

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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FLORENCE WALLACE ET AL.,	:	<b>CONSOLIDATED TO:</b>
	:	
Plaintiffs,	:	CIV. A. NO. 3:09-cv-0286
	:	
v.	:	
	:	<b>JUDGE CAPUTO</b>
ROBERT J. POWELL ET AL.,	:	
	:	
Defendants	:	
	:	

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IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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WILLIAM CONWAY ET AL.,	:	
	:	
Plaintiffs,	:	CIV. A. NO. 3:09-cv-0291
	:	
v.	:	
	:	<b>JUDGE CAPUTO</b>
MICHAEL T. CONAHAN, ET AL.,	:	
	:	
Defendants	:	
	:	

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**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* IN  
OPPOSITION TO THE MOTIONS TO DISMISS OF MICHAEL  
CONAHAN AND MARK CIAVARELLA**

Pursuant to Fed. R. App. P. 29(a) and (b), the proposed *amici curiae* hereby move this Court for leave to file the attached brief as *amici curiae* in opposition to the motions to dismiss of defendants Michael Conahan and Mark Ciavarella.

The extraordinary circumstances of this case have compelled the *amici curiae*, comprised of former judges and legal scholars, to submit this brief in an effort to maintain integrity and public trust in an independent judiciary. This case poses a question not before considered by the federal courts: whether judicial immunity should protect judges from civil suit where the conduct at issue was admittedly criminal. The movants are a group of former state and federal judges and legal scholars. Because of their professional backgrounds, the movants have an interest in ensuring the integrity of our judicial system and offer a unique perspective on the novel issue before the Court. The proposed amici, all of whom are signing the brief in their individual capacity, are:

Former Judges:

- Phyllis Beck is a former Pennsylvania Superior Court Judge. Ms Beck is currently the Board Chair of the Independence Foundation.

- Albert G. Blakey served four eight years as a judge for York County Court of Common Pleas. Judge Blakey is currently a partner with Blakey, Yost, Bupp & Rausch, LLP.
- Bobbe Bridge is a former Chief Judge of the Washington State Supreme Court. Ms. Bridge has received numerous awards both as a judge and as an advocate for Washington's children.
- Michael Corriero is a former Justice on New York State's Supreme Court. Mr. Corriero also presided over Manhattan's Youth Part. The Youth Part is a court set aside within the adult court system to deal exclusively with the cases of 13, 14 and 15-year-olds who are charged with the most serious and violent crimes.
- Abraham Gafni is a former Judge of the Court of Common Pleas, where he served as Court Administrator for two years. Mr. Gafni is currently a Professor of law at Villanova University school of law.
- James T. Giles, served as a U.S. District Court Judge for the Eastern District of Pennsylvania, from January 3, 1980 until October 3, 2008. He was Chief Judge from 1999 until 2006. Mr. Giles is currently of counsel with Pepper Hamilton LLP.
- Timothy K. Lewis, a former member of the U.S. Court of Appeals for the Third Circuit, is co-chair of Schnader Harrison's Appellate Practice Group. He also serves as a mediator, arbitrator, settlement counselor, and trial and appellate practitioner.
- Stephen M. Orlofsky served as a United States District Court Judge for the District of New Jersey. Mr. Orlofsky currently leads Blank Rome's appellate practice.
- H. Ted Rubin is a former Denver Juvenile Court Judge. While in that position, he instituted programs designed to give the court's probation staff a wider range of treatment alternatives for children placed in their charge. Mr. Rubin has authored more than 250 articles and research reports in the area of juvenile justice and corrections.

- George Timberlake is the former Chief Judge of the Second Judicial District in Illinois. Mr. Timberlake is a board member for Kids Hope United, a private, human service agency serving more than 2,500 children and families in central and southern Illinois and St. Louis, Mo., each year.

Legal Scholars:

- Dean Doris DeiTosto Brogan is the Acting Dean at Villanova Law School. Dean Brogan's areas of teaching expertise include Ethics, Torts, Family Law, Conflict of Laws, First Amendment and the Media Seminar, Domestic Abuse Seminar.
- Professor Stephen R. Burbank is a Professor at the University of Pennsylvania Law School with expertise in civil procedure, complex litigation, and judicial administration.
- Dean Roger Dennis is the founding Dean and Professor of Law at the Earle Mack School of Law at Drexel University. Dean Dennis has extensive experience in legal education and expertise in securities, antitrust, corporate law, civil procedure, and law and economics.
- JoAnne Epps is a member of the Pennsylvania Bar.
- Professor Diane Geraghty is a Professor of Law at Loyola University – Chicago. Professor Geraghty developed and directs Loyola's nationally recognized Civitas ChildLaw Center. In 2001, she became the 16th annual recipient of the American Bar Association Livingston Hall Award for her many contributions to the field of children's law.
- Professor Randy Hertz is a Professor of Law at NYU Law School. Professor Hertz is the author of numerous publications including publications on Juvenile Courts and Justice.
- Professor Mark C. Rahdert is a professor at the Temple University Beasley School of Law with expertise in comparative constitutional law, constitutional law, and torts. Professor Rahdert was law clerk to Justice Harry Blackmun of the US Supreme Court from 1979 – 1980.

- Professor Elizabeth Scott is a Professor of Law at Columbia University. Professor Scott's current research areas include property, criminal law, family law, children and the law, and juvenile justice policy.
- Jerome Shestack was President of the American Bar Association from 1997-98. He is currently a retired partner at Schnader Harrison.
- Professor Christina Brooks Whitman is a Professor of Law at the University of Michigan Law School. Her research interests include federal courts, constitutional litigation, torts, and feminist jurisprudence.

As required by Fed. R. App. P.29(b), the Brief of *Amici Curiae* in opposition to the motions to dismiss of defendants Michael Conahan and Mark Ciavarella is being filed contemporaneously with this motion.

Movants hereby respectfully request that their motion be granted, and that they be allowed to file the accompanying Brief of *Amici Curiae* in Opposition to the Motions to Dismiss of Defendants Michael Conahan and Mark Ciavarella.

Dated: September 21, 2009

Respectfully submitted,

/s/ Sara B. Richman

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**CERTIFICATE OF CONCURRENCE**

Mark A. Ciavarella and Michael T. Conahan were contacted on September 21, 2009 regarding the *Amici's* intent to file the attached brief. Neither Mr. Ciavarella nor Mr. Conahan had any objection to filing the brief.

/s/ Sara B. Richman

**CERTIFICATE OF SERVICE**

I, Sara B. Richman, hereby certify that, on this 21st day of September, 2009, the foregoing motion for leave to file Brief of *Amici Curiae* in opposition to the motions to dismiss of Michael Conahan and Mark Ciavarella was filed and made available via CM/ECF to all counsel of record. Additionally, the foregoing Motion was served by First Class Mail upon the following:

Mark Ciavarella  
585 Rutter Avenue  
Kingston, PA 18704

Michael T. Conahan  
301 Deer Run Drive  
Mountaintop, PA 18707

Beverage Marketing of PA, Inc.  
P.O. Box 17  
Pottsville Road  
Seltzer, PA 17974

/s/ Sara B. Richman