

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**DAVE McCORMICK FOR U.S.
SENATE, et al.,**

Petitioners,

v.

**LEIGH M. CHAPMAN, in her
official capacity as Secretary of
State for the Commonwealth, et
al.,**

Respondents,

**REPUBLICAN NATIONAL
COMMITTEE AND REPUBLICAN
PARTY OF PENNSYLVANIA,**

Proposed Intervenors.

No.: 286 MD 2022

ORIGINAL JURISDICTION

**Proposed Intervenors' Answer
and New Matter to Petitioners'
Motion for Immediate Special
Injunction**

**Filed on Behalf of Proposed
Intervenor:**

**REPUBLICAN NATIONAL
COMMITTEE AND
REPUBLICAN PARTY OF
PENNSYLVANIA**

**Counsel of Record for this
Party:**

**Thomas W. King, III, Esq.
Pa. I.D. No. 21580
tking@dmkcg.com**

**Thomas E. Breth, Esq.
Pa. I.D. No. 66350
tbreth@dmkcg.com**

**Dillon, McCandless, King,
Coulter & Graham, LLP.
128 W. Cunningham St.
Butler, PA 16001
Telephone: 724-283-2200
Facsimile: 724-283-2298**

**PROPOSED INTERVENORS’ ANSWER AND NEW MATTER TO
PETITIONERS’ MOTION FOR IMMEDIATE SPECIAL INJUNCTION**

Proposed Intervenors, Republican National Committee (hereinafter “RNC”) and Republican Party of Pennsylvania (hereinafter “RPP”), by and through their undersigned attorneys, file the within Answer and New Matter to Petitioners’ Motion for Immediate Special Injunction, pursuant to this Court’s Order dated May 25, 2022. Proposed Intervenors hereby oppose the relief sought within Petitioners’ Motion for Immediate Special Injunction, averring in support thereof as follows:

1. Denied. Paragraph 1 contains legal conclusions to which no responsive pleading is deemed necessary. To the extent that a responsive pleading is deemed necessary, it is denied that Petitioners have experienced an immediate and irreparable injury sufficient for the granting of injunctive relief pursuant to Pa. R.C.P. 1531(a). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

2. Denied. Paragraph 2 contains legal conclusions to which no responsive pleading is deemed necessary. To the extent that a responsive pleading is deemed necessary, it is denied that Petitioners have met the

requirements for the issuance of a special injunction, as set forth herein. By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

3. Denied. Paragraph 3 contains legal conclusions to which no responsive pleading is deemed necessary. To the extent that a responsive pleading is deemed necessary, it is denied that Petitioners are likely to succeed on the merits of their underlying Petition for Review as Pennsylvania's Election Code clearly requires the dating of mail-in and absentee ballots at 25 P.S. §§ 3146.6(a) and 3150.16(a). Further, this requirement has been reviewed by the Pennsylvania Supreme Court in the case of *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting), wherein a majority of the Justices of the Pennsylvania Supreme Court held that ballots failing to comply with 25 P.S. §§ 3146.6(a) and 3150.16(a) should not be counted. By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for

Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

4. Denied. It is denied that a plurality of the Pennsylvania Supreme Court has ruled that County Boards of Elections are not required to disqualify ballots failing to comply with the dating requirement contained in 25 P.S. §§ 3146.6(a) and 3150.16(a). By further answer, Petitioner is referring to the Opinion Announcing Judgment of the Court (“OAJC”) authored by Justice Donahue. However, the OAJC is not binding precedent. Rather, where the Court issues its opinion through an OAJC, the relevant legal principle on any given issue before the Court must be discerned from the concurring and dissenting opinions which contain a majority of the Justice’s votes, if any so exist. *In re T.S.*, 192 A.3d 1080, 1088 (Pa. 2018). In the *In re Canvass* case, Justice Dougherty, joined by Chief Justice Saylor and Justice Mundy, filed a concurring and dissenting opinion, dissenting from the OAJC holding at Section III (2), which permitted undated mail-in and absentee ballots to be counted. Thus, giving the issue three votes in favor of excluding undated mail-in ballots. Further, in a lone concurring and dissenting opinion, Justice Wecht concluded that a voter’s failure to comply with the dating requirement of Pennsylvania’s Election Code should not be overlooked as a “minor irregularity,” stating, “[t]hus, in future elections, I would treat the date and

sign requirement as mandatory in both particulars, with the omission of either item sufficient without more to invalidate the ballot in question.” Accordingly, the Pennsylvania Supreme Court has reached a four-Justice majority in favor of excluding mail-in ballots which fail to comply with the dating requirement unambiguously set forth in Pennsylvania’s Election Code, thus establishing binding precedent regarding the same. See *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

5. Admitted in part and denied in part. Paragraph 5 contains legal conclusions to which no responsive pleading is deemed necessary. To the extent that a responsive pleading is deemed necessary, it is admitted that Petitioners have accurately cited the provisions of 52 U.S.C. § 10101(a)(2)(B) and the case of *Migliori v. Lehigh Co. Bd. of Elections*, No. 22-1499 (3d Cir. 2022). It is denied that the Third Circuit’s Order in such case was proper in light of the United States Supreme Court’s decision in *Purcell*

v. Gonzalez, 549 U.S. 1 (2006), wherein the U.S. Supreme Court declined to upset a State's electoral apparatus close to an election, stating as follows,

[f]aced with an application to enjoin operation of voter identification procedures just weeks before an election, the Court of Appeals was required to weigh, in addition to the harms attendant upon issuance or nonissuance of an injunction, considerations specific to election cases and its own institutional procedures. Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.

. . . .
In view of the impending election, the necessity for clear guidance to the State of Arizona, and our conclusion regarding the Court of Appeals' issuance of the order we vacate the order of the Court of Appeals.

Purcell v. Gonzalez, 549 U.S. 1, 5 (2006); *See also Veasey v. Perry*, 135 S. Ct. 9 (2014).

By further answer, on May 23, 2022, Appellee Ritter in *Migliori v. Lehigh Co. Bd. of Elections*, No. 22-1499 (3d Cir. 2022) filed his Motion to Stay the Order of the Third Circuit Court of Appeals [*ECF Doc. 81*], pending certiorari to the United States Supreme Court. By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

6. Denied. Paragraph 6 contains conclusions of law to which no responsive pleading is deemed necessary. To the extent that a responsive

pleading is deemed necessary, it is denied that the Third Circuit Court of Appeals' Order was a correct reading of Pennsylvania or Federal law in light of the United States Supreme Court's decision in *Purcell v. Gonzalez*, 549 U.S. 1 (2006), wherein the U.S. Supreme Court declined to upset a State's electoral apparatus close to an election, stating as follows,

[f]aced with an application to enjoin operation of voter identification procedures just weeks before an election, the Court of Appeals was required to weigh, in addition to the harms attendant upon issuance or nonissuance of an injunction, considerations specific to election cases and its own institutional procedures. Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.

. . . .
In view of the impending election, the necessity for clear guidance to the State of Arizona, and our conclusion regarding the Court of Appeals' issuance of the order we vacate the order of the Court of Appeals.

Purcell v. Gonzalez, 549 U.S. 1, 5 (2006); *See also Veasey v. Perry*, 135 S. Ct. 9 (2014).

7. Denied. It is denied that the dating requirements contained in 25 P.S. §§ 3146.6(a) and 3150.16(a) are immaterial. By further answer, Justice Dougherty underscored the purpose behind such dating requirements as follows:

[i]n my opinion, there is an unquestionable purpose behind requiring electors to date and sign the declaration. As Judge Brobson observed below, the date on the ballot envelope

provides proof of when the ‘elector actually executed the ballot in full, ensuring their desire to cast it in lieu of appearing in person at a polling place. The presence of the date also establishes a point in time against which to measure the elector’s eligibility to cast the ballot.’

In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election, 241 A.3d 1058, 1090 (Pa. 2020) (Dougherty, J., concurring and dissenting). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

8. Denied. Paragraph 8 contains conclusions of law to which no responsive pleading is deemed necessary. To the extent that a responsive pleading is deemed necessary, it is denied that the Eleventh Circuit Court of Appeals’ decision in *Fla. State Conf. of NAACP v. Browning*, 522 F.3d 1153, 1175 (11th Cir. 2008) is precedent binding upon this Court. By further answer, Justice Dougherty underscored the purpose behind such dating requirements as follows:

[i]n my opinion, there is an unquestionable purpose behind requiring electors to date and sign the declaration. As Judge Brobson observed below, the date on the ballot envelope provides proof of when the ‘elector actually executed the ballot in full, ensuring their desire to cast it in lieu of appearing in person at a polling place. The presence of the date also establishes a point in time against which to measure the elector’s eligibility to cast the ballot.’

In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election, 241 A.3d 1058, 1090 (Pa. 2020) (Dougherty, J., concurring and dissenting). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

9. Denied. It is denied that the dating requirements contained in 25 P.S. §§ 3146.6(a) and 3150.16(a) are immaterial. By further answer, Justice Dougherty underscored the purpose behind such dating requirements as follows:

[i]n my opinion, there is an unquestionable purpose behind requiring electors to date and sign the declaration. As Judge Brobson observed below, the date on the ballot envelope provides proof of when the ‘elector actually executed the ballot in full, ensuring their desire to cast it in lieu of appearing in person at a polling place. The presence of the date also establishes a point in time against which to measure the elector’s eligibility to cast the ballot.’

In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election, 241 A.3d 1058, 1090 (Pa. 2020) (Dougherty, J., concurring and dissenting). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application

for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

10. Denied. It is denied that the dating requirements contained in 25 P.S. §§ 3146.6(a) and 3150.16(a) are immaterial. As set forth by Justice Wecht in the case of *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*,

I part ways with the conclusion reflected in the Opinion Announcing the Judgment of the Court (“OAJC”) that a voter's failure to comply with the statutory requirement that voters date the voter declaration should be overlooked as a “minor irregularity.” This requirement is stated in unambiguously mandatory terms, and nothing in the Election Code suggests that the legislature intended that courts should construe its mandatory language as directory.

In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election, 241 A.3d 1058, 1079 (Pa. 2020) (Wecht, J., concurring and dissenting). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

11. Admitted in part and denied in part. Paragraph 11 contains conclusions of law to which no responsive pleading is deemed necessary. To the extent that a responsive pleading is deemed necessary, it is admitted that Petitioners have accurately cited the provisions of 52 U.S.C. §

10101(a)(2)(B) and the case of *Migliori v. Lehigh Co. Bd. of Elections*, No. 22-1499 (3d Cir. 2022). It is denied that 52 U.S.C. § 10101(a)(2)(B) prohibits the Respondent Boards of Elections from rejecting mail-in and absentee ballots failing to comply with 25 P.S. §§ 3146.6(a) and 3150.16(a). By further answer, it is denied that the Third Circuit's Order in *Migliori* was proper in light of the United States Supreme Court's decision in *Purcell v. Gonzalez*, 549 U.S. 1 (2006), wherein the U.S. Supreme Court declined to upset a State's electoral apparatus close to an election, stating as follows,

[f]aced with an application to enjoin operation of voter identification procedures just weeks before an election, the Court of Appeals was required to weigh, in addition to the harms attendant upon issuance or nonissuance of an injunction, considerations specific to election cases and its own institutional procedures. Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.

. . .

In view of the impending election, the necessity for clear guidance to the State of Arizona, and our conclusion regarding the Court of Appeals' issuance of the order we vacate the order of the Court of Appeals.

Purcell v. Gonzalez, 549 U.S. 1, 5 (2006); See also *Veasey v. Perry*, 135 S. Ct. 9 (2014). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

12. Denied. Paragraph 12 contains conclusions of law to which no responsive pleading is deemed necessary. To the extent that a responsive pleading is deemed necessary, it is denied that Pennsylvania law prohibits Respondent County Boards of Elections from rejecting mail-in and absentee ballots failing to comply with 25 P.S. §§ 3146.6(a) and 3150.16(a). By further answer, Pennsylvania's Election Code clearly requires the dating of mail-in and absentee ballots at 25 P.S. §§ 3146.6(a) and 3150.16(a). Further, this requirement has been reviewed by the Pennsylvania Supreme Court in the case of *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting), wherein a majority of the Justices of the Pennsylvania Supreme Court held that ballots failing to comply with 25 P.S. §§ 3146.6(a) and 3150.16(a) should not be counted. By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

13. Denied. It is denied that a plurality of the Pennsylvania Supreme Court has ruled that County Boards of Elections are not required to disqualify ballots failing to comply with the dating requirement contained in 25 P.S. §§

3146.6(a) and 3150.16(a). By further answer, Petitioner is referring to the Opinion Announcing Judgment of the Court (“OAJC”) authored by Justice Donahue. However, the OAJC is not binding precedent. Rather, where the Court issues its opinion through an OAJC, the relevant legal principle on any given issue before the Court must be discerned from the concurring and dissenting opinions which contain a majority of the Justice’s votes, if any so exist. *In re T.S.*, 192 A.3d 1080, 1088 (Pa. 2018). In the *In re Canvass* case, Justice Dougherty, joined by Chief Justice Saylor and Justice Mundy, filed a concurring and dissenting opinion, dissenting from the OAJC holding at Section III(2), which permitted undated mail-in and absentee ballots to be counted. Thus, giving the issue three votes in favor of excluding undated mail-in ballots. Further, in a lone concurring and dissenting opinion, Justice Wecht concluded that a voter’s failure to comply with the dating requirement of Pennsylvania’s Election Code should not be overlooked as a “minor irregularity,” stating, “[t]hus, in future elections, I would treat the date and sign requirement as mandatory in both particulars, with the omission of either item sufficient without more to invalidate the ballot in question.” Accordingly, the Pennsylvania Supreme Court has reached a four-Justice majority in favor of excluding mail-in ballots which fail to comply with the dating requirement unambiguously set forth in Pennsylvania’s Election Code, thus establishing

binding precedent regarding the same. See *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

14. Admitted in part and denied in part. It is admitted that Justice Dougherty's concurring and dissenting opinion in *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election* sets forth the purpose of the dating requirement as "proof of when the 'elector actually executed the ballot in full, ensuring their desire to cast it in lieu of appearing in person at a polling place. The presence of the date also establishes a point in time against which to measure the elector's eligibility to cast the ballot.'" It is denied that such a purpose is the sole reasoning for the Court's majority holding that undated mail-in and absentee ballots be disqualified. By further answer, as set forth by Justice Wecht in the case of *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*,

I part ways with the conclusion reflected in the Opinion Announcing the Judgment of the Court ("OAJC") that a voter's failure to comply with the statutory requirement that voters date the voter declaration should be overlooked as a "minor

irregularity.” ***This requirement is stated in unambiguously mandatory terms, and nothing in the Election Code suggests that the legislature intended that courts should construe its mandatory language as directory.***

In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election, 241 A.3d 1058, 1079 (Pa. 2020) (Wecht, J., concurring and dissenting) (emphasis added). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

15. Admitted in part and denied in part. It is admitted that Justice Dougherty’s concurring and dissenting opinion in *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election* sets forth the purpose of the dating requirement as “proof of when the ‘elector actually executed the ballot in full, ensuring their desire to cast it in lieu of appearing in person at a polling place. The presence of the date also establishes a point in time against which to measure the elector’s eligibility to cast the ballot.’” It is denied that such a purpose is the sole reasoning for the Court’s majority holding that undated mail-in and absentee ballots be disqualified. By further answer, as set forth by Justice Wecht in the case of *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*,

I part ways with the conclusion reflected in the Opinion Announcing the Judgment of the Court (“OAJC”) that a voter's failure to comply with the statutory requirement that voters date the voter declaration should be overlooked as a “minor irregularity.” ***This requirement is stated in unambiguously mandatory terms, and nothing in the Election Code suggests that the legislature intended that courts should construe its mandatory language as directory.***

In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election, 241 A.3d 1058, 1079 (Pa. 2020) (Wecht, J., concurring and dissenting) (emphasis added). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

16. Denied. It is denied that a plurality of the Pennsylvania Supreme Court has ruled that County Boards of Elections are not required to disqualify ballots failing to comply with the dating requirement contained in 25 P.S. §§ 3146.6(a) and 3150.16(a). By further answer, Petitioner is referring to the Opinion Announcing Judgment of the Court (“OAJC”) authored by Justice Donahue. However, the OAJC is not binding precedent. Rather, where the Court issues its opinion through an OAJC, the relevant legal principle on any given issue before the Court must be discerned from the concurring and dissenting opinions which contain a majority of the Justice’s votes, if any so

exist. *In re T.S.*, 192 A.3d 1080, 1088 (Pa. 2018). In the *In re Canvass* case, Justice Dougherty, joined by Chief Justice Saylor and Justice Mundy, filed a concurring and dissenting opinion, dissenting from the OAJC holding at Section III (2), which permitted undated mail-in and absentee ballots to be counted. Thus, giving the issue three votes in favor of excluding undated mail-in ballots. Further, in a lone concurring and dissenting opinion, Justice Wecht concluded that a voter's failure to comply with the dating requirement of Pennsylvania's Election Code should not be overlooked as a "minor irregularity," stating, "[t]hus, in future elections, I would treat the date and sign requirement as mandatory in both particulars, with the omission of either item sufficient without more to invalidate the ballot in question." Accordingly, the Pennsylvania Supreme Court has reached a four-Justice majority in favor of excluding mail-in ballots which fail to comply with the dating requirement unambiguously set forth in Pennsylvania's Election Code, thus establishing binding precedent regarding the same. See *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting). By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application

for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

17. Admitted in part and denied in part. It is admitted that County Boards of Elections were required to complete their canvass of the May 17th, 2022 Primary Election and report the unofficial results by May 24, 2022. It is denied that the denial of Petitioners' Motion for Special Injunction will cause thousands of voters to be unlawfully disenfranchised as Pennsylvania's Election Code clearly requires the dating of mail-in and absentee ballots at 25 P.S. §§ 3146.6(a) and 3150.16(a). Further, this requirement has been reviewed by the Pennsylvania Supreme Court in the case of *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting), wherein a majority of the Justices of the Pennsylvania Supreme Court held that ballots failing to comply with 25 P.S. §§ 3146.6(a) and 3150.16(a) should not be counted. By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

18. Denied. It is denied that the denial of Petitioners' Motion for Special Injunction will cause voters to be unlawfully disenfranchised as

Pennsylvania's Election Code clearly requires the dating of mail-in and absentee ballots at 25 P.S. §§ 3146.6(a) and 3150.16(a). Further, this requirement has been reviewed by the Pennsylvania Supreme Court in the case of *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting), wherein a majority of the Justices of the Pennsylvania Supreme Court held that ballots failing to comply with 25 P.S. §§ 3146.6(a) and 3150.16(a) should not be counted. By further answer, Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

WHEREFORE, Proposed Intervenors, Republican National Committee and Republican Party of Pennsylvania hereby object to Petitioners' Motion for Special Injunction pursuant to this Court's Order dated May 25, 2022, and respectfully request that this Honorable Court deny Petitioners' Motion for Special Injunction and grant such other relief that this Court deems appropriate.

New Matter

19. Paragraphs 1-18 are incorporated by reference as if set forth fully herein.

20. Proposed Intervenors incorporate by reference their Application to Intervene and attached Answer to Application for Extraordinary Relief filed in the Supreme Court of Pennsylvania at Docket No. 46 MM 2022.

21. Petitioners have not shown that a special injunction is necessary to prevent irreparable harm.

22. Petitioners have not shown that greater injury would result from refusing their Motion for Special Injunction than from granting it.

23. Petitioners' Motion for Special Injunction will not restore the status quo ante.

24. Petitioners are not likely to succeed on the merits of their underlying Petition for Review.

25. Petitioners' Motion for Special Injunction is not appropriately tailored to the purported harm in question.

26. Petitioners' Motion for Special Injunction will adversely impact the public interest.

27. Pennsylvania's Election Code clearly requires the dating of mail-in and absentee ballots at 25 P.S. §§ 3146.6(a) and 3150.16(a).

28. A majority of the Justices of the Pennsylvania Supreme Court held that ballots failing to comply with 25 P.S. §§ 3146.6(a) and 3150.16(a) should not be counted. *In re Canvass of Absentee and Mail-in Ballots of November 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (Dougherty, J., concurring and dissenting) (Wecht, J., concurring and dissenting).

WHEREFORE, Proposed Intervenors, Republican National Committee and Republican Party of Pennsylvania hereby object to Petitioners' Motion for Special Injunction pursuant to this Court's Order dated May 25, 2022, and respectfully request that this Honorable Court deny Petitioners' Motion for Special Injunction and grant such other relief that this Court deems appropriate.

Respectfully Submitted,

**Dillon, McCandless, King,
Coulter & Graham L.L.P.**

Date: May 27, 2022

By: /s/ Thomas W. King, III
Thomas W. King III
PA. ID No. 21580
tking@dmkcg.com

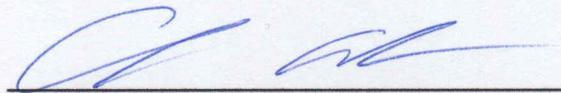
128 West Cunningham Street,
Butler, Pennsylvania 16001
724-283-2200 (phone)
724-283-2298 (fax)

Counsel for Proposed Intervenor

VERIFICATION

I, Angela Alleman, Executive Director of the Republican Party of Pennsylvania, hereby verify that the facts set forth in the foregoing Answer and New Matter to Petitioners' Motion for Special Injunction are true and correct to the best of my knowledge and belief. This verification is made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: 5/26/22



Angela Alleman

VERIFICATION

I, Michael Reed, Chief of Staff of the Republican National Committee, hereby verify that the facts set forth in the foregoing Answer and New Matter to Petitioners' Motion for Special Injunction are true and correct to the best of my knowledge and belief. This verification is made subject to the penalties of 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.

Date: 5/27/2022



Michael Reed

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.

/s/ Thomas W. King, III
Thomas W. King, III