

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**MATTHEW J. BROUILLETTE;
REP. JAMES CHRISTIANA *and*
BENJAMIN LEWIS,**
Petitioners

NO. 410 MD 2017

Electronically Filed

v.

**THOMAS WOLF, GOVERNOR;
RANDY ALBRIGHT; JOSEPH
TORSELLA; EUGENE
DEPASQUALE; MICHAEL
TURZAI; DAVID REED; JOSEPH
B. SCARNATI, III; JAKE
CORMAN,**
Respondents

**RESPONDENT WOLF'S APPLICATION IN THE NATURE OF A
MOTION TO STAY THE DEADLINE FOR FILING A PLEADING
RESPONSIVE TO THE AMENDED PETITION FOR REVIEW**

Pursuant to Pennsylvania Rule of Appellate Procedure 123, Respondent Governor Thomas W. Wolf (Governor Wolf), by and through his counsel, files this application to request that the Court stay the deadline for filing a pleading responsive to the Amended Petition for Review for the following reasons:

1. Petitioners initiated this matter on September 14, 2017, by filing a Petition for Review claiming that Governor Wolf violated the Pennsylvania Constitution by allowing the General Appropriations Bill to become law without taking corrective action to veto the Bill entirely, or use the item veto to reduce appropriations to comport with actual and estimated revenues. PFR, ¶¶72-73.

2. Petitioners also challenged the constitutionality of the authorization and extension of a line of credit from Treasury's Short Term Investment Pool to provide sufficient liquidity within the Commonwealth's General Fund to meet expenditure obligations when projected expenditures temporarily exceed anticipated revenues.

3. Petitioners' arguments are premised on the assertion that the Commonwealth does not have a balanced operating budget. *See* PFR, ¶¶50-83.

4. Petitioners filed an Amended Petition for Review on November 7, 2017, which did not materially change the allegations raised in the original Petition for Review.¹

5. Pursuant to R.A.P. 1516(b), a pleading responsive to the Amended Petition for Review is due on or before December 7, 2017.

¹ Secretary Albright was named as a Respondent in the original Petition for Review only in paragraphs seeking injunctive relief. *See, e.g.*, PFR at 24, "wherefore" clause. The Amended Petition for Review does not name Secretary Albright; however, it adds the "Commonwealth of Pennsylvania" as a Respondent.

6. On November 14, 2017, a Motion to Dismiss for Mootness was jointly filed by Respondent Treasurer Joseph M. Torsella and Auditor General Eugene DePasquale.

7. On November 28, 2017, Respondents Senators Joseph B. Scarnati, III and Jake Corman joined in Treasurer Torsella's and Auditor General DePasquale's Motion to Dismiss.

8. Governor Wolf joins in the Motion to Dismiss.

9. On November 29, 2017, this Honorable Court issued an order scheduling a hearing for December 12, 2017 at 10:00 a.m., on the Motion to Dismiss.

10. The Court's decision on the Motion to Dismiss may be entirely dispositive of the Amended Petition.

11. To avoid unnecessary pleadings and duplicative arguments, it is in the interest of judicial economy to delay filing a responsive pleading until the Motion to Dismiss has been decided.

WHEREFORE, Respondent Wolf respectfully requests that this Honorable Court stay the deadline for filing a pleading responsive to the Amended Petition for Review until after the Motion to Dismiss is decided.

Respectfully submitted,

**JOSH SHAPIRO
Attorney General**

**By: s/Keli M. Neary
KELI M. NEARY
Senior Deputy Attorney General
Attorney I.D. #205178**

**Office of Attorney General
Litigation Section
15th Floor, Strawberry Square
Harrisburg, PA 17120
Direct: 717-787-1180
kneary@attorneygeneral.gov**

**KENNETH L. JOEL
Chief Deputy Attorney General
Chief, Litigation Section**

*Counsel for Respondent Governor
Wolf*

Date: December 5, 2017

CERTIFICATE OF SERVICE

I, Keli M. Neary, Senior Deputy Attorney General, hereby certify that on December , 2017, I caused to be served a copy of the foregoing **APPLICATION FOR RELIEF IN THE NATURE OF A MOTION TO STAY** via electronic filing to the following:

Shawn Michael Rodgers, Esquire
Jonathan Shae Goldstein, Esquire
McNelly & Goldstein, LLC
11 Church Road
Hatfield, PA 19440
Counsel for Petitioners

F. Stephenson Matthes, Esquire
Pennsylvania Auditor General
Office of Chief Counsel
224 Finance Building
Harrisburg, PA 17120-0018
Counsel for Respondent Eugene DePasquale

Christopher B. Craig, Esquire
Kathryn Cerulli Joyce, Esquire
Pennsylvania Treasury
Office of Chief Counsel
127 Finance Building
Harrisburg, PA 17120
Counsel for Respondent State Treasurer Joseph M. Torsella

Victoria Sellitto Madden, Esquire
Department of Auditor General
Office of Chief Counsel
224 Finance Building
Harrisburg, PA 17120-0018
Counsel for Respondent Eugene DePasquale

Matthew H. Haverstick, Esquire
Mark E. Seiberling, Esquire
Kleinbard LLC
1650 Market Street 46th Floor
Philadelphia, PA 19103
Counsel for Joseph B. Scarnati and Jake Corman

David J. Porter, Esquire
Matthew C. Pilsner, Esquire
Buchanan Ingersoll & Rooney PC
301 Grant Street Floor 20
Pittsburgh, PA 15129
Counsel for Michael Turzai and Dave Reed

Pennsylvania General Assembly
508 Main Capitol Building
Harrisburg, PA 17120
Pro Se Respondent

Randy Albright
19th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101
Pro Se Respondent

By: *s/Keli M. Neary*
KELI M. NEARY
Senior Deputy Attorney General