

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

THOMAS A. JOSEPH, THOMAS J. : No. 19 MM 2009
JOSEPH, ACUMARK, INC., AIRPORT :
LIMOUSINE AND TAXI SERVICE, INC, :
AND AIRPORT TAXI, LIMOUSINE :
AND COURIER SERVICE OF LEHIGH :
VALLEY, INC. :

v. :

THE SCRANTON TIMES L.P., THE :
TIMES PARTNER, EDWARD J. :
LYNETT, JR., GEORGE V. LYNETT :
AND CECELIA LYNETT HAGGERTY, :
THE SCRANTON TIMES, INC., :
SHAMROCK COMMUNICATIONS, :
INC., ZYXW, INC., JAMES CONMY :
AND EDWARD LEWIS :

PETITION OF: THE SCRANTON :
TIMES L.P., THE TIMES PARTNER :
AND EDWARD LEWIS :

ORDER

PER CURIAM

AND NOW, this 7th day of April, 2009, the Application for Leave to File Supplement to Corrected Application for the Exercise of King's Bench Power or Extraordinary Jurisdiction is **GRANTED**. In response to the Corrected Application for the Exercise of King's Bench Power or Extraordinary Jurisdiction, this Court hereby exercises its **KING'S BENCH POWERS** and assumes plenary jurisdiction. See 42 Pa.C.S. § 502. It is hereby

ORDERED that the Honorable William H. Platt, President Judge of the Court of Common Pleas of Lehigh County, is specially appointed to preside over a **REMAND** of this matter.

Petitioners allege corruption in connection with the irregular assignment of former Judge Mark A. Ciavarella to preside over the bench trial in this matter, and the conduct of the actual trial. This Court's exercise of plenary jurisdiction is predicated on the fact that Petitioners have proffered evidence, not previously available, which raises a colorable claim that the irregular assignment and trial of this case were tainted by the involvement of former Judges Michael T. Conahan and Ciavarella. President Judge Platt is hereby directed to (1) hold an evidentiary hearing on Petitioners' claim as soon as practically possible; and (2) prepare a report and recommendation for this Court, specifying whether relief, including the award of a new trial, is warranted. In making this assessment, we note that, where there is a proven, material conflict of interest, bias, or similar judicial irregularity, there is no need for a further showing of prejudice. Rather, in terms of the present case, an appearance of impropriety in either the assignment or trial of this case is sufficient to establish prejudice. See Pa. Const. art. I, §11; art. V §10; In Interest of McFall, 617 A.2d 707, 712-13 (Pa. 1992).

President Judge Platt shall forward his report and recommendation within 30 days of the completion of the proceedings.

Jurisdiction is retained.