

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

No. 149 MM 2020

IN RE NOVEMBER 3, 2020 GENERAL ELECTION

**ANSWER OF PETITIONER KATHY BOOCKVAR TO
APPLICATION FOR LEAVE TO INTERVENE**

Daniel T. Brier
Donna A. Walsh
MYERS, BRIER & KELLY, LLP
425 Spruce Street, Suite 200
Scranton, PA 18503

Daniel T. Donovan
Michael A. Glick
Susan M. Davies
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004

J. Bart DeLone
Howard G. Hopkirk
Michael J. Scarinci
PENNSYLVANIA OFFICE OF
ATTORNEY GENERAL
15th Floor, Strawberry Square
Harrisburg, PA 17120

Counsel for Petitioner Kathy Boockvar,
Secretary of the Commonwealth of Pennsylvania

For the same reasons detailed in her answer to the applications to intervene filed by other proposed intervenors, Secretary of the Commonwealth Kathy Boockvar does not oppose intervention by Pennsylvania Senate President *Pro Tempore* Joseph B. Scarnati and Senate Majority Leader Jake Corman in their capacity as individual legislators. Secretary Boockvar, however, objects to the suggestion by Senators Scarnati and Corman that they are authorized to act on behalf of the Senate Republican Caucus. There was no formal delegation of any such authority. Further, Senators Scarnati and Corman and other legislative leaders are not authorized to advocate on behalf of either house “as a whole,” *see* Appl. To Intervene at 1, or on behalf of the entire General Assembly, *id.* at 4-5, merely because Republicans presently enjoy a majority. *See Disability Rights Pennsylvania v. Boockvar*, 234 A.3d 390 (Pa. 2020) (J. Wecht, concurring statement) (“Because the House and Senate Intervenors in their official capacity cannot speak for the General Assembly as a whole, and therefore do not collectively represent that body’s legislative prerogatives, in an appropriate case I would be receptive to the argument that they are not ‘person[s]’ with a ‘legally enforceable interest’ permitted to intervene under Rule 2327”); *see also Corman v. Torres*, 287 F. Supp. 3d 558, 569 (M.D. Pa. 2018) (dismissing claims asserted by two state legislators because “[t]heir two votes are inadequate as a matter of law to allow a lawsuit premised on

an institutional injury to the General Assembly”), *appeal dismissed*, 751 F. App’x 157 (3d Cir. 2018).

While Secretary Boockvar does not oppose the intervention of Senators Scarnati and Corman as individual legislators, they should not be permitted to intervene on behalf of the Senate or General Assembly.

Dated: October 8, 2020

Respectfully submitted,

J. Bart DeLone
Howard G. Hopkirk
Michael J. Scarinci
PENNSYLVANIA OFFICE OF
ATTORNEY GENERAL
15TH Floor, Strawberry Square
Harrisburg, PA 17120

/s/ Daniel T. Brier
Daniel T. Brier
Donna A. Walsh
MYERS, BRIER & KELLY, LLP
425 Spruce Street, Suite 200
Scranton, PA 18503

Daniel T. Donovan
Michael A. Glick
Susan M. Davies
KIRKLAND & ELLIS LLP
1301 Pennsylvania Avenue, NW
Washington, DC 20004

Attorneys for Petitioner, Kathy Boockvar,
Secretary of the Commonwealth of Pennsylvania

CERTIFICATE OF COMPLIANCE

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

/s/ Daniel T. Brier
Daniel T. Brier

Date: October 8, 2020

CERTIFICATE OF SERVICE

I, Daniel T. Brier, hereby certify that I am this day serving the foregoing Answer of Petitioner Kathy Boockvar to Application for Leave to Intervene upon all counsel of record via PACFile eService, which service satisfies the requirements of Pa.R.A.P. 12.

/s/ Daniel T. Brier
Daniel T. Brier

Date: October 8, 2020