

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Michael Crossey, Dwayne Thomas, Irvin
Weinreich, Brenda Weinreich, and the
Pennsylvania Alliance for Retired Americans,

Petitioners,

v.

Kathy Boockvar, Secretary of the
Commonwealth, and Jessica Mathis, Director
of the Bureau of Election Services and
Notaries,

Respondents.

No. 266 MD 2020

**PETITIONERS' ANSWER IN OPPOSITION TO
HOUSE REPRESENTATIVES'
MOTION TO INTERVENE**

Petitioners Michael Crossey, Dwayne Thomas, Irvin Weinreich, Brenda Weinreich, (“Individual Petitioners”), and the Pennsylvania Alliance for Retired Americans (“the Alliance”) (collectively, “Petitioners”) submit this answer in opposition to the petition to intervene by Mike Turzai, Speaker of the Pennsylvania House of Representatives, and Bryan Cutler, Majority Leader of the Pennsylvania House of Representatives (collectively, “House Leaders”), and hereby incorporate the arguments in their Joint Answer in Opposition to Senators’ and Republican Committees’ Applications for Leave to Intervene and Memorandum in Opposition to Senators’ and Republican Committees’ Applications for Leave to Intervene (“Memorandum in Opposition”), both filed on May 18, 2020.

INTRODUCTION

This Court should deny the House Leaders’ petition to intervene because it does not meet any of the threshold grounds for intervention under Pa. R.C.P. 2327, and even if it did, this Court

should nonetheless exercise its discretion to refuse intervention under Rules 2329(2) and (3) because Respondents adequately represent the proposed intervenors' interest and intervention will only expand, extend, and duplicate litigation proceedings.

The House Leaders seek to intervene under Pa. R.C.P. 2327(3) and (4), which respectively require that they have an interest which would have been sufficient to have joined as an original party in this action, or a "legally enforceable interest" which will be affected by the determination in this action—neither of which they have. Although individual legislators assert an interest in protecting "the power or authority of their offices" and "the potency of their right to vote" on pending legislation, *Robinson Twp. v. Com.*, 84 A.3d 1054, 1055 (Pa. 2014), they have "no legal interest in actions seeking redress for a general grievance about the correctness of governmental conduct." *Markham*, 136 A.3d at 139. Pennsylvania courts have consistently interpreted Rule 2327(4) to require an interest "which surpasses 'the common interest of all citizens in procuring obedience to the law.'" *Biester v. Thornburgh*, 409 A.2d 848, 851 (Pa. 1979) (quoting *William Penn Parking Garage v. City of Pittsburgh*, 346 A.2d 269, 281 (Pa. 1975)). The House Leaders seek to intervene in their official capacities and attempt to invoke the General Assembly's constitutional authority, but present no evidence to suggest that they are authorized to represent the House of Representatives, let alone the legislative body as a whole. And even if they were, the General Assembly has no role in implementing, enforcing, or administering the Commonwealth's Election Code. "[A] public law, after enactment, is not the [legislature's] any more than it is the law of any other citizen or group of citizens" who are governed by it. *Newdow v. U.S. Congress*, 313 F.3d 495, 499-500 (9th Cir. 2002). Nor does this suit call into question any other unique role that the House Leaders might have as legislators, which further confirms that they do not have any interest sufficient to intervene.

Even if the House Leaders did meet one of the grounds for intervention under Pa. R.C.P. 2327 based on their purported “Authorization . . . to represent the entire body,” Petition to Intervene ¶ 7—which was purportedly granted by the House members only, and not the General Assembly—the terms of that Authorization provide the death knell for the House Leaders’ intervention efforts under Pa. R.C.P. 2329. The purported Authorization only provides license for the House Leaders to “defend the constitutionality of Pennsylvania election laws and election processes authorized by law.” *Id.* But ultimately, “it is the Commonwealth’s duty to defend the constitutionality” of its laws, and proposed intervenors present no argument to suggest that Respondents will fail to do so in this case. *Robinson Twp. v. Commonwealth*, No. 284 M.D. 2012, 2012 WL 1429454, at *4 (Pa. Commw. Ct. Apr. 20, 2012). Proposed intervenors’ involvement will only duplicate and prolong litigation proceedings. Because the House Leaders advance generic interests that can be asserted by just about any interested Pennsylvanian, and in any event, are adequately represented by Respondents, the House Leaders’ petition to intervene should be denied.

ANSWER TO HOUSE LEADERS’ PROPOSED INTERVENTION

1. Admitted.
2. Denied. Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph pertaining to the House’s consideration of Act 77, and therefore they are denied.
3. Denied. Petitioners seek 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. *See, e.g.*, Pet. ¶¶ 9-10, 34, 40.
4. Admitted.

5. Admitted that the Petition in *Disability Rights Pennsylvania, et. al. v. Kathy Boockvar, et. al.*, Action No. 83 MM 2020 (“*Disability Rights Case*”) was filed on April 27, 2020. Denied that Petitioners’ claims in this action seek to invalidate any laws enacted by Act 77. *See, e.g.*, Pet. ¶¶ 9-10, 34, 40.

6. Admitted.

7. Denied. Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this paragraph pertaining to the purported Authorization, and therefore they are denied.¹ By way of further response, it is “problematic” that although both proposed Senate and House intervenors aver that they have been “duly authorized” by a majority of their respective bodies, “they cite no formal enactment by the House or Senate purporting to authorize such interventions.” *Disability Rights Pa.*, 2020 WL 2507661 (Wecht, J., concurring). It is a bedrock principal of any bicameral legislative system that a single chamber of the legislature does not speak for the General Assembly as a whole. As a result, the individual House Leaders do not have a “legally enforceable interest” in the determination of this action, and thus have no right to intervene under Pa. R.C.P 2327(4) or otherwise.

8. Admitted in part; denied in part. Admitted that Senators Joseph Scarnati, Pennsylvania Senate President Pro Tempore, and Jake Corman, Senate Majority Leader filed a petition to intervene in the *Disability Rights* case and this case. Petitioners are without knowledge or information sufficient to form a belief as to whether the Senators were acting on behalf of the Pennsylvania Senate, and therefore deny same.

9. Admitted.

¹ Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments set forth in this footnote pertaining to the purported Authorization, and therefore they are denied.

10. Admitted.

11. Denied. A party does not have an absolute right to intervene in a legal proceeding if it satisfies any of the categories enumerated in Pa. R.C.P. 2327. Rather, under Pa. R.C.P. 2329, “an application for intervention may be refused” if, as here and detailed below, “the interest of the petitioner is already adequately represented,” or “intervention will unduly delay . . . or prejudice . . . the adjudication of the rights of the parties.”

12. This paragraph states a rule of civil procedure, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, Pa. R.C.P. 2327 does not operate in a vacuum: if any of the exceptions enumerated in Pa. R.C.P. 2329 are present, as noted above, “an application for intervention may be refused.”

13. This paragraph contains a citation to case law, the content of which speaks for itself and to which no responsive pleading is required.

14. This paragraph contains a citation to case law and a Pennsylvania Rule of Civil Procedure, the contents of which speak for themselves and to which no responsive pleading is required. By way of further response, “[e]ven if there is a legally enforceable interest under [one of the four bases set forth in Pa. R.C.P. 2327], a mere prima facie basis for intervention is not enough and intervention may be denied if the interest of the petitioner is already adequately represented” under Pa. R.C.P. 2327(4), *Keener v. Zoning Hearing Bd. of Millcreek Twp.*, 714 A.2d 1120, 1123 (Pa. Commw. Ct. 1998), or if, under Pa. R.C.P. 2327(3), “intervention will unduly delay . . . or prejudice . . . the adjudication of the rights of the parties,” both of which are the case here.

15. This paragraph quotes case law, the content of which speaks for itself and to which no responsive pleading is required. Petitioners note, however, that “there is no question that . . . an

intervening party must establish standing.” *Markham*, 136 A.3d at 140. Moreover, the “principles of legislative standing are relevant to a determination of whether a putative intervenor has demonstrated a ‘legally enforceable interest’ for purposes of Rule No. 2327(4).” *Allegheny Reprod. Health Ctr. v. Pa. Dep’t of Human Servs.*, 225 A.3d 902, 911 (Pa. Commw. Ct. 2020).

16. This paragraph quotes case law, the content of which speaks for itself and to which no responsive pleading is required. Petitioners note, however, that the cited case does not concern intervention under Pa. R.C.P. 2327 and 2329, which govern the House Leaders’ potential intervention here. Rather, *Sunoco Pipeline L.P. v. Dinniman*, 217 A.3d 1283 (Pa. Commw. Ct. 2019) concerned intervention under a section of the Pennsylvania Administrative Code that deals exclusively with the Public Utility Commission, *see id.* at 1288-89 (citing 8 52 Pa. Code § 5.72(a)(3)), which has no bearing here.

17. This paragraph contains a citation to case law, the content of which speaks for itself and to which no responsive pleading is required.

18. Denied. The House Leaders do not have any “legally enforceable interest” that may be affected by the determination in this action, Pa. R.C.P. 2327(4), nor are they persons who “could have joined as [original parties] in the action or could have been joined therein,” Pa. R.C.P. 2327(3), because only the General Assembly possesses the lawmaking power upon which the individual House Leaders rely to demonstrate a legally enforceable interest and grounds for joinder, as detailed below.

A. The House Leaders Do Not Hold Any Legally Enforceable Interest that the Determination of this Action Will Affect.

19. Denied for the reasons set forth in ¶¶ 4-9 of the Answer to the Senators’ Proposed Intervention and pp. 6-11 of the Memorandum in Opposition. By way of further response, although legislators have authority to pass laws governing elections and to appropriate funds to effectuate

election laws, that authority is not implicated in this suit, as detailed below, and thus the House Leaders have neither an enforceable interest sufficient to intervene nor independent standing to bring suit. Because the House Leaders cannot satisfy any of the threshold requirements for intervention in Pa. R.C.P. 2327, their intervention is not mandatory here. Moreover, even if they could satisfy one of the threshold requirements in Pa. R.C.P. 2327, this Court should exercise its discretion to refuse intervention under Pa. R.C.P. 2329(2) and (3) because Respondents adequately represent the House Leaders' interest and intervention will only expand, extend, and duplicate litigation proceedings.

20. This paragraph contains a citation to case law, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, the House Leaders do not allege any injury to their ability to act as legislators, as detailed below.

21. This paragraph contains a citation to case law, the content of which speaks for itself and to which no responsive pleading is required. Petitioners note, however, that the authority at issue in *Fumo v. City of Philadelphia*, 972 A.2d 487 (Pa. 2009) was not, as the House Leaders incorrectly characterize in paragraph 21, "the Pennsylvania Legislature's exclusive authority to regulate riverbeds," but rather concerned its far narrower authority "to grant a license for the use of the submerged lands at issue." *Fumo*, 972 A.2d at 501.

22. This paragraph quotes case law, the content of which speaks for itself and to which no responsive pleading is required.

23. Denied. By way of further response, regulating elections is not an exclusive legislative function that is left to the Pennsylvania House and Senate.² The House Leaders misstate

² Admitted in part; denied in part. Admitted that Senators Joseph B. Scarnati and Jake Corman filed a petition to intervene in this case. The remainder of this footnote is denied. The Pennsylvania

the law in suggesting that their power to enact election laws is absolute, or that judicial review of election procedures and orders that enforce voters’ constitutional rights are contrary to the General Assembly’s authority. The Pennsylvania Supreme Court has long recognized that the Senate, and thus implicitly the House, too, cannot “usurp the judiciary’s function as ultimate interpreter of the Constitution.” *Zemprelli v. Daniels*, 496 Pa. 247, 257 (1981). The remainder of this paragraph contains a citation to case law, the content of which speaks for itself and to which no responsive pleading is required.

24. This paragraph cites the Pennsylvania Constitution and the United States Constitution, the contents of which speak for themselves and to which no responsive pleading is required. By way of further response, this paragraph is denied for the reasons set forth in ¶ 7 of the Answer to the Senators’ Proposed Intervention and pp. 9-10 of the Memorandum in Opposition. U.S. Const. art. I, § 4, cl. 1 vested “in each State by the Legislature thereof” the authority to prescribe “[t]he Times, Places, and Manner of holding Elections for Senators and Representatives” (“Elections Clause”). But the House Leaders are “neither the Pennsylvania General Assembly nor a group to which Pennsylvania has delegated the Commonwealth’s lawmaking power,” and thus they lack Article III standing to assert violations of the Elections Clause. *Corman v. Torres*, 287 F. Supp. 3d 558, 573 (M.D. Pa.), *appeal dismissed sub nom. Corman v. Sec’y Commonwealth of Pa.*, 751 F. App’x 157 (3d Cir. 2018) (holding that the Elections Clause claims asserted in the complaint “belong, if they belong to anyone, only to the Pennsylvania General Assembly” as a whole); *Markham*, 136 A.3d at 140 (“[T]here is no question that . . . an intervening party must

General Assembly has *not* sought intervention in this suit; rather, only discrete parts of it have in piecemeal fashion. The House Leaders point to no formal enactment to suggest that the General Assembly is seeking intervention directly, nor any authority to suggest that the indirect approach attempted here—combining alleged authority from the House and Senate individually—should be given any legal weight.

establish standing.”). Even though the House Leaders and Senators concurrently seeking to intervene both assert that a majority of the Pennsylvania House and Senate, respectively, have agreed to a vaguely defined “Authorization” allowing their leaders to represent the entire body, that does not combine to yield authorization to represent the General Assembly as a whole: in the absence of any formal enactment, $1 + 1 = 0$. See *Disability Rights Pa. v. Boockvar*, No. 83 MM 2020, 2020 WL 2507661 (Pa. May 15, 2020) (Wecht, J., concurring) (noting that it is “problematic” that although both proposed Senate and House intervenors averred that they had been “duly authorized” by a majority of their respective bodies, “they cite no formal enactment by the House or Senate purporting to authorize such interventions”). The House Leaders therefore have no license to exercise any authority that rests solely with the Pennsylvania General Assembly, and thus the provisions cited in paragraph 24 are not implicated here.

25. This paragraph quotes case law, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, Petitioners note again that the House Leaders are “neither the Pennsylvania General Assembly nor a group to which Pennsylvania has delegated the Commonwealth’s lawmaking power,” *Corman*, 287 F. Supp. 3d at 573, and thus they cannot exercise the authority of the General Assembly.

26. This paragraph quotes case law, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, Petitioners note again that the House Leaders are “neither the Pennsylvania General Assembly nor a group to which Pennsylvania has delegated the Commonwealth’s lawmaking power,” *Corman*, 287 F. Supp. 3d at 573, and thus they cannot exercise the authority of the General Assembly.

27. This paragraph cites the Pennsylvania Constitution, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, the House

Leaders misread Pa. Const. art. I, § 12 to suggest that only the General Assembly has the power to prevent the enforcement of unconstitutional laws. But that argument turns the separation of powers and the judiciary's authority on its head. A legislative body cannot "usurp the judiciary's function as ultimate interpreter of the Constitution." *Zemprelli*, 496 Pa. at 257.

28. Denied for the reasons set forth in ¶ 5 of the Answer to the Senators' Proposed Intervention and pp. 9-10 of the Memorandum in Opposition. Petitioners seek 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. Pet. ¶¶ 19-32. Such relief supplements, rather than supplants, existing election administration procedures. The individual House Leaders' misstatement of Petitioners' lawsuit and requested relief highlights their lack of a legally enforceable interest in this case: although the House Leaders claim an interest in protecting their exclusive rights to create and suspend laws—which only the General Assembly as a whole would likely have standing to assert, in any event—Petitioners' requested relief will not prevent the General Assembly from exercising any of those rights.

29. Denied. This paragraph purports to characterize Petitioners' requested relief, which speaks for itself. To the extent these characterizations are inconsistent with same, they are denied. By way of further response, the House Leaders do not represent the General Assembly and thus cannot assert the General Assembly's institutional interests as a basis for intervention in this lawsuit. Petitioners' requested relief, moreover, will not prevent the General Assembly from exercising its constitutional authority.

30. Denied for the reasons set forth in ¶ 4 of the Answer to the Senators' Proposed Intervention and pp. 9-10 of the Memorandum in Opposition. By way of further response, the

circumstances here *are* “akin to a general grievance about the correctness of governmental conduct, resulting in the standing requirement being unsatisfied,” *Markham*, 136 A.3d at 145, based on the precise language of the “Authorization” under which the House Leaders purport “to represent the entire body.” Petition to Intervene ¶ 7. The House Leaders allege that the Authorization provides license for them to “defend the constitutionality of Pennsylvania election laws and election processes authorized by law,” *id.*, which are, by definition, a “general grievance[s].” Pennsylvania courts have consistently interpreted Rule 2327(4) to require an interest “which surpasses ‘the common interest of all citizens in procuring obedience to the law.’” *Biester v. Thornburgh*, 409 A.2d 848, 851 (Pa. 1979) (quoting *William Penn Parking Garage v. City of Pittsburgh*, 346 A.2d 269, 281 (Pa. 1975)). Despite the House Leaders’ assertion otherwise, they have identified no encroachment by Petitioners on the Legislature’s authority to enact laws and regulate voting in Pennsylvania—and even if they did, challenging such would be beyond the reach of the limited Authorization they purport to have.

31. Denied for the reasons set forth in ¶¶ 4-9 of the Answer to the Senators’ Proposed Intervention and pp. 6-11 of the Memorandum in Opposition. By way of further response, the House Leaders do not represent the General Assembly and thus cannot assert the General Assembly’s institutional interests as a basis for intervention in this lawsuit.

32. This paragraph cites case law and the Pennsylvania Constitution, the contents of which speak for themselves and to which no responsive pleading is required.

33. Denied. To the extent to which the House Leaders are referring to *Allegheny Reprod. Health Ctr. v. Pennsylvania Dep’t of Human Servs.*, 225 A.3d 902, 911 (Pa. Commw. Ct. 2020), the circumstances of that case differed from this case because “the object of th[at] litigation [wa]s to change the substance and manner by which the General Assembly can appropriate funds,”

and the proposed intervenors were seeking to “preserve their authority to *propose* and *vote on* funding legislation in the future.” (Emphasis added). Nothing in Petitioners’ suit threatens that authority.

34. This paragraph cites case law, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, Petitioners deny that *Allegheny* is instructive in this case for the reasons stated in paragraph 33 above.

35. This paragraph cites case law, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, Petitioners deny that *Allegheny* is instructive in this case for the reasons stated in paragraph 33 above.

36. This paragraph cites case law, the content of which speaks for itself and to which no responsive pleading is required. By way of further response, Petitioners deny that *Allegheny* is instructive in this case for the reasons stated in paragraph 33 above.

37. This paragraph purports to characterize Petitioners’ requested relief, which speaks for itself. To the extent these characterizations are inconsistent with same, they are denied. *See* Pet. ¶¶ 3, 10, 34, 41; Mem. App. Prelim. Inj. Part IV.A.5. By way of further response, the General Assembly has already authorized county commissioners to appropriate funds annually for all necessary expenses for the conduct of primaries and elections, including the issuance of mail ballots to eligible voters upon timely request. *See* 25 Pa.C.S. §§ 2645, 3146.2a(3), 3150.15. Moreover, Congress recently passed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which provides \$400 million in emergency funds to states to “protect the 2020 elections from the effects of the novel coronavirus.” Pennsylvania Dep’t of State, Help America Vote Act 2020 CARES Act Grant Fund, <https://www.dos.pa.gov/VotingElections/Pages/2020-Federal-Grants.aspx> (last visited May 17, 2020). Respondent, Secretary of the Commonwealth,

has committed to distributing additional funding (approximately \$6 million) to counties from its share of the CARES Act funds to cover “increased costs related to mail-in and absentee voting,” among other expenses. *Id.*

38. Denied for the reasons set forth in paragraph 37 above.

39. This paragraph cites case law and the Pennsylvania Constitution, the contents of which speak for themselves and to which no responsive pleading is required.

40. Denied for the reasons set forth in paragraph 37 above. By way of further response, the House Leaders do not represent the General Assembly and thus cannot assert the General Assembly’s institutional interests as a basis for intervention in this lawsuit. Petitioners’ requested relief, moreover, will not prevent the General Assembly from exercising its constitutional authority. Finally, to the extent the House Leaders seek to intervene to preserve their exclusive authority to propose and vote on funding related to election laws, such would be beyond the reach of the limited Authorization they purport to have.

41. Denied. By way of further response, Petitioners deny that *Allegheny* is instructive in this case for the reasons stated in paragraph 33 above.

B. The House Leaders Could Not Have Joined as an Original Party in the Action or Have Been Joined Herein.

42. This paragraph cites case law, the content of which speaks for itself and to which no responsive pleading is required.

43. This paragraph cites a Pennsylvania statute, the content of which speaks for itself and to which no responsive pleading is required.

44. Denied that the House Leaders have a special interest in this action for the reasons set forth in paragraphs 19-41 above. The remainder of this paragraph cites case law, the content of which speaks for itself and to which no responsive pleading is required.

45. Denied that the House Leaders could have joined as original parties in this action since, as detailed in paragraph 24 above, the House Leaders are “neither the Pennsylvania General Assembly nor a group to which Pennsylvania has delegated the Commonwealth’s lawmaking power,” and thus they lack Article III standing to assert violations of the Elections Clause, *Corman*, 287 F. Supp. 3d at 573, or any causes of action under the Pennsylvania Constitution based on authority reserved to the General Assembly.

46. Admitted that Speaker Turzai was named as a respondent in *League of Women Voters et al. v. Commonwealth of Pennsylvania*, 645 Pa. 1 (2018), and *Jones, et al. v. Boockvar et al.*, 717 MD 2018, but denied that those cases give the House Leaders the right to join this matter as an original party or to intervene to assert the General Assembly’s institutional rights.

47. Admitted that Speaker Turzai’s predecessor, Matthew J. Ryan, was named as a respondent in *Erfer v. Commonwealth*, 568 Pa. 128 (2002), but denied that the litigants’ actions in *Erfer* gives the House Leaders the right to join this matter as an original party or to intervene to assert the General Assembly’s institutional rights.

48. Denied. This paragraph mischaracterizes Petitioners’ requested relief, which does not impose any restraints on the General Assembly’s power to enact laws or make appropriations, nor does it implicate the individual House Leaders’ ability to participate in the legislative process, as detailed above in paragraphs 28 and 37. The House Leaders therefore have no right to intervene.

C. This Court Should Refuse Intervention Based on Pa. R.C.P. 2329(2) and (3).

49. Denied that the House Leaders have established that they are permitted to intervene for the reasons set forth above. The remainder of this paragraph cites a Rule of Civil Procedure, the content of which speaks for itself and to which no responsive pleading is required.

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

51. Denied for the reasons set forth in ¶13 of the Answer to the Senators' Proposed Intervention and pp. 14-16 of the Memorandum in Opposition. The House Leaders' purported Authorization only provides license for them to "defend the constitutionality of Pennsylvania election laws and election processes authorized by law." *Id.* But that interest is adequately represented because "it is the Commonwealth's duty to defend the constitutionality" of its laws, and proposed intervenors present no argument to suggest that Respondents will fail to do so in this case. *Robinson Twp. v. Commonwealth*, No. 284 M.D. 2012, 2012 WL 1429454, at *4 (Pa. Commw. Ct. Apr. 20, 2012). Moreover, the case law cited by the House Leaders in this paragraph concerns authority held by the General Assembly, but the House Leaders, who represent only one chamber of the legislature, cannot assert the General Assembly's institutional interests as a basis for intervention in this lawsuit.

52. Denied. In *Allegheny*, the proposed intervenors "[sought] to do more than offer 'their perspective on the correctness of [government] conduct.'" 225 A.3d at 912 (quoting *Robinson Twp.*, 84 A.3d at 1055). But here, that is all the House Leaders can offer since the purported Authorization only provides license for them to "defend the constitutionality of Pennsylvania election laws and election processes authorized by law." Moreover, the proposed intervenors in *Allegheny* "[sought] to preserve their voting power as it currently exists under Article III and their authority to appropriate Commonwealth funds, a key legislative duty," 225 A.3d at 912-913, and the constitutional claim at issue threatened to "bar the General Assembly from 'tieing legislative strings' to its appropriation of funds for the Medical Assistance program," *id.* at 912. But as explained in paragraphs 28 and 37 above, the General Assembly's authority to appropriate funds or to pass legislation is not at issue in this suit. Thus, this suit does not implicate any exclusive legislative functions, and therefore does not implicate any interest unique to legislators. Finally,

even if the Court accepts the House Leaders' vaguely referenced "Authorization," they would at most represent only one chamber of the legislature and still lack authority to assert the General Assembly's institutional interests as a basis for intervention in this lawsuit.

53. Admitted in part; denied in part. Admitted that the House Leaders have not delayed in filing this intervention petition. But denied that the House Leaders' presence will simplify this action. The House Leaders have identified no arguments and law that otherwise would not be presented before the Court. Moreover, the House Leaders' intervention will needlessly expand and complicate these litigation proceedings, and will delay the adjudication of Petitioners' rights, which provides grounds for this Court to refuse intervention under Pa. R.C.P. 2329(3).

54. Denied for the reasons set forth above and in the Answer to the Senators' Proposed Intervention and the Memorandum in Opposition.

WHEREFORE, Petitioners Michael Crossey, Dwayne Thomas, Irvin Weinreich, Brenda Weinreich, and the Pennsylvania Alliance for Retired Americans request that this Court deny the House Leaders' Petition to Intervene.

Dated: May 19, 2020

By: 

Adam C. Bonin
LAW OFFICE OF ADAM C. BONIN
The North American Building
121 South Broad Street, Suite 400
Philadelphia, PA 19107
Telephone: (267) 242-5014
Facsimile: (215) 701-2321
adam@boninlaw.com

Marc E. Elias*
Uzoma N. Nkwonta*
Emily R. Brailey*
Stephanie I. Command*
Zachary J. Newkirk*
PERKINS COIE LLP
700 Thirteenth Street, N.W., Suite 800
Washington, D.C. 20005-3960
Telephone: 202.654.6200
Facsimile: 202.654.6211

Sarah L. Schirack**
PERKINS COIE LLP
1029 W. 3rd Ave., Suite 300
Anchorage, AK 99517
Telephone: 907.279.8561

Counsel for Petitioners

*Admitted pro hac vice.

**Not admitted in Pennsylvania. Pro hac vice application pending.