

IN THE COURT OF COMMON PLEAS
LANCASTER COUNTY, PENNSYLVANIA

PA MEDIA GROUP	:	
and	:	DOCKET NO. CI-2018-09547
LNP MEDIA GROUP, INC.	:	
Plaintiffs	:	
	:	
v.	:	
	:	
STEPHEN DIAMANTONI,	:	
CORONER	:	
Defendant	:	

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Lancaster Bar Association
Lawyer Referral Service
28 East Orange Street
Lancaster, PA 17602

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AMENDED COMPLAINT IN MANDAMUS

AND NOW, come PA Media Group and LNP Media Group, Inc., Plaintiffs, by their attorneys, Nauman, Smith, Shissler & Hall, LLP, and file the following Amended Complaint in Mandamus against Stephen Diamantoni, Coroner, Defendant, representing in support thereof the following:

I. PARTIES

1. PA Media Group is a print and digital news organization and the publisher of the *Patriot News*, a newspaper of general circulation throughout central Pennsylvania with its principal offices located at 2020 Technology Parkway, Suite 300, Mechanicsburg, Cumberland County, Pennsylvania. PA Media Group also supports a digital news presence known as *PennLive*.

2. LNP Media Group, Inc. is a print and digital news organization and publisher of the *LNP* newspaper, a newspaper of general circulation throughout central Pennsylvania with its principal office located at 8 West King Street, Lancaster, Lancaster County, Pennsylvania. LNP Media Group, Inc. also supports a digital news presence known as *LancasterOnline*.

3. Stephen P. Diamantoni (“Coroner”) is an adult individual and the elected coroner of Lancaster County with a principal office located at 2080 Spring Valley Road, Lancaster, Lancaster County, Pennsylvania. Dr. Diamantoni is joined here solely in his official capacity as the elected coroner of the County of Lancaster.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over the within matter pursuant to 42 Pa.C.S.A. §931.

5. Venue is proper in this Court pursuant to Pa.R.C.P. 2103(b) and 1091 *et.seq.*

III. FACTUAL BACKGROUND

6. Coroner is the current elected coroner of the County of Lancaster, a third-class county.

7. As such, he is a “coroner” as defined under the Coroner’s Act, Act of August 9, 1995, P.L. 323, No. 130, *as amended*, 16 P.S. §1202-B.

8. Pursuant to the provisions of the Coroner's Act, 16 P.S. §1201-B *et seq.* the Coroner is empowered to conduct investigations and perform autopsies and related medical and legal investigations concerning the deaths of persons who die within Lancaster County and whose deaths were, among other reasons, sudden, unexplained and/or suspicious. 16 P.S. §§ 1218-B, 1219-B, 1221-B.

9. As a result of the performance of his official duties required under the Coroner's Act, the Coroner creates and compiles certain official papers, records and reports, including autopsy reports, toxicology reports, and related records and reports regarding the deaths of persons in Lancaster County.

10. Upon information and belief, the Coroner performed the statutory duties required of him including conducting autopsies and investigating the deaths of individuals who died in Lancaster County since taking office.

11. The Coroner's Act requires that in counties of the third class, the coroner, "within thirty (30) days after the end of each year, **shall deposit all official records and papers** for the preceding year in the Office of the Prothonotary for the inspection of **all persons interested therein.**" (emphasis supplied) 16 P.S. §1236-B.

12. As set forth above, conducting autopsies is an official statutory duty of the Coroner. 16 P.S. §1219-B.

13. The Supreme Court of Pennsylvania has held that "autopsy reports constitute "official records and papers" within the meaning of the [Coroner's Act]." Penn Jersey Advance, Inc. v. Grim, 599 Pa. 534, 541, 962 A.2d 632, 637 (2009).

14. In addition, related reports generated by the Coroner such as toxicology reports, inquisition or other coroner's reports constitute "official records and papers" of the Coroner. See Hearst Television, Inc., v. Norris, 617 Pa. 602, 54 A.3d 23 (2012).

15. The provisions of 16 P.S. §1236-B mandate that the Coroner file his official records and papers with the Prothonotary by January 30 of the year following the calendar year in which the record is generated.

16. Under these mandatory provisions for example, the official records and papers of the Coroner for calendar year 2017 should have been filed with the Lancaster County Prothonotary by January 30, 2018, and the official records and papers for calendar year 2018 should have been filed by January 30, 2019.

17. Reporters for Plaintiffs have made requests of the Prothonotary of Lancaster County for copies of the Coroner's official records and papers for calendar years 2017 and 2018 after January 30, 2018, and January 30, 2019, respectively.

18. The Prothonotary has informed the Plaintiffs' reporters that the only records on file with the Prothonotary's office by the Coroner for these calendar years and others are cause and manner of death records. No other records or papers have been deposited by the Coroner.

19. The mandates of 16 P.S. §1236-B allow for no discretion on the part of the Coroner to choose which official records and papers are filed. To the contrary, the mandatory provisions require that all his official records and papers be filed with the Prothonotary by the January 30 deadline.

20. Coroner has failed to comply with the mandatory provisions of 16 P.S. §1236-B, upon information and belief, for each calendar year since taking office.

21. Upon information and belief, Plaintiffs anticipate that the Coroner will continue to fail to file his official records and papers with the Prothonotary in contravention of the mandates of 16 P.S. §1236-B.

22. Plaintiffs, as recognized news media sources within the central Pennsylvania area, have a substantial and immediate interest in access to the official papers and records of the Coroner, particularly as they pertain to persons dying within Lancaster County by sudden, unexplained and/or suspicious means.

23. Plaintiffs, as recognized news media sources within the Central Pennsylvania area, in particular in and around Lancaster County, have been involved in investigative reporting on, among other topics, the statewide opioid crisis and issues involving deaths occurring at the Lancaster County Prison over the last several years. Many of the deaths involved were of a sudden, unexplained and/or suspicious manner, and the official papers and records of the Coroner in the performance of his statutorily required duties in such circumstances are vital to the investigative reporting activities being conducted by the Plaintiffs. In addition, the Coroner has also investigated deaths which are the result of potential criminal activity and involve newsworthy events which Plaintiffs have attempted to cover and to report on, and the lack of access to the Coroner's records required to be filed with the Prothonotary as set forth above, have repeatedly hindered their investigative abilities.

24. Plaintiffs have also filed requests under Pennsylvania's Right-to-Know Law, 65 P.S. § 67.101 *et. seq.* seeking information from the Coroner's office but have been denied access to those records when such official papers and records should be readily available to the Plaintiffs on deposit with the Prothonotary of Lancaster County as set forth above, but have not been for years. The lack of access to those records has severely hindered the investigative

abilities of Plaintiffs to fully apprise themselves of all relevant factors surrounding these sudden, unexplained and/or suspicious deaths within Lancaster County.

25. As recognized news organizations within the Central Pennsylvania area, including Lancaster County, the actions of the Coroner as set forth above have severely hampered the abilities of Plaintiffs to conduct their news gathering and reporting obligations to both their print and online subscribers.

26. The Coroner has a non-discretionary, statutory duty to comply with the mandatory provisions of 16 P.S. §1236-B, and he has failed to do so.

27. Plaintiffs have no adequate remedy at law to obtain said records in the manner provided by the mandatory provisions of 16 P.S. §1236-B.

28. Plaintiffs have been deprived of the public records of the Coroner which are required to be filed with the Prothonotary by the statutory deadline set forth in 16 P.S. §1236-B.

29. An action in Mandamus is available to compel a tribunal, agency or public official to act when that tribunal, agency, or public official has been “sitting on its hands.” Pa. Dental Ass’n v. Insurance Department, 512 Pa. 217, 516 A.2d 647 (1986).

30. Plaintiffs have established a clear legal right to relief, a corresponding mandatory, non-discretionary duty in the Coroner to deposit his official records and papers as the statute requires and a lack of any other adequate remedy at law to compel Coroner’s compliance with the statutory, mandatory duty under 16 P.S. §1236-B.

WHEREFORE, PA Media Group and LNP Media Group, Inc., Plaintiffs, respectfully request that this Court enter judgment in their favor and against Stephen Diamantoni, Defendant, and issue a Writ of Mandamus directing as follows:

(1) Stephen Diamantoni, Coroner of Lancaster County, shall pursuant to the mandatory provisions of 16 P.S. § 1236-B deposit all of his official records and papers for each and every calendar year in which he has occupied the Office of Coroner with the Lancaster County Prothonotary within twenty (20) days of the date of this Order, and

(2) he shall thereafter on or before January 30 of the year following each calendar year he remains in office deposit his official records and papers as required by 16 P.S. §1236-B.

(3) the records and papers deposited shall include autopsy reports, toxicology reports, inquests and other related documents pertaining to the actions completed by the Coroner's office as set forth under the Coroner's Act, and

(4) directing such other relief as the Court may deem appropriate.

Respectfully submitted:

/s/Craig J. Staudenmaier

Craig J. Staudenmaier, Esquire

Supreme Court ID No. 34996

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***Attorneys for Plaintiffs PA Media Group
and LNP Media Group, Inc.***

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Date: April 17, 2019

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Craig J. Staudenmaier

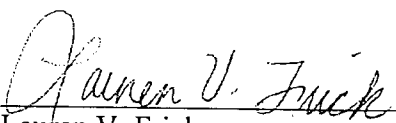
Signature: s/Craig J. Staudenmaier

Name: Attorney

Attorney No. (if applicable): 34996

VERIFICATION


I, Lauren V. Frick, Corporate Secretary of Steinman Communications, hereby verify that I am authorized to make this verification on behalf of LNP Media Group, Inc. and that the statements made in the foregoing Amended Complaint in Mandamus are true and correct to the best of my knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

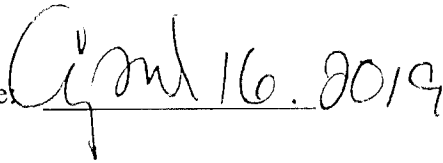

Lauren V. Frick
Corporate Secretary, Steinman
Communications

Date: 4/15/2019

VERIFICATION

I, Cate Barron, VP, Content for PA Media Group, hereby verify that I am authorized to make this verification on behalf of PA Media Group and that the statements made in the foregoing Amended Complaint in Mandamus are true and correct to the best of my knowledge, information, and belief. This verification is made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Cate Barron, VP, Content for
PA Media Group

Date: 

CERTIFICATE OF SERVICE

I, Karen L. Gagne, Legal Assistant, do hereby certify that I have served a true and correct copy of the foregoing *Amended Complaint in Mandamus* via email transmission and/or U.S.

First Class Mail to the following:

Isaac S. Gaylord
Assistant County Solicitor
County of Lancaster
150 N. Queen Street, Suite 714
Lancaster, PA 17603
igaylord@co.lancaster.pa.us

/s/Karen L. Gagne

Karen L. Gagne, Legal Assistant

Date: April 17, 2019