

LEGAL NOTICES, cont.

ROBERT KIRK  
—VS—  
CHARLES J. McCLEARY,  
BETTY B. McCLEARY,  
and ROBERT C. McCLEARY  
ATTY: John F. Nelson

ALL that certain following real estate lying and being situate in Guilford Township, Franklin County, Pennsylvania, bounded and limited as follows:

BEGINNING at a post on the north side of the former Lincoln Highway, now Legislative Route 28087, in the Village of Fayetteville at corner of lands of Shirley E. Kendle; thence along lands of Shirley E. Kendle, North 17 degrees East, 13.8 perches to a post at lands now or formerly of Frank Heintzelman; thence along lands now or formerly of Frank Heintzelman, North 71½ degrees West, 43 feet to a post at lands of Donald H. Sharrah and Sharon A. Sharrah, his wife; thence along lands of Donald H. Sharrah and Sharon A. Sharrah, his wife, South 16¼ degrees West, 13.9 perches to a post; thence along Legislative Route 28087, 41½ feet to the place of beginning. CONTAINING thirty-five (35) perches, neat measure.

BEING THE SAME REAL ESTATE which Richard R. Reasner, Jr. and Phyllis J. Reasner, his wife, by deed dated the 2nd day of March, 1979, and recorded among the Deed Records of Franklin County, Pennsylvania, in Deed Book Volume 784, Page 15, conveyed to Robert Kirk. Being the same real estate conveyed by Robert Kirk to Charles J. McCleary and Betty B. McCleary, his wife, and Robert C. McCleary, by deed dated May 22, 1979, and recorded in Franklin County Deed Book Volume 789, Page 194.

BEING sold as the property of Charles J. McCleary, Betty B. McCleary, and Robert C. McCleary, Writ No. AD 1984-205.

TERMS

As soon as the property is knocked down to a purchaser, 10% of the purchase price plus 2% Transfer Tax or 10% of all costs, whichever may be the higher, shall be delivered to the Sheriff. If the 10% payment is not made as requested, the Sheriff will direct the auctioneer to resell the property.

The balance due shall be paid to the Sheriff by NOT LATER THAN Monday, October 21, 1985, at 4:00 P.M. Otherwise all money previously paid will be forfeited and the property will be resold on Friday, October 25, 1985, at 1:00 P.M. in the Franklin County

LEGAL NOTICES, cont.

Courthouse, 3rd Floor, Jury Assembly Room, Chambersburg, Franklin County, Pennsylvania, at which time the full purchase price or all costs, whichever may be higher, shall be paid in full.

Raymond Z. Hussack,  
Sheriff  
Franklin County,  
Chambersburg, PA.

9-13, 9-20, 9-27

IN THE COURT OF COMMON PLEAS  
OF THE 39TH JUDICIAL DISTRICT  
OF FRANKLIN COUNTY,  
PENNSYLVANIA —  
ORPHANS' COURT DIVISION

The following list of Executors, Administrators and Guardian Accounts, Proposed Schedules of Distribution and Notice to Creditors and Reasons Why Distribution cannot be Proposed will be presented to the Court of Common Pleas of Franklin County, Pennsylvania, Orphans' Court Division for CONFIRMATION: October 3, 1985.

KENNEDY, III First and final account, statement of proposed distribution and notice to the creditors of George F. Kennedy, Jr., administrator of the estate of George F. Kennedy, III, late of Antrim Township, Franklin County, Pennsylvania, deceased.

Glenn E. Shadle  
Clerk of Orphans' Court  
of Franklin County, PA  
9-6, 9-13, 9-20, 9-27

NOTICE

Notice is hereby given that on September 3, 1985, the petition of Amanda Michelle Hovermale, a minor, by Lydia V. Wittman, her guardian, was filed in the Court of Common Pleas of the 39th Judicial District of Pennsylvania, Franklin County Branch, praying for a decree to change the name of said minor to Amanda Michelle Hovermale Wittman.

The Court has fixed October 10, 1985, at 9:30 A.M., in Courtroom No. 1, 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 said petition should not be granted.

GRAHAM AND GRAHAM  
314 Chambersburg Trust Co.  
Chambersburg, PA 17201  
9-13, 9-20, 9-27, 10-4

ORDER OF COURT

December 28, 1984, the defendants' demurrer is overruled. The defendants are given twenty (20) days from this date to file an answer to the complaint.

SANDERS V. SANDERS, C.P. Franklin County Branch, No. F.R. 1983 - 634-D

*Divorce - Local Rule 39-1801*

1. Where defendant does not agree to a §201(c) divorce, and plaintiff intends to file under §201(d) when that cause of action comes into being, the Court will grant an extension under Local Rule 39-1801.

2. Local Rule 39-1801 is for the convenience of the court and does not necessarily confer any right on the other party and this is especially true where the other party cannot show any damage by an extension.

*William H. Kaye, Esq., Counsel for Plaintiff*

*David S. Keller, Esq., Counsel for Defendant*

OPINION

EPPINGER, P.J., January 8, 1985:

On January 4, 1985, Carol Ann Sanders, plaintiff, filed a motion to extend the time in which to file a certificate of readiness to try the case under 39th Jud. Dist. R. Jud. Adm. 39-1801 et seq. In a divorce action a certificate of readiness has been interpreted to mean the presentation of an issue to a master or to the court for action.

In the motion, plaintiff's attorney states that under the Divorce Code, 23 P.S. 101 et seq., a section 201(d) cause of action can be filed after June 11, 1985. Defendant will not agree to a §201(c) divorce. Plaintiff argues that if the case is dismissed, a new action will be filed in June, 1985, with the attendant additional costs.

The defendant, Robert Walter Sanders opposes the extension, saying that the present complaint does not state a §201(d) cause of action, so the period of separation is not relevant.

Local Rule 39-1801 was adopted to promote the prompt disposition of cases. Extensions of time may be granted, but only where good cause is shown. When an extension is granted, the court must set a new time limit. 39th Jud. Dist. R. Jud. Adm. 39-1801.5

Prompt disposition of cases and the objectives of good court administration are not achieved by promoting multiplicity of suits. So where a plaintiff has alleged a §201(c) divorce and it cannot proceed, we believe that it is a good cause for the extension of time if in the request for such extension the plaintiff alleges a §201(d) cause will come into being on a particular date. An extension of time granted for a reasonable period beyond that date meets the objectives of Rule 39-1801.

In such cases, the Prothonotary is in a position to advise the court when the new date has passed, and if action has not been taken within the time limit, the case can then be dismissed or other action taken.

The rule is for the convenience of the court and does not necessarily confer any right on the other party, and this is particularly so where the other party cannot show that he has been in any way disadvantaged by the extension. An extension will not harm the defendant because in this case a new cause of action could be filed to bring a §201(d) divorce action.

We will make an order in the usual form.

UNGER v. UNGER, C.P. Franklin County Branch, Volume 7, Page 298, In Equity

*Equity - Constructive Trust - Confidential Relationship - Husband and Wife*

1. A constructive trust may arise against one who has been unjustly enriched.
2. A constructive trust may arise from a breach of confidential relationship by the transferee, or out of circumstances evidencing fraud, duress, undue influence or mistake.
3. A close family relationship per se does not create a confidential relationship; however, where one spouse occupies a position that reasonably inspires confidence in the other as to his good faith, a confidential relationship exists.



13 West Main St.  
P.O. Drawer 391  
717-762-8161



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