Supreme Court

No. 08-164-A No. 08-165-M.P. (PC 05-5702)

John E. Langley, Jr. as Administrator of the Estate of John D. Langley : v. : Providence College :

O R D E R

This is a pending wrongful death action. Defendant Providence College has filed a notice of appeal and a petition for writ of certiorari seeking review of a June 3, 2008 Superior Court ruling in the case granting plaintiff's motion to compel production of certain documents generated by the defendant in the course of its internal investigation of the death of plaintiff's decedent, former Providence College student John D. Langley. Defendant further moves to stay the production order pending this Court's consideration of the certiorari petition and appeal. The papers in the case have been docketed here pursuant to the appeal. The plaintiff has filed a motion to dismiss the appeal as procedurally improper.

The petition for certiorari and motions for stay and to dismiss the appeal came before the Court in conference on September 17, 2008, and after careful review of the petition, motions, exhibits, and the extensive memoranda filed by counsel for the parties, the Court is of the opinion that this matter is not presently ripe for our consideration. Our examination of the Superior Court hearing transcripts discloses that the hearing justice in this case had not concluded her *in camera* review of the materials which were the subject of plaintiff's motion to compel production of documents, and that she had not issued a final ruling on the motion, prior to the abrupt removal of the case from her jurisdiction through the somewhat hurried transmission of the papers to this Court pursuant to defendant's appeal. Accordingly, it is hereby directed that the following Order shall enter:

1. Plaintiff's motion to dismiss defendant's appeal as procedurally improper is granted and the papers in the case are ordered returned to the Superior Court. The Hearing Justice may resume and complete her *in camera* examination of the audio-cassette tapes and transcripts which are the subject of plaintiff's motion to compel production of documents, following which a final ruling on plaintiff's motion shall be issued.

2. The petition for writ of certiorari is denied, without prejudice to the defendant's filing a new petition upon the Hearing Justice's issuance of a final ruling on plaintiff's motion in accordance with Paragraph 1 of this Order.

Entered as an Order of this Court this 19th day of September 2008.

By Order,

<u>/s/</u> Clerk