

**IN THE SUPREME COURT OF PENNSYLVANIA**

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Docket No. 108 MM 2024

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REPUBLICAN NATIONAL COMMITTEE and REPUBLICAN PARTY OF  
PENNSYLVANIA,

Petitioners,

v.

AL SCHMIDT, in his official capacity as Secretary of the Commonwealth, *et al.*,  
Respondents.

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**RESPONDENTS CARBON, CENTRE, CLINTON, COLUMBIA,  
HUNTINGDON, INDIANA, LAWRENCE, MONROE, MONTOUR,  
NORTHUMBERLAND, SNYDER, AND VENANGO COUNTY BOARDS  
OF ELECTIONS IN OPPOSITION TO PETITIONERS' APPLICATION  
FOR THE EXERCISE OF KING'S BENCH POWER OR  
EXTRAORDINARY JURISDICTION**

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Response in Opposition to Petitioners' Application for Relief to File Supplemental  
Response to Application for Leave to Intervene

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Elizabeth A. Dupuis, Esquire

PA I.D. No. 80149

Casey A. Coyle, Esquire

PA I.D. No. 307712

Michael Libuser, Esquire

PA I.D. No. 332676

Morgan Madden, Esquire

PA I.D. No. 324531

*Attorneys for Carbon, Centre, Clinton,*

*Columbia, Huntingdon, Indiana,*

*Lawrence, Monroe, Montour,*

*Northumberland, Snyder, and Venango*

*County Boards of Elections*

The above-captioned Respondents (“Respondent Counties”), by and through their undersigned counsel, Babst, Calland, Clements, and Zomnir, P.C., submit this Response in Opposition to the September 24, 2024 Application for Relief to File Supplemental Response to Application for Leave to Intervene, filed by Petitioners Republican National Committee and Republican Party of Pennsylvania.

Petitioners seek leave to supplement their response to the September 20, 2024 Application for Leave to Intervene filed by Faith A. Genser and other individuals and entities (“Leave Application”)—all plaintiffs in either *Genser v. Butler County Board of Elections* (27 WAP 2024) or *Center for Coalfield Justice v. Washington County Board of Elections* (1172 CD 2024). (Pet’rs’ Appl.) Relevant to this submission, in their initial response, Petitioners did not object to the Leave Application, but they did insert additional arguments urging the Court to exercise King’s Bench and extraordinary jurisdiction over the action initiated under this caption as well as over *Genser* and *Coalfield Justice*. (*Id.*, Ex. A, ¶ 6.)

The Respondent Counties oppose Petitioners’ Application for three reasons. First, the arguments in the Application have nothing to do with the Leave Application. Petitioners already stated they do not object to it. (*Id.*, Ex. A, ¶ 6.) Tellingly, moreover, in the wherefore clause of their Application, Petitioners do not ask the Court to grant the Leave Application. (*Id.*, Ex. A, at 3–4.) The Application is an improper vehicle for requesting the relief they would seek in their proposed

supplement—*i.e.*, that the Court should exercise King’s Bench and extraordinary jurisdiction over *Genser* and *Coalfield Justice*. (Pet’rs’ Appl. at 3–4.)

Second, this Court can take judicial notice of the Commonwealth Court’s recent decision in *Center for Coalfield Justice*, *see Int. of K.N.L.*, 284 A.3d 121, 129 (Pa. 2022) (“[O]fficial court records available to the public . . . are subject to judicial notice.”), making Petitioners’ application unnecessary to the extent they wish to bring the decision to the Court’s attention (and the Court is not already aware of it).

Third, and relatedly, the Respondent Counties submit that Petitioners should not be permitted to introduce new merits arguments (through the guise of a supplemental response, no less) without there being a corresponding opportunity for the Respondents to raise counterarguments.

In the event the Court decides to grant Petitioners’ Application and consider the arguments in its proposed supplement, it is respectfully requested that the Court consider the Respondent Counties’ argument that Petitioners’ Application actually underscores the reasons for which the Court should decline to grant the relief they seek. For one, inviting two additional cases into this one could lead to the need for additional facts, evidence, and findings, impeding the Court’s ability to rule on all the issues in advance of the election.

Further, Petitioners intend to seek allowance of appeal from this Court in *Coalfield Justice* (Pet’rs’ Appl., Ex. A, ¶ 10), which furthers the Respondent Counties’ argument that Petitioners should not be permitted to leapfrog the appeals

process at a time when county boards of elections are moving steadfastly toward the General Election.

For these reasons, along with any others offered by the other Respondents in this action, the Respondent Counties respectfully request that the Court deny Respondents' Application.

Respectfully submitted,

BABST, CALLAND, CLEMENTS  
and ZOMNIR, P.C.

*/s/ Elizabeth A. Dupuis* \_\_\_\_\_

Elizabeth A. Dupuis, Esquire  
PA I.D. No. 80149

*Attorneys for Carbon, Centre, Clinton,  
Columbia, Huntingdon, Indiana,  
Lawrence, Monroe, Montour,  
Northumberland, Snyder, and Venango  
County Boards of Elections*

Dated: September 26, 2024

## **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.

Date: September 26, 2024

*/s/ Elizabeth A. Dupuis*  
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Elizabeth A. Dupuis, Esquire