

[J-19-2012]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

THOMAS BRUCKSHAW, AS : No. 47 EAP 2011
ADMINISTRATOR OF THE ESTATE OF :
PATRICIA BRUCKSHAW AND THOMAS : Appeal from the Judgment of the Superior
BRUCKSHAW, IN HIS OWN RIGHT AS : Court, entered 9/17/2010 at No. 2638 EDA
HUSBAND OF THE DECEDENT : 2008, affirming the Judgment entered
PATRICIA BRUCKSHAW, : 9/12/2008 in the Court of Common Pleas,
: Philadelphia County, Civil Division, at No.
Appellant : 2940 March Term 2005

v.

ARGUED: March 6, 2012

THE FRANKFORD HOSPITAL OF THE :
CITY OF PHILADELPHIA AND THE :
FRANKFORD HOSPITAL OF THE CITY :
OF PHILADELPHIA T/A FRANKFORD :
HOSPITAL TORRESDALE DIVISION :
AND FRANKFORD HOSPITAL :
TORRESDALE DIVISION AND :
FRANKFORD HEALTHCARE SYSTEM, :
INC. AND JEFFERSON HEALTH :
SYSTEM, INC. AND BRIAN P. PRIEST, :
M.D. AND RANDY METCALF, M.D., :

Appellees

CONCURRING OPINION

MR. CHIEF JUSTICE CASTILLE

DECIDED: December 18, 2012

I join Part I of the Majority Opinion, and concur in the result the majority achieves. I would, however, stress the subtle but important point that, in assessing the “error” or “errors” of the trial judge here, there is error in the juror substitution only insofar as the

court officer's actions here are attributable to the trial court; it is only for that reason that we may properly consider whether the trial court's errors, in the multiple, "require a new trial." Majority Slip Op. at 18. Of course, trial jurists are no more omniscient than appellate jurists; it is the trial court's post-verdict reaction to the juror substitution issue, once the fact became known, that is the actually erroneous decision in this case, since the court and the parties apparently were unaware of the court officer's actions until after the verdict was rendered. Moreover, because I believe Part I of the Majority Opinion adequately disposes of the issue before us, I do not join Part II of the opinion.