

Philadelphia Bar Association
Board of Governors
Special Meeting by Telephonic Conference Call
May 16, 2008

Stephanie Resnick, Chair of the Board called the meeting to order at 8:34 a.m., by telephone. Roll call was taken to establish a quorum.

The Chair recognized Joan Arnold, Chair of the Tax Section, who presented a Resolution Supporting Publication of a Commonwealth Court Memorandum Opinion. The Chair advised the Board that the Resolution had been presented to the Cabinet. The reason for the urgency of having a telephonic meeting was that a Motion in support of publication of the memorandum opinion had to be filed by May 19, 2008, before the next regular meeting of the Board.

Ms. Arnold explained that by publication of a memorandum opinion issued by the Pennsylvania Commonwealth Court in the *Braddock Borough and Central Tax Bureau of Pennsylvania, Inc v. Sullivan Plumbing, Inc.*, 954 C.D. 2007 (“*Braddock*”) case, this would give practitioners two sides to the issue of estoppel by laches against the taxing authority to preclude the collection of taxes. The Resolution was moved and seconded.

There was discussion regarding the merits of the underlying case. Ms. Arnold explained that the Pennsylvania Supreme Court held, *inter alia.*, in *Commonwealth v. Western Maryland Ry. Co.*, 377 PA 312, 105 A.2d 336 (1954), that, where a taxing authority failed to previously collect taxes, the doctrine of estoppel by laches would not apply to prevent the taxing authority from pursuing taxes for the future. However, on April 18, 2008, the Pennsylvania Commonwealth Court rendered a Memorandum Opinion in *Braddock* that, under certain circumstances, the doctrine of “estoppel by laches” may be applied against a taxing authority to preclude the collection of taxes if the taxing authority is guilty of “want of due diligence to institute an action to the taxpayer’s prejudice.” In *Braddock*, the Supreme Court’s *Western Maryland Ry* Opinion was distinguished by the Commonwealth Court.

Ms. Arnold also explained that any person may present a Motion to request that a memorandum opinion be published as a reported decision, including the Association. She also explained that the Tax Section is doing all the work with regard to the preparation of a Motion in support of publication, with no cost to the Association, and that there should not be any additional work after the Motion is prepared and filed; nor should there be any further hearings, or supplemental submissions required.

Ms. Arnold also explained that to the knowledge of the members of the Tax Section who track cases of interest, Sullivan Plumbing will be filing a Motion for publication, and neither party to the action will be filing any appeals. There was debate as to whether this Resolution involved an issue that the Association should be involved with, and whether there was a position against publication. After further discussion, the Motion was passed unanimously.

There being no further business, the Board adjourned at 8:55 am.

Respectfully submitted,

KATHLEEN D. WILKINSON
Secretary

Board of Governors
Attendance
May 16, 2008

Present:

A. Michael Pratt
Jeffrey Lindy
Gaetan Alfano
Kim Jessum
Wesley Payne
Michael Berkowitz
Brian Chacker

Kathleen Wilkinson
Sayde Ladov
Judy Berkman
Carlton Johnson
Daniel Siegel
Maria Feeley
Stacy Tees

Sophia Lee
Stephanie Resnick
Regina Foley
Jane Dalton
Jacqueline Segal
Jeffrey Gross

Absent:

Joseph Prim
Karen Detamore
Matthew Perks
Stewart Weintraub
Scott Sigman
Judith Drasin

Scott Cooper
Reetu Dandora
Stephen Foxman
Grace Manno
Deborah Weinstein
Denis Lawler

Michael Hayes
Rosemary Pinto
Michael Goss
Richard Seidel
Donna Woelpper
Cindy Rosenthal

Rochelle Fedullo