

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SENATOR JAY COSTA, SENATOR	:	
ANTHONY H. WILLIAMS, SENATOR	:	CASES
VINCENT J. HUGHES, SENATOR STEVEN	:	CONSOLIDATED
J. SANTARSIERO, AND SENATE	:	
DEMOCRATIC CAUCUS,	:	

Petitioners,	:	No. 310 MD 2021
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vs.

SENATOR JACOB CORMAN III, SENATE	:
PRESIDENT PRO TEMPORE, SENATOR	:
CRIS DUSH, AND SENATE SECRETARY-	:
PARLIAMENTARIAN MEGAN MARTIN,	:

<u>Respondents.</u>	:
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COMMONWEALTH OF PENNSYLVANIA,	:
PENNSYLVANIA DEPARTMENT OF STATE	:
And VERONICA DEGRAFFENREID, Acting	:
Secretary of the Commonwealth of	:
Pennsylvania,	:

Petitioners,	:	No. 322 MD 2021
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vs.
SENATOR CRIS DUSH, SENATOR JAKE
CORMAN, and THE PENNSYLVANIA
STATE SENATE INTERGOVERNMENTAL
OPERATIONS COMMITTEE,

Respondents.

ARTHUR HAYWOOD
JULIE HAYWOOD,

Petitioners,

vs.

VERONICA DEGRAFFENREID, ACTING
SECRETARY OF STATE,
COMMONWEALTH OF PENNSYLVANIA,

Respondents.

No. 323 MD 2021

**ANSWER TO RESPONDENTS' CROSS-APPLICATION
FOR SUMMARY RELIEF BY INTERVENORS
ROBERTA WINTERS, NICHITA SANDRU, KATHY FOSTER-SANDRU,
ROBIN ROBERTS, KIERSTYN ZOLFO, MICHAEL ZOLFO, PHYLLIS
HILLEY, BEN BOWENS, THE LEAGUE OF WOMEN VOTERS OF
PENNSYLVANIA, COMMON CAUSE PENNSYLVANIA
AND MAKE THE ROAD PENNSYLVANIA**

Roberta Winters, Nichita Sandru, Kathy Foster-Sandru, Robin Roberts,
Kierstyn Zolfo, Michael Zolfo, Phyllis Hilley, Ben Bowens, the League of Women
Voters of Pennsylvania, Common Cause Pennsylvania and Make the Road
Pennsylvania (collectively Intervenors) submit this Answer to Respondents'

“Answer to Applications for Summary Relief and Cross-Application for Summary Relief,”¹ and in support thereof, aver as follows:

1. The averments contained in paragraph 1 of Respondents’ Cross-Application for Summary Relief are denied. To the contrary, there are four applications for summary relief, not including Respondents’ cross-application.

2. The averments contained in paragraph 2 of Respondents’ Cross-Application for Summary Relief are admitted in part. It is admitted that Intervenor has filed an Application for Summary Relief. Any suggestion that said Application is not currently pending is denied.

3. The averments contained in paragraph 3 of Respondents’ Cross-Application for Summary Relief contain conclusions of law, to which no response is required. In further response, however, Intervenor notes that Respondents previously agreed that the issues raised should be resolved by cross-applications for summary relief (October 6, 2021, Joint Application to Expedite, ¶11).

¹ Despite the name of their pleading, Respondents’ “Answer” does not answer the allegations in Intervenor’s Application for Summary Relief, other than to say that the various petitioners’ rights to judgment “are not clear” and that they all should be denied because they rely on evidence.

4. To the extent the averments contained in paragraph 4 of Respondents' Cross-Application for Summary Relief relate to Intervenors' Application for Summary Relief, those averments are denied. To the contrary, Intervenors have standing, Intervenors' claims are ripe, and Intervenors' claims are fully consistent with applicable law.

5. The averments contained in paragraph 5 of Respondents' Cross-Application for Summary Relief are denied. To the contrary, simply announcing that evidence is "disputed" is not sufficient to defeat summary judgment; otherwise, summary relief would never be available. Evidence is entirely appropriate at the summary judgment stage, and if Respondents' disputed such evidence, they were required to come forward with evidence to create a genuine dispute of material fact. They have not done so. *See* 210 Pa. Code §1532, Official Note (comparing Motion for Summary Relief under Rule 1532(b) to the rules of civil procedure relating to motions for summary judgment).

6. To the extent the averments contained in paragraph 6 of Respondents' Cross-Application for Summary Relief relate to Intervenors' Application for Summary Relief, those averments are denied. To the contrary, whether or not the Committee has a general right to investigate election matters, and whether or not it has the right to issue Subpoenas generally, it still cannot violate citizens'

constitutional right to privacy without satisfying the Pennsylvania Supreme Court's balancing test, as described in Intervenors' briefs.

7. The averments contained in paragraph 7 of Respondents' Cross-Application for Summary Relief are denied. To the contrary, there is no "independent statutory right" to citizens' constitutionally-protected private information; the legislature cannot grant itself a veto over constitutional rights.

8. Intervenors file contemporaneously with this Answer a Brief in Opposition to Respondents' Cross-Application and in further support of Intervenors' Application, and incorporate the arguments therein.

WHEREFORE, Intervenors respectfully request that the Court grant their Application, deny Respondents' Cross-Application and grant the relief requested in Intervenors' Petition for Review.

Dated: November 8, 2021

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**Pro hac vice* forthcoming

CONFIDENTIAL DOCUMENTS CERTIFICATION

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/ Keith E. Whitson
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served via PACFile and/or email, this 8th day of November, 2021, upon the following:

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