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A Record of Cases Argued and Determined in the Various Courts of York County

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No. 45

CASES REPORTED

ROBERT J. WILLING, Plaintiff vs. JOHN H. McFARLAND
and KATHY L. McFARLAND, Defendants

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Land Use – Easement - Declaration – Existing Encroachment



Dated Material Do Not Delay

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The Editor

2-18-1t

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2-18-1t

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**ROBERT J. WILLING, Plaintiff vs.
JOHN H. MCFARLAND and KATHY L.
MCFARLAND, Defendants**

Land Use – Easement - Declaration
– Existing Encroachment

No. 2008 – SU – 3904 – Y07

1. Plaintiff purchased a cabin in Wrightsville and entered into a lease agreement with the owner of the underlying tract of land. Plaintiff maintained and paved an access road, referred to as the southeast driveway. Defendants purchased a cabin on an adjacent property and erected posts and a no trespass sign at the southeast driveway previously used by Plaintiff. The Court found that the driveway was an existing encroachment over Defendants' property and that Plaintiff improved, but did not increase or relocate the easement. After holding a non-jury trial, the Court confirmed the Plaintiff's easement, entered an Order enjoining Defendants from interfering with the easement, and directed Defendants to remove the posts and signs within forty days.

In the Court of Common Pleas of York County Pennsylvania; **ROBERT J. WILLING, Plaintiff vs. JOHN H. McFARLAND and KATHY L. McFARLAND, Defendants.** Land Use – Easement - Declaration – Existing Encroachment.

APPEARANCES:

TIMOTHY P. RUTH, Esquire
For the Plaintiff

CLYDE W. VEDDER, Esquire
For the Defendants

LINEBAUGH, J.

**OPINION IN SUPPORT OF
ORDER SUSTAINING PLAINTIFF'S
EASEMENT AND PERMANENTLY
ENJOINING DEFENDANTS FROM
INTERFERING WITH PLAINTIFF'S
USE AND ENJOYMENT
OF THE EASEMENT**

Trial was held in the above-caption matter on January 4, 2010. Based on the Findings of Fact and Conclusions of Law reached at trial, the Court will enter an Order confirming an easement in favor of Robert J. Willing's ("Plaintiff") property over the property of John H. McFarland and Kathy L. McFarland ("Defendants") and enjoining Defendants from interfering with Plaintiff's use of the easement.

I. Findings of Fact.

1. On August 19, 1997, Plaintiff purchased a cabin located upon a tract of land situated at 1292 Shore Lane, Wrightsville, Pennsylvania, 17358 in Hellam Township, York County, from Gary Walk. Walk owned the cabin from 1987 until Plaintiff purchased it in 1997. The cabin was located upon on a tract of land owned by Susquehanna Resources. Walk leased the land from Susquehanna Resources and their predecessors in interest during the time he owned the cabin.

2. Walk purchased the cabin from Martin and Wanda Bigler in 1987. The Biglers owned the cabin from 1980 to 1987, and leased the tract of land from Paul Dellinger and Dellinger's predecessor in interest.

3. When the Biglers purchased the cabin in 1980, pedestrian and motor vehicle access to the cabin was achieved via a crude access driveway located on what is now known as the shared boundary between Lot 68 and Lot 71 of the Accomac Shores planned community (the "Southwest Driveway"). The Southwest Driveway was wide enough for an automobile to pass over it and consisted of two tire tracks of hard packed dirt and stone. The Southwest Driveway terminated in what is now known as Cross Lane.

4. Some time after taking possession of the cabin, Martin Bigler constructed a second access driveway (the "Northwest Driveway") from the cabin across Lots 68 and 73 of what is now known as the Accomac Shores planned community. Like the Southwest Driveway, the Northwest Driveway consisted of two tire tracks of hard packed dirt and stone. The Northwest Driveway terminated in what is now known as Shore Lane.

5. At the same time Plaintiff bought the cabin from Walk, he entered into a Lease Agreement with the owner of the underlying tract of land, Susquehanna Resources. Susquehanna Resources had obtained ownership of the land from Paul Dellinger in 1994.

6. At the time Plaintiff bought the cabin and leased the land beneath it, the Northwest Driveway and the Southwest Driveway were present on the land allowing motor vehicle and pedestrian access to cabin from Shore Lane and Cross Lane. Plaintiff used both driveways to access the cabin. Plaintiff maintained the Southwest Driveway by clearing debris.

7. A Memorandum of Agreement (the "Memorandum") dated December 4, 1997 approved the subdivision plan for Accomac Shores between Susquehanna Resources and Hellam Township, Pennsylvania. A copy of that Memorandum is recorded in the Office

of the Recorder of Deeds for York County, Pennsylvania in Record Book 1308 at Page 6549 et seq. A copy of the approved subdivision plan of Accomac Shores is recorded in the Office of the Recorder of Deeds for York County, Pennsylvania, in Plan Book GG at Page 1633 et seq.

8. On March 26, 1998, the Declaration of Covenants and Restrictions for Accomac Shores (the "Declaration") was recorded in the Office of the Recorder of Deeds for York County, Pennsylvania in Record Book 1318 at Page 3824 et seq. The Declaration was dated December 8, 1997 when recorded.

9. Article VII, § 7.1.7 of the Declaration provides in pertinent part:

7.1.7 Existing Encroachments. To the extent that any portion of driveways, buildings, wells or on-site sewage systems existing as of the date hereof (the "Existing Encroachments") encroach onto an adjoining Lot, a valid easement exists for such Existing Encroachments. Furthermore, any Lot Owner who has an Existing Encroachment may enter onto the adjoining Lot for proper purposes of maintenance and repair of same, provided that he shall do so in a manner as to minimize disruption to the use and enjoyment of the adjoining Lot. The Existing Encroachment may not be expanded in any way, and upon removal of an Existing Encroachment, it may not be replaced on any portion of any adjoining Lot.

10. On June 24, 1998, Plaintiff purchased the tract of land underlying his cabin from Susquehanna Resources, which Deed is recorded in the Recorder of Deeds Office for York County, Pennsylvania, in Record Book 1331, Page 1013 et seq. The property was known as Lot 72 of the Accomac Shores planned community. Plaintiff received and reviewed a copy of the Declaration prior to closing. A surveying map (the "1997 Survey") prepared on December 1, 1997 by D.C. Gohn Associates, Inc., was used at settlement and listed the Northwest Driveway as an access road for Lot 72. The Southwest Driveway, while in existence at that time, was not listed as an access road for Lot 72 on the 1997 Survey.

11. After purchasing the land, Plaintiff continued to use both driveways to access the cabin. Plaintiff maintained the Southwest Driveway by clearing debris, applying stones, and filling potholes.

12. Defendants are the owners of the cabin on the parcel of land bordering Plaintiff's parcel to the south, at 1288 Shore Lane, Wrightsville, Pennsylvania, 17368, Hellam Township, York County, Pennsylvania.

Defendants purchased their cabin from Richard Barton in 1988. Defendants also leased the tract of land underlying their cabin from Paul Dellinger and later from Susquehanna Resources and Franklin & Marshall College.

13. On May 20, 2005, Defendants purchased tract of land underlying their cabin from Franklin & Marshall College, which Deed is recorded in the Recorder of Deeds for York County, Pennsylvania, in Record Book 1727, Page 1718 et seq. The tract was known as Lot No. 71 of the Accomac Shores planned community. Defendants received and reviewed a copy of the Declaration prior to closing.

14. Both the Plaintiff's and the Defendants' parcels of real estate are encumbered by the Declaration.

15. From the time Plaintiff first leased the land known as Lot 72 until the present, Plaintiff and Plaintiff's invitees used the Southwest Driveway for access, egress and ingress to the cabin on Lot 72.

16. In October 2006, Plaintiff paved the Southwest Driveway with macadam. The paving was applied onto the exact route the Southwest Driveway followed across Lots 68, 71 and 72. The paving was eight and one half feet (8-1/2') wide.

17. The October 2006 paving did not enlarge, relocate or expand the Southwest Driveway.

18. In January 2008, Plaintiff obtained a survey (the "2008 Survey") of Lot 72. The 2008 Survey revealed that the southern border of Lot 72 ran down the center of the now-paved Southwest Driveway.

19. In March 2008, Defendants installed "No Trespassing" posts down the center of the Southwest Driveway, obstructing Plaintiff's use of the driveway.

II. Conclusions of Law.

1. The Southwest Driveway was an Existing Encroachment over Defendants' property as defined by Article VII, § 7.1.7 of the Declaration.

2. Article VII, § 7.1.7 of the Declaration granted Lot 72 an easement for use of the Southwest Driveway over Lot 71 because the Southwest Driveway was an Existing Encroachment at the time of the conveyance.

3. The stoning of the Southwest Driveway and the 2006 macadam paving of the Southwest Driveway were improvements to the easement, and did not expand or relocate the easement.

III. Discussion.

Plaintiff argues that the Declaration creates an easement (the "Easement") granting Lot 72 use of the Southwest Driveway over Lot 71. Plaintiff complains that by installing "No Trespassing" posts down the center of the Southwest Driveway, Defendants have interfered with his use and enjoyment of the Easement. Plaintiff asks the Court to enjoin Defendants from disrupting his use of the Southwest Driveway.

Defendants respond that the Southwest Driveway is not an access road because it is not designated as an access road on the 1997 Survey. Defendants argue that the Southwest Driveway is not an Existing Encroachment contemplated by Article VII, § 7.1.7 because they rarely saw anyone use that road and they only saw Plaintiff apply stones to it once. Defendants argue that even if Article VII, § 7.1.7 created a valid easement over the Southwest Driveway in Plaintiff's favor, Plaintiff destroyed the Easement by wrongfully expanding its width during the 2006 paving. Defendants ask the Court to order removal of the macadam from the Southwest Driveway and enjoin Plaintiff from using it.

To resolve this case, the Court must answer two questions. First, does Lot 72 possess an easement granting use of the Southwest Driveway over Lot 71? Second, if a valid easement over the Southwest Driveway did exist, did the 2006 paving impermissibly expand the easement? The Court will address these questions in turn.

1. Creation of the Easement.

An easement is "[a]n interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, for a specific limited purpose." *Stanton v. Lackawanna Energy, Ltd*, 886 A.2d 667, 676 (Pa. 2005) (internal citations omitted); *In re Condemnation Proceeding by South Whitehall Twp. Authority*, 940 A.2d 624, 628 (Pa. Commw. Ct. 2008). The land enjoying the use or control privilege is known as the "dominant tenement," and the land subject to the privilege is called as the "servient tenement." *Ephrata Area School Dist. v. County of Lancaster*, 886 A.2d 1169, 1174 (Pa. Commw. Ct. 2005), *rev'd on other grounds*, 938 A.2d 264 (Pa. 2007). An easement may be created by express grant in a deed.¹ *Amerikohl Mining Co., Inc. v. Peoples Natural Gas Co.*, 860 A.2d 547, 550 (Pa. Super. Ct. 2004). The terms of the agreement determine the rights and obligations of the parties to an express easement, *Hann v. Saylor*, 562 A.2d 891, 893 (Pa. Super. Ct. 1989), and the express language, unless ambiguous, controls. *Merrill v.*

Manufacturers Light & Heat Co., 185 A.2d 573, 575 (Pa. 1962).

Purchasers of real estate are charged with notice of any use restrictions affecting the real estate that are recorded in the office of the recorder of deeds and by what they could have learned from reasonable inquiry. *Roberts v. Estate of Pursley*, 718 A.2d 837, 843 (Pa. Super. Ct. 1997). "When a restriction affects other lands owned by a common grantor and the instrument is duly recorded, subsequent purchasers of the grantor's other lands are charged with constructive notice of the restriction, regardless of whether it appears in their deed." *Cunningham v. Perloff*, 30 Pa. D.& C.3d 420, 424 (Pa. Com. Pl. 1982), (citing *Jones v. Sedwick*, 117 A.2d 709 (Pa. 1955)). Thus, a subsequent purchaser takes property subject to easements of which he has or should have notice. *Palm Corp. v. Com., Dept. of Transp.*, 688 A.2d 251, 254 (Pa. Commw. Ct. 1997).

Here, the facts clearly established that the Declaration expressly granted an easement to Plaintiff's property permitting him to use the Southwest Driveway. First, Plaintiff and Defendants each purchased the land underlying their cabins subject to the recorded Declaration. Plaintiff and Defendants each testified that they reviewed the Declaration and were familiar with its terms at closing. Article VII, § 7.1.7 of the Declaration provides "To the extent that any portion of driveways, buildings, wells or on-site sewage systems existing as of the date hereof (the "Existing Encroachments") encroach onto an adjoining Lot, a valid easement exists for such Existing Encroachments." This language contained in the deed unambiguously creates an express easement granting a landowner in Accomac Shores use of the landowner's driveway when that driveway encroaches onto an adjoining lot at the time of purchase. See *Amerikohl Mining Co.*, 860 A.2d at 550; *Hann*, 562 A.2d at 893. Defendants are charged with knowledge of the grant of the easement by virtue of its recorded existence in the deed restrictions. See *Palm Corp.*, 688 A.2d at 254.

Next, testimony at trial² and exhibits 12-5 through 12-9 established that since the mid-1980s, the Southwest Driveway encroached onto Lot 71 and was used to access the cabin on Lot 72. The Southwest Driveway, while unpaved, was in existence and in use when the parties purchased their cabins and land.³ As such, the Southwest Driveway was an existing encroachment onto Defendants' property at the time Plaintiff purchased Lot 72. Thus, when the parties took their land subject to Article VII, § 7.1.7 of the Declaration, Lot 72 became the dominant tenement and Lot 71 became the servient tenement for the Easement permitting Lot 72 use of the Southwest Driveway. See *Ephrata*

Area School Dist., 886 A.2d at 1174. Therefore, the Court finds that Article VII, § 7.1.7 of the Declaration created the Easement granting Lot 72 use of the Southwest Driveway over Lot 71, and the Easement is valid and legally enforceable.

2. Paving of the Easement.

When ascertaining the scope of an easement, the intention of the parties must be advanced. *Zettlemoyer v. Transcontinental Gas Pipeline Corp.*, 657 A.2d 920, 924 (Pa. 1995) (citing *Lease v. Doll*, 403 A.2d 558, 561 (Pa. 1979)). Therefore, when the width of an easement is not specified in the express grant, the easement “will be held to be of such width as is suitable and convenient for the ordinary uses of free passage and if the particular object of the grant or the way is stated, the width must be suitable and convenient with reference to that object.” *Id.* (quoting *Lease*, 403 A.2d at 561). An owner of an easement may make improvements on the servient estate as long as the improvements are consistent with the use for which the easement is created. *Florek v. Com., Dept. of Transp.*, 493 A.2d 133, 137 (Pa. Commw. Ct. 1985).

Applied here, the 2006 paving did not impermissibly expand the Easement. Article VII, § 7.1.7 of the Declaration provides that “any Lot Owner who has an Existing Encroachment may enter onto the adjoining Lot for proper purposes of maintenance and repair of same The Existing Encroachment may not be **expanded** in any way.” (emphasis added). “Expand” means “to increase the extent, number, volume or scope of; enlarge.” *Merriam-Webster’s Collegiate Dictionary* 439 (11th ed. 2004). The Southwest Driveway was at least one car-width wide because cars repeatedly driving over the same place created it. In 2006, the macadam was applied directly onto the Southwest Driveway. Defendant John McFarland could not testify that the size of the Southwest Driveway had changed in any manner after the macadam was installed. McFarland testified at trial that he “did not think the two tire tracks were 8-1/2’ wide” prior to the 2006 paving. He did not state that the tracks were *not* 8-1/2’ wide, only that he did not *think* they were. He did not provide measurements or any other evidence supporting the allegation that the tracks were less than 8-1/2’ wide prior to the 2006 paving. He did not provide any evidence that the Southwest Driveway was relocated or that the paving otherwise deviated from the route that had existed from Cross Lane to Plaintiff’s cabin since the 1980s. On these facts, the Court cannot find that the 8-1/2’ wide paving was an impermissible expansion of the Southwest Driveway inconsistent with its intended use. See *Zettlemoyer*, 657 A.2d at 924; *Florek*,

493 A.2d at 137.

The Declaration prohibits expansion of easements, but does not prohibit the improvement of easements. If Article VII, § 7.1.7 of the Declaration was intended to prohibit “improvement” of easements, that prohibition could have and would have been clearly stated therein. An “improvement” is “an addition to real property, whether permanent or not; especially one that increases its value or utility or that enhances its appearance.” *Black’s Law Dictionary* 826 (9th ed. 2009). Moreover, the owner of an easement may enter onto the servient estate and make improvements to the easement. See *Florek*, 493 A.2d at 137 (explaining that an easement owner may make improvements on the servient estate consistent with the easement’s use). As explained above, the Declaration created the Easement in favor of Lot 72 over Lot 71 and its intended use was for pedestrian and motor vehicle access to Lot 72 via the Southwest Driveway. Testimony at trial from all the witnesses established that the Southwest Driveway was used for automobile access to the cabin. Paving an easement consisting of a hard packed dirt road intended for pedestrian and motor vehicle access is an addition to real property that increases its value or utility consistent with the easement’s use. See *id.* Therefore, the Court finds the 2006 paving to be an improvement to the Easement over Lot 71 consistent with the use for which the Easement was created: pedestrian and motor vehicle access to Lot 72.

IV. Conclusion.

In conclusion, the Easement permitting Plaintiff access to and use of the Southwest Driveway is enforceable because it was created by express grant in the deeds of both Plaintiff and Defendants in favor of Plaintiff. Plaintiff has not expanded or relocated the Easement.

As a result, Defendants will be enjoined from interfering with Plaintiff’s use and enjoyment of the Easement. Defendants shall remove the posts they installed obstructing the Southwest Driveway within forty (40) days of the entry of this Order.

An Order consistent with this Opinion will be entered.

BY THE COURT,

STEPHEN P. LINEBAUGH, Judge

Date: _____

**ORDER SUSTAINING PLAINTIFF'S
EASEMENT AND PERMANENTLY
ENJOINING DEFENDANTS
FROM INTERFERING WITH
PLAINTIFF'S USE AND
ENJOYMENT OF THE EASEMENT**

AND NOW, this _____ day of _____ 2010, the Defendants John H. McFarland and Kathy L. McFarland are hereby permanently enjoined from interfering with the existing easement created by Article VII, § 7.1.7 of the Declaration of Covenants and Restrictions for Accomac Shores, recorded in the Office of the Recorder of Deeds for York County, Pennsylvania in Record Book 1318 at Page 3824 *et seq.*, over Lot 71 of Accomac Shores as more fully described in Record Book 1727, Page 1718 *et seq.* in favor of Lot 72 of Accomac

Shores as more fully described in Record Book 1331, Page 1013 *et seq.*, owned by Plaintiff Robert J. Willing

Defendants shall remove the posts they installed over the Southwest Driveway within forty (40) days of the entry of this Order.

Copies of this Order and Opinion shall be forwarded to counsel of record.

BY THE COURT,

STEPHEN P. LINEBAUGH, Judge

FOOTNOTES

¹ Although inapplicable to the case at bar, the Court notes that easements may also be created by prescription, *see Koresko v. Farley*, 844 A.2d 607, 612 (Pa. Commw. Ct. 2004), or by implication, *see Bucciarelli v. DeLisa*, 691 A.2d 446, 448-49 (Pa. 1997).

² At trial, Plaintiff, Diane Ditzler, Meriam Maliszewski, Bernard McDevitt, Susan Yohe and Defendant John McFarland all credibly testified that the Southwest Driveway was in existence as a hard packed dirt and stone driveway since and that it was used for vehicular access to Plaintiff's cabin.

³ In the face of overwhelming testimonial and documentary evidence establishing the existence of the Southwest Driveway since the mid-1980s, the Court finds that the existence or absence of a reference to the Southwest Driveway on the 1997 Survey is irrelevant to the issues of whether (1) the Southwest Driveway existed when Plaintiff purchased Lot 72; and (2) whether or not the Southwest Driveway encroached onto Lot 71 when Plaintiff purchased Lot 72.

ESTATE NOTICES**ADMINISTRATOR'S AND
EXECUTORS NOTICES****FIRST PUBLICATION**

IVA E. CRAFT late of Dover Twp., York Co., PA, deceased. Esther J. Miller, 1 Landvale Street, PO Box 415, York Haven, PA 17370, Executrix. Edward A. Stankoski, Jr., Esquire, Attorney. 2-18-3t

KENNETH R. KAUFFMAN late of Springettsbury Twp., York Co., PA, deceased. Barbara K. Garber, 1196 Taxville Road, York, PA 17408, Administratrix. Marc Roberts, Esquire, Attorney. 2-18-3t

WALTER J. KING late of Springettsbury Twp., York Co., PA, deceased. James J. King, c/o 56 S. Duke Street, York, PA 17401-1402, Executor. Richard R. Reilly, Esquire, Attorney. 2-18-3t

HARRY W. KOTTACAMP late of York Twp., York Co., PA, deceased. Beverly J. Burkey, c/o 135 North George Street, York, PA 17401, Executrix. CGA Law Firm, PC. Richard K. Konkel, Esquire, Attorney. 2-18-3t

VIRGINIA R. PANDOLFINO late of York City, York Co., PA, deceased. Catherine C. Sowers, c/o 17 East Market Street, York, PA 17401, Executrix. Blakey, Yost, Bupp & Rausch, LLP. Charles A. Rausch, Esquire, Attorney. 2-18-3t

ANNAMAE SEBRIGHT late of Dillsburg Borough, York Co., PA, deceased. Raymond K. Sebright and Darylene D. Lehmer, c/o 124 West Harrisburg Street, Post Office Box 310, Dillsburg, PA 17019-0310, Co-Executors. Schrack & Linsenbach Law Offices. Wm. D. Schrack III, Esquire, Attorney. 2-18-3t

VIOLET M. SHAFFER late of Codorus Twp., York Co., PA, deceased. Leslie R. Shaffer a/k/a Leslie R. Shafer, Keith A. Shaffer and Jane A. Stiffler, P.O. Box 312, Stewartstown, PA 17363, Co-Executors. Laura S. Manifold, Esquire, Attorney. 2-18-3t

PEARL M. TOMPKINS late of Lower Chanceford Twp., York Co., PA, deceased. H. Clayton Tompkins and James E. Tompkins, 700 Burkholder Road, Red Lion, PA 17356, Co-Executors. STOCK AND LEADER. Ronald L. Hershner, Esquire, Attorney. 2-18-3t

SECOND PUBLICATION

EVELYN BOYD a/k/a EVELYN MARIE BOYD late of York City, York Co., PA, deceased. Leon Butler, 200 East Market Street, York, PA 17403 and Michael C. Boyd, 231 Chestnut Street, York, PA 17403, Co-Executors. Dorothy Livaditis, Esquire, Attorney. 2-11-3t

JOAN V. BRUBAKER late of Springettsbury Twp., York Co., PA, deceased. Richard H. Mylin, III, c/o 2025 E. Market Street, York, PA, 17402, Executor. Richard H. Mylin, III, Esquire, Attorney. 2-11-3t

ETHEL P. BUCK a/k/a ETHEL A. BUCK late of Manchester Twp., York Co., PA, deceased. Robert J. Buck, c/o 120 Pine Grove Commons, York, PA 17403, Executor. Elder Law Firm of Robert Clofine. Robert Clofine, Esquire, Attorney. 2-11-3t

GLENN E. CHRONISTER late of Washington Twp., York Co., PA, deceased. Holly N. Carney a/k/a Holly N. Hoover, c/o 2025 E. Market Street, York, PA 17402, Executrix. Richard H. Mylin, III, Esquire, Attorney. 2-11-3t

WALTER J. FAHS late of Manchester Twp., York Co., PA, deceased. Julie Fahs, c/o 129 East Market Street, York, PA 17401, Executrix. Griest, Himes, Herrold, Schaumann, Ferro LLP. John C. Herrold, Esquire, Attorney. 2-11-3t

THELMA A. HILBERT a/k/a THELMA HILBERT late of Dover Twp., York Co., PA, deceased. Joseph R. Hilbert, Jr., c/o 40 South Duke Street, York, PA 17401-1402, Executor. Garber & Garber. John M. Garber, Esquire, Attorney. 2-11-3t

GEORGE F. HUNTER late of Shrewsbury Twp., York Co., PA, deceased. Frederick Christopher Hunter a/k/a Christopher Fred Hunter, c/o 135 North George Street, York, PA 17401, Executor. CGA Law Firm, PC. Michelle Pokrifka, Esquire, Attorney. 2-11-3t

KENNETH L. KALTREIDER late of Codorus, York Co., PA, deceased. Richard L. Kaltreider and Thomas C. Kaltreider, c/o 119 West Hanover Street, Spring Grove, PA 17362, Co-Executors. Craig A. Diehl, Esquire, CPA. 2-11-3t

JOHN WEBSTER NESS late of Spring Grove Borough, York Co., PA, deceased. Eric Hoffman, c/o 135 North George Street, York, PA 17401, Executor. CGA Law Firm, PC. Jeffrey L. Rehmeier II, Esquire, Attorney. 2-11-3t

NEAL M. PANZARELLA late of Shrewsbury Borough, York Co., PA, deceased. Neal A. Panzarella, c/o 56 S. Duke Street, York, PA 17401-1402, Executor. Richard R. Reilly, Esquire, Attorney. 2-11-3t

BETTY R. POET late of North York Borough, York Co., PA, deceased. Patrice M. Poet, 8 N. 4th Street, P.O. Box 216, Mt. Wolf, PA 17347-0216, Executrix. Stacey R. MacNeal, Esquire, Attorney. 2-11-3t

RAYMOND RIVERA late of Jackson Twp., York Co., PA, deceased. Beth Ann Rivera, c/o 129 East Market Street, York, PA 17401, Executrix. Griest, Himes, Herrold, Schaumann, Ferro LLP. Suzanne H. Griest, Esquire, Attorney. 2-11-3t

GENE S. SWARTZ late of Dover Twp., York Co., PA, deceased. Stanley E. Swartz, 126 Young Ave., Coopersburg, PA 18036, Executor. John W. Stitt, Esquire, Attorney. 2-11-3t

LEWIS H. THOMAN late of North Codorus Twp., York Co., PA, deceased. Roy W. Thoman, 3061 Markle Rd., York, PA 17408, Executor. John W. Stitt, Esquire, Attorney. 2-11-3t

GERALD E. VASELLAS late of West Manchester Twp., York Co., PA, deceased. Betty L. Hatterer, c/o 1946 Carlisle Road, York, PA 17408, Executrix. John M. Hamme, Esquire, Attorney. 2-11-3t

EDWARD B. WAGMAN late of Spring Garden Twp., York Co., PA, deceased. Edward B. Wagman, Jr. and John F. Wagman, 2400 Sutton Road, York, PA 17403, Co-Executors. STOCK AND LEADER. Thomas M. Shorb, Esquire, Attorney. 2-11-3t

MURIEL R. WILLIAMS late of Springettsbury Twp., York Co., PA, deceased. Linda S. Lopez, c/o 117 E. Market St., York, PA 17401, Executrix. Anstine & Sparler. William B. Anstine, Jr., Esquire, Attorney. 2-11-3t

ELEANOR N. ZEIGLER late of Spring Garden Twp., York Co., PA, deceased. William S. Tokar, 1112 Shady Dell Road, Thomasville, PA 17364, Executor. Timothy W. Misner, Esquire, Attorney. 2-11-3t

THIRD PUBLICATION

SHIRLEY A. BAKER late of West Manchester Twp., York Co., PA, deceased. Pamela J. Jackson, 37 Chesapeake Estates, Thomasville, Pennsylvania 17364, Executrix. Joseph C. Korsak, Esquire, Attorney. 2-4-3t

DIANE F. BERWAGER late of Penn Twp., York Co., PA, deceased. Gary S. Peklo, 3685 Park Ave., Ellicott City, MD 21043, Executor. G. Steven McKonly, Esquire, Attorney. 2-4-3t

URSULA IRMA MARGARET BOETZELEN late of Spring Garden Twp., York Co., PA, deceased. Marc Roberts, 149 East Market Street, York, PA 17401, Executor. Marc Roberts, Esquire, Attorney. 2-4-3t

ALMEDA G. BOYD late of Dallastown Borough, York Co., PA, deceased. Bonnie L. Keller, c/o 120 Pine Grove Commons, York, PA 17403, Executrix. Elder Law Firm of Robert Clofine. Robert Clofine, Esquire, Attorney. 2-4-3t

HELEN M. BURKE late of Chanceford Twp., York Co., PA, deceased. Patsy A. Burke and Reynold L. Burke, c/o 2997 Cape Horn Rd., Suite A-6, Red Lion, PA 17356, Executors. Eveler & Eveler LLC, Attorney. 2-4-3t

CAROLYN S. CAGLE late of Spring Grove Borough, York Co., PA, deceased. Karen S. Leland, c/o 29 East Philadelphia Street, York, PA 17401, Administratrix. Blake & Gross, LLC. Kurt A. Blake, Esquire, Attorney. 2-4-3t

RUTH E. CAROTHERS late of North Hopewell Twp., York Co., PA, deceased. Teresa Ann Breneman, c/o 2997 Cape Horn Rd., Suite A-6, Red Lion, PA 17356, Executrix. Eveler & Eveler LLC, Attorney. 2-4-3t

MILDRED A. COTTINGHAM late of Springettsbury Twp., York Co., PA, deceased. Carol L. Cottingham, 113 Shelbourne Drive, York, PA 17403, Executrix. Gregory H. Gettle, Esquire, Attorney. 2-4-3t

MARY E. EIDEMILLER late of Spring Garden Twp., York Co., PA, deceased. Eileen E. Hevner, c/o 2025 E. Market Street, York, PA 17402, Executrix. Richard H. Mylin, III, Esquire, Attorney. 2-4-3t

CLARA C. HILLEGASS late of West Manchester Twp., York Co., PA, deceased. Larry Lucabaugh, 1885 Shiloh Drive, York, PA 17408 and Nancy Crawford, 703 Harman Avenue, Hanover, PA 17331, Executrices. Gilbert G. Malone, Esquire, Attorney. 2-4-3t

RICHARD PAUL HOETH, JR., a/k/a RICHARD P. HOETH, JR. late of Manchester Twp., York Co., PA, deceased. Richard Paul Hoeth, Sr., & Joann Hoeth, 5250 Board Road, Mt. Wolf, PA 17347, Executors. Martin Miller, Esquire, Attorney. 2-4-3t

TERRY LEE INGRAM late of Mount Wolf Borough, York Co., PA, deceased. Edward P. Seeber, Suite C-400, 555 Gettysburg Pike, Mechanicsburg, PA 17055, Administrator. James, Smith, Dietterick & Connelly, LLP. Edward P. Seeber, Esquire, Attorney. 2-4-3t

ALICE L. KELLY late of Fairview Twp., York Co., PA, deceased. Craig A. Kelly and Sharon K. Kelly, c/o 3901 Market Street, Camp Hill, PA 17011-4227, Co-Executors. COYNE & COYNE, P.C. Lisa Marie Coyne, Esquire, Attorney. 2-4-3t

MAX L. KIRK a/k/a MAXIE LEE KIRK late of Springettsbury Twp., York Co., PA, deceased. Jo Ann Kirk, 2565 Durham Road, York, PA 17402, Executrix. Rhoads & Sinon LLP. Stanley A. Smith, Esquire, Attorney. 2-4-3t

MIRIAM A. KRONK late of Springettsbury Twp., York Co., PA, deceased. Gregory E. Moul, 2461 Wyndhurst Court, York, PA 17408, Executor. John L. Senft, Esquire, Attorney. 2-4-3t

CARLYN L. MCDONALD late of York Co., PA, deceased. PNC Bank, N.A., P.O. Box 21257, Baltimore, MD 21203, Administrator. Susan B. Hughes, VP. 2-4-3t

KARIN E. MCGOWAN late of West Manchester Twp., York Co., PA, deceased. Manufacturers and Traders Trust Company, c/o Anna M. Lamond, Vice President, 21 East Market Street, York, PA 17401, Executor. STOCK AND LEADER. Thomas M. Shorb, Esquire, Attorney. 2-4-3t

PEARL V. MICHAEL late of Penn Twp., York Co., PA, deceased. Diane L. Betlyon and Nancy E. Swords, c/o 515 Carlisle Street, Hanover, PA 17331, Executrices. Elinor Albright Rebert, Esquire, Attorney. 2-4-3t

ROSE V. MORRELL late of York Twp., York Co., PA, deceased. John Morrell, Jr., c/o 1157 Eichelberger Street, Suite 4, Hanover, PA 17331, Executor. Douglas H. Gent, Esquire, Attorney. 2-4-3t

FREDERICK J. ORENDORFF late of Spring Garden Twp., York Co., PA, deceased. George E. Kroll, c/o 2997 Cape Horn Rd., Suite A-6, Red Lion, PA 17356, Executor. Eveler & Eveler LLC, Attorney. 2-4-3t

ARLENE B. PEFFER late of West Manchester Twp., York Co., PA, deceased. Wesley S. Pepper, 2760 St. Andrews Way, York, PA 17404, Executor. Ronald Perry, Esquire, Attorney. 2-4-3t

MAE A. PETERS late of York City, York Co., PA, deceased. Gregory A. Peters and Judith M. Perago, c/o 3501 Kimberly Lane, Dover, PA 17356, Co-Executors. Gregory H. Gettle, Esquire, Attorney. 2-4-3t

RONALD L. ROWLAND late of Jackson Twp., York Co., PA, deceased. Jack R. Rowland, c/o 25 North Duke Street, York, PA 17401, Administrator. SMITH, ANDERSON, BAKER & LONG. Charles J. Long, Esquire, Attorney. 2-4-3t

LOUELLA M. SENFT late of Spring Grove, York Co., PA, deceased. James B. Senft, c/o 3464 Trindle Road, Camp Hill, PA 17011, Executor. Craig A. Diehl, Esquire, Attorney. 2-4-3t

MARGARET FRANCES SEREDYCH late of Springettsbury Twp., York Co., PA, deceased. James A. Holtzer, 135 North George St., Ste. #213, York, PA 17401, Executor. James A. Holtzer, Esquire, Attorney. 2-4-3t

LINDA I. STAUCH late of New Salem Borough, York Co., PA, deceased. Donald E. Stauch, c/o 135 North George St., Ste. #213, York,

PA 17401, Executor. James A. Holtzer, Esquire, Attorney. 2-4-3t

GRACE L. STOKES late of York City, York Co., PA, deceased. Yvonne A. Washington, c/o 3015 Eastern Boulevard, York, PA 17402, Administratrix. Donald L. Reihart, Esquire, Attorney. 2-4-3t

RUTH M. STOUGH late of York Twp., York Co., PA, deceased. Stephen S. Stough and John C. Stough, c/o 135 North George Street, York, PA 17401, Co-Executors. CGA Law Firm, PC. Timothy J. Bupp, Esquire, Attorney. 2-4-3t

DONALD H. WALTER late of Penn Twp., York Co., PA, deceased. Donna T. Keith, 29 Timber Lane, Hanover, PA 17331 and Sandra M. Blocher, 455 Bankert Road, Hanover, PA 17331, Executrices. Guthrie, Nonemaker, Yingst & Hart. Keith R. Nonemaker, Esquire, Attorney. 2-4-3t

KENNETH H. WELSH late of Penn Twp., York Co., PA, deceased. Robert A. Zorbaugh, 195 W. Hoke St., Spring Grove, PA 17362 and Helen R. Zorbaugh, 195 W. Hoke St., Spring Grove, PA 17362, Executors. Guthrie, Nonemaker, Yingst & Hart. Matthew L. Guthrie, Esquire, Attorney. 2-4-3t

CIVIL NOTICES

ARTICLES OF INCORPORATION

NOTICE is hereby given that Articles of Incorporation were filed with the Commonwealth of Pennsylvania.

The name of the corporation is JA SERVICES, INC.

The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

STONESIFER & KELLEY, P.C.

2-18-1t Solicitor

NOTICE is hereby given that Articles of Incorporation were filed with the Commonwealth of Pennsylvania.

The name of the corporation is KNAUB LAW, P.C.

The corporation has been incorporated under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania Act of December 22, 1988.

RANDALL KNAUB

2-18-1t Solicitor

CHANGE OF NAME

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

NOTICE is hereby given that on February 3, 2010, a Petition for Change of Name was filed in the Court of Common Pleas of York County, Pennsylvania, requesting a decree to change the name of BRITTANY ZEA ROBERTSON-PHILLIPS to BRITTANY ZEA ROBERTSON.

The Court has fixed the 24th day of March, 2010 at 9:00 A.M. in Courtroom No. 6, York

County Judicial Center, 45 North George Street, York, 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 said Petition should not be granted.

AUDREY E. WOLOSHIN, Esquire

2-18-1t Attorney for Petitioner

NOTICE is hereby given that on February 3, 2010, a Petition for Change of Name was filed in the Court of Common Pleas of York County, Pennsylvania, requesting a decree to change the name of ZACHARY EUGENE ROBERTSON-PHILLIPS to ZACHARY EUGENE ROBERTSON.

The Court has fixed the 24th day of March, 2010 at 9:15 A.M. in Courtroom No. 6, York County Judicial Center, 45 North George Street, York, 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 said Petition should not be granted.

AUDREY E. WOLOSHIN, Esquire

2-18-1t Attorney for Petitioner

FICTITIOUS NAME

NOTICE is hereby given that on February 3, 2010 an application for registration was filed under the Fictitious Name Act of 1982-295 (54 PA. C.S. Sec. 311) in the Office of the Secretary of the Commonwealth of Pennsylvania, setting forth that 338 S. Front Street, Inc., is the corporation owning or interested in a business, the character of which is operation of a bar and restaurant, the name, style and designation under which said business is and will be conducted is RIVERFRONT BAR AND LOUNGE, and the location where said business is and will be conducted is 338 S. Front St., Wrightsville, PA 17368.

L.C. HEIM

2-18-1t Solicitor

NOTICE

RICHARD C. SLOAT, JR. and DOROTHY SLOAT, husband and wife, Plaintiffs vs. ULICES ARCEO, Defendant

No. 2008-SU-006228-01

NOTICE

TO: ULICES ARCEO, 25 East Third Avenue, Spring Grove, PA 17362
ULICES ARCEO, 600 East Market Street, Apartment #1, York, PA 17403

TAKE NOTICE that on the 18th day of December 2008, Richard C. Sloat, Jr. and Dorothy Sloat filed suit by Writ of Summons against the above-named Defendant in an action for personal injuries sustained following a motor vehicle accident which occurred on January 21, 2007, captioned to No. 2008-SU-006228-01.

NOTICE TO DEFEND

If you wish to defend, you must take action within twenty (20) days after the date of this publication by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections. 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 the relief requested by Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER 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.

LAWYER REFERRAL SERVICE OF THE YORK COUNTY BAR ASSOCIATION
YORK COUNTY BAR CENTER
137 EAST MARKET STREET
YORK, PENNSYLVANIA 17401
TELEPHONE: (717) 854-8755

MARTZ & GAILEY, LLP

DAVID W. MOELLMAN, Esquire
96 South George Street
York, PA 17401
(717) 852-8379

2-18-1t

Attorneys for Plaintiffs

PUBLIC NOTICE TO CHARLES CARTER

IN RE: ADOPTION OF TAMMY SUE CARTER, A MINOR

A petition has been filed asking the Court to put an end to all rights you have as a parent to your child, TAMMY SUE CARTER. An Involuntary Termination of Parental Rights Hearing has been scheduled for March 30, 2010, at 9:30 a.m., in Court Room No. 12, of the York County Judicial Center, 45 North George Street, York, Pennsylvania, to terminate your parental rights to TAMMY SUE CARTER (DOB 09/23/03), whose putative Father is Charles Carter and whose Mother is Jennifer Lynn Stough. You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the Court without your being present. You have a right to be represented at the hearing by a lawyer. You should take this paper to your lawyer at once. if you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

TERRY R. BAKER
Family Court Administrator
York County Court of Common Pleas
York County Judicial Center
45 North George Street
York, Pennsylvania 17401
Telephone No. (717) 771-9360

MARTIN MILLER, Esquire

Solicitor for York County Children and Youth Services

2-11-3t

LEGAL SECRETARY/ PARALEGAL:

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