

NOTICE AND ORDER
RE: OBJECTIONS TO NOMINATION PETITIONS FOR
PENNSYLVANIA GENERAL ASSEMBLY AND STATE PARTY
COMMITTEES – GENERAL PRIMARY ELECTION 2022

Objections to nomination petitions of candidates seeking to be placed on the May 17, 2022 General Primary Election ballot for seats in the Pennsylvania General Assembly and members of State committees shall proceed in the Commonwealth Court as set forth in the Order below.

Because of the logistics and expedited timing required to resolve objection petitions to nomination petitions under the truncated Primary Election schedule established by the Pennsylvania Supreme Court in *In re Petitions for Review Challenging the Final 2021 Legislative Reapportionment Plan* (Pa., No. 569 Judicial Administration Docket, filed March 16, 2022),¹ it is important to note that the following Order alters the traditional form of personal service of objection petitions upon a candidate for office that this Court has previously required.

Moreover, to improve timely accessibility of filings to the Court and parties, all objectors, candidates, and counsel are strongly encouraged to submit filings electronically as provided below.

Accordingly, the Court **ORDERS** as follows:

¹ The Pennsylvania Supreme Court has previously held that the Pennsylvania Election Code's deadlines for this Court to hold hearings and issue decisions under Section 977 of the Election Code, 25 P.S. § 2937, are understood as "directory," not mandatory, because such acts involve the exercise of purely judicial functions. *See Holt 2011 Legislative Reapportionment Comm'n*, 38 A.3d 711, 716 n.10 (Pa. 2012) (citing *In re Moore*, 291 A.2d 531 (Pa. 1972)). In *Holt*, the Pennsylvania Supreme Court stated, "Our adjustment of the primary election calendar does not alter the discretion vested in the Commonwealth Court, which will be tasked in its original jurisdiction with hearing any objections to nominating petitions." *Id.*

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: OBJECTIONS TO :
NOMINATION PETITIONS FOR :
PENNSYLVANIA GENERAL :
ASSEMBLY AND STATE PARTY :
COMMITTEES – GENERAL :
PRIMARY ELECTION 2022 : No. 126 Misc. Dkt. No. 3

ORDER

NOW, March 25, 2022, all petitions to set aside nomination petitions (objection petitions) of candidates seeking to be placed on the May 17, 2022 General Primary Election ballot for seats in the Pennsylvania General Assembly and members of State committees shall be filed either in paper format (original and one copy) or electronically by PACFile (the Pennsylvania appellate court electronic filing system) or by email to CommCourtFiling@pacourts.us. Objectors are strongly encouraged to file their objection petitions in electronic format.

Upon the filing of an objection petition, the Court shall post the petition on the Pennsylvania Unified Judicial System website (website) at: <https://www.pacourts.us/news-and-statistics/cases-of-public-interest/general-primary-election-2022>.

THE POSTING OF AN OBJECTION PETITION ON THE WEBSITE SHALL CONSTITUTE SERVICE ON THE CANDIDATE AGAINST WHOM THE OBJECTION PETITION HAS BEEN FILED.² ALL

² Nothing in this order relieves an objector of their obligation to serve the Secretary of the Commonwealth as required by Section 977 of the Election Code, 25 P.S. § 2937.

CANDIDATES ARE UNDER A CONTINUING OBLIGATION TO CHECK THE WEBSITE TO CONFIRM WHETHER AN OBJECTION PETITION HAS BEEN FILED TO THEIR NOMINATION PETITIONS.

Furthermore, upon the filing of an objection petition, the Court will issue a Scheduling and Case Management Order. The Court shall post the Scheduling and Case Management Order on the website along with the objection petition.

THE POSTING OF A SCHEDULING AND CASE MANAGEMENT ORDER SHALL CONSTITUTE SERVICE OF THE ORDER ON THE OBJECTOR AND CANDIDATE. ALL PARTIES ARE UNDER A CONTINUING OBLIGATION TO CHECK THE COURT'S WEBSITE TO CONFIRM WHETHER A SCHEDULING AND CASE MANAGEMENT ORDER HAS BEEN ISSUED WITH RESPECT TO ANY OBJECTION PETITION. A COPY OF A SAMPLE SCHEDULING AND CASE MANAGEMENT ORDER IS ATTACHED.

HEARINGS ON OBJECTION PETITIONS MAY COMMENCE AS EARLY AS WEDNESDAY, APRIL 6, 2022. Counsel should be prepared to litigate multiple matters simultaneously, and to expeditiously review contested signature lines and enter into appropriate stipulations prior to any court hearings.

When individual elector signatures are challenged, the objection petition must be accompanied by a spreadsheet as specified below. The objection petition and spreadsheet shall satisfy the following requirements:

1. The objection petition shall specify objections to individual signature lines in nomination petitions and these shall be set forth in an EXCEL[®] or other similar spreadsheet format. Objector may use the downloadable spreadsheet provided on the Court's website at: <http://www.pacourts.us/courts/commonwealth-court/>.

2. Spreadsheet columns shall include, for each challenged signature line on the nomination petition: page number, line number, county, and the reason or reasons for each challenge. The spreadsheet shall designate the grounds for objection using the following abbreviations (challenge codes key):

| | |
|---------|---|
| NR – | Not Registered |
| NRA – | Not Registered at Address |
| NRD – | Not Registered in District |
| NRDS – | Not Registered on Date Signed |
| OC – | Out of County |
| Ill – | Illegible |
| LIO – | Line Information Omitted |
| DUP – | Duplicate |
| IHA – | Line Information in Hand of Another |
| N/I – | Nickname/Initial |
| PRI – | Printed Signature |
| Other – | Any ground for objection not listed above |

3. The objection petition shall state the number of signature lines challenged, as well as the total number of completed signature lines on the face of the nomination petitions.

4. Any other objections, *e.g.*, to circulator statements, candidate affidavits, etc., must be separately stated in the objection petition.

5. **For an objection petition filed in paper format:**

a. Objector shall attach to the objection petition as an exhibit a printed copy of the spreadsheet printed on 8½ x 14-inch paper, with all grid lines showing and column headings appearing on each printed sheet, and a printed copy of the challenge codes key.

b. Objector shall file two separate USB flash drives, each containing an electronic version of the spreadsheet and the challenge codes key. The electronic versions of the spreadsheet on the USB flash drives must be enabled for editing by the Court, and may **not** be read-only or password protected.

6. **For an objection petition filed electronically:**

a. Along with the electronically filed objection petition, Objector shall file as an exhibit an electronic (PDF) version of the spreadsheet with all grid lines showing and column headings appearing on each sheet, and an electronic (PDF) version of the challenge codes key.

b. **Within one day** of filing the objection petition and spreadsheet, Objector shall submit to the Court two paper copies of the electronically filed objection petition and spreadsheet **and** two USB flash drives, each containing an electronic version of the spreadsheet and the challenge codes key. The electronic versions of the spreadsheet on the USB flash drives must be enabled for editing by the Court, and may **not** be read-only or password protected.

7. Regardless of the method of filing the objection petition, Objector shall provide notice to the Candidate of the filing of the objection petition by email at the email address provided by Candidate on the Candidate's Affidavit filed with the Department of State.

The Prothonotary is hereby directed to send a copy of this Order to:

1. the Court Administrator of Pennsylvania who shall post this Order on the Pennsylvania Unified Judicial System website at <https://www.pacourts.us/news-and-statistics/cases-of-public-interest/general-primary-election-2022>; and
2. the Secretary of the Commonwealth, who shall post this Order conspicuously in the Bureau of Commissions, Elections and Legislation and in such other manner as the Secretary deems appropriate.

By the Court,



RENÉE COHN JUBELIRER, President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: _____ :
NOMINATION PETITIONS OF _____ :
_____ : No. *

SCHEDULING and CASE MANAGEMENT ORDER

PER CURIAM

NOW, _____, upon consideration of the Petition to Set Aside Nomination Petitions (Objection Petition):

1. IT IS HEREBY ORDERED:

A. Hearing on the Objection Petition is scheduled for _____, in Courtroom Number _____, Pennsylvania. Objector is directed to secure the services of a court stenographer for the hearing. Failure of Objector to secure the services of a court stenographer may result in the dismissal of this matter.

B. If signature lines are challenged, Objector shall secure, by request or subpoena, the presence of a Statewide Uniform Registry of Electors (SURE) system operator at the hearing.

C. Service of the Objection Petition on Candidate, and of this Order on all parties, is complete upon the posting of the Objection Petition and this Order on the Pennsylvania Unified Judicial System website in accordance with this Court’s Notice and Order in *In re: Objections to Nomination Petitions for Pennsylvania*

General Assembly and State Party Committees – General Primary Election 2022 (Pa. Cmwlth., No. 126 Misc. Dkt. No. 3).

D. At the hearing, Objector shall offer proof of timely service of the Objection Petition on the Secretary of the Commonwealth.

2. It is FURTHER ORDERED that the parties shall make a good faith effort to comply with the following in advance of the hearing:

A. Objector shall file a list of all witnesses to be called at the hearing and the curriculum vitae and expert report for each expert witness. Any witness not identified may be precluded from testifying except for good cause shown.

B. Candidate shall file a list of all witnesses to be called at the hearing and the curriculum vitae and expert report for each expert witness. Any witness not identified may be precluded from testifying except for good cause shown.

3. If signature line challenges are at issue, it is FURTHER ORDERED that the parties shall make a good faith effort to comply with the following in advance of the hearing:

A. Objector and Candidate or Candidate's representative and, if appropriate, a SURE system operator, shall meet to review each and every challenged signature line.

B. Objector and Candidate shall file a stipulation of the parties that identifies:

- (a) the total number of completed signature lines submitted;

- (b) the total number of uncontested signature lines submitted;
- (c) the total number of signature lines challenged;
- (d) each and every signature line to which there is an objection, identified by page number and line number, and the basis for the objection;
- (e) each and every signature line to be stricken as invalid or for which an objection is to be withdrawn, identified by page number and line number, if the parties can reach such a stipulation.

C. Candidate shall file a list of all signature lines, identified by page number and line number, that are facially defective and that Candidate intends to rehabilitate. Candidate shall also state the manner in which Candidate intends to rehabilitate the signature lines.

4. Objector and Candidate may each file a memorandum of law in support of their respective positions. No further memoranda will be permitted unless ordered by the Court.

5. Unless otherwise ordered, the parties shall make a good faith effort to file all items required or permitted by paragraphs 2, 3, and 4 of this order no later than 24 hours in advance of the hearing. Filing may be accomplished by PACFile (the Pennsylvania appellate court electronic filing system) or by email to CommCourtFiling@pacourts.us. Parties may **not** file by facsimile without express prior permission from the Court.

6. Failure to comply with any provision of this order may preclude the noncompliant party from entering any evidence, and may result in the imposition of monetary sanctions.