

Troopers from noon to 12:30 p.m. on April 23, 1983, for offenses occurring at or about mile post 161.0 on the Pennsylvania Turnpike. He also wants the total number of citations issued by the troopers during the hours of 9:45 a.m. to 12:30 p.m. on that date in the same area.

The District Attorney filed an answer denying the relevance of the information and stating that the disclosure of the information is not required by Pa.R.Crim.P. 305. This was followed by a motion of the defendant for a hearing which we deny.

The information which the defendant requests is not discoverable under Rule 305 which applies only to court cases. Historically there is no pretrial discovery in criminal cases. 10A P.L.E. Criminal Law Sec. 447, p. 187; *Comm. v. Wable*, 382 Pa. 80, 86, 114 A2d 334, 338 (1955); *Lewis v. Lebanon Co. Court of Common Pleas*, 436 Pa. 296, 300, 260 A.2d 184, 187 (1969). This was changed when the Supreme Court adopted Rule 305 but discovery under that rule is limited to court cases. A court case is defined in Pa.R.Crim.P. 3 as a case in which one or more of the offenses charged is a misdemeanor, felony or murder of the first or second degree. Before us, however, is a summary case, which is also defined in Rule 3 as being one in which the only offenses charged are summary offenses. The fact that the case is before the court on appeal does not change its nature from a summary case to a court case.

#### ORDER OF COURT

March 2, 1984, the Petition to Compel Discovery is denied.

DODD V. DODD, C.P., Franklin County Branch, No. F.R. 1981 - 234-S

#### *Support - Separation Agreement - Amendment*

1. Where a separation agreement provided for support payments with the issue of child support to be submitted to the Court by Stipulation and Agreement and an appropriate order entered thereon, until further Order of Court, the Court has authority to amend the Order.

2. *Millstein v. Millstein and Brown v. Hall* do not apply where a separation agreement does not cover all aspects of the parties economic relationships.



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## LEGAL NOTICES, cont.

### NOTICE OF ELECTION TO DISSOLVE KEYLAND, INC.

NOTICE IS HEREBY GIVEN that Keyland, Inc., a Pennsylvania Corporation, having its registered office at Mercersburg, Franklin County, has filed a Certificate of Election to Dissolve with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, pursuant to and in accordance with the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania approved May 5, 1933, as amended and that the said Corporation is winding up its affairs in the manner prescribed by law, so that its corporate existence shall be ended upon the issuance of a Certificate of Dissolution by the Department of State of the Commonwealth of Pennsylvania.

This 26th day of June, 1984.

Richard L. Durst  
President

Beatrice W. Nicewarner  
Secretary  
7-6, 7-13

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 May 31, 1984, 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 WAYNESBORO KNITWEAR, INC. The purpose for which the corporation has been organized is to have the power to engage in the business of manufacturing clothing and any other lawful purpose for which corporations may be incorporated under the Business Corporation Law of the Commonwealth of Pennsylvania.

MARTIN AND KORNFIELD  
Solicitor  
17 North Church Street  
Waynesboro, PA 17268

7/13/84

## LEGAL NOTICES, cont.

### 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 of Franklin County, Pennsylvania, Orphans' Court Division for CONFIRMATION: August 2, 1984.

BAER First and final account, statement of proposed distribution and notice to the creditors of J. Robert Naer, executor of the estate of A. Evelyne Baer, late of Washington Township, Franklin County, deceased.

CAUFMAN First and final account, statement of proposed distribution and notice to the creditors of The Valley Bank & Trust Company, executor of the estate of Anna Cauffman, late of The Borough of Chambersburg, Franklin County, Pennsylvania, deceased.

LANDIS First and final account, statement of proposed distribution and notice to the creditors of Harold S. Cook, executor of the estate of Joseph H. Landis, late of The Borough of Mercersburg, Franklin County, Pennsylvania deceased.

MCNEW First and final account, statement of proposed distribution and notice to the creditors of The Valley Bank & Trust Company, executor of the estate of Jean R. McNew, late of Fayetteville, Franklin County, Pennsylvania, deceased.  
Glenn E. Shadle  
Clerk of Orphans' Court  
of Franklin County, Pa.

7-6, 7-13, 7-20, 7-27

*Martha B. Walker, Esquire*, Counsel for Plaintiff

*Thomas M. Painter, Esquire*, Counsel for Defendant

## OPINION AND ORDER

EPPINGER, P.J., March 15, 1984:

Thomas N. Dodd filed a petition for modification of a support order dated October 1, 1981, under the terms of which he was to pay Rosaria Ann Dodd, his former wife, the sum of \$264.53 plus service charges on November 2, 1981, and a like sum semi-monthly thereafter for child support. The Domestic Relations Hearing Officer, noting that the defendant's income has decreased materially since the order was made, reduced the payment to \$141 plus service charges semimonthly effective February 1, 1984. Our court approved the Hearing Officer's recommendation on January 25, 1984. Rosaria has appealed.

Rosaria questions the court's authority to make any adjustment in the order for child support. On October 1, 1981, the parties signed a separation agreement. Paragraph number 2 provided that Thomas should pay Rosaria \$122 weekly beginning October 5, 1981, for the support of Margaret E. Dodd and maintain medical and hospitalization insurance. The agreement went on to provide that child support "shall be submitted to the Court by Stipulation and Agreement and an appropriate order entered thereon. . ."

That stipulation and agreement was also dated October 1, 1981, and the \$122 weekly support for Margaret<sup>1</sup> was continued through October, but beginning November 2, 1981, the sum of \$264.33 semimonthly was to be paid and "thereafter until further order of the court". (emphasis added) The stipulation and agreement also pointed out that Thomas was earning approximately \$450 net per week and Rosaria had a weekly earning capacity of \$60.

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<sup>1</sup>All sums exclusive of 50¢ service charge.

Despite Rosaria's protestations that the support order could not be amended because of the holdings of *Millstein v. Millstein*, Pa. Super. \_\_\_\_\_, 457 A.2d 859 (1983), and *Brown v. Hall*, 495 Pa.635, 435 A.2d 859 (1981), the parties agreed that if the order was to be adjusted \$210 semimonthly is the amount Thomas should pay.

The holdings of *Millstein* and *Brown* are that where a separation agreement covers all aspects of the economic relationships of the parties, in a proceeding to modify an order, the agreement would not preclude the court from *increasing* a parent's support obligation but may preclude a court from *decreasing* it. (emphasis in original) *Millstein*, supra, at 1294,1297.

The separation agreement between the parties in this case did not cover all aspects of the economic relationships of the parties. Specifically left open, for a stipulation and agreement, was the matter of child support. In that stipulation and agreement the parties provided that the support agreed upon should continue "until further order of the court." That the stipulation and agreement might be subject to a further order is reflected in the stating of the relative income of the parties, suggesting, so it seems, that should the incomes go up or down, a change in the order would be warranted.

An argument might be made that the stipulation and agreement in this case is the only one contemplated if the separation agreement is read without it. However, the separation agreement refers the issue to a stipulation and agreement which in turn provides for further orders in the matter.

For these reasons *Millstein* and *Brown* do not apply and we will make an order fixing the amount Thomas must pay for the support of Maret at \$210 semimonthly beginning Monday, February 1, 1984.

#### ORDER OF COURT

March 15, 1984, the Order of Court dated January 25, 1984, which incorporated by reference the Order of the Hearing Officer dated January 19, 1984, is amended and Thomas N. Dodd, defendant, shall pay to his wife, Rosaria Ann Dodd, the sum of \$210 and 50¢ service charge on the first and fifteenth of each month commencing February 1, 1984, until further order of court for the support of Margaret E. Dodd, child of the parties. In all other respects the Order of January 25th shall remain in full force and effect.

#### INDUSTRIAL VALLEY BANK & TRUST COMPANY V. FIRST NATIONAL BANK OF GREENCASTLE, C.P. Franklin County Branch, No. A.D. 1983 - 328

*Declaratory Judgment - Security Agreements - Inventory - Purchase Money - Security Interest*

1. For an auto to be classified as inventory under 13 Pa. C.S.A. 9109, it must be held by a dealer for the purpose of resale to a purchaser in the ordinary course of business.
2. The burden is on the party claiming a purchase money security interest to prove he has met the required elements.

#### OPINION AND ORDER

EPPINGER, P.J. April 5, 1984:

Industrial Valley Bank & Trust Company, plaintiff, and the First National Bank of Greencastle, defendant, are both creditors of Cambridge Wreckers, Inc., holding conflicting security interests in a 1984 Chevrolet Corvette possessed by Cambridge on April 29, 1983.

Under agreements made on November 24, 1980, plaintiff periodically made loans to Cambridge to finance the purchase of inventory for its business and retained a security interest in all of Cambridge's inventory and accounts receivable. Plaintiff properly perfected its security interest by filing a financing statement in Bucks County and with the Pennsylvania Department of State.

On May 19, 1983, defendant made a loan to Cambridge for \$24,000 and retained a security interest in the Corvette as evidenced by a note and security agreement entered on the same date. Defendant argues that this security interest qualifies as a purchase money security interest, 13 Pa. C.S.A. 9107, claiming the funds loaned to Cambridge were in fact used to purchase the Corvette.

Cambridge defaulted on both loans. Defendant repossessed the Corvette, and plaintiff instituted this action for declaratory judgment on December 9, 1983. An amended complaint was filed on December 9, 1983. Plaintiff in Count I prays for a judgment declaring the rights, duties, and legal relations of a plaintiff and defendant with regard to who has priority in the Corvette.