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for the Third Circuit

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Johnson v. Guhl

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 01-3774

DONALD H. JOHNSON; JUANITA L. JOHNSON;
EUGENE V. MARIANI; DOROTHY MARIANI;
MARY LOU FLEMING; WILLIAM R. FLEMING;
WILLIAM C. SCHAIBLE; PHYLLIS R. SCHAIBLE,
by her Court Appointed Guardian;
LOIS BENEDETTO; GERALD BENEDETTO;
DONNA R. BANKS; CHARLES V. BANKS, Estate of;
RAYMOND O. DENMAN, JR.; FRANCES C. DENMAN;
CHARLES N. HICKS; MARIE L. HICKS;
ANN B. SILBERNAGEL; NORMAN V. SILBERNAGEL;
ANNA PRYSTASCH; STANLEY PRYSTASCH;
MARY MACKRON; ANTHONY MACKRON, Estate of;
JANET WHALON; HAROLD B. WHALON, JR.;
BERNADINE WEISER; RICHARD C. WEISER;
GRACE LAFORGE; BLACE LAFORGE; JOHN FILLMORE;
MARY FILLMORE; JOHN DOE, (1-5 fictitious names);
JANE DOE, (1-5 fictitious names); ROBERT GROSS;
GEORGE ALLEN; Social Services;
THOMAS KOELHOFFER; FRANCES KOELHOFFER;
WILLIAM KELLY; KATHRYN KELLY;
MARCELLA FINKEL; JACK FINKEL; EDNA ALLEN;
WILLARD NICKERSON; ETHEL NICKERSON;
GERALDINE ANN SAHL; GEORGE J. SAHL;
MARGARET BAKERIAN; VASGEN BAKERIAN;
CHARLES DERROT; LOUISE DERROT;
MIGUEL OBREGON; ONELIA OBREGON;
ROY W. MCDOWELL; JUNE M. MCDOWELL;
JOSEPH MEZZO; CARMELLA MEZZO;
MATHILDA GROSS

v.

MICHELLE K. GUHL, Commissioner; STATE OF
NEW JERSEY, DEPARTMENT OF HUMAN SERVICES,
MARGARET A. MURRAY, Director, Division of
Medical Assistance and Health Service;

JOHN ROE, (1-5 fictitious names) their
agents, servants, employees, and/or
assigns, jointly, severally or in the
alternative; EDWARD TESTA, Director,
Bergen County Board of Social Services;
ELIZABETH LEHMANN, Director, Morris
County Board of Social Services;
JAMES WILLIAMS, Director, Essex County
Board of Social Services; JANE ROE,
Director, ABC County Board of Social
Services, (1-5 fictitious names);
ESSEX COUNTY BOARD OF CHOSEN FREEHOLDERS
ESSEX COUNTY BOARD OF SOCIAL SERVICES;

Donald H. Johnson, Juanita L. Johnson,
William C. Schaible, Phyllis R. Schaible,
Charles N. Hicks, Marie L. Hicks,
Ann B. Silbernagel, Norman V. Silbernagel,
Anna Prystasch, Stanley Prystasch,

Appellants

Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 99-cv-05403)
District Judge: Honorable Dennis M. Cavanaugh

Argued April 22, 2003

Before: SCIRICA, AMBRO and WEIS, Circuit Judges

(Opinion filed February 6, 2004)

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ORDER AMENDING PUBLISHED OPINION

AMBRO, *Circuit Judge*

It is now ordered that the published Opinion in the above case filed February 6, 2004, be amended as follows:

On page 3, second column, first full paragraph, line 4, move the apostrophe in “spouse’s” after the second “s”, so that it reads “spouses”.

On page 5, second column, first full paragraph, line 9, delete the word “an” and add an “s” to the word “exception” so that the phrase reads, “...right to apply for undue hardship exceptions.”

On page 7, second column, line 9, delete the words “the individual”, so that the phrase reads, “the benefit of [the institutionalized spouse...]”.

On page 11, first column, line 8, insert the word “as” between “treat” and “countable” so that the phrase reads, “...and instead could have chosen to treat as countable assets in any annuities”.

By the Court,

/s/ Thomas L. Ambro, Circuit Judge

Dated: March 26, 2004