

Assembly of disaster emergencies.

4. Governor Wolf exercised his authority to issue a Proclamation of Disaster Emergency on March 6, 2020 relating to the COVID-19 pandemic. By law, the Proclamation expires within ninety days, unless sooner terminated.

5. The power to terminate an executive order or proclamation of a state of emergency is expressly reserved to the Legislature by concurrent resolution of the both chambers under 35 Pa. C.S. § 7301(c), as a “counterbalance to the exercise of the broad powers granted to the Governor,” *Friends of Danny DeVito v. Wolf*, 68 MM 2020, 2020 WL 1847100, at *9 (Pa. Apr. 13, 2020).

6. Members of the House Republican Caucus proposed House Resolution No. 836 (“HR 836”), initially intended to terminate Governor Wolf’s March 6, 2020 Proclamation of Disaster Emergency in part.

7. After Governor Wolf extended his Proclamation of Disaster Emergency on June 3, 2020, for an additional ninety days, and following amendment by the Pennsylvania Senate, the Representatives exercised their rights as legislators under 35 Pa. C.S. § 7301(c) and Article I, Section 12 of the Pennsylvania Constitution to terminate the state of emergency proclamation issued and extended by Governor Wolf relating to COVID-19 by passing, concurrently with the Pennsylvania Senate, HR 836. All members of the House Republican Caucus who were present voted to adopt HR 836, along with twelve Democratic Representatives.

8. Governor Wolf, however, refused to recognize HR 836 or to issue an executive order terminating the extended Proclamation of Disaster Emergency, as required by HR 836.

9. Governor Wolf's refusal to act on the General Assembly's adoption of HR 836, as set forth more fully in the Petition for Review filed in the Commonwealth Court in *Scarnati v. Wolf*, 344 MD 2020, has injured the Representatives in their official capacities as State Representatives by effectively nullifying their votes on HR 836 without lawful authority and diminishing their collective statutory and constitutional prerogatives as legislators under the Emergency Management Services Code and the Pennsylvania Constitution.

10. Thus, like the Senate respondents, the Representatives have standing to pursue the claims asserted in the Petition for Review in their official capacities as legislators. *Fumo v. City of Phila.*, 972 A.2d 487, 501 (Pa. 2009) (legislators have standing "where there was a discernible and palpable infringement on their authority as legislators").

11. If intervention is denied, the rights of the Representatives as State Representatives and their votes on HR 836 will be nullified without due process of law.

12. The interests of the Representatives are aligned with the Senate respondents and the Representatives filed an application for leave to intervene and

join in the Commonwealth Court action as petitioners.

13. The Commonwealth Court did not rule on the Representatives' Application for Leave, but instead held it in abeyance pending oral argument on and disposition of the Senate respondents' Application for Expedited Summary Relief.

14. Because all proceedings in the Commonwealth Court action are now stayed pending further action from the Pennsylvania Supreme Court, the Representatives seek leave to intervene as respondents in this Court. The Representatives will adopt and join in the Petition for Review filed by the Senate respondents and the Application for Expedited Summary Relief.

15. The Senate respondents do not oppose this application.

WHEREFORE, Representative Bryan Cutler and the House Republican Caucus respectfully request that the Court grant their application for leave and

permit them to intervene in this action as respondents.

Respectfully submitted,

Dated: June 19, 2020

/s/ William A. Harvey

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VERIFICATION

I, Bryan Cutler, hereby verify that the statements made in the foregoing application are true and correct, based on my personal knowledge or on information and belief. I understand that this verification is made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: June 18, 2020


Bryan Cutler

CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

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

/s/ William A. Harvey

William A. Harvey

CERTIFICATE OF SERVICE

I hereby certify that, on June 19, 2020, the Application of Representative Bryan Cutler and House Republican Caucus for Leave to Intervene was served via the Court's electronic filing system upon all counsel of record, addressed as follows:

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