

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

SUSAN OCTAVE ON BEHALF OF JAMES OCTAVE, AN INCAPACITATED PERSON, AND SUSAN OCTAVE,	:	Nos. 115 & 116 WAL 2012
	:	
	:	Petition for Allowance of Appeal from the
	:	Order of the Commonwealth Court
Petitioners	:	
	:	
	:	
v.	:	
	:	
	:	
DAVID WADE WALKER AND COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION,	:	
	:	
	:	
Respondents	:	

**ORDER**

**PER CURIAM**

**AND NOW**, this 27<sup>th</sup> day of December, 2012, the Petition for Allowance of Appeal is **GRANTED**. The issue is:

Given the [petitioners] do not explicitly waive the protections of 50 P.S. § 7111, given the [petitioners'] Amended Complaint does not allege injuries to mental health, given the [respondents] raise the question of mental health and seek the [petitioner's] pre-collision mental health records, and given the [respondents'] claim of mental health relies exclusively on the conclusions of a third party, did the [petitioners] put mental health at issue and impliedly waive the protections of 50 P.S. § 7111 though the act of filing the within lawsuit?