IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MILTON HERSHEY SCHOOL, Petitioner, v. PENNSYLVANIA HUMAN RELATIONS COMMISSION, Respondent.	:	Docket No. 665 CD 2019

APPLICATION OF THE PHILADELPHIA INQUIRER, PBC TO INTERVENE AND UNSEAL

Pursuant to Rules 123 and 1531(b) of the Pennsylvania Rules of Appellate Procedure, The Philadelphia Inquirer, PBC ("The Inquirer"), publisher of *The Philadelphia Inquirer*, hereby applies to intervene in these proceedings and to unseal the docket and other judicial records. In support of this Application, The Inquirer states as follows:

INTRODUCTION

1. On November 4, 2019, the Court issued an opinion and order in the above-captioned matter vacating an April 16, 2019 order of the Pennsylvania Human Relations Commission ("PHRC"). *Milton Hershey School v. Pa. Hum. Rel. Comm'n*, No. 665 C.D. 2019, 2019 WL 5687866 (Pa. Cmwlth. Nov. 4, 2019) (hereinafter, the "Opinion" or "Op."). Prior to the issuance of the Opinion, this matter, which involves claims brought by the Milton Hershey School, one of the

nation's wealthiest charitable schools, against the PHRC, a government agency, had been litigated entirely in secret. All proceedings were closed to the public and all judicial documents, including the docket, were sealed. This extreme secrecy has deprived The Inquirer and other members of the press and the public of information about a newsworthy lawsuit that is unquestionably of public interest, and it violates the public's constitutional and common law rights of access to judicial records and proceedings. The Inquirer respectfully moves the Court for an order unsealing the docket and other sealed judicial records in this case.

BACKGROUND

2. *The Philadelphia Inquirer* is an award-winning daily newspaper that regularly reports on matters of public concern throughout Pennsylvania, including lawsuits in Pennsylvania courts. It has previously published reporting on matters involving the Milton Hershey School and School Trust. *See, e.g.*, Bob Fernandez, *Hershey School House Parents Sue Charity Over Religion, Retaliation*, Phila. Inquirer (Oct. 19, 2018), https://perma.cc/N4YY-85FE; Bob Fernandez, *CEO Who Managed Hershey's Billions Resigns*, Phila. Inquirer (Apr. 26, 2018), https://perma.cc/59FP-5SLJ.

3. On November 4, 2019, the Court issued its Opinion. The Opinion is the only judicial record in this matter that is not sealed. According to the Opinion, this matter arises from a complaint filed with the PHRC against the Milton

Hershey School. Op. at *1–2. After unsuccessfully moving to dismiss that complaint on the grounds that it was not a "public accommodation" under the Pennsylvania Human Relations Act,[1] and thus not subject to the jurisdiction of the PHRC, the Milton Hershey School filed a petition for review in this Court. *Id.* The Court vacated the PHRC's denial of the Milton Hershey School's motion to dismiss and remanded this matter for a hearing on the jurisdictional issue. *Id.* at *2–15.

4. The Opinion states that the individual who filed the complaint against the Milton Hershey School with the PHRC (the "Complainant") also filed an Application for Partial and Prospective Reconsideration of the Granting of Petitioner's Application to Seal the Record. Op. at *2. The Opinion does not address any arguments made by Complainant or any other party with respect to the wholesale sealing of this matter, nor does it address the legal requirements for sealing judicial records. *See id.* The Opinion states only that, "[g]iven the multiple privacy interests involved," the case should remain under seal, and that the Court was issuing its Opinion publicly "so as to allow public review of the issue before the Court." *Id.*

5. There is significant public interest in litigation involving the Milton Hershey School, a prominent charitable school that provides tuition-free education

[1] Act of October 27, 1955, P.L. 744, *as amended*, 43 P.S. §§ 951–63.

to disadvantaged youth. *See* Victor Fiorillo, *Is Milton Hershey School to Blame for Abbie Bartels' Suicide?*, Phila. Magazine (July 1, 2016), https://perma.cc/3PCT-L8DL (noting that the school has an endowment of more than $10 billion). Moreover, the legal issue considered by the Court in this matter—namely, whether an educational institution like the Milton Hershey School qualifies as a "public accommodation" under the Pennsylvania Human Relations Act and is subject to the jurisdiction of the PHRC—has ramifications that go beyond this specific case, and is a matter of public interest.

6. The Inquirer now seeks leave to intervene in this matter for the limited purpose of asserting its constitutional and common law rights of access to judicial records and for an order unsealing the docket and other sealed records in this case.

ARGUMENT

I. The Inquirer Should Be Permitted to Intervene.

7. Pennsylvania Rule of Appellate Procedure 1531(b) provides that a non-party may intervene with the Court's permission. Pa. R. App. P. 1531(b). Because its review of agency determinations is an exercise of the Court's original jurisdiction, the Court may rely on general rules of practice such as the Rules of Civil Procedure to determine whether the application to intervene should be granted. 42 Pa. Cons. Stat. § 763(a)(1); Pa. R. App. P. 106.

8. Pennsylvania Rule of Civil Procedure 2327(4) provides that any person for whom "the determination of such action may affect any legally enforceable interest" may intervene. Pa. R. Civ. P. 2327(4). Unless one of the exclusionary criteria set forth in Rule 2329 applies, a non-party who fits within one of the four categories identified in Rule 2327 shall be permitted to intervene. *Larock v. Sugarloaf Twp. Zoning Hr'g Bd.*, 740 A.2d 308, 312–13 (Pa. Cmwlth. 1999).

9. Here, The Inquirer seeks permission to intervene in order to assert its legally enforceable interest in accessing the docket and other judicial records in this matter. The Pennsylvania Supreme Court has stated that "a motion to intervene is an appropriate method for the news media to assert the public right of access to information" in a legal proceeding. *Commonwealth v. Upshur*, 924 A.2d 642, 645 n.2 (2007); *see also Commonwealth v. Fenstermaker*, 530 A.2d 414, 416 n.1 (1987) (discussing history of allowing intervention by news media in criminal cases); *PA Childcare LLC v. Flood*, 887 A.2d 309, 313 (Pa. Super. 2009) (finding that newspaper had a right to intervene in the action where it had a right to access the underlying judicial proceedings). And Pennsylvania courts have consistently recognized intervention by members of the news media as an appropriate means of vindicating the public's rights of access in both the criminal and civil contexts. *Capital Cities Media, Inc. v. Toole*, 483 A.2d 1339, 1344 (1984) (news media

intervention in criminal case); *PA Childcare LLC*, 887 A.2d at 313 (news media intervention in civil case).

10. Although this matter will be remanded to the PHRC if the Court's Opinion is not appealed on or before December 4, 2019,[2] that does not make this application moot, as this application concerns sealed judicial records from this proceeding, rather than a request for appellate relief. The propriety of that sealing continues to be a live issue, notwithstanding the conclusion of the underlying substantive proceeding. *See, e.g.*, *Commonwealth v. Curley*, 189 A.3d 467, 479 (Pa. Super. 2017) (remanding to trial court in otherwise concluded criminal proceeding for purposes of unsealing sealed records).

II. The Public and the Press Have a Presumptive Right to Attend Court Proceedings and Inspect Judicial Records, including the Docket, in Civil Cases.

11. The common law and the U.S. and Pennsylvania Constitutions afford members of the press and public a presumptive right of access to judicial proceedings and records. Under Pennsylvania law, the "mandate for open and public judicial proceedings" applies "in both the criminal and civil settings." *PA Childcare LLC*, 887 A.2d at 312. Parties seeking to close judicial proceedings and seal judicial records bear the burden of overcoming the presumption of openness.

[2] The Pennsylvania Rules of Appellate Procedure provide that a notice of appeal must be filed within 30 days after entry of the order to be appealed. Pa. R. App. P. 903.

Upshur, 924 A.2d at 651 (citing *Fenstermaker*, 530 A.2d at 418). And, as a number of federal courts have observed, that burden is heaviest when a party seeks to seal a case in its entirety. *Ayala v. Speckard*, 131 F.3d 62, 70 (2d Cir. 1997) (*en banc*) (holding that "the more extensive . . . the closure requested, the greater must be the gravity of the required interest and the likelihood of risk to that interest"); *United States v. Doe*, 63 F.3d 121, 129 (2d Cir. 1995) ("The burden on the movant to show prejudice increases the more extensive the closure sought"); *Miller v. Indiana Hosp.*, 16 F.3d 549, 551 (3d Cir. 1994) ("A party who seeks to seal an *entire* record faces an even heavier burden") (emphasis in original).

A. <u>The Constitutional Right of Access</u>

12. Both the First Amendment to the U.S. Constitution and Article 1, section 11 of the Pennsylvania Constitution guarantee members of the press and public a qualified right of access to proceedings and judicial records in civil matters like this one. *See, e.g.*, *Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1070 (3d Cir. 1984) ("*Publicker*"); *PA Childcare LLC*, 887 A.2d at 312; *Hutchison v. Luddy*, 581 A.2d 578, 582 (Pa. Super. 1990), *rev'd in part on other grounds*, 594 A.2d 307 (1991); *Katz v. Katz*, 514 A.2d 1374, 1379 (Pa. Super. 1986).

13. In determining whether the First Amendment presumption of access applies to a particular courtroom proceeding or document, courts look to "two complementary considerations." *Press-Enter. Co. v. Super. Ct.*, 478 U.S. 1, 8–9

(1986) ("*Press-Enterprise II*"). The first consideration—"experience"—concerns whether the proceeding or document is of the sort that has "historically been open to the press and general public." *Id.* The second—often referred to as "logic"—concerns whether "public access plays a significant positive role in the functioning of the particular process in question." *Id.* In making this "logic" determination, the Pennsylvania Supreme Court has instructed courts to consider two factors: first, whether openness improves the fairness of the proceeding or document at issue; and second, whether openness increases "'the appearance of fairness so essential to public confidence in the system.'" *Commonwealth v. Long*, 922 A.2d 892, 900 (2007) (citing *Press-Enterprise II*, 478 U.S. at 9).

14. Applying this framework, the Third Circuit in *Publicker* held that the qualified First Amendment right of access applies in civil matters, emphasizing the historical presumption of open civil courts as well as the numerous ways in which openness plays an integral role in the functioning of a healthy civil justice system. *Publicker*, 733 F.2d at 1067–70 ("Public access to civil trials, no less than criminal trials, plays an important role in the participation and the free discussion of governmental affairs"). In *Katz*, the Pennsylvania Superior Court embraced the Third Circuit's reasoning, finding that civil proceedings, including inherently private matters such as divorce proceedings, are presumptively open to the public under the First Amendment. *Katz*, 514 A.2d at 1380.

15. Like the First Amendment, the Pennsylvania Constitution also affords a qualified right of access to judicial records and proceedings. Article 1, section 11 of the Pennsylvania Constitution provides that "the courts shall be open," which the Pennsylvania Supreme Court has read as creating a "constitutional presumption of openness of courts." *Upshur*, 924 A.2d at 655. Though the Pennsylvania Supreme Court in *Upshur* did not have occasion to address the applicability of Article 1, section 11 to civil matters, the Pennsylvania Superior Court has done so, recognizing that Article 1, section 11 creates a "constitutional right of public access to judicial proceedings" in the civil context. *In re M.B.*, 819 A.2d 59, 61 (Pa. Super. 2003).

16. The Pennsylvania constitutional right of access to judicial records and proceedings is often analyzed in tandem with the First Amendment right. *See, e.g.*, *R.W. v. Hampe*, 626 A.2d 1218, 1220 n.3 (Pa. Super. 1993). Where either constitutional right of access applies, it may only be overcome if closure serves a compelling governmental interest and is the least restrictive means of furthering that interest. *Publicker*, 733 F.2d at 1070; *In re M.B.*, 819 A.2d at 63.

B. <u>The Common Law Right of Access</u>

17. Pennsylvania common law also affords the public a presumptive right of access to judicial proceedings and records, *Upshur*, 924 A.2d at 647, that applies in civil matters. *R.W.*, 626 A.2d at 1220 (explaining that the "existence of a

common law right of access to judicial proceedings and inspection of judicial records is beyond dispute"). As the Pennsylvania Supreme Court has held, the common law right applies to "any item that is filed with the court as part of the permanent record of a case and relied on in the course of judicial decision-making." *Upshur*, 924 A.2d at 648 (citing *Fenstermaker*, 530 A.2d at 418).

18. Where the common law right of access applies, it must be weighed against any asserted interests in secrecy to determine whether sealing is justified. *Upshur*, 924 A.2d at 651 (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 590, 602 (1978)). To overcome the common law presumption of access, the party seeking closure or sealing "must show that her personal interest in secrecy outweighs the traditional presumption of openness." *R.W.*, 626 A.2d at 310 n.3 (citing *Bank of America Nat'l Trust & Savings Ass'n v. Hotel Rittenhouse Ass'n*, 800 F.2d 339 (3d Cir. 1986)).

C. Procedural Requirements for Sealing Judicial Records

19. Before sealing a record or closing a proceeding, a court must provide the public with notice and an opportunity to object. *Commonwealth v. Buehl*, 462 A.2d 1316, 1317 (Pa. Super. 1983); *see also United States v. Criden*, 75 F.2d 550, 557–59 (3d Cir. 1982) (citing *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976)). In addition, courts must make specific, on-the-record findings as to why closure is proper. *United States v. Raffoul*, 826 F.2d 218, 226 (3d Cir. 1987); *Upshur*, 924

A.2d at 652. When making such determinations, the court must consider less-restrictive alternatives, such as redaction, and must make specific findings as to why alternative methods would not satisfactorily protect the compelling or countervailing interests at stake. *Upshur*, 924 A.2d at 652; *Commonwealth v. Hayes*, 414 A.2d 318, 322 (1980). These on-the-record findings must be sufficiently detailed to allow a reviewing court to determine whether the closure decision was proper. *Press-Enter. Co. v. Super. Ct.*, 464 U.S. 501, 510 (1984) ("*Press-Enterprise I*"); *Curley*, 198 A.3d at 473; *Katz*, 514 A.2d at 1381.

III. All Sealed Judicial Records in this Case Should be Unsealed.

A. The Initial Sealing of this Case Was Improper.

20. No notice was provided to the public of Milton Hershey School's motion to seal this matter in its entirety, and there was no opportunity for interested third parties, like The Inquirer, to oppose such sealing. Further, though the Court's initial sealing order remains under seal, the Court's November 4, 2019 Opinion fails to set forth specific findings that would justify continued sealing. The Court's opinion states only that "[g]iven the multiple privacy interests involved, we will maintain the case and record under seal." Op. at *2. The invocation of generalized "privacy interests" is not sufficient to justify sealing. *See Raffoul*, 826 F.2d at 226; *Upshur*, 924 A.2d at 652. Because the initial sealing of this case was improper, the Milton Hershey School, as the party that initially sought closure, bears the burden

of demonstrating why this case should remain almost entirely under seal. *See In re Estate of Dupont*, 2 A.2d 516, 524 (2010).

B. The Docket Should Be Unsealed.

21. The First Amendment right of access to judicial records encompasses the right to inspect court docket sheets. Although neither the Pennsylvania Supreme Court nor the Third Circuit have had an opportunity to address the public's right to access docket sheets specifically, numerous federal courts and the Pennsylvania Superior Court have held that the First Amendment right applies to them. *Doe v. Public Citizen*, 749 F.3d 246, 268 (4th Cir. 2014) ("*Public Citizen*") (holding that "the public and press's First Amendment qualified right of access to civil proceedings extends to docket sheets"); *Tri-Cty. Wholesale Distributors, Inc. v. Wine Grp., Inc.*, 565 F. App'x 477, 490 (6th Cir. 2012) ("The First Amendment access right extends to court dockets, records, pleadings, and exhibits . . ."); *Hartford Courant Co. v. Pellegrino*, 380 F.3d 83, 91 (2d Cir. 2004) ("*Pellegrino*") (finding that "the media and the public possess a qualified First Amendment right to inspect docket sheets"); *United States v. Valenti*, 987 F.2d 708, 715 (11th Cir. 1993) (holding that district court's maintenance of sealed dockets violated First Amendment); *Curley*, 189 A.3d at 473 (finding docket entries to be public records and subject to the First Amendment right of access). As this weight of authority demonstrates, both experience and logic strongly support a First Amendment right

of access to docket sheets. As the Second Circuit has explained, "[e]xperience casts an affirming eye on the openness of docket sheets and their historical counterparts." *Pellegrino*, 380 F.3d at 94 (tracing the tradition of open "docket books" in the United States to "the first years of the Republic"). And "[l]ogic supports this judgment of history." *Id.* at 95. Access to docket sheets simultaneously enhances the integrity of judicial proceedings and increases the appearance of fairness in the courts. *Id.* (citing *Press-Enterprise I*, 464 U.S. at 508).

22. Docket sheets rarely—if ever—contain information of a kind that warrants sealing. *See In re State–Record Co.*, 917 F.2d 124, 129 (4th Cir. 1990) (per curiam) (reversing the sealing of docket sheets as overbroad and incompatible with the First Amendment, noting "we can not understand how the docket entry sheet could be prejudicial"). And, as the Fourth Circuit has correctly observed, "depriving the public and press access to docket sheets" is particularly "repugnant" because "no one can challenge closure of a document or proceeding that is itself a secret." *Public Citizen*, 749 F.3d at 268. The constitutional right of access is "merely theoretical" if members of the press and public have no opportunity to learn of motions to seal proceedings and to voice their opposition to closure. *Pellegrino*, 380 F.3d at 93; *see also Raffoul*, 826 F.2d at 224 (citing *Gannett Co. v. DePasquale*, 443 U.S. 368, 401 (1979) (Powell, J., concurring)). The public

docketing of a motion to close or seal, coupled with an opportunity for interested third parties to oppose the closure or sealing, are procedural due process requirements necessary for deprivation of the constitutionally protected right of access. *Criden*, 75 F.2d at 557–59 (citing *Mathews*, 424 U.S. at 334–35).

23. The docket sheet in this case is subject to the constitutional right of access. Because no compelling interest justifies sealing the docket sheet in this case, it should be unsealed. *See Publicker*, 733 F.2d at 1070; *R.W.*, 626 A.2d at 1220 n.3.

C. The Remaining Sealed Records Should Be Unsealed.

24. Because the entirety of the docket is sealed, The Inquirer is unable to identify the remaining sealed records with specificity. However, those records necessarily include briefs filed by the parties and orders of the Court, all of which are judicial records presumptively open to public inspection under common law. Further, many of the sealed records are also likely subject to the constitutional right of access. Applying the test of "logic" and "experience," the U.S. Court of Appeals for the Fourth Circuit has found that the public has a presumptive First Amendment right of access to appellate records and proceedings. *United States v. Moussaoui*, 65 F. App'x 881, 890 (4th Cir. 2003) (finding that "the very considerations that counsel in favor of openness of criminal trial[s] support a similar degree of openness in appellate proceedings"); *see also MetLife, Inc. v. Fin.*

Stability Oversight Council, 865 F.3d 661, 667 (D.C. Cir. 2017) (discussing common law right of access; finding that, even if they are not cited or referenced in a court's decision, appellate briefs "play a central role in the adjudicatory process"). Indeed, even where sensitive national security interests are implicated, which is *not* the case here, the United States Supreme Court has declined to close oral argument or seal appellate briefs. *See N.Y. Times Co. v. United States*, 403 U.S. 944 (1971) (denying motion to conduct part of Pentagon Papers oral argument in camera); *In re Krynicki*, 983 F.2d 74, 76 (7th Cir. 1992) (noting that briefs in the Pentagon Papers case were available to the press, with sealed appendices).

25. The nature of the dispute before the Court, as it is described in the Opinion, indicates that there are sealed records—or at least portions thereof—that should be unsealed. The Court considered a question that is primarily a legal, rather than factual, one: whether the Milton Hershey School is a "public accommodation" within the meaning of the Pennsylvania Human Relations Act and therefore subject to the jurisdiction of the PHRC. *See* Op. at *2–14. Other courts have recognized that appellate records that are primarily legal in nature, such as briefs, do not implicate the same concerns that fact-intensive lower court records may implicate. *See, e.g.*, *In re Krynicki*, 983 F.2d at 77 ("[a]ny part of the record that must remain secret . . . may be discussed in sealed appendices to the briefs, but the briefs themselves, including all of the legal argument, belong in the

public domain"); *see also MetLife*, 865 F.3d at 668 (finding that briefs and other materials relied upon by the court should be presumptively open so as to allow the public to "know which parts of those materials persuaded the court and which failed to do so (and why)").

26. Moreover, while laudable, the Court's decision to release its November 4 Opinion publicly does not diminish the public's interest or the strength of the public's presumptive right of access with respect to the remaining sealed judicial records in this matter. As the U.S. Court of Appeals for the District of Columbia Circuit has noted: "The issuance of a completely public opinion contributes significantly to the transparency of the court's decisionmaking process. But the fact that one judicial record is public does not determine whether other documents qualify as judicial records as well." *MetLife*, 865 F.3d at 668.

27. Generalized "privacy interests" are insufficient to overcome the strong common law presumption of access to judicial records. *See Long*, 922 A.2d at 905–06 (finding that "general concerns for harassment or invasion of privacy would exist in almost any criminal trial," and that such concerns alone do not justify sealing unless supported by specific factual findings). And, the fact that the Complainant in the underlying PHRC matter—the very individual whose privacy is most likely to be implicated—apparently asked the Court to unseal this matter suggests that any "privacy interests" are minimal. Moreover, even assuming that

the Milton Hershey School could demonstrate a countervailing interest sufficient to overcome the common law and constitutional rights of access to some portion of the remaining sealed records, it is inconceivable that such an interest justifies the continued sealing of every single judicial record in this case in its entirety.

28. The public has a heightened interest in access here. The Milton Hershey School is an important charitable educational institution, and it is currently a party in two federal lawsuits concerning allegations that it did not adequately care for students with mental health disorders. *See Dobson v. Milton Hershey Sch. & Sch. Trust*, No. 1:16-CV-1958, 2019 WL 5394573 (M.D. Pa. Oct. 22, 2019); *Wartluft v. Milton Hershey Sch. & Sch. Trust*, No. 1:16-CV-2145, 2019 WL 5394575 (M.D. Pa. Oct. 22, 2019). It is undeniable that the public has a significant, legitimate interest in any dispute involving this prominent institution, especially one in which it challenges the authority of the PHRC, a government agency tasked with enforcing state laws that prohibit discrimination. Moreover, the public has a strong interest in the underlying legal question presented to the Court: whether a school like the Milton Hershey School is a "public accommodation" within the meaning of the Pennsylvania Human Relations Act and thus subject to the jurisdiction of the PHRC. The Court's analysis and resolution of this legal issue have ramifications for the public that go beyond the

facts of this case. For all these reasons, the remaining sealed records in this matter should be unsealed.

IV. To the Extent Sealing of Any Portion of the Sealed Records Is Necessary, Such Sealing Should Be Narrowly Tailored and Supported by Specific, On-the-Record Findings.

29. To the extent Milton Hershey School seeks continued sealing of these judicial records, it bears the heavy burden of demonstrating that the presumption of public access is overcome. *See, e.g.*, *R.W.*, 626 A.2d at 1223 n.3; *see also In re Estate of Dupont*, 2 A.2d at 524. Even if Milton Hershey School can satisfy its burden of demonstrating a compelling or countervailing interest sufficient to overcome the strong presumption of public access, continued sealing of this matter should be no greater than necessary to further that interest. *See Press-Enterprise I*, 464 U.S. at 510; *R.W.*, 626 A.2d at 1224. Accordingly, less restrictive alternatives to wholesale sealing, such as redaction, should be employed.

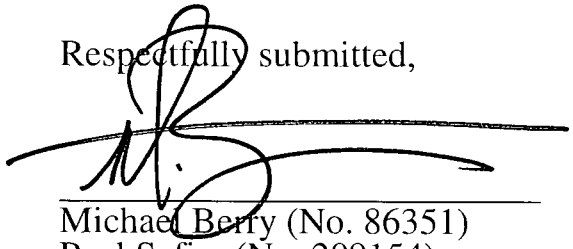
30. Further, as the Pennsylvania Supreme Court has instructed, to the extent the Court concludes that continued sealing of some portion of the remaining sealed records is necessitated by compelling or countervailing interests, it must make specific, on-the-record factual findings supporting its conclusion. *Upshur*, 924 A.2d at 651 (citing *Fenstermaker*, 530 A2d at 420–21); *see also Katz*, 514 A.2d at 1381 (requiring trial court to state reasons for sealing on the record in civil case). In sum, to the extent the Court finds any continued sealing necessary in this

matter, The Inquirer respectfully asks the Court to specify its findings on the record, and explain why the presumptive right of access is overcome for each document and all specific information that remains sealed, as well as why less restrictive alternatives do not adequately protect the interests at stake.

WHEREFORE, The Inquirer respectfully asks the Court to grant its application to intervene and enter an order making the docket available to the public and immediately unseal all other judicial records in this case.

Dated: December 3, 2019

Respectfully submitted,



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**Pro Hac Vice* Applications Forthcoming

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of December 2019, I caused a true and correct copy of the foregoing Application of The Philadelphia Inquirer, PBC to Intervene and Unseal to be served via Federal Express on the following attorneys:[1]

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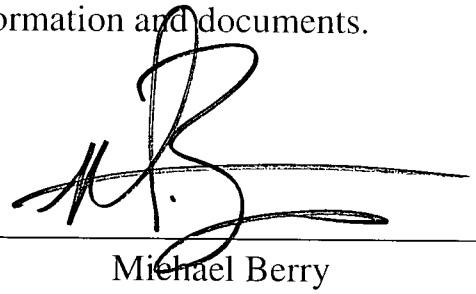
[1] Please note that because the case and docket are under seal, we are unable to identify the counsel of record in the case. My office contacted the Prothonotary's office to obtain that information, but it is my understanding that the Prothonotary's office would provide only the names and bar numbers of the counsel listed above. It would not disclose which party each counsel represented. We have sent the Application to the address for each attorney listed in the public directory provided by the Disciplinary Board of the Supreme Court of Pennsylvania at https://www.padisciplinaryboard.org/for-the-public/find-attorney. If we subsequently are informed that any counsel's address is incorrect, or if any counsel of record has not been served, we will serve that counsel at the correct address.

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.



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