

**ADVANCE SHEET**

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**Dauphin County Reporter**

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12th JUDICIAL DISTRICT

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Board of Control of the Harrisburg School District,  
et al. v. Wilson, et al.  
Bar Association Page

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36 Years in Harrisburg

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**Estate Notices**

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**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 CATHERINE E. BOOK, late of Harrisburg, Dauphin County, Pennsylvania. Executrix: Mary Jane Mordan, R.D. #1, Box 313A, Sunbury, PA 17801. Attorney: Wendy S. Tripoli, Esq., Peters and Tripoli, 16 East Market Street, P.O. Box 116, Danville, PA 17821.

n17-d1

ESTATE OF DONALD JACK MILLER, late of Harrisburg, Dauphin County, Pennsylvania. Executrix: Jacqueline Zalek, 3009 Route 147, Millersburg, PA 17061. Attorney: R. Scott Cramer, Esq., P.O. Box 159, Duncannon, PA 17020.

n17-d1

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ESTATE OF ROSE L. STEIN, late of Susquehanna Township, Dauphin County, Pennsylvania (died October 23, 2006). Executrix: Ruth Ann Krug, 1400 Montfort Drive, Harrisburg, PA 17110. Attorney: Jill M. Wineka, Esq., Purcell, Krug & Haller, 1719 North Front Street, Harrisburg, PA 17102.

n17-d1

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ESTATE OF MILDRED A. RUMMEL, late of Elizabethville Borough, Dauphin County, Pennsylvania (died October 9, 2006). Co-Executrices: Carolyn D. Schade, 503 Harrisburg Pike, Dillsburg, PA 17019 and Dorothy R. Daniel, 75 Woodland Terrace, Duncansville, PA 16635. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-5600.

n17-d1

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ESTATE OF ROBERT E. HOKE, late of Upper Paxton Township, Dauphin County, Pennsylvania (died October 19, 2006). Executrix: Melissa H. Hoover, 305 North 3rd Street, Halifax, PA 17032. Attorney: Earl Richard Etzweiler, Esq., 105 North Front Street, Harrisburg, PA 17101. Phone (717) 234-5600.

n17-d1

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ESTATE OF FRANCES J. KLABOE, late of the Borough of Millersburg, Dauphin County, Pennsylvania (died September 28, 2006). Executrix: Rosellen Klaboe Steinhauer, 3380 Armstrong Valley Road, Halifax, PA 17032. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethville, PA 17023.

n17-d1

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**FIRST PUBLICATION**

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**Estate Notices**

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ESTATE OF LOUISE K. VANCE, late of Lower Paxton Township, Dauphin County, Pennsylvania (died September 28, 2006). Co-Executors: Cynthia L. Dixon, 130 E. Lemon Street, Lancaster, PA 17602 and Steward M. Vance, Jr., 4 Jo-Dan Lane, Methuen, MA 01844. Attorney: James G. Morgan, Jr., Esq., Tucker Arensberg, P.C., P.O. Box 889, Harrisburg, PA 17108-0889. n17-d1

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ESTATE OF MARY ALICE HAGUE, late of Susquehanna Township, Dauphin County, Pennsylvania (died October 26, 2006). Co-Executrices: Jean H. Cutler and Ruth Anne Hurst. Attorney: Edward P. Seeber, Esq., Pecht & Associates, PC, 1205 Manor Drive, Suite 200, Mechanicsburg, PA 17055. Phone (717) 766-9431. n17-d1

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ESTATE OF PHYLLIS M. KRAMER, late of the City of Harrisburg, Dauphin County, Pennsylvania. Executor: Ronald C. Kramer, 5620 Devon Drive, Harrisburg, PA 17112-3901. n17-d1

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ESTATE OF WILLIAM F. ZEIDLER, late of Middle Paxton Township, Dauphin County, Pennsylvania (died October 23, 2006). Executor: Douglas Graham Zeidler. Attorney: Bruce J. Warshawsky, Esq., Cunningham & Chernicoff, P.C., 2320 North Front Street, Harrisburg, PA 17110. n17-d1

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ESTATE OF ESTHER M. DOSTALIK, late of Londonderry Township, Dauphin County, Pennsylvania (died October 3, 2006). Executor: William Crick, 940 Colebrook Road, Middletown, PA 17057. Attorney: Jeffrey M. Mottern, Esq., 28 East Main Street, P.O. Box 87, Hummelstown, PA 17036. n17-d1

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**SECOND PUBLICATION**

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ESTATE OF MARGARET E. SCHROY, late of the City of Harrisburg, Dauphin County, Pennsylvania. Executrix: Helena M. Himmelright, 1601 East Chocolate Avenue, Hershey, PA 17033. Attorney: David H. Stone, Esq., Stone LaFaver & Shekletski, P.O. Box E, New Cumberland, PA 17070. n10-n24

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ESTATE OF JUANITA S. HARNER, late of Dauphin County, Pennsylvania. Executor: Robert E. Harner, 112 Almond Drive, Hershey, PA 17033. Attorney: Michael D. Klein, Esq., CeBoeuf, Lamb, Greene & MacRae, LLP, 200 North Front Street, P.O. Box 12105, Harrisburg, PA 17108-2105. n10-n24

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ESTATE OF DONALD O. REQUIST, late of the Township of Susquehanna, Dauphin County, Pennsylvania. Executor: Stephen Zinicola, 4020 Green Street, Harrisburg, PA 17110. Attorney: James M. Bach, Esq., 352 S. Sporting Hill Road, Mechanicsburg, PA 17050. n10-n24

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ESTATE OF MARGARET R. BUFFINGTON, late of Middletown Borough, Dauphin County, Pennsylvania (died October 11, 2006). Executor: John A. Buffington, Jr., 305 Elm Court, Middletown, PA 17057. Attorney: James B. Pannebaker, Esq., Pannebaker & Mohr, P.C., 4000 Vine Street, Middletown, PA 17057. Phone (717) 944-1333. n10-n24

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ESTATE OF HENRY E. BEAVER, late of Swatara Township, Dauphin County, Pennsylvania. Executor: Henry E. Beaver, Jr., Attorneys: Schrack & Linsenbach Law Offices, 124 West Harrisburg Street, Post Office Box 310, Dillsburg, PA 17019-0310. n10-n24

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Rule 1032(a) further provides: “A party waives all defenses and objections which are not presented either by preliminary objection, answer or reply. ...”

While United Water properly raised the statute of limitations as an affirmative defense in its answer with new matter, this defense rests upon a claim of improper service which claim should have been first asserted in a preliminary objection. United Water’s failure to do so amounts to a waiver. *Cox v. Hott*, 371 A.2d 921 (Pa. Super. 1977). United Water’s waiver has the effect of validating plaintiff’s alleged defective form of service. *Id.* As such, service was effective to toll the statute of limitations.

ACCORDINGLY, we enter the following:

ORDER

AND NOW, this 4th day of October, 2006, the defendant’s Motion for Summary Judgment is DENIED.

—————o—————

**Board of Control of the Harrisburg School District, et al. v.  
Wilson, et al.**

**Education — Special Action at Law — Education Empowerment Act —  
Empowerment District — Board of Control — Elected Board — Removal Statute  
— Assessment of Costs — *Supersedeas* — Appeal Bond.**

Plaintiffs/Petitioners filed an amended complaint under the Education Empowerment Act (EEA) to have certain members of the Elected Board of School Directors of the Harrisburg School District removed from office for neglect of duty. The Court, after quoting extensively from its previous Interim Opinion, determined that the Defendants willfully and intentionally chose not to obey a specific resolution enacted by the Control Board, and that such disobedience was a *per se* neglect of duty as a matter of law. By separate orders, the Court directed the Defendants’ immediate removal from public office as School Directors and imposed upon them an assessment for the costs of proceedings incurred by the School District. The Court also directed the Plaintiffs/Petitioners, in consultation with the Mayor, to nominate qualified replacements for appointment to fulfill the Defendants’ unexpired terms of office. Furthermore, the Court denied

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any *supersedeas* which might otherwise accrue to the Defendants, and required a cash Bond of \$100,000.00 before appellate action could be pursued.

1. An Elected Board of School Directors has no discretion to disapprove a tax levy directed by a Special Board of Control. 24 P.S. §6-694.

2. School Directors can be removed from office by a Court of Common Pleas even though they are elected officials because removal statutes predated and were not specifically abrogated by Article VI, Section 7, of the Pennsylvania Constitution.

3. It is the individual duty of each School Director in an Empowerment District under the EEA to personally obey the directives of the Board of Control. The provisions of 24 P.S. §5-508 requiring that resolutions by an Elected Board only need to be passed by a majority vote of the School Directors is inapplicable to an Elected Board in an Empowerment District under the EEA.

Petition for Removal. C.P., Dau. Co., No. 2006 CV 3443. Order of Removal, Order of Nomination and Order of Costs.

*Bruce D. Campbell, Brian P. Gabriel, and Mary C. Barkman,*  
Control Board Special Counsels

*Carl P. Beard,* School Board Special Counsel

*Nathan H. Waters, Jr.,* Solicitor for the Harrisburg School District

CLARK, J., October 9, 2006. – In order to properly illuminate the pertinent issues in this case, we must briefly review the facts that led to our previously issued Interim Opinion (Interim Opinion) dated June 27, 2006 (Docket No. 2006 CV 2489), which Interim Opinion we hereby incorporate by reference into this writing. In that previous writing (Interim Opinion), we discussed in great detail the history of the Education Empowerment Act (EEA) [Act of May 10, 2000, P.L. 44, No. 16, §8.1, as amended 24 P.S. §§17-1701-B – 17-1716-B] and its (Act's) ultimate affirmation by the Pennsylvania Supreme Court. We also discussed the academic history of the Harrisburg School District (School District or District) and how it became an acutely distressed Empowerment District. We refer the reader to that prior Interim Opinion for a more detailed discussion of those complex issues.

We will, however, generally discuss the EEA and review the background facts leading up to the case at bar. The EEA mandates that if the academic test scores in a school district consistently remain extremely low, the Mayor of the city wherein such a school district is located is obligated by law to appoint a Board of Control (Control Board). The Control Board is then given the authority, powers and prerogatives to completely run the affairs of the school district in place of the Elected

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Board of School Directors (Elected Board). However, the Elected Board retains “the power to levy taxes.” We will explain in greater detail exactly what this “power” means, in the total context of the EEA, and several companion provisions of the Public School Code, *inter alia*, 24 P.S. §§6-693, 694 and 695.

In that previous case, which led to the issuance of the Interim Opinion and accompanying Interim Decree, the Control Board of the School District was having significant disagreements with the Elected Board concerning the overall management and operation of the District, especially concerning fiscal issues. In particular, the Elected Board perceived that it was not being given sufficient information before being directed to approve fiscal Resolutions submitted to it (Elected Board) by the Control Board. The Control Board became concerned that the Elected Board would not affirm certain bank loans or pass the 2006-2007 School Tax Levy to fund the Control Board’s Proposed Budget for the School District’s 2006-2007 fiscal school year.

As a result, the Control Board filed suit in this Court to, *inter alia*, compel the Elected Board to affirm the bank loans and pass the Tax Levy, or face removal from office for neglect of duty. The Elected Board was pre-scheduled to vote on the Tax Levy and other critical financial obligations on the evening of June 28, 2006. Therefore, we purposely expedited the scheduling of the necessary Court proceedings prior to that date so the Elected Board members would have the benefit of our legal analysis and rulings prior to casting their votes on such matters.

At those prior proceedings, the Elected Board argued to the Court that since the General Assembly specifically granted it (Elected Board) the power to levy taxes, the Elected Board members had discretion whether or not to approve a tax levy and to also approve or disapprove the other financial obligations of the District. Therefore, it was the contention of the members of the Elected Board that if they (Elected Board) disagreed with or felt that they (Elected Board) were not sufficiently informed about the Control Board’s proposed budget or other financial obligations, they (Elected Board) did not have to approve the tax levy or ratify those other obligations.

We issued our Interim Opinion late in the evening of the same day as the Hearing (June 27, 2006). In it we dismissed the Elected Board’s claims and assertions regarding some sort of a perceived inherent right to disregard the directives of the Control Board pertaining to the ratification of financial obligations which had been already determined

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by the Control Board to be in the best interests of the School District. We stated that to permit the Control Board to set the annual School District Budget and determine the other financial obligations of the District, but give the Elected Board the discretion to not approve the necessary taxes to fund the budget and/or not ratify the other obligations, would create absolute fiscal chaos in the District. We likened it to having two captains on the same ship. Interim Opinion, June 27, 2006, P. 26.

In our Interim Opinion, we gave a detailed interpretation of the authority, powers and prerogatives given by the General Assembly to the Control Board and concomitantly withdrawn from the Elected Board under the EEA. In order to provide the reader with an adequate basis to assess the holdings of this instant Opinion, we will now quote, at some significant length, the salient portions of those prior holdings, as articulated in the Interim Opinion.

*“... As mentioned above, the Control Board in this case was appointed pursuant to the acutely academically distressed provision of the EEA, 24 P.S. §17-1707-B. This statute grants boards of control the following powers:*

*The authority granted to a board of school directors under section 1704-B(a) shall be exercised by the board of control of an education empowerment district certified under this section. The provisions of sections 1705-B(c), (d), (e) and (g), 1706-B and 1708-B(a) shall be applicable to a board of control appointed under subsection (b). The provisions of sections 693, 694, and 695 relating to special boards of control shall apply to a board of control under this section.*

*24 P.S. §1707-B(c). All statutes are in Title 24 and their complete citations are: §17-1704-B, §17-1705-B, §17-1706-B, §6-693, §6-694, and §6-695.*

...

*The Elected Board appears to challenge the right of the Control Board to seek the Court's intervention to force the Elected Board to pass the tax levy and affirmation of bank loans. However, under §694, the General Assembly has*

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*clearly empowered the Control Board to require the Elected Board to pass a tax levy and affirm debts. This section states in relevant part,*

*When the operation of a distressed school district has been assumed by the special board of control, the board of school directors of the district **shall**, upon recommendation and with the approval of the special board of control, levy an additional tax or taxes sufficient to liquidate the indebtedness of the district. . . .*

*24 P.S. §6-694, emphasis added.*

*This language clearly establishes that the Elected Board must raise a tax when the Control Board recommends it. We also note that the rest of §694 grants the Control Board authority to petition the Court of Common Pleas to issue a Writ of Mandamus to force the Elected Board to pass an additional tax.*

*Although there is no tax increase for the 2006/2007 School District fiscal year in the case at bar, we find that if the Elected Board can be compelled to pass an additional tax, it can certainly be compelled to pass its regular tax levy. This is especially true because the Elected Board has an independent duty to pass tax levies to fund the School District. 24 P.S. §6-601.*

*Aside from §694, we also note the general provision listed in §695. We recognize that statutes are sometimes difficult to interpret. Therefore, for the purposes of clarity, we will quote the entire Section, but emphasize the critical portions thereof. This section states,*

***The school directors** of a distressed district may not resign their offices, except with the unanimous consent of the special board of control and shall continue in office, unless removed from office for neglect of duty under the provisions of section 318 of this act by the court of common pleas of the county in which such district or the largest part in area is located, or unless any of such directors are elected to another position not compatible with the*



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*position of school director or are appointed to any position for which there is a requirement that said appointee shall hold no elective office, for the remainder of their terms during the time the district is operated by the special board of control and **shall perform any duties delegated to them by it.** The assumption of control of a distressed school district by the special board of control shall in no way interfere with the regular election or reelection of school directors for the district.*

24 P.S. §6-695, *emphasis added.*

*A careful reading of this statute clearly indicates that interlaced within other language concerning how an elected school director might be allowed to lawfully leave office, is the simple, yet powerful directive, “[the elected school directors] shall perform any duties delegated to them [elected school directors] by it [Control Board].” Id. Thus, the Control Board’s authority is clear. The members of the Elected Board must authorize whatever tax the Control Board directs them to levy and otherwise satisfy the other fiscal obligations of the School District.*

*Finally, as mentioned above, under §693, as soon as a Control Board is created, the Elected Board loses all its authority, powers and prerogatives save the power to levy taxes. Therefore, as also mentioned earlier, the Elected Board does not have the authority, power or prerogative to contest the Control Board’s budget and must fund said budget, notwithstanding any objections they (Elected Board) may have to its content or amount. §693 explicitly states, “the special board of control may require the [elected] board ... to increase tax levies in such amounts and at such times as is permitted by the act to which this is an amendment.” 24 P.S. §6-693(2).*

...

*The elected Board claims that they are entitled to not pass the tax levy because they have not been given “enough information” by the Control Board. Unfortunately, there is no provision in the Public School Code that entitles an Elected Board to any special information that is not avail-*

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*able to the regular public. If the Elected Board wishes to inquire of or even contest the Control Board's budget, they are free to attend public meetings and ask questions like any other citizen."*

Interim Opinion, June 27, 2006, pages 13, 22-25, 27.

We clearly ruled that the Elected Board had no discretion, but had to approve whatever tax levy the Board of Control requested. We worked late into the evening hours on June 27, 2006 to ensure that the Elected Board had the benefit of our ruling prior to its vote. The Interim Opinion was filed with the Prothonotary in the early morning of June 28, 2006, and copies were distributed that day to the parties and their counsels. Our Interim Opinion apparently had some clarifying effect on these pertinent issues, since the Elected Board voted unanimously to affirm the bank loans and pass the tax levy on June 28, 2006. As a result of that vote, the necessity for a hearing on the original Petition for Removal of the members of the Elected Board was rendered moot.

Upon being informed of the unanimous vote, we were hopeful that "peace had returned to the valley." Although we could certainly empathize with the Elected Board upon being informed, via the Interim Opinion, that they (Elected Board) were divested of all discretionary authority, powers and prerogatives, and we could likewise understand that the Elected Board would not likely be too enamored with that situation, we were nevertheless hopeful that they (Elected Board) would accept the rule of law, and fulfill their sworn duty as that duty had been defined by the General Assembly under the provisions of the EEA. Unfortunately, that was not to be ultimately the case, and the aforementioned "peace" was not to be long lived.

In the spring of 2006, the School District's financial advisors recommended that the District consider performing certain financial transactions, commonly referred to as SWAPS and TRANS. For purposes of this Opinion, it is not important to define the exact nature of these rather complex financial transactions, other than to note that such financial undertakings are specifically authorized by the General Assembly to be fiscal vehicles available to school districts to manage their monies in a more efficient fashion, and those same types of transactions had, in fact, been previously undertaken by the School District.

In early July of 2006, the Mayor of the City of Harrisburg, The Honorable Stephen R. Reed, in consultation with certain financial advisors and the Superintendent of the School District, determined that it

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was in the School District's significant financial interest to perform these financial transactions and recommended that the Control Board take prompt action to accomplish these matters. The Control Board scheduled a public meeting for July 27, 2006 to approve the transactions and also scheduled a public meeting for the Elected Board for July 31, 2006 for a ratification vote by the Elected Board. It should be noted that the various lending institutions which were involved in underwriting these multi-million dollar financial transactions, absolutely required the ratification vote of the Elected Board members in order to obtain (at least in the lending institution's opinion) a legally binding pledge of the "full faith and credit" of the taxing power of the School District to guarantee these various financial obligations. Presumably, the lending institutions were relying on the provisions of the Pennsylvania Constitution which limits the right to levy taxes to only elected bodies. However, it is a virtually universal requirement in such large financial undertakings involving governmental entities that the political entity which has taxing power is required to collateralize such matters in that fashion.

In preparation for action by the Control Board and the Elected Board in regard to these financial transactions, a rather voluminous packet of background and explanatory materials was assembled. Ms. Julie Anne Mackey, the Control Board Secretary, attempted to distribute these materials to the Elected Board members for their review, via an email attachment, on or about July 26, 2006. When Ms. Mackey attempted to transmit the packet electronically she discovered that it was too large to be disseminated in that fashion. As a result, Ms. Mackey promptly had the materials printed, and sent them via United States Mail and by private Courier Service to the individual Elected Board members at their declared addresses.

On July 27, 2006, the Control Board passed a Resolution approving the SWAPS and TRANS and also specifically directed the Elected Board to do the same at their pre-scheduled meeting on July 31, 2006. However, on July 31, 2006, for reasons that are at best "unclear" (but not otherwise germane to the decision herein), not one of the nine (9) members of the Elected Board attended that pre-scheduled meeting. We do not intend to make a specific attribution of fault for the reason(s) why not a single Elected Board member saw fit to attend that meeting. At this juncture, we will simply note that it was just an amazing coincidence that no one could attend.

However, apparently two (2) Elected Board members were able to be contacted by telephone that evening, and were thus able to telephoni-

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cally participate in the meeting. But, alas, notwithstanding the concerted efforts of the Superintendent to contact the remaining Elected Board members by telephone, such efforts failed, and there was an insufficient number of Elected Board members present by telephone or in person to constitute a quorum, so no official business could be conducted. The result of this failed meeting was that the SWAPS and TRANS that had been approved by the Control Board on July 27, 2006 were not ratified; and therefore those fiscal endeavors could not be implemented because of the lack of action by the Elected Board.

Shortly thereafter, on August 2, 2006, the Control Board, and its constituent members, together with the Superintendent (Plaintiffs/Petitioners), filed their initial Petition for Removal of seven (7) of the nine (9) Elected Board members from their public office as School Directors for neglect of duty pursuant to 24 P.S. §3-318 (Removal Statute). These filings were initially docketed to the original civil action at Docket No. 2006 CV 2489. The two (2) Elected Board members who were **not** included as Defendants in the initial Petition were the two (2) who made themselves available via conference call at the July 31, 2006 Elected Board meeting.

Due to the fact that the renewed Petition for Removal was based upon new factual occurrences (i.e., the July 31, 2006 failed meeting of the Elected Board), which occurrences were not part of the Control Board's original lawsuit (Docket No. 2006 CV 2489), the Court determined that it was procedurally proper for the Plaintiffs/Petitioners to file a new lawsuit and a new Petition for Removal, inasmuch as the previously alleged anticipated basis for the original removal action was rendered moot by the unanimous positive vote of the Elected Board at its meeting on June 28, 2006. The new Complaint and Petition for Removal were filed on August 4, 2006 at the above captioned Docket.

Although this instant proceeding is captioned, filed and docketed as an Action in Equity, we note that this proceeding is more properly characterized as a special type of Action at Law, inasmuch as the General Assembly has provided for a specific statutory removal proceeding at 24 P.S. §3-318 (Removal Statute). Therefore, this Court, in adjudicating this matter, is primarily proceeding on the basis of a special Action at Law, and we shall only exercise as much of our equity jurisdiction as may be necessary to fully resolve this matter.

Upon reviewing the Complaint and accompanying Petition for Removal, it became abundantly apparent to us that the previously hoped

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for and briefly obtained comity between the parties had indeed deteriorated into another unfortunately antagonistic and rather perilous situation between the Control Board and the Elected Board. Early on, we became convinced that this was a uniquely acute situation that required an extraordinary attempt to abate the erupting hostility and distrust. Therefore, we determined that the appointment of a combination Special Master/Ombudsman/Mediator was in the best interests of the parties, their counsels, the students and ultimately the tax paying citizens of the School District. Thus, with the consent of the parties, we appointed The Honorable Judge G. Thomas Miller, Esquire, a distinguished former member of this Court, as Special Master/Ombudsman/Mediator. Unfortunately, despite the skilled, intensive and valiant efforts of Judge Miller, coupled with the good-faith efforts of the experienced counsels for the parties, an accommodation could not be reached, and the sought-after peace eloped from the valley.

On August 8, 2006, the Control Board re-scheduled another public meeting to afford the Elected Board a further opportunity to ratify the Resolution approving the SWAPS. (Unfortunately, the TRANS could no longer be approved because the deadlines for those transactions had expired; and, therefore, those financial opportunities were apparently lost to the School District and its constituent taxpayers). The date of the re-scheduled Elected Board meeting was August 21, 2006. As mentioned above, all of the documents necessary for the Elected Board to analyze the SWAPS had already been provided to the Elected Board members prior to the July 31, 2006 failed meeting, except for one additional document which was provided to the Elected Board members before the August 21, 2006 re-scheduled meeting.

Prior to the August 21, 2006 meeting, two (2) members of the Elected Board, Mr. Ron Burkholder and Ms. Cathy Thomas, resigned their positions for legitimate personal reasons. Those vacant positions were then promptly filled by appointees of the Control Board, and those appointed members of the Elected Board were in attendance at the August 21, 2006 meeting.

When the fateful day and time for the re-scheduled meeting arrived, eight (8) members of the Elected Board eventually appeared and participated in the meeting. The Board of Control provided three financial consultants to respond to any questions that the Elected Board members may have had. After almost two (2) hours of questions by the Elected Board members and responses by the financial consultants and legal counsels, the question was called on the ratifying Resolution, and a vote

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was taken. The vote ended in a 4-4 tie, with the four (4) Defendants herein voting in the negative. As a result, the ratifying Resolution failed, since it was not approved by a majority of the Elected Board members.

On August 28, 2006, the Control Board filed a Motion for Leave to File an Amended Complaint and Amended Petition. This Motion was granted on September 8, 2006, and an Amended Complaint and Amended Petition for Removal were filed on September 11, 2006.

The Amended Complaint and Amended Petition for Removal added the occurrences post July 31, 2006, and especially the rescheduled meeting of August 21, 2006, and the resulting failed vote as a further basis for removing the above-named members of the Elected Board (Defendants). The Amended Complaint and Petition for Removal was filed solely against the four (4) members of the Elected Board who voted against the ratifying Resolution.

After receiving the Amended Complaint and Amended Petition for Removal, this Court issued a Rule to Show Cause on September 11, 2006. This Rule scheduled a Hearing on the Petition for Removal for September 26, 2006, which was not less than ten (10) days nor more than twenty (20) days from the issuance of the Rule, as specifically required by the Removal Statute.

On September 22, 2006, the Defendants filed their Answer with New Matter. The Plaintiffs' Reply to New Matter was filed on September 25, 2006.

On September 26 and 27, 2006, this Court held Hearings on the Plaintiffs' Petition for Removal. We note that immediately prior to the commencement of the Hearing, the Plaintiffs agreed to narrow the basis for their contentions for removal and the evidence which they would adduce in support thereof, and to primarily focus on the events that followed the July 31, 2006 failed meeting, and more specifically the events of the August 21, 2006 re-scheduled meeting.

On the first day of the Hearings (September 26, 2006), the Control Board's financial consultant witnesses testified that had the SWAPS been passed, that such action would have most probably saved the School District millions of taxpayer dollars over the life of those transactions. The experts' analysis was based upon the long-term history of the financial markets, and their substantial experience in such matters. Although we note that the experts could not guarantee any specific results since financial markets are in a state of constant flux, their expert

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opinions concerning such matters were both reasonable and well-considered. We also note that the Defendants did not dispute the experts' conclusions, nor did the Defendants offer any type of expert rebuttal testimony concerning these financial matters.

On the second day of the Hearings (September 27, 2006), the three Defendants who attended the Hearing on that day, namely, Ms. Elizabeth N. Wilson, Mr. Karl L. W. Singleton, Jr., and Ms. Kia L. Hansard, testified that they did not approve the ratifying Resolution because they felt that they did not have enough information to determine whether or not the SWAPS were in the best interest of the School District. They also did not vote in favor of the SWAPS because the results could not be guaranteed by the consultants. In other words, they believed they had the discretion to vote as they chose and not as they were directed by the Control Board, and in accordance with the previous rulings by this Court which were specifically directed to each of them in the detailed holdings of the Interim Opinion.

These Defendants also admitted that they were familiar with the Court's analysis and interpretation of the EEA, and their lack of discretion as explained in the Interim Opinion. Nevertheless, each of the testifying Defendants maintained that despite our prior rulings, they (Defendants) still had the discretion to decide whether or not to follow the directives of the Control Board, and that it was their right to superimpose their individual judgment over the determinations and directives of the Control Board, the law notwithstanding.

Had the Defendants not had the benefit of our detailed analysis of the EEA in our Interim Opinion, we might be constrained to approach a resolution of this case in a different manner than will be articulated hereafter. However, as acknowledged by the Defendants in both the responsive pleadings covering all four (4) Defendants and in the testimony of the three (3) Defendants at the Hearing, it is unmistakably clear that the Defendants had actual notice of the Court's holdings and willfully and intentionally chose not to follow those holdings. The Defendants' self-defined judgment was, nevertheless, willful contempt for the rule of law in this matter.

Based upon the Defendants' individual, willful and blatant refusal to approve the SWAPS, we find that they (Defendants) each neglected their duty under the law. As we stated in our Interim Opinion, the EEA, in 24 P.S. §17-1707-B(c), specifically invests in the Control Board the authority, powers and prerogatives enumerated in 24 P.S. §§6-693,

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6-694, and 6-695. §693 strips the Elected Board of all power; §694 states that the Elected Board must approve any tax recommended by the Control Board; and §695 states that the School Directors, “shall perform any duties delegated to them [Directors] by it [Control Board].” Therefore, the Elected Board had no discretion to disobey a specific Resolution enacted by the Control Board directing them (Elected Board) to ratify the SWAPS, and such disobedience was a *per se* neglect of duty, as a matter of law.

We note that the ability of the General Assembly to divest an Elected School Board of all of its authority, powers and prerogatives is not new to this Commonwealth. There seemed to be some oblique undercurrent in this case that the EEA brought a whole new array of sweeping, even perceived draconian measures onto the educational scene in this Commonwealth. Nothing could be further from the truth. Indeed, the remedial measures listed in §§693, 694, and 695, were granted to Special Boards of Control over **four decades ago**. As we explained in our Interim Opinion,

*The initial instance of legislative limitations upon school districts, and the concomitant modification, conditioning or revocation of the substantial authority, powers, and prerogatives normally granted to a school district and its elected board of school directors, is found in Act No. 675 of **December 15, 1959**, amending the Act of March 10, 1949 (P.L. 30), relating to public education in this Commonwealth, 24 P.S. §6-691 et seq. This statute was originally created to reform and assist school boards that were in a severe state of fiscal crisis, with a resultant situation where the school district became so financially “distressed” that it created an intolerable burden upon the citizen taxpayers of such district, while at the same time, usually failing to deliver the requisite levels of needed education for the children of the district. This particular statute provided for the revocation of the authority, powers and prerogatives of an elected school board in such a district, and placed those powers, authority and prerogatives in the hands of a specially created body, known as a Special Board of Control.*

Interim Opinion, p. 3-4, emphasis added.

Therefore, the sweeping remedies contained in §§693, 694, and 695, were created in 1959, *more than forty-five (45) years ago*, to



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allow Special Boards of Control to reform financially distressed school districts. The EEA merely applied those already existing and well-established remedial measures to academically distressed school districts.

Now that we have ruled that the Defendants neglected their duty, we also find they can be lawfully removed from office pursuant to 24 P.S. §3-318 (Removal Statute). §318 specifically gives School District taxpayers or a Special Board of Control the authority to initiate a Removal Proceeding against a Board of School Directors, or individual members thereof, for, *inter alia*, refusing or neglecting to perform any duty imposed upon it/them by the Public School Code.

§695 specifically mandates that School Directors must remain in office unless, *inter alia*, they are removed by a Court of Common Pleas for neglect of duty pursuant to the provisions of 24 P.S. §3-318 (Removal Statute). Therefore, the EEA, by adopting §695, clearly envisions that School Directors can be removed from office for neglect of duty in an Empowerment District. This is further seen by the adoption in the EEA of §694 which allows a Court to initiate removal of an Elected Board, subject to the provisions of §318, if the Elected Board fails to pass an additional tax levy that was requested by a Control Board.

Since we have determined that the Plaintiffs/ Petitioners have proven their case, we will now address the Defendants' defenses for why they (Defendants) should not be removed from office. The Defendants first claim that under the Pennsylvania Constitution, Article VI, Section 7, only the Governor can remove an elected official from office if he (Governor) determines that the office holder "misbehaved."

This argument has been previously dealt with by the Pennsylvania Supreme Court in *Georges Township School Directors*, 286 Pa. 129, 133 A. 223 (Pa. 1926), and more recently affirmed and explained in detail by the Pennsylvania Supreme Court in *South Newton Township Electors v. South Newton Township Supervisor*, 575 Pa. 670, 838 A.2d 643 (Pa. 2003). *Georges* explains that School Directors can be removed from office by a Court of Common Pleas even though they are elected officials because removal statutes predated and were not specifically abrogated by Article VI, Section 7. Therefore, pursuant to *Georges*, as affirmed by *South Newton*, we find the Defendants' constitutional claim to be meritless.

The Defendants also claim that there is no obligation on each individual School Director to approve every resolution of the Control

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Board so long as the resolution somehow passes by a majority. In the case at bar, the Defendants claim that but for technical difficulties, another Elected Board member (who was absent the evening of August 21, 2006) would have called in via telephone, voted in favor of the Resolution, and the ratifying Resolution would have passed.

We find this argument to be frivolous. We first note that §695 specifically refers to “school directors” and not to an Elected Board. Therefore, it is the individual duty of each School Director in an Empowerment District under the EEA, to personally obey the directives of the Board of Control. Further, it would be illogical for us to find that a board has a duty that its individual members do not share. We find, as a matter of law, that the provisions of 24 P.S. §5-508 requiring that resolutions by an Elected Board only need to be passed by a majority vote of the School Directors is inapplicable to an Elected Board in an Empowerment District under the EEA. In short, discretion resides in the members of the Control Board, but **not** in the members of the Elected Board, under the mandates of the EEA.

The Defendants also claim that the Control Board has violated numerous statutes by not answering questions at public meetings, not passing the budget in a timely fashion, and ordering the Elected Board to not meet without prior approval by the Control Board. We find these issues to be irrelevant to the singular issue of neglect in the case at bar and those assertions have no bearing on whether the individual Defendants neglected their legal duty to obey the directives of the Control Board.

Finally, the Defendants raise numerous claims that they (Defendants) were merely trying to make prudent decisions and were not given enough information by the Control Board. As we have previously discussed, these claims present no defense for the Elected Board members because they had no authority to disregard the specific directives of the Control Board.

We note that concomitantly with the Elected Board’s loss of all discretionary power, they (Elected Board) also have no legal liability for any decisions made and enforced by the Control Board. Once a Control Board takes over a school district, that Control Board assumes all responsibility and liability for their actions and the Elected Board members have absolute immunity, provided they (Elected Board) act in strict conformance with the specific directives of the Control Board. In essence, the Elected Board members in an Empowerment

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District under the EEA have been temporarily relegated to the function of public office caretakers by the General Assembly. They are maintaining their positions on the Elected Board until the School District's test scores rise to the point where the Elected Board members can once again resume full control over the District and its affairs. In that respect, it certainly is in the interests of the Elected Board members to support and assist the Control Board in its remedial endeavors, so as to accelerate the academic improvement of the School District, thereby returning the control of the District to the Elected Board as soon as possible.

We recognize that it may be quite difficult for the Defendants to gracefully accept that they have no independent authority, powers or prerogatives. And we believe that it is no coincidence that the same statute which orders the Elected Board to obey the Control Board (§695), also discusses how Elected Board members can be removed from office. However, we would like to point out that the School District became an Empowerment District on December 19, 2000, long before any of the Defendants came into public office. Therefore, the Defendants had a responsibility to investigate and discover the severely restricted scope of their public office *before* they accepted their positions. The Defendants cannot change the authority, powers and prerogatives of their public office merely because the current situation may be distasteful to them. Only the General Assembly can define the authority, powers and prerogatives of a School Director since it (General Assembly) is granted the exclusive power in our Commonwealth to implement, maintain and support public education under Article III, Section 14, of the Pennsylvania Constitution.

The Doctrine of the Separation of Powers is a fundamental tenant of our Pennsylvanian and American legal and political heritage. If any elected official could self-expand the authority, powers and prerogatives of his/her public office, which public office had been created and defined by the General Assembly, that would be a recipe for the speedy demise of the rule of law and the very antipathy of the bedrock principles of democratic government established by our Founding Fathers.

Although we can empathize with the Defendants' feelings of discomfort, or even personal angst, we cannot condone the willful, blatant and unlawful conduct that has occurred, and which unlawful conduct appears likely to re-occur in the future. Therefore, we are constrained to take decisive action to remedy these matters under the provisions of the

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Removal Statute. Despite the individual Defendants' personal wishes or beliefs, they each had a clear legal duty to follow the directives of the Control Board. Instead, they willfully decided to ignore that duty. Such action is clearly unlawful under these circumstances, and endangered vital financial transactions that the Control Board lawfully determined were in the best interests of the School District. Such actions by the individual Defendants do not constitute a legally recognizable method of protesting a law that one does not agree with; it is, quite simply, a neglect of legal duty. The proper vehicle for redress of perceived grievances in this case is to take those matters to the origin of these laws, the General Assembly, and request their further review and consideration of the same. Likewise, it is not for the Judiciary to re-write the laws of our Commonwealth. Only in those rare instances where a statute is plainly offensive to the Constitution may the Judiciary intervene in such affairs. This case is certainly not one of those rare instances. The Constitution of our Commonwealth accords full and complete deference to the General Assembly on matters of public education. In this instant matter, we will do no less.

**WHEREFORE**, after a full hearing in the matter of whether or not the individual Defendant members of the Elected Board should be removed from public office on account of a neglect of legal duty, we find that the said Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr., and Kia L. Hansard**, have indeed neglected their legal duty and are therefore subject to removal from public office, pursuant to the statutory removal provisions of the Public School Code, 24 P.S. §3-318 (Removal Statute). Therefore, we have, by separate Order issued of even date herewith, directed the immediate removal from public office as School Directors for the Harrisburg School District, said Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr., and Kia L. Hansard**. It is further directed in such Order that the said Defendants shall not be eligible to again hold public office as School Directors for a period of five (5) years from the date of that Order, pursuant to the mandatory provisions of the Removal Statute.

We further note that pursuant to the Removal Statute, we are specifically required to make an assessment of the costs of proceedings, and impose those costs upon a possible limited array of individuals and/or the School District. Although we are accorded some discretion in making such an assessment, we find that this unfortunate situation was not brought by the actions of the members of the Control Board, or the Superintendent (Plaintiffs/Petitioners); and so, no such

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assessment against any of them would be warranted. We likewise find that the School District and its constituent taxpayers should certainly not bear the additional burden of any such assessment, especially considering the fact that the District has already lost at least some of the significant benefits of the proposed financial undertakings that were willfully and unlawfully not approved by the Defendants, and it (School District) has had to shoulder the costs of these proceedings to date.

So, by the process of elimination, we arrive at the final group of individuals, the Defendants, who were, in fact, directly responsible for the costs of proceedings incurred by the School District, by and through the necessary expenditures of public funds by the Plaintiffs/Petitioners acting on behalf of the interests of the District. The Court specifically finds that it was the knowing and willful actions of the individual Defendants by defying the law and failing to follow their clearly defined legal duties which resulted in the expenditure of substantial sums of taxpayer monies to prosecute this action in Court; and said Defendants should be responsible to repay every penny of those monies to the shareholders of the School District.

Therefore, the Court has also issued a separate Order of even date herewith, directing that a Judgment, in the full amount of **FORTY-EIGHT THOUSAND DOLLARS (\$48,000.00)**, shall be immediately entered by the Prothonotary against each of the individual Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr., and Kia L. Hansard**, jointly and severally, and in favor of the Harrisburg School District as an Award of the costs of proceedings; and the School District shall be at complete liberty to immediately execute upon such Judgment, as the Board of Control and the Superintendent deem appropriate to the interests of the District.

The Court specifically finds that the Award of Costs in said amount to the School District, pursuant to the Affidavit of Costs submitted by the School District during the Hearing, constitutes very reasonable attorneys' fees, together with other necessary legal expenses and costs, filing fees, service fees and miscellaneous expenses, for the period of August 1, 2006 through the end of the Hearings. We further specifically find that such an Award of Costs is absolutely warranted, as a matter of law, especially considering the fact that none of this unfortunate litigation, and its consequent loss of public educational assets, would have had to occur if the Defendants would have simply obeyed the law and their legal duty pursuant thereto. It should be noted

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that had we construed the Removal Statute to also include damages in the calculation of the costs of proceedings, the amount of said Award would have likely been many times greater, as a reflection of the economic harm that was visited upon the School District by the knowing, willful and unlawful actions of the removed Defendants. However, we also note that the above awarded costs do not include any such assessment of damages in this case.

The Removal Statute also obliges us to appoint qualified persons to fill the remaining terms of office of the said removed Defendants. Considering the obvious statutory intent of the General Assembly in enacting the EEA, which directs the Mayor to initially appoint the members of the Control Board, and then empowers the Control Board to appoint persons to fill regular vacancies that may occur on the Elected Board from time to time, we find that it would be most appropriate to request that the Control Board and Superintendent (Plaintiffs/Petitioners), in consultation with the Mayor, submit a Motion to the Court, within five business days of the filing of this Opinion and accompanying Order, containing the names of four (4) qualified persons to serve in the stead of the four (4) removed School Directors (Defendants).

Due to the substantial harm that has already been caused to the School District by the Defendants' willful and unlawful actions, they (Defendants) are further **DENIED** any *supersedeas*, particularly under Rule 1736(b) of the Pennsylvania Rules of Appellate Procedure, which might otherwise accrue to them. We take this preemptive action to prevent further harm to the School District, in the absence of which preemption the said Defendants would be able to automatically stay the effect of the Orders we have entered. We would be derelict in our duties to the taxpayers of the School District to do less in these extraordinary circumstances.

We further **DENY** the Defendants the right to automatically appeal these Rulings pursuant to Pa.R.A.P. 1736(a). However, the Defendants shall be permitted to appeal these Rulings, provided they post a cash Bond in the full amount of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**, paid into Court through the Prothonotary of Dauphin County, which Bond shall be liable for debit for the payment of any future costs incurred by the School District, including reasonable attorneys' fees, costs and expenses associated with any such further litigation in this matter.

**ISSUED AT HARRISBURG**, the 9th day of October, 2006.

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### ORDER OF REMOVAL

**PURSUANT TO THE PROVISIONS OF THE PUBLIC SCHOOL CODE OF THIS COMMONWEALTH**, more particularly, 24 P.S. §3-318 (Removal Statute), the Court, after conducting a full hearing on the Petition For Removal filed by the above-named Plaintiffs /Petitioners requesting the Court to determine whether or not the individual, above-named Defendants, who are members of the Elected Board of School Directors of the Harrisburg School District, should be removed from public office on account of a neglect of legal duty, we find that the said Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr., and Kia L. Hansard**, have indeed neglected their legal duty and are therefore subject to removal from public office, as more fully discussed in the formal Opinion which we issued of even date herewith.

**WHEREFORE, IT IS HEREBY ORDERED**, that effective immediately, the above-named Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr., and Kia L. Hansard**, are **REMOVED FROM PUBLIC OFFICE** as School Directors for the Harrisburg School District.

**IT IS FURTHER ORDERED** that the said Defendants shall not be eligible to again hold public office as School Directors for a period of five (5) years from the date of this Order, pursuant to the mandatory provisions of the Removal Statute.

Due to the substantial harm that has already been caused to the School District by the Defendants' willful actions, they (Defendants) are further **DENIED** any *supersedeas*, particularly under Rule 1736(b) of the Pennsylvania Rules of Appellate Procedure, which might otherwise accrue to them. Likewise, we further **DENY** the Defendants the right to automatically appeal these Rulings pursuant to Pa.R.A.P. 1736(a).

However, the Defendants shall be permitted to appeal these Rulings, provided they post a cash Bond in the full amount of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**, paid into Court through the Prothonotary of Dauphin County, which Bond shall be liable for debit for the payment of any future costs incurred by the School District, including reasonable attorneys' fees, costs and expenses associated with any such further litigation in this matter.

**ISSUED AT HARRISBURG**, the 9th day of October, 2006.

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### ORDER FOR NOMINATION

**PURSUANT TO THE PROVISIONS OF THE PUBLIC SCHOOL CODE OF THIS COMMONWEALTH**, more particularly, 24 P.S. §3-318 (Removal Statute), the Court, after conducting a full hearing on the Petition For Removal filed by the above-named Plaintiffs/Petitioners requesting the Court to determine whether or not the individual, above-named Defendants, who are members of the Elected Board of School Directors of the Harrisburg School District, should be removed from public office on account of a neglect of legal duty, we find that the said Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr., and Kia L. Hansard**, have indeed neglected their legal duty and are therefore subject to removal from public office, as more fully discussed in the formal Opinion which we issued of even date herewith.

**FURTHERMORE, IT IS INCUMBENT UPON THIS COURT, AND IS REQUIRED BY LAW**, that the Court appoint qualified persons who are residents of the Harrisburg School District to fulfill the remainder of the unexpired terms of office of the Elected Board of School Directors in the stead of the above-named Defendants who have been removed from office pursuant to the Removal Statute.

**WHEREFORE, THE COURT HEREBY DIRECTS** that the Plaintiffs/Petitioners, in consultation with the Mayor of the City of Harrisburg, The Honorable Stephen R. Reed, submit a Nominating Motion to this Court containing the names of four (4) qualified residents of the District who are willing to serve as School Directors for the remainder of the unexpired terms of office of the four (4) removed members of the Elected Board (Defendants). The Court requests that such Motion be submitted within five (5) business days of the entry of this Order. Upon receipt of such Motion, the Court will promptly consider the same for appointment.

**IT IS FURTHER ORDERED**, that due to the substantial harm that has already been caused to the School District by the Defendants' willful actions, they (Defendants) are further **DENIED** any *supersedeas*, particularly under Rule 1736(b) of the Pennsylvania Rules of Appellate Procedure, which might otherwise accrue to them. Likewise, we further **DENY** the Defendants the right to automatically appeal these Rulings pursuant to Pa.R.A.P. 1736(a).

However, the Defendants shall be permitted to appeal these Rulings, provided they post a cash Bond in the full amount of **ONE HUNDRED**



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**THOUSAND DOLLARS (\$100,000.00)**, paid into Court through the Prothonotary of Dauphin County, which Bond shall be liable for debit for the payment of any future costs incurred by the School District, including reasonable attorneys' fees, costs and expenses associated with any such further litigation in this matter.

**ISSUED AT HARRISBURG**, the 9th day of October, 2006.

### **ORDER OF COSTS**

**PURSUANT TO THE PROVISIONS OF THE PUBLIC SCHOOL CODE OF THIS COMMONWEALTH**, more particularly, 24 P.S. §3-318 (Removal Statute), the Court, after conducting a full hearing on the Petition For Removal filed by the above-named Plaintiffs/Petitioners requesting the Court to determine whether or not the individual, above-named Defendants, who are members of the Elected Board of School Directors of the Harrisburg School District, should be removed from public office on account of a neglect of legal duty, we find that the said Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr.** and **Kia L. Hansard**, have indeed neglected their legal duty and are therefore subject to removal from public office, as more fully discussed in the formal Opinion which we issued of even date herewith.

**FURTHERMORE, IT IS INCUMBENT UPON THIS COURT, AND IS REQUIRED BY LAW**, that the Court make an assessment of the Costs of Proceedings associated with legal proceedings undertaken by the Plaintiffs/Petitioners pursuant to the Removal Statute.

**WHEREFORE, THE COURT HEREBY ENTERS AN AWARD OF COSTS** in favor of the Harrisburg School District, in the full amount of **FORTY-EIGHT THOUSAND DOLLARS (\$48,000.00)**, and against each of the said Defendants. The Prothonotary of Dauphin County **IS HEREBY ORDERED** to immediately enter onto the official records of his Office, a Judgment in the full amount of the above awarded costs (\$48,000.00) in favor of the Harrisburg School District, and shall index the same, jointly and severally, against each of the individual Defendants, to wit, **Elizabeth N. Wilson, Shirley Jackson, Karl L. W. Singleton, Jr.,** and **Kia L. Hansard**. The Prothonotary may issue a Writ of Execution on said Judgment to the Harrisburg School District upon the filing of a proper Praeceptum requesting the same.

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**IT IS FURTHER ORDERED**, that due to the substantial harm that has already been caused to the School District by the Defendants' willful actions, they (Defendants) are further **DENIED** any *supersedeas*, particularly under Rule 1736(b) of the Pennsylvania Rules of Appellate Procedure, which might otherwise accrue to them. Likewise, we further **DENY** the Defendants the right to automatically appeal these Rulings pursuant to Pa.R.A.P. 1736(a).

However, the Defendants shall be permitted to appeal these Rulings, provided they post a cash Bond in the full amount of **ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**, paid into Court through the Prothonotary of Dauphin County, which Bond shall be liable for debit for the payment of any future costs incurred by the School District, including reasonable attorneys' fees, costs and expenses associated with any such further litigation in this matter.

**ISSUED AT HARRISBURG**, the 9th day of October, 2006.

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**SECOND PUBLICATION**

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**Estate Notices**

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ESTATE OF FITZGERALD W. COOPER, late of the City of Harrisburg, Dauphin County, Pennsylvania. Administrator: Ronald D. Butler, 500 North Third Street, P.O. Box 1004, Harrisburg, PA 17108. Attorneys: Butler Law Firm, 500 North Third Street, P.O. Box 1004, Harrisburg, PA 17108. n10-n24

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ESTATE OF SARA M. WILLIAMS, late of Susquehanna Township, Dauphin County, Pennsylvania (died May 20, 2006). Executrix: Dolly D. Wright, 930 Manor Drive, Steelton, PA 17113-1400. Attorney: Kent H. Patterson, Esq., 221 Pine Street, Harrisburg, PA 17101. n10-n24

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ESTATE OF HELEN M. HOOVER, late of the Township of Washington, Dauphin County, Pennsylvania (died October 14, 2006). Executor: Jeffrey Hoover, 91 Scotch Pine Drive, Rochester, NY 14616. Attorney: Joseph D. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethtown, PA 17023. n10-n24

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ESTATE OF LEE C. DOYNO, late of Lower Paxton Township, Dauphin County, Pennsylvania (died September 9, 2006). Executor: Charles L. Doyno, Johnstown, PA. Attorney: Jacqueline A. Kelly, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. Phone (717) 541-5550. n10-n24

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**THIRD PUBLICATION**

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ESTATE OF MARY ANNE RIEDMAN, late of Swatara Township, Dauphin County, Pennsylvania (died September 13, 2006). Executor: John M. Riedman, 27 North Third Street, Steelton, PA 17113. n3-n17

ESTATE OF EDITH GORDON, late of Susquehanna Township, Dauphin County, Pennsylvania (died September 17, 2006). Executor: Leon Gordon. Attorney: Leonard Tintner, Esq., Boswell, Tintner, Piccola & Alford, 315 North Front Street, Post Office Box 741, Harrisburg, PA 17108-0741. n3-n17

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ESTATE OF ARTHUR L. MACHAMER, late of Wiconisco Township, Dauphin County, Pennsylvania (died October 4, 2006). Executor: Alan Ray Machamer, 31 Parkway, Schuylkill Haven, PA 17972. Attorney: Terrence J. Kerwin, Esq., Kerwin & Kerwin, 27 North Front Street, Harrisburg, PA 17101. n3-n17

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ESTATE OF JEFFREY A. LEWIS a/k/a JEFFREY ALLEN LEWIS, late of Lower Swatara Township, Dauphin County, Pennsylvania. Executrix: Dana M. Lewis, 1671 Highland Street, Harrisburg, PA 17111. Attorney: Bridget M. Whitley, Esq., Skarlatos & Zonarich LLP, 17 South Second Street, 6th Floor, Harrisburg, PA 17101. n3-n17

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ESTATE OF HERBERT L. MESSNER, late of Upper Paxton Township, Dauphin County, Pennsylvania. Executor: Herbert L. Messner, 206 N. Keystone Street, Muir, PA 17957. Attorney: Gregory M. Kerwin, Esq., Kerwin & Kerwin, 4245 Route 209, Elizabethtown, PA 17023. n3-n17

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ESTATE OF DONALD N. ESPELAND, late of Millersburg, Dauphin County, Pennsylvania (died January 20, 2006). Executor: Donald Geoffrey Espeland, 354 Juniata Parkway East, Newport, PA 17074. Attorney: Richard S. Friedman, Esq., Friedman & King, P.C., 600 North Second Street, Fifth Floor, Harrisburg, PA 17101. n3-n17

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**THIRD PUBLICATION**

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**Estate Notices**

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ESTATE OF AMY M. ESPELAND, late of Millersburg, Dauphin County, Pennsylvania (died January 31, 2006). Administrator: Geoff Espeland, 354 Juniata Parkway East, Newport, PA 17074. Attorney: Richard S. Friedman, Esq., Friedman & King, P.C., 600 North Second Street, Fifth Floor, Harrisburg, PA 17101. n3-n17

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ESTATE OF HELEN E. O'BRIEN, late of Middletown Borough, Dauphin County, Pennsylvania (died April 11, 2006). Administrator: Gary D. O'Brien, 810 North Hoffer Street, Middletown, PA 17057. Attorney: Jan L. Brown, Esq., Jan L. Brown & Associates, 845 Sir Thomas Court, Suite 12, Harrisburg, PA 17109. n3-n17

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ESTATE OF JULIUS G. SADLER, SR., late of the Borough of Middletown, Dauphin County, Pennsylvania (died February 16, 2006). Executrix: Sharon L. Henry. Attorney: Bruce J. Warshawsky, Esq., Cunningham & Chernicoff, P.C., 2320 North Front Street, Harrisburg, PA 17110. n3-n17

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ESTATE OF ROSE M. SMITH, late of the Borough of Middletown, Dauphin County, Pennsylvania (died October 10, 2006). Executor: Larry R. Cassel, 137 Kokomo Avenue, Hummelstown, PA 17036. Attorney: Jean D. Seibert, Esq., Wion, Zulli & Seibert, 109 Locust Street, Harrisburg, PA 17101. n3-n17

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ESTATE OF FRED W. GUIDER, late of the City of Harrisburg, Dauphin County, Pennsylvania (died March 10, 2006). Co-Administrators: Fred A. Guider, 420 Hamilton Street, Harrisburg, PA 17102; Sarah L. Robinson, 420 Hamilton Street, Harrisburg, PA 17102 and Mary F. Lewis, 2400 Market Street, Apt. A-22, Harrisburg, PA 17103. Attorney: Jean D. Seibert, Esq., Wion, Zulli & Seibert, 109 Locust Street, Harrisburg, PA 17101. n3-n17

ESTATE OF EVA M. KLINGER, late of the Township of Lykens, Dauphin County, Pennsylvania. Executor: Roy A. Klinger, 2396 Luxemburg Road, Lykens, PA 17048. Attorney: David H. Rattigan, Esq., Williamson, Friedberg & Jones, LLC, Ten Westwood Road, Pottsville, PA 17901. n3-n17

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ESTATE OF RICHARD R. RABOLD, late of Lower Paxton Township, Dauphin County, Pennsylvania. Executor: Richard L. Placey, Esq., Placey & Wright, 3631 North Front Street, Harrisburg, PA 17110. n3-n17

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ESTATE OF STEPHEN P. RUSIONKO, late of Susquehanna Township, Dauphin County, Pennsylvania (died October 13, 2006). Executrix: Stephenie P. Rusinko-Flowers. Attorney: Edward P. Seeber, Esq., Pecht & Associates, PC, 1205 Manor Drive, Suite 200, Mechanicsburg, PA 17055. Phone (717) 766-9431. n3-n17

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ESTATE OF THOMAS P. BROGAN, late of Hershey, Dauphin County, Pennsylvania (died September 16, 2006). Administratrix: Lynn Brogan, 60 Hawthorne Drive, Hershey, PA 17033. Attorney: Elizabeth Hallett, Paralegal, Buchanan Ingersoll, 17 North Second Street, 15th Floor, Harrisburg, PA 17101. n3-n17

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ESTATE OF GEORGE P. CAMPBELL, late of Halifax, Dauphin County, Pennsylvania (died October 15, 2006). Personal Representatives: Ruth C. Snyder, 6308 Blue Ridge Avenue, Harrisburg, PA 17112; Shirley J. Campbell, 929 Emerald Lane, Harrisburg, PA 17112 and Ross D. Campbell, 340 Fox Hollow Road – Lot 9, Shermans Dale, PA 17090. Attorney: Dale K. Ketner, Esq., Shaffer & Engle Law Office, 129 Market Street, Millersburg, PA 17061. n3-n17

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**THIRD PUBLICATION**

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**Estate Notices**

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ESTATE OF ADDISON E. TALIAFERRO  
a/k/a ADDISON E. TALIAFERRO, SR., late of  
Harrisburg, Dauphin County, Pennsylvania (died  
August 26, 2006). Executrix: Gayle E. Taliaferro,  
1610 Miller Road, Dauphin, PA 17018. Attorney:  
Herschel Lock, Esq., 3107 North Front Street,  
Harrisburg, PA 17110-1310. n3-n17

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ESTATE OF MARVIN OSCAR DYMOND,  
late of Lower Swatara Township, Dauphin  
County, Pennsylvania (died August 3, 2006).  
Executrix: Kathi Dymond. Attorney: David C.  
Miller, Jr., Esq., 1100 Spring Garden Drive, Suite  
A, Middletown, PA 17057. Phone (717) 939-  
9806. n3-n17

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ESTATE OF VIOLET M. NEWCOMER, late  
of Derry Township, Dauphin County, Pennsylv-  
ania (died August 21, 2006). Administratrix:  
Barbara A. Newcomer, 1240 Harding Avenue,  
Hershey, PA 17033. Attorney: R. Eric Pierce,  
Esq., 747 Fishburn Road, Hershey, PA 17033.  
Phone (717) 533-8652. n3-n17

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**FIRST PUBLICATION**

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**Corporate Notices**

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NOTICE IS HEREBY GIVEN that **Riordan  
& Scully Insurance Service, LLC**, a foreign  
business limited liability company incorporated  
under the laws of Illinois, where its principal  
office is located at 815 Commerce Dr, Suite 240,  
Oak Brook, IL 60523 has applied for a certificate  
of authority in Pennsylvania, where its registered  
office is located at c/o Corporation Service  
Company. The registered office of the corpora-  
tion shall be deemed for venue and official publi-  
cation purposes to be located in Dauphin. n17

NOTICE IS HEREBY GIVEN that Articles of  
Incorporation were filed with the Department of  
State of the Commonwealth of Pennsylvania with  
respect to a corporation which has been incorpo-  
rated under the provisions of the Business  
Corporation Law of 1988. The name of the cor-  
poration is **PennFuture Enterprises, Inc.**

DAN A. SCHULDER, Esq.  
Wolf, Block, Schorr and Solis-Cohen, LLP  
213 Market Street, 9th Floor  
Harrisburg, PA 17101  
n17

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NOTICE IS HEREBY GIVEN that Articles of  
Incorporation have been filed with the  
Department of State of the Commonwealth of  
Pennsylvania, at Harrisburg, PA on or about  
October 18, 2006: **Eshelman Communications,  
Inc.**, 2902 Sycamore St., Harrisburg, PA 17111.  
The corporation has been incorporated under the  
provisions of the Business Corporation Law of  
1988 as amended.

ESQUIRE ASSIST, LTD.  
Harrisburg, PA  
n17

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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  
**Cambria Contracting, Inc.** on November 3,  
2006. The address of its principal office under the  
laws of its jurisdiction is 5105 Lockport Road,  
Lockport, N.Y. 14094. The Commercial  
Registered Office Provider is PennCorp Service  
Group 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). n17

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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  
**Bollinger, Inc.** on November 6, 2006. The  
address of its principal office under the laws of its  
jurisdiction is 101 JFK Parkway, Short Hills,  
New Jersey 07078. The Commercial Registered  
Office Provider is United Corporate Services,  
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).

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that the shareholders and directors of **LENDING EDGE CONSULTING, INC.**, a Pennsylvania business corporation, with a registered address of 442 Camp Hebron Road, Halifax, Pennsylvania, Dauphin County, 17032, have 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 1975 of the Pennsylvania Business Corporation Law of 1988, as amended.

ROBERT C. MAY, Esq.  
The Law Firm of May & May, P.C.  
4330 Carlisle Pike  
Camp Hill, PA 17011  
(717) 612-0102

n17

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NOTICE IS HEREBY GIVEN that **HCC EMPLOYER SERVICES, INC.**, a foreign business corporation incorporated under the laws of Illinois, intends to withdraw from doing business in this commonwealth. The address, including street and number, if any, of its principal office under the laws of its jurisdiction is: 2215 Sanders Road, Ste 500, Northbrook, IL 60065-3009.

Its last registered office in this commonwealth is c/o National Registered Agents, Inc. and is deemed for venue and official publication purposes to be located in Dauphin County, Pennsylvania. n17

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State of the Commonwealth of Pennsylvania for a business organized under the Pennsylvania Business Corporation Law of 1988, Act of December 21, 1988, P. L. 1444.

The name of the corporation is: **Keystone EPW Center, Inc.**

HARTMAN UNDERHILL  
& BRUBAKER LLP  
Attorneys

n17

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on October 25, 2006, by **JOSEPH KERRY, LLC**, a domestic limited liability company formed under the laws of the State of Pennsylvania, where its principal office is located at 382 Lenzi Road, Aston, PA 19014, for a Certificate of Organization to do business in Pennsylvania under the provisions of the Pennsylvania Limited Liability Company Law of 1994.

The registered office in Pennsylvania shall be deemed for venue and official publication purposes to be located at 382 Lenzi Road, Aston, PA 19014, Delaware County. n17

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, by **SFK Pulp U.S. Inc.**, formed under the laws of the State of Delaware, where its principal office is located at 580 Lincoln Park Blvd., Suite 344, Kettering, OH 45429, 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 CT Corporation System, Dauphin County, Pennsylvania. n17

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed on August 4, 2006, with the Department of State of the Commonwealth of Pennsylvania with respect to a corporation that has been incorporated under the provisions of the Pennsylvania Business Corporation Law of 1988. The name of the corporation is: **Unique Golf Concepts, Inc.**

ROGER M. MORGENTHAL, Esq.  
Attorney for the Corporation  
2515 North Front Street  
Harrisburg, PA 17110-1150

n17

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that a Certificate of Organization has been filed with the Department of State of the Commonwealth of Pennsylvania in Harrisburg, Pennsylvania, for **PFBFS, LLC**. The Certificate of Organization was filed on October 23, 2006. Said Limited Liability Company intends to be organized under the provisions of the Business Corporation Law of the Commonwealth of Pennsylvania of 1988. The initial registered office of the company is in care of Anthony J. Nestico, Esquire, 840 East Chocolate Avenue, Hershey, PA 17033, (717) 533-5406, Attorney for PFBFS, LLC. n17

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NOTICE IS HEREBY GIVEN that **PERSONAL LINES INSURANCE BROKERAGE OF MASSACHUSETTS, INC.**, a Massachusetts Corporation intends to file an Application for Termination of Authority and the registered office is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. n17

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NOTICE IS HEREBY GIVEN that **SCOT LAD-LIMA, INC.**, A Ohio Corporation intends to file an Application for Termination of Authority and the registered office is located at c/o Corporation Service Company, Dauphin County, Pennsylvania. n17

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on November 2, 2006, by **BROADWAY INBOUND, INC.**, a foreign corporation formed under the laws of the State of New York, where its principal office is located at 234 West 44th Street, New York, NY 10036, 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. n17

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on November 2, 2006, by **T.D.I. INTERNATIONAL, INC.**, a foreign corporation formed under the laws of the State of Michigan, where its principal office is located at 39555 Orchard Hill Place, Suite 600, Novi, MI 48375, 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. n17

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **SPRAY APPLIED, INC.**, a corporation, organized under the Pennsylvania Business Corporation Law of 1988. n17

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on November 2, 2006, by **The Reading Arts Company, Incorporated**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 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. n17

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NOTICE IS HEREBY GIVEN that Articles of Incorporation were filed with the Department of State for **NY NAIL SALON, INC.**, a corporation, organized under the Pennsylvania Business Corporation Law of 1988. n17

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FIRST PUBLICATION

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Corporate Notices

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on November 2, 2006, by **Travis CleanAir, Inc.**, a foreign corporation formed under the laws of the State of Colorado, where its principal office is located at 131 12th St. SW, Loveland, CO 80537, 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. n17

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on October 31, 2006, by **AMERICAN INDEPENDENT COMPANIES INC.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 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 CT Corporation System, Dauphin County, Pennsylvania. n17

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NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on November 6, 2006, by **FRUIT GROWERS DISPATCH, INC.**, a foreign corporation formed under the laws of the State of Delaware, where its principal office is located at 500 Water Street, Jacksonville, FL 32202, 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. n17

NOTICE IS HEREBY GIVEN that an Application was made to the Department of State of the Commonwealth of Pennsylvania, at Harrisburg, PA, on November 6, 2006, by **HUNTER DOUGLAS PLEATED SHADE CORPORATION**, a foreign corporation formed under the laws of the State of North Carolina, where its principal office is located at 2 Parkway, Upper Saddle River, NJ 07458, 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. n17

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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 **CECO Pipeline Services Company, Inc.** on October 10, 2006. The address of its principal office under the laws of its jurisdiction is 5440 Alder, Houston, Texas 77081. The commercial registered office provider for this Corporation is Capitol Corporate Services, 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. n17

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NOTICE IS HEREBY GIVEN that **Traders Guide, 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 5900 Wilshire Blvd., Ste. 550, Los Angeles, CA 90036. This shall serve as official notice to creditors and taxing authorities. n17

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NOTICE IS HEREBY GIVEN that **TCTJB VIII, Inc.** with a registered office at 600 N. 2nd St., Ste. 500, Harrisburg, PA 17101 in Dauphin County, Pennsylvania does hereby give notice of winding up in voluntary dissolution proceedings as per 15 Pa.C.S. 1977. This shall serve as official notice to creditors and taxing authorities. n17



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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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

**CIVIL ACTION – LAW  
CIVIL DIVISION**

**No. 2006 CV 4051 MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**THE BANK OF NEW YORK AS  
TRUSTEE, FOR THE BENEFIT  
OF THE CERTIFICATE HOLDERS OF  
CWABS, INC., ASSET-BACKED  
CERTIFICATES, SERIES 2004-15, Plaintiff**  
vs.

**RODNEY L. SEILER, Defendant**

**NOTICE**

**TO: RODNEY L. SEILER**

YOU ARE HEREBY NOTIFIED that on SEPTEMBER 11, 2006, Plaintiff, THE BANK OF NEW YORK AS TRUSTEE, FOR THE BENEFIT OF THE CERTIFICATE HOLDERS OF CWABS, INC., ASSET-BACKED CERTIFICATES, SERIES 2004-15, 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 4051 MF. Wherein Plaintiff seeks to foreclose on the mortgage secured on your property located at 1028 NORTH RIVER ROAD, HALIFAX, PA 17032 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

n17

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

**CIVIL ACTION – LAW**

**No. 4765-S-2001**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**CITIMORTGAGE, INC. D/B/A CITICORP  
MORTGAGE, INC. F/K/A SOURCE ONE  
MORTGAGE SERVICES CORP., Plaintiff**  
vs.

**RAYMOND L. LYLES, JR. a/k/a  
RAYMOND L. LYLES and  
DANNETTE LYLES Defendants**

**NOTICE**

**TO: RAYMOND L. LYLES, JR.  
a/k/a RAYMOND L. LYLES and  
DANNETTE LYLES**

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

TAKE NOTICE that the real estate located at 1826 PARK STREET, HARRISBURG, PA 17103-2536 is scheduled to be sold at Sheriff's Sale on Thursday, JANUARY 11, 2007 at 10:00 A.M., Dauphin County Administration Building, 4th Floor, Commissioners Hearing Room, Harrisburg, PA, to enforce the court judgment of \$48,224.87, obtained by CITIMORTGAGE, INC. D/B/A CITICORP MORTGAGE, INC., F/K/A SOURCE ONE MORTGAGE SERVICES CORP. (the mortgagee).

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**FIRST PUBLICATION**

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**Miscellaneous Notices**

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ALL THAT CERTAIN lot or piece of land, situate in the 9th Ward of the City of Harrisburg, Dauphin County, Pennsylvania, bounded and described in accordance with a survey and plan thereof made by D.P. Raffensburger Associates, Engineers & Surveyors, dated November 19, 1971, as follows:

BEGINNING at a point on the North side of Park Street, said point being 213.5 feet East of the Northwest corner of 18th Street and Park Streets; thence along premises known as No. 1824 Park Street, North 10 degrees West 110 feet to a point on the South side of Helen Street; thence along the same North 80 degrees East 16.5 feet to a corner of premises known as No. 1828 Park Street; thence along said premises and passing through the center of a partition wall, South 10 degrees East 110 feet to a point on the North side of Park Street aforesaid; thence along the same South 80 degrees West 16.5 feet to the point and place of BEGINNING.

HAVING thereon erected a three story brick dwelling known as No. 1826 Park Street.

BEING the same premises which Frances J. Garnett Wells and Harold Wells, her husband, and Frances J. Garnett, as Trustee for Patrice Garnett, Richard Garnett, Jr., and Brett Garnett, her children, by their deed dated May 4, 1984, and recorded May 7, 1984 in Deed Book 489, Page 151, in the Office of the Recorder of Deeds for Dauphin County, granted and conveyed unto Patricia A. Mitchell, Grantor herein.

TITLE TO SAID PREMISES IS VESTED IN Raymond L. Lyles and Dannette Lyles, his wife, by Deed from Michael K. Jackson and Patricia A. Jackson, his wife, dated 4-14-89, recorded 4-17-89 in Dead Book 1258, page 346.

BEING PREMISES 1826 PARK STREET, HARRISBURG, PA 17103-2536.

IMPROVEMENTS consist of residential property.

SOLD as the property of RAYMOND L. LYLES, JR. A/K/A RAYMOND L. LYLES and DANNETTE LYLES.

**CONDITIONS OF SALE  
THE HIGHEST AND BEST BIDDER  
SHALL BE THE BUYER.**

TERMS: The purchaser will be required to pay the full amount of his bid by TWO O'CLOCK p.m. on the day of the sale, and it 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 said defendant has in and to said property at the time of levying the same. ALTHOUGH NOT PART OF THE MINIMUM BID, PROPERTY SOLD FOR MINIMUM BID DOES NOT DISCHARGE DELINQUENT AND/OR OUTSTANDING TAXES AND THE PURCHASER WILL BE RESPONSIBLE FOR SAME. If above conditions be not complied with on the part of the Purchaser, the property will again be offered for sale by the Sheriff at THREE O'CLOCK p.m. on the same day. The said purchaser will be held liable for the deficiencies and additional cost of said sale.

TAKE NOTICE that a Schedule of Distribution will be filed by the Sheriff on FEBRUARY 12, 2007, distribution will be made in accordance with the schedule unless exceptions are filed within ten (10) days thereto.

DANIEL G. SCHMIEG, Esq.  
Suite 1400, One Penn Center  
1617 John F. Kennedy Boulevard  
Philadelphia, PA 19103-1814  
(215) 563-7000

n17

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

**CIVIL ACTION – LAW**

**No. 2006-CV 434 MF**

**NOTICE OF ACTION IN  
MORTGAGE FORECLOSURE**

**GREEN TREE CONSUMER DISCOUNT  
COMPANY F/K/A CONSECO FINANCE  
CONSUMER DISCOUNT COMPANY,  
Plaintiff**

**vs.**

**WILLIAM SMITH and  
DIANE CUFF, Defendants**

**NOTICE**

**TO: WILLIAM SMITH and DIANE CUFF**

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FIRST PUBLICATION

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Miscellaneous Notices

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NOTICE OF SHERIFF'S SALE  
OF REAL PROPERTY

TAKE NOTICE that the real estate located at 1509 CATHERINE STREET, HARRISBURG, PA 17104, is scheduled to be sold at Sheriff's Sale on Thursday, JANUARY 11, 2007 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 \$64,821.54, obtained by GREEN TREE CONSUMER DISCOUNT COMPANY F/K/A CONSECO FINANCE CONSUMER DISCOUNT COMPANY (the mortgagee).

Prop. sit City of Harrisburg on S. side of Catherine St., 74.3 ft. E. of the SEC of Catherine and S. 15th Sts.

Front: 18.5 ft. Depth: 92.4 ft.

BEING prem: 1509 Catherine Street, Harrisburg, PA.

IMPROVEMENTS consist of two story brick dwelling house.

SOLD as the property of William Smith (Record Owner and Mortgage) and Diane Cuff (Mortgagor).

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 Blvd.  
1st Floor, Suite 101  
Southampton, PA 18966  
(215) 942-9690

n17

IN THE COURT OF COMMON PLEAS  
OF DAUPHIN COUNTY  
PENNSYLVANIA

ORPHANS' COURT DIVISION

No. 6555-2006  
6556-2006

IN THE MATTER OF CLK and JQK  
MINORS UNDER THE AGE  
OF 18 YEARS

NOTICE OF HEARING  
TO TERMINATE PARENTAL RIGHTS

**TO: WILLIAM KELLER, named father  
of CLK born 12/04/02, and alleged  
father of JQK born 6/16/04, in  
Dauphin County, Pennsylvania.**

NOTICE IS HEREBY GIVEN that a petition has been filed asking the Court to put an end to all rights you have to your children, CLK and JQK. The Court has set a hearing to consider ending your rights to your children. That hearing will be held in Dauphin County, Courthouse, Front and Market Streets, Harrisburg, Pennsylvania, in Courtroom 5, Third Floor on December 7, 2006 at 9:00 A.M. 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 children 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 notice to your lawyer at once. If you do not have a lawyer, go to or telephone the office set forth below to find out where you can get legal help. You are also warned that if you fail to file either an acknowledgement or paternity pursuant to 23 Pa. C.S.A. Section 5103 and fail to either appear at the hearing or object to the termination of your rights or file a written objection to such termination with the Court prior to the hearing, your rights may also be terminated under Pa.C.S.A. Section 2503 (d) or Section 2504 (c) of the Adoption Act.

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

n17

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FIRST PUBLICATION

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Miscellaneous Notices

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NOTICE OF AUDIT

TO LEGATEES, NEXT OF KIN,  
CREDITORS AND ALL  
OTHER PERSONS CONCERNED

NOTICE IS HEREBY GIVEN that the following accounts have been filed by the respective accountants in the Office of the Register of Wills or with the Clerk of the Orphans' Court Division of the Common Pleas of Dauphin County, as the case may be, and that the same shall be duly presented to the said Orphans' Court Division at the Office of the Court Administrator for Audit, Confirmation and Distribution of the said ascertained balances to and among those legally entitled there to *on Tuesday, December 19, 2006*. Pursuant to Dauphin County Orphans' Court Rule 6.10.1, objections to an account must be filed in writing with the Register or Clerk *no later than the close of business on Tuesday, December 12, 2006*.

1. CASHER, HARRY, Deceased, First and Final Account of Sylvia Casher, Executrix.
2. GREEN, FRANCES W., Deceased, First and Final Account of Florentine Washington, Executrix.
3. LOFFREDA, JR., LEWIS M., Deceased, First and Partial Account of Stephen James Loffreda, Executor.
4. MILLER, ELOTT F., Deceased, First and Final Account of Mid Penn Bank, Administrator DBNCTA.

Dated: November 9, 2006

/s/ SANDRA C. SNYDER  
Register of Wills and

n17-n24 Clerk of the Orphans' Court Division

## Sales and Leasing of Business Property

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

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

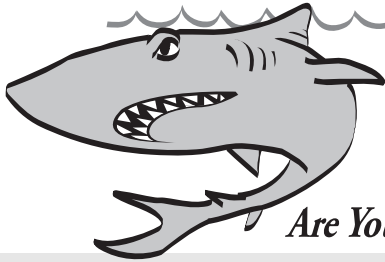
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The Bench and Bar will contribute to the accuracy in matters of detail of the permanent edition of the Dauphin County Reporter by sending to the editor promptly, notice of all errors appearing in this advance sheet. Inasmuch as corrections are made 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*

NOVEMBER 2006  
DECEMBER 2006

Judge Todd A. HOOVER  
Judge Bruce F. BRATTON

*Opinions Not Yet Reported*

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**DAUPHIN COUNTY**  
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November 13, 2007

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Richard F. Maffett, Jr.

June 11, 2007  
December 17, 2007

**BAR ASSOCIATION PAGE – Continued**

**MISCELLANEOUS SECTION**

**DAUPHIN COUNTY COURT OF COMMON PLEAS**

As a service to members of the *Dauphin County Bar Association*, a brief synopsis of verdicts from each civil trial term will be printed.

**Summary of Verdicts from the September 2006 Civil Jury Term**

The Judges have completed the September 2006 civil jury term. A total of two cases reached verdict and one case settled in the fifth day of trial. The summaries are as follows:

**MARTHA SHEAFFER, INDIVIDUALLY and AS EXECUTRIX OF THE ESTATE OF GEORGE SHEAFFER v. WILLIAM B. MILLER, JR., M.D. and QUANTUM IMAGING & THERAPEUTIC ASSOCIATES, INC. (321 CV 2001)**

Plaintiff claimed that a “locator” or “scout” film (a routine film depicting positioning of the diagnostic study itself) which was produced as part of an MRI study of the lumbar spine in 1999 was either not reviewed at all or was misread by Defendant Miller who was employed at or a shareholder of Quantum Imaging. A second MRI study’s “locator” or “scout” film in 2000 was reviewed by another Quantum Imaging radiologist who noted evidence of a mass on the patient’s left kidney and recommended further study. Mr. Schaeffer was diagnosed with a form of renal cancer and died within 22 months of the 2000 MRI. Plaintiff’s claim was that Dr. Miller should have “read” the non-diagnostic “scout” films along with the diagnostic lumbar films at the time of the 1999 MRI and should have noted evidence of an unusual mass on the left kidney at that time. The delay of one year was alleged to have allowed the cancer to grow and spread, thus becoming incurable. Defendants claimed there was no requirement that a radiologist review “scout” films when reviewing an MRI study and, even if there were such a requirement, the MRI “scout” film of 1999 did not appear to show “evidence of a mass” warranting notation in the radiologist’s report.

**Counsel for Plaintiffs:** James Ronca  
**Counsel for Defendants:** Evan Black and Hugh O’Neill  
**Judge:** Bruce F. Bratton  
Settled on the fifth day of trial

**ELSIE A. ALLEN, INDIVIDUALLY, IN HER OWN RIGHT and AS ADMINISTRATRIX OF THE ESTATE OF DAVID W. ALLEN, DECEASED v. ROBERT L. KURLANTZICK, M.D., PINNACLE HEALTH SYSTEM and PINNACLE HEALTH HOSPITALS D/B/A PINNACLE HEALTH AT POLYCLINIC HOSPITAL (3537 CV 2001)**

**ELSIE A. ALLEN, INDIVIDUALLY, IN HER OWN RIGHT and AS ADMINISTRATRIX OF THE ESTATE OF DAVID W. ALLEN, DECEASED v. WILLIAM J. BEUTLER, M.D., BARRY B. MOORE, M.D., NEUROLOGICAL SURGERY LTD., BRUCE S. COHICK, M.D., SCOTT D. MUELLER, M.D., COHICK & MUELLER, P.C., DEAN M. BROCKMOLE, M.D., DONALD J. SCHNAPF, M.D., TRISTAN ASSOCIATES, PINNACLE HEALTH SYSTEM and PINNACLE HEALTH AT POLYCLINIC HOSPITAL (5983 CV 2001)**

## BAR ASSOCIATION PAGE – Continued

### MISCELLANEOUS SECTION

On December 23, 1999, 36 year old David Allen was taken by ambulance from his work to the Polyclinic Hospital Emergency Room complaining of a severe headache, slow speech and flu-like symptoms. He was seen initially by ER physician Dr. Kurlantzick who ordered a CT scan which showed a right frontal lobe edema or mass with a midline shift and possibly an abscess. There were no lab findings indicating an infection. The radiologist (Dr. Brockmole) interpreted the most likely diagnosis as glioblastoma, though the possibility of a brain abscess or metastasis disease could not be excluded. Dr. Kurlantzick decided to admit decedent and consulted with his family doctor. He then had a telephone consult with Defendant neurosurgeon Dr. Beutler. The contents of that conversation were in dispute, though Dr. Kurlantzick believed he informed Dr. Beutler that the patient had a dental procedure within the past week and presented the patient's symptoms, test results and CT scan findings. Dr. Beutler did not believe that he participated in the diagnosis. According to Dr. Kurlantzick, Dr. Beutler did not believe that the patient required admission and Mr. Allen was discharged and scheduled for out-patient care. Dr. Kurlantzick told Mr. Allen and his family that he had a brain tumor in his right frontal lobe but because it was the Thursday before Christmas, everything that could be done in the hospital could be accomplished at home. Mr. Allen was discharged with instruction to take Tylenol or Tylenol with Codeine for his headache and Decadron to reduce the brain swelling and a MRI was scheduled and a follow-up appointment was scheduled with Dr. Beutler. On December 27, 1999, Mr. Allen continued to experience the severe headache but now also had weakness on his left side and he was taken to the hospital emergency room. Mr. Allen was admitted and placed under the care of Defendant Neurosurgeon Dr. Moore. Dr. Moore ordered a second CT scan which was performed by Dr. Schnapf. Dr. Moore diagnosed decedent with a massive right frontal cerebral abscess and edema. Surgery was scheduled for the next day. On December 28, 1999, the nurses found Mr. Allen unresponsive with dilated pupils. He was rushed into surgery where a craniotomy revealed a frontal abscess which burst into the brain cavity during surgery. The abscess was removed and brain tissue cleaned and evacuated. Mr. Allen was initially stable, however he remained unconscious. His fever spiked on December 29, 1999 and he went into septic shock and became brain dead. His family removed him from the respirator later that day. Plaintiff asserted that the defendants were negligent by failing to diagnose and intervene neurologically upon his first ER visit and also for delaying surgery.

**Counsel for Plaintiffs:** E. Ralph Godfrey and Susan B. Morrison

**Counsel for Defendants:** Lauralee B. Baker

Sarah W. Arosell

Leigh A. J. Ellis

**Judge:** Jeannine Turgeon

**Verdict:** Defendants

**BAR ASSOCIATION PAGE – Continued**

**MISCELLANEOUS SECTION**

**AMY AND JOHN TIRPAK v. LEWIS MARTIN and EDWARD M. SNYDER, JR.  
D/B/A SNYDER CROP SERVICES (2846 CV 2005)**

This motor vehicle accident occurred on Route 322 south of the Linglestown Road exit on September 10, 2004. Mrs. Tirpak was stopped in the line of traffic when she was hit from behind by a truck operated by Lewis Martin. The truck was owned by Edward M. Snyder, Jr. d/b/a Snyder Crop Services. Mrs. Tirpak allegedly suffered lower back injuries and was out of work for approximately one week.

**Counsel for Plaintiffs:** David L. Lutz  
**Counsel for Defendants:** Timothy McMahon  
**Judge:** Richard A. Lewis  
**Verdict:** Plaintiffs — \$21,000.00

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