

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

CAROL ANN CARTER; MONICA PARRILLA; :
REBECCA POUYOUROW; WILLIAM TUNG; :
ROSEANNE MILAZZO; BURT SIEGEL; :
SUSAN CASSANELLI; LEE CASSANELLI; :
LYNN WACHMAN; MICHAEL GUTTMAN; :
MAYA FONKEU; BRADY HILL; MARY :
ELLEN BALCHUNIS; TOM DEWALL; :
STEPHANIE MCNULTY; AND JANET :
TEMIN, :

Petitioners, :

CASES
CONSOLIDATED

No. 464 M.D. 2021

V. :

VERONICA DEGRAFFENREID, IN HER :
OFFICIAL CAPACITY AS THE ACTING :
SECRETARY OF THE COMMONWEALTH :
OF PENNSYLVANIA; JESSICA MATHIS, IN :
HER OFFICIAL CAPACITY AS DIRECTOR :
FOR THE PENNSYLVANIA BUREAU OF :
ELECTION SERVICES AND NOTARIES, :

Respondents. :

PHILIP T. GRESSMAN; RON Y. DONAGI; :
KRISTOPHER R. TAPP; PAMELA GORKIN; :
DAVID P. MARSH; JAMES L. :
ROSENBERGER; AMY MYERS; EUGENE :
BOMAN; GARY GORDON; LIZ MCMAHON; :
TIMOTHY G. FREEMAN; AND GARTH :
ISAAK, :

Petitioners, :

No. 465 MD 2021

V. :

VERONICA DEGRAFFENREID, IN HER :
OFFICIAL CAPACITY AS THE ACTING :
SECRETARY OF THE COMMONWEALTH :
OF PENNSYLVANIA; JESSICA MATHIS, IN :

HER OFFICIAL CAPACITY AS DIRECTOR :
FOR THE PENNSYLVANIA BUREAU OF :
ELECTION SERVICES AND NOTARIES, :
Respondents. :
:

ORDER

AND NOW this ____ day of January 2022, upon consideration of the Application for Leave to Intervene by Guy Reschenthaler, Jeffrey Varner, Tom Marino, Ryan Costello, and Bud Shuster (“Intervenors”), and any response thereto, it is hereby ORDERED that the Application is GRANTED and it is further ORDERED that the Intervenors shall be deemed parties to this matter.

BY THE COURT

, J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

CAROL ANN CARTER; MONICA PARRILLA; :
REBECCA POUYOUROW; WILLIAM TUNG; :
ROSEANNE MILAZZO; BURT SIEGEL; : **CASES**
SUSAN CASSANELLI; LEE CASSANELLI; : **CONSOLIDATED**
LYNN WACHMAN; MICHAEL GUTTMAN; :
MAYA FONKEU; BRADY HILL; MARY :
ELLEN BALCHUNIS; TOM DEWALL; :
STEPHANIE MCNULTY; AND JANET :
TEMIN, :

Petitioners, : No. 464 M.D. 2021

V. :

VERONICA DEGRAFFENREID, IN HER :
OFFICIAL CAPACITY AS THE ACTING :
SECRETARY OF THE COMMONWEALTH :
OF PENNSYLVANIA; JESSICA MATHIS, IN :
HER OFFICIAL CAPACITY AS DIRECTOR :
FOR THE PENNSYLVANIA BUREAU OF :
ELECTION SERVICES AND NOTARIES, :

Respondents. :

PHILIP T. GRESSMAN; RON Y. DONAGI; :
KRISTOPHER R. TAPP; PAMELA GORKIN; : No. 465 MD 2021
DAVID P. MARSH; JAMES L. :
ROSENBERGER; AMY MYERS; EUGENE :
BOMAN; GARY GORDON; LIZ MCMAHON; :
TIMOTHY G. FREEMAN; AND GARTH :
ISAAK, :

Petitioners, :

V. :

VERONICA DEGRAFFENREID, IN HER :
OFFICIAL CAPACITY AS THE ACTING :
SECRETARY OF THE COMMONWEALTH :
OF PENNSYLVANIA; JESSICA MATHIS, IN :

HER OFFICIAL CAPACITY AS DIRECTOR :
FOR THE PENNSYLVANIA BUREAU OF :
ELECTION SERVICES AND NOTARIES, :
Respondents. :
:

**APPLICATION FOR LEAVE TO INTERVENE BY GUY
RESCHENTHALER, JEFFREY VARNER, TOM MARINO, RYAN
COSTELLO, AND BUD SHUSTER**

Under Pa.R.A.P. 1532(b), Guy Reschenthaler, Jeffrey Varner, Tom Marino, Ryan Costello, and Bud Shuster (“Intervenors”) hereby submit this application for leave to intervene as parties in the above matter. In support of this request, Intervenors aver as follows:

1. Carol Ann Carter, Monica Parrilla, Rebecca Poyourow, William Tung, Roeseanne Milazzo, Burt Siegel, Susan Cassanelli, Lee Cassanelli, Lynn Wachman, Michael Guttman, Maya Fonkeu, Brady Hill, Mary Ellen Balchunis, Tom DeWall, Stephanie McNulty and Janet Temin (“Carter Petitioners”), registered Pennsylvania voters, submitted a Petition for Review to this Court on December 17, 2021, docketed at 464 MD 2021 (the “Carter PFR”).

2. Also on December 17, 2021, Petitioners Philip T. Gressman, Ron Y. Donagi, Kristopher R. Tapp, Pamela Gorkin, David P. Marsh, James L. Rosenberger, Amy Myers, Eugene Boman, Gary Gordon, Liz

McMahon, Timothy G. Freeman, and Garth Isaak (“Gressman Petitioners”) filed a Petition for Review in this Court, docketed at 465 MD 2021 (the “Gressman PFR”).

3. Together, the Carter and Gressman Petitioners (jointly, the “Petitioners”) seek to enjoin Respondents Veronica Degraffenreid, the Acting Secretary of the Commonwealth of Pennsylvania, and Jessica Matthis, the Director of the Pennsylvania Bureau of Election Services and Notaries, from enforcing or implementing the current congressional district plan and ask this Court to adopt a new congressional district plan that complies with relevant state and federal requirements.

4. As relevant herein, in support of their request for expedited judicial action, the Carter Petitioners insist that further delay in adopting a redistricting plan risks causing substantial harm to the interests of “[v]oters, candidates, and Pennsylvania’s election administration apparatus” Carter PFR, at ¶ 44; *see also id.* at ¶ 45 (noting the impending deadline for submitting nominating petitions and papers); *id.* at ¶ 46 (“Potential congressional candidates cannot make strategic decisions—including, most importantly, whether to run at all—without knowing their district boundaries.”).

5. Similar to the Carter Petitioners, the Gressman Petitioners also seek “the implementation of a new congressional district map with the correct number of congressional districts that adheres to the one-person, one vote standard and all other applicable constitutional and legal requirements[,]” Gressman PFR at ¶ 1, and allege that the absence of a congressional districting plan has caused—and will continue to cause—substantial harm to voters and candidates. *See id.* at ¶ 44-45.

6. To that end, the Gressman Petitioners, who describe themselves as “registered voters and leading mathematicians and scientists in the Commonwealth of Pennsylvania[,]” *id.* at 1, intend to “advocate for a rigorous, data-driven, and scientifically based means of redistricting their malapportioned districts.”

7. On December 20, this Court entered a *per curiam* Order consolidating the Carter and Gressman Petitioners’ actions, instructed any parties seeking to intervene in this matter to submit their requests by December 31, 2021, directed the parties to submit their proposed redistricting plan by January 28, 2022, and relayed that if the General Assembly is unable to enact redistricting legislation by January 30,

2022, a hearing would be held on January 31, 2021 to commence the process for selecting one of the redistricting schemes proposed by the parties and, if necessary, “consider revisions to the 2022 election schedule/calendar as part of the hearing.” 12/20/2021 Order at 4.

8. The following day, the Carter and Gressman Petitioners also submitted separate Applications for Extraordinary Relief to the Supreme Court requesting that the Court assume original jurisdiction over the matter.

9. On December 27, 2021, Respondent Veronica Degraffenreid, Acting Secretary of the Department of State (the “Department”), filed an answer to the aforementioned application agreeing with the Carter and Gressman Petitioners that extraordinary relief was appropriate because, among other things, “the Department of State and county boards of elections require some lead time prior to the circulation of nomination petitions—normally about three weeks—to allow them to update the Statewide Uniform Registry of Electors (SURE) system, provide timely notice to candidates, and otherwise implement the new congressional districts.” Respondents’ Answer to Petitioners’

Application for Extraordinary Relief Under 42 § 726 and Pa.R.A.P. 3309
at 3.

10. The Intervenors' interest in these consolidated matters is as acute—and in certain respects, more so—than those of the existing parties.

11. Intervenor United States Representative Guy Reschenthaler is the representative in Pennsylvania's malapportioned 14th Congressional District.

12. Because Pennsylvania's current congressional plan is unconstitutional, Intervenor Reschenthaler's district will be impacted during the redistricting process.

13. Intervenor Reschenthaler's interest is far greater than any Petitioner in the case because, as a sitting Congressman who is participating in the 2022 midterm elections, he has an acute need to know the boundaries of his district before he begins circulating nominating petitions on February 15, 2022. *See* P.S. § 2868.

14. In fact, the Carter Petitioners also highlight how having a constitutional congressional plan in place is especially important for

congressional candidates who need to “collect signatures” and “make strategic decisions[.]” Carter PFR, at ¶ 46.

15. Intervenor Varner is a registered voter and resident of Swatara Township, Dauphin County, located in the malapportioned 10th Congressional District. *See* Carter PFR, at ¶ 28.

16. Accordingly, like the Carter Petitioners—and more specifically Petitioners Mary Ellen Balchunis and Tom DeWall—Varner has an interest in residing and voting in a congressional district that gives equal weight to his vote.

17. Intervenor Varner is also a duly elected member of Swatara Township Board of Commissioners, and has served as a Township Commissioner since 2012 in that capacity.

18. Acting through its Board of Commissioners, Swatara Township, like many municipalities throughout the Commonwealth, often engages with its member of Congress in various initiatives, including obtaining funding from the Federal government for essential services it provides to constituents.

19. In addition, Varner has substantial experience and understanding of the redistricting process, having participated in

efforts to implement a new districting scheme in Swatara Township following the 2010 decennial census.

20. As a local elected official with first-hand knowledge of the community and the multitude of considerations that inform efforts to redraw districts following a decennial census, Varner understands that the process cannot be reduced to a mathematic or scientific formula and, instead, intends to advocate for a process that accounts for the unique needs and configuration of each locale.

21. Further, based on his experience as local elected official, Varner intends to propose certain modest amendments to this Court's December 20, 2022 plan that would allow for increased transparency and broader public input, while ensuring that the process remains orderly and all necessary deadlines are met.

22. Intervenor Tom Marino is a former United States Representative who represented Pennsylvania's 10th Congressional district from 2011-2019, and Pennsylvania's 12th Congressional district¹ in 2019.

¹ Carter Petitioners distinguish between those districts that are underrepresented and overrepresented as a result of the 2020 census data. In particular, the Carter Petitioners appear to emphasize that individuals who reside in, or represent the citizenry of, those districts—like the 12th Congressional District—that are

23. Intervenor Ryan Costello is a former United States Representative who represented Pennsylvania's 6th Congressional district from 2015-2019.

24. Intervenor Bud Shuster is a former United States Representative who represented Pennsylvania's 9th Congressional district from 1973-2001.

25. Collectively, Intervenors Former Congressmen have a deep understanding of the redistricting process having participated in this process before.

26. Intervenors Former Congressmen have first-hand knowledge of the community and the multitude of considerations that inform efforts to redraw districts following a decennial census, and each understands that the process cannot be reduced to a mathematic or

overrepresented are somehow not aggrieved by Pennsylvania's malapportioned maps because their votes are more potent than those voters who reside in underrepresented districts. *See* Carter Petitioners' Memorandum in Opposition to the Application to Intervene by the Proposed Intervenors ("Carter Answer") at 8. But the Pennsylvania Constitution's guarantee of a free and equal election draws no such distinction. *See* Pa. Const., art I, § 5. It is in the interest of the intervenors, as members of a malapportioned district, to have an equal vote in the electoral process. *See Patterson v. Barlow*, 60 Pa. 54, 75 (1869) ("How shall elections be made equal? Clearly by laws which shall arrange all the qualified electors into suitable districts, and make their votes equally potent in the election; so that some shall not have more votes than others, and that all shall have an equal share in filling the offices of the Commonwealth.").

scientific formula and, instead, intends to advocate for a process that accounts for the unique needs and configuration of each locale.

27. Intervenors have a direct, immediate, and substantial interest in the outcome of this case.

28. Intervenors are not named as either a petitioner or respondent in the Petitions for Review.

29. A party is entitled to intervene if they satisfy any one of the requirements set forth in Pennsylvania Rule of Civil Procedure 2327.

30. An application to intervene will be refused only when one of the four narrowly prescribed circumstances in Pennsylvania Rule of Civil Procedure 2329 is present. Rule 2329 provides an application will be refused if: “(1) the claim or defense of the petitioner is not subordinate to and in recognition of the propriety of the action; or (2) the interest of the petitioner is already adequately represented; or (3) the petitioner has unduly delayed in making application for intervention or the intervention will unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.” Pa.R.C.P. 2329(1)-(3).

31. Here, Intervenors satisfy at least two of the criteria of Pennsylvania Rule of Civil Procedure 2327, and none of the circumstances in Rule 2329 is present.

32. First, all Intervenors “could have joined as an original party in this suit, or could have been joined therein[,]” because the current congressional plan is unconstitutional. Pa.R.C.P. 2327(3).

33. To begin, the 2020 Census data has rendered the current congressional maps unconstitutional pursuant to Article I, Section 5 of the Pennsylvania Constitution.

34. Specifically, Pennsylvania’s population increased from 12,702,379 in 2010 to 13,002,700 in 2020.

35. Despite the increase in population, Pennsylvania’s population growth over the last decade has been slower than other states, and thus the number of congressional districts in Pennsylvania has decreased from 18 to 17.

36. As a result, Pennsylvania’s congressional districts are currently malapportioned.

37. The current congressional plan is therefore unconstitutional because it “has the effect of impermissibly diluting the potency of an

individual's vote for candidates for elective office relative to that of the other voters." *League of Women Voters v. Commonwealth*, 178 A.3d 737, 809 (Pa. 2018) (emphasis omitted).

38. In *League of Women Voters*, the Pennsylvania Supreme Court declared a "broad interpretation" of Article I, Section 5, "guards against the risk of unfairly rendering votes nugatory, artificially entrenching representative power, and discouraging voters from participating in the electoral process because they have come to believe that the power of their individual vote has been diminished to the point that it 'does not count.'" *Id.* at 814.

39. And, more broadly, the citizenry represented by all Intervenors are not "equally potent[.]" and thus do not "have an equal share in filling the offices of the Commonwealth" because their districts are malapportioned. *Patterson*, 60 Pa. at 75.

40. In this light, and similar to Petitioners, Intervenors' Article I, Section 5 rights are violated by the unconstitutional congressional plan.

41. Moreover, the current congressional plan violates the United States Constitution because the number of congressional districts is not

equal to the number of Representatives to which Pennsylvania is entitled. *See* 2 U.S.C. § 2c (providing “there shall be established by law a number of districts equal to the number of Representatives to which such State is so entitled”); *see also Carstens v. Lamm*, 543 F.Supp. 68, 72-73 (C. Colo. 1982) (court created congressional redistricting plan when legislature and governor failed to agree on a new plan to account for the state’s addition of one congressional district).

42. But Intervenors also maintain interests that are separate and distinct from those of the Carter and Gressman Petitioners.

Intervenor Reschenthaler

43. Intervenor Reschenthaler has a unique interest in any proposed congressional plan because such a plan will directly impact the boundaries of the district for which he seeks election in 2022.

44. Intervenor Reschenthaler is set to begin circulating nominating petitions in a little over a month, and in order to do so effectively, he must understand the boundaries of his district.

45. Again, Carter Petitioners acknowledge how uniquely important it is for congressional candidates to have a constitutional

redistricting plan in place for the start of the 2022 election cycle. *See Carter PFR*, at ¶ 45-46.

46. As such, Intervenor Reschenthaler “could have joined as an original party in this action.” Pa.R.C.P. 2327(3).

47. Intervenor Reschenthaler also has a “legally enforceable interest[,]” Pa.R.C.P. 2327(4), in the timely completion of the redistricting process—and this interest is greater than Petitioners who are not sitting members of Congress poised for re-election in 2022.

48. A delayed map, or worse yet, an unconstitutionally malapportioned map will adversely affect Intervenor Reschenthaler’s plans for re-election in the 2022 election cycle. *See William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269, 282 (Pa. 1975) (a substantial interest is “some discernable adverse effect to some interest other than the abstract interest of all citizens in having other comply with the law”).

49. Based on these facts, Intervenor Reschenthaler has a “substantial, direct, and immediate” interest in a timely and constitutional redistricting plan. *Id.* at 286.

50. In fact, allowing Intervenor Reschenthaler's intervention request would be consistent with this Court's blueprint for adjudicating challenges to the congressional redistricting process when there is a legislative impasse.

51. In *Mellow v. Mitchell*, 607 A.2d 204 (Pa. 1992) this Court allowed two sets of congressional intervenors. Notably, one of those intervenors, Congressman Lucien Blackwell, was allowed intervention (limited to filing a brief) *after* the record closed, thus indicating the court's willingness to permit intervention. *See id.* at 212-13.

52. Indeed, it appears the *Mellow* Court liberally allowed intervention in an effort to promote equity and openness in the process. *See id.* at 205 ("The Attorney General intervened and additional parties, a number of whom submitted plans of their own, were also granted intervenor status to represent the interests of specific counties or other geographical areas around the State or to protect the voting rights of African-Americans in various congressional districts.").

53. Respondents have referred to *Mellow* as the "blueprint" for use when there is a legislative impasse with regard to congressional redistricting. *See* Respondents' Response to Intervenor's Opposition to

Petitioners' Application for Exercise of Extraordinary Relief or King's Bench Power at 4.

54. At this juncture, the Court should continue to execute the blueprint—which proved remarkably effective—as set forth in *Mellow*.

55. And, what's more, other jurisdictions also endorse the process of allowing individual congresspersons to intervene. *See, e.g., Johnson v. Wisconsin Elections Comm.*, ___N.W.2d___, 2021 WL 5578395 (Nov. 30, 2021) (listing several Congresspersons as intervenors).

56. To alter the process this late in the game would needlessly undermine the fairness of the process.

Intervenor Varner

57. Intervenor Varner could have joined as an original party because he could have filed an identical suit on behalf of the citizens of Sawarta, or as an individual taxpayer. *See Com ex rel. Maurer v. Witkin*, 25 A.2d 317, 318 (Pa. 1942) (intervenor, as a citizen, taxpayer, and elector, “was qualified to join as an original party” in a mandamus action seeking a declaration that a councilmember's office in his district

was vacant and that the election should be filled in the November election).

58. As a member of Swatara Township Board of Commissioners, he has a duty to act in the best interests of the citizenry he represents. He therefore could have filed a PFR comparable to the ones filed by Petitioners.

59. Intervenor Varner also has a legally enforceable interest at stake in this litigation.

60. As an elected official, Intervenor Varner will be substantially, directly, and immediately affected by the disposition of this case.

61. In particular, Intervenor Varner—as part of his official duties—often engages with member of Congress in various initiatives, including obtaining funding from the Federal government for essential services it provides to his constituents.

62. An untimely, or worse yet, unconstitutional, redistricting plan will directly, and materially restrict Intervenor Varner’s ability to identify which member of Congress he needs to work with to help provide essential services for his constituents.

63. Moreover, Intervenor Varner has a substantial, direct, and immediate interest in keeping Swatara Township in the same Congressional District.

64. Here, once again, the blueprint set forth in *Mellow* is instructive.

65. The *Mellow* Court liberally allowed multiple municipal and county intervenors. *See* 607 A.2d at 220-221 (listing the “[v]arious intervenors” that “raised community-of-interest issues with respect to” their particular regions—including, Cheltenham Township; Leigh, North Hampton, Berks, Schuylkill, and Cumberland Counties).

66. In *League of Women Voters*, the court viewed the following “foundational requirements” to be “a particularly suitable measure in assessing whether a congressional districting plan dilutes the potency of an individual’s ability to select the congressional representative of his or her choice”: “(1) the population of such districts must be equal, to the extent possible; (2) the district that is created must be comprised of compact and contiguous geographical territory; and (3) the district respects the boundaries of existing political subdivisions contained therein, such that the district divides as few of those subdivisions as

possible.” *League of Women Voters*, 178 A.3d at 815 (citing, Pa. Const. art 2, 16).²

67. Along those lines the *League of Women Voters*’ Court observed “ rather than impermissibly lessening the power of an individual’s vote based on geographical area in which the individual resides . . . the use of compactness, contiguity, and the maintenance of the integrity of the boundaries of political subdivisions maintains the strength of an individual’s vote in electing a congressional representative.” *Id.* at 816.

68. The Court further explained: “When an individual is grouped with other members of his or her community in a congressional district for purposes of voting, the commonality of the interests shared with

² The Carter Petitioners minimize the importance of these interests as they relate to specific communities because, as they view it, these requirements are “already constitutional requirements . . . that this Court will surely consider when adopting a new plan.” Carter Answer at 9. *See id.* at 11 (“It cannot be that voters from all 67 counties in the Commonwealth must be allowed to intervene simply because they reside in different counties, as that would unnecessarily complicate and unduly a [*sic*] case that must be adjudicated expeditiously.”). Although this Court is already constitutionally required (when possible) to keep compact and contiguous the geographic boundaries of localities, this Court should follow the *Mellow* Court’s framework and allow various municipal and county intervenors. Not every county or municipality will seek intervention, but those that do clearly have unique community interests that they wish to bring to the Court’s attention. Indeed, the Commonwealth is not homogenous; and the diverse needs of certain localities may warrant additional consideration.

other voters in the community increases the ability of the of the individual to elect a congressional representative for the district who reflects his or her personal preferences.” *Id.*

69. The interests of Swatara’s community deserve representation in this litigation because their interests are unique from other municipalities or regions in the Commonwealth. *Cf. Mellow*, 607 A.2d at 220 (the “[e]vidence of a community of interest among neighboring areas in [the intereviewer’s] regions have been clear and undisputed”).

70. By liberally allowing municipality and county intervenors, the *Mellow* Court indicated that it understood the importance of these particular, and local interests—especially where the Court was tasked with selecting a redistricting plan because of a legislative impasse.

71. When the *Mellow* Court reached its conclusion, and selected a congressional redistricting plan, the court stated that the map it chose came “closest to implementing the community-of-interest factors *in those regions across the state which have identified them.*” *Id.* at 224 (emphasis added).

72. Had the municipal and county intervenors not identified their specific, and unique community interests, the *Mellow* Court's attention may not have been focused on those interests.

73. Here, Intervenor Varner, and the residents of Swarata, will be substantially, directly, and immediately impacted by resolution of this case. *See Keener v. Zoning Hearing Bd. of Millcreek Tp.*, 714 A.2d 1120, 1122 (Pa. Cmwlth. 1998) (intervenor "must have some right, whether legal or equitable which will be affected by the proceedings").

74. As in *Mellow*, this Court should allow Intervenor Varner to represent the particular geographic and communal interests of Sawarta Township.

Intervenors Former Congressmen

75. Intervenor Former Congressmen could have joined as an original party to this action. *See Pa.R.C.P. 2327(3)*.

76. As citizens and electors they could have filed suit challenging the unconstitutionally malapportioned districts.

77. Intervenor Former Congressmen also have a legally enforceable interest distinct from that of any Petitioner.

78. Intervenors Former Congressmen have an interest in advocating on behalf of the communities that they formerly served.

79. As former congressmen, the Intervenors, stand apart from Petitioners because they have intimate knowledge of the redistricting process, and understand the geographical and communal interests attendant to that process.

80. Their knowledge is particularly acute with respect to the districts they previously served, and thus they will be able to provide the Court with critical information regarding the communities and boundaries in their districts.

81. Additionally, this Court should grant Intervenors Former Congressmen request to intervene based on the *Mellow* Court's liberal allowance of intervention.

82. Here, as in *Mellow*, the Court will benefit from additional parties advocating on behalf of their geographic and communal interests.

Conclusion

83. Because each Intervenor could have joined as original parties, and this matter affects the legally enforceable interests of each

Intervenor, they satisfy at minimum two categories for intervention.

Pa.R.C.P. No. 2327.

84. If permitted to intervene, Intervenors will adopt by reference Paragraphs 1-8; 11-38; and 41-63 of the Carter Petitioners' Petition for Review. *See* Pa.R.C.P. No. 2328(a).

85. Finally, none of the three considerations for denying intervention are present.

86. First, Intervenors' claim is in subordination to and in recognition of the propriety of the pending action as it concerns the adoption of a congressional redistricting plan. Pa.R.C.P. No. 2329(1).

87. Second, Intervenors' interests differ from and, therefore, are not already adequately represented by the existing parties. Petitioners, registered Pennsylvania voters in overpopulated congressional districts, seek to protect their right to cast an equal vote. Intervenors' interests diverge from those of Petitioners for the reasons set forth more fully above. Therefore, Intervenors' interests are not adequately represented. Pa.R.C.P. No. 2329(2).

88. Third, Intervenors have not unduly delayed in making this Application nor will the intervention delay, embarrass or prejudice the

trial or adjudication of rights of the parties. Petitioners filed their Petitions for Review two weeks prior to Intervenors' Application. Respondents have not yet filed an Answer or other responsive pleading. Further, this Application is timely filed under this Court's December 20 scheduling order. There is no prejudice or undue delay in granting intervention at this early stage. *See* Pa.R.C.P. No. 2329(3).

89. In accordance with Pa.R.A.P. 3707, Intervenors consulted with all counsel of record via email to request their concurrence or non-concurrence with this Application and solicited a response by close of business on December 31, 2021, otherwise Intervenors would note that counsel did not concur. Having received no response by close of business on the date of filing, Petitioners and Respondents do not concur with the relief sought in this Application.

WHEREFORE, Intervenors respectfully requests that this Court grant this Application and grant Intervenors leave to intervene as parties in this matter.

Respectfully submitted,

Dated: December 31, 2021

s/ Matthew H. Haverstick
Matthew H. Haverstick (No. 85072)
Joshua J. Voss (No. 306853)
Shohin H. Vance (No. 323551)
KLEINBARD LLC
Three Logan Square
1717 Arch Street, 5th Floor
Philadelphia, PA 19103
Ph: (215) 568-2000
Fax: (215) 568-0140
Eml: mhaverstick@kleinbard.com
jvoss@kleinbard.com
svance@kleinbard.com

*Attorneys for Guy Reschenthaler,
Jeffrey Varner, Tom Marino, Ryan
Costello, and Bud Shuster*

VERIFICATION

I, Guy Reschenthaler, United States Representative, verify that the statements made in the foregoing Application are true and correct to the best of my knowledge, information, and belief. I make this verification subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 12/31/2021



Guy Reschenthaler

VERIFICATION

I, Matthew H. Haverstick, verify that the statements made in the foregoing Application are true and correct to the best of my knowledge, information, and belief, based upon information provided to me by Ryan Costello, who is outside the jurisdiction and whose verification cannot be obtained within the time allowed for filing. I make this verification subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: December 31, 2021

Matthew H. Haverstick

Attorney for Ryan Costello