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**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION**

**Joseph L. Feliciani**, as Administrator  
of the Estate of Grace Packer,

*Plaintiff,*

**V.**

**No. 180603829**

**Hon. Judge Cohen**

**The Impact Project, Inc., *et al.***

*Defendants.*

**BRIEF OF THE *BUCKS COUNTY COURIER TIMES* ON REMAND TO  
THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

Case ID: 180603829  
Control No.: 23035340

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## **PRELIMINARY STATEMENT**

The *Bucks County Courier Times* (“*Courier Times*”) seeks to unseal seven settlement-related documents which were filed under seal without publicly available justification and which remain inaccessible to the press and the public: (1) the May 4, 2020 petition to settle; (2) the July 21, 2020 wrongful death order; (3) the June 15, 2021 petition to approve settlement; (4) the July 20, 2021 order of deferment; (5) the August 4, 2021 *praecipe* to supplement/attach; (6) the September 9, 2021 order granting petition for wrongful death; and (7) the September 14, 2021 settlement order (together, the “Settlement Filings”). The press and public have a presumptive right to access the Settlement Filings under both the common law and the First Amendment.

This Court denied the *Courier Times*’ motion to intervene and unseal the Settlement Filings, but, on October 15, 2025, the Superior Court reversed that decision, holding that the Settlement Filings were, at a minimum, “public judicial documents” subject to the common law right of access, and deferred ruling on whether the First Amendment right of access also applied.

On remand, the Court has now instructed the parties to brief whether (1) “the interest in maintaining the secrecy of the Settlement Documents outweighs the presumption of public access to judicial records” (*i.e.*, whether the common law right of access has been overcome), and (2) whether continued sealing is “essential to preserve higher values and is narrowly tailored to serve that interest” (*i.e.*, whether the First Amendment right of access could be overcome). Order and Rule Returnable (Nov. 21, 2025) (the “Remand Order”). The answer to both questions is “no.” Although the Superior Court did not reach the question whether the First Amendment right of access applied, there can be little doubt that it does. Settlement records filed in court have historically been open to the press, and because public access to settlement filings plays a

significant positive role in the settlement process from a fairness and transparency perspective, the Settlement Filings at issue here are subject to the First Amendment right of access.

But regardless of whether the common law or First Amendment test is applied, the result is the same: the interests in closure do not meet the standard to justify sealing public court records. It is well settled that entering into settlement agreements with the understanding that they would remain confidential is not a compelling interest that outweighs either the common law or the First Amendment right of access. Similarly, courts have repeatedly held that parties' concerns about their own potential reputational damage and harm to their businesses do not outweigh the presumption of access—indeed, such concerns weigh *in favor* of access.

As the Settlement Filings are subject to both the common law and the First Amendment rights of access and neither can be overcome in this case, the Court should grant the *Courier Times*' motion to unseal these records. Should the Court find that there is an interest in keeping some portion of the documents confidential, and that this interest outweighs these access rights, the Court should instruct the parties to make appropriately targeted redactions of that information, rather than maintain the wholesale sealing of the Settlement Filings.

### **PROCEDURAL HISTORY**

As described in more detail in the *Courier Times*' March 24, 2023 motion to intervene and unseal, as well as its December 12, 2024 brief to the Superior Court, the above-captioned wrongful death action was filed in June 2018. *See* Docket No. 2 (June 29, 2018). The case ended in October 2022 with a *praecipe* to settle, discontinue, and end the case. *See* Docket No. 191 (Oct. 18, 2022).

In March 2023, the *Courier Times* moved to intervene and unseal seven settlement-related documents. *See* Docket No. 192 (Mar. 24, 2023). This Court denied the *Courier Times*' motions in February 2024. *See* Docket No. 214 (Feb. 27, 2024). In March 2024, the *Courier Times* filed

a notice of appeal to the Superior Court. *See* Docket No. 216 (Mar. 19, 2024). After the appeal was fully briefed and argued, the Superior Court reversed this Court’s order denying the *Courier Times*’ motions to intervene<sup>1</sup> and unseal and remanded the case back to this Court. *Feliciani v. Impact Project, Inc.*, No. 864 EDA 2024, 2025 WL 2924447 (Pa. Super. Ct. Oct. 15, 2025).

### **FACTUAL BACKGROUND**

As set forth in greater detail in the *Courier Times*’ March 24, 2023 motion to intervene and unseal and its December 12, 2024 brief to the Superior Court, the *Courier Times* is a news outlet serving Bucks County and Eastern Montgomery County, Pennsylvania that reports on news, sports, entertainment, and obituaries.<sup>2</sup> As part of its wider coverage of Pennsylvania’s foster care system, the *Courier Times* has reported on the murder and abuse of Grace Packer (“Grace”).<sup>3</sup>

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<sup>1</sup> The Superior Court remanded “for the trial court to determine whether under common law the documents in this case should be unsealed,” and “[i]f the trial court determines that the factors weigh against unsealing the documents under the common law right of access, it shall then determine whether access is required under the First Amendment.” *Feliciani*, 2025 WL 2924447, at \*4 n.5. The Superior Court also reversed this Court’s original denial of the *Courier Times*’ motion to intervene, noting that the Court did so “without explanation,” and instructed this Court on remand to “set forth its reasoning for denying intervention.” *Id.* at \*4. For the reasons set forth in the *Courier Times*’ briefing in this Court (and in the Superior Court), there is no basis to deny the motion to intervene, regardless of whether the motion to unseal is ultimately granted. *See* Docket No. 193 (Mar. 24, 2023); *Feliciani*. In any event, the Remand Order only instructs the parties to brief the application of the common law and First Amendment tests for access, and does not ask the parties to address the threshold motion to intervene. The *Courier Times* interprets the Remand Order as implicitly granting the motion to intervene; if the Court determines that the motion to intervene itself remains an open question, the *Courier Times* respectfully requests an opportunity to further brief that separate issue.

<sup>2</sup> *See generally* Bucks County Courier Times, <https://www.phillyburbs.com/> (last visited Nov. 26, 2025).

<sup>3</sup> *See, e.g.,* Christopher Dornblaser, *Bucks DA, State Lawmakers Unveil ‘Grace’s Law’*, BUCKS COUNTY COURIER TIMES (Sept. 15, 2021), <https://bit.ly/3HXjLmO>; Jo Ciavaglia, *Report: Agencies Missed ‘Red Flags’ with Grace Packer*, BUCKS COUNTY COURIER TIMES (Apr. 2, 2019), <https://www.phillyburbs.com/story/news/crime/2019/04/02/report-agencies-missed-red-flags/5557174007/>; Jo Ciavaglia, *Do Children, Families Need Child Welfare Watchdog?*, BUCKS COUNTY COURIER TIMES (June 19, 2018), <https://www.phillyburbs.com/story/news/state/2018/06/19/do-children-families-need-child/11935278007/>.

While the *Courier Times* has been following the above-captioned case since it was filed, the allegations of “negligence, gross negligence, outrageousness and/or reckless indifference” resulting in Grace’s “systematic physical and mental torture” brought by Joseph Feliciani<sup>4</sup> as the administrator of Grace’s estate have never been proven or disproven. *See* Compl. ¶ 99.

Beyond coverage in the press, the story of Grace’s short life and tragic death is covered extensively in judicial records throughout southeastern Pennsylvania. Her adoptive mother, Sara Packer, and Ms. Packer’s boyfriend, Jacob Sullivan, were criminally prosecuted in the Court of Common Pleas of Bucks County.<sup>5</sup> There were further court proceedings including the above-captioned wrongful death action and proceedings to determine which person would be approved to administer Grace’s estate (“Estate Action”).<sup>6</sup> *See* Exhibit A. In that dispute, the court ruled that none of the applying relatives should serve as the estate’s administrator, instead appointing Mr. Feliciani and eventually concluding probate of the estate in the Montgomery County Orphan’s Court. *Id.*

Before the above-captioned wrongful death case reached trial, it settled in 2021 under seal. *See generally* Docket. Across the various dockets from court proceedings associated with Grace’s murder, information about the settlement that ended the above-captioned wrongful death action abounds. In the Estate Action, the total settlement amounts are listed on the publicly available docket. In an inheritance tax return filed in the Estate Action on November 5, 2020, Schedule E

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<sup>4</sup> Per this Court’s order of November 21, 2025, “[c]ounsel may include affidavits, depositions, and any other supporting materials with their supplemental briefs.” Supporting documentation from the Montgomery County Court of Common Pleas is attached and incorporated herein as Exhibit A.

<sup>5</sup> *See Commonwealth v. Packer*, No. CP-09-CR-0001119-2017 (Pa. Ct. Com. Pl. Bucks Cnty. 2017); *Commonwealth v. Sullivan*, No. CP-09-CR-0001333-2017 (Pa. Ct. Com. Pl. Bucks Cnty. 2017).

<sup>6</sup> *See In re: Estate of Packer, Grace, Deceased*, No. 2017-X2507 (Pa. Ct. Com. Pl. Montgomery Cnty. 2017).



lists \$3,218,110 as the “value at date of death” of “Survival Action Proceeds per Court Order dated July 21, 2021 (‘Exhibit ‘1’).”<sup>7</sup> A supplemental inheritance tax return filed on February 25, 2022 lists the “value at date of death” of “Survival Action Proceeds per Court Order Dated September 13, 2021 (‘Exhibit ‘1’) as valued at date of death (‘Exhibit ‘2’)” at \$2,423,751.<sup>8</sup> The \$3,218,110 and \$2,423,751 represent settlement figures paid to Grace’s estate as a result of the above-captioned wrongful death case settlement. What cannot be gleaned from the public filings available on dockets associated with Grace’s murder is how these settlement figures were determined and how they were apportioned between defendants—key information that the press, including the *Courier Times*, requires to provide complete coverage of a story that so shocked the state that Pennsylvania Representative Craig Staats once again introduced legislation named after Grace to better protect children who are in foster care or placed with adoptive families.<sup>9</sup>

In the above-captioned case, there are seven settlement-related documents which were filed under seal without publicly available justification and which remain inaccessible to the press and the public: (1) the May 4, 2020 petition to settle; (2) the July 21, 2020 wrongful death order; (3) the June 15, 2021 petition to approve settlement; (4) the July 20, 2021 order of deferment; (5) the August 4, 2021 *praecipe* to supplement/attach; (6) the September 9, 2021 order granting petition for wrongful death; and (7) the September 14, 2021 settlement order (together, the “Settlement Filings”). Given the high public interest in the ultimate resolution of the shocking claims alleged in this case, the *Courier Times* renews its motion to unseal the Settlement Filings on remand.

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<sup>7</sup> See *In re Estate of Packer, Grace, Deceased*, Case No. 2017-X2507, Docket No. 35, (Pa. Ct. Com. Pl. Montgomery Cnty. 2017).

<sup>8</sup> See *In re Estate of Packer, Grace, Deceased*, Case No. 2017-X2507, Docket No. 39, (Pa. Ct. Com. Pl. Montgomery Cnty. 2017).

<sup>9</sup> Representative Craig Staats, *Protecting Children in Foster Care/Adoption -- Grace Packer (Former House Bills 321, 322, and 324)*, PENNSYLVANIA HOUSE OF REPRESENTATIVES (Jan. 27, 2025), <https://www.palegis.us/house/co-sponsorship/memo?memoID=45342>.

## **QUESTIONS PRESENTED**

1. Whether the interest in maintaining the secrecy of the Settlement Documents outweighs the presumption of public access to judicial records.

Suggested answer: No.

2. Whether “closure [of the Settlement Documents] is essential to preserve higher values and is narrowly tailored to serve that interest.” *Press-Enter. Co. v. Super. Ct. of Cal. for Riverside Cnty.*, 478 U.S. 1, 9 (1986) (citation omitted).

Suggested answer: No.

## **ARGUMENT**

This Court should find, on remand, that no countervailing interest outweighs the common law presumption of access that applies to the Settlement Filings. Further, this Court should find that the First Amendment right of access attaches to the Settlement Filings, that sealing of those records is not essential to preserve any higher values, and that, even if there were some justification to seal certain information in the records, the wholesale sealing of the Settlement Filings is not narrowly tailored to serve those interests. For these reasons, the *Courier Times*’ motion to unseal the Settlement Filings should be granted.

### **I. There is a Presumption of Public Access to the Settlement Filings**

The common law presumption of public access to judicial proceedings and records exists across the United States but is especially strong in Pennsylvania, where “the common law, the first amendment to the United States Constitution, and the Pennsylvania Constitution, all support the principle of openness.” *Storms ex rel. Storms v. O’Malley*, 779 A.2d 548, 568 (Pa. 2001) (quoting *Hutchison v. Luddy*, 581 A.2d 578, 582 (Pa. 1990), *rev’d on other grounds*, 594 A.2d 307 (Pa. 1991)). That the presumption applies to civil as well as criminal proceedings and records is “beyond dispute.” *R.W. v. Hampe*, 626 A.2d 1218, 1220–21 (Pa. 1993). The reasons for the

strong presumption of access to civil proceedings and records are many, including that “[i]t enhances the quality of justice dispensed by officers of the court and thus contributes to a fairer administration of justice.” *Id.* at 1221. In short, such access is “inherent in the nature of our democratic form of government.” *Id.*

As members of the very public that it serves, the press enjoys the same presumption of access to judicial records. *Estes v. State of Tex.*, 381 U.S. 532, 540 (1965) (“Nor can the courts be said to discriminate where they permit the newspaper reporter access to the courtroom. The television and radio reporter has the same privilege. All are entitled to the same rights as the general public.”). Courts recognize that a key function of the press is to disseminate information about judicial proceedings and records to the public so that the public can “be assured that offenses perpetrated against [it] are dealt with in a manner that is fair to their interests, and fair to the interests of the accused.” *Commonwealth v. Fenstermaker*, 530 A.2d 414, 417 (Pa. 1987).

The common law presumption of access attaches to documents that qualify under the law as “judicial records.” *In re Cendant Corp.*, 260 F.3d 183, 192 (3d Cir. 2001). A document that “has been filed with the court, or otherwise somehow incorporated or integrated into a district court’s adjudicatory proceedings” is a judicial record. *Id.* Thus, settlement records filed in a judicial proceeding are judicial records. *See, e.g., Bank of Am. Nat’l Tr. & Sav. Ass’n v. Hotel Rittenhouse Assocs.*, 800 F.2d 339, 344 (3d Cir. 1986) (“[T]he court’s approval of a settlement or action on a motion are matters which the public has a right to know about and evaluate.”); *LEAP Sys., Inc. v. MoneyTrax, Inc.*, 638 F.3d 216, 220 (3d Cir. 2011) (same); *McDevitt v. Arthur Wageman Penske Leasing*, No. 19 CV 1498, 2022 WL 3544404, at \*2 (Pa. Ct. Com. Pl. Lackawanna Cnty. Aug. 18, 2022) (“It is beyond cavil that the settlement petition filings in this

matter are public judicial records inasmuch as they will be reviewed and relied upon in approving or rejecting the proposed settlement and distribution of funds.”).

Here, the question of whether the common law right of access attaches to the Settlement Filings has already been decided. In its October 15, 2025 opinion, the Superior Court held that “the documents sought are judicial records” and noted that it found “a common law right of access attached to the Settlement Documents.” *Feliciani*, 2025 WL 2924447, at \*1, \*4 n.5. The common law presumption of access thus applies to the Settlement Filings that the *Courier Times* seeks to unseal.

## **II. There is also a First Amendment Right of Access to the Settlement Filings**

The public, including the press, also have a First Amendment right of access to the Settlement Filings. As established above, the Settlement Filings are judicial records. To determine whether the First Amendment provides a presumption of access to these records, courts look to two complementary considerations: “experience and logic.” *Press-Enter. Co.*, 478 U.S. at 9. Here, both considerations favor unsealing the Settlement Filings.

The experience consideration “asks ‘whether the place and process have historically been open to the press.’” *In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 924 F.3d 662, 673 (3d Cir. 2019) (quoting *N.J. Media Grp. Inc. v. United States*, 836 F.3d 421, 429 (3d Cir. 2016)). Pennsylvania courts have long held that settlement records filed in court should be presumptively open. *See, e.g., St. Est. v. Gen. Motors Corp.*, 17 Pa. D. & C.4th 37, 41 (Pa. Ct. Com. Pl. York Cnty. Sep. 8, 1992) (“Once a settlement is filed, it becomes a judicial record and subject to the access accorded such records.”); *id.* (denying motion to seal settlement records based on common law *and First Amendment* rights of access).

The existence of a right of access to judicial documents under the common law has played a crucial role in development of First Amendment jurisprudence on access. *United States v. Antar*,

38 F.3d 1348, 1361 (3d Cir. 1994). Thus, the fact that the Settlement Filings are presumptively open under the common law, *see St. Est.*, 17 Pa. D. & C.4th at 41, reinforces the conclusion that the experience prong of the First Amendment favors access to the instant Settlement Filings.

The “logic” consideration asks “whether public access plays a significant positive role in the functioning of the particular process in question.” *In re Avandia*, 924 F.3d at 673 (quoting *N.J. Media Grp.*, 836 F.3d at 429). The logic consideration primarily focuses “on the right of ‘everyone’ to open proceedings, which enhances public confidence in the judicial system.” *Commonwealth v. Long*, 592 Pa. 42, 60, 922 A.2d 892, 903 (2007).

Here, the logic consideration is satisfied because public access to settlement records that are filed in court plays a significant positive role in the settlement process from a fairness and transparency perspective. The Impact Project, on remand, misleadingly posits that “[t]he public plays absolutely no role, let alone a positive one, in helping private parties reach a settlement in a case,” Br. of Impact Proj. at 8 (Dec. 3, 2025); but this bizarre claim misses the mark. The law is clear that the “public has an interest in knowing what terms of settlement a federal judge would approve,” *LEAP Sys.*, 638 F.3d at 221, and such oversight “enhances the quality of justice dispensed by officers of the court and thus contributes to a fairer administration of justice.” *R.W. v. Hampe*, 626 A.2d at 1221.

Responding to arguments that keeping settlement filings sealed encourages settlement, which in turn eases the burden on court systems, the Third Circuit has cautioned, “[w]e cannot permit the expediency of the moment to overturn centuries of tradition of open access to court documents and orders.” *Bank of Am.*, 800 F.2d at 345 (holding that common law right of access required disclosure of settlement agreement filed in district court). Parties file settlements in district courts to “utilize the judicial process to interpret the settlement and to enforce it.” *Id.* And

because “[d]isclosure of settlement documents serves as a check on the integrity of the judicial process,” parties that file settlements in court “are no longer entitled to invoke the confidentiality ordinarily accorded settlement agreements.” *Id.* This “promotes informed discussion of governmental affairs by providing the public with [a] more complete understanding of the judicial system and the public perception of fairness which can be achieved only by permitting full public view of the proceedings.” *Id.* (internal citations and quotation marks omitted). Logic counsels that, in a time where our judicial system has become a system of settlements as opposed to trials, settlement documents that are filed in a court for judicial interpretation, approval or enforcement must be made public.

The Court should find that the First Amendment right of public access attaches to the Settlement Filings because both the experience and logic considerations are satisfied here.

### **III. No Compelling Interest or Higher Value Overcomes the Presumption of Public Access Under the Common Law or the First Amendment**

#### **A. The Common Law Presumption of Public Access to Judicial Records Outweighs Any Interest in Continued Sealing**

Where, as the Superior Court has already held, the common law presumption of access attaches because the records at issue are judicial records, the party seeking continued sealing bears the burden of demonstrating that the records must remain sealed. *See Bank of Am.*, 800 F.2d at 344. To do so, the party seeking continued sealing must show that “the interest in secrecy outweighs the presumption” of access. *Id.* However, not just any interest in secrecy will outweigh the presumption of access. The interest must be “compelling [and] countervailing” and “[b]road allegations of harm, bereft of specific examples or articulated reasoning, are insufficient,” so “specificity is essential” in articulating such an interest. *In re Avandia*, 924 F.3d at 673 (quoting *In re Cendant Corp.*, 260 F.3d at 194).

Here, no such interest outweighs the presumption of public access to the Settlement Filings. In its appellate brief and on remand, the Impact Project emphasizes that “[t]he agreement between the parties that the terms and conditions of the settlement itself would remain confidential was a major reason that Impact decided to settle the case.” Br. of Impact Proj. at 14 (internal citations omitted); *see also* Br. of Impact Proj. at 2 (stating, on remand, that “in negotiating the settlement, confidentiality was a critical term of Impact agreeing to the settlement.”). Pinebrook Family Answers (“Pinebrook”) parrots the same argument for continued sealing in its brief on remand: “this settlement agreement and sealing of the records was a private agreement between the parties, with confidentiality being the key.” Br. of Pinebrook Family Answers at 1. But these are not cognizable considerations that can defeat the strong presumption of access to judicial records and are routinely found insufficient to warrant continued sealing in similar cases. In *Hughes v. Wilkes-Barre Hosp. Co.*, for example, the court denied the defendant’s motion to permanently seal settlement petitions and all related documents pertaining to professional liability, explaining that “the sealing of a settlement is not a perfunctory judicial task that is dictated by the parties’ private agreement to maintain confidentiality.” No. 16 CV 6463, 2018 WL 11650554, at \*5 (Pa. Ct. Com. Pl. Aug. 9, 2018); *see also Vaccaro v. Scranton Quincy Hosp. Co., LLC*, No. 14 CV 7675, 2016 WL 6836985, at \*11 (Pa. Ct. Com. Pl. Nov. 18, 2016) (same).

The Impact Project further asserted that unsealing “will undoubtedly result in improper public assumption, bias, and innuendo concerning the alleged actions and involvement of Impact in the circumstances surrounding Grace Packer’s death.” Br. of Impact Proj. at 14. The Impact Project is apparently concerned that unsealing the Settlement Filings will result in the public inferring that the Impact Project was subject to some sort of liability, even though the Impact Project “entered into a settlement agreement setting forth that there is no admission of liability on

its part.” *Id.* at 15. In a particularly nonspecific averment, The Impact Project, on remand, suggests that “[it] will continue to be harmed if the Settlement Filings are unsealed,” without so much as informing the Court what “harm” ever occurred in the first place as a result of the *Courier Times*’ motion to unseal. The Impact Project’s declarant unhelpfully adds that he “believe[s]” “unsealing . . . will cause further harm to The Impact Project,” Decl. of Joseph I. Abraham at ¶ 19, while continually failing to account for the commonsense reality that no liability has been assigned to any of the named defendants in the underlying matter. Pinebrook’s brief on remand summarizes this interest in maintaining sealing as a desire to protect “compelling privacy interests” but similarly fails to detail precisely what harm would befall defendants upon unsealing the Settlement Filings. Br. of Pinebrook Family Answers at 2.

Arguments asserting an “amorphous fear regarding the possible loss of . . . business [do] not constitute a ‘clearly defined and serious injury,’ nor [do they] outweigh the long-standing presumption in favor of public access to judicial records.” *Vaccaro*, 2016 WL 6836985, at \*9. “To the contrary, publication of the settlement details may serve the public good by providing consumers with information arguably relevant to their [local services] decisions.” *Id.* As the Impact Project does not articulate precisely how unsealing the Settlement Filings will affect its business dealings, client relationships, operations, or reputation, its interest in continued sealing boils down to an interest in avoiding potential embarrassment. The Third Circuit has stated plainly: “[W]e have repeatedly said that concern about a company’s public image, embarrassment, or reputational injury, without more, is insufficient to rebut the presumption of public access.” *In re Avandia* 924 F.3d at 676.

As the Impact Project has failed to articulate any compelling interest that would outweigh the presumption of public access to judicial records under Pennsylvania common law, this Court



should find that the common law presumption of access outweighs any interest in continued sealing of the Settlement Filings and unseal them.

**B. Closure of the Settlement Filings is Neither Essential to Preserve Higher Values nor Narrowly Tailored**

In addition to the common law presumption of access, the First Amendment presumption of access attaches here as well. That imposes an even higher burden on the party seeking to keep court records and proceedings secret: Where the First Amendment presumption attaches, a party seeking continued sealing “may rebut the presumption of openness only if able to demonstrate ‘an overriding interest [in excluding the public] based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.’” *In re Avandia*, 924 F.3d at 673 (quoting *Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1073 (3d Cir. 1984)). The showing required to demonstrate that continued sealing is necessary is much more stringent under the First Amendment than it is under the common law. “Any restriction on the right of public access is . . . evaluated under strict scrutiny” because “[i]f the First Amendment right of access applies, there is a presumption that the proceedings will be open to the public.” *In re Avandia*, 924 F.3d at 673 (internal citations and quotation marks omitted).

*A fortiori*, since the purported justifications for sealing the Settlement Filings do not even satisfy the common law standard, they cannot possibly satisfy the stricter First Amendment standard. For the same reasons articulated above, no party has demonstrated an overriding interest in sealing because there are no higher values that must be preserved by continued closure of the Settlement Filings. The arguments proffered by the Impact Project in its Superior Court brief and on remand revolve around its concern that making the Settlement Filings publicly available will give rise to unwarranted public assumptions that will damage its reputation and harm its business. Just as these vague concerns about reputational harm have been dismissed by Pennsylvania courts

under the less stringent common law standard, they do not withstand the more demanding First Amendment standard and should not be considered “higher values” that must be preserved by overriding the public’s First Amendment right of access.

Finally, to the extent that the Settlement Filings do contain information which must be sealed to preserve higher values – and there has been no indication that they do – wholesale sealing of the Records in their entirety is not a narrowly tailored solution. A party that establishes a compelling government interest justifying closure must achieve that closure only by “a means narrowly tailored to serve that interest.” *In re M.B.*, 819 A.2d 59, 63 (Pa. Super. Ct. 2003). In *Commonwealth v. Long*, for example, the Pennsylvania Supreme Court balanced competing access and privacy interests in holding that jurors’ names could be disclosed to the public, but not their addresses. 922 A.2d 892, 905 (2007). In *Press-Enter. Co. v. Super. Ct. of Cal. for Riverside Cnty.*, Justice Marshall stated in his concurrence to the U.S. Supreme Court majority opinion that redaction is “the constitutionally preferable method for reconciling the First Amendment interests of the public and press with the legitimate privacy interests of jurors and the interests of defendants in fair trials[.]” 464 U.S. 501, 520 (1984).

Here, if the First Amendment presumption of access were overcome by the need to preserve higher values, redaction or an equally narrow restriction on the public’s right of access to narrow portions of the sealed documents would be appropriate. There is no justification for wholesale sealing.

### **CONCLUSION**

For the foregoing reasons, the *Bucks County Courier Times* respectfully requests that the Court enter an order vacating its May 7, 2020 sealing order and directing the Clerk of the Court to unseal the Settlement Filings. Should this Court decline to release the Settlement Filings, the

*Bucks County Courier Times* requests that the Court make findings on the record explaining why the Settlement Filings do not fall within the First Amendment and common law rights of access.

Date: December 5, 2025

Respectfully submitted,

By: /s/ Paula Knudsen Burke

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**CERTIFICATE OF WORD COUNT COMPLIANCE**

I, Paula Knudsen Burke, Esq., certify that the foregoing brief complies with the word-count limit of Local Rule 7.8(b)(2) and contains 5,139 words. In making this count, I have relied upon the word-count feature of Microsoft Word, which was used to prepare this brief.

**CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY**

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

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served the above Memorandum of Law via the Court of Common Pleas' Electronic Filing System and via electronic mail on December 5, 2025 to counsel of record as follows:

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