



(District Attorney), the Cross-Application for Summary Relief (Cross-Application) filed by Respondent Senator Kim Ward, in her official capacity as Interim President Pro Tempore of the Senate (Interim President), and the Application for Leave to Intervene (Intervention Application) filed by Proposed Intervenor Senator Jay Costa, in his official capacity (Proposed Intervenor), and the responses thereto, it is hereby ORDERED:

1. Interim President's Cross-Application is DENIED regarding the claim that the Pennsylvania Senate and the Senate Impeachment Committee are indispensable parties to this matter, as Interim President's interest in this matter is indistinguishable from that of the Senate as a whole, and of the Committee, and her involvement here has positioned her to adequately defend and protect those parties' interests. *See City of Philadelphia v. Com.*, 838 A.2d 566, 581-85 (Pa. 2003).
2. Respondents John Does, in their official capacities as members of the Senate Impeachment Committee, are dismissed as parties to this action. *See Pa. R.Civ.P. 2005(g)*.
3. Impeachment Managers' preliminary objection as to the justiciability of the claims made by District Attorney in his Petition for Review (PFR) is OVERRULED, as District Attorney raises constitutional challenges to the impeachment process that are fully justiciable by this Court. *See Sweeney v. Tucker*, 375 A.2d 698, 711 (Pa. 1977); *In re Investigation by Dauphin Cnty. Grand Jury, Sept., 1938*, 2 A.2d 802, 803 (Pa. 1938); *cf.* 42 Pa. C.S. § 7541(a).
4. Impeachment Managers' preliminary objection as to District Attorney's standing is OVERRULED, as District Attorney is an aggrieved party at this stage. *See Firearm Owners Against Crime v. Papenfuse*, 261 A.3d 467, 488-

89 (Pa. 2021); *Americans for Fair Treatment, Inc. v. Philadelphia Fed'n of Teachers*, 150 A.3d 528, 533 (Pa. Cmwlth. 2016).

5. Impeachment Managers' preliminary objection as to the ripeness of District Attorney's claims is OVERRULED, as District Attorney's claims raise legal and constitutional issues that do not require further development of the factual record. *See Robinson Twp., Washington Cnty. v. Com.*, 83 A.3d 901, 917 (Pa. 2013).
6. Interim President's Cross-Application is DENIED regarding the ripeness of District Attorney's claims. *See id.*
7. District Attorney's Application for Summary Relief is DENIED, and Interim President's Cross-Application is GRANTED, regarding Count I of the PFR, as the General Assembly's power to impeach and try a public official is judicial in nature and, thus, is not affected by the adjournment of the General Assembly or the two-year span of each General Assembly iteration's legislative authority. *See Ferguson v. Maddox*, 263 S.W. 888, 890 (Tex. 1924); *Com. ex rel. Att'y Gen. v. Griest*, 46 A. 505, 506 (Pa. 1900); *In re Opinion of Justs.*, 14 Fla. 289, 297-98 (1872); *accord Mellow v. Pizzingrilli*, 800 A.2d 350, 359 (Pa. Cmwlth. 2002).
8. District Attorney's Application for Summary Relief is DENIED, and Interim President's Cross-Application is GRANTED, regarding Count II of the PFR, as, in keeping with our extant corpus of case law, all public officials throughout the Commonwealth are subject to impeachment and trial by the General Assembly, regardless of whether they are local or state officials. *See Burger v. Sch. Bd. of McGuffey Sch. Dist.*, 923 A.2d 1155, 1162-64 (Pa. 2007); *id.* at 1162 n.6; *S. Newton Twp. Electors v. S. Newton Twp. Sup'r, Bouch*, 838

A.2d 643 (Pa. 2003); *Allegheny Inst. Taxpayers Coal. v. Allegheny Reg'l Asset Dist.*, 727 A.2d 113 (Pa. 1999); *In re Petition to Recall Reese*, 665 A.2d 1162 (Pa. 1995); *Com. ex rel. Specter v. Martin*, 232 A.2d 729, 733-39 (Pa. 1967); (plurality opinion); *id.* at 743-44 (Eagen, J., concurring in part); *id.* at 753-55 (Musmanno, J., separate opinion); *Houseman v. Com. ex rel. Tener*, 100 Pa. 222, 230-31 (1882).

9. District Attorney's Application for Summary Relief is GRANTED, and Interim President's Cross-Application is DENIED, regarding Count III of the PFR, as none of the Amended Articles of Impeachment satisfy the requirement imposed by Article VI, Section 6 of the Pennsylvania Constitution that impeachment charges against a public official must allege conduct that constitutes what would amount to the common law crime of "misbehavior in office," *i.e.*, failure to perform a positive ministerial duty or performance of a discretionary duty with an improper or corrupt motive, as well as because Article I and VII improperly challenge District Attorney's discretionary authority, and Articles III, IV, and V unconstitutionally intrude upon the Supreme Court's exclusive authority to govern the conduct of all attorneys in this Commonwealth, including the District Attorney. *See Com. v. Clancy*, 192 A.3d 44, 53 (Pa. 2018); *Com. v. Brown*, 708 A.2d 81, 84 (Pa. 1998); *Com. v. Stern*, 701 A.2d 568, 571 (Pa. 1997); *In re Braig*, 590 A.2d 284, 286-88 (Pa. 1991); *Com. v. Sutley*, 378 A.2d 780, 783 (Pa. 1977); *Com. ex rel. Specter v. Bauer*, 261 A.2d 573, 576 (Pa. 1970); *Martin*, 232 A.2d at 736; *Com. v. Hubbs*, 8 A.2d 618, 620-21 (Pa. Super. 1939); 16 P.S. § 1401(o).

10. Proposed Intervenor's Intervention Application is GRANTED. See Pa. R.Civ.P. 2327(4); *Allegheny Reprod. Health Ctr. v. Pennsylvania Dep't of Hum. Servs.*, 225 A.3d 902, 911 (Pa. Cmwlth. 2020).

**Opinion to follow.**



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**Judge Ellen Ceisler**