

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GARY C. TYLER, et al.
Plaintiffs,

v.

GEORGE O'NEILL
and
WILLIAM H. HENDRICKSON, INC.
Defendants.

Civil Action No. 03-3139

MEMORANDUM / ORDER

May 22, 2006

AND NOW, upon consideration of "Plaintiff Gary Tyler's Motion in Limine to Permit Use of Certain Deposition and Trial Testimony Pursuant to Fed. R. Evid. 804(b)(1)" (Docket # 37), and defendant George O'Neill's response thereto, it is hereby ORDERED that the motion is GRANTED. Plaintiff has demonstrated that, applying the standard announced in *Lloyd v. American Export Lines, Inc.*, 580 F.2d 1179, 1187 (3d Cir. 1978), O'Neill is a successor in interest to William H. Hendrickson, Inc. for purposes of this motion. Plaintiff will be permitted to offer at trial in the instant case deposition and trial testimony obtained from Amtrak employees Harry Glembocki, Douglas Hamilton, Robert McGowan, and/or Tom Butler in connection with the matter of *William M. Hendrickson, Inc. v. Amtrak*, No. 00-3711 (E.D. Pa.) if, and only if, said individuals are unavailable, within the meaning of FED. R. EVID. 804(a), to testify at trial in the

instant case.

BY THE COURT:

/s/ Louis H. Pollak

Pollak, J.