

IN THE SUPREME COURT OF PENNSYLVANIA

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MELINDA DELISLE, <i>et al.</i> ,		:
	Petitioners,	:
		:
v.		:
		:
KATHY BOOCKVAR, in her capacity		:
as Secretary of the Commonwealth of		:
Pennsylvania, <i>et al.</i> ,		:
		:
	Respondents.	:
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No. 95 MM 2020

RESPONDENTS’ ANSWER TO EMERGENCY APPLICATION FOR SPECIAL RELIEF IN THE NATURE OF A PRELIMINARY INJUNCTION

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

Mark A. Aronchick (Atty. I.D. No. 20261)
Michele D. Hangley (Atty. I.D. No. 82779)
Christina C. Matthias (Atty. I.D. No. 326864)
John B. Hill*
One Logan Square, 27th Floor
Philadelphia, PA 19103
Tel: (215) 568-6200
Fax: (215) 568-0300

*Not admitted to practice in Pennsylvania.
Motion for Pro Hac Vice admission to be filed.

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

Dated: May 27, 2020

Counsel for Respondents

BACKGROUND

1. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that enforcement of Act 77's received-by-election-day deadline would effect a constitutional violation in the vast majority of Pennsylvania counties. The facts Petitioners allege would, if proven, warrant relief with respect to, at most, only a few specific counties.

2. The averments of this paragraph are conclusions or statements of law to which no response is required.

3. The averments in this paragraph characterize statements made by Respondents in other court filings. Those filings speak for themselves, and any characterization of them is denied.

4. The averments in this paragraph characterize statements made by Respondents in another court filing. That filing speaks for itself, and any characterization of it is denied.

5. The averments in this paragraph characterize (i) statements made by Respondents in another court filing and (ii) a Montgomery County Board of Commissioners Press Release. The filing and Press Release speak for themselves, and any characterization of them is denied.

6. Admitted in part and denied in part. Respondents admit that the COVID-19 crisis is presenting challenges with respect to the administration of the 2020 primary election, particularly in certain counties, and state that they have been working with county boards of elections to overcome these challenges. Respondents further admit that, with respect to a few specific counties, these challenges have resulted in delays. It is denied that the number of ballot applications is growing “at an exponential rate.” The remaining averments in this paragraph are denied.

7. Respondents are without knowledge sufficient to form a belief as to whether Petitioners have “yet received their mail ballots,” and the averments of this paragraph are therefore denied. By way of further answer, Respondents incorporate their response to the averments in Paragraph 6 above.

8. The averments of this paragraph are conclusions or statements of law to which no response is required.

INJUNCTIVE RELIEF

9. The averments of this paragraph are conclusions or statements of law to which no response is required.

10. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that

Petitioners meet all of the elements for the entering of the statewide preliminary injunction they seek.

11. To the extent the averments in this paragraph characterize statements made by Respondents in another court filing, that filing speaks for itself, and any characterization of it is denied. The remaining averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that Petitioners are likely to succeed on the merits of their claims for a statewide preliminary injunction.

12. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that, with respect to the vast majority of Pennsylvania counties, enforcement of the received-by deadline would violate Article I, Section 5 of the Pennsylvania Constitution.

13. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that, with respect to the vast majority of Pennsylvania counties, enforcement of the received-by deadline would violate the Pennsylvania Constitution's equal protection guarantees.

14. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that, with

respect to the vast majority of Pennsylvania counties, enforcement of the received-by deadline would impose immediate or irreparable harm.

15. It is denied that, with respect to the vast majority of Pennsylvania counties, enforcement of the received-by deadline would impose immediate or irreparable harm. It is further denied, if averred, that the relief awarded in Wisconsin or Montana shows that the statewide relief Petitioners seek here is appropriate in the specific circumstances presented in Pennsylvania. The remaining averments in this paragraph constitute (i) allegations about which Respondents, after reasonable investigation, lack knowledge or information sufficient to form a belief as to their truth; or (ii) allegations that are conclusions or statements of law to which no response is required. They are accordingly denied.

16. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that the public interest favors the statewide preliminary injunction Petitioners seek.

17. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, it is denied that the statewide preliminary injunction Petitioners seek would restore the pre-COVID-19 status quo.

18. Denied. The averments of this paragraph are conclusions or statements of law to which no response is required. By way of further answer, the

statewide injunction Petitioners seek is neither “narrow” nor “reasonably tailored to the [alleged] offending activity.”

19. The averments of this paragraph are conclusions or statements of law to which no response is required.

20. The averments of this paragraph are conclusions or statements of law to which no response is required.

EXPEDITED TIMING

21. Admitted in part and denied in part. Respondents admit that the Commonwealth has a primary election scheduled for June 2, 2020. The remaining averments of this paragraph are conclusions or statements of law to which no response is required. It is denied that the statewide injunction Petitioners seek is needed “to prevent irreparable constitutional injury that will occur absent the injunction.” By way of further answer, Respondents do not oppose Petitioners’ request for “a schedule that allows this Court to resolve Petitioners’ application for a preliminary injunction as soon as possible.”

22. This paragraph, which sets forth Petitioners’ request for an expedited schedule for briefing and hearing, does not contain any averments of fact; therefore no response is required. By way of further answer, Respondents do not oppose Petitioners’ request for an expedited schedule.

WHEREFORE, Respondents respectfully request that this Court deny
Petitioners' application for a statewide preliminary injunction.

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

Dated: May 27, 2020

By: /s/ Michele D. Hangle

Mark A. Aronchick (ID No. 20261)
Michele D. Hangle (ID No. 82779)
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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 27, 2020

/s/ Michele D. Hangle
Michele D. Hangle