

## MEMORANDUM

TO: All Members, Member Organizations, Participants and Participant Organizations

FROM: Meyer S. Frucher

RE: William J. Dooner and Maureen Dooner v. Ralph DiDonato, Philadelphia Stock Exchange, Inc., et al.

DATE: October 18, 2007

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Yesterday, the Superior Court of Pennsylvania vacated the judgment in the Dooner case against the Exchange, finding that the Exchange is not liable. In 2006, a Philadelphia Common Pleas jury awarded the plaintiff, William Dooner, nearly \$2,000,000 for injuries allegedly sustained during a 2002 fight with another member on the trading floor, and, inexplicably, held the Exchange responsible for 50% of the total damages. In vacating that jury award, the Superior Court held that exchanges have no civil tort liability by virtue of federal preemption and ruled that PHLX is entitled to judgment as a matter of law, stating "floor traders who abuse other floor traders are subject to civil liability and/or criminal liability in an appropriate case, but not the exchange." The Exchange is gratified by the result, particularly because we found the jury's award to be outrageous in light of the nature of the injuries alleged.

You may recall that in December 2002, Ralph DiDonato assaulted Mr. Dooner on the floor of the Exchange in a dispute over positioning in a trading crowd. In October of 2004, the above referenced lawsuit was brought by William Dooner and his wife, Maureen, against Ralph DiDonato and the Exchange, among others. We found the lawsuit and the resulting jury award egregious, particularly because Mr. Dooner alleged various injuries that have hindered his ability to work, which we believe was not supported by the evidence. Moreover, we found it egregious and unsupportable that he alleged that the Exchange breached its duty to maintain a safe work environment for the traders on the floor.

The plaintiffs do not have an automatic right of appeal from the Superior Court to the Supreme Court, but rather must first petition the Court to grant allocatur. If the Supreme Court grants review, the plaintiffs have the burden of establishing that the Superior Court committed error.

The Exchange will continue to maintain a safe environment for its members to conduct business, consistent with its self-regulatory responsibilities. We have taken many steps to update the procedures for proper decorum on the trading floor. We remain committed to providing a professional trading environment.