

**IN UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<p>COMMON CAUSE OF PENNSYLVANIA, et al.,</p>	:	
	:	
Plaintiffs,	:	CIVIL ACTION No.
v.	:	1:CV-05-2036
COMMONWEALTH OF PENNSYLVANIA et al.,	:	
	:	(Judge Kane)
	:	
Defendants.	:	

THIS DOCUMENT RELATES TO:	:	ORAL ARGUMENT REQUESTED
	:	
<u>Stilp v. Commonwealth et al., 151 MAP 2005</u>	:	
(Pa. 2005)	:	
<u>Sheppard v. Commonwealth et al., 13 MAP 2006</u>	:	
(Pa. 2006)	:	
<u>Brown et al., v. Commonwealth et al., 9 MAP 2006</u>	:	
(Pa. 2006)	:	
<u>Herron v. Commonwealth et al., 48 EAP 2005</u>	:	
(Pa. 2005)	:	

**PLAINTIFFS’ MOTION AND APPLICATION FOR
WRIT OF INJUNCTION TO STAY PROCEEDINGS OF THE
SUPREME COURT OF PENNSYLVANIA**

Plaintiffs, hereby move this Court to issue a writ of injunction to stay further proceedings of the Supreme Court of Pennsylvania in *Stilp v. Commonwealth et al.*, (Pa. 2005); *Herron v. Commonwealth et al.*, (Pa. 2005); *Brown et al., v. Commonwealth et al.*, (Pa. 2006); and *Sheppard v. Commonwealth et al.*, (Pa. 2006), (hereinafter collectively referred to as “Related State Cases”), pursuant to the authority granted to this Court under the All Writs Act, 28 U.S.C § 1651 until sixty (60) days following the entry of a final verdict in this action for the following reasons:

1. Each justice of the Pennsylvania Supreme Court has an actual pecuniary interest in a specific outcome of the Related State Cases to reinstate the salary increase for

themselves and the entire Unified Judicial System of the Commonwealth of Pennsylvania authorized by Act 44 of 2005 (Act of July 7, 2005, P.L. 201, No. 44) (hereinafter “Act 44” or “Act”) and repealed by Act 72 of 2005 (Act of November 16, 2005, P.L. 385, No. 72).

2. The Chief Justice of the Pennsylvania Supreme Court has admitted participating in secret negotiations with legislative leaders helping to draft key provisions of the Act.

3. The Chief Justice made public comments praising the courage of the General Assembly in passing the Act and denigrated public opposition to the Act as “knee jerk” reaction.

4. The Pennsylvania Supreme Court ordered the parties in *Stilp* to address whether the General Assembly’s adoption of Act 44 violated Article III, Sections 1 through 4 of the Pennsylvania Constitution.

5. Plaintiffs’ Second Amended Complaint alleges the General Assembly’s adoption of Act 44 violated Article III, Sections 1 through 4 of the Pennsylvania Constitution.

6. Affidavits appended to Plaintiffs’ Second Amended Complaint establish significant, credible and admissible evidence that in 1999 unnamed and unknown justices of the Supreme Court of Pennsylvania engaged in negotiations with legislative leaders to secure state funding for the Unified Judicial System in exchange (according to House leaders) for decisions favorable to legislative leaders regarding the extent of their powers under Article III of the Pennsylvania Constitution.

7. It is a manifest violation of due process of law under the Fifth and Fourteenth Amendments to the United States Constitution for a state tribunal to decide any case

in which the justices or judges have an actual pecuniary interest in a specific outcome of a case or series of cases.

8. It is a violation of due process of law under the Fifth and Fourteenth Amendments to the United States Constitution for a state tribunal to decide a case whereby unique factual circumstances and relationships, created by the Chief Justice of the Supreme Court of Pennsylvania, call into question the Supreme Court of Pennsylvania's impartiality to decide the Related State Cases consistent with the requirements of the Due Process Clause of the United States Constitution.

9. Any decision by the Pennsylvania Supreme Court in the Related State Cases, issued in violation of due process of law, threatens to undermine the authority and flexibility of this Court to decide the constitutionality of the substantive provisions of the Act, as well as the process used to enact Act 44, issues properly within the subject-matter jurisdiction of this Court and raised by Plaintiffs' Second Amended Complaint.

10. Any decision by the Pennsylvania Supreme Court in *Stilp* on the constitutionality of Act 44 under Article III of the Pennsylvania Constitution implicate, in violation of due process of law, a decisional line of case law which may have been corrupted by a case fixing scheme in 1999, and threatens to undermine the authority and flexibility of this Court to determine the status of Article III case law, properly within the subject-matter and supplemental jurisdiction of this Court and raised by Plaintiffs' Second Amended Complaint.

WHEREFORE, Plaintiffs request that this Court issue a writ of injunction to enjoin and stay proceedings of the Pennsylvania Supreme Court in the Related State Cases and/or *Stilp*

pursuant to the authority granted to this Court under the All Writs Act, 28 U.S.C. § 1651, until sixty (60) days following the entry of a final verdict in this action.

Respectfully submitted,

Dated: March 24, 2006

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