

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

<p>THOMAS &amp; KATHERINE KOWENHOVEN, ROBERT &amp; MICHELE DEWITT and DANIEL &amp; CAROL HOLTGRAVER</p> <p>Plaintiffs,</p> <p>vs.</p> <p>THE COUNTY OF ALLEGHENY and THE BOARD OF ASSESSMENT OF ALLEGHENY COUNTY,</p> <p>Defendants.</p>	<p>CIVIL DIVISION</p> <p>NO. GD 02-21763</p> <p><b>CLASS ACTION COMPLAINT</b></p> <p>Filed on behalf of THOMAS &amp; KATHERINE KOWENHOVEN, ROBERT &amp; MICHELE DEWITT and DANIEL &amp; CAROL HOLTGRAVER Plaintiff(s)</p>
	<p>Counsel of Record for this Party:</p> <p>JOHN M. SILVESTRI, ESQ. Pa. I.D. No. 21479</p> <p>JOHN M. SILVESTRI, ESQ. Firm No. 618 1000 N. Negley Avenue Pittsburgh, PA 15206 (412) 391-0958</p>

**NOTICE TO DEFEND**

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 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 OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

LAWYER REFERRAL SERVICE  
THE ALLEGHENY COUNTY BAR ASSOCIATION  
920 CITY-COUNTY BUILDING  
414 GRANT STREET  
PITTSBURGH, PENNSYLVANIA 15219  
(412) 261-5555

**COMPLAINT**

AND NOW, come plaintiffs and file the within Complaint and respectfully represent as follows:

**CLASS DEFINITION**

1. The class represented by the Plaintiffs consists of all property owners who filed real estate tax assessment appeals to the Board of Property Assessment, Appeals and Review of Allegheny County for the tax years 2001 or 2002 and who received decisions which considered evidence not introduced during the hearing.

2. Examples of this miscarriage of due process include, but are not limited to: (a) "case reviewers" who research and submit

sales of properties not admitted into evidence during the hearing, or who utilize appreciation rates not admitted into evidence during the hearing for the purpose of reversing a hearing officer's report which recommends a reduction in an assessment, or (b) hearing officers, who after a hearing is ended, research computer information of sales not admitted into evidence and/or who utilize appreciation rates not admitted into evidence to justify no changing or increasing an assessment.

**THE PARTIES**

3. The Defendants are the County of Allegheny (Allegheny County) and the Board of Property Assessment Appeals and Review of Allegheny County (Assessment Board).

4. Plaintiffs are individuals who reside in Allegheny County and they are the owners of property identified below in each of the separate counts.

**BACKGROUND COMMON TO ALL COUNTS**

5. Due process in Hearings before the Assessment Board is governed by the United States Constitution, as amended, the Pennsylvania Constitution, as amended, the General County Assessment Law 72 P.S. Section 5020-101 et seq., the Second Class County Assessment Law, 72 P.S. Section 5452.1 et seq. (to the extent the Second Class County Assessment Law is not displaced by Allegheny County Ordinance), the Allegheny County Administrative Code at

Section 207.01 et seq., and Assessment Board Rules, Regulations, Policies, Procedures and Practices.

6. Pursuant to Allegheny County Ordinance at Administrative Code Section 207.07 E, the Assessment Board is to receive reports of hearings which include findings of fact and conclusions of law with a recommendation to the Assessment Board i.e.:

It shall be the duty of the Board Member(s) or hearing officer who hears the appeal to provide a report of the hearing for distribution to the entire Board. The report shall include, but not be limited to, the findings of fact, the conclusions of law and a recommendation to the Board;...

7. Assessment Board Rule IV at Section 5 provides that if a Hearing Officer's recommendation to the Assessment Board is not accepted, recordings and all evidence supplied at the Hearing is to be reviewed i.e.:

Rule IV. ... Section 5. ... If the Hearing Officer's recommendation is not accepted by a majority of the Board, the Board shall review any recordings and all evidence supplied at the Hearing or by post-Hearing submissions as provided in Section 3 of this Rule to reach its own determination. [Said Section 3 provides for post hearing submissions in the nature of proposed findings of fact and conclusions of law requested by the hearing officer and to be exchanged by the parties.]

The Board's decision shall be based on valuation methodology consistent with the standards of nationally recognized assessment and appraisal industry organizations and all applicable laws. ...

8. The Assessment Board, by an April 9, 2002 Memo to "Hearing Officers and Case Reviewers" on the subject of "Appeals, Procedures/Frequent Questions" set forth the following procedures and practices for Hearings:

When making recommendations, Hearing Officers and Case Reviewers are permitted to accept or discount evidence presented at a hearing based on their professional valuation judgment, knowledge of the area and/or verification of date in SMDA [Sabre Market Data Analysis].

Hearing Officers and Case Reviewers are not to reappraise the property or submit post-hearing evidence. A Hearing Officer or Case Reviewer who has personal knowledge of an area or more suitable sales comparables to those introduced at a hearing may supply this information for the Board's consideration. [See the 4-9-2002 Memo at Page 1 under the topic "Case Reviewers and Hearing Officers", second bulleted point.]

\* \* \* \* \*

The Case Reviewer shall review Hearing Officer Reports and supporting documentation to verify that Hearing Officers' recommendations are consistent with generally accepted professional valuation methodologies and the Boards' guidelines as adopted from time to time. [See the 4-9-2002 Memo at Page 1 under topic "Case Reviewers", first bulleted paragraph.]

\* \* \* \* \*

Hearing Officers are permitted to ask questions of any party to a hearing that are relevant to property valuation. The Hearing Officer may do this to ensure that salient information is provided on the record. Asking questions does not constitute advocacy. (i.e. A Hearing Officer may ask a property owner to

identify other similar properties in the neighborhood, which then the Hearing Officer may review in SMDA to gain relevant market value evidence.)

At the conclusion of each hearing, the Hearing Officer shall complete the Hearing Officer Report with recommendations that are consistent with generally accepted professional valuation methodologies and the Board's guidelines as adopted from time to time and submit a properly assembled case packet.

Every party deserves a well reasoned recommendation. Hearing Officers are encouraged to carefully consider the evidence.

If the subject property is located in a market area the Hearing Officer is not familiar with, scrutinizing the marketplace on SMDA is helpful to identify anomalies. [See 4-9-2002 Memo at Page 2 under the topic of "Hearing Officers", second and fourth bulleted paragraphs.]

\* \* \* \* \*

Assessments reflect values as of January 1 of the year for which the assessment is certified. Hearing Officers shall use their professional judgment and knowledge of the area in determining whether appreciation between 2001 and 2002 is applicable and the amount of appreciation that is appropriate. (2% is only a rule of thumb.) [See 4-9-2002 Memo at Page 6 under the topic "2001 Appeals combined with 2002 Appeals", fourth bulleted paragraph.]

9. Assessment Board Coordinators are employed by either the Assessment Board or Allegheny County or are under the direction and control of both the Assessment Board and Allegheny County.

10. On June 12, 2002, "Board Coordinators" issued a Memo to Hearing Officers conducting Assessment Appeal Hearings on the topic of "Hearing Officer Protocol", which was approved by the Assessment Board Chairman and which is contradictory to said 4-9-2002 Assessment Board Memo on the subject of "Appeals Procedures/Frequent Questions" by stating the following:

The 2002 certified assessed value stands on its own merit. An arbitrary addition of appreciation to a 2001 certified assessed value is not an acceptable rationale for recommended value. **NO EVIDENCE MEANS A RECOMMENDATION OF NO CHANGE TO CERTIFIED ASSESSED VALUE.** A well written objective explanation of your rationale supported by appropriate evidence and documentation is what the board needs to sustain your recommendation.

**Count I: Kowenhoven vs.  
Allegheny County and the Assessment Board**

11. Thomas and Katherine Kowenhoven are individuals who own real estate in Allegheny County known as 409 Jefferson Drive, Town of Mount Lebanon, Block & Lot No. 192-L-145.

12. On April 1, 2001 the Kowenhovens filed a timely year 2001 Appeal for their property.

13. On March 20, 2002 a "Notice of Re-Scheduled Appeal Hearing" was issued, setting the Hearing for the Kowenhoven property for April 11, 2002 at 2:30 p.m. at 332 County Office Building.

14. At the time of said April 11, 2002 Hearing, the Kowenhovens were represented by Michael Suley.

15. At the time of said April 11, 2002 Hearing, Michael Suley provided sales of comparable properties, including (a) 411 Avon Drive, Block & Lot No. 192-H-96, which sold on 5-9-2000 for \$244,900, (b) 461 Jefferson Drive, Block & Lot No. 192-L-108, which sold on 6-14-2001 for \$253,000, and (c) 415 Jefferson Drive, Block & Lot No. 192-L-138, which sold on 9-10-2001 for \$247,097, and for each of said comparable properties, provided West Penn Multi-List information as to room count, room dimensions, construction, fireplaces, parking, heat type, age, style, architecture, number of floors, basement, roof, heating and utilities and provided Allegheny County or Assessment Board web site residential building characteristics and property photo image information.

16. On April 11, 2002 Hearing Officer "JMD" (James M. Dunn) completed a "Hearing Officer Report", which recommended a reduction in the year 2002 assessment for the Kowenhoven property from \$267,300 to \$250,000. In support of this recommendation, the hearing officer found that the condition of the Kowenhoven property should be "average" and stated the following rationale for the recommendation:

Based on 2 recent sales on street & 1 nearby of similar type homes I recommend a change in value.

17. At an unknown time, between the hearing on April 11, 2002 and a decision having a mailing date of October 7, 2002, a post-it note was stuck upon the Hearing Officer Report with a handwritten notation stating:

4% increase per year over purchase price of  
\$247,500 make 2002 # of \$267,300 correct.

18. On October 7, 2002 a "Disposition of Appeal From Real Estate Assessment" was mailed to Thomas Kowenhoven not changing the year 2002 assessment at \$267,300.

19. A timely appeal of this Assessment Board decision was made to the Court of Common Pleas Board of Viewers and docketed at No. BV 02-4196.

20. There is no indication from the Assessment Board hearing file for the Kowenhoven property that the Assessment Board rejected the Hearing Officer's recommendation.

21. It is believed and therefore averred that the Assessment Board did not reject the Hearing Officer's recommendation in accordance with due process. The Assessment Board did not follow its own due process procedures in reversing the Hearing Officer's recommended reduction in the assessment and did not follow due process procedures in receiving post-hearing evidence into its file.

22. There is no indication from the Kowenhoven hearing file that the tape recording of the hearing was reviewed by anyone.

23. It is believed and therefore averred that the Kowenhoven hearing tape recording was not reviewed by anyone.

24. The introduction of a 4% appreciation rate to be applied to the Kowenhoven property was the introduction of evidence as to appreciation rates after the close of the hearing in violation of due process standards to be applied to hearings conducted by any quasi judicial or judicial tribunal.

25. The use of a 4% per year increase in value upon the 1999 purchase price for the Kowenhoven property is inconsistent with appraisal standards which provide for the adjustment of comparable properties rather than the subject property.

26. The Kowenhovens are entitled to the Hearing Officer's recommendation as their assessment because of the failure of the Defendants to follow due process procedures.

27. The Kowenhovens have been deprived of due process under the color of law in violation of their civil rights under 42 U.S.C. §1983, and because of the nature of the violations of Plaintiffs' civil rights, the Plaintiffs are entitled to damages and attorney fees in addition to the specific injunctive

and declaratory relief to remedy the legal wrongs committed against them.

**Count II: Dewitt vs.  
Allegheny County and the Assessment Board**

28. Robert and Michele Dewitt are individuals who own real estate in Allegheny County known as 105 Chaucer Court, Town of Moon, Block & Lot No. 417-G-5.

29. On January 31, 2002, the Dewitts, through counsel, filed a timely year 2002 Appeal for their property.

30. On August 2, 2002 a "Notice of Appeal Hearing" was issued, setting the hearing for the Dewitt property for August 23, 2002 at 11:20 a.m. at 332 County Office Building.

31. At the time of said August 23, 2002 hearing, the Dewitts were represented by counsel.

32. At the time of said August 23, 2002 hearing, the owner's opinion of value was submitted as being \$239,000, and sales of comparable properties were provided, including (a) 1001 Whispering Woods Drive, Block & Lot No. 1050-D-2, which sold on 1-24-2001 for \$246,500, (b) 218 Thornwood Court, Block & Lot No. 504-G-49, which sold on 6-12-2000 for \$220,000, and (c) 411 Pin Oak Court, Block & Lot No. 504-M-15, which sold on 12-10-1998 for \$263,000. For each of said comparable properties, a photo image of the comparable was provided with the Allegheny county "Owner General Information" data screen and Allegheny County "Building Characteristics" data screen with the calculation of the price per

square foot of each comparable based upon the "finished living area" of each comparable and its sales price. The same information was provided for the Dewitt's property for the purposes of documenting the comparability of the comparables.

33. On August 23, 2002 Hearing Officer Diane C. Cancilla completed a "Hearing Officer Report", which recommended an increase in the year 2002 assessment for the Dewitt property from \$271,300 to \$305,500. In commenting on the evidence, the Hearing Officer wrote the following:

owners reps presented several sales in subject's market"; "sales submitted do not appear consistent with subject opinion of value

34. In the Hearing Officer Report section for "Hearing Officer's Recommendation", the Hearing Officer wrote, in support of increasing the assessment to \$305,500:

change value - based on purchase price  
+appreciation 3%, sale 09-23-92 \$235,000 valid  
sale

35. On October 10, 2002, Board member "P.M." approved the Hearing Officer's recommendation.

36. On December 6, 2002, a "Disposition of Appeal from Real Estate Assessment" was mailed to the Dewitt's counsel, increasing the year 2002 assessment from \$271,300 to \$305,500.

37. A timely appeal of this Assessment Board decision was made to the Court of Common Pleas Board or Viewers and docketed at No. BV 02-4789.

38. The introduction of a three percent appreciation rate to be applied to the Dewitt property was the introduction of evidence as to appreciation rates after the close of the hearing in violation of due process standards to be applied to hearings conducted by a quasi judicial or judicial tribunal.

39. The use of a three percent per year to increase the value of the 1992 purchase price for the Dewitt property is inconsistent with appraisal standards, i.e., adjustments are to be made to comparable properties to find the value of the property being appraised rather than adjusting the property being appraised, and a ten year old sale may never be used to find a current value, to wit the 1992 sale of the property under appeal was used to find its value.

40. The Dewitts have been deprived of due process under the color of law in violation of their civil rights under 42 U.S.C. Sec. 1983, and because of the nature of the violations of Plaintiffs' civil rights, the Plaintiffs are entitled to damages and attorney fees in addition to specific injunctive and declaratory relief to remedy the legal wrongs committed against them.

**Count III: Holtgraver vs.  
Allegheny County and the Assessment Board**

41. Daniel and Carol Holtgraver are individuals who own real estate in Allegheny County known as 1554 Windcrest Drive, Borough of Franklin Park, Block & Lot No. 609-K-182.

42. On April 4, 2002, the Holtgravers, through counsel, filed a timely year 2002 Appeal for their property.

43. On August 9, 2002, a "Notice of Appeal Hearing" was issued, setting the hearing for the Holtgraver property for August 27, 2002 at 3:40 p.m. at 332 County Office Building.

44. At the time of said August 27, 2002 hearing, the Holtgravers were represented by counsel.

45. At the time of said August 27, 2002 hearing, the owner's opinion of value of \$130,000 was submitted and sales of comparable properties were provided which included (a) 1548 Crestview Drive, Block & Lot No. 823-K-385, which sold on 3-16-2000 for \$140,000; (b) 2332 Haven Court, Block & Lot No. 941-R-224, which sold on 11-4-1999 for \$125,900; (c) 1548 Crest View Drive, Block & Lot No. 823-K-61, which sold on 4-1998 for \$83,000 and (d) 2345 Haven Drive, Block & Lot No. 941-S-311, which sold 2-1992 for \$128,000, and for each said comparable properties, a photo image of the comparable was provided, and information from the Allegheny County property record cards as to "owner general information" and "building characteristics", with emphasis upon

the finished living area of the subject and the comparables and the age of the construction.

46. On August 27, 2002, Hearing Officer Ray Lynch completed a "Hearing Officer Report" which recommended a reduction in the year 2002 assessment for the Holtgraver property from \$172,200 to \$135,000. In support of this recommendation, the Hearing Officer wrote, inter alia, "sold 2-98 \$125,000...sales attached supports recommendation", and then the Hearing Officer wrote that his recommendation was "based on sales price & sales, total value 135,000".

47. At an unknown time between the hearing on August 27, 2002 and a decision having a mailing date of December 6, 2002, a post-it note was stuck upon the Hearing Officer Report with a hand written notation stating:

disagree - size of this lot 1.5 acres in  
Franklin Park, plus good appreciation in area  
+ review of comps used recommend  
165,500/65,500/100,000

48. On October 3, 2002, on a "Resolution of Appeal Case Issues" report, Board member Valicenti, under the report section "Board Member Change of Hearing Officer Recommendation" checked the choice: "No Change to Certified Assessment for .... 2002".

49. On December 6, 2002 a "Disposition of Appeal from Real Estate Assessment" was mailed to the Holtgraver's counsel not changing the Year 2002 Assessment of \$172,200.

50. A timely appeal of this Assessment Board Decision was made to the Court of Common Pleas Board of Viewers and docketed at number BV 02-4791.

51. There is no indication from the Assessment Board Hearing file for the Holtgraver property that the Assessment Board rejected the Hearing Officer's recommendation by a vote of the Assessment Board.

52. It is believed and therefore averred that the Assessment Board did not reject the Hearing Officer's recommendation in accordance with due process. The Assessment Board did not follow its own due process procedures in reversing the Hearing Officer's recommended reduction in the assessment and did not follow due process procedures in receiving post-hearing evidence into its file.

53. There is no indication from the Holtgraver hearing file that the tape recording of the hearing was reviewed by anyone.

54. It is believed and therefore averred that the Holtgraver hearing tape recording was not reviewed by anyone.

55. The introduction of an opinion by an unknown case reviewer that a lot size of 1.5 acres (without any indication

as to the placement of the residence upon the lot or the usable area of the lot) and that there was "good appreciation" (whatever that means) was the introduction of evidence after the close of the hearing in violation of due process standards to be applied to hearings conducted by any quasi judicial or judicial tribunal.

56. The Holtgravers are entitled to the Hearing Officer's recommendation as their assessment because of the failure of the Defendants to follow due process procedures.

57. The Holtgravers have been deprived of due process under the color of law in violation of their civil rights under 42 U.S.C. Sec. 1983, and because of the nature of the violations of Plaintiff's civil rights, the Plaintiffs are entitled to damages and attorney's fees in addition to the specific and injunctive and declaratory relief necessary to remedy the legal wrongs committed against them.

**CLASS ACTION ALLEGATIONS**

58. Since the beginning of judicial time in the United States of America, judicial decision making has been based upon a consideration of evidence submitted at hearings in which all parties in interest have an opportunity to participate and, hence, have the opportunity to object to evidence, cross-examine adverse witnesses, and rebut the evidence of an adverse party. Such a process is part of "due process" guaranteed to citizens and residents of the United States and the Commonwealth of

Pennsylvania under the United States Constitution, as amended, the Pennsylvania Constitution, as amended, and federal and Pennsylvania state statutes, rules and regulations. Such "due process" is to be followed in hearings conducted by the Assessment Board, which is defined as a "tribunal" pursuant to 42 Pa.C.S. Section 102.

59. Beginning in 2002, the new bureaucracy for assessing real estate, initiated by the Roddey administration in 2001, disrupted and tainted the process of conducting hearings, as is documented in the memos dated April 9, 2002 and June 12, 2002, excerpts of which are quoted above, as is documented in the Assessment Board Solicitor's letter dated May 20, 2002, the relevant part being quoted below, and in unwritten practices and procedures which were carried out. The effect of this disruption and tainting of hearing procedures was to inject into the Assessment Board decision making process evidence adverse to property owners not presented at a noticed hearing, but which was presented in secret, in other words, evidence presented without notice of its submission after the hearing closed and without the property owner having an opportunity to object, cross examine or rebut the evidence.

60. Additionally, these tainted and corrupt Assessment Board decisions were mailed to the property owners

without disclosing the injection of post-hearing evidence in violation of due process.

61. It is believed that hundreds of real estate tax assessment appeal decisions are tainted and corrupted by such violations of due process in hearings, and those who are similarly situated are too numerous to be joined in this Action.

62. An egregious example of this type of violation of due process with respect to a putative class member was with respect to post-hearing evidence submitted for the hearing of the property identified as Block & Lot No. 85-J-46.

1. After a Hearing Officer made a recommendation to reduce the assessment, a case reviewer added a post-it note on top of the recommendation stating:

this is a ridiculous appraisal and a ridiculous value recommended by the H.O! This house is in the Murdoch Farms section of Squirrel Hill; one of the most expensive R.E. neighborhoods in the County. The appraiser used comps outside of that neighborhood - R.E. worlds apart. Here are just two that the appraiser 'missed'!" 85-J-43  
5529 Dunmoyle \$600,000 June-2001 -  
85-J-70 5600 Dunmoyle \$760,000 June-  
2000 - I recommend 2001 - \$600,000 -  
2002-\$618,000

2. In an exchange of correspondence between a representative of the property owner and the Assessment Board Solicitor dated May 9, 2002 and

May 20, 2002, respectively, the Assessment Board Solicitor condoned the practice of utilizing evidence dehors the record as part of the decision making process of the Assessment Board by stating:

... The evidence that you refer to as new evidence presented by the case reviewers was not new evidence but was, in fact, listed on the county web site and available for review by the board in its discretion. ...

3. It is believed that the entire data base of sales and information in the Allegheny County computer system was not entered into evidence for the hearing as to 85-J-46 and is not entered into evidence in all hearings in general.

63. There are questions of law and fact common to the class. From a fact point of view, all Hearing Officers and Case Reviewers had access to the SMDA (Saber Market Data Analysis) information on the computer which functioned to provide access to obtaining post-hearing evidence for submission to the Assessment Board as to sales of properties not mentioned during the hearing, and their notes in files disclose its use for research as to post-hearing evidence and the use of rates of appreciation not mentioned or discussed during the hearing. From a legal point of view, the submission or injection of any evidence outside of a

hearing of which a property owner is not given notice and opportunity to object, cross-examine or rebut, involves the same legal issues of due process.

64. The claims of the representative parties are typical of the claims of the class inasmuch as post-hearing evidence of which no notice or opportunity was provided to the property owners for objection, cross-examination or rebuttal is a common thread.

65. The representative parties will fairly and adequately assert and protect the interests of the class, i.e., the attorney for the representative parties will adequately represent the interests of the class, the representative party(ies) have no conflict of interest in the maintenance of the class action, and the representative party(ies) can acquire adequate financial resources to assure that the interests of the class will not be harmed.

66. A class action provides a fair and efficient method for adjudication of the controversy, i.e., common questions of law and fact predominate, no difficulties are likely to be encountered in the management of the action as a class action, adjudications favorable to class representatives are likely to be precedent as to the claims of class members, the amounts in controversy justify pursuing this matter as a class action and

administering the claims of the class, and the Defendants have refused to act on grounds generally applicable to the class.

WHEREFORE, it is requested that this Honorable Court (a) issue a temporary and permanent Injunction against the County of Allegheny and the Board of Property Assessment, Appeals and Review of Allegheny County to prohibit them from considering any evidence outside of the record of a Noticed Hearing or permitting or encouraging Hearing Officers and Case Reviewers to search for evidence or submit evidence after the conclusion of a Noticed Hearing, (b) issue an Injunction requiring the Allegheny County Board of Property Assessment Appeals and Review to re-decide all cases for which it may be ascertained from the hearing files that evidence outside of the hearing was submitted for consideration, (c) issue a declaratory judgment that the written and unwritten practices of researching and submitting evidence outside of a hearing is in violation of due process, (d) award damages, including attorney fees and costs under 42 U.S.C. §1983, and (e) provide for such other and further relief as this Court deems just under the circumstances.

Respectfully submitted,

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JOHN M. SILVESTRI, ESQ.  
Attorney for Plaintiffs

VERIFICATION

I, Thomas Kowenhoven, state upon personal knowledge or information and belief that the averments set forth in the Class Action Complaint are true.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: *January 28, 2003*

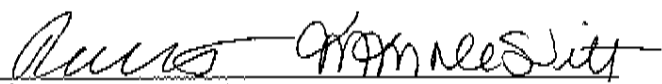
  
\_\_\_\_\_  
Thomas Kowenhoven

V E R I F I C A T I O N

I, Robert C. DeWitt, state upon personal knowledge or information and belief that the averments set forth in the  
Complaint Allegations  
setting forth the claims of Robert C. DeWitt are true.

I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities.

Date: 12/19/2002

  
Robert C. DeWitt