

[J-59-1999]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

GERALDINE TROWBRIDGE and	:	No. 169 M.D. Appeal Docket 1998
GORDON TROWBRIDGE, her husband,	:	
	:	Appeal from an order of Superior Court
Appellants	:	entered on January 20, 1998 at No.
	:	1082PHL97, affirming the judgment
	:	entered on January 27, 1997 at No. 90-
v.	:	CV-3960 in the Court of Common Pleas of
	:	Lackawanna County, Civil Division
	:	
THE SCRANTON ARTIFICIAL LIMB	:	711 A.2d 1046 (Pa.Super. 1998)
COMPANY,	:	
	:	
Appellee	:	ARGUED: April 26, 1999

DISSENTING OPINION

MR. CHIEF JUSTICE FLAHERTY

DECIDED: March 23, 2000

I would affirm the decision of Superior Court. The doctrine of judicial estoppel is dispositive of this case. Appellant applied for disability benefits from the Social Security Administration on the basis of her representation, made under penalty of perjury, that she has a physical disability that rendered her completely unable to work as of February 6, 1989. The benefits were granted, and appellant continues to receive them. Appellant cannot now be heard to assert, in an attempt to collect damages against her former employer, that she was discharged from employment for an entirely inconsistent reason, to wit, that she was able to work but was discharged for illegal and discriminatory reasons. To allow appellant to maintain these irreconcilable positions cannot be supported, and,

indeed, undermines the judicial system. The memorandum decision of Superior Court, and the trial court as well, properly invoked judicial estoppel to block the assertion of these inconsistent legal claims. I would affirm per curiam.

Mr. Justice Castille joins in this Dissenting Opinion.