

IN THE SUPERIOR COURT
OF PENNSYLVANIA

*JOSEPH L. FELICIANI, AS
ADMINISTRATOR OF THE ESTATE
OF GRACE PACKER,*

Plaintiff-Appellants,

v.

THE IMPACT PROJECT, INC., ET AL.,

Defendant-Appellees.

No. 213 EDA 2026

Appeal of: Bucks County Courier Times
Trial Court Docket No. 180603829

**BRIEF OF APPELLANT THE *BUCKS COUNTY COURIER TIMES*
SEEKING REVERSAL**

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STATEMENT OF JURISDICTION

This Court has jurisdiction over this appeal, which is taken from the February 3, 2026 Order of the Court of Common Pleas of Philadelphia County, pursuant to 42 Pa. C.S. § 742.

DECISION UNDER REVIEW

Appellant the *Bucks County Courier Times* (“*Courier Times*”) seeks review of the February 3, 2026 order of the Court of Common Pleas of Philadelphia County. R.098a. That order denied Appellant’s motions to intervene and unseal. R.098a. Following the *Courier Times*’ petition for appellate review of that order, the trial court issued an opinion in support on June 6, 2026, finding that the common law and First Amendment rights of access to the sealed court records at issue were both overcome by Defendant-Appellees’¹ interest in continued sealing. R.085a

¹ The term “Defendant-Appellees” in this brief refers principally to the Impact Project, Inc. and Pinebrook Family Answers; Defendant-Appellee Warwick Family Services, Inc. did not file any briefing in connection with Appellants’ motions when this case was previously before this Court or on remand to the lower court.

SCOPE AND STANDARD OF REVIEW

This Court reviews *de novo* all legal determinations made by the Court of Common Pleas, including rulings on motions to intervene, *see Schriner v. Schaffhauser*, No. 1762 MDA 2012, 2013 WL 11261854, at *2 n.1 (Pa. Super. Ct. June 18, 2013), and rulings on “whether there exists a common law or constitutional right of public access to a judicial proceeding” or record, and the scope of its review is plenary, *see Commonwealth v. Curley*, 189 A.3d 467, 472 (Pa. Super. Ct. 2018) (quoting *Commonwealth v. Selenski*, 996 A.2d 494, 496 (Pa. Super. Ct. 2010)). “A trial court’s decision . . . regarding access to a particular item must be reviewed for abuse of discretion.” *Selenski*, 996 A.2d at 508. A trial court commits an abuse of discretion when it errs as a matter of law or its decision is “the result of partiality, prejudice, bias, or ill-will.” *Kurtzman v. Hankin*, 714 A.2d 450, 453 (Pa. Super. Ct. 1998).

QUESTIONS INVOLVED

Did the Trial Court err as a matter of law when it denied the *Courier Times*’ petition to unseal dockets and sealed judicial records?

Did the Trial Court abuse its discretion in denying the *Courier Times*’ petition to intervene for the limited purpose of unsealing judicial records?

Suggested answer to both: Yes.

STATEMENT OF THE CASE

A. Form of Action

This matter arises on appeal from the denial of a newspaper's petition to intervene and unseal documents in a wrongful death case litigated in the Philadelphia Court of Common Pleas.

B. Procedural History

In June 2018, the administrator of Grace Packer's estate, Joseph Feliciani, filed a wrongful death action against The Impact Project, Inc. ("Impact Project"), Pinebrook Family Answers ("Pinebrook"), and Warwick Family Services, Inc. ("Warwick") (together, "Defendant-Appellees"). R.011a, R.217a. The parties to that action stipulated to, and the court granted—without motions practice or on-the-record findings—the sealing of their petition for leave for partial settlement in May 2020. R.050a. In October 2022, the last entry on the docket was entered—a *praecipe* to settle, discontinue, and end the action. R.069a, R.248a.

On March 24, 2023, the *Courier Times* petitioned to intervene in the wrongful death action for the exclusive purpose of seeking to unseal the following records in the above-captioned case: 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 Records”). R.0397a, R.411a. On February 23, 2024, the Philadelphia Court of Common Pleas (the “Trial Court”) denied the *Courier Times*’ petitions to intervene and unseal.² R.503a.

The *Courier Times* filed a notice of appeal on March 19, 2024. R.504a. On August 22, 2024, the Superior Court sent a letter to the Trial Court informing it that it was not in compliance with Pa.R.A.P. 1931(a)(1) because it had failed to submit the record on appeal to the Superior Court within 60 days of the filing of the *Courier Times*’ notice of appeal. R.580a. The Trial Court submitted the record on September 30, 2024, including its opinion in support of its February 23, 2024 order. R.583a.

On October 15, 2025, after the first appeal was fully briefed and argued, this Court issued an opinion reversing the Trial Court’s denial of the *Courier Times*’ motions to intervene and unseal; this Court remanded the case for the Trial Court to determine whether the parties opposing unsealing had overcome the *Courier Times*’ presumptive right of access to the Settlement Records, and for the Trial Court to set forth its reasoning for denying the *Courier Times*’ petition for intervention. R.177a–187a.

² Appellant interprets the Trial Court’s order as denying both its petition to intervene and its motion to unseal, though the court’s opinion did not explicitly specify exactly which portions of Appellant’s application were being denied.

On November 21, 2025, the Trial Court issued an order scheduling the hearing on remand and establishing a briefing schedule. R.172a. On December 5, 2025, the *Courier Times* filed its brief on remand to the Trial Court seeking to unseal the Settlement Records. R.131a. Impact Project and Pinebrook filed briefs in opposition to unsealing on December 3, 2025, R.154a, and December 5, 2025, respectively. R.119a.

On December 10, 2025, the Trial Court held a hearing on the *Courier Times*' petition for unsealing on remand. R.101a. The parties made appearances through counsel and counsel for Impact Project indicated that an employee representative thereof was present in the Zoom courtroom. R.102a, R.104a. No witness testimony was presented nor was any argument heard. R.101a–117a. Rather, Judge Cohen read into the record his opinion denying the *Courier Times*' petition for unsealing and stated his reasoning for denying the *Courier Times*' petition to intervene. R.101a–117a.

On January 8, 2026, the *Courier Times* filed a notice of appeal of the Trial Court's December 10, 2025 opinion as verbally announced. R.099a. On January 21, 2026, this Court requested that the *Courier Times* file a docketing statement pursuant to Pa.R.A.P. 3517. R.099a. The *Courier Times* filed a docketing statement on January 23, 2026, along with a *praecipe* to enter judgment, a copy of the Trial Court docket, a copy of the transcript from the December 10, 2025 hearing, a copy

of the *Courier Times*’ notice of appeal, and an affidavit from *Courier Times* attorney Paula Knudsen Burke explaining that Judge Cohen’s verbal opinion as announced during the December 10, 2025 hearing had not been entered on the Trial Court docket. R.099a.

On January 28, 2026, this Court entered a per curiam order directing the *Courier Times* to show cause as to why its appeal from an oral order should not be quashed. R.099a. On February 3, 2026, the Trial Court entered an order on the Trial Court docket denying the *Courier Times*’ petition to intervene and unseal. R.098a. On February 11, 2026, this Court issued an order discharging the rule to show cause and directing that the caption be amended such that the order on appeal in the instant case would be deemed entered on February 3, 2026. R.100a.

On June 5, 2026, the Trial Court submitted the record on appeal, including an opinion putting into writing the reasons for denying the *Courier Times*’ petition to intervene and unseal. R.085a.

The instant brief and reproduced record are submitted pursuant to this Court’s June 8, 2026 briefing schedule.

C. Brief statement of any prior determination of any court in the same case

As set forth above, the Philadelphia Court of Common Pleas denied the *Courier Times*’ first petition to intervene and unseal the Settlement Records on February 23, 2024. R.503a. The *Courier Times* then appealed that February 23,

2024 order to the Superior Court. R.504a. On October 15, 2025, in the case docketed as No. 864 EDA 2024, the Superior Court reversed the February 23, 2024 order denying the *Courier Times*' motions to intervene and unseal and remanded the case to the Philadelphia Court of Common Pleas. R.187a.

On remand, the Philadelphia Court of Common Pleas issued a June 5, 2026 order denying the *Courier Times*' renewed petition to intervene and unseal. R.085a.

SUMMARY OF ARGUMENT

By this appeal, the Court has the opportunity to reverse an opinion that improperly treats conclusory speculation as the specific, concrete evidence necessary to overcome the presumptive right of public access to judicial records established by the common law and First Amendment. In contravention of these well-established sources of law, the Trial Court is keeping the Settlement Records under seal without any party having established a good cause basis for sealing. Instead, all that has been offered (and improperly accepted as a basis for continued sealing) are two inapposite assertions: (1) that the Impact Project might encounter financial difficulty if the records are unsealed; and (2) that Defendant-Appellees would be prejudiced because confidentiality of the Settlement Records was a factor in their decision to settle the case. Neither of these pass muster, as set forth below.

ARGUMENT

This Court should reverse the decision below and remand with instructions to unseal for the following reasons. *First*, neither the First Amendment nor the common law rights of access have been overcome by overriding interests in continued sealing. *Second*, the Trial Court abused its discretion in apparently denying the *Courier Times*' motion to intervene to vindicate those rights of access. Therefore, the Court should find that the Trial Court erred in denying Appellant's motion to intervene and unseal.

I. The Settlement Records Should Be Unsealed Because No Party Has Overcome the High Burden to Justify Their Sealing.

"The importance of the public having an opportunity to observe the functioning of the criminal justice system has long been recognized in our courts." *Commonwealth v. Fenstermaker*, 530 A.2d 414, 417 (Pa. 1987) (quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 573 (1980)). In keeping with this axiom, this Court held that the Settlement Records are "public judicial documents" to which the common law presumption of access applies. R.185a–186a. Subsequently, on remand, the Trial Court correctly held that the First Amendment presumption of access also applied to the Settlement Records. R.094a. The Trial Court erred, however, in finding that the common law and First Amendment rights of access were overcome. R.092a, R.094a. The record does not contain any evidence that could remotely support that determination.

A. The common law right of access has not been overcome

Under the common law, parties looking to keep presumptively public judicial records sealed must show “that closure is warranted under the circumstances.” *Commonwealth v. Upshur*, 924 A.2d 642, 651 (Pa. 2007). In the earlier decision in this case, this Court explained that closure may be warranted where necessary to “safeguard an articulated interest and need, such as to protect the identity of a confidential informant in a criminal context, or to . . . protect trade secrets, or the privacy and reputations of innocent parties, as well as to guard against risks to national security interests and to minimize the danger of an unfair trial by adverse publicity.” *Feliciani v. Impact Project, Inc.*, 347 A.3d 682, 686 (Pa. Super. Ct. 2025) (internal quotations omitted) (quoting *Com. ex rel. Dist. Atty. of Blair Cnty.*, 823 A.2d 147, 150–51 (Pa. Super. Ct. 2003)). But none of these considerations—nor anything resembling them—have been invoked here.

On remand, Defendant-Appellees claimed that “since the allegations regarding the Grace Packer case were made public,” Impact Project “has had difficulties obtaining insurance coverage at an affordable rate and can no longer obtain umbrella insurance policies.” R.168a. But that is neither here nor there when considering potential harm that might result from public disclosure of the Settlement Records. By Impact Project’s own account, “[t]he cat is out of the bag”; Defendant-Appellees did not “provide a focused and concrete demonstration of why the

particular type of material at issue . . . will foreseeably harm a substantial [] interest,” particularly in light of the fact that there was nothing “distinct or embarrassing” in the records given other information that was already in the public sphere. *Jigsaw Prod., Inc. v. Sec. and Exch. Comm’n*, No. 24-CV-2358 (TSC), 2026 WL 797411, at *3, 5 (D.D.C. Mar. 23, 2026).³

Even if public access to the Settlement Records could be tied to *future* business challenges (and not problems that had already arisen), those concerns would not be sufficient to justify sealing judicial records. Courts have made clear that “amorphous fear[s] regarding the possible loss of . . . business **[do] not** constitute a ‘clearly defined and serious injury,’ nor do [they] outweigh long-standing presumption in favor of public access to judicial records.” *Vaccaro v. Scranton Quincy Hosp.*, 2016 WL 6836985 at *9 (Pa. C.P. Nov. 18, 2016) (citing *Storms ex rel. Storms v. O’Malley*, 779 A.2d 548, 569 (Pa. Super. Ct. 2001)) (emphasis added).

Defendant-Appellees’ argument makes no sense even if the concerns over business losses could be sufficient, given that the allegations proffered by Grace Packer’s estate have been public for eight years, ever since the lawsuit in the underlying case was filed. R.011a, R.217a. It was those allegations—and their

³ Cf. *Wikoski v. Wikoski*, 513 A.2d 986, 987 (Pa. Super. Ct. 1986) (deeming it “useful to consider cases in other jurisdictions treating similar issues”); see also *Gene’s Rest., Inc. v. Nationwide Ins. Co.*, 548 A.2d 246, 247 (Pa. 1988) (examining “[c]ourts of other jurisdictions [that] have had occasion to consider the question” at issue).

grisly, heartbreaking character—that caused the harm Impact Project describes. Defendant-Appellees have not shown how disclosure of the details of the resolution of those claims, in which the parties settled with no admission of wrongdoing, will cause concrete additional harms of any kind.

On this point, *Korczakowski v. Hwan* is instructive. There, in ordering disclosure of settlement records over the defendant’s objection, the court explained: “The plaintiff’s malpractice allegations regarding Dr. Hwan ***are already matters of public record*** and Dr. Hwan has not established clearly defined, serious harm that he will suffer from disclosure of the settlement.” 68 Pa. D. & C.4th 129, 138 (C.P. 2004) (emphasis added). Note the court’s use of the word “will.” The analysis does not contemplate past harm; it requires a sufficient nexus between unsealing and future harm. *See, e.g., Tribune-Review Publ’g Co. v. Westmoreland Cnty. Hous. Auth.*, 795 A.2d 1094, 1099 (Pa. Commw. 2002) (concluding that disclosure of the settlement agreement would not harm anyone’s reputation or privacy interests since the plaintiff’s “allegations against the [defendant] are already a matter of public record through the filing of the complaint”).

The same analysis applies to Impact Project’s contention that Bucks County canceled and did not renew its contract after Grace Packer’s estate filed the underlying suit, R.159a, R.169a—as if that, somehow, would justify sealing raw data about how the settlement (where no party admitted wrongdoing) was apportioned.

It stands to reason that the filing of a lawsuit making claims of serious wrongdoing with tragic consequences might have a negative impact on the perception of the defendant. But there is no logic to Defendant-Appellees' contention that disclosing information about the apportionment of settlement monies—monies allocated *precisely* because no admissions or findings of wrongdoing have been made—would cause any cognizable additional harm. “The law should be administered and construed with common sense.” *Commonwealth v. Sacks*, 38 Pa. D. & C. 566, 568 (Quar. Sess. 1940). Defendant-Appellees' theory flies in the face of this principle.

It is helpful to contrast Defendant-Appellees' contentions with those in a case where keeping information sealed was grounded in preventing concrete harms: In *Stein v. Office of Open Recs.*, “there [wa]s evidence in the record . . . that the disclosure of corrections officers' first names has led to safety issues in the past and could do so in the future,” No. 1236 C.D. 2009, 2010 WL 9511502, at *4 (Pa. Commw. Ct. May 19, 2010). Since disclosure of officers' names was at issue, evidence of harm flowing from disclosure of officers' names in the past was rightly viewed as persuasive evidence of likely harm from disclosing the names of the officers in that case. Here, the allegations of abuse described in the complaint made by young Grace's estate may have been the proximate cause of business decisions affecting Defendant-Appellees. But the Settlement Records will not reveal those

awful allegations—those have been in the public domain for years. At issue now are details on the financial arrangements in the settlement of those claims.

Finally, contrary to settled law, the Trial Court found convincing Defendant-Appellees’ “assert[ion] that confidentiality was a key factor in their decision to settle the case.” R.091a. But “the sealing of a settlement is not a perfunctory judicial task that is dictated by the parties’ private agreement to maintain confidentiality.” *Hughes v. Wilkes-Barre Hosp. Co.*, No. 16 CV 6463, 2018 WL 11650554, at *5 (Pa. C.P. Aug. 9, 2018). Indeed,

the parties’ agreement to keep the terms of their settlement confidential does not determine whether the judicial records are sealed, and can never constitute an “essential term” of the parties’ settlement agreement inasmuch as a judicial record may be sealed only if the reviewing court independently concludes that the interest in secrecy outweighs the presumption of openness due to a “clearly defined and serious injury” that will result from a refusal to seal.

McDevitt v. Arthur Wageman Penske Leasing, No. 19 CV 1498, 2022 WL 3544404, at *3 (Pa. C.P. Aug. 18, 2022). In other words, parties may not simply enter into a private agreement to override the common law (let alone First Amendment) right of access to court records.

In sum, nothing remotely akin to a “clearly defined and serious injury” has been proffered here; just speculation and lamentations that courts have already foreclosed as legitimate bases for unsealing. For these reasons, the presumption of access

afforded by the common law has not been overcome, and the Court should reverse the court below.

B. The First Amendment right of access has not been overcome.

The First Amendment presumption of access can only be overcome by “an overriding interest based on findings that closure is essential to preserve higher values and is narrowly tailored to serve that interest.” *Press-Enter. Co. v. Super. Ct. of Ca. for Riverside Cnty.*, 478 U.S. 1, 9 (1986) (“*Press Enterprise II*”) (quoting *Press-Enter. Co. v. Super. Ct. of Ca. for Riverside Cnty.*, 464 U.S. 501, 510 (1984) (“*Press Enterprise I*”)).

In the earlier appeal, this Court declined to reach the question whether the First Amendment right of access applied to the Settlement Records but directed the Trial Court to make that determination in the event the court found that the common law right of access had been overcome. R.186a. On remand, the Trial Court correctly determined that the First Amendment right of access attached to the Settlement Records. R.094a. But the Trial Court then *incorrectly* held that the Defendant-Appellees had overcome that presumptive right of access. R.096a

In attempting to meet the high bar imposed by the First Amendment’s right of access, all the Trial Court suggests is that “further publicity of this case could continue to harm Impact’s business.” R.095a. This claim falls flat. *Cf. In re S.G.*,

922 A.2d 943, 950 (Pa. Super. Ct. 2007) (pointing out difference between “would” and “could” where latter is speculative in nature).

The Trial Court appears to have forgotten that strict scrutiny is the standard of review with respect to overcoming the First Amendment right of access. Recall that in *Vaccaro, supra*, the court determined that “amorphous fear[s] regarding the possible loss of . . . business **[do]** not constitute a ‘clearly defined and serious injury,’ nor do [they] outweigh long-standing presumption in favor of public access to judicial records.” 2016 WL 6836985, at *9. That case involved the common law right of access—which utilizes a **lower** standard to show that any interests in secrecy outweigh the presumption in favor of access. If Defendant-Appellees’ proffered speculation cannot pass muster under the common law, it is summarily foreclosed by the First Amendment.

C. In the alternative, if the presumption of access is overcome as to any judicial record, the Settlement Records should be unsealed with appropriate redactions.

As established above, closure of the Settlement Records is not warranted under the circumstances as there is no countervailing interest essential to preserve higher values such that continued sealing is justified—or even a showing that sealing is “warranted under the circumstances,” sufficient to overcome the common law right of access. However, to the extent this Court disagrees, and determines that sealing of information in the Settlement Records is justified, the records should be

unsealed at least in part, with limited redactions of information that can legitimately be kept out of the public eye notwithstanding the rights of access.

Where compelling government interests do exist—and are explained on the record—the law clearly requires that access restrictions be narrowly tailored. *In re Avandia Mktg., Sales Pracs. & Prods. Liab. Litig.*, 924 F.3d 662, 673 (3d Cir. 2019). Wholesale sealing of the seven Settlement Records does not constitute a narrowly tailored solution. In *Commonwealth v. Long*, for example, the Pennsylvania Supreme Court balanced the presumption of access against the privacy interests invoked by certain records in holding that jurors’ names could be disclosed to the public, but not their addresses. 922 A.2d 892, 905 (Pa. 2007). In *Press-Enterprise I*, Justice Marshall stated in his concurrence to the Court’s majority opinion that redaction is the “constitutionally preferable method for reconciling First Amendment interests of the public and press with legitimate privacy interests ... of defendants in fair trials[.]” 464 U.S. 501 at 520. To the extent necessary to preserve higher values, this logic should be applied here.

II. The Trial Court Abused its Discretion in Denying the Courier Times’ Motion to Intervene.

In its October 15, 2025 opinion, this Court directed the Trial Court to set forth its reasoning for denying the *Courier Times*’ original petition for intervention. R.187a. In its June 5, 2026 opinion, the Trial Court did so. R.096a–097a.

The Trial Court reasoned that the *Courier Times*' petition to intervene was untimely and reliant on "inapposite case law." R.096a. In its analysis, the Trial Court improperly conflates the *merits* of the arguments against unsealing with the question of whether a non-party should be permitted to intervene in order to make those arguments. R.097a. Together, the Trial Court's finding that the petition to intervene was untimely and its conflation of the merits of unsealing with the procedural issue of intervention amount to an abuse of the Trial Court's discretion.

While intervention is not *necessary* for a member of the press to assert its common law and First Amendment rights of access to sealed court records, it is the appropriate method for doing so. *Upshur*, 924 A.2d at 645 ("This Court has long held that a motion to intervene is an appropriate method for the news media to assert the public right of access to information concerning criminal cases."); *Milton Hershey Sch. v. Pa. Hum. Rels. Comm'n*, 226 A.3d 117, 123 (Pa. Commw. Ct. 2020) ("Because the Court considers The Inquirer's Application as a petition to access this Court's records, intervention is unnecessary[.]"); *Feliciani*, 347 A.3d at 688 (citing *Upshur*, 924 A.2d at 645 and *Milton Hershey Sch.*, 226 A.3d at 123).

In denying the *Courier Times*' petition to intervene, the Trial Court objected to the fact that "Appellant filed its Petition after the case had already settled." R.096a. But that is plainly not dispositive. As the Trial Court noted in its June 5, 2026 order, R.096a, the *Courier Times* relied on *Pansy v. Borough of Stroudsburg*,

23 F.3d 772, 779 (3d Cir. 1994) in its original petition to intervene and unseal. R.418a. That case states that “intervention to challenge confidentiality orders may take place *long after a case has been terminated*” and cites numerous courts across the country which have so held. *Pansy*, 23 F.3d at 779 (emphasis added).

In its June 5, 2026 order, the Trial Court found *Pansy* distinguishable because in that case, “the request to unseal was made within six and one-half months of settlement[,]” whereas the *Courier Times* “waited nearly two years” to petition for intervention. R.096a. But that is incorrect as a matter of both fact and law.

First, it is unclear how the Trial Court calculated that the *Courier Times* “waited nearly two years” to seek intervention when the *praecipe* to settle the underlying case was filed in October 2022, R.096a, and the *Courier Times* first petitioned for intervention in March 2023—only five months later. R.096a, R.396a.

Second, even if the *Courier Times* had “wait[ed]” longer to petition for intervention while “reporting ‘extensively’ on the criminal matter and civil lawsuit,” R.096a, this would not be reason enough to deny intervention. Indeed, such reasoning evinces a head-in-the-sand view of investigative journalism and the timelines on which newsgathering and reporting takes place. That news outlets have previously reported on an existing criminal or civil matter does not mean that the public interest in the topic has been exhausted, nor that the reporting can simply be wrapped up a few months after a case is closed. Here, the *Courier Times* is seeking

intervention for the sole purpose of unsealing court records that have remained entirely sealed and inaccessible to the press and public since they were filed. Though the underlying wrongful death action ended in 2022, reporting on that action continues, even as information of interest to the public remains sealed and inaccessible.

The Trial Court also improperly conflated its denial of the *Courier Times*' petition to *unseal* with its denial of the *Courier Times*' petition to intervene to *seek* unsealing. The Trial Court held that the *Courier Times*'s reliance on *Milton Hershey School* was “inapposite” because the “*Hershey* case is distinguishable” based on the type of record that the news outlet in that case sought to unseal: “In *Hershey*, the *Philadelphia Inquirer* sought to intervene to unseal the docket sheet and what appear to be briefs filed in the case. Here, Appellant sought to unseal amounts of a confidential settlement.” R.097a. That is a distinction without a difference.

In Pennsylvania, it is settled law that a motion to intervene must be considered separately from any motion that the party requesting intervention seeks to file once intervention is granted. *See Commonwealth v. Rodriguez*, No. 662 MDA 2025, 2026 WL 1678826 (Pa. Super. Ct. June 10, 2026), *opinion withdrawn*, No. 662 MDA 2025, 2026 WL 1812473 (Pa. Super. Ct. June 23, 2026), at 14 (citing *Fenstermaker*, 530 A.2d at 416 n.1 (“Intervention of this type . . . that is provisional in nature and for the limited purpose of permitting the intervenor to file a motion [is] *to be*

considered separately, requesting that access to proceedings or other matters be granted.”) (emphasis added)).⁴ That makes sense. Even as intervention is the appropriate procedural mechanism to seek access, a court may still find that for one reason or other, access would not be appropriate. That does not retroactively make it inappropriate to have sought access (through intervention) in the first place.

Beyond improperly lumping together the merits of unsealing with the propriety of intervention, this analysis is also bewildering because this Court already held in its October 15, 2025 opinion that the Settlement Records sought by the *Courier Times* are judicial records. R.185a–186a. Thus, even if the merits of the *Courier Times*’ unsealing petition were relevant to the intervention analysis here (and they are not), there is no legally relevant distinction to be made among docket sheets, briefs, and settlement records—all of which are judicial records and thus subject to the First Amendment and common law presumptions of access—for intervention purposes.

In sum, the Trial Court abused its discretion in denying the *Courier Times*’ petition for intervention based on reasoning that is neither applicable to the media intervenor context nor sound under Pennsylvania law.

⁴ The *Rodriguez* memorandum decision was originally issued as non-precedential; however, upon application of the Media Intervenors, on June 23, 2026, this Court issued an order granting the application to publish. The memorandum decision will be withdrawn and refiled as an opinion. *Commonwealth v. Rodriguez*, No. 662 MDA 2025, 2026 WL 1812473, at *1 (Pa. Super. Ct. June 23, 2026).

CONCLUSION

For the foregoing reasons, the *Bucks County Courier Times* requests that the Court reverse the decision below which improperly denied intervention and access to the Settlement Records, and remand with instructions directing the court to grant intervention and unseal the Settlement Records.

Date: July 20, 2026

Respectfully submitted,

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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.

Submitted by: Paula Knudsen Burke
Signature: /s/ Paula Knudsen Burke
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the above Memorandum of Law via the Superior Court's Electronic Filing System and via electronic mail on July 20, 2026 to counsel of record as follows:

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