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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Vivietta Applewhite; Wilola Shinholster Lee; Grover Freeland;
Gloria Cuttino; Nadine Marsh; Dorothy Barksdale; Bea Bookler;
Joyce Block; Henrietta Kay Dickerson; Devra Mirel ("Asher")
Schor; Audrey Moore; League of Women Voters of Pennsylvania;
National Association for the Advancement of Colored People,
Philadelphia Branch; Homeless Advocacy Project,

Petitioners,

v.

The Commonwealth of Pennsylvania; Thomas W. Corbett,
in his capacity as Governor; Carol Aichele, in her capacity
as Secretary of the Commonwealth,

Respondents.

Docket No. 330 MD 2012

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NOTICE TO PLEAD

You are hereby notified to file a written response, if required, to the enclosed Answer and New Matter within twenty (20) days of service hereof (or within any period ordered by the Court), or a Judgment may be entered against you.



Michael A. Rubin
Attorney for Petitioners

Date: May 16, 2012

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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Schor; League of Women Voters of Pennsylvania;
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Pennsylvania State Conference; Homeless Advocacy Project,

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The Commonwealth of Pennsylvania; Thomas W. Corbett,
in his capacity as Governor; Carol Aichele, in her capacity
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Case No. 330 MD 2012

**ANSWER AND NEW MATTER OF THE PETITIONERS TO THE VERIFIED
PETITION FOR LEAVE TO INTERVENE**

Pursuant to the Court’s Order of May 10, 2012, Petitioners herein answer the Verified Petition for Leave to Intervene (“Petition to Intervene”) in the above-captioned case. As a preliminary matter, Petitioners state that the Petition to Intervene does not allege any material facts related to the request to intervene. To the extent Petitioners deny any averments below, none are material to whether the Petition to Intervention should be denied. As set forth in more detail in Petitioners’ Brief in Opposition To Verified Petition For Leave To Intervene (being filed concurrently), the Verified Petition contains multiple erroneous statements of law concerning intervention in Pennsylvania cases and must be denied even if the Court accepts as true all of Putative Intervenors averments of fact. Therefore, Petitioners respectfully submit that no evidentiary hearing is necessary to decide and deny the Petition to Intervene.

RESPONSE TO UNNUMBERED PARAGRAPHS

If and to the extent a responsive pleading is required to the unnumbered paragraphs under the caption, Petitioners state, incorporate, and re-allege their answers to the allegations Putative Intervenors have incorporated into the paragraphs as fully set forth herein. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in these paragraphs with respect to the Putative Intervenors and therefore deny the same. To the extent these paragraphs contain factual averments concerning the Putative Intervenors' alleged interest in this litigation, Petitioners specifically deny that the Putative Intervenors have any legally enforceable interest in this litigation to give them standing to intervene. Petitioners deny any remaining factual averments in these paragraphs.

INTERVENORS

1. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 1 and therefore deny the same. By way of further answer, Putative Elector Intervenors have failed to include enough information regarding the identity of the Intervenors (such as the full names and addresses) to allow a reasonable investigation as to the facts of this paragraph.

2. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 2 and therefore deny the same. By way of further answer, Putative Intervenors have failed to include enough information regarding the identity of the Intervenors to allow a reasonable investigation as to the facts of this paragraph.

3. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 3 and therefore deny the same. By way of

further answer, Putative Intervenor have failed to include enough information regarding the identity of the Intervenor to allow a reasonable investigation as to the facts of this paragraph.

4. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 4 and therefore deny the same. By way of further answer, Putative Intervenor have failed to include enough information regarding the identity of the Intervenor to allow a reasonable investigation as to the facts of this paragraph.

5. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 5 and therefore deny the same. By way of further answer, Putative Intervenor have failed to include enough information regarding the identity of the Intervenor to allow a reasonable investigation as to the facts of this paragraph.

6. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 6 and therefore deny the same. By way of further answer, Putative Intervenor have failed to include enough information regarding the identity of the Intervenor to allow a reasonable investigation as to the facts of this paragraph.

7. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 7 and therefore deny the same. By way of further answer, Putative Intervenor have failed to include enough information regarding the identity of the Intervenor to allow a reasonable investigation as to the facts of this paragraph.

8. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 8 and therefore deny the same. By way of further answer, Putative Intervenor have failed to include enough information regarding the identity of the Intervenor to allow a reasonable investigation as to the facts of this paragraph.

9. Petitioners deny that Thomas Killian represents the 168th Legislative District in the Pennsylvania House of Representatives and was nominated in the April 24, 2012 primary election as the Republican candidate for the office of State Representative in the November 6, 2012 general election. Petitioners state that the representative of the 168th Legislative District in the Pennsylvania House of Representatives is Thomas Killion, not Thomas Killian. Petitioners otherwise lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining averments set forth in paragraph 9 and therefore deny the same. By way of further answer, Putative Intervenors have failed to include enough information regarding the identity of the Putative Intervenor to allow a reasonable investigation as to the facts of this paragraph.

INTEVENORS' INTERESTS AND GROUNDS FOR INTERVENTION

10. Petitioners state that paragraph 10 states conclusions of law to which no responsive pleading is required.

11. Petitioners state that paragraph 11 states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that Putative Intervenors have a legally enforceable interest that would support their Petition to Intervene.

12. Petitioners admit only that, to the extent it is a factual averment, Petitioners are challenging the Voter Photo ID Law to protect their fundamental right to vote. Petitioners state that paragraph 12 otherwise states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners specifically deny that this lawsuit will affect a legally enforceable interest of Putative Intervenors. Petitioners state that any interests of the Putative Intervenors are not sufficient to allow them to intervene. Petitioners otherwise lack

knowledge or information sufficient to form a belief as to the truth or falsity of the remaining averments set forth in paragraph 12 and therefore deny the same.

13. Petitioners state that paragraph 13 states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that the Photo ID Law will meaningfully enhance the robust, effective and time-tested safeguards against fraud (including in-person-voter identification fraud) that the Election Code has long provided. Petitioners further deny that the Photo ID Law is necessary to safeguard against fraud because there is no evidence of meaningful voter fraud that would be prevented by the Photo ID Law, and deny that the Photo ID Law is narrowly tailored to a compelling, rational or otherwise legitimate state interest. Instead, Petitioners aver that the Photo ID Law unconstitutionally burdens Pennsylvanians' fundamental right to vote and disenfranchises countless voters. Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of the remaining averments set forth in paragraph 13 about Putative Intervenors and therefore deny the same.

14. Petitioners state that paragraph 14 states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same, except they lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 14 about Intervenor Killian and therefore deny the same.

15. Petitioners state that paragraph 15 and footnote 2 to paragraph 15 state conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners lack knowledge or information sufficient to form a

belief as to the truth or falsity of averments set forth in paragraph 15 and footnote 2 to paragraph 15 and therefore deny the same.

STATEMENT OF RELIEF AND DEFENSES

16. Petitioners state that paragraph 16 consists of a request for relief, to which no response is required. If and to the extent a responsive pleading is required, Petitioners deny that Putative Intervenor are entitled to any relief. To the contrary, Pa. R.C.P. 2327 and 2329 preclude intervention by Putative Intervenor.

17. Petitioners state that paragraph 17, including subparagraphs (a) through (o), states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same.

a. Petitioners state that subparagraph (a) states conclusions of law to which no responsive pleading is required. By way of further argument, Petitioners deny that the burdens faced by the individual Petitioners under the Photo ID Law are a result of their highly individualized personal circumstances. Petitioners state that for each of the named individual Petitioners, there are countless other Pennsylvania citizens who also will be disenfranchised as a result of the burdens imposed by the Photo ID Law and who are represented by the organizational Petitioners.

b. Petitioners state that subparagraph (b) states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same.

c. Petitioners deny that the relief they seek is overbroad and inappropriate. Petitioners state that the remaining averments of this paragraph are conclusions of law to which no response is required.

d. Petitioners deny that a free photo identification is readily available to every voter who desires one and therefore aver that the Photo ID Law burdens the fundamental right to vote. Petitioners state that the remaining averments of this paragraph are conclusions of law to which no response is required.

e. Petitioners state that subparagraph (e) states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same.

f. Petitioners state that subparagraph (f) states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that the Photo ID Law is supported by compelling, rational, or otherwise legitimate state interests. Petitioners aver that no evidence of voter fraud addressed by the photo ID requirements has been identified by the Commonwealth or Putative Intervenors.

g. Petitioners state that subparagraph (g) states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that the Photo ID Law is appropriately tailored to achieve the Commonwealth's interests and aver that the proper standard is that it must be narrowly tailored (*i.e.*, the least restrictive alternative) to a compelling state interest. Petitioners aver that the Photo ID Law's requirements will unduly burden the fundamental right to vote for a large number of otherwise qualified and registered voters and in fact will disenfranchise large numbers of otherwise qualified and registered voters for no appreciable purpose and thereby fundamentally undermine the integrity of Pennsylvania election results.

h. Petitioners state that subparagraph (h) states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that the voter

identification requirements are reasonable regulations of the manner in which elections are conducted, not unduly burdensome, and will not result in the disenfranchisement of eligible voters. Petitioners aver that the burdens imposed by the Photo ID Law are so difficult to overcome that for many registered voters, the Photo ID Law amounts to a denial of the fundamental right to suffrage guaranteed by the Pennsylvania Constitution.

i. Petitioners state that subparagraph (i) states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that the ability of many electors to cast a ballot without presenting, or including a copy of, photo identification alleviates potential constitutional deficiencies in the Photo ID Law. To the contrary, Petitioners aver that a Pennsylvania voter cannot simply vote absentee ballot because it is more convenient or to avoid the Photo ID Law requirement to show a valid photo ID at the polls. Petitioners aver that, far from alleviating the constitutional infirmities of the Photo ID Law, the different identification rules for absentee voters unconstitutionally creates different classes of voters who face different burdens and does so in a manner that is irrational as absentee ballots are known to present a greater risk of voter fraud than in person ballots.

j. Petitioners state that subparagraph (j) states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that the Photo ID Law does not unconstitutionally discriminate against, or place special burdens on, women, members of religious minorities, racial and ethnic minorities, or members of other constitutionally protected classes. Petitioners aver that the impact of the Photo ID Law will be disproportionately heavy on persons who are less likely to already possess an acceptable photo ID, including the elderly, people with disabilities, minorities, women, and religious minorities.

k. Petitioners state that subparagraph (k) states conclusions of law to which no responsive pleading is required. By way of further answer, Petitioners deny that the ability of indigent electors to cast provisional ballots without presenting photo identification alleviates constitutional deficiencies in the vote identification requirement. To the contrary, Petitioners state that to have a provisional vote count, an indigent voter must appear twice in person or find a means to transmit the necessary documentation electronically or by mail when other voters appear just once to have their votes count. In other words, for an indigent voter to have his or her vote counted once, he or she must in effect undertake twice the burdens of non-indigent voters. In addition, for non-indigent voters who are forced to vote by provisional ballot because they were unable to obtain a photo identification before election day, they will be unable to obtain a photo identification in limited time available to have the provisional ballot counted. The practical effect of the additional burdens of such provisional ballots will be that many, if not most, voters relegated to provisional ballots because of the Photo ID Law will not have their votes counted.

l. Petitioners state that subparagraph (l) states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same.

m. Petitioners state that subparagraph (m) states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same. By way of further answer, Petitioners aver that the Photo ID Law impinges on the free exercise to the right to vote because the photo identification requirements impose burdens that will either deny the franchise itself or make it so difficult as to amount to a denial.

n. Petitioners state that subparagraph (n) states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same. By way of further answer, Petitioners aver that the Photo ID Law imposes burdens on the right to vote that do not bear upon all voters equally under similar circumstances.

o. Petitioners state that subparagraph (o) states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same. By way of further answer, Petitioners aver that the Photo ID Law imposes an unconstitutional qualification to vote by requiring presentation of a photo ID before a regular ballot is issued.

18. Petitioners state that paragraph 18 consists of a description of Putative Intervenor's filing, to which no response is required. If and to the extent a responsive pleading is required, Petitioners admit that the Petition to Intervene contained Exhibits 1 and 2, which speak for themselves. Petitioners further aver that Putative Intervenor improperly filed Exhibit 2 to the Petition to Intervene and that no reply to that improperly filed document is required, but Petitioners reserve the right to file a reply if the Court permits intervention.

NO GROUNDS EXIST FOR REFUSING INTERVENTION

19. Petitioners state that paragraph 19 states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners lack knowledge or information sufficient to form a belief as to the truth or falsity of averments set forth in paragraph 19 and therefore deny the same.

20. Petitioners state that paragraph 20, including subparagraphs (a) through (f), states conclusions of law to which no responsive pleading is required. If and to the extent a

responsive pleading is required, Petitioners deny the same. By way of further answer, Petitioners aver that Putative Intervenors' interests are already adequately represented by the Commonwealth and Putative Intervenors have no right to intervene in this matter.

a. Petitioners state that the averments of this subparagraph are conclusions of law to which no responsive pleading is required.

b. Petitioners deny that the Commonwealth is not adequately representing the interests of Putative Intervenors. To the contrary, Putative Intervenors' interest is not particularized, and is no different than the interest of all citizens and therefore, as a matter of law, does not support intervention. Petitioners state that the remaining averments of this subparagraph are conclusions of law to which no responsive pleading is required.

c. Petitioners state that the averments of this subparagraph are conclusions of law to which no responsive pleading is required.

d. Petitioners deny that Putative Intervenors should be permitted to intervene based on their assertion of a litigation or defense theory. The Putative Intervenors' interest in upholding the constitutionality of the Photo ID Law is adequately represented. Petitioners state that the remaining averments of this subparagraph are conclusions of law to which no responsive pleading is required.

e. Petitioners deny that Putative Intervenors should be permitted to intervene based on their argument of the form of relief to which Petitioners' are entitled. The Putative Intervenors' interest in upholding the constitutionality of the Photo ID Law is adequately represented. Petitioners state that the remaining averments of this subparagraph are conclusions of law to which no responsive pleading is required.

f. Petitioners state that the averments of this subparagraph are conclusions of law to which no responsive pleading is required.

21. Petitioners state that paragraph 21 states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same.

22. Petitioners state that paragraph 22 states conclusions of law to which no responsive pleading is required. If and to the extent a responsive pleading is required, Petitioners deny the same. By way of further answer, Petitioners state that allowance of intervention of eight parties will necessarily unduly delay and prejudice the just and speedy resolution of this matter.

23. Petitioners state that paragraph 23 consists of a request for relief and legal conclusions, to which no response is required. If and to the extent a responsive pleading is required, Petitioners deny that Putative Intervenor are entitled to any relief and respectfully submit that no material factual disputes require an evidentiary hearing to deny the Petition to Intervene.

CONCLUSION AND PRAYER FOR RELIEF

24. Petitioners state that paragraph 24 consists of a request for relief, to which no response is required. If and to the extent a responsive pleading is required, Petitioners deny that Putative Intervenor are entitled to any relief.

NEW MATTER

25. Petitioners incorporate by reference their Answer to paragraphs 1 through 24 as if fully set forth herein, and incorporate by reference their Brief For Petitioners In Opposition To Verified Petition For Leave To Intervene (filed concurrently) as if fully set forth herein.

26. Putative Intervenors lack a legally enforceable interest pursuant to Pa. R.C.P. 2327(4) and otherwise lack standing to intervene.

27. Putative Intervenors' interests are adequately represented in this matter by the Commonwealth respondents pursuant to Pa. R.C.P. 2329(2).

28. Putative Intervenors have no interest in the outcome of this matter that surpasses the right of all citizens in the enforcement of the law.

29. Intervention will unduly delay and prejudice the trial or the adjudication of the rights of the parties pursuant to Pa. R.C.P. 2329(3).

30. Putative Intervenors have failed to conform to the pleading requirements of the Pennsylvania Rules of Civil Procedure by not providing the full name and address of Putative Intervenors.

31. Putative Intervenors have failed to plead with specificity the allegations that, absent the photo identification requirement, any meaningful likelihood of voter fraud exists.

32. Putative Intervenors claim that voter fraud will dilute their votes is speculative and not legally enforceable.

WHEREFORE, Petitioners demand that the Court enter judgment in Petitioners' favor and against Putative Intervenors, refuse Putative Intervenors' Petition to Intervene with prejudice, award Petitioners' attorney's fees and costs and award such other and further relief as this Court deems just and appropriate.

Dated: May 16, 2012

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Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that I am this 16th day of May 2012, serving the foregoing Answer and New Matter of the Petitioners to the Verified Petition for Leave to Intervene, upon the persons and in the manner indicated below, which satisfies the requirement of Pa. R.A.P. 121:

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Dated: May 16, 2012



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