

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

JACOB DOYLE CORMAN, III, <i>et al.</i>,	:	
	:	
Appellees	:	
	:	NO. 83 MAP 2021
v.	:	
	:	
ACTING SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF HEALTH,	:	
	:	
Appellant	:	

**APPELLANT’S ANSWER TO SPRING GROVE AREA SCHOOL
DISTRICT’S APPLICATION FOR LEAVE TO FILE AMICUS CURIAE
BRIEF *NUNC PRO TUNC***

Appellant, Acting Secretary of Health (Department of Health), opposes the Application for Leave to File an Amicus Curiae Brief *Nunc Pro Tunc* filed by Spring Grove Area School District.

On November 16, 2021, the Court issued an expediated briefing schedule clearly setting out the deadlines for all briefs: Appellant’s opening brief was due on November 23rd; Appellees’ responsive brief was due on November 30th; and Appellant’s reply brief was due December 2nd. In the order establishing this schedule, the Court admonished that “[n]o extensions will be entertained.”

The parties and two other amici curiae—the American Academy of Pediatrics and The Honorable Kathy Rapp—faithfully complied with these deadlines. The Spring Grove Area School District (Spring Grove) did not, filing its proposed amicus

brief over a week out of time. As the Prothonotary's Office explained in rejecting Spring Grove's first untimely attempt to file an amicus brief in this appeal, "[p]ursuant to Pa.R.A.P. 531(b)(4), where 'the amicus curiae will not support the position of any party, the amicus curiae brief must be filed on or before the date of the appellant's filing.' As Appellants' Brief in this matter was due by November 23, 2021, this Amicus Brief is not timely filed." Dec. 2, 2021 correspondence. And even if Spring Grove had supported Appellees' position, its brief would have still been untimely. *See* Pa.R.A.P. 531(b)(4).

In its application for leave to file its brief *nunc pro tunc*, Spring Grove provides no basis, or even an explanation, for the untimeliness of its brief, why it was not able to comply with the Court's briefing schedule, or why this Court should reverse its previous order that no extensions will be entertained.

Further, because Spring Grove waited until the due date for Appellant's reply brief to file this application, neither Appellant nor Appellees were afforded an opportunity to respond to Spring Grove's brief. The deadlines in Pa.R.A.P. 531 exist to prevent precisely this situation. The parties should not be prejudiced because of Spring Grove's inability or unwillingness to comply with this Court's scheduling order.

WHEREFORE, for the reasons set forth above, the Department of Health respectfully requests that the Court deny Spring Grove's application for leave to file an amicus brief *nunc pro tunc*.

Respectfully submitted,

Josh Shapiro
Attorney General

By: /s/ Sean A. Kirkpatrick
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Date: December 3, 2021

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.

/s/ Sean A. Kirkpatrick
SEAN A. KIRKPATRICK
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I, Sean A. Kirkpatrick, Senior Deputy Attorney General, do hereby certify that I have this day served the foregoing Jurisdictional Statement to the following parties and in the manner indicated below:

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Date: December 3, 2021