

**IN THE  
SUPREME COURT OF PENNSYLVANIA**

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**No. 7 MM 2022**

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**CAROL ANN CARTER, ET AL.,**  
**Petitioners,**  
**v.**  
**LEIGH M. CHAPMAN, ET AL.,**  
**Respondents,**

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**APPLICATION FOR LEAVE TO FILE AMICUS BRIEF ON BEHALF OF MICHAL  
BRILL, GENE DIGIROLAMO, AND BEAU PUSTIAK UNDER PENNSYLVANIA  
RULE OF APPELLATE PROCEDURE 531(b)(1)(iii)**

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Proposed amicus curiae, Mike Brill, Gene DiGirolamo, and Beau Pustiak, by and through counsel, Begley, Carlin, and Mandio file this Application for Leave to file *Amicus Curiae* Brief pursuant to Pa.R.A.P. 531(b)(1)(iii), and in support thereof aver:

1. Each of your proposed *Amici Curiae* (“Applicants”) are citizens of the Commonwealth of Pennsylvania, and registered voters who reside within Bucks County, Pennsylvania.

2. Applicants do not wish to participate in the instant action in any way other than the filing of a brief as *Amici Curiae*, and can claim no right as “Participants” under this Court’s *Per Curiam* Order of February 2, 2022.

3. Applicants do not seek to file exceptions to the Special Master’s Report and Recommendation, nor do they seek to challenge any of the Special Master’s proposed conclusions of law.

4. Applicants seek only to assist in the Court’s consideration and choice of a suitable congressional redistricting plan which respects the unique communities of Bucks County and their collective history and continuity.

5. Applicants do not advocate for any one specific plan which has been submitted to this Court by a party, intervenor, or other participant.

6. Rather, Applicants hope that the Court will benefit from their collective perspective in weighing the needs of the communities they call home.

7. Applicants acknowledge that the instant application comes after the date set by the Court for Participants to file Amicus Briefs, but request leave to submit such a brief under Rule 531 as they have only recently been able to acquire counsel to assist them.

8. Applicants do not believe the timing of their application will prejudice any party, intervenor, or participant of this action, as oral argument is not scheduled until February 21, 2022, Applicants do not wish to participate therein, and Applicants do not advocate for any one specific plan or map.

9. A copy of the proposed Amici Curiae brief Applicants seek leave to file is attached hereto as Exhibit "A".

WHEREFORE, proposed amici curiae Mike Brill, Gene DiGirolamo, and Beau Pustiak respectfully request that this Court grant their Application for Leave to File an Amicus Brief.

Respectfully submitted,

**BEGLEY, CARLIN & MANDIO, LLP**

By: 

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**CERTIFICATE OF COMPLIANCE**

I 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 non-confidential information and documents.

**BEGLEY, CARLIN & MANDIO, LLP**

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**IN THE SUPREME COURT OF PENNSYLVANIA**

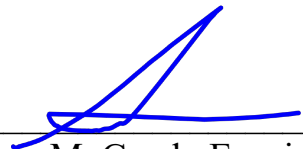
<b>CAROL ANN CARTER, et al.</b>	:	<b>7 MD 2022</b>
<b>Petitioners,</b>	:	
	:	
<b>vs.</b>	:	
	:	
<b>LEIGH M. CHAPMAN, et al.</b>	:	
<b>Respondents</b>	:	

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing Application for Leave to File Brief of Amici Curiae was served upon all parties in this matter via the Court's Unified Electronic Filing system on the date listed below:

Respectfully submitted,

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Dated: February 17, 2022

**IN THE  
SUPREME COURT OF PENNSYLVANIA**

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**No. 7 MM 2022**

---

**CAROL ANN CARTER, ET AL.,**  
**Petitioners,**  
**v.**  
**LEIGH M. CHAPMAN, ET AL.,**  
**Respondents,**

---

**BRIEF OF MICHAEL BRILL, GENE DIGIROLAMO, AND BEAU PUSTIAK**  
***AMICI CURIAE***

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**I. STATEMENT OF INTEREST OF *AMICI CURIAE***

Your *amici curiae* are Michael Brill, Gene DiGirolamo, and Beau Pustiak. Each are residents of and registered voters in Bucks County, Pennsylvania. Bucks County is currently served by Pennsylvania's 1<sup>st</sup> Congressional District pursuant to the Congressional District map approved by this Court in *League of Women Voters of Pennsylvania v. Com.*, 181 A.3d 1083 (Pa. 2018) (per curiam).

No one, other than *amici curiae* and their counsel, is responsible for the preparation or authorship of this brief.

## **II. QUESTION ADDRESSED BY *AMICI CURIAE***

Should the Court adopt a congressional redistricting plan which maintains Bucks County as a whole and conterminous portion of a single congressional district in the event the Court is required to choose a congressional redistricting plan?

*Suggested answer: yes.*

### **III. SUMMARY OF ARGUMENT**

The County of Bucks is a compact 622 square mile County in Eastern Pennsylvania. Bucks County has remained a whole and conterminous portion of its Congressional district for over 170 years. The communities of Bucks County share both common history and continuity with each other that renders them collectively unique.

These communities include school districts, religious communities, ethnic communities, and geographic communities which share common bonds.

It is important and necessary to emphasize representational districts which maintain the geographical and social cohesion of the communities of Bucks County in which its people live and work.

When considering the potential Congressional redistricting plans before it, The Court must not only confirm that they pass Constitutional muster but must also ensure that any plan which meets with the Court's approval also protect the interests of the communities in that district.

In order to provide these communities with adequate representation in the Congress, their legislator must be able to rely upon reasonable similarity of the interests of her/his district. Likewise, a legislator must be able to understand and address the needs of her/his constituents. Dividing such similar communities between different districts leads to impractical if not unworkable conflict between communities when they share a common district but not geographical and social cohesion.

The communities of Bucks County share common needs, and common similarity of interests which are unique to the constituents of those communities. It is therefore necessary and appropriate for the entirety of Bucks County to remain as part of a single Congressional District.

#### **IV. ARGUMENT**

Bucks County was founded in 1682 by William Penn, the proprietor of the colony of Pennsylvania. It is one of the original three (3) counties of Pennsylvania, along with the Counties of Chester and Philadelphia. The current borders of Bucks County were established in 1752 with the creation of Northampton County to the North. The County consists of 54 municipalities occupying 622 square miles.

For approximately 170 years, Bucks County has remained whole and contiguous as part of a single congressional district. Currently, Bucks County is in Pennsylvania's 1<sup>st</sup> congressional district.

##### **A. The Current Congressional District**

In 2011 the General Assembly passed Act 131 which reapportioned Pennsylvania's congressional districts and reduced their number to 18 pursuant to the data generated by the 2010 census.<sup>1</sup> When this act was signed into law by Governor Tom Corbett, it included the entirety of Bucks County in Pennsylvania's 8<sup>th</sup> Congressional District.

Then, on January 22, 2018, this Honorable Court declared the General Assembly's 2011 redistricting plan unconstitutional, enjoining its further use. *League of Women Voters of Pennsylvania v. Com.*, 178 A.3d 737, 821 (Pa. 2018) (*League of Women Voters I*). In so finding the plan unconstitutional, the Court held that in addition to the requirements of federal law, the Free and Equal Elections Clause of the Pennsylvania Constitution required that congressional redistricting plans be: 1) compact; 2) contiguous; and 3) avoid dividing any county, city, incorporated town, borough, township, or ward, except where necessary to ensure equality of population between districts. *Id.* at 816-17.

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<sup>1</sup> Act of Dec. 22, 2011, P.L. 599, No. 131, 25 P.S. §§3596.101 et seq.

After the Governor and the General Assembly failed to agree on a new plan by the deadline set by the Court in *League of Women Voters I*, the Court adopted its own redistricting scheme for Pennsylvania. See, *League of Women Voters of Pennsylvania v. Com.*, 181 A.3d 1083 (Pa. 2018) (*League of Women Voters II*). The congressional districts drawn by the Court in *League of Women Voters II* remain in place to date and include the entirety of conterminous Bucks County in Pennsylvania's 1<sup>st</sup> Congressional District.

**B. Maintaining the Integrity of Municipal Boundaries**

This Court is now asked once again to determine which of the redistricting plans before it most completely satisfies the one-person-one vote requirement of the United States Constitution, complies with the Federal Voting Rights Act, and comports with Article I, Section 5 of the Pennsylvania Constitution (the "Free and Equal Elections Clause").

Amici Curiae submit that several of the maps which are currently being considered by this Honorable Court pass Federal Constitutional muster and satisfy the Federal Voting Rights act. Likewise, a number of the same maps also satisfy *League of Women Voters I*'s tests for compactness and contiguity. However, it is the final neutral requirement identified in *League of Women Voters I* which we believe requires the Court to adopt a plan which does not split the communities of Bucks County into different districts.

The third neutral criteria identified by this Court in *League of Women Voters I* is the "minimization of the division of political subdivisions[.]" or the avoidance of "divid[ing] any county, city, incorporated town, borough, township, or ward, except where necessary to ensure equality of population." *League of Women Voters I*, at 817(underline added).

In other words, a county should not be divided except where absolutely necessary to ensure the one-man-one-vote requirements of the United States

Constitution. There are several plans under consideration by the Court which pass Constitutional muster and also maintain Bucks County as a whole and contiguous portion of its district. Any one of these plans (i.e., Reschenthaler I, Reschenthaler II, H.B. 2146, and others) would satisfy the Court’s requirement to avoid dividing the communities of Bucks County if not necessary.

Indeed, no less an authority than this Honorable Court determined that maintaining Bucks County whole and intact as part of a single district was appropriate when the Court fashioned the Congressional redistricting plan which has been in place since 2018. The Court knew then to preserve the communities of Bucks County it should avoid splitting the county into different congressional districts, choosing instead to place the whole and conterminous County of Bucks into a single district as has been the practice in Pennsylvania for generations.

**C. A Proper Redistricting Plan Avoids Dividing Communities with Shared Interests and Concerns**

When explaining the adoption of the “neutral criteria” discussed in *League of Women Voters I*, the Court advised, “[t]hese standards place the greatest emphasis on creating representational districts that both maintain the geographical and social cohesion of the communities in which people live and conduct the majority of their day-to-day affairs[.]” *League of Women Voters I*, 178 A.3d at 814.

Simply put, the tests of compactness, contiguity, and respect for municipal boundaries are the tools utilized by the Court in achieving the goal of the Free and Equal Elections clause, namely the protection of the interests of Pennsylvania’s communities.

The Commissioners of Bucks County<sup>2</sup> signaled their recognition of the importance of community unity over politics when they unanimously resolved to

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<sup>2</sup> Amicus Curiae Gene DiGirolamo – R serves as minority Commissioner to the County of Bucks.

urge the General Assembly to “maintain the entirety of the County of Bucks in a single congressional district”, recognizing that splitting the Bucks County community would “divide [our] community, create administrative problems, and violate fair redistricting principles that focus on keeping communities with defined boundaries, like the County of Bucks, undivided and contiguous.” See County of Bucks Resolution in Support of Maintaining the Entirety of The County of Bucks in a Single Congressional District (June 17, 2021), attached as Exhibit “A”.

It has been said that a redistricting [body] should traditionally take into account “a host of intangible communities, seeking to give them, where practicable, a voice in the government without unduly fracturing that voice.” *Holt v. 2011 Legislative Reapportionment Comm’n*, 38 A.3d 711, 746 (Pa. 2012), quoting, *Racial Mind-Games and Reapportionment*, 4 U. Pa. J. Const. L. 735, 779-81 (2002) (Dean Ken Gormley). Such communities may include school districts, religious communities, ethnic communities, geographic communities, and other “communities of interest”. *Id.*

Maintaining and preserving Bucks County as a conterminous portion of a single district would avoid a heterogeneity of interests and needs spread among separate districts, resulting instead in representatives who can then champion the preferences of their constituents with the knowledge that their work supports the needs of the communities they represent.

The citizens of Bucks County share common goals, common geography, common needs, and common bonds of community. These common bonds of community are separate and distinct from those of other neighboring counties. This Court must continue to emphasize the geographical and social cohesion of Bucks County’s Communities by ensuring that they are maintained together, contiguously as one whole portion of a congressional district.

**V. CONCLUSION**

Wherefore, for the foregoing reasons, Amici Curiae, Michael Brill, Gene DiGirolamo, and Beau Pustiak, respectfully request that this Court adopt a congressional redistricting plan which honors Bucks County's history and community continuity by preserving the entirety of the County as one whole and conterminous portion of a single congressional district.

Respectfully submitted,

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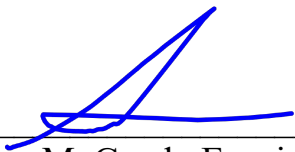
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Respectfully submitted,

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Dated: February 17, 2022

## COUNTY OF BUCKS

### RESOLUTION IN SUPPORT OF MAINTAINING THE ENTIRETY OF THE COUNTY OF BUCKS IN A SINGLE CONGRESSIONAL DISTRICT

**WHEREAS**, the United States Constitution requires that the County of Bucks provides a full and accurate count of its people in the Federal decennial census; and

**WHEREAS**, the boundaries of state congressional districts in the Commonwealth of Pennsylvania are redrawn after every Federal decennial census by legislative action adopted by both chambers of the General Assembly and signed into law by the Governor; and

**WHEREAS**, the citizens of the County of Bucks and the Commonwealth of Pennsylvania deserve a fair, fully-transparent, impartial, and depoliticized process of the subsequent drawing of state congressional districts of near equal population; and

**WHEREAS**, the County of Bucks, in its entirety, is currently in Pennsylvania's 1<sup>st</sup> Congressional District; and

**WHEREAS**, the County of Bucks, in its entirety, has been in a single congressional district for over *170 years*; and

**WHEREAS**, the County of Bucks is a historically contiguous and compact 622 square-mile County with defined boundaries; and

**WHEREAS**, our community is unique and shares a common history, which includes many distinct characteristics and continuities across the County's 54 municipalities; and

**WHEREAS**, some have proposed to split the County of Bucks into two separate congressional districts; and

**WHEREAS**, the splitting of the County of Bucks into two separate congressional districts would (1) divide our community, (2) create administrative problems, and (3) violate fair redistricting principles that focus on keeping communities with defined boundaries, like the County of Bucks, undivided and contiguous.

**NOW, THEREFORE, BE IT RESOLVED** that the County of Bucks respectfully requests and urges the General Assembly to maintain the entirety of the County of Bucks in a single congressional district.

**BE IT FURTHER RESOLVED** that we call upon all elected officials in the Commonwealth of Pennsylvania who represent the people of the County of Bucks to publicly announce their support of and commitment to work towards passage of such legislative efforts and that a copy of this Resolution shall be delivered to each of them.

ADOPTED as a Resolution of the Board of Commissioners this 16<sup>th</sup> day of June, 2021.

COUNTY OF BUCKS, PENNSYLVANIA

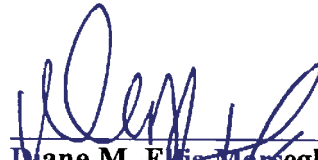
ATTEST:



**Gail Humphrey**  
*Chief Clerk*

6/17/2021

BY:



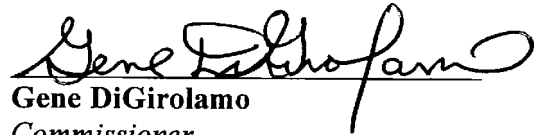
**Diane M. Ellis-Marseglia, LCSW**  
*Commissioner, Chair*

BY:



**Robert J. Harvie, Jr.**  
*Commissioner, Vice Chair*

BY:



**Gene DiGirolamo**  
*Commissioner*