pay the spousal support this month on time and without prompting from me.” (P-3 (7/28/09 email))

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While Wife did not dispute that the bank statements reveal she made forty-one bi-monthly payments to Husband, initially of \$2,000 and then later of \$1,500, she denied that these payments were made pursuant to an oral contract. Instead, she claims all payments were voluntarily made by her in response to Husband's incessant demands for money. (N.T.46-47) She claimed that this was in conformity with the controlling behavior he exhibited during their marriage, particularly concerning financial matters. (N.T. 25-26) Wife denied reaching any kind of agreement to later reduce her payments from \$4,000 to \$3,000 per month, claiming that she also made that decision unilaterally because the parties had given up on marriage counseling. (N.T. 26, 46-47) Wife further denied that the emails in any way established a contract, noting that they are Husband's one-sided recitations revealing his understanding of their economic affairs.

As noted, an offer may be accepted by conduct. Additionally, as articulated by Professor Murray, "[w]hether particular conduct expresses an offer and acceptance must be determined on the basis of what a reasonable person in the position of the parties would be led to understand by such conduct under all of the surrounding circumstances." *Temple Univ. Hosp., Inc.* at 593 (quoting *Murray on Contracts*). Any reasonable person in the position of the parties would have understood Wife's conduct of making regular payment of the bi-monthly amounts as an expression of her acceptance of the terms of their agreement as explained in Husband's emails, under which she agreed to fulfill her legal spousal support obligation and he agreed to forego formal support proceedings and thus save litigation expenses. Furthermore, a reasonable person would additionally understand that, given Husband's very clear expression of his understanding of the nature of the payments made to him as bargained-for spousal support, the failure of Wife to correct Husband's understanding despite having an opportunity to do so on many occasions and in light of her mostly regular bi-monthly payments to Husband, indicates her acquiescence to his understanding of the terms of their oral agreement.

Husband has also presented evidence sufficiently proving that the parties reached an agreement to amend their oral contract. Bank records show Wife began routinely depositing the reduced \$1,500 bi-monthly payments from mid-May 2008 through August 2009, making a total of twenty-six such payments, missing only four. Thus, Wife by her conduct, revealed acceptance of the modified terms. *Temple Univ. Hosp., Inc.* at 593; *see also, First Nat'l Bank of Pa. v. Lincoln Nat'l Life Ins. Co.*, 824 F.2d 277, 280 (3d Cir. 1987) (oral

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amendments may be established by words or conduct); *United States v. LeCroy*, 348 F. Supp. 2d 375, 384 (E.D. Pa. 2004) (a contract is validly modified if the party which did not propose the change is “shown to acquiesce in the modification through a course of conduct consistent with acceptance”) (citation omitted). Numerous emails written by Husband corroborate his understanding that the parties would revisit spousal support each spring. Wife’s claim that her decision to “unilaterally” reduce her “voluntary” payments to Husband in the spring of 2008 lacks credibility in light of the written evidence. (See N.T. 26-27, 31-32, 46-47)

Wife also argues that Husband has not proven an exchange of consideration, an essential element of an enforceable contract. Consideration consists of a benefit to the promisor or a detriment to the promisee. *Pennsy Supply, Inc. v. Am. Ash Recycling Corp.*, 895 A.2d 595, 600 (Pa. Super. 2006), *appeal denied*, 907 A.2d 1103 (Pa. Super. 2006) (citations omitted). Consideration must actually be bargained for as the exchange for the promise. *Id.* The superior court in *Pennsy Supply* discussed these concepts in detail, as follows:

It is not enough, however, that the promisee has suffered a legal detriment at the request of the promisor. The detriment incurred must be the ‘quid pro quo’, or the ‘price’ of the promise, and the inducement for which it was made.... [ ... ]

*Weavertown*, 834 A.2d at 1172 (quoting *Stelmack*, 339 Pa. at 414, 14 A.2d at 128-29). Whether a contract is supported by consideration presents a question of law. *Davis & Warde, Inc. v. Tripodi*, 420 Pa. Super. 450, 616 A.2d 1384 (Pa. Super. 1992).

The classic formula for the difficult concept of consideration was stated by Justice Oliver Wendell Holmes, Jr. as “the promise must induce the detriment and the detriment must induce the promise.” John Edward Murray, Jr., *Murray on Contracts* § 60 (3d. ed. 1990), at 227 (citing *Wisconsin & Michigan Ry. v. Powers*, 191 U.S. 379, 24 S. Ct. 107, 48 L. Ed. 229 (1903)). As explained by Professor Murray:

If the promisor made the promise for the purpose of inducing the detriment, the detriment induced the promise. If, however, the promisor made the

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promise with no particular interest in the detriment that the promisee had to suffer to take advantage of the promised gift or other benefit, the detriment was incidental or conditional to the promisee's receipt of the benefit. Even though the promisee suffered a detriment induced by the promise, the purpose of the promisor was not to have the promisee suffer the detriment because she did not seek that detriment in exchange for her promise.

*Id.* § 60 C, at 230 [emphasis removed].

*Pennsy Supply* at 600-601.

The facts before the court reveal that consideration was exchanged as a matter of law. Wife's promise to pay monthly support was made in exchange for Husband's decision to forbear from instituting a support proceeding. Wife's promise induced his detriment and Husband's detriment induced her promise. Professor Murray has noted this precise example as one revealing an exchange of consideration: where the promisor makes a promise because she wants the promisee "to forbear an action that the promisee had a legal right to perform," and if the promisor made that promise for the purpose of inducing that detriment, the detriment induced the promise. *Murray on Contracts* § 60 C at 230.

This Court notes as an additional element of consideration that Wife too obtained a benefit, which was that she incurred no expenses in litigating spousal support through the Domestic Relations Section or the courts, which expenses do not appear inconsiderable inasmuch as both parties, as owners of professional practices, present income issues more complicated than those of typical support litigants.

Accordingly, Husband has proven the existence of an oral contract which Wife breached by failing to pay Husband all spousal support due him under its terms. Wife therefore owes him \$6,000 in missed payments under the oral contract

*Wife's Gross Income in 2009 and 2010*

As noted above, Wife agreed in the October 2009 support order that, effective August 12, 2009, she would pay Husband 40% of her net income above \$180,000 gross income per year in addition to \$2,600 monthly support. Husband claims her gross income for 2009 and 2010 exceeded \$180,000 when voluntary contributions made to Wife's 401(k) retirement account, by both Wife and her practice (employer), are added

## Myshin v. Myshin

back to her income. I find, based upon the record before the court,<sup>5</sup> that in 2010 Wife's income exceeded \$180,000 by \$17,500, though it did not exceed that threshold in 2009.

Income for support purposes includes, but is not limited to, "wages, salaries, bonuses, fees, compensation in kind, commissions, income derived from business, all forms of retirement and pensions." 23 Pa.C.S.A. § 4302; Pa.R.C.P. 1910.16-2(a)). In order to determine net income, only limited number of items may be deducted from gross income, including, "non-voluntary retirement payments." Pa.R.C.P. 1910.16-2(c). Although non-voluntary retirement contributions are excluded from net income, voluntary retirement contributions must be included in a party's net income for support purposes. *Portugal v. Portugal*, 798 A.2d 246, 252 (Pa.Super. 2002) ("the trial court must include any voluntary contributions that a parent makes to his/her retirement plan as income for support purposes"). In addition, employer contributions to an individual's 401(k) account, less the penalty incurred for withdrawal, must be considered additional income for support purposes if the employee can access the employer contributions. *Portugal* at 253; see also, *Murphy v. McDermott* 979 A.2d 373 (Pa. Super. 2009).

The parties agree that Wife's W-2 wages were \$158,000 in 2009 and \$143,000 in 2010.<sup>6</sup> Her 2009 wages excluded \$22,000 she made as a voluntary contribution to her 401(k) account as well as \$32,500 her practice contributed to the 401(k), which was not deposited until 2010. Her 2010 wages similarly excluded \$22,000 paid to her 401(k) and \$32,500 from her practice to her 401(k), again, not deposited until 2011. Husband argues that if these excluded monies are added back, as the law requires, her 2009 gross annual income would be \$212,500 (\$158,000 + \$22,000 + \$32,500) and her 2010 gross income \$197,500 (\$143,000 + \$22,000 + \$32,500).

As stated above, the law is clear that Wife's voluntary 401(k) contributions of \$22,000 in both 2009 and 2010, must be added back into her income for support purposes. *Portugal, supra*. With regard to the employer contributions of \$32,500 for those years, Husband submits

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5. The record includes testimony from the hearing, an August 28, 2012 supplemental report by accountant Scott Staiger (on Wife's behalf) (Court Exbt. 1), an October 3, 2012 clarifying letter/report by Staiger (Court Exbt. 2) and a letter response by Husband's attorney to Staiger's filings (Court Exbt. 3). Husband elected not to produce his own supplemental report due to its expense.

6. The parties also had additional income from their jointly owned office condominium; however, they have agreed not to include that income in the 2009 or 2010 income calculations since it was distributed in equitable distribution.

## Myshin v. Myshin

these should also be added back since Wife, the sole owner of her prosthodontics practice, had sole decision making authority regarding the practice, including the ability to decide whether and how much her practice would contribute to Wife's 401(k). (N.T. 8, 48-49) I agree, but find that since the employer contributions made to Wife's 401(k) for tax year 2009 were not paid to that plan until in 2010 - because the corporation did not have the funds available to make the contribution in the year in which the contribution was deducted from the corporate return - these funds were not available as income to Wife in 2009. (N.T. 38-39) On the other hand, these sums were available to her in 2010 and I will thus add \$32,500 to Wife's 2010 gross income. (N.T. 50; Court Exbt. 1 pp. 2-3 (Staiger Report)).

Wife offered expert reports and testimony of the parties' accountant, Scott Staiger, who has prepared the parties' joint tax returns for many years. He calculated Wife's gross income for 2009 and 2010 utilizing two methods. The first method was based on the tax year utilizing Wife's tax returns and the second method on a cash flow analysis.

Under the first method, he found Wife's gross income to be \$182,274 in 2009 and \$177,390 in 2010.<sup>7</sup> (Court Exbt. 2) Under this first method, he included as 2009 income to Wife, her wages paid by her practice of \$180,000. He also included the corporate contribution of \$32,500, even though it was paid in 2010. However, because the practice took a loss of \$26,005 in order to make the pension payment, he subtracted this amount, as well as a \$4,221 depreciation loss suffered by the practice. Thus, he found Wife's 2009 total gross income to be \$182,274. For 2010, he found Wife's wages as paid by her practice to be \$165,000 and added to this the corporate contribution to her 401(k) of \$32,500 paid in 2011. He also added back a \$3,890 carry forward but deducted \$24,000 as decreased rental income, for a total 2010 gross income of \$177,390.

As noted above, I reject inclusion into Wife's 2009 income of the \$32,500 employer contribution to her 401(k) since she did not have access to it in 2009. *See Portugal* at 253. Concomitantly, the deduction for a net loss to the practice of \$26,005 is inappropriate as that loss did not occur in 2009. Furthermore, such a loss is not an appropriate deduction as it is a loss to the corporation and not to Wife. Finally, a

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7. Wife would accordingly owe additional spousal support only in 2009 under this method of income calculation. Based upon the applicable taxes, 40% of the net income over \$180,000 gross in 2009 would warrant additional spousal support to Husband for 2009 of \$604.70. (Court Exbts. 1, 2)

## Myshin v. Myshin

deduction for depreciation is inappropriate as well as that generally is not an acceptable deduction from gross income for support computation purposes. See, Pa.R.C.P. 1910.16-2(c).

Under the second, cash flow method, Mr. Staiger found Wife's 2009 gross income was \$180,000 and her 2010 gross income \$169,610, thus owing Husband no additional support. (Court Exbts. 1, 2) Under this method, the accountant included as 2009 income to Wife her W-2 wages of \$158,000 plus her own \$22,000 401(k) contribution. He excluded the 2009 corporate contribution of \$32,500 to her plan because the deposit was not made until 2010. As noted above, I agree with this calculation for 2009.

For 2010, Mr. Staiger included \$165,000 of wages (\$143,000 salary plus \$22,000 401(k) contribution). He also included the \$32,500 contribution made by her practice to her 401(k) plan. I agree as well with this figure, totaling \$197,500. Mr. Staiger, however, then deducted from this sum \$3,890 of depreciation and \$24,000 in decreased rental income, for a 2010 total gross income of \$169,610. Again, the accountant has improperly, for support income computation purposes, deducted depreciation and decreased rent.<sup>8</sup>

Accordingly, I find that Wife's gross income in 2009 was \$180,000 (\$158,000 W-2 wages plus \$22,000 401(k) contribution). For 2010, her gross income was \$197,500 (\$143,000 W-2 wages plus the \$22,000 and \$32,500 401(k) contributions). As such, in 2010 Wife had \$17,500 gross income in excess of the \$180,000 threshold. Applying the combined tax rate (federal, state, local and Medicare) of 33.52%, Wife's net income on this \$17,500 excess gross is \$11,634 ( $\$17,500 - (\$17,500 \times 33.52\%)$ ), of which Husband is entitled to 40%, or \$4,654. Since the spousal support order was in effect for nine months in 2010, this figure is pro-rated to \$3,491.<sup>9</sup>

*Wife's Spousal Support "Overpayments"*

Wife seeks a refund of monies she allegedly overpaid under the spousal support order. She cites Paragraph 8 the parties' Marital Settlement Agreement, wherein both parties "reserve any and all claims

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8. In a variation of these numbers, submitted in his clarifying letter (Court Exbt. 2), he deducted the lost rental income in Wife's wages, resulting in them being \$141,000 (\$143,000 salary, plus \$22,000 401(k), minus \$24,000 lost rent). The other figures remained the same.

9. This court notes that the parties have additionally stipulated that Wife made \$6,061.10 in overpayments during the course of the spousal support order and is therefore due a credit in that amount. (N.T. 7, 14)



## Myshin v. Myshin

for spousal support/APL or credits existing” and permitting either party to pursue “any and all claims related to spousal support/APL or credits due either party.” (D-3; N.T. 12) She argues that had the parties’ actual 2009 and 2010 monthly net incomes been used to calculate monthly spousal support, then under the Support Guidelines, she would have owed \$2,450 in 2009 and \$1,456 in 2010, instead of the \$2,600 she agreed to pay under the support order.<sup>10</sup> She thus seeks a retroactive credit of \$692 in 2009<sup>11</sup> and \$10,296 in 2010. She claims that she is permitted under the Marital Settlement Agreement to raise this issue in the current proceedings even though she failed during the time the spousal support order was in effect to seek *de novo* review or file for modification.

As noted above, there were two essential terms under the parties’ agreed spousal support order: first, that Wife would pay Husband \$2,600 per month spousal support, and second, that if her income exceeded \$180,000 gross per year, she would owe him 40% of the net over that threshold. There is clearly nothing within this agreed order suggesting that this first term was subject to modification based upon the subsequent discovery of new income information. (P-4) The order itself provides no such indication, nor has Wife provided any evidence that the \$2,600 figure was derived from certain monthly net income figures and would thus be modifiable should it later be determined the underlying monthly net incomes were different than the ones the parties’ presumably utilized in arriving at the \$2,600 figure. Accordingly, the agreed spousal support is not subject to retroactive review and modification, Wife having otherwise failed to seek timely *de novo* review or modification based upon any fraud or other legally approved reason for a retroactive re-computation.

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10. For 2009, Wife claims Husband’s net monthly income was \$4,993 and hers \$11,119, resulting in a guideline monthly spousal support obligation of \$2,450 ( $\$11,119 - \$4,993 = \$6,126 \times 40\%$ ). This would result in a monthly overpayment of \$150 ( $\$2,600 - \$2,450$ ), or a total overpayment of \$692 for four months and nineteen days the support order was in effect in 2009 (Aug. 12 thru Dec. 31, 2009).

For 2010, Wife argues Husband’s net monthly income was \$7,329 and hers \$10,969, resulting in a guideline monthly spousal support obligation of only \$1,456 ( $\$10,969 - \$7,324 = \$3,640 \times 40\%$ ). (D-15) Thus, she claims a monthly overpayment of \$1,144 ( $\$2,600 - \$1,456$ ), or a total overpayment of \$10,296 for the nine months the support order was in effect in 2010.

11. Wife claimed that the 2009 overpayment was \$5,278; however, this figure is based upon incorrect calculations; Wife mistakenly used the alleged 2010 guideline support obligation (\$1,456) instead of the 2009 figure (\$2,450) in calculating the overpayment. (See Wife’s Brief, pp. 11 - 12).

Myshin v. Myshin

*Counsel Fees*

The final issue involves competing claims for counsel fees. Wife seeks to recover fees from Husband related to litigating his failure to produce requested documents during the discovery process. Husband has cross-claimed for counsel fees for having had to defend against what he believes is a frivolous claim for sanctions and counsel fees.

From 2011 through early 2012, the parties engaged in formal discovery in the support action. On May 26, 2011, Wife served Husband with a Request for Production of Documents requesting, among other things, Husband's 2009 amended tax return and bank statements confirming all payments received by Husband from Wife from August 1, 2007 through August 2009. In July 2011, Husband provided his 2009 tax return but not an amended return because he had not filed it. He also did not provide the requested bank statements, reasoning that Wife had equal access to their joint account, although the bank mailed monthly statements only to Husband. (P-11)

In January 2012, after failed settlement negotiations, Wife's attorney demanded the previously requested documents from Husband and also provided notice that Wife would seek sanctions if Husband did not comply with the request within thirty days, as required under Local Rule 4019(4)(a)((1)(b). Within fifteen days, Husband's attorney provided Husband's 2009 tax return while advising that the amended return was not yet available. He also produced the bank statements which documented payments received by Husband from Wife. (P-12) On March 23, 2012, within the thirty day period, Wife filed a Motion for Sanctions claiming that she did not receive the requested documents. Since Husband's attorney believed he had already provided them, he filed his own Motion for Sanctions and a Counterclaim for Counsel Fees on March 30, 2012. A few days later, Wife's attorney candidly admitted that their office had misfiled Husband's discovery responses, though he noted that Husband's attorney had failed to include all pages of the requested bank statements. Wife then filed an Amended Motion for Sanctions on April 4, 2012 requesting the additional pages. Husband filed an Answer to Wife's Motion for Sanctions and Amended Counterclaim for Counsel Fees on April 9, 2012. That same day, Husband's attorney provided the additional pages to the bank statements though asserting that they were outside the scope of Wife's discovery request. (P-14)

Wife seeks counsel fees as part of her Amended Motion for Sanctions, pursuant to Pa.R.C.P. 4019(a) and Local Rule 4019(4)(a)(1)(b)(III). That Motion is denied inasmuch as Husband substantially complied with the underlying request for documents by promptly providing the bank statements and informing Wife's attorney

## Myshin v. Myshin

that the other requested document (the amended tax return) was not available. Furthermore, as to the claim that Husband failed to provide all bank statement pages, Husband's attorney raised an arguable reason for withholding them, which was that they were outside the scope of the requested discovery. In any event, he eventually provided all pages within a reasonable time.

With regard to Husband's claim for counsel fees, where a motion for sanctions is denied, the party defending the motion shall be awarded reasonable expenses, including attorney's fees, unless the court finds that the making of the motion for sanctions was substantially justified. Pa.R.C.P. 4019(g)(2). Wife's attorney's motion for sanctions in which he pursued his request for all bank statement pages, was substantially justified inasmuch without the missing pages, counsel would have been unable to fully evaluate Wife's payment history to Husband. Counsel fees are also warranted where the court finds the filing of motion for sanctions was for the purpose of delay or bad faith. Pa.R.C.P. 4019(h). There was no evidence that Wife's motion was filed to delay the proceedings or filed in bad faith.

Accordingly, I enter the following:

**ORDER**

AND NOW, this 15th day of October 2012, I direct as follows:

**Under case No. 2011 CV 7607 CV**, I find Wife to have been in breach of the parties' contract causing \$6,000 in damages to Husband.

**Under case No. 1552 DR 2009**, I find as follows:

- (1) Wife owes Husband \$3,491 in additional support pursuant to the parties' spousal support order. This amount represents Wife's obligation to pay Husband 40% of any net income over \$180,000 gross in 2010, pro-rated to nine months, discussed above. Wife owes Husband no additional spousal support based upon her 2009 gross income.
- (2) Wife's request for a retroactive credit for alleged overpayments of monthly spousal support is DENIED.
- (3) Both parties' requests for counsel fees are DENIED.
- (4) Upon stipulation of the parties, Wife is due a credit for \$6,061.10 for overpayments made under the support order.

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**SECOND PUBLICATION**

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**Estate Notices**

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ESTATE OF EDNA MAE BUDY, late of the Township of Swatara, Dauphin County, Pennsylvania. Executrix: Janet L. Oxenford, 2303 Canby Street, Harrisburg, PA 17103. Attorney: Charles E. Petrie, Esq., 3528 Brisban Street, Harrisburg, PA 17111.

n2-n16

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ESTATE OF GLADYS E. SNYDER, late of Middletown Borough, Dauphin County, Pennsylvania. Executor: Jon F. LaFaver, 120 Carol Street, New Cumberland, PA 17070. Attorney: David H. Stone, Esq., Stone LaFaver & Shekletski, P.O. Box E, New Cumberland, PA 17070.

n2-n16

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ESTATE OF TERRY R. SHOMPER, late of Upper Paxton Township, Dauphin County, Pennsylvania. Administrator: Steven L. Shomper, 265 Ridgewood Drive, Millersburg, PA 17061. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600.

n2-n16

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ESTATE OF JOHN I. SWEIGART, SR., late of West Hanover Township, Dauphin County, Pennsylvania. Co-Executors: John I. Sweigart, Jr., 439 S. Hershey Road, Hummelstown, PA 17036 and Marilyn K. Sweigart Miller, 23 Hidden Lake Circle, Sacramento, CA 95831. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Telephone (717) 234-5600.

n2-n16

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**THIRD PUBLICATION**

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**Estate Notices**

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ESTATE OF MILDRED E. STEPP, late of Swatara Township, Dauphin County, Pennsylvania. Executor: Gary L. Stepp, 650 North St. John's Drive, Camp Hill, PA 17011. Attorney: Galen R. Waltz, Esq., 2002 Holly Street, Marysville, PA 17053. o26-n9

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ESTATE OF PEGGY J. MULHOLLAN, late of the City of Harrisburg, Dauphin County, Pennsylvania (died May 23, 2010). Personal Representative: Jean Weaver, Carlisle, PA. Attorney: Jacqueline A. Kelly, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. Telephone (717) 541-5550. o26-n9

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ESTATE OF FRANCIS M. CROWLEY, late of Middletown Borough, Dauphin County, Pennsylvania. Personal Representative: Kathy Carper. Attorney: Anthony J. Nestico, Esq., Nestico Druby, P.C., 1135 East Chocolate Avenue, Suite 300, Hershey, PA 17033. o26-n9

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ESTATE OF LARRY E. SMELTZ, late of the Borough of Millersburg, Dauphin County, Pennsylvania (died September 30, 2012). Administratrix: Ann L. Smeltz, 277 North Street, Millersburg, PA 17061. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023.. o26-n9

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**THIRD PUBLICATION**

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**Estate Notices**

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ESTATE OF MARY KOLISH, late of Swatara Township, Dauphin County, Pennsylvania (died September 23, 2012). Co-Executors: Andrew M. Kolish, 930 Chambers Street, Oberlin, PA 17113 and Cheryl Kolish Williams, 3517 Sharon Street, Harrisburg, PA 17111. Attorney: Shelly J. Kunkel, Esq., Wion, Zulli & Seibert, 109 Locust Street, Harrisburg, PA 17101.

o26-n9

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ESTATE OF KENZIE JOHNSON a/k/a KENZIE LEE JOHNSON, late of the Township of Swatara, Dauphin County, Pennsylvania. Executrix: Cheri Johnson, 14621 Argos Place, Upper Marlboro, MD 20774. Attorney: James H. Turner, Esq., Turner and O'Connell, 4701 North Front Street, Harrisburg, PA 17110.

o26-n9

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ESTATE OF MARY L. KOCH, late of West Hanover Township, Dauphin County, Pennsylvania. Executrix: Cindy L. Wright. Attorney: Craig A. Diehl, Esq., CPA, 3464 Trindle Road, Camp Hill, PA 17011.

o26-n9

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ESTATE OF DALE L. BECHTEL, late of Harrisburg, Dauphin County, Pennsylvania (died August 1, 2012). Executrix: Doreen McCoy Bechtel. Attorney: Bruce J. Warshawsky, Esq., Cunningham & Chernicoff, P.C., 2320 North Second Street, Harrisburg, PA 17110.

o26-n9

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ESTATE OF WILLIAM M. HEFFLEY, late of the Borough of Hummelstown, Dauphin County, Pennsylvania (died September 24, 2012). Executrix: Marilyn Heffley, 1326 Spruce Street, Apt. 2705, Philadelphia, PA 19107. Attorney: Jean D. Seibert, Esq., Wion, Zulli & Seibert, 109 Locust Street, Harrisburg, PA 17101.

o26-n9

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ESTATE OF CAROL LEE ALBERT, late of Susquehanna Township, Dauphin County, Pennsylvania (died August 25, 2012). Executor: Larry Walker, 484 Spring Drive, East Meadow, NY 11554. Attorney: Ann E. Rhoads, Esq., Cleckner and Fearen, P.O. Box 11847, Harrisburg, PA 17108-1847.

o26-n9

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ESTATE OF FRANCES A. WATKINS, late of Swatara Township, Dauphin County, Pennsylvania. Executrix: Mary F. Christ. Attorney: Craig A. Hatch, Esq., Gates, Halbruner, Hatch & Guise, P.C., 1013 Mumma Road, Suite 100, Lemoyne, PA 17043.

o26-n9

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ESTATE OF ASA NELSON, late of Susquehanna Township, Dauphin County, Pennsylvania. Administratrix-CTA: Ruth N. Wherley, 205 Fox Drive, Mechanicsburg, PA 17050. Attorneys: Butler Law Firm, 1007 Mumma Road, Suite 101, Lemoyne, PA 17043.

o26-n9

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ESTATE OF HELEN G. DANOWITZ, late of Lower Paxton Township, Dauphin County, Pennsylvania (died September 3, 2012). Executrix: Ms. Brendalynne Danowitz, 3822 Laraby Drive, Harrisburg, PA 17110. Attorney: Gary L. Rothschild, Esq., 2215 Forest Hills Drive, Suite 35, Harrisburg, PA 17112.

o26-n9

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**THIRD PUBLICATION**

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**Estate Notices**

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ESTATE OF JOHN I. RAMSEY a/k/a JOHN IRVIN RAMSEY, late of Dauphin County, Pennsylvania (died October 4, 2012). Co-Executors: Dwayne E. Ramsey, 2404 Walker Mill Road, Harrisburg, PA 17110 and Jonna L. Godwin, 413 Shelleys Lane, Etters, PA 17319. Attorney: Steven J. Schiffman, Esq., Serratelli, Schiffman & Brown, P.C., 2080 Linglestown Road, Suite 201, Harrisburg, PA 17110. o26-n9

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ESTATE OF ELIZABETH E. FAUST, late of the Township of Susquehanna, Dauphin County, Pennsylvania. Executor: Paul W. Faust, 510 Vernon Avenue, Harrisburg, PA 17109. o26-n9

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ESTATE OF DUNLEIGH C. SHAFFER, late of Millersburg Borough, Dauphin County, Pennsylvania (died October 9, 2012). Executrix: Salli J. Shaffer, 556 Summit Street, Millersburg, PA 17061. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, LLP, 4245 State Route 209, Elizabethtown, PA 17023.. o26-n9

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**FIRST PUBLICATION**

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**Corporate Notices**

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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 September 25, 2012, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **Cleveland Integrity Services, Inc.**, c/o National Registered Agents, Inc.

This corporation is incorporated under the laws of Oklahoma. The address of its principal office under the laws of its jurisdiction in which it is incorporated is 370669 East Hwy. 64, Cleveland, OK 74020.

The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. n9

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NOTICE IS HEREBY GIVEN that a Certificate of Authority for a Foreign Business Corporation was filed in the Department of State of the Commonwealth of Pennsylvania for **Uni-Tel Technologies, Inc.** The address of its principal office under the laws of its jurisdiction is 360 Main Street, Suite 4, Matawan, NJ 07747. The Commercial Registered Office Provider for this Corporation is Penncorp Service Group, Inc. in the County of Dauphin. The Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa. C.S. 4124(b). n9

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on October 19, 2012 with respect to a proposed non-profit corporation, **Riverside United Neighbors**, which has been incorporated under the Nonprofit Corporation Law of 1988. The said corporation is organized for charitable and educational purposes as defined in Section 501(c)(3) of the Internal Revenue Code of 1986 within the boundaries of the Riverside Neighborhood of Harrisburg.

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on 09/20/2012, with respect to a proposed non-profit corporation, **ALLEGHENIES CARE YOUR WAY**, which has been incorporated under the non-profit Corporation Law of 1988. A brief summary of the purposes for which said corporation is organized is: In home attendant care.

n9

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NOTICE IS HEREBY GIVEN that **SWCA, Incorporated** a foreign business corporation incorporated under the laws of the State of Arizona where its principal office is located at 3033 N. Central Ave., Suite 145, Phoenix, Arizona 85012 has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at CT Corporation System, 116 Pine St., Suite 320, Harrisburg, Pennsylvania 17101. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania.

n9

NOTICE IS HEREBY GIVEN that **T. H. Hill Associates, Inc.**, a foreign business corporation incorporated under the laws of the State of Texas, where its principal office is located at 13100 Wortham Center Drive, Houston, TX 77065, has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at 116 Pine Street, 3rd floor, Ste. 320, Harrisburg, PA 17101.

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

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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, **Iron Mountain Information Management, Inc.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at 745 Atlantic Ave., Boston, MA 02111 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 12/28/1992, 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.

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NOTICE IS HEREBY GIVEN that **Lincoln Financial Group Trust Company, Inc.**, a foreign business corporation incorporated under the laws of New Hampshire, with its princ. office located at 1 Granite Pl., Concord, NH 03301, 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.

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania on 10/10/2012, with respect to a proposed non-profit corporation. **Living In Freedom Ministries**, which has been incorporated under the nonprofit Corporation Law of 1988. A brief summary of the purposes for which said corporation is organized is: Religious Ministry. n9

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NOTICE IS HEREBY GIVEN that a Certificate of Authority was filed in the Department of State of the Commonwealth of Pennsylvania for **St. Pauly Textile East, Inc.** The address of its principal office under the laws of its jurisdiction is 1067 Gateway Dr., Farmington, NY 14425. The commercial registered office provider is United Corporate Services, Inc. in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S. 4124(b). n9

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NOTICE IS HEREBY GIVEN that **BSM Financial, Inc.**, a foreign business corporation under the laws of the State of Nevada, where its principal office is located at 936 Southwood Blvd #102, Incline Village, NV 89451, 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. n9

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NOTICE IS HEREBY GIVEN that a Certificate of Authority was filed in the Department of State of the Commonwealth of Pennsylvania for **Perceptual Networks, Inc.** The address of its principal office under the laws of its jurisdiction is 206 S. 4th Street, Philadelphia, PA 19106. The commercial registered office provider is Incorporating Services, Ltd. in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S. 4124(b). n9

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NOTICE IS HEREBY GIVEN that **SWISSPORT CFE, INC.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at 45025 Aviation Dr., Ste. 350, Dulles, VA 20166, has filed an Application for Termination of Authority under Section 4129/6129 of the Business Corporation Law on 10/23/2012, and the registered office is located at c/o: Corporation Service Co., Dauphin County. n9

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NOTICE IS HEREBY GIVEN that a Certificate of Authority was filed in the Department of State of the Commonwealth of Pennsylvania for **Malibu Management Inc.** The address of its principal office under the laws of its jurisdiction is 22917 Pacific Coast Hwy., Ste. 300, Malibu, CA 90265. The commercial registered office provider is National Registered Agents, Inc. in Dauphin County. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa. C.S. 4124(b). n9

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NOTICE IS HEREBY GIVEN that **Swift Leasing Co., Inc.** with a registered agent provider in care of National Registered Agents, Inc. in Dauphin County does hereby give notice of its intention to withdraw from doing business in this Commonwealth as per 15 Pa C.S. 4129(b). The address of its principal office under the laws of its jurisdiction is 2200 South 75th Ave., Phoenix, AZ 85043. This shall serve as official notice to creditors and taxing authorities. n9



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FIRST PUBLICATION

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Corporate Notices

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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 February 1, 2012, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **Elizabeth Truck Center Inc.** c/o AAAgent Services, LLC.

This corporation is incorporated under the laws of New Jersey. The address of its principal office under the laws of its jurisdiction in which it is incorporated is 878 North Avenue Elizabeth, NJ 07201.

The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988, as amended. n9

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NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of the Commonwealth of Pennsylvania on 8/31/2012 under the Domestic Business Corporation Law, for **Idle Media, Inc.**, and the name and county of the commercial registered office provider is c/o: InCorp Services, Inc., Dauphin County. n9

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NOTICE IS HEREBY GIVEN that **ODYSSEY FINANCIAL SERVICES, INC.**, a foreign business corporation incorporated under the laws of the State of OKLAHOMA, received a Certificate of Authority in Pennsylvania on 10/20/2008 and surrenders its certificate of authority to do business in Pennsylvania.

Its last registered office in this Commonwealth was located at: 116 PINE STREET, HARRISBURG, PA 17101 and its last registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania.

Notice of its intention to withdraw from Pennsylvania was mailed by certified or registered mail to each municipal corporation in which the registered office or principal place of business of the corporation in Pennsylvania is located.

The post office address, including street and number, if any, to which process may be sent in an action or proceeding upon any liability incurred before any liability incurred before the filing of the application for termination of authority is 1230 N. ROBINSON, OKLAHOMA CITY, OKLAHOMA 73103.

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NOTICE IS HEREBY GIVEN that **ROMER LABS, INC.**, a foreign business corporation incorporated under of the laws of MISSOURI, where its principal office is located at 1301 STYLEMASTER DR., UNION, MISSOURI 63084, has applied for a certificate of authority in Pennsylvania, where its registered office is located at c/o Corporation Service Company. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County. n9

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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, **UWRITETOUCH INC.**, a corporation incorporated under the laws of the State of Indiana with its principal office located at 1256 Washington St., Columbus, IN 47201 and a registered office in PA at c/o: CT Corporation System, Dauphin County, which on 11/29/2010, 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. n9

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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, **Holloway Bros. Tools, INC.**, a corporation incorporated under the laws of the State of Delaware with its principal office located at Attn: Tax Dept., 75 Maxess Rd., Melville, NY 11747 and a registered office in PA at c/o: Corporation Service Co., Dauphin County, which on 5/20/1988, 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. n9

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NOTICE IS HEREBY GIVEN that **Medical Laboratory Diagnostics, INC.**, a foreign business corporation incorporated under the laws of New Jersey, with its principal office is located at 85 Horse Hill Rd., Cedar Knolls, NJ 07927, 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. n9

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NOTICE IS HEREBY GIVEN to all creditors and claimants of **National Corporate Tax Credit, Inc. of Pennsylvania**, a Pennsylvania (PA) business corporation, that said corporation has filed Articles of Dissolution under the provisions of PA Business Corporation Law on 10/26/2012. n9

NOTICE IS HEREBY GIVEN that **Javelin, Inc. d/b/a/ MCN Productions, Inc.**, a foreign business corporation incorporated under the laws of the State of Missouri, where its principal office is located at 1910 Locust Street, St. Louis, Missouri 63103, has applied for a Certificate of Authority in Pennsylvania, where its registered office is located at C T Corporation System, 116 Pine Street, Suite 320, Harrisburg, PA 17101. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. n9

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NOTICE IS GIVEN that articles of incorporation that will incorporate **CD Track & Field and Cross Country Booster Association, Inc.** have been delivered to the Department of State for filing in accordance with 15 Pa.C.S. §5307. The initial registered office of the corporation is located at 7676 Aynlee Way, Harrisburg, PA 17112 and its initial registered agent at such address is Pam Coakley. n9

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NOTICE IS HEREBY GIVEN to all creditors and claimants of **NOAH'S ARK INTERNATIONAL, INC.**, a Pennsylvania (PA) business corporation, that said corporation has filed Articles of Dissolution under the provisions of PA Business Corporation Law on 10/26/2012. n9

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that **TCSC Insurance Agency, Inc.**, a foreign business corporation incorporated under the laws of the State of Oklahoma, received a Certificate of Authority in Pennsylvania on 10/19/2010 and surrenders its certificate of authority to do business in Pennsylvania. Its last registered office in this Commonwealth was located at: 125 Locust Street Harrisburg, PA 17101 Registered Agent Solutions, and its last registered office of the corporation shall be deemed for venue and official publication purpose to be locate in Dauphin County, Pennsylvania. Notice of its intentions to withdraw from Pennsylvania was mailed by certified or registered mail to each municipal corporation in which the registered office or principal place of business of the corporation in Pennsylvania is located. The post office address, including the street and number, if any, to which process may be sent in an action or proceeding upon any liability incurred before any liability incurred before filing of the application for termination of authority is 205 W. Maple, PO Box 1189, Enid., OK 73702-1189. n9

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NOTICE IS HEREBY GIVEN that **Lehigh Gas Wholesale Services, Inc.**, a foreign business corporation incorporated under the laws of Delaware, with its princ. office located at c/o Capitol Services, Inc., 1675 South State St., Ste. B, Dover, DE 19901, 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: Capital Corporate Services, Inc., and shall be deemed for venue and official publication purposes to be located in Dauphin County. n9

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, **Salem County Sampler, Inc.**, a corporation of the State of NJ with its principal office at 7950 Jones Branch Dr., McLean, VA 22107 and having a Commercial Registered Office Provider and County of Venue as follows: CT Corporation System, Dauphin County, which on 03/30/1999 was granted a Certificate of Authority to transact business in the Commonwealth, has filed an Application for Termination of Authority with the Department of State. n9

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NOTICE IS HEREBY GIVEN that an Application for Certificate of Authority was filed with the PA Dept. of State on 10/15/2012 by **AXA Technology Services America, Inc.**, a foreign corporation formed under the laws of the jurisdiction of DE with its principal office located at 525 Washington Blvd., Jersey City, NJ 07310, to do business in PA under the provisions of the Business Corporation Law of 1988. The registered office in PA shall be deemed for venue and official publication proposes to be located in Dauphin County. n9

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NOTICE IS HEREBY GIVEN that **RESORT TITLE AGENCY, INC.**, a foreign business corporation incorporated under the laws of the State of FLORIDA, where its principal office is located at 4950 Communication Avenue, Suite 900, Boca Raton, Florida 33431, has applied for Certificate of Authority in Pennsylvania, where its registered office is located at 2595 Interstate Drive, Suite 103, Harrisburg, PA 17110. The registered office of the corporation shall be deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. n9

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**FIRST PUBLICATION**

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**Corporate Notices**

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NOTICE IS HEREBY GIVEN that **Asahi Intecc USA, Inc.**, a foreign business corporation under the laws of the State of California, where its principal office is located at 2500 Red Hill Ave., Suite 210, Santa Ana, CA 92705, has applied for 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. n9

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on October 9, 2012, by **Riverplex Partners, Inc.**, a foreign corporation formed under the laws of the State of Ohio, where its principal office located at 3800 Boardman Canfield Rd., Canfield, OH 44406, 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. n9

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on October 25, 2012, by **BP Wind Energy North America Inc.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 501 Westlake Park Blvd., Houston, TX 77079, 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. n9

NOTICE IS HEREBY GIVEN that, pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, **INCO BATTERY HOLDINGS CORPORATION**, a corporation of the State of Delaware, with its principal office located at 250 Pehle Ave., Ste. 302, Saddle Brook, NJ 07663, and having a Commercial Registered office Provider and county of venue as follows: CT Corporation System, Dauphin County, which on January 6, 2005, 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. n9

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**FIRST PUBLICATION**

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**Fictitious Notices**

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NOTICE IS HEREBY GIVEN that an application for the registration of a fictitious name, **MCN Productions, Inc.**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 1910 Locust Street, St. Louis, Missouri 63103 was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 25th day of September, 2012 pursuant to the Act of Assembly of December 16, 1982, Act 295. The name and address of the only entity interested in the said business is: Javelin, Inc., 1901 Locust Street, St. Louis, Missouri 63103. n9

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NOTICE IS HEREBY GIVEN that an application for the registration of a fictitious name, **S&W QUALITY AUTO REPAIR** for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 19 S John St. Hummelstown, PA 17036 was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 1st day of November, 2012 pursuant to the Act of Assembly of December 16, 1982, Act 295. The name and address of the only entity interested in the said business is: Todd Szafranc 1249 Jill Dr. Hummelstown, PA 17036. n9

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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, **Fresh Roasted Hosting**, for the conduct of business in Dauphin County, Pennsylvania, with the principal place of business being 101 South Second Street, Suite 1500, Harrisburg PA 17101, was made to the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 16th day of September 2011 pursuant to the Act of Assembly of December 16, 1982, Act 295.

The name and address of the only person owning or interested in the said business is: David Sheranko, 101 South Second St #1404, Harrisburg, PA 17101. n9

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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. 2009 CV 01878 MF**

**NOTICE OF SHERIFF'S SALE**

**FANNIE MAE ("FEDERAL NATIONAL MORTGAGE ASSOCIATION"), Plaintiff**

vs.

**FREDRICK M. BURTNETT,  
HEIR OF MATHEW C. BURTNETT  
A/K/A MATTHEW C. BURTNETT,  
DECEASED, JUDITH BURTNETT,  
HEIR OF MATHEW C. BURTNETT  
A/K/A MATTHEW C. BURTNETT,  
DECEASED AND UNKNOWN HEIRS,  
SUCCESSORS, ASSIGNS, AND ALL  
PERSONS, FIRMS, OR ASSOCIATIONS  
CLAIMING RIGHT, TITLE OR  
INTEREST FROM OR UNDER  
MATHEW C. BURTNETT  
A/K/A MATTHEW C. BURTNETT,  
DECEASED, Defendant(s)**

**NOTICE**

**TO: UNKNOWN HEIRS,  
SUCCESSORS, ASSIGNS, AND  
ALL PERSONS, FIRMS, OR  
ASSOCIATIONS CLAIMING  
RIGHT, TITLE OR INTEREST  
FROM OR UNDER  
MATHEW C. BURTNETT  
A/K/A MATTHEW C. BURTNETT,  
DECEASED**

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

BEING PREMISES: 305 SADDLE RIDGE COURT, BUILDING 38 UNIT 38-305, HARRISBURG, PA 17110-3997.

BEING in SUSQUEHANNA TOWNSHIP, County of DAUPHIN, Commonwealth of Pennsylvania, 62-087-143-000-0000.

IMPROVEMENTS consist of residential property.

SOLD as the property of FREDRICK M. BURTNETT, HEIR OF MATHEW C. BURTNETT a/k/a MATTHEW C. BURTNETT, DECEASED, JUDITH BURTNETT, HEIR OF MATHEW C. BURTNETT a/k/a MATTHEW C. BURTNETT, DECEASED AND UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER MATHEW C. BURTNETT a/k/a MATTHEW C. BURTNETT, DECEASED.

YOU ARE HEREBY NOTIFIED that your house (real estate) at 305 SADDLE RIDGE COURT, BUILDING 38 UNIT 38-305, HARRISBURG, PA 17110-3997 is scheduled to be sold at the Sheriff's Sale on 01/17/2013 at 10:00 AM, at the DAUPHIN County Courthouse, 101 Market Street, Harrisburg, PA 17107-2012, to enforce the Court Judgment of \$166,506.85 obtained by, FANNIE MAE ("FEDERAL NATIONAL MORTGAGE ASSOCIATION") (the mortgagee), against the above premises.

PHELAN HALLINAN  
& SCHMIEG, 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**

**No. 2011-CV-9845-MF**

**NOTICE OF SHERIFF'S SALE**

**BANK OF AMERICA, N.A. S/B/M TO  
BAC HOME LOANS SERVICING,  
LP F/K/A COUNTRYWIDE HOME  
LOANS SERVICING, LP, Plaintiff**

vs.

**UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS, AND ALL PERSONS,  
FIRMS, OR ASSOCIATIONS  
CLAIMING RIGHT, TITLE OR  
INTEREST FROM OR UNDER  
WILLIAM E. WOLFE, DECEASED,  
Defendant(s)**

**NOTICE**

**TO: UNKNOWN HEIRS,  
SUCCESSORS, ASSIGNS,  
AND ALL PERSONS, FIRMS,  
OR ASSOCIATIONS CLAIMING  
RIGHT, TITLE OR INTEREST  
FROM OR UNDER  
WILLIAM E. WOLFE,  
DECEASED**

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

BEING PREMISES: 320 SPRUCE  
STREET, STEELTON, PA 17113-2433.

BEING in THE BOROUGH OF STEEL-  
TON, County of DAUPHIN, Commonwealth  
of Pennsylvania, 58-007-043.

IMPROVEMENTS consist of residential  
property.

SOLD as the property of UNKNOWN  
HEIRS, SUCCESSORS, ASSIGNS, AND  
ALL PERSONS, FIRMS, OR ASSOCIA-  
TIONS CLAIMING RIGHT, TITLE OR  
INTEREST FROM OR UNDER WILLIAM  
E. WOLFE, DECEASED.

YOU ARE HEREBY NOTIFIED that your  
house (real estate) at 320 SPRUCE STREET,  
STEELTON, PA 17113-2433 is scheduled to  
be sold at the Sheriffs Sale on 01/17/2013 at  
10:00 AM, at the DAUPHIN County  
Courthouse, 101 Market Street, Harrisburg,  
PA 17107-2012, to enforce the Court  
Judgment of \$213,086.03 obtained by, BANK  
OF AMERICA, N.A. S/B/M TO BAC HOME  
LOANS SERVICING, LP F/K/A COUN-  
TRYWIDE HOME LOANS SERVICING, LP  
(the mortgagee), against the above premises.

PHELAN HALLINAN  
n9 & SCHMIEG, LLP

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

**No. 2012-CV-1646-MF**

**NOTICE OF SHERIFF'S SALE**

**GMAC MORTGAGE, LLC, Plaintiff**

vs.

**UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS, AND ALL PERSONS,  
FIRMS, OR ASSOCIATIONS  
CLAIMING RIGHT, TITLE OR  
INTEREST FROM OR UNDER  
MATTIE B. PIPER, DECEASED,  
Defendant(s)**

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FIRST PUBLICATION

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Miscellaneous Notices

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NOTICE

**TO: UNKNOWN HEIRS,  
SUCCESSORS, ASSIGNS,  
AND ALL PERSONS, FIRMS,  
OR ASSOCIATIONS CLAIMING  
RIGHT, TITLE OR INTEREST  
FROM OR UNDER  
MATTIE B. PIPER, DECEASED**

**NOTICE OF SHERIFF'S SALE**

BEING PREMISES: 2013 GREEN STREET, HARRISBURG, PA 17102-2128

BEING in HARRISBURG CITY, County of DAUPHIN, Commonwealth of Pennsylvania, 11-002-069-000-0000

IMPROVEMENTS consist of residential property.

SOLD as the property of UNKNOWN HEIRS, SUCCESSORS, ASSIGNS, AND ALL PERSONS, FIRMS, OR ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER MATTIE B. PIPER, DECEASED

YOU ARE HEREBY NOTIFIED that your house (real estate) at 2013 GREEN STREET, HARRISBURG, PA 17102-2128 is scheduled to be sold at the Sheriff's Sale on 01/17/2013 at 10:00 AM, at the DAUPHIN County Courthouse, 101 Market Street, Harrisburg, PA 17107-2012, to enforce the Court Judgment of \$82,338.22 obtained by, GMAC MORTGAGE, LLC (the mortgagee), against the above premises.

PHELAN HALLINAN  
& SCHMIEG, LLP

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IN THE COURT OF COMMON PLEAS  
OF DAUPHIN COUNTY  
PENNSYLVANIA

No. 2011 CV 2805 MF

**M&T BANK, Plaintiff**

vs.

**RENEE REED  
a/k/a RENEE RICHARDSON NUMBER,  
Defendant**

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

**TO: Renee Reed a/k/a Renee Richardson  
4269 Beaufort Hunt Drive  
Harrisburg, Pennsylvania 17110**

**TAKE NOTICE**

YOU ARE HEREBY NOTIFIED that the Sheriff's Sale of Real Property (real estate) will be held:

DATE: December 6, 2012

TIME: 10:00 a.m.

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

THE PROPERTY TO BE SOLD is delineated 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 FOLLOWING DESCRIPTION)

THE LOCATION of your property to be sold is 4269 Beaufort Hunt Drive, Harrisburg, Pennsylvania 17110.

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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THE JUDGMENT under or pursuant to which your property is being sold is docketed in the within Commonwealth and County to: Number 2011 cv 2805 mf.

THE NAME OF THE OWNER OR REPUTED OWNER of this property is: Renee Reed a/k/a Renee Richardson,

A SCHEDULE DISTRIBUTION, being a list of the persons and/or governmental or corporate entities or agencies being entitled to receive part of the proceeds of the sale received and to be disbursed by the Sheriff (for example, to banks that hold mortgages and municipalities that are owed taxes) will be filed by the Sheriff of this County thirty (30) days after the sale and distribution of the proceeds of sale in accordance with this schedule will, in fact, be made unless someone objects by filing exceptions 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 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. 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

**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.



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**FIRST PUBLICATION**

**Miscellaneous Notices**

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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.

**SHERIFF'S OFFICE**

TERRENCE J. McCABE, Esq.  
MARC S. WEISBERG, Esq.  
EDWARD D. CONWAY, Esq.  
MARGARET GAIRO, Esq.  
ANDREW L. MARKOWITZ, Esq.  
HEIDI R. SPIVAK, Esq.  
MARISA J. COHEN, Esq.  
KEVIN T. McQUAIL, Esq.  
CHRISTINE L. GRAHAM, Esq.  
BRIAN T. LaMANN, Esq.  
McCABE, WEISBERG  
AND CONWAY, P.C.  
123 South Broad Street, Suite 1400  
Philadelphia, Pennsylvania 19109  
n9 (215) 790-1010

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

**No. 2012 CV 8329 CN**

**PETITION FOR  
CHANGE OF NAME**

**NOTICE**

NOTICE IS HEREBY GIVEN that on October 11, 2012, the Petition of **Angel Miguel Ocasio, Jr. a/k/a/ Harmony-Jazmyne Samira Rodriguez** was filed in the above named court, requesting a decree to change his/her name from **Angel Miguel Ocasio, Jr.** to **Harmony-Jazmyne Samira Rodriguez**

The Court has fixed Monday, November 26, 2012 in Courtroom No. 11, at 1:30 p.m., 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. n9

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

**NO. 2012 CV 07124 CN**

**EMINENT DOMAIN  
IN REM**

**NOTICE TO CONDEMNEE**

TO: Gary W. Dailey, Jr., Condemnee

In accordance with Section 305 of the Eminent Domain Code, 26 Pa.C.S.A. §305, Lower Paxton Township Authority Notifies you that:

1. A Declaration of Taking, based on the provisions of Chapter 3, Section 302 of the Eminent Domain Code, Act of May 4, 2006, P.L. 112, No. 34 §1, 26 Pa.C.S.A. §302, as amended, was filed on August 16, 2012, in the Court of Common Pleas of Dauphin County at the above named term and number.

2. A portion of your property, known as Tax Parcel No. 35-017-137, located at 6015 Larue Street, Harrisburg, Pennsylvania 17112, has been condemned for the purpose of rehabilitating, repairing, and/or replacing the private building sanitary sewer line and its appurtenances.

3. The Condemnor is the Lower Paxton Township Authority (the "Authority") acting through its Board.

4. The address of the Condemnor is 425 Prince Street, Harrisburg, PA 17109.

5. The Authority is authorized by the provisions of the Municipality Authorities Act, 53Pa.C.S. §5615, as amended an the Eminent Domain Code, to acquire by lease, purchase or condemnation, any land lying either within or without the territorial limits of Lower Paxton Township, which may be necessary

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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and desirable for the purpose of establishing and maintaining the sanitary sewer system.

6. This Declaration of Taking is made an authorized by virtue of Resolution 12-07-06, duly adopted by the Board of the Authority at a public meeting held on July 10, 2012 in the Lower Paxton Township Municipal Building. The record of said public meeting being the minutes thereof, and the original resolution with the accompanying plan may be examined at the Township's offices, 425 Prince Street, Harrisburg, Pennsylvania 17109.

7. The purpose of the within condemnation and this Declaration of Taking filed incidental thereto is to acquire a temporary construction easement for the purpose of rehabilitating, repairing, and/or replacing the private building sanitary sewer line and its appurtenances on the property, which is the subject of this condemnation.

8. The nature of the title hereby acquired is a temporary construction easement. The temporary construction easement shall terminate upon completion of the construction work on the private building sanitary sewer line on the property which is the subject of this condemnation.

9. Plans showing the property condemned have been lodged for record in the Office of the Recorder of Deeds in and for Dauphin County, as instrument no. 20120024032, in accordance with Section 304 of Eminent Domain Code, 26 Pa.C.S.A. §304.

10. A plan showing the condemned property may be inspected at the address of the Condemnor and the Dauphin County Recorder of Deeds, Dauphin County Courthouse, Front and Market Streets, Harrisburg, Pennsylvania.

11. The payment of just compensation in this matter is secured by an open-end bond without surety pursuant to Section 303(a) of the Eminent Domain Code, 26 Pa.C.S.A. §303(a). Just compensation is made or secured by the filing of the bond.

12. If you wish to challenge the power or right of the Lower Paxton Township Authority to appropriate the condemned property, the sufficiency of the security, the procedure followed by the Condemnor or the Declaration of Taking, you are required to file preliminary objections within thirty (30) days after being served with this notice.

Steve A. Stine, Esquire  
Solicitor for  
Lower Paxton Township Authority  
23 Waverly Drive  
Hummelstown, PA17033  
(717) 903-1268

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

**NO. 2012 CV 07120 CN**

**EMINENT DOMAIN  
IN REM**

**NOTICE TO CONDEMNEE**

TO: Syed Tahir Hussain and Syeda Mashmoom Tahir, Condemnees

In accordance with Section 305 of the Eminent Domain Code, 26 Pa.C.S.A. §,305, Lower Paxton Township Authority notifies you that:

1. A Declaration of Taking, based on the provisions of Chapter 3, Section 302, of the Eminent Domain Code, Act of May 4, 2006, P.L. 112, No. 34 §1, 26 Pa.C.S.A. §302, as amended, was filed on August 16, 2012, in the Court of Common Pleas of Dauphin County at the above named term and number.

2. A portion of your property, known as Tax Parcel No. 35-014-153, located at 929 Pennsylvania Avenue, Harrisburg, Pennsylvania 17112, has been condemned for the purpose of rehabilitating, repairing and/or replacing the private building sanitary sewer line and its appurtenances.

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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3. The Condemnor is the Lower Paxton Township Authority (the "Authority") acting through its board.

4. The address of the Condemnor is 425 Prince Street, Harrisburg, PA 17109.

5. The Authority is authorized by the the provisions of the Municipality Authorities Act, 53 Pa.C.S. §5615, as amended and the Eminent Domain Code, to acquire by lease, purchase, or condemnation, any land lying either within or without the territorial limits of Lower Paxton Township, which may be necessary and desirable for the purpose of establishing and maintaining the sanitary sewer system.

6. This Declaration of Taking is made an authorized by virtue of Resolution 12-07-02, duly adopted by the Board of the Authority at a public meeting held on July 10, 2012 in the Lower Paxton Township Municipal Building. The record of said public meeting being the minutes thereof, and the original resolution with the accompanying plan may be examined at the Township's offices, 425 Prince Street, Harrisburg, PA 17109.

7. The purpose of the within condemnation and this Declaration of Taking filed incidental thereto is to acquire a temporary construction easement for the purpose of rehabilitating, repairing and/or replacing the private building sanitary sewer line and its appurtenances on the property, which is the subject of this condemnation.

8. The nature of the title hereby acquired is a temporary construction easement. The temporary construction easement shall terminate upon the completion of the construction work on the private building sanitary sewer line on the property which is the subject of this condemnation.

9. Plans showing the property condemned have been lodged for the record in the Office of the Recorder of Deeds in and for Dauphin County, as instrument no. 20120024038, in accordance with Section 304 of the Eminent Domain Code, 26 Pa.C.S.A. §304.

10. A plan showing the condemned property may be inspected at the address of the Condemnor and the Dauphin County Recorder of Deeds, Dauphin County Courthouse, Front and Market Streets, Harrisburg, Pennsylvania.

11. The payment of just compensation in this matter is secured by an open-end bond without surety pursuant to Section 303(a) of the Eminent Domain Code, 26 Pa.C.S.A. §303(a). Just compensation is made or secured by filing of the bond.

12. If you wish to challenge the power or right of the Lower Paxton Township Authority to appropriate the condemned property, the sufficiency of the security, the procedure followed by the Condemnor or the Declaration of Taking, you are required to file preliminary objections within thirty (30) days after being served with this notice.

Steve A. Stine, Esquire  
Solicitor for  
Lower Paxton Township Authority  
23 Waverly Drive  
Hummelstown, PA 17033  
(717) 903-1268

n9

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

**CIVIL ACTION - LAW**

**NO. 2012 CV 7623 MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**FEDERAL NATIONAL  
MORTGAGE ASSOCIATION  
PLAINTIFF**

**vs.**

**ROSALINDA SAN LUIS  
DEFENDANT**

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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**CIVIL ACTION  
MORTGAGE FORECLOSURE**

**NOTICE**

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

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

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

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

**NO. 2012 CV 5790 MF**

**ONE WEST BANK, FSB, PLAINTIFF**

**vs.**

**JOHN W. HUMPHREY, KNOWN  
SURVIVING HEIR OF BARBARA L.  
COOPER, DECEASED MORTGAGER  
AND REAL OWNER, STEPHEN C.  
HUMPHREY, KNOWN SURVIVING  
HEIR OF BARBARA L. COOPER,  
DECEASED MORTGAGER AND REAL  
OWNER, SUNNY STUFFLEBEAM  
A/K/A/ CYNTHIA D. STUFFLEBEAM,  
KNOWN SURVIVING HEIR OF  
BARBARA L. COOPER, DECEASED  
MORTGAGER AND REAL OWNER,  
AND ALL UNKNOWN SURVIVING  
HEIRS OF BARBARA L. COOPER,  
DECEASED MORTGAGER AND REAL  
OWNER,  
DEFENDANTS**

**CIVIL ACTION / COMPLAINT  
IN MORTGAGE FORECLOSURE**

**NOTICE**

**TO: STEPHEN C. HUMPHREY,  
KNOWN SURVIVING HEIR OF  
BARBARA L. COOPER,  
DECEASED MORTGAGER AND  
REAL OWNER**

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 judgement 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.

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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, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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AND CONWAY, P.C.  
123 South Broad Street, Suite 1400  
Philadelphia, Pennsylvania 19109  
(215) 790-1010

n9

NOTICE IS HEREBY GIVEN by the Board of Supervisors of East Hanover Township, Dauphin County, that on December 6, 2011, it adopted Resolution 2011-15, signifying its intention and desire to organize a municipal authority under the provisions of the Act of the General Assembly known as the Municipality Authorities Act, 53 Pa.C.S. §5601, et. seq. (the "Act"), setting forth and authorizing execution of articles of incorporation, appointing and fixing the terms of the first members of the board of such authority, authorizing all other necessary action and repealing all inconsistent resolutions or parts of resolutions. East Hanover Township has and will retain the rights which exist under the Act to approve any plan of the new authority. The Articles of Incorporation for the proposed East Hanover Township Municipal Authority shall be filed with the Secretary of the Commonwealth on January 2, 2013.

Ron Reeder, Township Manager  
East Hanover Township, Dauphin County  
n9



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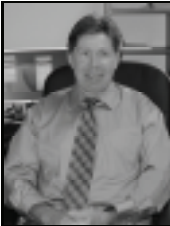


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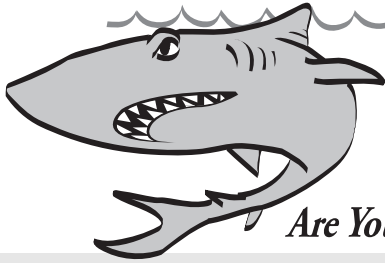
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**BAR ASSOCIATION PAGE**  
**Dauphin County Bar Association**  
213 North Front Street • Harrisburg, PA 17101-1493  
Phone: 232-7536 • Fax: 234-4582

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

**REPORTING OF ERRORS IN ADVANCE SHEET**

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

**DAUPHIN COUNTY COURT SECTION**

*Motion Judge of the Month*

NOVEMBER 2012  
DECEMBER 2012

Judge Deborah Essis CURCILLO  
Judge Andrew H. DOWLING

*Opinions Not Yet Reported*

## **BAR ASSOCIATION PAGE – Continued**

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

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