

## LEGAL NOTICES, cont.

veyed, as shown on a plan of lots hereinafter referred to; thence along said lands now or formerly of Dice, North 48 degrees 59 minutes 30 seconds East, 420.26 feet to an existing iron pin; thence along same, North 46 degrees 42 minutes 52 seconds East, 846.14 feet to an existing post on line of lands now or formerly of Clyde Lehman; thence along same, South 39 degrees 09 minutes 15 seconds East, 619.31 feet to an existing iron pin at corner post at corner of lands now or formerly of John J. Bricker; thence along same, South 26 degrees 43 minutes 52 seconds West, 1,091.45 feet to an iron pin at corner of Parcel "D" on said plan; thence along same, North 71 degrees 02 minutes 50 seconds West, 240.02 feet to

an iron pin; thence along same, North 76 degrees 23 minutes 11 seconds West, 318.18 feet to an iron pin; thence along same, South 64 degrees 42 minutes 56 seconds West, 50.00 feet to an iron pin; thence along same, North 28 degrees 17 minutes 04 seconds West, 533.71 feet to an iron pin at corner common to lands now or formerly of Glenn D. Dice, Parcel "D" and the tract hereby conveyed, being the place of beginning.

CONTAINING 23.973 acres, and BEING Parcel "C" as per survey of Dougal & McCans, Inc., Registered Surveyors, dated August 14, 1984, which, together with the necessary municipal approvals, is recorded in Franklin County Deed Book Volume 288C, Page 806.

BEING the same real estate which Katherine L. Williamson and Dominique M. Harris, by deed dated June 21, 1985, and recorded in Franklin County, Pennsylvania in Deed Book Volume 912, Page 245 conveyed to Dominique M. Harris and Roosevelt Harris, her husband.

UNDER AND SUBJECT to conditions, restrictions, reservations, rights-of-way and easements of prior record and as more particularly set forth in Franklin County Deed Book Volume 917, Page 180.

BEING sold as the properties of Roosevelt Harris and Dominique M. Harris, Writ No. AD 1987-252.

### SALE NO. 11

Writ No. AD 1986-323 Civil 1988

Judg. No. AD 1986-323 Civil 1988

The Lomas and Nettleton Co.

—VS—

Ronald L. Paetow and Barbara A. Paetow

Atty: Leon P. Haller

ALL THAT CERTAIN following described real estate lying and being situate in Guilford Township, Franklin County, Pennsylvania, bounded and described as follows, to wit:

BE GINNING at an iron pin on the Eastern side of Harbo Road at corner common to this lot and Lot No. 3 in Section E on plan of lots to which reference is hereinafter made; thence in the property line on the eastern side of said Harbo Road, north 0 degrees 21 minutes 35 seconds East 100 feet to an iron pin on the eastern side of said Harbo Road at a corner common to this lot and Lot No. 5 in Section E; thence by the line of Lot No. 5 in Section E, South 74 degrees 23 minutes 35 seconds west 100 feet to an iron pin at corner common to this lot and Lot No. 3 in said Section E; thence by the line of Lot No. 3 in Section E North 74 degrees 37 minutes west 114.35 feet to the iron pin at the place of beginning, being and intended to be all of Lot No. 4 in Section E on a certain plan of lots of Guilford Hills East, subdivision, Guilford Township, Franklin County, Pennsylvania, surveyed for Harbo, Inc., January 7-29, 1959 by John H. Atherton, R.E. which plan is of record among the records of the Recorder of Deeds of Franklin County, Pennsylvania in Drawer 7, the courses of which have been redetermined by survey of William Lewis Arrowood, R.E., under date of March 14, 1962.

Being known as 40 Harbo Road, Chambersburg, PA 17201.

Being the same premises which Donald H. Long and D. Nadine Long, his wife, by their deed dated September 30, 1985, and recorded October 3, 1985 in the Recorder's Office of Franklin County, Pennsylvania in Record Book 940, Page 585, granted and conveyed unto Ronald L. Paetow and Barbara A. Paetow.

Seized in Execution as the property of Ronald L. Paetow and Barbara A. Paetow under Franklin County Judgement No. AD 1986-323.

### 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, May 2, 1988 at 4:00 P.M., prevailing time. Otherwise all money previously paid will be forfeited and the property will be resold on

## LEGAL NOTICES, cont.

May 6, 1988 at 1:00 P.M., prevailing time in the Franklin County 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

3/25, 4/1, 4/8

### NOTICE

Notice is hereby given that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on the 29th day of February, 1988, for the purpose of obtaining a certificate of incorporation under the Commonwealth of Pennsylvania Business Corporation Law approved May 5, 1933, P.L. 364 as amended, is EUBEK CORP., 15 Pen Mar Street, Waynesboro, PA 17268.

The purpose for which the corporation has been organized is to engage in and to do any lawful acts concerning any or all lawful business for which corporations may be incorporated under the Business Corporation Law of the Commonwealth of Pennsylvania.

STEPHEN E. PATTERSON

Patterson, Kaminski,

Keller & Kiersz

239 East Main St.

Waynesboro, PA 17268

4/1/88

NOTICE IS HEREBY GIVEN that Articles of Incorporation have been filed with the Department of State of the Commonwealth of Pennsylvania at Harrisburg, Pennsylvania on February 24, 1988, for the purpose of obtaining a certificate of incorporation. The name of the proposed corporation organized under the Commonwealth of Pennsylvania Business Corporation Law approved May 5, 1933, P.L. 364, as amended, is INDUSTRIAL AUTOMATION TECHNOLOGIES, INC. The purpose for which the corporation has been organized is to manufacture, distribute, and market automation products and any other lawful purpose for which corporations may be incorporated under the Business Corporation Law of the Commonwealth of Pennsylvania.

Martin and Kornfield

17 North Church Street

Waynesboro, PA 17268

4/1/88

not be set aside is made absolute, and the writ of execution is set aside. Defendants' motion to open judgment is denied. Respondent-plaintiff is granted leave to proceed in accordance with Pa. R.C.P. Nos. 2981 et seq., if he elects to do so.

Exceptions granted to plaintiff and defendants.

ANCHOR MOTOR FREIGHT v. NATIONAL FREIGHT, INC.,  
C.P. Fulton County Branch, No. 159 - 1985 - C

*Vehicle Accident - Violation of Statute - Contributory Negligence*

1. The violation of a statute may be prima facie evidence of negligence which may be accepted or rejected according to all of the evidence.
2. The burden of proving contributory negligence of the plaintiff is on the defendant.
3. The mere fact road conditions were poor due to a snow storm does not render plaintiff contributorily negligent by proceeding slowly using his four-way flashers.

*William F. Douglas, Esquire, Counsel for Plaintiffs*

*Joseph P. Green, Esquire, Counsel for Defendants*

WALKER, J., October 20, 1987:

This matter was heard by the court without a jury, and an award was entered for the plaintiff in the amount of \$15,201.38. The verdict was molded by the court pursuant to Pa. R.C.P. No. 238 to include delay damages. As allowed by Pa. R.C.P. No. 227.1 the defendant has filed a motion for post-trial relief. The motion requests that the award in favor of the plaintiff be reversed. The defendant contends that the record contains insufficient evidence to find the defendant negligent, or in the alternative, that the plaintiff's operator should be found contributorily negligent. This court does not agree with the defendant, and denies the defendant's motion for post-trial relief.

This lawsuit is the result of the collision of two tractor/trailer units on March 8, 1984. There had been a snow storm earlier in the day, and the driving conditions were less than ideal. The tractor/trailer owned by the plaintiff was cautiously proceeding at a slow speed up an incline in the eastern direction of Interstate 70 near

Exit 31. The plaintiff's vehicle had its lights on and was using its four-way flashers. As the defendant's tractor/trailer was approaching the plaintiff's tractor/trailer from the rear, a passenger vehicle was passing both tractor/trailer units. The defendant's unit was not able to slow down, and unable to change lanes due to the presence of the passenger vehicle. The front of the defendant's unit made contact with the left-rear of the plaintiff's trailer and cargo unit, thus providing the impetus of this lawsuit.

It is generally accepted that the violation of a statute may be prima facie evidence of negligence which may be accepted or rejected according to all of the evidence. *Prosser and Keeton on Torts* §36, at 230 (5th ed. 1984). In the present case, the defendant has violated at least two provisions of the Vehicle Code. 75 Pa. Con. Stat. Ann §§3361, 4305 (Purdon 1977). Section 4305 mandates that the operator of a vehicle shall "exercise extraordinary care in approaching . . . a vehicle displaying vehicular hazard warning signals [four-way flashers]." The plaintiff's vehicle was displaying four-way flashers when the defendant's vehicle approached from the rear and made contact with the plaintiff's vehicle. Section 3361 charges all drivers to operate their vehicle in a manner so that the vehicle may be stopped within the "assured clear distance ahead." The defendant's vehicle was not able to come to a stop before making contact with the plaintiff's vehicle. Through trial testimony, the plaintiff has made a prima facie showing of the defendant's negligence.

A case dealing with another winter-time accident is *Kralik v. Cromwell*, 435, Pa. 613, 258 A. 2d 654(1969). The court in *Kralik* held that once the plaintiff had established a prima facie case of negligence the burden was upon the defendant to come forward with credible evidence to exculpate himself from blame. *Id.* at 618, 258 A.2d at 657. Any evidence brought forward by the defendant would be considered with all the other evidence by the fact-finder in determining the question of negligence. In the present case, the defendant has not produced exculpatory evidence.

The defendant also asks the court to find that the plaintiff's operator was contributorily negligent. The court declines to do so. The defendant alleges that in the testimony of the plaintiff's operator, the operator has indicated that he acted in a careless manner by the very act of driving on the highway. However, the defendant has not mentioned by what standard the actions of the plaintiff's operator are to be judged contributorily negligent. The restatement provides that the standard of conduct to which

plaintiff's operator must conform is "that of a reasonable man under like circumstances." *Restatement (Second) of Torts*, §464 (1965). Prosser informs us that "[a]ll courts now hold that the burden of pleading and proof of the contributory negligence of the plaintiff is on the defendant." *Prosser and Keeton, supra*, §65, at 451. The defendant in the instant case has not shown that by electing to remain on the highway and proceed with caution, the plaintiff's operator acted differently than "a reasonable man under like circumstances."

Based upon the foregoing discussion, the defendant's motion for post-trial relief is hereby denied.

#### ORDER OF COURT

October 20, 1987, the defendant's motion for post-trial relief is denied.

BUSHEY v. BUSHEY, C.P. Adams County, No. DR 502-86, File No. 4311

#### *Support - Voluntary Retirement*

1. Each parent has an equal burden to support their child in accord with their earning capacities.
2. Where father does not present any medical evidence that he cannot perform his job or seek a less strenuous assignment from his employer, his retirement is deemed voluntary.
3. Where father stated from a long period prior to divorce that he intended to retire after twenty-five years of service, he may not rely on these statements to justify his reduced income.

*William G. Baughman, Esquire, Attorney for Plaintiff*  
*Clayton R. Wilcox, Esquire, Attorney for Defendant*

KAYE, J.\*, December 3, 1987:

#### OPINION AND ORDER

This matter came before the Court on November 2, 1987 on

\*The Honorable William H. Kaye, Judge, 39th Judicial District of Pennsylvania, specially presiding. - Ed. Note