

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

ELLEN P. SCHMIDT AS THE	:	No. 561 MAL 2024
ADMINISTRATRIX OF THE ESTATE OF	:	
GEOFFREY J. SCHMIDT, DECEASED,	:	
	:	
Petitioner	:	Petition for Allowance of Appeal
	:	from the Order of the
	:	Commonwealth Court
	:	
v.	:	
	:	
	:	
PENNSYLVANIA DEPARTMENT OF	:	
TRANSPORTATION; UPPER MERION	:	
TOWNSHIP; THE SOUTHEASTERN	:	
PENNSYLVANIA TRANSPORTATION	:	
AUTHORITY; THE VALLEY FORGE	:	
HISTORICAL SOCIETY; THE FRIENDS OF	:	
VALLEY FORGE AND JOHN DOES (1-10),	:	
	:	
Respondents	:	

ORDER

PER CURIAM

AND NOW, this 21st day of May, 2025, the Petition for Allowance of Appeal is
GRANTED. The issue, as stated by Petitioner, is:

Whether the Commonwealth’s waiver of sovereign immunity under the real estate exception allows recovery against PennDOT where the defective, rotted, and diseased portion of a tree that failed, fatally injuring a motorist travelling below, was located directly above PennDOT’s roadway and within PennDOT’s right-of-way, or does the fact that the base of the tree connected to the ground on the adjoining property of a third-party preclude PennDOT’s liability, as the majority on a sharply divided three-judge Commonwealth Court panel concluded?