

NAACP PENNSYLVANIA STATE
CONFERENCE,

Petitioner,

v.

KATHY BOOCKVAR,
SECRETARY OF THE
COMMONWEALTH,
AND JESSICA MATHIS, DIRECTOR
OF THE BUREAU OF ELECTION
SERVICES AND NOTARIES,

Respondents.

COMMONWEALTH COURT
OF PENNSYLVANIA

No. 364 MD 2020

**PETITIONER’S ANSWER IN OPPOSITION TO
INDIVIDUAL REPRESENTATIVES’ AND SENATORS’
APPLICATIONS FOR LEAVE TO INTERVENE**

Petitioner the National Association for the Advancement of Colored People Pennsylvania State Conference (“NAACP-PSC”) files this Answer in Opposition to the Petition to Intervene by Speaker of the Pennsylvania House of Representatives Bryan Cutler and Majority Leader of the Pennsylvania House of Representatives Kerry Benninghoff (collectively, “Representatives”), and the Motion to Intervene by Joseph B. Scarnati III, President Pro Tempore, and Jake Corman, Majority Leader

of the Pennsylvania Senate (collectively, “Senators”). The Senators and Representatives will be referred to collectively as Proposed Intervenors.

INTRODUCTION

This Court should deny the Proposed Intervenors’ attempt to intervene in this action because neither can meet the threshold requirements for intervention under Pa. R.C.P. 2327. Even if the Court finds that the Proposed Intervenors satisfy these requirements, it should deny their petitions under Pa. R.C.P. 2329(2) because each has its interest “already adequately represented” by Respondents.

The Representatives and Senators seek to intervene under either Pa. R.C.P. 2327(3) or Pa. R.C.P. 2327(4), which permits intervention if a non-party “(3) . . . could have joined as an original party in the action or could have been joined therein; or (4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.” For the reasons that follow, the Representatives and Senators do not satisfy either of these prerequisites for intervention and their respective Applications should be denied.

A. The Applications Should be Denied Because Neither the Representatives Nor Senators Have a Legally Enforceable Interest Which Will be Affected by the Determination in This Action.

The Proposed Intervenors’ efforts to join this matter flow from a misplaced view that they have a legally recognized stake in this matter. Pennsylvania law

teaches otherwise. It is a bedrock rule under our state Constitution that individual legislators who do not speak for the General Assembly as a whole lack a legally enforceable interest in defending the constitutionality of Pennsylvania legislation. Pennsylvania’s Constitution is unmistakable—“[t]he legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.” Pa. Const. art. II § 1. Here, the Representatives, as leaders in the House, purport to have “an enforceable interest to legislate for elections in Pennsylvania” and in appropriating state funds. Representatives’ Petition ¶¶ 21, 41. The Senators suggest that they are here to vindicate the Senate’s “exclusive constitutional right[]” to (1) determine the time, place, and manner of holding elections, (2) suspend laws, and (3) appropriate funds for expenditure by the state. Senators’ Petition ¶ 4. Tellingly, neither the Representatives nor the Senators purport to, or can, speak for the General Assembly as a whole, nor are they a group to which Pennsylvania has delegated lawmaking power.

This Court need not search far to find authority rejecting the Proposed Intervenors’ sweeping claim for intervention. Justice Wecht, in a concurring statement to the Supreme Court of Pennsylvania’s recent decision in *Disability Rights Pa. v. Boockvar*, exhaustively explained why intervention is unwarranted under similar circumstances. No. 83 MM 2020, 2020 WL 2820467 (Pa. May 15,

2020). In *Disability Rights*, the petitioners sued the same Respondents as in this matter for violations of the Pennsylvania Constitution’s Free and Equal Elections Clause. Individual leaders from both the Pennsylvania Senate and House of Representatives moved to intervene. *Id.* at *1.

Justice Wecht “express[ed] . . . skepticism that a single chamber of our bicameral legislature would have standing to intervene in an action of this nature.” *Id.* at *1. “Our foundational Charter confers no authority on individual legislators or caucuses within each respective chamber to act on behalf of the General Assembly or to substitute their interests for the Commonwealth.” *Id.* at *3. Because the House and Senate leaders could not speak for the General Assembly as a whole, they were likely “not person[s] with a legally enforceable interest permitted to intervene under Rule 2327 in an action challenging the constitutionality of a Pennsylvania statute.” *Id.* Further, any enforceable interest that individual legislators have is limited to their individual right to vote on legislation. *See Markman v. Wolf*, 136 A.3d 134, 145 (2016) (“Standing exists only when a legislator’s direct and substantial interest in his or her ability to participate in the voting process is negatively impacted . . .”). Once an *individual* legislator’s vote has been cast and counted, any legally enforceable interest in that legislation ends. Any other result would allow individual legislators to intervene any time the constitutionality of a law is called into question.

B. The Representatives and Senators Could Not Have Joined or Been Joined as an Original Party in the Action.

The Proposed Intervenors also move to intervene under Pa. R.C.P. 2327(3). This is a question of standing, which the individual legislators lack. *See Markham* 136 A.3d at 139. Pennsylvania courts have held that “[c]learly, Legislatures do not fall within the category of persons permitted to intervene as described in Pa. R.C.P. No. 2327(1) through (3).” *Robinson Twp., Washington Cty. v. Com.*, No. 284 M.D. 2012, 2012 WL 1429454, at *3 (Pa. Commw. Ct. Apr. 20, 2012). And even if they do, Justice Wecht’s concurring statement in *Disability Rights* makes clear that individual legislators only have standing to bring or join suits in very limited circumstances. *Disability Rights*, 2020 WL 2820467, at *2 n.2. Those situations have “largely been confined to *quo warranto* actions challenging the validity of certain appointments made by the Governor allegedly without the Senate’s consent.” *Id.* The rationale in these cases was that standing “derived from the individual right of each Senator to vote to confirm or reject nominees.” *Id.* The Supreme Court of the United States has also expressed skepticism that a single chamber of a bicameral legislature has standing to intervene in defense of a state law. *See Virginia House of Delegates v. Bethune-Hill*, 587 U.S. ___, 139 S. Ct. 1945, 1950 (2019) (holding that “the House, as a single chamber of a bicameral legislature, has no standing to appeal the invalidation of the redistricting plan separately from the State of which it is a part.”). Further, the Representatives and Senators have no role in implementing

or administering the Commonwealth's Election Code, confirming that there was no basis to join the Representatives or Senators in the original Petition for Review.

C. Even if Intervention Was Warranted Under Pa. R.C.P. 2327(3)-(4), this Court Should Deny Intervention Under Pa. R.C.P. 2329(2) Because the Representatives' and Senators' Interests are Already Adequately Represented by Respondents.

Even if the Representatives and Senators had a legally enforceable interest warranting intervention, this Court should refuse intervention under Pa. R.C.P. 2329(2). Rule 2329(2) gives a court discretion to refuse intervention if "the interest of the petitioner is already adequately represented." Respondents in this action already adequately represent the Proposed Intervenors' interest. Both the Secretary of the Commonwealth and the Bureau of Election Services are responsible for supervising and administering the very election laws that the Representatives and Senators have voted into law. "[I]t is the Commonwealth's duty to defend the constitutionality" of its laws, and Respondents will adequately do so. *Robinson Twp.*, 2012 WL 1429454, at *4.

D. Proposed Intervenors' Reliance on *Fumo v. City of Philadelphia* is Misplaced.

In their papers, Proposed Intervenors rely on the Supreme Court of Pennsylvania's decision in *Fumo v. City of Philadelphia* to argue that they have standing to intervene in this case. 972 A.2d 487, 491 (2009). This reliance is misplaced, and *Fumo* is readily distinguishable. In *Fumo*, individual state legislators

challenged the City of Philadelphia’s issuance of a license to construct a casino on submerged lands. *Id.* at 495. The basis of their challenge was that the General Assembly had the exclusive statutory authority to authorize the license at issue. *Id.* The Court held that the legislators had standing, but cautioned that legislative standing is recognized only in “limited instances” to “protect a legislator’s right to vote on legislation.” *Id.* at 501. Standing does not exist for legislators that “assert a mere generalized grievance and do not allege a concrete injury.” *Id.* at 500.

Unlike this case, *Fumo* dealt with individual legislators that had been directly deprived of their right to vote. The Commonwealth had the exclusive authority to grant the licenses at issue, and the legislators were stripped of their authority to “cast a vote or otherwise make a decision” when the City granted the license without statutory authority to do so. *Id.* at 501-02. Here, the General Assembly has already voted and passed the election laws challenged by Petitioner as unconstitutional. Following the Proposed Intervenors’ logic, any action challenging the constitutionality of state legislation implicates legislators’ right to vote and allows them to intervene. There is no basis in the Rules of Civil Procedure or any judicial precedent, including *Fumo*, to support this expansive view of intervention. In sum, the Proposed Intervenors’ basis for standing—unlike that of the Petitioner, which represents individual voters whose *individual* voting rights are at stake—is nothing

more than a “general grievance” about the Pennsylvania Courts’ power to grant equitable relief for constitutional violations. *See id.* at 501.

ANSWER TO REPRESENTATIVES’ PROPOSED INTERVENTION

1. Denied. Petitioner seeks temporary and emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. Pet. ¶¶ 1-22.

2. Admitted.

3. Admitted in part, and denied in part. Petitioner admits that Speaker Cutler formerly served as the House Majority Leader and that Representative Turzai formerly served as Speaker. Petitioner, however, is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth in this paragraph, and therefore they are denied.

4. Denied. Petitioner seeks temporary and emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. Pet. ¶¶ 1-22.

5. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph, and therefore they are denied.

6. Denied. Petitioner seeks temporary and emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. Pet. ¶¶ 1-22.

7. Denied. This paragraph contains a legal conclusion to which no responsive pleading is required. To the extent a response is required, it is denied. By way of further response, for the reasons stated in Petitioner's Introduction, the Representatives do not have a legally enforceable interest that permits them to intervene. Even if the Representatives are found to have a legally enforceable interest, their interests are already adequately represented by Respondents.

8. Admitted in part, denied in part. Admitted that on October 29, 2019, the Pennsylvania House of Representatives and the Pennsylvania Senate passed a bill that would become Act 77 that updated Pennsylvania's election code and that Pennsylvania Governor Tom Wolf signed Act 77 into law on October 31, 2019. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth in this paragraph, and therefore they are denied.

9. Admitted in part, denied in part. Admitted that Act 77 modified laws relating to mail-in voting and election deadlines. Petitioner is without knowledge or

information sufficient to form a belief as to the truth of the remaining averments set forth in this paragraph, and therefore they are denied.

10. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph, and therefore they are denied.

11. Admitted in part, denied in part. Admitted that no member of the General Assembly, or the General Assembly generally, was named as a Respondent in this case. The remaining averments in this paragraph contain legal conclusions to which no responsive pleading is required. To the extent a response is required, it is denied.

12. Admitted in part, denied in part. Admitted that the Representatives attach proposed Preliminary Objections as Exhibit A to their Petition to Intervene. The remaining averments of this paragraph are denied.

13. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, intervention is not mandatory here under Pa. R.C.P. 2329(2) because Respondents “already adequately represent” the Representatives’ interest.

14. Denied. This paragraph states a Pennsylvania Rule of Civil Procedure, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, intervention is not mandatory here under Pa. R.C.P.

2329(2) because Respondents “already adequately represent” the Representatives’ interest.

15. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

16. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, intervention is not mandatory here under Pa. R.C.P. 2329(2) because Respondents “already adequately represent” the Representatives’ interest.

17. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

18. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

19. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

20. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, for the reasons stated in Petitioner’s Introduction, the Representatives do not have a legally enforceable interest that permits them to intervene, and they could not have been original parties to this case. Even if the Representatives are found to have a legally enforceable

interest, or could have been original parties to the case, their interests are already adequately represented by Respondents.

21. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, for the reasons stated in Petitioner's Introduction, the Representatives do not have a legally enforceable interest that permits them to intervene, and they could not have been original parties to this case. Even if the Representatives are found to have a legally enforceable interest, or could have been original parties to the case, their interests are already adequately represented by Respondents.

22. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

23. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

24. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, and for the reasons stated in Petitioner's introduction, *Fumo* has no application here. *Fumo* dealt with individual legislators that were directly deprived of their right to vote when the City of Philadelphia granted a license that only the General Assembly was authorized to grant. 972 A.2d at 501-02. Here, the Representatives have already voted on the legislation challenged in the Petition. Their basis for standing is nothing more than

a “general grievance” about the Pennsylvania Courts’ power to grant equitable relief for constitutional violations.

25. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

26. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

27. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

28. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

29. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

30. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

31. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

32. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

33. Denied. Petitioner seeks temporary and emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election

during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. Pet. ¶¶ 1-22. To the extent the averments in this paragraph quote allegations from Petitioner's Petition for Review, those allegations are in writing and speak for themselves.

34. Denied. Petitioner seeks redress for violations of the Pennsylvania Constitution's Free and Equal Elections Clause. The power to adjudicate and remedy Constitutional violations is the exclusive province of the Pennsylvania Courts.

35. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

36. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, Petitioner seeks temporary, emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. This relief supplements, rather than supplants, existing election administration procedures.

37. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, for the reasons stated in Petitioner's Introduction, the Representatives do not have a legally enforceable

interest that permits them to intervene. Even if the Representatives are found to have a legally enforceable interest, their interests are already adequately represented by Respondents.

38. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, the cases cited herein lend no support to the Representatives' efforts to intervene in this case. *See Fumo*, 972 A.2d 487 (individual legislators were directly deprived of their ability to vote in the first place, where here, the legislators have already voted on the challenged legislation); *Allegheny Reproductive Health Ctr. v. Pa. Dep't of Human Servs.*, 225 A.3d 902 (Pa. Commw. Ct. 2020) (allowing individual legislators to intervene in part because the requested relief could affect the legislators' ability to vote on appropriations "in the future" and beyond the specific statute at issue); *Leach v. Commonwealth*, 118 A.3d 1271, 1273 n.2 (Pa. Commw. Ct. 2015) (ruling on a motion for summary relief and giving no explanation for grounds on which individual legislator was permitted to intervene); *Common Cause/Pennsylvania v. Commonwealth*, 710 A.2d 108, 112 n.3 (Pa. Commw. Ct. 1998) (providing no explanation for grounds on which individual legislators were permitted to intervene).

39. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, for the reasons stated in

Petitioner's Introduction, the Representatives do not have a legally enforceable interest that permits them to intervene in this matter.

40. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, individual legislators are not permitted to intervene as a matter of right because for the reasons stated in Petitioner's Introduction, the Representatives do not have a legally enforceable interest that permits them to intervene in this matter.

41. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

42. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

43. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

44. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, *Allegheny* is distinguishable. In *Allegheny*, the relief sought by Petitioners would not only affect the individual legislators' ability to appropriate funds for the challenged statute, but would also "extend beyond the statute" to other areas of the Crimes Code and affect their ability to "propose and vote on funding legislation in the future." 225 A.3d at 912-13.

44. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

45. Denied. The allegations in this paragraph refer to the Petition, which is in writing and speaks for itself. To the extent that the Representatives seek to characterize the contents of the Petition, these characterizations are denied. By way of further response, the General Assembly has already authorized county commissioners to appropriate funds annually for all necessary expenses to conduct primaries and elections, including the issuances of mail ballots to eligible voters upon request. *See* 25 Pa.C.S. §§ 2645, 3146.2a(3). Additionally, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provides emergency funds to states to “prevent, prepare for, and respond to the coronavirus for the 2020 federal election cycle.” Pennsylvania Dep’t of State, *Help America Vote Act (HAVA) 2020 CARES Act Grant Fund*, <https://www.dos.pa.gov/VotingElections/Pages/2020-Federal-Grants.aspx> (last visited July 20, 2020). Petitioner’s requested relief does not implicate the Pennsylvania Constitution’s Appropriations Clause, and the Representatives’ reliance on it as a justification for intervention lacks merit.

46. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

47. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph, and therefore they are denied.

48. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

49. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, and as explained in Petitioner's Introduction, individual House Leaders are not "routinely" joined as original parties and only have standing to bring or join suits in limited circumstances.

50. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

51. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, it is denied that House Leaders could have joined as original parties in this action. As explained in Petitioner's Introduction, individual House Leaders only have standing to bring or join suits in limited circumstances. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth in this paragraph, and therefore they are denied.

52. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, the inclusion of any other

representatives in any prior lawsuit has no legal impact on this matter given that the Representatives should not be permitted to intervene in this matter, as explained in the Introduction above.

53. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

54. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, and as explained in Petitioner’s Introduction, individual House Leaders only have standing to bring or join suits in limited circumstances, none of which are present here. Further, Petitioner seeks temporary and emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. Pet. ¶¶ 1-22. By way of further response, it is specifically denied that House Leaders are “typically” joined.

55. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, the temporary and emergency relief sought by Petitioner does not directly affect the Representatives’ interest as legislators. By way of further response, for the reasons stated in Petitioner’s Introduction, the Representatives do not have a legally enforceable interest that permits them to intervene.

56. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, it is specifically denied that the Representatives have established that they are permitted to intervene in this case. The Representatives do not have a legally enforceable interest and would not have been permitted to join as an original party to the action. The remaining averments in this paragraph contain conclusions of law to which no responsive pleading is required, and on that basis are denied.

57. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

58. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, and for the reasons stated in Petitioner's Introduction, the Representatives' interests are already adequately represented by Respondents.

59. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

60. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

61. Denied. The allegations in this paragraph refer to the Petition, which is in writing and speaks for itself. To the extent that the Representatives seek to characterize the contents of the Petition, these characterizations are denied.

62. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph, and therefore they are denied. To the extent the averments in this paragraph quote written documents, those documents are in writing and speak for themselves and the Representatives' characterization of those documents are denied.

63. Denied. The allegations in this paragraph refer to writings, including the Petition and a Joint Statement, which are in writing and speak for themselves. To the extent that the Representatives seek to characterize the contents of these documents, these characterizations are denied. By way of further response, Petitioner is without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth in this paragraph, and therefore they are denied.

64. Denied. The allegations in this paragraph refer to the Petition, which is in writing and speaks for itself. To the extent that the Representatives seek to characterize the contents of the Petition, these characterizations are denied. By way of further response, and as described above, the Respondents will adequately represent the Representatives' interests, which should foreclose intervention.

65. Denied. It is specifically denied that the Representatives' presence in this case will simplify this action, and that they will bring before the Court arguments and law that otherwise would not be present. Because Respondents already adequately

represent the Representatives' interests, their presence will only needlessly expand, extend, and duplicate litigation proceedings. The remaining averments in this paragraph contain conclusions of law to which no responsive pleading is required, and on that basis are denied.

66. Denied. The Representatives do not have not have a legally enforceable interest that permits them to intervene, and could not have been joined as an original party in the action. Even if the Representatives are found to have a legally enforceable interest, or could have been joined as an original party in the action, their interests are already adequately represented by Respondents.

ANSWER TO SENATORS' PROPOSED INTERVENTION

1. Denied. This paragraph states a Pennsylvania Rule of Appellate Procedure, the content of which speaks for itself and to which no responsive pleading is required.

2. Denied. This paragraph states a Pennsylvania Rule of Civil Procedure, the content of which speaks for itself and to which no responsive pleading is required.

3. Denied. This paragraph states a Pennsylvania Rule of Civil Procedure, the content of which speaks for itself and to which no responsive pleading is required.

4. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

5. Denied. Petitioner specifically denies that it is seeking to have this Court “rewrite” or “suspend” certain elections administrations as asserted in this paragraph. By way of further response, Petitioner seeks temporary and emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. Pet. ¶¶ 1-22. Such relief supplements, rather than supplants, existing election administration procedure. The last sentence of this paragraph constitutes a legal conclusion to which no response is required and that sentence is therefore denied.

6. Denied. The allegations in this paragraph refer to the Petition, which is in writing and speaks for itself. To the extent that the Senators seek to characterize the contents of the Petition and the relief sought therein, these characterizations are denied.

7. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph pertaining to the Senators’ intentions, and therefore they are denied.

8. Denied. Petitioners specifically deny that the Commonwealth and County Elections have to “subsidize” any requested relief. By way of further

response, the General Assembly has already authorized county commissioners to appropriate funds annually for all necessary expenses to conduct primaries and elections, including the issuances of mail ballots to eligible voters upon request. *See* 25 Pa.C.S. §§ 2645, 3146.2a(3). Additionally, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provides emergency funds to states to “prevent, prepare for, and respond to the coronavirus for the 2020 federal election cycle.” Pennsylvania Dep’t of State, *Help America Vote Act (HAVA) 2020 CARES Act Grant Fund*, <https://www.dos.pa.gov/VotingElections/Pages/2020-Federal-Grants.aspx> (last visited July 20, 2020). Petitioner’s requested relief does not implicate the Pennsylvania Constitution’s Appropriations Clause, and the Senators’ reliance on it as a justification for intervention lacks merit.

9. Denied. Petitioner seeks temporary and emergency procedures to protect the constitutional rights of Pennsylvanians to participate in a free and equal election during an ongoing public health emergency that has rendered the available voting options and procedures inaccessible. Pet. ¶¶ 1-22. Such relief supplements, rather than supplants, existing election administration procedure.

10. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

11. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

12. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

13. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

14. Admitted in part, denied in part. It is admitted only that the Proposed Senators have filed a motion to intervene.

15. Denied. On information and belief, both Respondents and the Senators seek to uphold the challenged voting laws, and thus Respondents will adequately represent the Senators' interests, which should foreclose intervention.

16. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph pertaining to the Senators' intentions, and therefore they are denied.

17. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph pertaining to the Senators' beliefs, and therefore they are denied. By way of further response, the burdens on the right to vote alleged in the Petition are the direct result of state action.

18. Admitted in part, and denied in part. It is admitted that the pandemic is a "fast-moving, continuously evolving circumstance." The remaining averments in

this paragraph contain conclusions of law to which no responsive pleading is required. To the extent that this paragraph contains any factual averments, those are denied. By way of further response, Petitioner's case is premised on voting rights violations that occurred during the General Primary on June 2, 2020, and that will occur on the General Election on November 3, 2020, unless there is court intervention. As a result, these injuries are concrete and immediate.

19. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, the relief sought in the Petition for Review is calculated to cure the constitutional harms extensively documented therein.

20. Denied. This paragraph contains conclusions of law to which no responsive pleading is required.

21. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, Petitioners specifically deny any suggestion that this Court lacks the authority to address the constitutional infirmities identified in the Petition for Review and must give way to the General Assembly.

22. Admitted in part, denied in part. It is admitted that the General Assembly passed Act 35. Petitioner, however, is without knowledge or information

sufficient to form a belief as to the truth of the remaining averments set forth in this paragraph, and therefore they are denied.

23. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph, and therefore they are denied.

24. Denied. Petitioner is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph describing what the Senators intend to do if they are permitted to intervene; these averments are therefore denied.

25. Denied. This paragraph contains conclusions of law to which no responsive pleading is required. By way of further response, the Senators' reference to their Preliminary Objections is premature given the absence of an order from this Court permitting the Senators' intervention. As explained above, this Court should reject any efforts by the Senators to intervene in this matter.

Date: July 22, 2020

/s/ Sozi Pedro Tulante

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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.

Date: July 22, 2020

/s/ Sozi Pedro Tulante
Sozi Pedro Tulante (Pa. 202579)

that the Petition and the Motion are both denied.

By THE COURT

CERTIFICATE OF SERVICE

I, Sozi Pedro Tulante, hereby certify that on July 22, 2020, I caused a true and correct copy of the foregoing document titled Petitioner's Answer in Opposition to Individual Representatives' and Senators' Applications for Leave to Intervene to be served via electronic filing to all counsel of record.

Date: July 22, 2020

/s/ Sozi Pedro Tulante
Sozi Pedro Tulante (Pa. 202579)