

# **The Philadelphia Inquirer**

**March 24, 2008**

## **“Barnes Friends ask judge to reopen case”**

By Derrick Nunnally

The campaign to keep the Barnes Foundation from moving its \$6 billion art collection from Lower Merion Township to Philadelphia was back to court this morning, as attorneys for Montgomery County and a group of art patrons and residents argued to have the case reopened.

"It's not too late to make a U-turn," Montgomery County deputy solicitor Carolyn Tornetta Carluccio told Judge Stanley R. Ott in a Montgomery County Orphans' Court session devoted to oral arguments.

Ott asked no questions and did not say when he will issue a decision.

During the hearing, Carluccio and Eric Spade, attorney for the Friends of the Barnes Foundation, said Ott ought to reopen the case because of developments that occurred after his 2004 ruling that Albert C. Barnes' legendary art collection could be moved to Philadelphia.

Since then, Montgomery County has offered to issue \$50 million in bonds to buy the foundation's land and buildings on Latches Lane in Merion and lease them back to the institution. Lower Merion Township has changed a zoning ordinance to allow 140,000 visitors annually to view the collection, twice as many as before. The institution also has been considered for official recognition as a national historic landmark; that designation could make it eligible for public and private grants.

Attorneys for the Barnes Foundation and the state Attorney General's office countered that the case, which has been in litigation for more than a decade, already was decided beyond reconsideration and that Montgomery County's plan may not be fiscally viable - or legal.

"These offers may make good press, and they may make good politics," said Barnes Foundation attorney Ralph Wellington, "but granting either of their petitions would make very bad law."