

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

No. 133 MM 2020

PENNSYLVANIA DEMOCRATIC PARTY, et al.

Petitioners,

v.

**KATHY BOOCKVAR, in her capacity as Secretary of the Commonwealth of
Pennsylvania, et al.,**

Respondents.

APPLICATION TO FILE BRIEF NUNC PRO TUNC

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Secretary of the Commonwealth of Pennsylvania

Pursuant to Rule 123 of the Pennsylvania Rules of Appellate Procedure, Secretary of State Kathy Boockvar, by and through her undersigned counsel, hereby applies to the Court to accept her Supplemental Brief *nunc pro tunc* and, in support thereof, states the following:

1. Pursuant to the Order dated September 1, 2020, the parties and intervenors were permitted to file supplemental memoranda on or before 5:00 pm on September 8, 2020.
2. Myers, Brier & Kelly, LLP, as co-counsel for Secretary Boockvar, logged into the PACFile system before 5:00 pm on September 8, 2020 and attempted to file the supplemental brief but encountered technical problems which prevented the filing.
3. After numerous attempts, the electronic submission from Myers, Brier & Kelly, LLP was received by the PACFile system at 5:53 pm. An error message was also generated at the same time. However, the email notice of filing received at 5:53 pm includes a link to the brief which is time-stamped 5:53 pm.
4. Prior to the successful transmission at 5:53 pm, Myers, Brier & Kelly, LLP sought assistance with the filing from co-counsel at the Office of Attorney General. The Office of Attorney General submitted the brief through PACFile at 6:02 pm.
5. No changes or revisions were made to the brief after 5:00 pm.

6. The delay in submission resulted solely from technical difficulties encountered by the Myers, Brier & Kelly, LLP firm while attempting to complete the PAC filing.


WHEREFORE, the undersigned counsel for Secretary Boockvar respectfully requests that the Court accept the Supplemental Brief for filing *nunc pro tunc*.

Dated: September 8, 2020

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby 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 requires filing confidential information and documents differently than non-confidential information and documents.

/s/ Daniel T. Brier
Daniel T. Brier

Date: September 8, 2020

PROOF OF SERVICE

I, Daniel T. Brier, hereby certify that I am this day serving the foregoing Application to File Brief *nunc pro tunc* upon all counsel of record via PACFile eService, which service satisfies the requirements of Pa.R.A.P. 12.

Date: September 8, 2020

/s/ Daniel T. Brier
Daniel T. Brier