

Cerullo, Datte & Burke, P.C.

ATTORNEYS AT LAW

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February 10, 2023

By electronic filing

Pennsylvania Public Utility Commission
400 North Street
Harrisburg, PA 17120

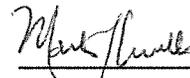
Re: Blackwood, Inc. v. Reading, Blue Mountain and Northern
Railroad Company; Docket Numbers C-20078010 and
A-20082016324

Dear PUC Filing Office:

Attached for filing is the Report required of Blackwood, Inc. pursuant to the directive of ALJ Joseph Brady during the January 12, 2023 telephonic conference with counsel in the above-captioned proceedings. All counsel of record are copied on this submission.

Thank you very much for your attention to this filing.

Very truly yours,



Martin J. Cerullo, Esquire

cc. Alexander Marcinko, Esquire
Kayla Rost, Esquire
Glenn T. Roth, Jr., Esquire
Benjamin C. Dunlap, Esquire
William C. Reiley, Esquire

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Blackwood, Inc.

v.

Reading, Blue Mountain and
Northern Railroad Company

Docket Nos.:

C-20078010 and

A-20082016324

SUBMISSION REQUIRED TO DEMONSTRATE BLACKWOOD, INC.'S
COMPLIANCE WITH DIRECTIVE TO ADVANCE RELATED STATE COURT
LITIGATION

Blackwood, Inc., by its undersigned counsel, makes this filing pursuant to ALJ Brady's directive issued during the telephonic pre-hearing conference with counsel held January 12, 2023. The case filed in the Schuylkill County Court of Common Pleas captioned Reading, Blue Mountain and Northern Railroad Company v. Township of Reilly, with Blackwood, Inc. as Intervenor, docketed to S-1179-2008, has been the basis for several stays of the captioned PUC proceedings.

Note should be made that during the January 12, 2023 Conference, Blackwood's counsel primarily addressed the more complex litigation in another related case between Blackwood and the Railroad pending in Schuylkill County, captioned to S-3238-2008, but that case was not the stated basis for the stays previously granted in the PUC proceedings, its resolution involves a distinct issue from the issue in S-1179-2008, and Reilly Township is not a party in S-2328-2008. While Blackwood also intends to move case 2328 forward to resolution in Schuylkill County Court, which has been remanded from the Commonwealth Court, in the near future, that case is not the basis for the stay in these PUC proceedings and so is not further addressed in this Submission.

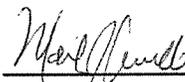
To comply with the directive, Blackwood, Inc.'s undersigned counsel has entered his appearance on behalf of Blackwood in the Schuylkill County S-1179-2008 litigation. In order to move the case forward, Blackwood's counsel has prepared and served on all counsel in that case a Certificate of Readiness/Praeceptum for Certification to list that case for non-jury trial, depending

on the position of counsel for the Railroad and the Township on the need for any further discovery.

Copies of the correspondence with all counsel and the prepared Certificate of Readiness/Praeceptum for Certification are attached to this Submission.

Further Status Report will be filed with the PUC within 90 days of the January 12, 2023 Conference, as ordered by Judge Brady.

Respectfully submitted,



Martin J. Cerullo, Esquire

Cerullo, Datte & Burke, P.C.

ATTORNEYS AT LAW

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February 10, 2023

Via E-mail

Lawrence J. Moran, Jr., Esquire
Alexander Marcinko, Esquire
Joyce Carmody & Moran PC
9 North Main Street
Pittston, PA 18640

Via E-mail

William C. Reiley, Esquire
Reiley Law
510 West Norwegian Street
Pottsville, PA 17901

Via E-mail

Benjamin C. Dunlap, Esquire
Nauman Smith Shissler & Hall
200 North 3rd Street
18th Floor
P.O. Box 840
Harrisburg, PA 17108

Re: Reading Blue Mountain and Northern Railroad v.
Reilly Township; Blackwood, Inc. , Intervenor
Schuylkill County Docket No. S-1179-2008

Dear Counsel:

I am writing to Attorney Moran, whose appearance is entered for RBM&NR in the captioned case, as well as Attorney Marcinko, who participated for RBM&NR on the recent PUC conference call; Attorney Reiley, counsel for Reilly Township in the captioned case, and Attorney Dunlap who is Reilly Township's counsel in the PUC proceedings.

As ALJ Brady has given my client, Blackwood, Inc., 30 days from the conference to attempt to move forward the captioned litigation, I attach a copy of my entry of appearance on behalf of Blackwood in this case. I have not previously been counsel of record in this case.

Other than changes of counsel of record and filed Statements of Intention to Proceed, it appears there have been no substantive filings in this case since 2008. This is the case on which PUC premised the Stay Orders in both pending PUC cases involving these various parties.

It is unusual for the Intervenor to be the party moving a case toward trial, but that is the position of this matter in light of ALJ Brady's directive. Accordingly, I am asking that counsel in this case review your file to determine if you want to take any discovery. I would appreciate

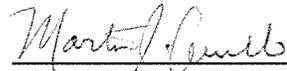
Cerullo, Datte & Burke, P.C.

your responding to me as promptly as possible if you wish to take discovery. If you do not wish to take discovery, then I am prepared to file the attached Praecipe for Certification by no later than March 10, 2023 to request this case be listed for Non-Jury Trial.

I will be sending a copy of this correspondence to ALJ Brady of the PUC and anticipate filing a Status Report in the PUC proceedings within 90 days of the January 12 call.

If you think it would be helpful for us to have a conference call to discuss discovery or other matters in this case, please let me know and I will get that scheduled promptly.

Very truly yours,



Martin J. Cerullo, Esquire

IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY, PA
CIVIL ACTION

READING BLUE MOUNTAIN AND
NORTHERN RAILROAD
Plaintiff

vs.

REILLY TOWNSHIP,
Defendant

BLACKWOOD, INC., Intervenor

No. S-1179-2008

PROTHONOTARY OFFICE
2023 FEB 10 AM 10:44
SCHUYLKILL COUNTY PA
17901

ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance on behalf of Blackwood, Inc., Intervenor named above.

Respectfully submitted,

By Martin J. Cerullo

Date: February 10, 2023

Martin J. Cerullo, Esquire
Attorney ID No. 34793
Cerullo, Datte & Burke, P.C.
Garfield Square
P. O. Box 450
Pottsville, PA 17901
(570) 622-0767
Email: mcerullo@cdblawnet
Attorney for Intervenor

IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY, PA
CIVIL ACTION

READING BLUE MOUNTAIN AND
NORTHERN RAILROAD,
Plaintiff

No. S-1179-2008

vs.

REILLY TOWNSHIP
Defendant

BLACKWOOD, INC., INTERVENOR

CLERK OF COURT
2023 FEB 10 AM 10:44
SCHUYLKILL COUNTY PA
17901

CERTIFICATE OF SERVICE

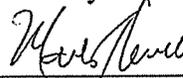
I hereby certify that on this 10th day of February, 2023, I served a true and correct copy of my Entry of Appearance upon the parties listed below, via first class mail, postage prepaid:

Lawrence J. Moran, Jr.
Joyce Carmody & Moran PC
9 North Main Street
Pittston, PA 18640
Attorney for Plaintiff

William C. Reiley, Esquire
Reiley Law
510 West Norwegian Street
Pottsville, PA 17901
Attorney for Defendant

Respectfully submitted,

By



Date: February 10, 2023

Martin J. Cerullo, Esquire
Attorney ID No. 34793
Cerullo, Datte & Burke, P.C.
Garfield Square
P. O. Box 450
Pottsville, PA 17901
(570) 622-0767
Email: mcerullo@cdblawnet
Attorney for Intervenor

IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

READING, BLUE MOUNTAIN AND NORTHERN RAILROAD COMPANY

No. S-1179 2008

Plaintiff

vs.

TOWNSHIP OF REILLY

Defendant

BLACKWOOD, INC., Intervenor

PRAECIPE FOR CERTIFICATION – PROTHONOTARY FORM 205.2(b)

TO PROTHONOTARY: Transmit the attached filing to the Court Administrator for Assignment to a Judge. The nature of the filing and requested action is as follows:

_____ Jury Trial – (Complete Certificate of Readiness; pay \$107 Filing Fee)

Notice: *In matters requiring a non-jury trial or hearing opposing party is required to submit a report in WRITING to the Court Administrator within 10 days, (1) listing the names of the witnesses they will use at hearing; and (2) an estimate of time required to present their case.*

X

Non-Jury Trial (Pursuant to Pa.R.C.P.1038)

Any matter dispositive of the case e.g.:

- Equity Actions; MDJ Appeals; Ejectment actions;
- Name Change Actions; Contract Action; Replevin; Mandamus
- Tax Appeals: Ready for Trial or Issues Pending

If Tax Appeal is not trial ready - How much time is required to be ready for trial? _____

Other Appeal of Railroad from Denial of Petition to Vacate T-537 (specify)

I estimate it will require 3 hours to present the plaintiff's/defendant's case and I will present only the following witnesses for testimony:

Intervenor's case - witnesses:

Nolan A. Perin, President, Blackwood, Inc.

Records Custodian - Reilly Township

President or other corporate designee - Reading, Blue Mountain & Northern Railroad Company

Hearing required/requested: Reason for Hearing: _____

- Special Relief; Contempt Petition; Preliminary Injunctions;
 Discovery Hearing;
 Other _____ (specify)

I estimate it will require _____ hours to present the plaintiff's/defendant's case and I will present only the following witnesses for testimony:

Failure to provide the witness list and time requirement may preclude witnesses from testifying.

Petition pursuant to Pa.R.C.P. 206.1 requesting Issuance of Rule to Show Cause;

- Transfer to Court for disposition, no answer having been filed;
 Transfer to Court for disposition, contested matter and fact finding complete or unnecessary;
 Other _____ (specify)

Issue that can be decided on the record and briefs, being: Gov't Appeal;

- Exceptions; Judgment on the Pleadings; Summary Judgement;
 Other _____ (specify)

Issue that can be assigned for immediate action, being: Stipulation;

- Uncontested Motion; Motion for Appointment; Quiet Title Motion;
 Other _____ (specify)

Contested Motion (Memo attached), being: Discovery Motion;

- Other _____ (specify)

Transmit to Custody Officer. Reason: _____

(If hearing is required, complete the time and witness portion of this form).

Attorney for *Intervenor*

Date: _____

For Defendant: William C. Reiley, Esquire

For Plaintiff: Lawrence J. Moran, Jr., Esquire

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

BLACKWOOD, INC.

v.

Docket Nos.
C-20078010 &
A-20082016324

READING, BLUE MOUNTAIN AND
NORTHERN RAILROAD COMPANY

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of February, 2023, I served a true and correct copy
of the foregoing Submission Required upon the parties listed below, via e-mail::

Alexander Marcinko, Jr., Esquire
Joyce Carmody & Moran PC
9 North Main Street
Pittston, PA 18640
Attorney for Plaintiff
jam@joycecarmody.com

William C. Reiley, Esquire
Reiley Law
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Attorney for Defendant
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Nauman Smith Shissler & Hall
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Glenn T. Roth, Jr., Esquire
Schuylkill County Courthouse
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Pottsville, PA 17901
groth@co.schuylkill.pa.us

Respectfully submitted,

By 

Martin J. Cerullo, Esquire
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(570) 622-0767
Email: mcerullo@cdblawnet
Attorney for Intervenor

Date: February 10, 2023