

*HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER*

*TUCKER LAW GROUP*

Mark A. Aronchick (I.D. No. 20261)  
Michele D. Hangley (I.D. No. 82779)  
Robert A. Wiygul (I.D. No. 310760)  
Christina C. Matthias (I.D. No. 326864)  
One Logan Square, 27th Floor  
Philadelphia, PA 19103-6933  
(215) 568-6200

Joe H. Tucker, Jr. (I.D. No. 56617)  
Dimitrios Mavroudis (I.D. No. 93773)  
Jessica Rickabaugh (I.D. No. 200189)  
1801 Market Street, Suite 2500  
Philadelphia, PA 19103  
(215) 875-0609

*Counsel for Respondents*

---

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

MICHAEL CROSSEY, *et al.*,

Petitioners,

v.

KATHY BOOCKVAR, SECRETARY OF  
THE COMMONWEALTH, *et al.*,

Respondents.

No. 266 MD 2020

**RESPONDENTS' PRAECIPE TO PROVIDE SUPPLEMENTAL  
AUTHORITY WITH RESPECT TO PRELIMINARY OBJECTIONS  
TO PETITIONERS' PETITION FOR REVIEW**

Respondents, Secretary of the Commonwealth Kathy Boockvar and Jessica Mathis, Director of the Bureau of Election Services and Notaries of the Pennsylvania Department of State, submit this Praecipe to Provide Supplemental Authority With Respect to Respondents' Preliminary Objections to Petitioners' Petition for Review.

In their first Preliminary Objection, Respondents argued that pursuant to Section 13(2) of Act 77<sup>1</sup>, the Pennsylvania Supreme Court has exclusive jurisdiction to hear this action. On May 29, 2020, however, the Pennsylvania Supreme Court issued an order and concurring statement in *DeLisle v. Boockvar*, No. 95 MM 2020, attached as Exhibit A, a case that similarly challenged the ballot return deadlines of Act 77. The Supreme Court transferred that case to this Court, holding that because the Petition for Review in that case “was filed outside of the 180 day time period from the date of enactment of Act No. 2019-77 during which this Court had exclusive jurisdiction to decide specified constitutional challenges to Act No. 2019-77,” the Court did not have exclusive original jurisdiction. In his concurring statement Justice Wecht noted that “[t]he statute that conferred exclusive original jurisdiction upon this Court to hear constitutional challenges revoked that jurisdiction at the expiration of 180 days, and there is no question that Petitioners herein filed their petition outside that time period.”

In this case, Petitioners filed their Petition in this Court within the 180-day period. Because Petitioners did not file their Petition in the Supreme Court within that period, the attached supplemental authority may be relevant to the Court’s determination of whether to transfer the case to the Supreme Court.

---

<sup>1</sup> Act of Oct. 31, 2019 (P.L. 552, No. 77), 2019 Pa. Legis. Serv. Act. 2019-77 (S.B. 421) (West).

In their Brief in Support of Preliminary Objections, Respondents argued that targeted county-based relief could be provided by the Courts of Common Pleas of particular counties that had faced delays in processing or mailing ballots. *See* Brief in Support at 8 n.5. The Supreme Court's Order confirms that Act 77 presents no jurisdictional obstacle to such lawsuits.

Respectfully submitted,

HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER

Dated: May 29, 2020

By: /s/ Michele D. Hangley  
Mark A. Aronchick (ID No. 20261)  
Michele D. Hangley (ID No. 82779)  
Robert A. Wiygul (I.D. No. 310760)  
Christina C. Matthias (I.D. No. 326864)  
One Logan Square, 27<sup>th</sup> Floor  
Philadelphia, PA 19103  
Tel: (215) 568-6200  
Fax: (215) 568-0300

TUCKER LAW GROUP

Joe H. Tucker, Jr. (I.D. No. 56617)  
Dimitrios Mavroudis (I.D. No. 93773)  
Jessica Rickabaugh (I.D. No. 200189)  
1801 Market Street, Suite 2500  
Philadelphia, PA 19103  
(215) 875-0609

*Counsel for Respondents*

**CERTIFICATION REGARDING PUBLIC ACCESS POLICY**

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.

Dated: May 29, 2020

/s/ Michele D. Hangle  
Michele D. Hangle

# **EXHIBIT A**

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

MELINDA DELISLE, JACQUES DELISLE, : No. 95 MM 2020  
ADAM DELISLE, BRYAN IRVIN, CHARLES :  
CELLA, DEBORAH CELLA, MARY CAY :  
CURRAN, ELIZA HARDY JONES, KRISTA :  
NELSON, EILEEN MCGOVERN, CEDRIC :  
HARDY, :

Petitioners

v.

KATHY BOOCKVAR, IN HER CAPACITY :  
AS SECRETARY OF THE :  
COMMONWEALTH OF PENNSYLVANIA, :  
AND JESSICA MATHIS, IN HER CAPACITY :  
AS DIRECTOR OF THE BUREAU OF :  
ELECTION SERVICES AND NOTARIES OF :  
THE PENNSYLVANIA DEPARTMENT OF :  
STATE, :

Respondents

**ORDER**

**PER CURIAM**

**AND NOW**, this 29<sup>th</sup> day of May, 2020, upon consideration of the Petitioners' Petition for Review:

1. The Petition for Review was filed outside of the 180 day time period from the date of enactment of Act No. 2019–77 during which this Court had exclusive jurisdiction to decide specified constitutional challenges to Act No. 2019-77. See Section 13(1)-(3).
2. Petitioners' alternative request for King's Bench or extraordinary jurisdiction is denied.
3. The case is immediately transferred to the Commonwealth Court.

Justice Wecht files a concurring statement.

A True Copy, Amy Dreibelbis, Esquire  
As Of 05/29/2020

  
Attest:  
Deputy Prothonotary  
Supreme Court of Pennsylvania

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

MELINDA DELISLE, JACQUES DELISLE, : No. 95 MM 2020  
ADAM DELISLE, BRYAN IRVIN, CHARLES :  
CELLA, DEBORAH CELLA, MARY CAY :  
CURRAN, ELIZA HARDY JONES, KRISTA :  
NELSON, EILEEN MCGOVERN, CEDRIC :  
HARDY, :

Petitioners

v.

KATHY BOOCKVAR, IN HER CAPACITY :  
AS SECRETARY OF THE :  
COMMONWEALTH OF PENNSYLVANIA; :  
AND JESSICA MATHIS, IN HER CAPACITY :  
AS DIRECTOR OF THE BUREAU OF :  
ELECTION SERVICES AND NOTARIES OF :  
THE PENNSYLVANIA DEPARTMENT OF :  
STATE, :

Respondents

**CONCURRING STATEMENT**

**JUSTICE WECHT**

**FILED May 29, 2020**

I join the Court’s decision to transfer the Petition for Review to the Commonwealth Court for disposition. The statute that conferred exclusive original jurisdiction upon this Court to hear constitutional challenges revoked that jurisdiction at the expiration of 180 days, and there is no question that Petitioners herein filed their petition outside that time limit. Moreover, Petitioners fail to assert a compelling basis for exercising our oft-invoked, seldom-granted King’s Bench authority.

Petitioners raise valid and serious concerns, but they elected to pursue relief under fact-intensive constitutional theories requiring a great deal of speculation that generally lie outside this Court’s purview, particularly when the time allotted for a satisfactory resolution is vanishingly brief, which was the basis of our recent rejection of a very similar challenge. See *Disability Rights Pennsylvania v. Boockvar*, \_\_\_ A.3d \_\_\_, 83 MM 2020, 2020 WL 2507661 (Pa. May 15, 2020) (Wecht, J., concurring). But while speculative, under the current extraordinary circumstances, the potential for impairment of the ability of voters to cast a valid ballot by mail is real and substantial, and the stakes are high. The unlikely event of a tragic and unfortunately timed global pandemic undoubtedly has strained the local bureaucracies tasked with ensuring the timely processing of absentee and mail-in ballots and foisted unanticipated burdens upon a beleaguered United States Postal Service. Moreover, it cannot be gainsaid that there is no *post hoc* remedy sufficient to cure the arbitrary deprivation of the “right of suffrage,” which “is a fundamental matter in a free and democratic society.” *Reynolds v. Sims*, 377 U.S. 533, 561-62 (1964). Nonetheless, this Court must be cautious to avoid overstepping its bounds imprudently and in defiance of legislative intent, as reflected in Point 1 of the *per curiam* order that this statement accompanies. Of necessity, then, the Commonwealth Court’s ruling upon remand necessarily will be limited to the vicissitudes of the moment.

And this is only the primary. Given the stakes of a quadrennial presidential election, in the event that present hardships persist as November’s general election approaches, it would be incumbent upon the courts to entertain anew any and all claims that are raised in due course. Not only may variations upon the present challenges find more purchase as circumstances evolve; other challenges could emerge. Consideration of any such challenges must await another day.