

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-1222

LYNETTE M. PETRUSKA,
Appellant

v.

GANNON UNIVERSITY; THE BOARD OF TRUSTEES OF
GANNON UNIVERSITY; WILLIAM I. ALFORD, II;
ROBERT H. ALLSHOUSE; JOSEPH F. ALLISON;
MICHAEL P. ALLISON, REV.; JAMES A. BALDAUF;
L. SCOTT BARNARD; GEORGE J. BEHRINGER;
ARNOLD E. BERGQUIST; LAWRENCE E. BRANDT,
REV. MSGR.; ROBERT L. BRUGGER, REV. MSGR.;
DONALD M. CARLSON; DANIEL C. CARNEVAL, D.O.;
STEPHANIE DOMITROVICH, HON.; THOMAS L. DOOLIN;
JAMES J. DURATZ; ANTOINE M. GARIBALDI; THOMAS
C. GUELCHER; WILLIAM M. HILBERT, SR.; BRIAN
J. JACKMAN; JAMES W. KEIM, JR.; MARY RITA
KUHN, SR., SSJ; THOMAS J. LOFTUS; ANNE C.
MCCALLION; JOSEPH T. MESSINA; MICHAEL J.
NUTTALL; JOHN E. PAGANIE; DENISE ILLIG ROBISON;
JAMES J. RUTKOWSKI, JR.; JAMES A. SCHAFFNER;
HELEN M. SCHILLING, M.D., D.D.S.; JOHN M.
SCHULTZ, VERY REV.; ROBERT J. SMITH, REV.
MSGR.; LAWRENCE T. SPEICE, REV. MSGR.;
WILLIAM C. SPRINGER; JAMES G. TOOHEY; DONALD
W. TRAUTMAN, BISHOP; ANASTASIA VALIMONT, SR.
SSJ; RICARDA VINCENT, SR. SSJ; MELVIN WITHERSPOON;
ALL OTHER KNOWN AND UNKNOWN MEMBERS OF THE BOARD
OF TRUSTEES OF GANNON UNIVERSITY DURING THE
TENURE OF DONALD W. TRAUTMAN, as members of the
Board of Trustees of Gannon University; DAVID
RUBINO, MSGR., in their individual and official
capacities; NICHOLAS ROUCH, REV., in their
individual and official capacities

(D.C. Civ. No. 04-80)

SUR PETITION FOR REHEARING

Present: SCIRICA, Chief Judge,
SLOVITER, McKEE, RENDELL, AMBRO, FUENTES, SMITH, FISHER,
VAN ANTWERPEN and CHAGARES, Circuit Judges

A majority of the active judges having voted, it is ordered that the petition is GRANTED. The Clerk of this Court is directed to VACATE the judgment of this Court filed May 24, 2006, and to refer the case to the panel for panel rehearing. Because Judge Edward R. Becker has died and circumstances have arisen which require Judge Richard L. Nygaard to recuse, Judge Morton I. Greenberg and Judge Robert E. Cowen, who were selected by random lottery by the Clerk, are assigned with Judge D. Brooks Smith to a panel to rehear and determine the case.

BY THE COURT,

/s/ Anthony J. Scirica
Chief Judge

Dated: June 20, 2006
tyw/cc: C. John Pleban, Esq.
Evan C. Rudert, Esq.
Kenneth W. Wargo, Esq.
Frank L. Kroto Jr., Esq.
Philip J. Murren, Esq.