

**ADVANCE SHEET**

Pages 161-174

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

(USPS 810-200)

---

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

---

No. 5567, Vol. 123

August 18, 2006

No. 20

---

Entered as Second Class Matter, February 16, 1898, at the Post Office at Harrisburg, Pa.,  
under the Act of Congress of March 31, 1879

---

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation  
Bar Association Page

161  
Inside Back Cover

**INTELLECTUAL PROPERTY LAW**

Helping businesses recognize and manage  
invention and patent issues.

**Hooker & Habib, P. C.**

Jeffrey S. Habib

Charles A. Hooker

Thomas Hooker

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

100 Chestnut Street, Suite 304

Harrisburg, PA 17101-2518

Telephone: 717-232-8771

Facsimile: 717-232-8773

E-Mail: [hhpc@ptd.net](mailto:hhpc@ptd.net)

---

34 Years in Harrisburg

**THE  
DAUPHIN COUNTY REPORTER**  
Edited and Published  
by the  
**DAUPHIN COUNTY BAR  
ASSOCIATION**  
213 North Front Street  
Harrisburg, PA 17101-1493  
(717) 232-7536

**DONALD MORGAN**  
Executive Director  
**JOYCE TAMBOLAS**  
Administrative Assistant  
**BRIDGETTE L. HILBISH**  
Office Assistant

Printed by  
**KURZENKNABE PRESS**  
1424 Herr St., Harrisburg, PA 17103

---

---

THE DAUPHIN COUNTY REPORTER (USPS 810-200) is published weekly by the Dauphin County Bar Association, 213 North Front Street, Harrisburg, PA 17101. Periodical postage paid at Harrisburg, PA. POSTMASTER: Send address changes to THE DAUPHIN COUNTY REPORTER, 213 North Front Street, Harrisburg, PA 17101.

---

---

**TERMS**

**For NON-MEMBERS of the**

**Dauphin County Bar Association:**

Bound Volume 120 \_\_\_\_\_ \$125.00  
Advance Sheets, Volume 121 \_\_\_\_\_ \$ 90.00

**For MEMBERS of the**

**Dauphin County Bar Association:**

Bound Volume 120 \_\_\_\_\_ \$ 90.00  
Advance Sheets, Volume 121 \_\_\_\_\_ \$ 75.00

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

Telephone (717) 232-7536

---

---

**Estate Notices**

**DECEDENTS ESTATES**

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

**FIRST PUBLICATION**

ESTATE OF ARTHUR E. MICHAEL, late of the Borough of Middletown, Dauphin County, Pennsylvania. Executrix: Pauline E. Snyder. Attorney: David T. Mountz, Esq., Mountz & Kreiser, 553 Locust Street, Columbia, PA 17512.

a18-s1

ESTATE OF LYNNE SHAPIRO DANEBERG, late of Susquehanna Township, Dauphin County, Pennsylvania (died June 30, 2006). Executrix: Carol R. Fahnestock, Vice President, Fulton Financial Advisors, One Penn Square, Lancaster, PA 17602. Attorney: Joanne E. Book, Esq., Rhoads & Sinon LLP, One S. Market Square, P.O. Box 1146, Harrisburg, PA 17108-1146.

a18-s1

---

ESTATE OF ROBERT D. HANSON, late of the City of Harrisburg, Dauphin County, Pennsylvania (died July 28, 2006). Executor: Thomas E. Morkin, Vice-President, Manufacturers & Traders Trust Company, 1 West High Street, P.O. Box 220, Carlisle, PA 17013. Attorney: Ann E. Rhoads, Esq., Cleckner and Fearing, 119 Locust Street, P.O. Box 11847, Harrisburg, PA 17108-1847.

a18-s1

---

ESTATE OF RICHARD J. MILLER, late of the Township of Susquehanna, Dauphin County, Pennsylvania. Executrix: Marilyn R. Book, 5971 Meade Court, Harrisburg, PA 17112. Attorney: James H. Turner, Esq., Turner and O'Connell, 4415 North Front Street, Harrisburg, PA 17110.

a18-s1

---

ESTATE OF THEO D. SANTELL, late of Harrisburg, Dauphin County, Pennsylvania. Executor: Vincent T. Santell, Jr. Attorney: Rob Bleecher, Esq., Pecht & Associates, PC, 1205 Manor Drive, Suite 200, Mechanicsburg, PA 17055.

a18-s1

---

ESTATE OF BETTY LU MORGAN, late of Derry Township, Dauphin County, Pennsylvania (died July 27, 2006). Executor: James G. Morgan, Jr. Attorney: Tucker Arensberg, P.C., P.O. Box 889, Harrisburg, PA 17108-0889.

a18-s1

---

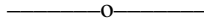
ESTATE OF JANE L. DUNKLE, late of Harrisburg, Dauphin County, Pennsylvania. Co-Executors: Linda J. Yandric, 4040 Swatara Drive, Harrisburg, PA 17113 and Gary L. Dunkle, 325 Mollie Drive, Harrisburg, PA 17112. Attorney: Ira H. Weinstock, Esq., 800 North Second Street, Harrisburg, PA 17102.

a18-s1

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

Additionally, it was counsel for Defendant who arguably “opened the door” by extracting the Defendant’s own hearsay statement of denial of involvement in the arson during his cross-examination of the Commonwealth’s witness. Furthermore, the Commonwealth’s attorney’s decision to place the matter before the Grand Jury for the first time following the mistrial does not, in and of itself, relate back to his conduct at trial, nor have we found any evidence in the record before us of any preconceived plan by the district attorney to prevent Defendant from receiving a fair trial.

Second, even assuming, *arguendo*, prosecutorial misconduct had occurred, any such conduct was not sufficiently blatant, nor do we find any evidence of the kind of “bad faith” required to warrant dismissal of Defendant’s criminal charges. Again, the underlying issue giving rise to the instant appeals has not been specifically addressed by any appellate court. A cursory reading of Pennsylvania Rule of Evidence 806 arguably supports the Commonwealth’s position. If the law were well settled on this issue, we might be more inclined to question the motives of the district attorney; however, without a clear, precedential appellate court decision contrary to the position espoused by the Commonwealth, we cannot conclude that the district attorney’s conduct amounted to the blatant and bad faith prosecutorial misconduct meriting dismissal of the criminal charges against Defendant.



**Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation**

**Practice — Pendency of prior action — *Lis pendens* — Special master — Decree *nisi* — *Replevin* — Unjust enrichment — Tortious conversion — Breach of contract — Gist of the action doctrine — Amended pleading.**

This case involves the efforts of one party to recover amounts drawn, allegedly without authority, by the other party on letters of credit provided pursuant to their underlying contractual relationship. A Special Master had previously been appointed to determine the amount of adequate security required to cover potential liability in the case, but the Court held that this appointment did not include the authority to issue a final ruling on the ultimate merits.

1. An action in *replevin* must be for specific property capable of identification. *Commonwealth v. Dean*, 245 Pa. Super. 322, 369 A.2d 423 (1976).

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

2. The doctrine of unjust enrichment is inapplicable when the relationship between the parties is founded upon a written agreement or express contract. *Wilson Area School District v. Skepton*, 895 A.2d 1250, 1254 (Pa. 2006). Courts will not create a quasi-contract in a situation where an express contract exists.

3. Generally, the “gist of the action” doctrine is designed to maintain the conceptual distinction between breach of contract claims and torts claims. As a practical matter, the doctrine precludes plaintiffs from re-casting ordinary breach of contract claims into tort claims. *Etoll Inc. v. Elias/Savion Advertising Inc., et al.*, 811 A.2d 10, 15 (Pa. Super. 2002).

4. A party may file an amended pleading *as of course* within twenty days after service of a copy of the preliminary objections. Pa.R.C.P. 1028(c)(1), *emphasis added*.

Preliminary objections. C.P., No. 2004 CV 5514. Granted in part and denied in part.

*Speros J. Kokonos*, for Plaintiff

*William R. Balaban and Michael V. Brown*, for Defendant

CLARK, J., June 29, 2006. – Before the Court are the Preliminary Objections of the Defendant. The Pennsylvania Supreme Court has explained that the standard that must be employed when ruling on preliminary objections is the following:

*. . . preliminary objections should be sustained and a complaint dismissed only in cases which are clear and free from doubt. To sustain preliminary objections in the nature of a demurrer, it must appear with certainty that, upon the facts averred, the law will not permit recovery by the plaintiff. Where any doubt exists as to whether or not the preliminary objections should be sustained, that doubt should be resolved by refusing to sustain the objections.*

*Schott v. Westinghouse Electric Corp.*, 436 Pa. 279, 259 A.2d 443, 449 (1969), also cited in *Uniontown Newspapers, Inc. v. Roberts*, 576 Pa. 231, 839 A.2d 185, 196 (Pa. 2003).

Utilizing this standard, the Court will now address the Preliminary Objections of the Defendant.

**MOTION TO DISMISS DUE TO PENDENCY OF  
PRIOR ACTION – LIS PENDENS – AND AGREEMENT  
FOR ALTERNATIVE DISPUTE RESOLUTION (i.e.  
SPECIAL MASTER PROCEDURE REQUESTED AND  
AGREED UPON BY PLAINTIFF).**

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

In the Defendant's first Preliminary Objection, it appears that the Defendant is claiming that this case has already been decided on the merits by the Honorable Richard B. Wickersham, who was appointed by this Court as a Special Master. The Defendant cites to the Opinion of the Honorable Sylvia H. Rambo, United States District Judge in the Middle District of Pennsylvania to support this proposition.

Both parties are quite familiar with the procedural history of this case. Nevertheless, we will review it in detail. This case was originally filed in our Court on November 15, 2000, by Underwriter's Reinsurance (Underwriter's Re, now Swiss Reinsurance America Corporation, hereinafter "Swiss Re.") to force Eastern Atlantic Insurance Company (Eastern Atlantic) to provide additional letters of credit in accordance with their 1997 Retrocessional Agreement. On July 9, 2001, Underwriters Re was granted judgment on the pleadings by this Honorable Court and Eastern Atlantic was ordered to post letters of credit in the amount of \$10,750,000.

Eastern Atlantic appealed this decision to the Superior Court and its appeal was denied on April 11, 2002. Further, the Pennsylvania Supreme Court denied their Petition for Allowance of Appeal on October 23, 2002.

Thereafter, at the request of Eastern Atlantic and with the agreement of both parties, this Court appointed the Honorable Richard B. Wickersham as a Special Master to review and adjust the amount of coverage needed to be posted by Eastern Atlantic. He was to consider granting Eastern Atlantic relief from, "unnecessary excess coverage via Letters of Credit." Order of Appointment, June 10, 2003.

On November 6, 2003, Judge Wickersham did indeed grant Eastern Atlantic relief by issuing a Decree *Nisi* lowering the amount of Letters of Credit. Underwriter's Re filed exceptions to this Order and in January, 2004, Judge Wickersham made a revised Decree *Nisi* ordering that the amount of letters be \$8,250,943. Eastern Atlantic did not appeal this ruling.

Shortly thereafter, Swiss Re (successor to Underwriters Re) began to demand payment from Eastern Atlantic. Eastern Atlantic filed a Petition for Emergency Injunctive Relief on March 3, 2004. However, this Court denied the Petition on May 24, 2004, stating, "it would be inappropriate to exercise our equity jurisdiction to issue an injunction in this matter." Order, May 24, 2004. However, the Court's Order did provide, "this

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

holding is without prejudice to either party's right to institute an action at law based upon the underlying contractual relationship rights and obligations of the parties." *Id.*

Following the May 24, 2004, Order, Swiss Re began to draw upon the Plaintiff's letters of credit. Eastern Atlantic filed an action at law in the United States District Court for the Middle District of Pennsylvania on July 16, 2004. Eastern Atlantic claimed that Swiss Re's draws on their letters of credit were unauthorized and resulted in tortious conversion, replevin, unjust enrichment, and breach of contract. However, on December 16, 2004, the Honorable Sylvia H. Rambo, abstained from ruling on this case claiming it was still under the supervision of Judge Wickersham and should be decided in state court. *Eastern Atlantic Insurance Company v. Swiss Reinsurance America Corporation*, Non-Reported Opinion, 1:CV-04-1555, December 16, 2004. (Hereinafter, "Opinion.")

As a result, Eastern Atlantic filed a Complaint in the Court of Common Pleas of Dauphin County on December 21, 2004. The Defendant filed Preliminary Objections on January 18, 2005, and the Plaintiff filed Preliminary Objections to the Preliminary Objections on February 4, 2005. The Defendant then filed Amended Preliminary Objections on February 28, 2005, followed by the Plaintiff filing an Amended Complaint on March 21, 2005. Swiss Re, thereafter, filed the instant Preliminary Objections to the Amended Complaint on April 11, 2005. After extensive filing of briefs and an initial remand of this matter to Judge Wickersham, this Court heard Oral Argument on these Preliminary Objections on January 31, 2006.

The Amended Complaint alleges similar claims to those alleged in the Federal Court action (tortious conversion, replevin, unjust enrichment, and breach of contract). It is for this reason that the Defendant claims in its first Preliminary Objection that Judge Rambo's Opinion is controlling.

Swiss Re claims that Judge Rambo abstained from hearing this case because she ruled that Judge Wickersham already made a final ruling in this case or at least was authorized to make a final ruling and therefore this case should be remanded to Judge Wickersham. Eastern Atlantic claims that this Court appointed Judge Wickersham merely to help the Court establish "adequate security upon Eastern Atlantic's maximum potential liabilities to Underwriter's Re." Opinion of Judge Rambo, p. 9, December 16, 2004.

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

It is true that Judge Rambo appears to believe that Judge Wickersham made or was authorized to make a final ruling in this case. She states "it would have been impossible for the Special Master to make a determination of adequate security without first making a determination of the parties' liabilities." Opinion p. 9. Judge Rambo also states that the broad language of this Court's Order of Appointment granted Judge Wickersham continuing authority to resolve any disputes relating to the letters of credit. Finally, Judge Rambo claims that Judge Wickersham did indeed make a finding of ultimate liability in this case. She states:

*Furthermore, the issue of liability was clearly addressed by the Special Master. In the Special Master Findings and Recommendations to the Court with Decree Nisi dated January 21, 2004, the Special Master adopted his own finding that "In the aggregate, the total amounts owed under the Agreement to Underwriters Reinsurance Company by Eastern Atlantic for past losses and estimated future losses is Eight Million Two Hundred Fifty-Thousand Nine Hundred Forty-Three and No/100 (\$8,250,943.00) Dollars."*

*Eastern Atlantic Insurance Company v. Swiss Reinsurance America Corporation, Non-Reported Opinion, 1:CV-04-1555, p. 9-10, December 16, 2004.*

Therefore, although there was no pending lawsuit in our Court (other than our previous appointment of Judge Wickersham) Judge Rambo abstained from ruling on the merits of the case to allow Judge Wickersham the final disposition.

Unfortunately, that was a misconstruction of this Court's intentions when we appointed Judge Wickersham as Special Master. Judge Wickersham was indeed appointed solely to determine the amount of adequate security required to cover Eastern Atlantic's potential liability. We in no way meant for Judge Wickersham to decide the ultimate merits of actual liability in this case. Further, Judge Wickersham's Decree *Nisi*, could not have been a final ruling in this case because this Court's Order of May 24, 2004, specifically allowed Eastern Atlantic to file an action at law.

We note, however, that Judge Rambo's gracious decision to abstain from this case was nevertheless a proper decision. She herself notes that, this case had been ongoing in our Court for almost four years prior to the

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

beginning of the federal action. Opinion p. 12. Further, “the claims of the parties are governed by state law,” so Pennsylvania Court’s are “fully capable” of adjudicating this matter. Opinion p. 11. She also notes the potential for conflict.

*The state court should not determine the “maximum potential liabilities” and the federal court determine the actual liabilities, which are the crux of the claims before the court. Not only would there exist a possibility that the federal court would issue inconsistent, if not wholly conflicting orders, it would be a waste of both state and federal resources.*

*Eastern Atlantic Insurance Company v. Swiss Reinsurance America Corporation, Non-Reported Opinion, 1:CV-04-1555, p. 13, December 16, 2004.*

Since Judge Rambo’s decision was never appealed, it is for this Court to rule on the ultimate merits of the case. Since we find that it was not within the purview of the Order of Appointment for Judge Wickersham to make that decision for us, we Rule that the Defendant’s first Preliminary Objection is **DENIED**.

**MOTION TO DISMISS THE REPLEVIN CLAIMS  
(COUNTS TWO AND SIX) FOR LACK OF LEGAL  
SUFFICIENCY – (DEMURRER).**

The Defendant’s next Preliminary Objection is that the Plaintiff cannot sue under the doctrine of replevin because replevin only applies to an action to recover property and not to recover money.

The Plaintiff claims that his cause of action for replevin is being pled as an alternative to his breach of contract claims. In other words, if the Plaintiff’s causes of action for breach of contract should be dismissed, the Plaintiff would then pursue a different claim of liability, that of replevin. However, the Court must analyze if the doctrine of replevin is applicable to the Plaintiff’s case.

The Defendant has two counts for replevin in his Amended Complaint. Count Two of the Complaint alleges that the Defendant “retains control” of the Plaintiff’s funds by failing to pay a commission to the Plaintiff. Count Six alleges that the Defendant “retains control” of the Plaintiff’s funds based upon unauthorized draws on the Plaintiff’s letters of credit. In both cases, the Defendant is seeking money, i.e. to be paid the commissions and to be refunded for the letters of credit.



Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

The Standard Pennsylvania Practice Second has defined Replevin in the following manner:

*96:1 Replevin is an action undertaken to regain possession of goods and chattels and to recover damages for their detention by the illegal act of the defendant.*

. . .

*96:2 The action of replevin is in part a proceeding in rem to regain possession of goods and chattels and in part a proceeding in personam to recover damages for the taking and detention of such goods and chattel. **The primary relief sought is the return of the property itself, the damages being merely incidental.***

. . .

*96:3 **Replevin may not be used as a substitute for an action to recover damages. Further, replevin may not be employed as an indirect attempt to force the equitable specific performance of a contract.***

. . .

96:18 . . .

*An action in replevin may be appropriate to recover possession of various goods and chattels, including an engagement ring, certificates of corporate stock, and the books, records, and papers of an organization. In addition, money, **if easily susceptible to ready and positive identification**, may be the subject property in a replevin action.*

Std. Pa. Prac. 2d, §§ 96:1-3 and 18, 2005, emphasis added.

In the case at bar, the Plaintiff is merely seeking to recover funds and not a specific property item. The case law is clear that replevin must be for specific property capable of identification.

In *Commonwealth v. Dean*, 245 Pa. Super. 322, 369 A.2d 423 (1976), Mr. Dean had been arrested for passing worthless checks. His alleged accomplice purchased merchandise from a store with a worthless check and received eighty dollars (\$80.00) in change. When Mr. Dean was arrested, he had eighty dollars (\$80.00) in his sock, in the same

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

denominations given by the store to his alleged accomplice. This money was returned to the store by the Commonwealth. Mr. Dean was tried before a jury and was found not guilty. As a result, he filed suit against the Commonwealth in replevin to have the \$80.00 returned to him. The Superior Court however ruled that Mr. Dean could not sue under the cause of action of replevin to recover money. The Superior Court stated:

Initially, it is noted that the appellant seeks the return of money; historically replevin has been an action undertaken to regain possession of *goods and chattels* from the defendant. While the successful plaintiff may also recover damages for the wrongful taking and detention of the property as a subsidiary matter, it has long been established that the primary purpose of the remedy is to recover property in specie. Money may only be the property in a replevin action if it is easily susceptible to ready and positive identification. *See, Corn Exchange National Bank v. Solicitors' Loan & Trust Co.*, 188 Pa. 330, 41 A. 536 (1898) (bundle of two (\$2.00) dollar bills). No such possibility of positive identification of the currency in question is apparent in this case.

*Commonwealth v. Dean*, 245 Pa. Super. 322, 325, 369 A.2d 423 (1976), citations omitted, emphasis original.

We therefore find that the doctrine of replevin is inapplicable to the instant cause of action. The Plaintiff is not seeking the return of a specific item of property but of money (and not money that is readily identifiable). It is merely an indirect attempt to enforce a contract. Therefore, Preliminary Objections II and IV are **GRANTED** and counts 2 and 6 of the Plaintiff's Amended Complaint are **HEREBY STRICKEN**.

**MOTION TO DISMISS THE UNJUST ENRICHMENT CLAIMS (COUNTS THREE AND SEVEN) FOR LACK OF LEGAL SUFFICIENCY – (DEMURRER).**

Preliminary Objection III states that Counts 3 and 7 of the Plaintiff's Amended Complaint should be stricken because they allege the equitable principle of unjust enrichment. Count 3 claims the Defendant was unjustly enriched by not paying commissions allegedly owed to the Plaintiff. Count 7 claims the Defendant was unjustly enriched by drawing on the letters of credit.

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

Again, the Plaintiff claims it is alleging these causes of action in the alternative in the event its breach of contract claims are dismissed. We will review the requirements for unjust enrichment to see if it is applicable in the case at bar.

In *Wilson Area School District v. Skepton*, 895 A.2d 1250, (Pa. 2006), the Plaintiff School District accepted the bid of the Defendant contractors (Contractors) to build a new high school. The parties expressly incorporated the bid into a contract. The contract stated that the School District would pay the price of the bid and the Contractors would build the new high school. The Contract specifically stated that the bid price included the price for all labor, materials, and municipal permits.

The prices of the permits charged by the local municipality were exorbitant and the Contractors successfully challenged the prices and received a substantial refund. Thereafter, the School District sued the Contractors for the amount of the refund. The School District argued that since the Contractors were refunded part of their permit charges, they (Contractors) should lower their bid to the School District accordingly. The School District claimed that the Contractors would be unjustly enriched if they were permitted to keep the refund and be paid the original bid price by the School District.

The Pennsylvania Supreme Court, however, denied the School District's claim. The Court stated that since the parties already had a contract, the School District could not raise a claim for unjust enrichment.

The Pennsylvania Supreme Court stated:

*As this Court has recognized, the doctrine of unjust enrichment contemplates that a person who has been unjustly enriched at the expense of another must make restitution to the other. With that said, it has long been held in this Commonwealth that the doctrine of unjust enrichment is inapplicable when the relationship between parties is founded upon a written agreement or express contract, . . . . It embodies the principle that parties in contractual privity . . . are not entitled to the remedies available under a judicially imposed quasi [-] contract, [i.e. the parties are not entitled to restitution based upon the doctrine of unjust enrichment] because the terms of their agreement (express and implied) define their respective rights, duties, and expectations.*

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

*Wilson Area School District v. Skepton*, 895 A.2d 1250, 1254  
(Pa. 2006), brackets and parenthesis original, citation omitted.

In other words, courts will not create a quasi-contract in a situation where an express contract exists. The Pennsylvania Supreme Court concluded, “. . . we hold that the doctrine of unjust enrichment is inapplicable here since the relationships between the District and the Contractors were founded upon written contracts.” *Wilson Area School District*, 895 A.2d at 1255.

In the case at bar, the Plaintiff’s claims are purely based on the 1997 Retrocessional Agreement i.e. a contract. Therefore, since an express agreement between the parties exists in this case, there can be no claim for unjust enrichment. Preliminary Objections III is **GRANTED** and Counts 3 and 7 of the Plaintiff’s Amended Complaint are **HEREBY STRICKEN**.

**MOTION TO DISMISS THE TORTIOUS CONVERSION CLAIM (COUNT FIVE) FOR LACK OF LEGAL SUFFICIENCY – DEMURRER.**

Preliminary Objection V states that the Plaintiff’s claim of tortious conversion should be dismissed because it is inapplicable in a breach of contract case or in a claim for the restoration of funds distributed pursuant to a letter of credit. “A ‘conversion’ is the deprivation of another’s right of property in, or use or possession of, a chattel or other interference therewith, without the owner’s consent and without lawful justification.” Sum. Pa. Jur. 2d §14:1, 2005. The difference between conversion and replevin is that replevin, “has as its object the actual restoration of the property . . .” Sum. Pa. Jur. 2d §14:2) 2005. Count Five of the Plaintiff’s Complaint alleges that the Defendant committed tortious conversion by effectuating unauthorized draws on the Plaintiff’s letters of credit.

The Plaintiff appears to not deny that a breach of contract claim is distinct from a tortious conversion claim but alleges that it (Plaintiff) is merely pleading in the alternative. It is the Court’s task, based upon the allegations in the Amended Complaint, to determine whether the Plaintiff has a legitimate basis to allege a claim of conversion.

The Court will now address the issue of whether the allegations of this case have a basis in tort. Our analysis will be based upon the “gist of the action” doctrine as explained by the Pennsylvania Superior Court in *Etoll Inc. v. Elias/Savion Advertising Inc., et al.*, 811 A.2d 10 (Pa. Super. 2002).

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

In that case, Etoll Inc. (Etoll) hired Elias/Savion Advertising, Inc. (Elias) to market and advertise one of its (Etoll's) products. Etoll subsequently sued Elias essentially claiming that Elias stole its (Etoll's) money under the guise of performing advertising services pursuant to the contract. Allegedly, Elias billed Etoll for goods and services that were "unauthorized, unnecessary, excessive and in some cases entirely fictitious." *Etoll*, at 12. Finally, Etoll claimed that Elias lied to Etoll in order to continue the scheme. *Id.*

Etoll sued Elias for breach of contract, fraud, breach of fiduciary duty, and negligence. Elias filed a Motion for Summary Judgment which was partially granted by the Trial Court with regard to the tort claims (fraud, breach of fiduciary duty, and negligence). On appeal, the Superior Court affirmed.

The Superior Court explained that the plaintiff could not pursue its tort claims because the "gist of the action" was based upon a breach of contract. The Superior Court explained:

*Generally, the [gist of the action] doctrine is designed to maintain the conceptual distinction between breach of contract claims and tort claims. As a practical matter, the doctrine precludes plaintiffs from re-casting ordinary breach of contract claims into tort claims.*

. . .

*. . . a claim should be limited to a contract claim when 'the parties' obligations are defined by the terms of the contracts, and not by the larger social policies embodied by the law of torts.*

*Etoll Inc. v. Elias/Savion Advertising Inc., et al.*, 811 A.2d 10, 15 (Pa. Super. 2002) citations omitted.

The Superior Court noted that the gist of the action doctrine is based upon a Federal District Court case called, *Closed Circuit Corp. v. Jerrold Electronics Corp.*, 426 F.Supp. 361 (E.D. Pa. 1977).

In *Closed Circuit*, the Plaintiff sued Jerrold Electronics Corp., (Jerrold) for selling it faulty closed circuit television equipment. Although the statute of limitations had expired for a breach of contract claim, the Plaintiff sued under a theory of fraudulent misrepresentation.

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

The District Court dismissed Closed Circuit's claims because it (District Court) ruled that the claims were merely based upon a breach of contract. The Court explained:

*Although mere non-performance of a contract does not constitute a fraud, it is possible that a breach of contract also gives rise to an actionable tort. "To be construed as in tort, however, the wrong ascribed to defendant must be the gist of the action, the contract being collateral." 1 C.J.S. Actions §46. . . . A claim ex contractu cannot be converted to one in tort simply by alleging that the conduct in question was wantonly done.*

*Closed Circuit*, 426 F.Supp. at 364, citations omitted. See also *Bash v. Bell Telephone Co.*, 601 A.2d 825 (Pa. Super. 1992) (Failure of Yellow Pages to print an advertisement considered a breach of contract and not a tort.)

The Superior Court analyzed whether a claim was based in Contract or Tort by looking at the following factors:

Persuasive authority interpreting Pennsylvania law has restated the gist of the action doctrine in a number of similar ways. These courts have held that the doctrine bars tort claims: (1) arising solely from a contract between the parties; (2) where the duties allegedly breached were created and grounded in the contract itself; (3) where the liability stems from a contract; or (4) where the tort claim essentially duplicates a breach of contract claim or the success of which is wholly dependent on the terms of a contract.

*Etoll Inc. v. Elias/Savion Advertising Inc., et al.*, 811 A.2d 10, 19 (Pa. Super. 2002).

The allegation that the Defendant committed unauthorized draws on the Plaintiff's letters of credit is a claim based upon breach of contract. The Plaintiff is attempting to characterize the Defendant's allegedly unauthorized draws as a tort (tortious conversion) i.e. depriving the Plaintiff of its property without permission. However, the Court reminds the Plaintiff that the letters of credit were established pursuant to the Plaintiff's 1997 Retrocessional Agreement with the Defendant. But for the Retrocessional Agreement, the Plaintiff would not have given the letters of credit to the Defendant. The only way to determine if the draws on the letters of credit were authorized is to determine if the necessary events have occurred to trigger the authorizations granted by the

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

Retrocessional Agreement. Since the entire claim arose from and the duties are defined by the terms of the contract, we find this case to be a breach of contract claim. Although the Plaintiff has alleged that the tortious conversion claim is pled in the alternative, we find that it merely duplicates the breach of contract claim and should be dismissed.

Since we rule that the tortious conversion claim must be dismissed because of the gist of the action doctrine, we need not address the issue of whether conversion can be alleged in a claim for the restoration of funds distributed pursuant to a letter of credit. Therefore, Preliminary Objection V is **GRANTED** and Count 5 of the Plaintiff's Amended Complaint is **HEREBY STRICKEN**.

**MOTION TO DISMISS THE AMENDED COMPLAINT  
AND MOTION TO STRIKE COUNT FOUR FOR FAIL-  
URE TO CONFORM TO LAW OR RULE OF COURT.**

Finally, the Defendant claims that the Amended Complaint and particularly Count IV of the Amended Complaint, (Breach of Contract for Unauthorized Draws Against Letters of Credit,) should be dismissed because the Plaintiff filed the Amended Complaint (which added Count Four) without leave of Court or consent of the adverse party as required by Rule 1033 of the Pennsylvania Rules of Civil Procedure.

However, the Plaintiff responds that he was permitted to amend his Complaint because the Rules of Civil Procedure with regard to Preliminary Objections states, "a party may file an amended pleading **as of course** within twenty days after service of a copy of preliminary objections." Pa.R.C.P. 1028(c)(1), emphasis added.

*A party may file an amended pleading as of course within 20 days after service of a copy of preliminary objections, so as, for example, to meet the assertions of a demurrer. An amendment as of course, if the application is timely, is not a matter of discretion with the court, **the right to amend as of course is absolute and within the 20-day period, the plaintiff can amend without either the consent of the adverse party or the court's approval.***

Std. Pa. Prac. 2d §24:35, 2005, emphasis added.

*Amendment of a complaint on the consent of the adverse party or by leave of court is not an absolute or unilateral right, as is a party's **absolute and unqualified right to amend as of course.** FN §24:35.*

Eastern Atlantic Insurance Company v.  
Swiss Reinsurance America Corporation

Std. Pa. Prac. 2d §24:25; 2005, emphasis added.

The Plaintiff notes that the Pennsylvania Supreme Court in *Catanese v. Scirica*, 263 A.2d 372 (Pa. 1970), quoted the Standard Pennsylvania Practice as follows:

*The plaintiff's right to amend is absolute only in the case where he files his amendment within ten days after being served with preliminary objections to the complaint. All other amendments are made under Rule 1033 and cannot be made without leave of court or the consent of the adverse party." 3 Standard Pennsylvania Practice, Ch. 12, §48 at 732.*

*Catanese v. Scirica*, 263 A.2d at 374.

It is clear from this statement that the Plaintiff's right to amend his complaint under Rule 1028 is absolute and Rule 1033 does not apply to it (Rule 1028.) We further note that the Defendant has not pointed this Court to any cases that limit the applicability of Rule 1028.

In the case at bar, the Docket shows that the Defendant's Amended Preliminary Objections were filed on February 28, 2005, and the Defendant's Amended Complaint was filed on March 21, 2005. Although this appears to be more than twenty days, we note that a careful reading of Rule 1028 reveals that the twenty days are counted from "after service of a copy of the Preliminary Objections." Pa.R.C.P. 1028(C)(1), emphasis added. The Certificate of Service attached to the Defendant's Amended Preliminary Objections shows that they were served upon the Plaintiff by First Class Mail and they were clocked-in by the Prothonotary at 3:54 P.M. Therefore, the Plaintiff was clearly not served on February 28, 2005. As a result, we find that the Plaintiff filed his Amended Complaint within the twenty days required.

Since the Plaintiff amended his Complaint to include Count Four within twenty days of the date the Defendant served upon him its Preliminary Objections, the Court finds that the Plaintiff was permitted to amend his Complaint with the additional claim of Breach of Contract. Therefore, this Preliminary Objection is **DENIED**.

**ISSUED AT HARRISBURG**, this 29th day of June, 2006.



---

---

**FIRST PUBLICATION**

---

**Estate Notices**

---

ESTATE OF JAMES MELVIN SNYDER, late of Hummelstown, Dauphin County, Pennsylvania (died July 25, 2006). Executrix: Karen L. Snyder, 618 Appenzell Drive, Hummelstown, PA 17036. Attorney: Robert L. Knupp, Esq., Knupp Law Offices, LLC, 407 North Front Street, P.O. Box 630, Harrisburg, PA 17108. a18-s1

---

ESTATE OF GEORGE E. MUMMART, late of the Borough of Middletown, Dauphin County, Pennsylvania (died July 9, 2006). Executor: Dennis L. Mummart, 2802 N. George Street, York, PA 17406. Attorney: Jeffrey M. Mottern, Esq., 28 East Main Street, P.O. Box 87, Hummelstown, PA 17036. a18-s1

---

---

---

**SECOND PUBLICATION**

---

ESTATE OF RUTH M. FORSYTHE, late of Londonderry Township, Dauphin County, Pennsylvania (died July 15, 2006). Executrix: Barbara L. Rudy. Attorney: David H. Radcliff, Esq., 20 Erford Road, Suite 200, Lemoyne, PA 17043. a11-a25

---

ESTATE OF DARLOS N. SNYDER, late of the Borough of Lykens, Dauphin County, Pennsylvania (died June 16, 2006). Co-Executrices: Donna Smith, 215 Main Street, Lykens, PA 17048 and Beverly Zimmerman, 337 West Market Street, Williamstown, PA 17098. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethtown, PA 17023. a11-a25

---

ESTATE OF GEORGIANNA M. LYDA, late of Susquehanna Township, Dauphin County, Pennsylvania (died January 26, 2006). Executor: Richard G. Hamilton. Attorney: Marielle F. Hazen, Esq., 2000 Linglestown Road, Harrisburg, PA 17110. a11-a25

---

ESTATE OF IDORA TAYLOR a/k/a IDORA HUDSON TAYLOR, late of the City of Harrisburg, Dauphin County, Pennsylvania. Administratrix: Eldora Hardaway, 1608 Regina Street, Harrisburg, PA 17103. Attorneys: Butler Law Firm, 500 North Third Street, P.O. Box 1004, Harrisburg, PA 17108. a11-a25

---

ESTATE OF JEANETTE STEWART, late of Steelton, Dauphin County, Pennsylvania. Executrix: Kathy S. Forsythe, 10 Dunline Way, Sickleville, NJ 08081. Attorney: Luther E. Milspaw, Jr., Esq., 130 State Street, P.O. Box 946, Harrisburg, PA 17101. a11-a25

---

---

---

**THIRD PUBLICATION**

---

ESTATE OF GEORGE B. McCLOSKEY, late of the Borough of Middletown, Dauphin County, Pennsylvania (died July 8, 2006). Executrix: Rosemarie I. McCloskey. Attorney: David C. Miller, Jr., Esq., 1100 Sping Garden Drive, Suite A, Middletown, PA 17057. Phone (717) 939-9806. a4-a18

---

ESTATE OF WALTER H. HATKEVICH, late of the Township of Swatara, Dauphin County, Pennsylvania (died June 10, 2006). Executrix: Janice H. Hess, 5051 Franklin Street, Harrisburg, PA 17111. Attorney: David A. Wion, Esq., Wion, Zulli & Seibert, 109 Locust Street, Harrisburg, PA 17101. a4-a18

---

ESTATE OF ZANE G. PHOENIX, late of the City of Harrisburg, Dauphin County, Pennsylvania (died March 23, 2006). Co-Executrices: Cathi Phoenix and Stephanie Phoenix, 600 N. 17th Street, Harrisburg, PA 17103. Attorney: Marielle F. Hazen, Esq., 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110. a4-a18

---

ESTATE OF M. ARLENE KERSTETTER a/k/a MARY ARLENE KERSTETTER, late of Halifax Township, Dauphin County, Pennsylvania (died July 8, 2006). Executor/Attorney: Earl Richard Eitzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-5600. a4-a18

---

---

**THIRD PUBLICATION**

---

**Estate Notices**

---

ESTATE OF PETER FIGLER, late of Lower Paxton Township, Dauphin County, Pennsylvania (died June 26, 2006). Co-Executrices: Margaret Ann Wolfe, 917 South Broad Street, Lansdale, PA 19446 and Mary Elaine Witmer, 2424 Beech Street, Harrisburg, PA 17110. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-5600.

a4-a18

---

ESTATE OF MARLIN Q. WILSON, late of Lower Paxton Township, Dauphin County, Pennsylvania (died June 28, 2006). Executor: John Guarnera, 323 Market Street, Duncannon, PA 17020. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-56000.

a4-a18

---

ESTATE OF JERRY A. BARNHART, late of Hummelstown, Dauphin County, Pennsylvania. Executrix: Kelly J. Laird, 60 Cranfield Court, Elizabethtown, PA 17022. Phone (717) 274-6620. Attorney: Patrick M. Reb, Esq., 547 South Tenth Street, Lebanon, PA 17042.

a4-a18

---

ESTATE OF BETTY H. DONLEY, late of Halifax Township, Dauphin County, Pennsylvania (died July 7, 2006). Co-Executrices: Linda A. Davis, 2445 Route 209, Millersburg, PA 17061; Kathy L. Schadel, 31 Tourist Park Road, Halifax, PA 17032 and Melissa L. Erdman, 272 McClellan Road, Halifax, PA 17032. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-5600.

a4-a18

---

ESTATE OF HARRY H. HEPLER, JR., late of Upper Paxton Township, Dauphin County, Pennsylvania (died July 5, 2006). Co-Executors: Karen D. Rothermel, 322 Center Street, Millersburg, PA 17061 and Michael H. Hepler, 622 Whiskey Springs Road, Boiling Springs, PA 17007. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-5600.

a4-a18

---

ESTATE OF CARLENE J. FABER a/k/a CARLINE J. FABER, late of Halifax Township, Dauphin County, Pennsylvania (died July 3, 2006). Executor: Ricky L. Herb, 1743 North River Road, Halifax, PA 17032. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-5600.

a4-a18

---

ESTATE OF KENNETH E. VANATTA, late of the Borough of Steelton, Dauphin County, Pennsylvania. Executrix: Kendra V. Hoffman, 11 South Fourth Street, Steelton, PA 17113. Attorney: Allen D. Smith, Esq., 51 South Front Street, P.O. Box 7592, Steelton, PA 17113.

a4-a18

---

ESTATE OF SAMUEL MARAVICH, JR., late of Swatara Township, Dauphin County, Pennsylvania (died July 12, 2006). Executor: Myles Maravich, 119 Chestnut Grove Road, Shippensburg, PA 17257. Attorney: David J. Foster, Esq., Costopoulos, Foster & Fields, 831 Market Street, Lemoyne, PA 17043.

a4-a18

---

ESTATE OF CHARLES M. HAUSER, late of the Borough of Middletown, Dauphin County, Pennsylvania (died July 12, 2006). Executor: Robert C. Hauser, 32 West Roosevelt Avenue, Middletown, PA 17057. Attorney: Jered L. Hock, Esq., Metzger, Wickersham, Knauss & Erb, P.C., 3211 North Front Street, P.O. Box 5300, Harrisburg, PA 17110-0300.

a4-a18

---

ESTATE OF PEARL A. KRISTOFF, late of the City of Harrisburg, Dauphin County, Pennsylvania (died June 23, 2006). Executor: H. Raymond Brooks, 707 Fourth Street, New Cumberland, PA 17070. Attorney: Jill M. Wineka, Esq., Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102.

a4-a18

---

ESTATE OF CLIFTON G. KILLINGER, late of Middle Paxton Township, Dauphin County, Pennsylvania (died May 3, 2006). Co-Executors: Jason McClain and Cathleen McClain. Attorney: Marielle F. Hazen, Esq., 2000 Linglestown Road, Suite 202, Harrisburg, PA 17110.

a4-a18

---

---

**THIRD PUBLICATION**

---

**Estate Notices**

---

ESTATE OF NICHOLAS SEREDYCH, late of the Borough of Lykens, Dauphin County, Pennsylvania (died March 4, 2006). Executrix: Cathy J. Bopp, 602 Market Street, Lykens, PA 17048. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethtown, PA 17023. a4-a18

---

ESTATE OF ALFONS RAMANASKI a/k/a ALFONS J. RAMANASKI, late of Dauphin County, Pennsylvania. Administratrix: Patricia A. Jackson, Vice President and Senior Estate Settlement Consultant, Wachovia Bank, N.A. Attorney: Jeffrey C. Goss, Esq., Hartman Underhill & Brubaker LLP, 221 East Chestnut Street, Lancaster, PA 17602. a4-a18

---

ESTATE OF BETTY C. ZRNCIC, formerly BETTY C. BROWN, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executrix: Sandra K. Holes, 2324 Forest Hills Drive, Harrisburg, PA 17112. Attorney: Melanie Walz Scaringi, Esq., Scaringi & Scaringi, 2000 Linglestown Road, Suite 103, Harrisburg, PA 17110. a4-a18

---

ESTATE OF CARL L. RUNION, late of Londonderry Township, Dauphin County, Pennsylvania (died June 14, 2006). Administratrix: Lana J. Runion. Attorney: George W. Porter, Esq., 909 East Chocolate Avenue, Hershey, PA 17033. a4-a18

---

---

---

**FIRST PUBLICATION**

---

**Corporate Notices**

---

NOTICE IS HEREBY GIVEN that **EFS I, Inc.** with a Commercial Registered Office 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 1221 Lamar Street, Suite 1600, Houston, TX 77010. This shall serve as official notice to creditors and taxing authorities. a18

---

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 **Washington Street Insurance Group, Inc.** on August 1, 2006. The address of its principal office under the laws of its jurisdiction is 12800 S. 81st CT., Palos Park, IL 60464. The commercial registered office provider for this corporation is Penncorp ServiceGroup, 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. a18

---

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Department of State of the Commonwealth of Pennsylvania for **Diamond Window Treatments Inc.** on July 10, 2006 under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended. a18

---

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Department of State of the Commonwealth of Pennsylvania for **CRONE'S GAS & GOODIES, INC.** on July 25, 2006 under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended. a18

---

---

FIRST PUBLICATION

---

Corporate Notices

---

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 **ADCO (USA), INC.** on August 2, 2006. The address of its principal office under the laws of its jurisdiction is 2 Rewe Street, Brooklyn, PA 11211. The Commercial Registered Office Provider is PennCorp Servicegroup, Inc. in the county of Dauphin. The Corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa.C.S. 4124(b). a18

---

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 **RPM Construction Corp.** on August 8, 2006, the fictitious filed name for **RPM Construction Corp.** The address of its principal office under the laws of the jurisdiction in which it is incorporated is 22300 Dickerson Road, Dickerson, Maryland 20842. The registered office for this business is: Nauman, Smith, Shissler & Hall, LLP, Dauphin County, Pennsylvania. The corporation is filed in compliance with the requirements of the applicable provisions of 15 Pa.C.S. 4124. a18

---

NOTICE IS HEREBY GIVEN, to all persons interested or who may be affected by **WAGON WHEEL HUNTING CLUB**, a Pennsylvania nonprofit corporation, has approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors is now engaged in winding up and settling the affairs of the corporation under the provisions of Section 5974(b) of the Pennsylvania Nonprofit Corporation Law of 1988, as amended.

ROBERT P. GRUBB, Esq.  
Metzger, Wickersham, Knaus & Erb, P.C.  
3211 N. Front Street  
Harrisburg, PA 17110-0300  
(717) 238-8187

a18

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed in the Department of State of the Commonwealth of Pennsylvania for **Ferguson Team Real Estate Services Inc.** on July 28, 2006 under the provisions of the Pennsylvania Business Corporation Law of 1988, as amended. a18

---

NOTICE IS HEREBY GIVEN that **Ashland Casting Corporation**, a foreign business corporation incorporated under the laws of the State of Ohio, received a Certificate of Authority in Pennsylvania on 9/30/1996 and surrenders its Certificate of Authority to do business in Pennsylvania.

Its last registered office in this Commonwealth was located at: c/o Corporate Service Company, 2704 Commerce Drive, Suite B, Harrisburg, PA 17710, 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 3755 Lake City Highway, Street R., P.O. Box 230, Warsaw, IN 46581-0230. a18

---

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 August 4, 2006, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **CH2M Hill Facilities & Infrastructure, Inc.**, c/o National Registered Agents, Inc.

This corporation is incorporated under the laws of the State of Delaware. The principal office is 160 Greentree Drive, Suite 101, Dover, DE 19904. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988 as amended.

a18

---

---

FIRST PUBLICATION

---

Corporate Notices

---

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 **Autopart International, Inc.** on August 7, 2006. The address of its principal office under the laws of its jurisdiction is 1205 US Route 1 South, Sharon, MA 02067. The commercial registered office provider for this corporation is National Registered Agents, Inc. in the county of Dauphin. This Corporation is filed in compliance with the requirements of the applicable provision of 15 Pa.C.S. 4124(b). a18

---

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on August 2, 2006, with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, on behalf of **NORTH MOUNTAIN APPRAISALS, INC.** The said Business Corporation has been incorporated under the Pennsylvania Business Corporation Law of 1988.

STEPHEN C. NUDEL, PC  
219 Pine Street  
a18 Harrisburg, PA 17101

---

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 August 3, 2006, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **MOP Productions, Inc.**, c/o National Registered Agents, Inc.

This corporation is incorporated under the laws of the State of Delaware. The principal office is 10900 Wilshire Boulevard, Suite 1400, Los Angeles, CA 90024. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988 as amended. a18

NOTICE IS HEREBY GIVEN that **QUASAR ASSOCIATES, INC.** has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988.

BUTLER LAW FIRM  
500 North Third Street  
P.O. Box 1004  
a18 Harrisburg, PA 17108-1004

---

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 **Miller United Insurance Brokerage, Inc.** on 06/20/06. The address of its principal office under the laws of the jurisdiction in which it is incorporated is 245 Fischer Ave. A-2, Costa Mesa, CA 92626. The registered office for this business is: Nauman, Smith, Shissler & Hall, LLP, Dauphin County, PA. The corporation is file in compliance with the requirements of the applicable provision of 15 Pa.C.S. 4124. a18

---

NOTICE IS HEREBY GIVEN that **National Medical Solutions, LLC**, with a registered office 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. 8586. The address of its principal office under the laws of its jurisdiction is McLaughlin & Stern, LLP, 260 Madison Avenue, New York, NY 10016. This shall serve as official notice to creditors and taxing authorities. a18

---

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, Pennsylvania, for **PA Messenger Services, Inc.** on August 11, 2006. The said corporation has been incorporated under the provisions of the Business Corporation Law of 1988 of the Commonwealth of Pennsylvania.

McNEES WALLACE & NURICK LLC  
100 Pine Street  
a18 Harrisburg, PA 17101

---

---

FIRST PUBLICATION

---

Corporate Notices

---

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 August 1, 2006, for a foreign corporation with a registered address in the state of Pennsylvania as follows: **Strategic Polymer Sciences Inc.**, c/o National Registered Agents, Inc.

This corporation is incorporated under the laws of the State of Delaware. The principal office is 555 Lakeside Drive #10, Sunnyvale, CA 94085. The corporation has been qualified in Pennsylvania under the provisions of the Business Corporation Law of 1988 as amended. a18

---

NOTICE IS HEREBY GIVEN that **MEDICAL MANAGEMENT SERVICES ASSOCIATES, INC.** has been organized under the Business Corporation Law of 1988, as amended, and has filed Articles of Incorporation with the Pennsylvania Department of State on July 27, 2006. a18

---

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **THE CENTER FOR WOUND HEALING OF PENNSYLVANIA, INC.** a corporation organized under the Pennsylvania Business Corporation Law of 1988. a18

---

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with and approved by the Department of State of the Commonwealth of Pennsylvania at Harrisburg, PA, on August 8, 2006, for the purpose of obtaining a Certificate of Incorporation pursuant to the provisions of the Professional Corporation Act of the Commonwealth of Pennsylvania.

The name of the corporation is:  
**OMA\*AMO PC.** a18

NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **JONATHAN F. PERA HARDWOOD FLOORS, INC.** a corporation organized under the Pennsylvania Business Corporation Law of 1988. a18

---

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on August 8, 2006, by **J.D. NORTHRUP CONSTRUCTION INC.**, a foreign corporation formed under the laws of the State of New York, where its principal office is located at 6633 Route 219, P.O. Box 669, Ellicottville, NY 14731, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. a18

---

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 24, 2006, by **CORSAN TECHNOLOGIES, INC.**, a foreign corporation formed under the laws of the State of New Jersey, where its principal office is located at 5 Par Drive, Cinnaminson, NJ 08077, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. a18

---

NOTICE IS HEREBY GIVEN that the shareholders and directors of **WILCOX FORGING CORPORATION**, a Pennsylvania Corporation, with a registered address at c/o Corporation Service Company, Dauphin County, have approved a proposal that the corporation voluntarily dissolve, and that the Board of Directors have been engaged in winding up and settling the affairs of the corporation under the provisions of Section 1975 of the Pennsylvania Business Corporation Law of 1988, as amended. a18

---

---

**FIRST PUBLICATION**

---

**Corporate Notices**

---

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on August 4, 2006, by **GREYSTONE RESIDENTIAL FUNDING, INC.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at c/o Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. a18

---

NOTICE IS HEREBY GIVEN that pursuant to the provisions of Section 4129 of the Business Corporation Law of 1988, that on August 2, 2006, **Raytheon Infrastructure, Inc.**, a corporation incorporated under the laws of the State of New York, with principal office at c/o Washington Group International, Inc., 720 Park Blvd., Boise, ID 83712, and registered office in Pennsylvania at c/o Corporation Service Company, Dauphin County, which on June 16, 1997, was granted a Certificate of Authority to transact business in the Commonwealth of Pennsylvania, intends to file an Application for Termination of Authority with the Department of State. a18

---

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on August 8, 2006, by **Axiom Re, Inc.**, a foreign corporation formed under the laws of the State of Florida, where its principal office is located at c/o Brown & Brown, Inc., 3101 W. MLK Jr. Boulevard, Suite 400, Tampa, FL 33607, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. a18

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on July 14, 2006, by **HANESBRANDS INC.**, a foreign corporation formed under the laws of the State of Maryland, where its principal office is located at 1000 East Hanes Mill Rd., Winston-Salem, NC 27105, for a Certificate of Authority to do business in Pennsylvania under the provisions of the Pennsylvania Business Corporation Law of 1988.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located c/o Corporation Service Company, Dauphin County, Pennsylvania. a18

---

---

---

**FIRST PUBLICATION**

---

**Miscellaneous Notices**

---

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

**No. 2006 CV 1662 NC**

**NOTICE OF HEARING OF PETITION  
FOR CHANGE OF NAME**

NOTICE IS HEREBY GIVEN that on the 19th day of July, 2006, the Amended Petition for Change of Name of **ELLIOT DAVID ALLEN** was filed in the above-named Court, praying for a decree to change his name from **ELLIOT DAVID ALLEN** to **ELLIOT DAVID BROWN**.

The Court has fixed the 25th day of September, 2006, at 8:30 a.m. on Courtroom No. 2 of the Dauphin County Courthouse, Front and Market Streets, Harrisburg, Pennsylvania as the time and place for the hearing of said Petition, when and where all persons interested may appear and show cause, if any they have, why the prayer of the said Petitioner should not be granted.

HEATHER L. PATERNO, Esq.  
Goldberg Katzman, P.C.  
320 Market Street  
P.O. Box 1268  
Harrisburg, PA 17108-1268  
(717) 234-4161

a18

---

---

**FIRST PUBLICATION**

---

**Miscellaneous Notices**

---

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

**CIVIL ACTION – LAW**

**No. 2004-CV-4209-MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**WACHOVIA BANK, N.A., Plaintiff**

**vs.**

**CLAUDETTE JOHNSON, Defendant**

**TO: CLAUDETTE JOHNSON**

NOTICE IS HEREBY GIVEN that on 09/24/04, Wachovia Bank, N.A., Plaintiff, filed a Complaint against you for a default in payment on a Mortgage. The Complaint was reinstated on 08/02/06. The Complaint seeks recovery on the Mortgage in the amount of (\$103,649.54) with interest continuing from 09/08/04 at the Mortgage per diem of \$10.96, plus costs of suit and for foreclosure and sale of the mortgaged premises located at 1912 Holly Street, Harrisburg, Dauphin County, Pennsylvania 17104, Parcel Number of 09-088-066.

**NOTICE**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you.

You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

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

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

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

ANTHONY R. DISTASIO, Esq.  
Linton, Distasio, Adams & Edwards, P.C.  
1720 Mineral Spring Road  
P.O. Box 461  
Reading, PA 19603-0461  
(610) 374-7320

a18

---

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

**CIVIL ACTION – LAW**

**No. 946-CV-2002**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**LASALLE NATIONAL BANK AS  
TRUSTEE UNDER THE POOLING AND  
SERVICING AGREEMENT DATED 6/1/99,  
SERIES 1999-2, Plaintiff**

**vs.**

**JANICE HUGHES, Defendant**

**NOTICE**

**TO: JANICE HUGHES, Defendant**

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

TAKE NOTICE that the real estate located at 2035 WHITEHALL STREET, HARRISBURG, PA 17103, is scheduled to be sold at Sheriff's Sale on OCTOBER 12, 2006 at 10:00 A.M., at Commissioners Hearing Room, Dauphin County Administration Building (formerly Mellon Bank Building), Harrisburg, Pennsylvania 17101 to enforce the court judgment of \$37,433.55, obtained by LASALLE NATIONAL BANK AS TRUSTEE UNDER THE POOLING AND SERVICING AGREEMENT DATED 6/1/99, SERIES 1999-2 (the mortgagee).



---

---

**FIRST PUBLICATION**

---

**Miscellaneous Notices**

---

Prop. sit in the 9th Ward of the City of Harrisburg on S. side of Whitehall St. at the N.E. corner of property of Marietta Mentzer, known as 2033 Whitehall Street.

Front: 17.5 ft. Depth: 95 ft.

BEING premises: 2035 Whitehall Street, Harrisburg, PA.

Improvements consist of residential property.

SOLD as the property of JANICE HUGHES.

TERMS OF SALE: The purchaser at sale must pay the full amount of his/her bid by twelve o'clock noon on the day of the sale, and if complied with, a deed will be tendered by the Sheriff at the next Court of Common Pleas for Dauphin County conveying to the purchaser all the right, title, interest and claim which the said defendant has in and to the said property at the time of levying the same. If the above conditions are not complied with on the part of the purchaser, the property will again be offered for sale by the Sheriff at two o'clock P.M., on the same day. The said purchaser will be held liable for the deficiencies and additional costs of said sale.

TAKE NOTICE that a Schedule of Distribution will be filed by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within ten (10) days after the filing of the schedule.

GREGORY JAVARDIAN, Esq.  
1310 Industrial Boulevard  
1st Floor, Suite 101  
Southampton, PA 18966  
(215) 942-9690

a18

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

**CIVIL ACTION – LAW**

**No. 2006-CV-566-MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**GREEN TREE CONSUMER DISCOUNT  
COMPANY, Plaintiff**

**vs.**

**DEBORAH C. CAMMACK, Defendant**

**TO: DEBORAH C. CAMMACK,  
Defendant**

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

TAKE NOTICE that the real estate located at 2412 REEL STREET, HARRISBURG, PA 17110, is scheduled to be sold at Sheriff's Sale on OCTOBER 12, 2006, at 10:00 A.M., at Commissioners Hearing Room, Dauphin County Administration Building (formerly Mellon Bank Building), Harrisburg, Pennsylvania 17101 to enforce the court judgment of \$52,508.11, obtained by GREEN TREE CONSUMER DISCOUNT COMPANY (the mortgagee).

Prop. sit in the 10th Ward of the City of Harrisburg on W. side of Reel St., 85 ft. N. of the N.E. corner of Reel and Seneca Streets.

Front: 20 ft. Depth: 110 ft.

BEING premises: 2412 Reel Street, Harrisburg, PA.

Improvements consist of residential property.

SOLD as the property of DEBORAH C. CAMMACK.

TERMS OF SALE: The purchaser at sale must pay the full amount of his/her bid by twelve o'clock noon on the day of the sale, and if complied with, a deed will be tendered by the Sheriff at the next Court of Common Pleas for Dauphin County conveying to the purchaser all the right, title, interest and claim which the said defendant has in and to the said property at the time of levying the same. If the above conditions are not complied with on the part of the purchaser, the property will again be offered for sale by the Sheriff at two o'clock P.M., on the same day. The said purchaser will be held liable for the deficiencies and additional costs of said sale.

---

---

**FIRST PUBLICATION**

---

**Miscellaneous Notices**

---

TAKE NOTICE that a Schedule of Distribution will be filed by the Sheriff on a date specified by the Sheriff not later than thirty (30) days after sale. Distribution will be made in accordance with the schedule unless exceptions are filed thereto within ten (10) days after the filing of the schedule.

GREGORY JAVARDIAN, Esq.  
1310 Industrial Boulevard  
1st Floor, Suite 101  
Southampton, PA 18966  
(215) 942-9690

a18

---

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

**CIVIL ACTION – LAW  
CIVIL DIVISION**

**No. 2006 CV 1985 MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**WELLS FARGO BANK, N.A., Plaintiff**  
vs.

**HELENA M. HIMMELRIGHT, HEIR OF  
MARGARET E. SCHROY, Deceased,  
UNKNOWN HEIRS, SUCCESSORS,  
ASSIGNS, and ALL PERSONS, FIRMS, or  
ASSOCIATIONS CLAIMING RIGHT,  
TITLE, or INTEREST FROM or UNDER  
MARGARET E. SCHROY, Deceased  
Defendant(s)**

**NOTICE**

**TO: HELENA M. HIMMELRIGHT, HEIR  
OF MARGARET E. SCHROY,  
Deceased**

YOU ARE HEREBY NOTIFIED that on MAY 5, 2006, Plaintiff, WELLS FARGO BANK, N.A., filed a Mortgage Foreclosure Complaint endorsed with a Notice to Defend, against you in the Court of Common Pleas of Dauphin County, Pennsylvania, docketed to No. 2006 CV 1985 NF. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at

2346 DERRY STREET, HARRISBURG, PA 17104 whereupon your property would be sold by the Sheriff of Dauphin County.

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

**NOTICE**

IF YOU WISH TO DEFEND, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you without further notice for the relief requested by the plaintiff. You may lose money or property or other rights important to you.

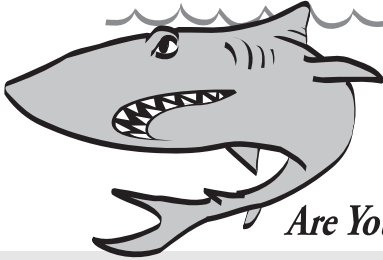
YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

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

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

a18

# *Tri-State Shredding*



“Your  
Document  
Shredding  
Specialist”

*Are You HIPAA Compliant??*

**On-Site and Off-Site  
Document Shredding**

Bonded Personnel with 10 years experience  
“DON'T THROW YOUR BUSINESS OUT  
WITH YOUR TRASH”

**CALL 717-233-5606 TODAY**  
[www.tristateshredding.com](http://www.tristateshredding.com)

## **SELLING LAND?**

Triple Crown Corporation is looking to purchase all types of tracts of land. Avoid the uncertainty of what your land is worth. Triple Crown Corporation pays fair market value and provides quick settlement.

Call Pete Leone directly at 717-920-8959, 717-943-5189 (cell) or email: [leonep@triplecrowncorp.com](mailto:leonep@triplecrowncorp.com).

Pete Leone, Esquire  
Land Acquisition Manager



**Triple Crown Corporation**  
DEVELOPERS ■ BUILDERS ■ MANAGERS  
[www.triplecrowncorp.com](http://www.triplecrowncorp.com)

Alcohol or Other Drugs a Problem?  
Help is Only a Phone Call Away

**LAWYERS  
CONFIDENTIAL  
HELP-LINE  
1-888-999-1941**

24 Hours Confidential

*A Service Provided by*

Lawyers Concerned for Lawyers of Pennsylvania, Inc.

# KURZENKNABE PRESS

*Printing The Dauphin County Reporter every  
week for nearly 100 years*

---

Graphic Design • Electronic Pre-Press • Invitations

Announcements • Legal Briefs • Legal Backers

Newsletters • Business Cards • Business Forms

Envelopes • Multi Color Printing • Flyers

Questionnaires • Posters

Tickets • Photo Copies

Labels • Brochures

Bindery



**1424 HERR STREET  
HARRISBURG, PA 17103**

**TOLL FREE 1-888-883-2598**

**PHONE 232-0541 • FAX 232-7458**

**EMAIL: [KURZENKNABEPRESS@AOL.COM](mailto:KURZENKNABEPRESS@AOL.COM)**

*Quality Printing Since 1893*



# Financial Planning for the Road Ahead

## *We offer the following services:*

---

- Comprehensive Financial and Estate Planning
- Personal Trust and Investment Services
- Charitable and Endowment Services
- Institutional and Retirement Services
- Private Banking
- Corporate Trust



FULTON FINANCIAL ADVISORS™

---

Located at Fulton Bank

*Making Success Personal.™*

1.866.332.8393

[fultonfinancialadvisors.com](http://fultonfinancialadvisors.com)

Fulton Financial Advisors, N.A., a subsidiary of Fulton Financial Corporation provides financial services in markets covered by Fulton Financial Corporation-owned community banks.

Securities and Insurance Products:

- Not FDIC-Insured • Not Insured by any Federal Government Agency
- No Financial Institution Guarantee • May lose value • Not a Deposit

## CUMULATIVE TABLE OF CASES

Bordner, Lawrence v. . . . .	17
Board of School Directors of the Harrisburg School District, et al., Control Board of the Harrisburg School District, et al. v. . . . .	134
Columbia Casualty Company v. Coregis Insurance Company, City of Harrisburg . . . . .	1
Commonwealth v. Miller . . . . .	155
Commonwealth v. Stevenson . . . . .	74
Connelly, et al., Rohrer v. . . . .	7
Control Board of the Harrisburg School District, et al. v. Board of School Directors of the Harrisburg School District, et al. . . . .	134
Coregis Insurance Company, City of Harrisburg, Columbia Casualty Company v. . . . .	1
Des-Ogugua v. For Sale By Owner Real Estate, Inc., et al. . . . .	14
Eastern Atlantic Insurance Company v. Swiss Reinsurance America Corporation . . . . .	161
For Sale By Owner Real Estate, Inc., et al., Des-Ogugua v. . . . .	14
Fromm v. Hershey Medical Center, et al. . . . .	35
Hershey Medical Center, et al., Fromm v. . . . .	35
Lawrence v. Bordner . . . . .	17
Letteer v. Michalak . . . . .	45
Michalak, Letteer v. . . . .	45
Middletown Area School District, Susquehanna Area Regional Airport Authority v. . . . .	85
Miller, Commonwealth v. . . . .	155
Morder v. Professional Aerials, Inc. . . . .	50

Cumulative Table of Cases

Peterson v. State Farm Fire & Casualty Company, et al. . . . . 128  
Professional Aerials, Inc., Morder v. . . . . 50

Ramer v. Ramer . . . . . 21  
Ramer, Ramer v. . . . . 21  
Rohrer v. Connelly, et al. . . . . 7

State Farm Fire & Casualty Company, et al., Peterson v. . . . . 128  
Stevenson, Commonwealth v. . . . . 74  
Susquehanna Area Regional Airport Authority v.  
Middletown Area School District . . . . . 85  
Swiss Reinsurance America Corporation,  
Eastern Atlantic Insurance Company v. . . . . 161

## Sales and Leasing of Business Property

NAI/CIR is the  
exclusive  
Harrisburg-  
York-  
Lebanon area  
NAI partner

- Office space
- Industrial buildings
- Business sites
- Shopping centers
- Retail buildings
- Industrial sites
- Warehouse
- Large development  
land tracts
- Office sites
- Businesses

**NAI CIR**

[www.naicir.com](http://www.naicir.com)  
717/761-5070

Commercial Real Estate Services, Worldwide.



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

---

*Board of Directors*

<b>Thomas P. Gacki</b> <i>President</i>	<b>Thomas E. Brenner</b> <i>President-Elect</i>
<b>Craig A. Longyear</b> <i>Vice President</i>	<b>John D. Sheridan</b> <i>Treasurer</i>
<b>Renee Mattei Myers</b> <i>Secretary</i>	<b>Joseph A. Curcillo, III</b> <i>Past President</i>
<b>Adam M. Shienvold</b> <i>Young Lawyers' Chair</i>	<b>Robert M. Walker</b> <i>Young Lawyers' Vice Chair</i>
<b>William L. Adler</b>	<b>S. Barton Gephart</b>
<b>Randi Blackman-Teplitz</b>	<b>James L. Goldsmith</b>
<b>Cara A. Boyanowski</b>	<b>Jonathan W. Kunkel</b>
<b>James F. Carl</b>	<b>Royce L. Morris</b>
<b>Vincent L. Champion</b>	<b>Mark J. Powell</b>
<b>Robert E. Chernicoff</b>	<b>J. Michael Sheldon</b>
<b>Steven R. Dade</b>	<b>David F. Tamanini</b>
<b>Helen L. Gemmill</b>	

*Directors*

---

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*

AUGUST 2006

Judge John F. CHERRY

SEPTEMBER 2006

Judge Lawrence F. CLARK, JR.

*Opinions Not Yet Reported*

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

**PUBLIC DEFENDER**

The **Dauphin County Public Defender's Office** is currently accepting applications for the full-time position of Public Defender. The employee in this position will act as Chief Executive and Administrator of the Public Defender's Office. This employee supervises attorneys, investigators, paralegals, and other support staff; assigns cases to junior attorneys; counsels and advises public defenders in handling of cases; coordinates Court schedules with the offices of the District Attorney and Court Administrator; prepares department budget and supervises expenditures; and manages caseload and represents those clients at hearings and carries out other duties of a lawyer. Minimum qualifications include a Juris Doctorate degree, licensed and admitted to the Pennsylvania Bar; 3-5 years working experience; lead counsel in no fewer than 10 criminal jury trials. Minimum salary \$65,000; salary is commensurate with experience. Persons interested should send application and resume to Dauphin County Personnel Department, P.O. Box 1295, Harrisburg, PA 17108-1295 by September 1, 2006. Anyone requiring an accommodation to apply or to participate in the selection process, please contact County Personnel at (717) 780-6230. For more information and to print an employment application visit at: [www.dauphinc.org](http://www.dauphinc.org) or contact (717) 780-6230. EOE a18-a25

**LITIGATION ASSOCIATE** — Stock and Leader, a medium size law firm in York, Pennsylvania, is seeking to add a litigation associate to its thriving practice. Candidates should have two to four years of experience handling civil litigation cases.

Salary and benefits are competitive and commensurate with background and experience; excellent firm culture with opportunity for partnership. Candidates should submit confidential resumé to Gary A. Sonke, Firm Administrator, at Stock and Leader, 221 West Philadelphia Street, Suite E600, York, PA 17401-2994.

a11-a25

**ASSOCIATE ATTORNEY** — expanding Harrisburg law firm seeks associate attorney with experience/interest in family law. Please send resume and salary requirements to: Office Manager, Daley, Zucker & Gingrich, LLC, 1029 Scenery Drive, Harrisburg, PA 17109.

a11-a25

**BAR ASSOCIATION PAGE – Continued**

**MISCELLANEOUS SECTION**

**OFFICE SPACE** — Private office space and support area available in existing law office on North Front Street, Harrisburg. This new office space includes use of conference rooms, off street parking, common staffed reception area. Great size for a sole practitioner or satellite office. Contact Karen Porr. 3631 North Front Street, Harrisburg (717) 232-7661. a18-s8

**ATTORNEY** — Philadelphia-based firm seeks to employ local attorney to handle its presentment matters in Dauphin and the surrounding counties, including motion practice, Bankruptcy Court and Sheriff's sales. Please fax resume with salary requirements to Human Resources at 215-563-7121. a18-s1

**HARRISBURG PARALEGAL/SECRETARY** — Immediate opening for full time paralegal / secretary position available in civil litigation department of Law Firm's Harrisburg Office. Litigation experience preferred. Salary commensurate with experience. Flexible hours. Excellent benefits offered. For immediate consideration, send resume to Eileen, Office Administrator, Forry Ullman, 540 Court Street, P.O. Box 542, Reading, PA 19603 or email at ehummel@forryullman.com. a18-s1

**TRIAL AHEAD?**

**CONSIDER  
AN ALTERNATE ROUTE:**

Dauphin County Bar Association  
*Civil Dispute Resolution Program*

**Call (717) 232-7536 for details**

**INCORPORATION AND  
LIMITED LIABILITY COMPANY  
FORMATION**

*CONVENIENT, COURTEOUS SAME DAY SERVICE*

*PREPARATION AND FILING SERVICES IN ALL STATES*

**CORPORATION OUTFITS AND  
LIMITED LIABILITY COMPANY OUTFITS**

*SAME DAY SHIPMENT OF YOUR ORDER*

**CORPORATION, LIMITED LIABILITY COMPANY  
AND UCC FORMS**

**CORPORATE AND UCC, LIEN AND  
JUDGMENT SERVICES**

**M. BURRKEIM COMPANY**

*SERVING THE LEGAL PROFESSIONAL SINCE 1931*

PHONE: (800) 533-8113      FAX: (888) 977-9386

*2021 ARCH STREET, PHILADELPHIA, PA 19103*

[WWW.MBURRKEIM.COM](http://WWW.MBURRKEIM.COM)

**ATTORNEY DISCIPLINARY  
ETHICS MATTERS**

Representation, consultation and expert testimony in matters  
involving ethical issues and the Rules of Professional Conduct

**James C. Schwartzman, Esq.**

17 North Second Street, 16th Floor • Harrisburg, PA 17101

(717) 255-7388

Former Chairman, Disciplinary Board of the Supreme Court of Pennsylvania • Former Chairman, Continuing  
Legal Education Board of the Supreme Court of Pennsylvania • Former Federal Prosecutor