

Court of Common Pleas of Philadelphia County  
 Trial Division  
**Civil Cover Sheet**

For Prothonotary Use Only (Docket Number)  
**JUNE 2011**  
 E-Filing Number: 1106048590 **003053**

PLAINTIFF'S NAME PHILADELPHIA BAR ASSOCIATION	DEFENDANT'S NAME CITY OF PHILADELPHIA
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PLAINTIFF'S ADDRESS 1101 MARKET STREET, 11TH FLOOR PHILADELPHIA PA 19107-2955	DEFENDANT'S ADDRESS LAW DEPARTMENT 1515 ARCH STREET, 15TH FLOOR PHILADELPHIA PA 19102-1595
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PLAINTIFF'S NAME	DEFENDANT'S NAME BOARD OF ETHICS
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PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS 1441 SANSON STREET, 2ND FLOOR PHILADELPHIA PA 19102-3016
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PLAINTIFF'S NAME	DEFENDANT'S NAME
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PLAINTIFF'S ADDRESS	DEFENDANT'S ADDRESS
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TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 2	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Petition Action <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Writ of Summons <input type="checkbox"/> Transfer From Other Jurisdictions
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AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input type="checkbox"/> Mass Tort <input checked="" type="checkbox"/> Commerce <input type="checkbox"/> Settlement <input type="checkbox"/> Jury <input type="checkbox"/> Savings Action <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Minors <input type="checkbox"/> Non-Jury <input type="checkbox"/> Petition <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> W/D/Survival <input type="checkbox"/> Other: _____
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CASE TYPE AND CODE  
 E3 - EQUITY - NO REAL ESTATE (TRO)

STATUTORY BASIS FOR CAUSE OF ACTION

RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)	<b>FILED</b> <b>PRO PROTHY</b> <b>JUN 30 2011</b> <b>S. GARRETT</b>	IS CASE SUBJECT TO COORDINATION ORDER? YES    NO
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**TO THE PROTHONOTARY:**  
 Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: PHILADELPHIA BAR ASSOCIATION  
 Papers may be served at the address set forth below.

NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY RUDOLPH GARCIA	ADDRESS BUCHANAN INGERSOLL & ROONEY PC TWO LIBERTY PLACE 50 S. 16TH STREET, SUITE 3200 PHILADELPHIA PA 19102-2555
PHONE NUMBER (215) 665-3843	FAX NUMBER (215) 665-8760

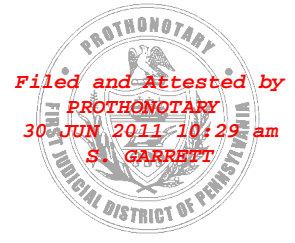
SUPREME COURT IDENTIFICATION NO. 25336	E-MAIL ADDRESS rudolph.garcia@bipc.com
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SIGNATURE OF FILING ATTORNEY OR PARTY RUDOLPH GARCIA	DATE SUBMITTED Thursday, June 30, 2011, 10:29 am
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**COMMERCE PROGRAM ADDENDUM  
TO CIVIL COVER SHEET**

This case is subject to the Commerce Program because it is not an arbitration matter and it falls within one or more of the following types (check all applicable):

- 1. Actions relating to the internal affairs or governance, dissolution or liquidation, rights or obligations between or among owners (shareholders, partners, members), or liability or indemnity of managers (officers, directors, managers, trustees, or members or partners functioning as managers) of business corporations, partnerships, limited partnerships, limited liability companies or partnerships, professional associations, business trusts, joint ventures or other business enterprises, including but not limited to any actions involving interpretation of the rights or obligations under the organic law (e.g., Pa. Business Corporation Law), articles of incorporation, by-laws or agreements governing such enterprises;
  
- 2. Disputes between or among two or more business enterprises relating to transactions, business relationships or contracts between or among the business enterprises. Examples of such transactions, relationships and contracts include:
  - (1) Uniform Commercial Code transactions;
  - (2) Purchases or sales of business or the assets of businesses;
  - (3) Sales of goods or services by or to business enterprises;
  - (4) Non-consumer bank or brokerage accounts, including loan, deposit cash management and investment accounts;
  - (5) Surety bonds;
  - (6) Purchases or sales or leases of, or security interests in, commercial, real or personal property; and
  - (7) Franchisor/franchisee relationships.
  
- 3. Actions relating to trade secret or non-compete agreements;
  
- 4. "Business torts," such as claims of unfair competition, or interference with contractual relations or prospective contractual relations;
  
- 5. Actions relating to intellectual property disputes;
  
- 6. Actions relating to securities, or relating to or arising under the Pennsylvania Securities Act;
  
- 7. Derivative actions and class actions based on claims otherwise falling within these ten types, and consumer class actions other than personal injury and products liability claims;
  
- 8. Actions relating to corporate trust affairs;
  
- 9. Declaratory judgment actions brought by insurers, and coverage dispute and bad faith claims brought by insureds, where the dispute arises from a business or commercial insurance policy, such as a Comprehensive General Liability policy;
  
- 10. Third-party indemnification claims against insurance companies where the subject insurance policy is a business or commercial policy and where the underlying dispute would otherwise be subject to the Commerce Program, not including claims where the underlying dispute is principally a personal injury claim.



**BUCHANAN INGERSOLL & ROONEY PC**

Rudolph Garcia, Esquire  
Attorney I.D. No. 25336  
Two Liberty Place  
50 S. 16th Street, Suite 3200  
Philadelphia, PA 19102-2555  
Phone: 215-665-3843

**THIS IS NOT AN ARBITRATION CASE.  
ASSESSMENT OF DAMAGES IS  
REQUIRED.**

Attorney for Plaintiff

**PHILADELPHIA BAR ASSOCIATION**

1101 Market Street, 11th Floor  
Philadelphia, PA 19107-2955,  
Plaintiff,

v.

**CITY OF PHILADELPHIA**

Law Department  
1515 Arch Street, 15th Floor  
Philadelphia, PA 19102-1595

and

**BOARD OF ETHICS**

1441 Sansom Street, 2nd Floor  
Philadelphia, PA 19102-3016,

Defendants.

**COURT OF COMMON PLEAS  
OF PHILADELPHIA COUNTY**

**COMMERCE PROGRAM**

**JUNE TERM, 2011**

No.

**COMPLAINT- CIVIL ACTION**

(Equity – 1D)

**NOTICE**

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 other 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.*

Philadelphia Bar Association  
Lawyer Referral and Information Service  
1101 Market Street – 11<sup>th</sup> Floor  
Philadelphia, Pennsylvania 19107  
(215) 238-6333  
TTY (215) 451-6197

**AVISO**

La han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objecciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perer dinero o sus propiedades u otros derechos importantes para usted.

*Lleva esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.*

Asociacion de Licenciados de Filadelfia  
Servicio de Referencia e Informacion Legal  
1101 Market Street – 11<sup>th</sup> Floor  
Filadelfia, Pennsylvania 19107  
(215) 238-6333  
TTY (215) 451-6197

Plaintiff submits this Complaint to prevent an unconstitutional ordinance from going into effect, as explained more fully below, and in support thereof avers as follows:

### **PARTIES AND VENUE**

1. Plaintiff, the Philadelphia Bar Association (the “Bar”), is incorporated under the laws of the Commonwealth of Pennsylvania, and has its principal place of business at 1101 Market Street, 11th Floor, Philadelphia, PA 19107-2955.

2. Defendant, the City of Philadelphia (the “City”), is a City of the First Class in the Commonwealth of Pennsylvania, with offices at the Philadelphia Law Department, 1515 Arch Street, 15th Floor, Philadelphia, PA 19102-1595.

3. Defendant, the Board of Ethics (the “Board”), is an independent board of the City of Philadelphia, with its principal place of business at 1441 Sansom Street, 2nd Floor, Philadelphia, PA 19102-3016.

4. Venue is proper in this Court, pursuant to Rule 2103(b) of the Pennsylvania Rules of Civil Procedure, because the City and the Board are political subdivisions located in Philadelphia County.

### **BACKGROUND**

5. The City has enacted a lobbying ordinance as Chapter 20-1200 of the Philadelphia Code (the “Ordinance”), a copy of which is attached hereto as Exhibit A.

6. The effective date of Ordinance is July 1, 2011.

7. The Ordinance grants authority to enforce its requirements to the Board. *See* Philadelphia Code § 20-1206(1).

8. The Ordinance also directs the Board to issue implementing regulations. *See* Philadelphia Code § 20-1210.

9. On May 17, 2011, the Board published a draft of Regulation No. 9 (the “Regulation”), a copy of which is attached hereto as Exhibit B.

10. The Board scheduled a public hearing (the “Hearing”) regarding the Regulation on June 15, 2011.

11. The Bar submitted a 24-page letter to the Board on June 14, 2011, with extensive comments and suggested revisions to the Regulation (the “Comment Letter”). A copy of the Comment Letter is attached hereto and incorporated herein as Exhibit C.

12. The Bar also presented testimony at the Hearing and incorporated its Comment Letter into the record.

13. Other organizations also expressed serious concerns at the Hearing regarding the unreasonable scope and burdens of the Ordinance and Regulation, including the Philadelphia Chamber of Commerce and the Committee of Seventy.

14. The Regulation has not yet been finalized by the Board or approved by the City Solicitor.

15. However, a document titled Lobbying FAQs (the “FAQ”) was posted on the Board’s website, a copy of which is attached hereto as Exhibit D.

16. The FAQ states in answer to question 11 that lawyers are required to comply with the Ordinance when engaging in the activities it covers.

17. On June 28, 2011, the FAQ was removed from the Board’s website, but nothing has been posted in its place that would exempt lawyers from the Ordinance.

18. The Ordinance defines lobbying so broadly that it includes many activities regularly conducted by lawyers when practicing law.

19. For example, requesting a zoning permit, responding to a tax notice, or settling a potential dispute would constitute lobbying under the Ordinance and would require registration (including public disclosure of information about the client), payment of fees, and quarterly reporting to the Board (also including public disclosure of information about the client).

20. Under Article V, Section 10(c) of the Pennsylvania Constitution, only the Supreme Court may regulate the practice of law.

21. Thus, the Ordinance violates the Pennsylvania Constitution.

22. This violation is particularly egregious because the Ordinance requires disclosures that may not be permitted by the Pennsylvania Rules of Professional Conduct.

23. Rule 1.19 of the Rules of Professional Conduct does not permit such disclosures as the FAQ contended, because Rule 1.19 does not apply to municipal ordinances. *See* Comment Letter at 3-8.

24. In addition, compliance with the Ordinance is not currently possible, because the training it requires has not been made available, the electronic system it requires for registration does not yet exist, and no implementing regulations have been adopted.

25. Nevertheless, the onerous recording keeping requirements will become effective on July 1, 2011.

26. If the Ordinance is not declared unconstitutional or stayed until these issues are resolved, many of the Bar's members will suffer direct, substantial, and present injury that differs from the abstract interest of the general public.

**COUNT I**  
**DECLARATORY JUDGMENT**

27. Paragraphs 1 through 26 above are incorporated herein by reference.

28. Pennsylvania's Declaratory Judgments Act provides that "[a]ny person . . . affected by a . . . municipal ordinance . . . may have determined any question of construction or validity arising under the . . . ordinance . . . and obtain a declaration of rights, status, or other legal relations thereunder." *See* 42 Pa. C.S.A § 7533.

29. The Bar and its members will be affected by the Ordinance if it is deemed to apply to lawyers.

30. Absent relief from this Court, the registration, record keeping and reporting requirements of Sections 20-1202(1) and 20-1203(1) of the Ordinance will go into effect on July 1, 2011.

31. Accordingly, this is a real and actual controversy that is ripe for judicial determination.

32. A declaratory judgment is an appropriate remedy, because the determination sought will resolve the controversy.

33. The interests of the Bar and its members in this controversy is direct, substantial, and present.

34. As explained more fully below, the Bar has no adequate remedy at law.

WHEREFORE, the Bar demands judgment against the City and Board as follows:

- a. Determining and declaring that the Ordinance violates Article V, Section 10(c) of the Pennsylvania Constitution;
- b. Determining and declaring that the Ordinance is therefore void and of no force or effect, or in the alternative, that the Ordinance does not apply to lawyers;
- c. Awarding taxable costs to the Bar; and
- d. Granting such other relief as the Court deems appropriate and just.

**COUNT II**  
**INJUNCTIVE RELIEF**

35. Paragraphs 1 through 34 above are incorporated herein by reference.
36. There is a strong likelihood that the Bar will succeed on the merits.
37. In the absence of injunctive relief, the Bar and its members will suffer imminent and irreparable harm for which they will have no adequate remedy at law.
38. Such harm could not be adequately compensated by money damages.
39. The risk of harm to the Bar and its members if injunctive relief is denied outweighs any potential harm to the City if such relief is granted.
40. Injunctive relief will merely preserve the current status quo.
41. Injunctive relief is not be precluded by the availability of a declaratory judgment, because Pennsylvania’s Declaratory Judgments Act provides that its remedy “shall be additional and cumulative to all other available remedies . . .” (except for three not at issue here). *See* 42 Pa. C.S.A § 7541(b).

WHEREFORE, the Bar demands judgment against the City and Board as follows:

- a. Preserving the status quo by preliminarily enjoining the Ordinance from taking effect until this Court’s decision on the merits, and if a permanent injunction is denied, for at least sixty days thereafter;
- b. Permanently enjoining the Ordinance from taking effect, or in the alternative, enjoining its application to lawyers;
- c. Awarding taxable costs to the Bar; and
- d. Granting such other relief as the Court deems appropriate and just.



**BUCHANAN INGERSOLL & ROONEY PC**

By: s/ Rudolph Garcia  
Rudolph Garcia, Esquire  
Attorney I.D. No. 25336  
Two Liberty Place  
50 S. 16th Street, Suite 3200  
Philadelphia, PA 19102-2555  
Phone: 215-665-3843  
Attorney for the Philadelphia Bar Association

Dated: June 30, 2011

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PHILADELPHIA BAR ASSOCIATION,  
Plaintiff,

v.

CITY OF PHILADELPHIA

and

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Defendants.

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COURT OF COMMON PLEAS  
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COMMERCE PROGRAM

JUNE TERM, 2011

No.

**VERIFICATION**

I hereby aver, subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities, that I am authorized to make this Verification on behalf of the Philadelphia Bar Association, and that all of the facts set forth in the foregoing complaint are true and correct to the best of my knowledge or information and belief.



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Kenneth Shear, Executive Director  
Philadelphia Bar Association

Dated: June 30, 2011

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PHILADELPHIA BAR ASSOCIATION,  
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Defendants.

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COURT OF COMMON PLEAS  
OF PHILADELPHIA COUNTY

COMMERCE PROGRAM

JUNE TERM, 2011

No.

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing complaint upon the City of Philadelphia and the Board of Ethics by hand delivery addressed as follows:

City of Philadelphia  
Law Department  
1515 Arch Street, 15th Floor  
Philadelphia, PA 19102-1595

Board of Ethics  
1441 Sansom Street, 2nd Floor  
Philadelphia, PA 19102-3016

s/ Rudolph Garcia  
\_\_\_\_\_  
Rudolph Garcia, Esquire

Dated: June 30, 2011