

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

DOUG MCLINKO, : NO. 244 MD 2021

Petitioner, :

v. :

COMMONWEALTH OF :
PENNSYLVANIA, DEPARTMENT OF :
STATE; and VERONICA :
DEGRAFFENREID, in her official :
capacity as Acting Secretary of the :
Commonwealth of Pennsylvania, :

Respondents. :

TIMOTHY R. BONNER, ET. AL., : NO. 293 MD 2021

Petitioners, :

v. :

VERONICA DEGRAFFENREID, ET. :
AL. :

Respondents. :

**RESPONSE IN OPPOSITION TO PRELIMINARY OBJECTIONS OF
INTERVENORS-RESPONDENTS, DEMOCRATIC NATIONAL
COMMITTEE AND THE PENNSYLVANIA DEMOCRATIC PARTY**

The Democratic National Committee (“DNC”) and the Pennsylvania Democratic Party (“PDP”) have filed preliminary objections to the amended petition for review of Petitioner, Doug McLinko. Those preliminary objections are procedurally defective and fail to present any arguments that are novel.

Like the Commonwealth's preliminary objections, the DNC's and PDP's preliminary objections are procedurally improper because they raise the defense of laches. Prelim. Obj., ¶ 12-16. The defense of laches is not properly raised in preliminary objections and must be raised as a defense in a responsive pleading. *Banfield v. Cortes*, 922 A.2d 36, 45–46 (Pa. Commw. Ct. 2007)(overruling preliminary objections of the Commonwealth of Pennsylvania based on laches raised in response to a petition to compel the Secretary of the Commonwealth to decertify certain electronic voting machines.)

In addition to the procedural infirmities, the DNC and PDP have done nothing more than regurgitate the previous arguments of the Commonwealth. Because there is nothing new in their preliminary objections, Petitioner McLinko incorporates his arguments presented in his opening brief, reply brief, oral argument, response in opposition to the Commonwealth's preliminary objections to the amended petition for review, and any other document he had filed in this matter.

Date: November 12, 2021

Respectfully submitted,

/s/ Walter S. Zimolong
Walter S. Zimolong, Esq.
ZIMOLONG, LLC
wally@zimolonglaw.com
PO Box 552
Villanova, PA 19085
P: (215) 665-0842

/s/ Harmeet K. Dhillon
Harmeet K. Dhillon, Esq.
Stuart McCommas, Esq.
DHILLON LAW GROUP INC.
177 Post Street, Suite 700
San Francisco, CA 94108
(415) 433-1700
(admitted pro hac vice)

Counsel for Petitioner

CERTIFICATE OF COMPLIANCE

I, Walter S. Zimolong, counsel for petitioner, certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than nonconfidential information and documents.

Date: November 12, 2021

/s/ Walter S. Zimolong
Walter S. Zimolong, Esq.
ZIMOLONG, LLC
wally@zimolonglaw.com
353 W. Lancaster Avenue,
Suite 300
Wayne, PA 19087
P: (215) 665-0842

CERTIFICATE OF SERVICE

I, Walter S. Zimolong, counsel for petitioner, hereby certify that on the date indicated below, I caused to be served a true and correct copy of the foregoing document to the following:

VIA PACFILE

Karen A. Romano, Esquire
Stephen Moniak, Esquire
Commonwealth of Pennsylvania
Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120

Michele D. Hangle, Esquire
John B. Hill, Esquire
Robert A. Wiygul, Esquire
Hangle Aronchick Segal Pudlin & Schiller
One Logan Square, 27th Floor
Philadelphia, PA 19103

Date: November 12, 2021

/s/ Walter S. Zimolong
Walter S. Zimolong, Esq.
ZIMOLONG, LLC
wally@zimolonglaw.com
353 W. Lancaster Avenue,
Suite 300
Wayne, PA 19087
P: (215) 665-0842

