

# The Bulletin

## 'Friends Of The Barnes' Fire Back

by: Jim McCaffrey

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Norristown - Attorney Eric Spade, newly hired to represent the Friends of the Barnes, threw a flurry of punches in his opening round in the fight to keep the Barnes Foundation in Lower Merion.

Whether any of them landed will be up to the judge to decide.

Friday afternoon, Mr. Spade dropped off his response to the preliminary objections of the Barnes Foundation and the Attorney general to the Montgomery County Courthouse.

Mr. Spade's response accuses the Barnes Foundation, the trustees of a collection valued at \$6 billion, of lying to the court during the course of their ongoing effort to move the collection to a new home in Philadelphia and attempting to financially intimidate Mr. Spade's clients into silence. It also accuses the state attorney general of not adequately representing the public interest. It does so while quoting Hamlet.

Mr. Spade asks, "Is this court to believe that Pennsylvania's legislature coincidentally approved \$107 million in itemizations - consisting of \$7 million in site preparation and \$100 million to construct a gallery in Philadelphia - precisely the amount of money that the Barnes Foundation was telling the court would be necessary to construct the gallery?"

Last year, Montgomery County responded to the announced Barnes move by offering to guarantee a \$50 million public bond that it would lend to the Barnes in exchange for a purchase and leaseback of the Barnes Foundation's land and buildings. At the end of the loan period, the ownership of the land and buildings would return to the Barnes Foundation.

The Barnes' board dismissed the proposal without public deliberation and very little public explanation.

Meanwhile, the township of Lower Merion, an entity with a thorny relationship with the foundation, relented on an old zoning ordinance and allowed the gallery to go from receiving 62,400 visitors a year to receiving 140,400 visitors a year.

Together, the Friends estimate, these two new developments have the potential to fund the Barnes and generate more than \$3 million a year in revenue for the nonprofit organization.

"It can easily be demonstrated that the value of keeping the artwork and art school in Merion, thereby vindicating the express intent of Dr. Barnes and avoiding the destruction of a unique and irreplaceable cultural treasure, far outweighs any value of the expenditures that would be lost in terminating the preparations to eventually move the artwork and art school to center city Philadelphia," Mr. Spade wrote. "But if this court refuses to intervene now, then potentially at some later date - say after hundreds of millions in public funds and charitable donations have been squandered to build a new site for the Barnes collection in center city Philadelphia even though that relocation is no longer necessary to the financial survival of the Barnes Foundation - it may as a practical matter be too late for this Court to hold that the artwork and art school should remain in their original, intended location."

The Friends ask for the opportunity to prove there is a plan to keep the Barnes in Merion that is financially viable. The claim they do not have standing to bring the petition, they argue, is a canard

meant to distract the court from addressing the real issues.

The Friends accuse the Barnes of lying when it claims proceedings must end quickly to avoid catastrophic cost increases on its move plan.

The Friends assert, "Any claim by the Barnes Foundation that reopening this proceeding will irreparably harm efforts to relocate to Philadelphia should ... be discounted because the Barnes Foundation was not being truthful the last time that it made such assertions."

The Barnes Foundation and the attorney general have a month to respond.

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