

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Nicole Zicarelli,
Petitioner,

No. 1162 CD 2020

v.

*Allegheny County Board of
Elections,*

Respondent

**PETITIONER NICOLE ZICCARELLI'S EMERGENCY
APPLICATION FOR WRIT OF PROHIBITION**

Pursuant to Section 69.126 of the Internal Operation Procedures of this Court, Petitioner Nicole Zicarelli, hereby requests an emergency writ of prohibition directing Respondent Allegheny County Board of Elections (the "Board")'s to refrain from canvassing any mail-in ballots presently at issue, pending final disposition of this matter.

An explanation of why an order of this Court is necessary, time sensitive and satisfies the threshold requirements set forth in Section 69.126(a) of the Commonwealth Court I.O.P.'s.

This Court should accept and immediately proceed to rule on this emergency application because it satisfies both criteria. *First*, as explained below, if the Board is permitted to publish the results of its ongoing canvass this evening—as it intends to do—this application will be moot. *Second*, the application is being filed within hours of the decision sought to be reviewed.

Method of service pursuant to Section 69.126(b)(2).

Service of the underlying Notice of Appeal, as well as this Application has been perfected upon the opposing party by e-mail.

Relevant documents and orders pursuant to Section 69.126(b)(3).

Pursuant to Section 69.126(b)(3), copies of the Order being appealed and the Notice of Appeal filed in the Court of Common Pleas are attached hereto as Exhibits A and B, respectively.

FACTS AND PROCEDURAL BACKGROUND

Petitioner Nicole Zicarelli, is the Republican candidate for Senate from the 45th Senatorial District, which encompasses parts of Allegheny and Westmoreland Counties. The Allegheny County Board of Elections (the “Board”) is a local governmental agency generally responsible for overseeing the conduct of all elections in Allegheny

County, including, *inter alia*, the pre-canvass and canvass of absentee and mail-in votes. *See id.* at § 2642 (detailing the powers and duties of the county boards of elections); *see also* City of Pittsburgh Charter, Art. X, § 1.10-1006. In addition to its various administrative duties, the Board also performs a quasi-judicial function.

On November 10, 2020, by a 2-1 vote, the Board decided to canvass 2,349 mail-in ballots that contained a voter declaration with an undated signature (the “Disputed Ballots”).

On November 12, 2020, Zicarelli lodged an appeal with the Court of Common Pleas of Allegheny County seeking review of that decision on the basis that mail-in ballots with undated voter declarations are insufficient under the Election Code and seeking an order directing the Board to set aside the Disputed Ballots.¹ On November 17, 2020, a hearing was held before Judge James in that court and, that same evening, counsel for the Board informed counsel for Zicarelli that the Board intended to resume canvassing the Disputed Ballots on the following day. After a telephone conference between the parties, the

¹ Prior to the hearing, the Pennsylvania Democratic Party filed a motion to intervene, which neither party opposed.

Board agreed to refrain from canvassing the Disputed Ballots until issuance of an order from the Court of Common Pleas, but made no commitment that it would continue to do so pending final appellate review and, in fact, following entry of Judge James’s Order, the Board informed Zicarelli’s counsel that it intended to canvass all Disputed Ballots by the end of the day on November 18, 2020.

ARGUMENT

This Court should issue a writ directing the Board to cease all canvassing activities involving the Disputed Ballots pursuant to its common law authority to issue a writ of prohibition. As developed below, the Board’s attempt to canvass the Disputed Ballots is an *ultra vires* exercise of its quasi-judicial jurisdiction.

This Court should issue a writ of prohibition prohibiting the canvassing the Disputed Ballots because doing so would result in an excess of the Board’s quasi-judicial authority. To begin, it is well settled that “[t]he Commonwealth Court is imbued with the authority to issue writs of mandamus or prohibition to other government units, including administrative agencies.” *McCray v. Pennsylvania Dept. of Corrections*, 582 Pa. 440, 446 (Pa. 2005). That power, extends to circumstance,

where—as here—the writ of prohibition is ancillary to this Court’s appellate jurisdiction. 42 Pa.C.S. § 761(c) (“The Commonwealth Court shall have original jurisdiction in cases of mandamus and prohibition to courts of inferior jurisdiction and other government units where such relief is ancillary to matters within its appellate jurisdiction[.]”). This matter is not only one over which this Court has appellate jurisdiction, but also is one where, in fact, a notice of appeal has already been filed.

Turning to the governing standard, although “[a] writ of prohibition is to be used as an extraordinary remedy[.]” *Petition of Yellow Cab Owners and Drivers Ass’n*, 488 A.2d 369, 371 (Pa. Cmwlth. 1985), such relief is appropriate where there is “no adequate remedy at law, and the requested relief . . . is necessary to secure order and regularity in judicial proceedings.” *Mayer v. Garman*, 590 Pa. 268, 275 (2006). Given the time-sensitive nature of this matter and the absence of any available legal remedy, this Court should exercise its authority and issue a writ prohibiting the Board from attempting to exceed the scope of the quasi-judicial jurisdiction which it has been granted.

To begin, the relief requested is an appropriate remedy and proper vehicle because the Board is clothed with “quasi-judicial” authority.

Boord v. Maurer, 22 A.2d 902, 904 (Pa. 1941) (“The Election Code makes the County Board of Election more than a mere ministerial body. It clothes it with quasi-judicial functions[.]”). As such, when the Board, in an exercise of its quasi-judicial powers, exceeds the scope of its powers, it is subject to the writ of prohibition. *Pennsylvania Cable Television Ass’n v. Pennsylvania Public Utility Com’n*, 462 A.2d 667, 668 (Pa 1983) (“In examining the law governing the writ of prohibition, it is clear that the writ is intended for use against an administrative agency when it is acting in a Quasi-Judicial capacity.”). Indeed, the State Supreme Court has previously held that, where the election computation board decision to proceed with a recount/recanvas exceeded the scope of its jurisdiction, a writ of prohibition would lie to prevent its actions. *See In re First Congressional District Election*, 144 A. 735, 736 (Pa. 1928).

Here, while the Board generally has jurisdiction over the canvassing of mail-in ballots, under the Election Code, the County Board is prohibited from counting any of the Disputed Ballots pending final disposition of all appeals. Specifically, Section 3146.8(g)(7) provides:

Pending the final determination of all appeals, the county board shall suspend any action in canvassing and computing all challenged ballots received under this subsection irrespective of whether or not appeal was taken from the county board's decision. Upon completion of the computation of the returns of the county, the votes cast upon the challenged official absentee ballots that have been finally determined to be valid shall be added to the other votes cast within the county.

Although the plain language of the statute—which prohibits canvassing until a “final determination of all appeals”—should leave no room for doubt in this regard, the Supreme Court’s decision in *In re General Election, November 3, 1964*, 224 A.2d 197, 199 (Pa. 1966) further bolsters the conclusion that the Board is not permitted to canvass the Undisputed Ballots at this time. Explaining that “[n]one of the absentee ballots to which challenges were entered have been opened or computed because of the restriction imposed by [the Election Code], which requires that pending the final determination of all appeals, the board shall suspend any action in canvassing and computing all challenged ballots,” the Court provided an erudite rendition of the circumstances giving rise to the provision’s enactment:

Difficulties arose because if, in the canvassing and computation of the election results, a board of elections rejected a challenge to an absentee ballot, it followed the procedure of immediately placing the questioned ballot with

those that were not challenged and counted them all together. If it later appeared that a particular decision of a board of elections was erroneous, it was impossible to correct the situation or to separate the wheat from the chaff.

Id. at 200 (citing *Decision of the County Board of Election*, 29 Pa. Dist. & Co. 2d 499 (Pa. Ct. Com. Pl. 1962)). The Court further elaborated that, “[i]n an effort to resolve this and other problems . . . the legislature added further amendments,” which, among other things, required that “until all such challenges [to ballots] are resolved, the board of elections must desist from canvassing and computing all challenged ballots, thus avoiding the mixing of the good ballots with possible invalid ballots.”

Id.

In short therefore, pending final appellate resolution in this matter, the Board is divested of its jurisdiction over the Disputed Ballots. The Board’s insistence on proceeding with the canvassing of ballots that are subject to appeal is plainly the type of “abuse of jurisdiction” the writ is designed to prevent. *Mayer v. Garman*, 912 A.2d 762, 766 (Pa. 2006) (explaining that “[t]he scope of the writ has been extended to ‘encompass situations in which an inferior court, which has jurisdiction, exceeds its authority,’ which, it explained, is “termed an ‘abuse of jurisdiction’”).

Thus, pending final appellate resolution in this matter, the Board is divested of its jurisdiction over the Disputed Ballots. The Board's insistence on proceeding with the canvassing of ballots that are subject to appeal is plainly the type of "abuse of jurisdiction" the writ is designed to prevent. *Mayer v. Garman*, 912 A.2d 762, 766 (Pa. 2006) (explaining that "[t]he scope of the writ has been extended to 'encompass situations in which an inferior court, which has jurisdiction, exceeds its authority,' which, it explained, is 'termed an 'abuse of jurisdiction'").

Furthermore, the circumstances above firmly establish the extreme circumstances necessitating an immediate writ of prohibition. Zicarelli has established the As explained above, Zicarelli's challenge involves a time-sensitive issue involving the present counting of ballots in Allegheny County. If the counting of ballots and/or public reporting of the results is not stayed, the Disputed Ballots will be canvassed and counted before Zicarelli has had an opportunity to be heard by the Commonwealth Court on the issue involving the undated declarations. If the Disputed Ballots are counted before this issue regarding the validity of the undated declarations is decided, the results of the

election could be determined and certified before the Commonwealth Court decides upon Zicarelli's pending appeal. Such an outcome is particularly inappropriate given that Westmoreland County, where Zicarelli has outperformed her opponent by a wide margin, has been forced to cease all canvassing as a result of a COVID-19 outbreak among its election bureau staff. Therefore, if the canvassing and counting of the Disputed Ballots continues, Zicarelli's present challenge will be rendered moot and the Disputed Ballots will be improperly included in the final vote count. Accordingly, Zicarelli will suffer irreparable injury without the requested relief.

To the extent this Court deems a balancing of the equities necessary, the broader considerations surrounding the Board's proposed actions also weigh in favor of a writ of prohibition. While Zicarelli would suffer substantial harm if the stay is not granted, the Board would not be substantially harmed. Pursuant to Section 3157 of the Election Code, the Board was required to suspend an official certification pending the appeal before this Court and, therefore, would not be harmed by maintaining the status quo pending appeal. Thus, the issuance of a stay will not substantially harm the Board.

Finally, because it is of the utmost importance to the electoral process be carried out fairly and equally, the writ of prohibition here “is necessary to secure order and regularity in judicial proceedings.” *Mayer v. Garman*, 590 Pa. 268, 275 (2006). As our Supreme Court has explained, Article I, Section 5 of the Pennsylvania Constitution, Pa. Const. art. I, § 5, requires elections to be free and equal, which is “indicative of the framers' intent that all aspects of the electoral process, to the greatest degree possible, be kept open and unrestricted to the voters of our Commonwealth, and, also, conducted in a manner which guarantees, to the greatest degree possible, a voter's right to equal participation in the electoral process for the selection of his or her representatives in government.” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 804 (Pa. 2018). In other words “Section 5 mandates that all voters have an equal opportunity to translate their votes into representation.” *Id.* Therefore, the issuance of a stay is critical to ensuring the equality and fairness of the election, which is not remotely adverse to the public interest, but rather squarely within the public interest. Accordingly, there will be no adverse effect to the public interest by the issuance of a stay in the present matter.

WHEREFORE, Petitioner Nicole Zicarelli respectfully requests that this Court issue a writ directing the Board to cease any canvassing activity related to any of the Disputed Ballots pending the resolution of the present appeal and any future appeals, or, at a minimum to refrain from publicly releasing or otherwise communicating the computation of the Disputed Ballots.

Respectfully submitted,

Dated: November 18, 2020

/s/ Matthew H. Haverstick
Matthew H. Haverstick (No. 85072)
Joshua J. Voss (No. 306853)
Shohin H. Vance (No. 323551)
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Attorneys for Petitioner

Exhibit A

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NICOLE ZICCARELLI,

No. GD 20-011654

Petitioner,

v.

MEMORANDUM AND ORDER OF COURT

ALLEGHENY COUNTY BOARD OF
ELECTIONS,

Honorable Joseph M. James

Respondent,

Copies Sent To:

and

Matthew H. Haverstick, Esquire
Andrew F. Szefi, Esquire
Allan J. Opsitnick, Esquire
Michael J. Healey, Esquire

PENNSYLVANIA DEMOCRATIC PARTY
AND JAMES BREWSTER,

Intervenors.

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NICOLE ZICCARELLI,

Petitioner,

v.

ALLEGHENY COUNTY BOARD OF
ELECTIONS,

Respondent,

and

PENNSYLVANIA DEMOCRATIC
PARTY AND JAMES BREWSTER,

Intervenors.

No. GD 20-011654

MEMORANDUM AND ORDER OF COURT

James, J.

November 18, 2020

Petitioner Nicole Zicarelli, candidate for the Senate of Pennsylvania from the 45th Senatorial District, filed a Petition for Review of Decision by the Respondent Allegheny County Board of Elections (“the Board”) on November 12, 2020, seeking to invalidate

2,349 mail-in ballots cast by voters in the November 3, 2020 General Election. Petitioner seeks review of the Board's decision to overrule Petitioner's objection to count these ballots. Petitioner alleges that these ballots were cast in violation of the Election Code because they do not contain a date penned by the elector on the outer envelope. The Court conducted a hearing on November 17, 2020 via Microsoft Teams. The Pennsylvania Democratic Party and James Brewster moved to intervene in the action. Petitioner and the Board did not object and the motion was granted by the Court. Petitioner stated that she was not claiming any voter fraud regarding the challenged ballots. The Board argues that the failure to place a date on the outer envelope does not invalidate a ballot.

Section 3150.16(a) of the Election Code states:

- (a) General rule--At any time after receiving an official mail-in ballot, but on or before eight o'clock p.m. the day of the primary or election, the mail-in elector shall, in secret, proceed to mark the ballot only in black lead pencil, indelible pencil or blue, black or blue-black ink, in fountain pen or ball point pen, and then fold the ballot, enclose and securely seal the same in the envelope on which is printed, stamped or endorsed "official election ballot." This envelope shall then be placed in the second one, on which is printed the form of declaration of the elector, and the address of the elector's county board of election and the local election district of the elector. The elector shall then fill out, date and sign the declaration printed on such envelope. Such envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election.

The Election Code Section 3146.8(g)(3) vests the Board with the duty of determining the sufficiency of the declaration of a mail-in ballot. If the Board determines that the declaration is sufficient, then the Board "shall provide a list of the names of electors whose absentee ballots or mail-in ballots are to be pre-canvassed or canvassed." Id. Any ballots cast by electors whose applications have been challenged are set aside

unopened, but all other ballots that have been verified under subsection (g)(3) shall be counted. 25 P.S. Section 3146.8(g)(4).

The Court agrees with the Board that the Section 3150.16(a) date provision is directory not mandatory. Specifically, the use of the word “shall” does not make a statutory phrase mandatory. It is well settled Pennsylvania law that election laws should be construed liberally in favor of voters, and that “[t]echnicalities should not be used to make the right of the voter insecure.” Pennsylvania Democratic Party v. Boockvar, 238 A.3d 345, 373 (Pa. 2020) *citing* Appeal of James, 105 A.2d 64, 65-66 (Pa. 1954). “Ballots containing mere minor irregularities should only be stricken for compelling reasons.” Shambach v. Bickhart, 845 A.2d 793, 798 (Pa. 2004).

The ballots at issue here are sufficient even without a voter supplied date. They were processed in the Statewide Uniform Registry of Electors (“SURE”) system and timestamped when they were timely delivered to the Board on or before November 3, 2020. They were signed and have been otherwise properly completed by a qualified elector. In light of the fact that there is no fraud, a technical omission on an envelope should not render a ballot invalid. The lack of a written date on an otherwise qualified ballot is a minor technical defect that does not render it deficient. The Court finds that the Board properly overruled Petitioner’s objections to the 2,349 challenged mail-in ballots. These ballots must be counted. The Petition for Review is denied and the Board’s decision is affirmed.

Joseph M. James

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION**

NICOLE ZICCARELLI,

Petitioner,

v.

ALLEGHENY COUNTY BOARD OF
ELECTIONS,

Respondent,

and

PENNSYLVANIA DEMOCRATIC
PARTY AND JAMES BREWSTER,

Intervenors.

No. GD 20-011654

ORDER OF COURT

And NOW, this 18th day of November 2020, upon consideration of the Petition For Review In the Nature Of A Statutory Appeal filed by Nicole Zicarelli, and any responses thereto, it is hereby ORDERED that the Petitioner's appeal is dismissed and the decision of the Board of Elections is affirmed.

BY THE COURT:

Joseph M. James

Exhibit B

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

COVER SHEET

Plaintiff(s) IN RE: 2,349 Ballots in the 2020 General Election	CIVIL DIVISION	
	Case Number : GD - 20 - 011654	
Defendant(s) Vs	Type of pleading : Notice of Appeal	
	Code and Classification : _____	
Defendant(s)	Filed on behalf of Nicole Zicarelli	
	(Name of the filing party)	
Defendant(s)	<input checked="" type="checkbox"/> Counsel of Record <input type="checkbox"/> Individual, If Pro Se	
	Name, Address and Telephone Number : Matthew H. Haverstick Kleinbard LLC 1717 Arch Street, 5th Floor Philadelphia, PA 19103 215-568-2000	
Defendant(s)	Attorney's State ID : 85072	
	Attorney's Firm ID : _____	

GD-20-011654

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY

*IN RE: 2,349 Ballots in the 2020 General
Election*

No. GD 20-11654

NOTICE OF APPEAL

Notice is hereby given that Nicole Zicarelli, Petitioner, hereby appeals to the Commonwealth Court of Pennsylvania from the order entered in this matter on the 18th day of November, 2020. This order has been entered in the docket as evidenced by the attached docket entry.

Respectfully submitted,

Dated: November 18, 2020

/s/ Matthew H. Haverstick
Matthew H. Haverstick (No. 85072)
Joshua J. Voss (No. 306853)
Shohin H. Vance (No. 323551)
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Casey D. White (No. 207470)
THE LAW OFFICE OF CASEY D. WHITE
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Fax: (412) 995-3271
casey@caseywhitelaw.com

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing Notice of Appeal to be served on the following persons via hand-delivery on the date set forth below:

Allegheny County Board of Elections
County Office Building
542 Forbes Avenue, Room 604
Pittsburgh, PA 15219

Andrew F. Szefi, Esq.
County Solicitor – Allegheny County
Fort Pitt Commons
445 Fort Pitt Boulevard, Suite 300
Pittsburgh, PA 15219

The Honorable Joseph M. James
437 Grant St. #330
Pittsburgh, PA 15219

Allegheny County Office of the Court Reporters
564 Forbes Ave., Suite 805
Pittsburgh, PA 15219

Dated: November 18, 2020

/s/ Matthew H. Haverstick
Matthew H. Haverstick (No. 85072)
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Attorney for Petitioner



FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
OFFICE OF THE COURT REPORTERS
 564 FORBES AVENUE, SUITE 805 ♦ PITTSBURGH, PENNSYLVANIA 15219
 PHONE (412) 350-5414 ♦ FAX (412) 350-5827

REQUEST FOR TRANSCRIPT (FORM 227.1A)

DOCKET/CASE NUMBER(S) No. GD-20-11654	CAPTION IN RE: 2,349 Ballots in the 2020 General Election
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TRANSCRIPTION REQUEST DETAILS	DELIVERY AND DEPOSIT DETAILS								
DIVISION <input checked="" type="checkbox"/> Civil <input type="checkbox"/> Criminal <input type="checkbox"/> Family/Adult <input type="checkbox"/> Family/Juvenile <input type="checkbox"/> Orphans' JUDICIAL/HEARING OFFICER _____ TYPE OF PROCEEDING _____ DATE PROCEEDING STARTED: <u>11/17/2020</u> ENDED: <u>11/17/2020</u>	DELIVERY TIME <input type="checkbox"/> Ordinary <input type="checkbox"/> Expedited <input type="checkbox"/> Daily <input checked="" type="checkbox"/> Same Day <small>72 hrs or less 18 hrs or less 6 hrs or less</small> PROCEEDING LENGTH <table style="width:100%; border: none;"> <tr> <td style="text-align: center;">Less than 1 Hour</td> <td style="text-align: center;">1-4 Hours</td> <td style="text-align: center;">More than 4 Hours up to One Day</td> <td style="text-align: center;">Multi-Day <i>(enter the number of days)</i></td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;">_____</td> </tr> </table>	Less than 1 Hour	1-4 Hours	More than 4 Hours up to One Day	Multi-Day <i>(enter the number of days)</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____
Less than 1 Hour	1-4 Hours	More than 4 Hours up to One Day	Multi-Day <i>(enter the number of days)</i>						
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____						

TRANSCRIPT PURPOSE

Is this transcript being requested for the purpose of an appeal to the Superior Court, the Commonwealth Court or the Supreme Court?

Yes No Unknown

Is this a Children's Fast Track Appeal?
Pa.R.A.P. 102. Any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity.

Yes No Unknown

REQUESTED PORTION

Request For Transcript, Certification And Waiver (Form227.1A)

TRANSCRIPT	ORDERED	WAIVED
Complete Proceeding	X	
Plaintiff's Case		
Defendant's Case		
Closing Argument		
Charge		
Other		

 Signature of Judge if less than entire transcript is Ordered. (Pa.R.A.P. 1922(b) & Allegheny County Local Rule of Civil Procedure 227.1)

DEPOSIT AMOUNT \$ _____
 ALL CHECKS MUST BE MADE PAYABLE TO "ALLEGHENY COUNTY"

DATE DEPOSIT RECEIVED _____

CASH **CHECK NUMBER:** _____

Transcription will not begin without the appropriate deposit and/or approved waiver of transcript costs.

COURT USE ONLY	APPROVAL TO PROCEED			
	<input type="checkbox"/> Standard	<input type="checkbox"/> Court Appt/Gov't	<input type="checkbox"/> Reduced	<input type="checkbox"/> IFP
	Approved _____		Date _____	

REQUESTOR

<input type="checkbox"/> Litigant <input type="checkbox"/> Non-Litigant <input checked="" type="checkbox"/> Attorney	ATTORNEY SUBMISSIONS ONLY	
REQUESTOR'S NAME <u>Matthew H. Haverstick</u>	Choose One: <input checked="" type="checkbox"/> Private <input type="checkbox"/> Court Appointment/Gov't	
REQUESTOR'S EMAIL <u>mhaverstick@kleinbard.com</u>	STATE ID: 85072	
REQUESTOR'S PHONE _____	FIRM/AGENCY PHONE (267) 443-4114	
FIRM/AGENCY NAME <u>Kleinbard LLC</u>		
ALTERNATE CONTACT NAME & E-MAIL <i>(Optional)</i> _____		
ADDRESS <u>Three Logan Square, 1717 Arch Street, 5th Floor</u>		
CITY, STATE ZIP <u>Philadelphia, PA 19103</u>		
SIGNATURE OF REQUESTOR _____		

TRANSCRIPT REQUEST INFORMATION

Rate Schedule

The costs payable by a requesting party, other than the Commonwealth or a subdivision thereof, for a transcript in paper or electronic format shall be:

- Ordinary \$3.00/page
- Expedited \$4.50/page
- Daily \$6.00/page
- Same Day \$9.00/page

Deposit Schedule

Requesting parties, other than the Commonwealth or a subdivision thereof, shall make a deposit of 50% of the estimated cost of the transcript as determined by the Allegheny County Office of Court Reporters, unless the requesting party is in arrears regarding payment for transcripts previously ordered, in which case a deposit equal to the full amount of the estimated cost of the transcript may be required.

The Office of Court Reporters, in its discretion, may require a flat deposit of \$50 rather than the percentage-based deposit ordinarily required.

Copies of Filed Transcripts

A request for a copy, in paper or electronic form, of a transcript shall be provided according to the following schedule for requesters other than the Commonwealth or a subdivision thereof

- Ordinary \$2.00/page
- Expedited \$3.00/page
- Daily \$4.00/page
- Same Day \$6.00/page

Economic Hardship

Pursuant to Rule 4007(E), the cost for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for litigants who are represented by a court-appointed attorney or have been permitted by the court to proceed in forma pauperis or whose income is less than 125 percent of the poverty line as defined by the U.S. Department of Health and Human Services (HHS) poverty guidelines for the current year.

The cost for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the HHS poverty guidelines for the current year.

A litigant who is currently represented by a court-appointed attorney or who has a court order granting in forma pauperis status shall be entitled to a waiver of costs for ordinary transcripts after documentation of such is provided to the Office of Court Reporters.

Other litigants who are only requesting a waiver of all or a portion of costs for ordinary transcripts shall make such request by filing a "Petition for Waiver of Transcript Costs" with the appropriate Division of the Court. This petition is available at the Office of Court Reporters, the Department of Court Records and on the Fifth Judicial District Website. The Petition must be supported by an affidavit substantially in the form required by Rule 240(h) of the Pennsylvania Rules of Civil Procedure and the related "Request for Transcript (Form 227.1A)" must be attached. An order granting such a waiver will be applicable to the specified transcript request only.

FOR COURT USE ONLY

RECEIVED _____ INFORMATION VERIFICATION DATE _____ DATE PREVIOUSLY FILED: _____

RATE: Standard Reduced Gov't IFP Exp: _____ FINAL: Sole Shared by _____ COPY TYPE Party Public

Number of Requests

Allegheny County Department Of Court Records**Civil/Family Division Docket Report**

Run Date and Time: 11/18/2020 - 13:21:56

GD-20-011654

In Re: 2,349 Ballots in the 2020 General Election

Filing Date:

11/12/2020

Related Cases:**Consolidated Cases:****Judge:**

James Joseph M

Amount In Dispute:

\$ 0

Case Type:

Appeal

Court Type:

General Docket

Current Status:

Order of Court

Jury Requested:

N

--Parties--

LName	FName	MI	Type	Address	Initial Service Completion	Attorney
Zicarelli	Nicole		Plaintiff		--	Matthew Hermann Haverstick
Allegheny County Board of Elections	Allegheny		Defendant		--	Andrew F. Szefi
Pennsylvania Democratic Party			Intervenor		--	Marco S. Attisano
Brewster	James		Intervenor		--	Marco S. Attisano

--Attorney--

LName	FName	MI	Type	Address	Phone
Haverstick	Matthew	Hermann	Plaintiff's Attorney	1717 Arch Street 5th Floor Philadelphia PA 19103	--
Healey	Michael	J	Attorney		--
Scott	Virginia	Spencer	Attorney		--
Semroc	Kyle	John	Attorney		--
Liebenguth	Frances	M	Attorney		--

LName	FName	MI	Type	Address	Phone
Attisano	Marco	S.	Attorney	429 Fourth Avenue Suite 1705 Pittsburgh PA 15219	8142189095
Levine	Clifford	B	Attorney		--
Szefi	Andrew	F.	Attorney		--

--Non Litigants--

LName	FName	MI	Type	Address	Phone
James	Joseph	M	Judge	707 City-County Building Pittsburgh PA 15219	

--Docket Entries--

Filing Date	Docket Type	Docket Text	Filing Party
11/18/2020	Praecipe for Appearance	behalf of Democratic Party and James Brewster	Clifford Levine B
11/18/2020	Memorandum	dated 11/18/2020. See Memorandum for Specifics. James, J. notice sent. As per Rule 236 Notice.	Joseph James M
11/18/2020	Order of Court	dated 11/18/2020, upon consideration of the Petition for Review in the Nature of a Statutory Appeal filed by Nicole Ziccarelli, and any responses thereto, it is hereby ORDERED that the Petitioner's appeal is dismissed and the decision of the Board of Elections is affirmed. James, J. notice sent. As per Rule 236 Notice.	Joseph James M
11/18/2020	Praecipe for Appearance	Filed on behalf of Intervenors PA Democratic Party & James Brewster	Kyle Semroc John
11/18/2020	Praecipe for Appearance	For Intervenors.	Marco Attisano S.
11/18/2020	Praecipe for Appearance	Filed on behalf of Intervenors PA Democratic Party & James Brewster	Michael Healey J
11/17/2020	Brief in Opposition		Pennsylvania Democratic Party
11/16/2020	Brief in Support		Pennsylvania Democratic Party
11/16/2020	Motion	to Intervene	Pennsylvania Democratic Party
11/16/2020	Brief in Opposition	To Petition for Review.	Allegheny Allegheny County Board of Elections
11/16/2020	Order of Court	Dated 11/13/20. Ordered that Oral argument in the above-captioned matter is scheduled for the 17th day of November, 2020 at 10:00 a.m. via Microsoft Teams. The Team invite will be provided. See Order for specifics. James J. As per Rule 236 Notice. Notice.	Joseph James M
11/13/2020	Praecipe for Appearance	Filed on behalf of Defendant: Allegheny County Board of Elections	Andrew Szefi F.
11/13/2020	Praecipe for Appearance		Andrew Szefi F.
11/13/2020	Praecipe for Appearance	Filed on behalf of Defendant: Allegheny County Board of Elections.	Frances Liebenguth M

Filing Date	Docket Type	Docket Text	Filing Party
11/13/2020	Order of Court	Dated 11/13/20. Oral Argument in the above-captioned matter is scheduled for the 17th day of November, 2020 at 10:00 a.m. via Microsoft Teams. The TEAM invite will be provided. James J. See Order for specifics. As per Rule 236 Notice. Copies sent.	Joseph James M
11/13/2020	Praecipe for Appearance	Filed on behalf of Defendant: Allegheny County Board of Elections	Virginia Scott Spencer
11/13/2020	Praecipe for Appearance	on Behalf of Respondent Allegheny County Board of Elections	Virginia Scott Spencer
11/12/2020	Election Petition		Nicole Ziccarelli

--Judgments Against--

Name	Amount	Satisfied(Y,N)
No Judgments Found		

--Events Schedule--

Event Scheduled	Event Date & Time	Room Number	Judge/Hearing Officer
No Information Found			