

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

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| B.W., a minor, et al. v. POWELL et al. | Case No. 09-cv-0286 |
| CONWAY et al. v. CONAHAN et al. | Case No. 09-cv-0291 |
| H.T., through & with her next friend & mother, L.T., et al. v. CIAVARELLA et al. | Case No. 09-cv-0357 |
| HUMANIK v. CIAVARELLA et al. | Case No. 09-cv-0630 The Honorable A. Richard Caputo |

**DEFENDANT LUZERNE COUNTY'S MOTION TO DISMISS
ALL CLAIMS AGAINST IT BY ALL PLAINTIFFS**

Defendant Luzerne County, by and through its attorneys, Elliott Greenleaf & Dean and Elliott Greenleaf & Siedzikowski, hereby moves to dismiss all claims against it by all plaintiffs, including Count VIII of the Amended Class Action Complaint and Count VI of the Individual Plaintiffs' Master Long Form Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

The reasons for this Motion are more fully set forth in the accompanying Memorandum of Law, which is incorporated herein by reference. Additionally, the reasons for this Motion are more fully set forth in Luzerne County's September 28, 2009 Memorandum Of Law In Response To Plaintiffs' Motion For Leave To Amend The Master Complaint For Class Actions (Doc.297); its September 28, 2009 Memorandum Of Law In Response To Plaintiffs' Motion For Leave To

Amend The Individual Plaintiffs' Master Amended Individual Complaint (Doc.298); its Brief in Opposition to the Class Plaintiffs' Second Motion for Leave to Amend the Master Complaint (Doc.400); and the March 22, 2010 Joint Memorandum In Support Of Certain Defendants' Motions To Dismiss The Complaints Under Fed. R. Civ. P. 12(b)(6)(Doc.445); all of which are incorporated herein by reference pursuant to the authority granted by the Court's March 18, 2010 Order (Doc.422).¹

WHEREFORE, Defendant Luzerne County hereby respectfully requests that the Court grant its Motion to Dismiss, and dismiss all of Plaintiffs' claims against it.

OF COUNSEL:
ELLIOTT GREENLEAF
& SIEDZIKOWSKI, P.C.

Respectfully Submitted,

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Dated: April 1, 2010

¹ Additionally, Luzerne County incorporates by reference its Motion to Dismiss on Immunity Grounds (Docs.218-19).

CERTIFICATE OF SERVICE

I, Timothy T. Myers, Esquire, hereby certify that on this date all counsel of record were served with the forgoing pursuant to the electronic service provisions of this Court. I further certify that the following were served by U. S. mail, first class, postage pre-paid.

Honorable Mark A. Ciavarella, Jr.
585 Rutter Avenue
Kingston, PA 18704

Honorable Michael T. Conahan
301 Deer Run Drive
Mountain Top, Pa 18707-2061

Beverage Marketing of PA, Inc.
Registered Address:
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DATED: Dated: April 1, 2010

/s/ Timothy T. Myers
Timothy T. Myers