

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

UNIONTOWN NEWSPAPERS, INC., d/b/a )  
 THE HERALD STANDARD; and )  
 CHRISTINE HAINES, )  
 )  
 Petitioners, )  
 v. )  
 PENNSYLVANIA DEPARTMENT OF )  
 CORRECTIONS, )  
 )  
 Respondent. )

No.: 66 M.D. 2015

**MOTION FOR JUDGMENT  
ON THE PLEADINGS**

Filed on Behalf of the Petitioners,  
Uniontown Newspapers, Inc., d/b/a The  
Herald Standard; and Christine Haines

Counsel of Record for this Party:

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*Office of Open Records Docket No.: AP 2014-1695*

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**PETITIONERS' MOTION FOR JUDGMENT ON THE PLEADINGS**

AND NOW, come the Petitioners, Uniontown Newspapers, Inc., d/b/a The Herald Standard and Christine Haines (collectively, "Petitioners"), by and through their undersigned counsel, Saul Ewing LLP, and hereby submit their Motion for Judgment on the Pleadings:

1. Petitioners seek the intervention from this Commonwealth Court to enforce a Final Determination of the Pennsylvania Office of Open Records ("OOR") pursuant to the Pennsylvania Right to Know Law ("RTKL"). For the reasons set forth in their Brief in Support of this Motion, Petitioners are entitled to the relief requested in their Petition for Review.

2. Throughout its pleadings in this matter, Respondent, the Pennsylvania Department of Corrections ("Respondent" or "DOC") has made a number of admissions which support this Motion. In fact, the DOC admits at least the following:

- a. that the information responsive to Petitioners' RTKL request/the OOR Final Determination is available (at least following a review of inmate medical records);
- b. that Petitioners have a clear right to the responsive documents; and
- c. the DOC has failed to fully comply with Petitioners' RTKL request by producing the responsive documents it maintains and knows it has a duty to produce immediately.

3. Simply, the DOC lacks any legally recognized defense to production of the requested documents.

4. First, undue burden is not an exemption to the RTKL, especially in this case.

5. Second, the DOC would not be required to create a "new record" to comply with Petitioners' RTKL request. The DOC, instead, admits to the existence of the records at issue.

6. Third, the DOC cannot rely on a blanket medical records exception to avoid disclosure under the RTKL. At the very least, the DOC must search its medical records database, redact any identifying information of inmates, and produce the remaining, responsive records.

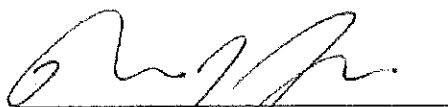
7. In addition to the primary relief requested in Petitioners' PFR, *i.e.*, disclosure of the information sought under the RTKL, Petitioners also requested other remedies. Petitioners requested, for example, reimbursement of attorneys' fees and litigation costs, along with civil penalties levied against the DOC pursuant to the RTKL. Petitioners are also entitled to this additional relief as a matter of law.

8. Overall, the DOC has proceeded without *any* reasonable basis in law or fact. Therefore, the DOC's bad faith, willful and wanton disregard of its duties under the RTKL, and other improper conduct is established in the pleadings in this matter, and Petitioners are entitled to the monetary relief permitted by the RTKL, including reimbursement of litigation costs.

9. For the reasons set forth above, together with those stated in Petitioners' Petition for Review, the remaining pleadings in this matter, and Petitioners' Brief in Support of this Motion, the DOC should be immediately ordered to produce the documents and information that Petitioners are clearly entitled to, among other relief.

WHEREFORE, the Petitioners, The Herald Standard and Christine Haines, respectfully request that this Honorable Court grant their Motion for Judgment on the Pleadings; grant the relief requested in Petitioners' Petition for Review; and provide any further such relief that this Court deems appropriate under the circumstances.

Respectfully submitted,



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CORRECTIONS, )  
)  
Respondent. )

ORDER OF COURT

AND NOW, to-wit, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, upon consideration of Petitioners' Motion for Judgment on the Pleadings and Brief in Support of the same, along with any response from Respondent, it is hereby ORDERED, ADJUDGED, and DECREED that said Motion is GRANTED, as follows:

1. Respondent is required to produce each and every document responsive to Petitioners' Right to Know Law Request, and any such documents required by the Office of Open Records Final Determination, including redacted medical records, within fourteen (14) days of the date of this Order of Court;
2. Respondent is required to reimburse Petitioners for any and all attorneys' fees incurred in this matter, in the amount of \$ \_\_\_\_\_, within seven (7) days of the date of this Order of Court;
3. Respondent is civilly fined \$ \_\_\_\_\_ under the Right to Know Law for its willful and bad faith refusal to comply with the Law.

BY THE COURT:

\_\_\_\_\_ J.

**CERTIFICATE OF SERVICE**

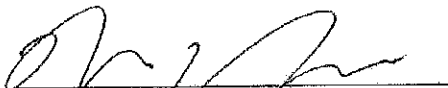
I hereby certify that a true and correct copy of the Motion for Judgment on the Pleadings filed on behalf of the Petitioners, The Herald Standard and Christine Haines, was served upon the following parties via United States Mail on this 6th day of October, 2015:

Commonwealth of Pennsylvania, Office of Open Records  
Attn: Kathleen A. Higgins, Esq.  
Commonwealth Keystone Building  
400 North Street, 4th Floor  
Harrisburg, PA 17120-0225

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Maria G. Macus, Assistant Counsel  
Pennsylvania Department of Corrections  
Office of Chief Counsel  
1920 Technology Parkway  
Mechanicsburg, PA 17050  
*(Counsel for Respondent, Pennsylvania  
Department of Corrections)*

Respectfully submitted,



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*Counsel for Petitioners, The Herald  
Standard and Christine Haines*

October 6, 2015

**VIA FEDERAL EXPRESS**

Pennsylvania Commonwealth Court  
ATTN: Chief Clerk's Office  
Michael F. Krimmel, Chief Clerk  
Pennsylvania Judicial Center  
601 Commonwealth Ave., Suite 2100  
P.O. Box 69185  
Harrisburg, PA 17106

**RECEIVED**

OCT 09 2015

OFFICE OF OPEN RECORDS

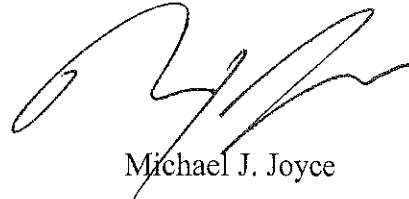
**Re: Uniontown Newspapers, Inc., d/b/a The Herald Standard; and Christine Haines v. Pennsylvania Department of Corrections (66 M.D. 2015)**

Dear Chief Clerk Krimmel:

Enclosed, please find a paper copy of Petitioners' Motion for Judgment on the Pleadings and Brief in Support, which were electronically filed on October 5, 2015.

Please feel free to contact me if you have any questions, or require additional information.

Very truly yours,



Michael J. Joyce

Enclosures

cc: Kathleen A. Higgins, Esq. (Office of Open Records) *(via U.S. Mail) (w/ enc.)*  
Maria G. Macus (Department of Corrections) *(via U.S. Mail) (w/ enc.)*