

[J-151-2008]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

LINDA PIEHL AND WILLIAM PIEHL, H/W,	:	No. 5 EAP 2008
	:	
Appellees	:	Appeal from the Order of the
	:	Commonwealth Court entered July 27,
v.	:	2007 at No. 368 C.D. 2006 Reversing and
	:	Remanding the Order of the Court of
	:	Common Pleas of Philadelphia County,
	:	Civil Division, at No. 318 March Term
CITY OF PHILADELPHIA AND	:	2005
COMMONWEALTH OF PENNSYLVANIA,	:	
	:	
APPEAL OF: COMMONWEALTH OF	:	930 A.2d 607 (Pa. Cmwlth 2007)
PENNSYLVANIA	:	
Appellant	:	ARGUED: October 22, 2008

DISSENTING OPINION

MR. JUSTICE EAKIN

DECIDED: December 28, 2009

I would adopt the learned Judge Simpson’s dissenting opinion from the Commonwealth Court’s disposition of this matter. See Piehl v. City of Philadelphia, 930 A.2d 607 (Pa. Cmwlth. 2007) (Simpson, J., dissenting). The plaintiff has the burden of placing the proper party on notice it is being sued. See Pa.R.C.P. 1018 (“[t]he caption of a complaint shall set forth the form of the action and the names of all the parties”). Naming only the Commonwealth of Pennsylvania in the caption failed to put the Department of Transportation on notice it was the party actually being sued. The fact that the Department of Transportation was served does nothing to cure the plaintiffs’ basic failing, as an entity should not be “required to dissect original process to determine if it may be a party.” Piehl, at 618 (Simpson, J., dissenting). Accordingly, I respectfully dissent.