

No. 29 WAP 2020

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IN THE  
**Supreme Court of Pennsylvania**  
Western District

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IN RE: 2,349 BALLOTS IN THE 2020 GENERAL ELECTION

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ANSWER TO EMERGENCY APPLICATION FOR INJUNCTIVE RELIEF  
FILED BY RESPONDENT ON NOV. 23, 2020  
FILED ON BEHALF OF

**ALLEGHENY COUNTY BOARD OF ELECTIONS**

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**TABLE OF CONTENTS**

Table of Authorities ..... ii

Answer to Petition.....1

Conclusion .....1

[Proposed Order](#) .....5

Proof of Service .....6

Certificate of Compliance with Confidential Information Rule .....6

**TABLE OF AUTHORITIES**

**Statutes**

25 Pa. Stat. § 2642(k).....1

## ANSWER TO PETITION

Pursuant to publicly advertised meeting the Board of Elections met at 10:00 AM today, November 23, 2020, to vote on a motion to Ratify the Preliminary Certification and to approve the Final Certification of votes casts at the November 3, 2020 General Election, as mandated by 25 Pa. Stat. § 2642(k). Excepted from said ratification and certification, which was approved by a 2-1 vote, are the 2,349 ballots that are the subject of this Emergency Application. Unsigned copies of the Preliminary Certification (Exhibit “A”) and Final Certification (Exhibit “B”) are attached hereto.

For these reasons, the pending petition is MOOT.

## CONCLUSION

For the foregoing reasons, Allegheny County Board of Elections requests that this Honorable Court DENY the pending EMERGENCY PETITION.

Respectfully submitted,

*/s/ Andrew F. Szefi*

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*/s/ Virginia Spencer Scott*

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**COUNTY OF**



**ALLEGHENY**

**PRELIMINARY CERTIFICATION  
IN THE OFFICE OF THE RETURN BOARD OF ALLEGHENY COUNTY  
NOVEMBER 3, 2020 GENERAL ELECTION**

**AND NOW**, to wit, as of the 18<sup>th</sup> day of November 2020, we the undersigned Members of the Return Board of Allegheny County, Pennsylvania, do hereby affix our signatures to the Preliminary Certification of the within returns of the votes cast for the candidates at the General Election, held on Tuesday, November 3, 2020. The Preliminary Certification, which has been submitted to the Commonwealth Department of State and posted publicly, is subject to pending timely filed litigation, affecting the following categories of votes, not included in the Preliminary Certification:

1. 254 provisional ballots challenged and unopened.
2. 326 undated mail-in/absentee ballots within the 45th Senatorial District.
3. 1996 undated mail-in/absentee ballots not within the 45th Senatorial District.
4. 708 mail-in/absentee ballots received after 8 P.M on November 3, 2020 and before 5 P.M on November 6, 2020 with a visible postmark of November 3, 2020 or earlier.
5. 23 mail-in/absentee ballots received after 8 P.M on November 3, 2020 and before 5 P.M on November 6, 2020 without a visible postmark.

**IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEAL OF OFFICE THIS 23<sup>rd</sup>  
DAY OF NOVEMBER 2020.**

\_\_\_\_\_  
Honorable Rich Fitzgerald, Chair

\_\_\_\_\_  
Honorable Bethany Hallam, Member

\_\_\_\_\_  
Honorable Samuel DeMarco, Member

Allegheny County Board of Elections  
Constituting the Return Board for the  
November 3, 2020 General Election

**EXHIBIT "A"**

Attest:

\_\_\_\_\_  
David R. Voyer, Division Manager  
Department of Administrative Services  
Elections Division

**COUNTY OF**



**ALLEGHENY**

**RICH FITZGERALD**  
COUNTY EXECUTIVE

**FINAL CERTIFICATION  
IN THE OFFICE OF THE RETURN BOARD OF ALLEGHENY COUNTY  
NOVEMBER 3, 2020 GENERAL ELECTION**

**AND NOW**, to wit, this 23<sup>rd</sup> day of November, 2020, five (5) days having passed since the Preliminary Certification of the votes cast in the November 3, 2020 General Election, we, the undersigned Members of the Return Board of Allegheny County, hereby certify the attached returns of the votes cast in the November 3, 2020 General Election as being true, correct and final; subject to revisions or changes due to pending timely filed litigation as noted. The below listed categories of votes subject to pending timely filed litigation and not included as part of this final certification are:

1. 254 provisional ballots challenged and unopened.
2. 326 undated mail-in/absentee ballots within the 45<sup>th</sup> Senatorial District.
3. 1996 undated mail-in/absentee ballots not within the 45<sup>th</sup> Senatorial District.
4. 708 mail-in/absentee ballots received after 8 P.M on November 3, 2020 and before 5 P.M on November 6, 2020 with a visible postmark of November 3, 2020 or earlier.
5. 23 mail-in/absentee ballots received after 8 P.M on November 3, 2020 and before 5 P.M on November 6, 2020 without a visible postmark.

**IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS AND SEALS THIS 23<sup>rd</sup> DAY OF NOVEMBER 2020.**

\_\_\_\_\_  
Honorable Rich Fitzgerald, Chair

\_\_\_\_\_  
Honorable Bethany Hallam, Member

\_\_\_\_\_  
Honorable Samuel DeMarco, Member

Allegheny County Board of Elections  
Constituting the Return Board for the  
November 3, 2020 General Election

Attest:

**EXHIBIT "B"**

\_\_\_\_\_  
David R. Voyer, Division Manager  
Department of Administrative Services  
Elections Division

**IN THE SUPREME COURT OF PENNSYLVANIA**

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No. 29 WAP 2020

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IN RE: ALLEGHENY COUNTY PROVISIONAL BALLOTS IN THE 2020  
GENERAL ELECTION

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**PROPOSED ORDER**

AND NOW this \_\_\_\_ day of November 2020, upon consideration of the  
EMERGENCY PETITION FOR INJUNCTIVE RELIEF of Nicole Zicarelli and the responses  
thereto, this Court hereby DENIES the PETITION.

BY THE COURT:

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**PROOF OF SERVICE**

I, Virginia Spencer Scott, certify that on this day, I caused a true and correct copy of the foregoing ANSWER TO EMERGENCY PETITION to be served on counsel for Respondent and Intervenors via this Court's electronic filing system.

Date: November 23, 2020

By: */s/ Virginia Spencer Scott*  
Virginia Spencer Scott

**CERTIFICATE OF COMPLIANCE WITH CONFIDENTIAL INFORMATION RULE**

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

Date: November 23, 2020

By: */s/ Virginia Spencer Scott*  
Virginia Spencer Scott