

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carol Ann Carter; Monica Parrilla;
Rebecca Poyourow; William Tung;
Roseanne Milazzo; Burt Siegel;
Susan Cassanelli; Lee Cassanelli;
Lynn Wachman; Michael Guttman;
Maya Fonkeu; Brady Hill; Mary
Ellen Balchunis; Tom DeWall,
Stephanie McNulty and Janet
Temin,

Petitioners,

v.

Veronica Degraffenreid, in her
official capacity as the Acting
Secretary of the Commonwealth of
Pennsylvania; Jessica Mathis, in
her official capacity as Director for
the Pennsylvania Bureau of
Election Services and Notaries,

Respondents,

Phillip T. Gressman; Ron Y.
Donagi; Kristopher R. Tapp;
Pamela Gorkin; David P. Marsh;
James L. Rosenberger; Amy
Myers; Eugene Boman; Gary
Gordon; Liz McMahon; Timothy G.
Freeman; and Garth Isaak,

Petitioners,

v.

CASES CONSOLIDATED

No. 464 M.D. 2021

No. 465 M.D. 2021

PROPOSED INTERVENORS-
PETITIONERS' ("CITIZEN-VOTER
INTERVENORS") APPLICATION TO
INTERVENE

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Veronica Degraffenreid, in her official capacity as the Acting Secretary of the Commonwealth of Pennsylvania; Jessica Mathis, in her official capacity as Director for the Pennsylvania Bureau of Election Services and Notaries,

Respondents,

Leslie Osche, Kim Geyer, Michael T. Slupe, Candee Barnes, Thomas Reep, Brandy Reep, Kenneth Lunsford, Tammy Lunsford, James Thompson, Pamela Thompson, Joseph Renwick, Stephanie Renwick, Louis Capozzi, David Ball, Mary E. Owlett, Kristine Eng, Justin Behrens, James P. Foreman, Matthew J. Stuckey, Anthony J. Luther, Linda C. Daniels, Jeffrey Piccola, James Vasilko, Jay Hagerman, and Evan P. Smith,

Proposed Intervenors-Petitioners,

v.

Veronica Degraffenreid, in her official capacity as the Acting Secretary of the Commonwealth of Pennsylvania; Jessica Mathis, in her official capacity as Director for the Pennsylvania Bureau of Election Services and Notaries,

Respondents.

**PROPOSED INTERVENORS-PETITIONERS' ("CITIZEN-VOTER
INTERVENORS") APPLICATION TO INTERVENE**

Proposed Intervenor-Petitioners, Leslie Osche, Kim Geyer, Michael T. Slupe, Candee Barnes, Thomas Reep, Brandy Reep, Kenneth Lunsford, Tammy Lunsford, James Thompson, Pamela Thompson, Joseph Renwick, Stephanie Renwick, Louis Capozzi, David Ball, Mary E. Owlett, Kristine Eng, Justin Behrens, James P. Foreman, Matthew J. Stuckey, Anthony J. Luther, Linda C. Daniels, Jeffrey Piccola, James Vasilko, Jay Hagerman, and Evan P. Smith (collectively referred to as the "Citizen-Voter Intervenor"), by and through their undersigned counsel, respectfully file the within Application to Intervene (the "Application") in the above-referenced consolidated litigation, and to participate fully therein as Intervenor-Petitioners. If permitted to intervene, the Citizen-Voter Intervenor request to file the Petition for Review attached as Exhibit "A," the content of which is incorporated as if fully set forth at length herein. In support of the within Application, the Citizen-Voter Intervenor further state as follows:

Introduction

1. Petitioners in the above-referenced consolidated cases collectively assert that the current Pennsylvania Congressional District Map is no longer constitutionally valid due to the results of the 2020 Census.

2. Petitioners further assert that their individual votes and associated rights are adversely affected by virtue of the population shifts within the Commonwealth resulting in the various maps now being considered.

3. The Supreme Court of the United States has recognized “a voter's right to equal protection in the electoral process for the selection of his or her representatives in government.” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 831 (Pa. 2018) (J. Saylor Dissenting); citing *Vieth v. Jubelirer*, 541 U.S. 267, 292 (2004) (plurality) (expressing agreement with a dissenting Justice that severe partisan gerrymanders are inconsistent with democratic principles and may violate the Equal Protection Clause, albeit maintaining that the judiciary is incapable of devising manageable standards for the assessments of degree).

4. The Supreme Court of Pennsylvania has recognized that Pennsylvania’s Constitution invokes the equal protection of Pennsylvania voters under the “Free and Equal Elections Clause” at Article 1, §5, Pa. Const.

Pertinent Background

5. Recently, “[o]n Dec[ember] 8, 2021, the State Government Committee of the Pennsylvania House of Representatives announced a

citizen map was selected as the preliminary congressional plan." See <http://paredistricting.com/pcplan>.

6. "On Dec[ember] 15, [2021], the citizen's map was updated in Committee to incorporate additional public feed back[sic]." *Id.*

7. This is only one of a number of proposed congressional maps.

8. In fact, there is a Public Comment Portal that contains various other proposed congressional maps. See <https://portal.pennsylvania-mapping.org/#gallery>.

9. Problematically, the Petitioners in the consolidated cases do not represent the Citizen-Voter Intervenors districts; thus, requiring intervention in the map making process so that these districts are adequately considered and represented.

The Consolidated Cases

10. On December 17, 2021, Petitioners, Carol Ann Carter, *et al.*, filed a Petition for Review against Respondents at docket number 464 MD 2021 seeking court intervention regarding the proposed congressional maps.

11. On December 17, 2021, Petitioners, Phillip T. Gressman, *et al.*, filed a Petition for Review against Respondents at docket number 465 MD 2021 seeking court intervention regarding the proposed congressional maps.

12. On December 20, 2021, both matters were consolidated at the above-referenced docket numbers.

13. On the same date, the Commonwealth Court issued a scheduling Order indicating that "[a]ny applications to intervene...shall be filed by December 31, 2021," and that "[a] party to this proceeding who wishes to submit to the Court for consideration a proposed 17-district congressional reapportionment plan consistent with the results of the 2020 Census shall file the proposed plan by January 28, 2022."

14. If permitted to intervene, the Citizen-Voter Intervenors intend to accept the Commonwealth Court's invitation to submit for consideration a proposed 17-district congressional reapportionment plan consistent with the results of the 2020 Census by January 28, 2022, and that is a significant reason for requesting intervention in these consolidated cases.

15. If permitted to intervene, the Citizen-Voter Intervenors' map will contain "congressional districts composed of compact and contiguous territory; as nearly equal in population as practicable; and which do not divide any county, city, incorporated town, borough, township or ward except where necessary to ensure quality of population." *League of Women Voters v. Cmmw.*, 178 A.3d 737, 742 (Pa. 2018).

16. It is undisputed that the Citizen-Voter Intervenors have the right to have their votes counted in accordance with the Pennsylvania Constitution, which is another basis of their challenge to the various reapportionment maps purported to be under consideration in this matter. *See e.g. Albert v. 2001 Legis. Reapportionment Commn.*, 790 A.2d 989, 994–95 (Pa. 2002) (“[w]e agree that it is the right to vote and the right to have one’s vote counted that is the subject matter of a reapportionment challenge.”).

17. Accordingly, the Citizen-Voter Intervenors respectfully file the within Application seeking intervention in the consolidated cases so they can submit their own proposed congressional map.

The Proposed Intervenor-Petitioners (“Citizen-Voter Intervenors”)

18. Leslie Osche (“Ms. Osche”) is a voter and a county commissioner in Butler County, Pennsylvania.

19. Kim Geyer (“Ms. Geyer”) is a voter and a county commissioner in Butler County, Pennsylvania.

20. Michael T. Slupe (“Sheriff Slupe”) is a voter and the Sheriff of Butler County, Pennsylvania.

21. Candee Barnes (“Ms. Barnes”) resides in and is a voter in Summit Township, Butler County, Pennsylvania.

22. Thomas Reep ("Mr. Reep") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

23. Brandy Reep ("Mrs. Reep") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

24. Kenneth Lunsford ("Mr. Lunsford") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

25. Tammy Lunsford ("Mrs. Lunsford") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

26. James Thompson (Mr. Thompson") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

27. Pamela Thompson ("Mrs. Thompson") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

28. Joseph Renwick ("Mr. Renwick") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

29. Stephanie Renwick ("Mrs. Renwick") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

30. Louis Capozzi ("Mr. Capozzi") resides in and is a voter in Cumberland County, Pennsylvania.

31. David Ball ("Mr. Ball") resides in and is a voter in Washington County, Pennsylvania.

32. Mary E. Owlett ("Ms. Owlett") resides in and is a voter in Tioga County, Pennsylvania.

33. Kristine Eng ("Ms. Eng") resides in and is a voter in Centre County, Pennsylvania.

34. Justin Behrens ("Mr. Behrens") resides in and is a voter in Luzerne County, Pennsylvania.

35. James P. Foreman ("Mr. Foreman") resides in and is a voter in Blair County, Pennsylvania.

36. Matthew J. Stuckey ("Mr. Stuckey") resides in and is a voter in Blair County, Pennsylvania.

37. Anthony J. Luther ("Mr. Luther") resides in and is a voter in Blair County, Pennsylvania.

38. Linda C. Daniels ("Ms. Daniels") resides in and is a voter in Blair County, Pennsylvania.

39. Jeffrey Piccola ("Mr. Piccola") resides in and is a voter in York County, Pennsylvania.

40. James Vasilko ("Mr. Vasilko") resides in and is a voter in Cambria County, Pennsylvania.

41. Jay Hagerman ("Mr. Hagerman") resides in and is a voter in Allegheny County, Pennsylvania.

42. Evan P. Smith ("Mr. Smith") resides in and is a voter in Allegheny County, Pennsylvania.

The Citizen-Voter Intervenors' Interests are not Adequately Represented by Petitioners' Requiring Their Necessary Intervention

43. Stated summarily, the Petitioners in the consolidated cases argue that their districts are being malapportioned, and that they will be forced to cast unequal votes if the proposed congressional maps proceed.

44. The Petitioners also argue that their rights to associate with other voters in support of their candidates will be infringed if the proposed congressional maps proceed.

45. Here, the Citizen-Voter Intervenors listed above reside in different counties than the Petitioners and although they share Petitioners' concerns, they are not otherwise represented in this matter.

46. As a result, their interests in the consolidated cases are similar to, but differ from, Petitioners, and hence, there is no one to represent their interests or counties in the consolidated cases regarding the proposed congressional maps or the continued map drawing process.

47. It is undisputed that the Citizen-Voter Intervenors all desire equality in their associational voting rights.

48. In counties like Allegheny, represented here by Mr. Hagerman and Mr. Smith, the proposed congressional maps should accurately reflect contiguous communities to pass Constitutional muster.

49. Additionally, Blair County voters, represented here by Mr. Foreman, Mr. Stuckey, Mr. Luther and Ms. Daniels, oppose splitting their county and keeping it in one congressional district.

50. Further, Butler County, represented here by Butler County Commissioner Osche, Butler County Commissioner Geyer, Sheriff Slupe, Mr. and Mrs. Reep, Mr. and Mrs. Lunford, Mr. and Mrs. Thompson, and Mr. and Mrs. Renwick, are voters who have seen Butler County suffer serious division of its municipalities in the 2018 map – including, the division of its municipalities into three different Congressional districts and the division of precincts, even a singular divided precinct in Cranberry Township, Butler County, Pennsylvania.

51. At least one of the proposed maps divides Summit Township, Butler County, in half and divides the Eastern townships from the Western and Central townships.

52. The County Commissioners and the Sheriff desire, on behalf of Butler Countians, that the County be placed in one Congressional District and/or that its townships not be divided.

53. The Summit Township residents desire that the Township not be divided into two or more districts.

54. Candee Barnes, the Judge of Elections in Summit Township desires that the Township not have to conduct multiple ballots for the office of United States Representative within her Township.

55. The Citizen-Voter Intervenors represent counties not otherwise represented by the Petitioners in the within cases but have the same interests and concerns as set forth herein regarding their associational rights as well as their Constitutional rights aforesaid.

56. These are but a few examples of the Citizen-Voter Intervenors' interest in the consolidated cases regarding the Proposed Map.

57. Unfortunately, as of the date of this filing, there is not an agreed upon plan for redistricting and the within Application to Intervene is necessary.

58. As a result, the Commonwealth Court, under its original jurisdiction, will be required to step in, and the Citizen-Voter Intervenors have a direct and substantial interest in congressional map making discussion and the looming required court intervention.

Legal Standard

59. It is well-settled that "[i]ntervention is 'a procedural step by which a person not a party to an action is admitted or permitted to become a party to the action on his own application.'" *Socy. Hill Civic Ass'n v. Philadelphia Bd. of License & Inspection Rev.*, 905 A.2d 579, 585 (Pa. Cmmw. 2006) (citing *Bannard v. New York State Natural Gas Corp.*, 404 Pa. 269, 279, 172 A.2d 306, 312 (1961)).

60. "Intervention is permitted 'only where the party seeking it has an interest in or will be affected by the pending litigation.'" *Id.*

61. "At any time during the pendency of an action, a person not a party thereto shall be permitted to intervene therein...if

(1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or

(2) such person is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof; or

(3) such person could have joined as an original party in the action or could have been joined therein; or

(4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action."

Pa.R.C.P. No. 2327.

62. Additionally, Pennsylvania Rule of Civil Procedure 2329, titled, "Action of Court on Petition," declares:

Upon the filing of the petition, and after hearing...the court, if the allegations of the petition have been established and are found to be sufficient, shall enter an order allowing intervention; but an application for intervention may be refused, if

(1) the claim or defense of the petitioner is not in subordination to and in recognition of the propriety of the action; or

(2) the interest of the petitioner is already adequately represented; or

(3) the petitioner has unduly delayed in making application for intervention or the intervention will unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.

Pa.R.C.P. No. 2329.

63. "Generally, pendency, for purposes of intervention, has been defined as the state of an undetermined proceeding since in those cases in which intervention has been allowed, there was a pending proceeding with further steps remaining to be taken before the case was concluded." See *Time for intervention, generally; allowable during pendency of action*, 3 Standard Pennsylvania Practice 2d § 14:374 (citing *In re Estate of Albright*, 545 A.2d 896 (1988)).

64. In sum, intervention is to be granted where the proposed intervenor is within a class set forth in Rule 2327 and no grounds for refusal are present under Rule 2329. See *Allegheny Rep. Health Ctr. v. Pa. Dep't of*

Human Servs., 225 A.3d 902, 908 (Pa. Cmmw. 1999) (citing *Larock*, 740 A.2d at 313).

65. "The determination of whether a proposed intervenor has a 'legally enforceable interest' calls for 'a careful exercise of discretion and consideration of all the circumstances involved,'" *Carol Ann Carter; Monica Parrilla; Rebecca Poyourow; William Tung; Roseanne Milazzo; Burt Siegel; Susan Cassanelli; Lee Cassanelli; Lynn Wachman; Michael Guttman; Maya Fonkeu; Brady Hill; Mary Ellen Balchunis; Tom DeWall; Stephanie McNulty; and Janet Temin, Petitioners v. Veronica Degraffenreid, in her official capacity as the Acting Sec. of the Cmmw. of Pennsylvania; Jessica Mathis, in her official capacity as Dir. for the Pennsylvania Bureau of Election Services and Notaries, Respondents*, 132 M.D. 2021, 2021 WL 4735059, at *1 (Pa. Cmmw. September 2, 2021) (citing *Realen Valley Forge Greenes Associates v. Upper Merion Township Zoning Hearing Board*, 941 A.2d 739, 744 (Pa. Cmwlt. 2008) (citations omitted)).

66. "[A]n applicant for intervention must have some right, either legal or equitable, that will be affected by the proceedings." *Id.* (citing *Keener v. Zoning Hearing Board of Millcreek Township*, 714 A.2d 1120, 1122 (Pa. Cmwlt. 1998)).

67. The test to intervene in the Commonwealth of Pennsylvania can be best summarized as meeting the “**substantial, direct, and immediate,**” test set forth in *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269 (Pa. 1975).” See *Carter, et al.*, 132 M.D. 2021, 2021 WL 4735059, at *17 (Pa. Cmmw. September 2, 2021) (emphasis added).

68. “To have a substantial interest, the proposed intervenor’s concern in the outcome of the action must surpass ‘the common interest of all citizens in procuring obedience to the law.’” *Id.*

69. Lastly, here, Pennsylvania Rule of Appellate Procedure 1531(b) allows a person not named as a respondent in an original jurisdiction petition to seek leave to intervene by filing an application with the court.

Argument for Intervention

70. In Pennsylvania, courts have routinely granted intervention status to voters in challenges to Pennsylvania’s election laws. See e.g. *League of Women Voters of Pennsylvania v. Cmmw.*, 178 A.3d 737, 741, n.5 (Pa. 2018) (noting that the Commonwealth Court permitted intervention to Republican voters from each congressional district, “including...active members of the Republican Party.”)

71. As Justice Wecht rightly stated in 2018, “fidelity to our Constitution does not include drawing lines down the middle of streets or

separating neighbors from one another," and "[i]t doesn't include carving up municipalities." *League of Women Voters of Pennsylvania v. Cmmw.*, 179 A.3d 1080, 1084 (Pa. 2018).

72. "[T]he Constitution says 'one person, one vote,' and it does not allow for unconstitutional gerrymandering." *Id.*

73. Unfortunately, many of the proposed congressional maps draw lines down the middle of streets, separate neighbors from one another, and carve up municipalities.

74. This is the same issue that occurred in 2018, and it affects all the active Citizen-Voter Intervenors listed above in various ways.

Butler County

75. Citizen-Voter Intervenors from Butler County have seen Butler County suffer serious divisions of its municipalities in the 2018 congressional map.

76. Prior to 2018, all of Butler County was included within one congressional district.

77. In 2018, Butler County was divided into three different congressional districts:

- a. The 15th Congressional District which includes most of the eastern part of the County, along with various counties stretching as far east as Centre County, approximately 140 miles to the east of Butler County.

- b. The 16th Congressional District which includes most of the western and central parts of the County, along with various counties stretching as far north as Erie County, approximately 110 miles to the North of Butler County.
- c. The 17th Congressional District which includes a single precinct in Cranberry Township, which is in the southeastern part of the County, along with all of Beaver County to the west and various townships in the northern part of Allegheny County to the South.

78. The Citizen-Voter Intervenors intend to present a Congressional reapportionment plan (map) that protects the associational rights of the citizens and voters of Butler County.

79. In addition to maintaining three congressional districts within Butler County, the proposed congressional maps further divide municipalities within Butler County into different congressional districts.

80. For example, the proposed congressional maps divide Summit Township, which is in the Southeastern part of the County, in half with part of residents in one congressional district and the other part of the residents in a different congressional district.

81. The Citizen-Voter Intervenors intend to present a Congressional reapportionment plan (map) that does not divide Summit Township or any other municipality into different congressional districts and that protects the associational rights of the citizens and voters of Summit Township, Butler County.

82. In addition, the present (2018) map included a single voting precinct in Cranberry Township, which is the southeastern part of the County, in the 17th Congressional District, along with all of Beaver County, various townships in Allegheny County and adds additional municipalities through Washington County.

83. The Citizen-Voter Intervenors intend to present a Congressional reapportionment plan (map) that does not divide voting precincts within Butler County into different congressional districts and that protects that associational rights of the citizens and voters of all voting precincts within Butler County.

Blair County

84. With respect to Blair County, the 2018 map included all of Blair County within the 13th Congressional District.

85. Various reapportionment maps have proposed to divide Blair County into multiple congressional districts.

86. The Citizen-Voter Intervenors intend to present a reapportionment map that maintains all of Blair County within the same congressional district and protects the associational rights of the citizens and voters of Blair County.

Washington County

87. With respect to Washington County, the 2018 map included all of Washington County within the 14th Congressional District.

88. The proposed maps, along with other reapportionment maps, unnecessarily divide municipalities within Washington County into multiple congressional districts.

89. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Washington County.

Cambria County

90. With respect to Cambria County, the 2018 map included a large portion of the County within the 15th Congressional Districts and a small portion of the County within the 13th Congressional District.

91. Both of these Congressional Districts contain counties within the central part of Pennsylvania.

92. The proposed congressional map, along with various other reapportionment maps, unnecessarily divide and include a small portion of Cambria County in a congressional district that includes counties in the western most part of the Commonwealth.

93. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Cambria County.

Tioga County

94. With respect to Tioga County, the 2018 map included all of Tioga County within the 12th Congressional Districts; however, a prior map split Tioga County into two Congressional Districts.

95. At least one of the proposed reapportionment maps proposes to divide Tioga County into multiple congressional districts.

96. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Tioga County.

Centre County

97. With respect to Centre County, the pre 2018 map included all of Centre County within the 15th Congressional Districts.

98. At least one of the reapportionment maps proposes to divide Centre County into multiple congressional districts.

99. The Citizen-Voter Intervenors intend to present a reapportionment map that returns Centre County to one congressional

district and protects the associational rights of the citizens and voters of Centre County.

Allegheny County

100. With respect to Allegheny County, the 2018 map divided Allegheny County into multiple congressional districts, including, placing individual voting precincts and wards within Allegheny County into different congressional districts.

101. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Allegheny County.

Cumberland County

102. With respect to Cumberland County, the 2018 map divided Cumberland County into multiple congressional districts.

103. Various reapportionment maps have proposed to divide Cumberland County in varying degrees between multiple congressional districts which directly impacts associational rights.

104. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Cumberland County.

Petitioners' Requested Relief Impacts the Citizen-Voter Intervenors

105. The Citizen-Voter Intervenors seek to intervene to protect their rights in their counties and municipalities.

106. These are more than policy preferences or generalized grievances.

107. Instead, they are legally enforceable interests that will undoubtedly be impacted if Petitioners' requested relief is granted.

108. Essentially, the Citizen-Voter Intervenors have various rights stemming from their participation in the redistricting process which Petitioners' consolidated cases certainly impact.

109. The Citizen-Voter Intervenors seek to preserve their rights to participate in the redistricting process.

The Citizen-Voter Intervenors Have an Interest in Maintaining Their Associational Rights

110. The Citizen-Voter Intervenors have an interest in the ability to associate with their neighbors and community members.

111. "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech." *NAACP v. Alabama*, 357 U.S. 449, 460 (1958).

112. Both the First and the Fourteenth Amendments guarantee the “freedom to associate with others for the common advancement of political beliefs and ideas.” *Id.*

113. One person, one vote challenges allege that everyone's vote in a certain district is harmed, regardless of whether the voter is a Republican or Democrat. *See Bd. of Estimate v. Morris*, 489 U.S. 688, 693–94 (1989) (“If districts of widely unequal population elect an equal number of representatives, the voting power of *each citizen* in the larger constituencies is debased and the citizens in those districts have a smaller share of representation than do those in the smaller districts.” (emphasis added)).

114. In sum, the Citizen-Voter Intervenors meet the standard for intervention because:

(1) the entry of a judgment in such action or the satisfaction of such judgment will impose any liability upon such person to indemnify in whole or in part the party against whom judgment may be entered; or

Here, court intervention in the Proposed Map and further map drawing process will impact the Citizen-Voter Intervenors.

(3) such person could have joined as an original party in the action or could have been joined therein; or

Here, the Citizen-Voter Intervenors could have filed actions on December 17, 2021 like Petitioners.

(4) the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action."

Here, the associational rights of the Citizen-Voter Intervenors are directly impacted by a court ordered map.

115. The Citizen-Voter Intervenors meet the "substantial, direct, and immediate" test because their interest in the outcome of the action surpasses "the common interest of all citizens in procuring obedience to the law."

116. The Citizen-Voter Intervenors also have legal and equitable rights that will be affected by the proceedings.

117. Accordingly, the Citizen-Voter Intervenors' interests are not, and will not, be adequately represented by any of the existing parties.

118. The Citizen-Voter Intervenors' have not unduly delayed in filing this Application which is being filed before the pleadings and briefing are closed in this matter and within the deadlines set by the Court.

119. The Citizen-Voter Intervenors will not unduly delay, embarrass, or prejudice the trial or adjudication of the parties' rights.

WHEREFORE, Proposed Intervenor-Petitioners (Citizen-Voter Intervenors), respectfully request that this Honorable Court grant them leave to file their Proposed Petition for Review attached as Exhibit "A."

Respectfully Submitted,

**Dillon, McCandless, King,
Coulter & Graham L.L.P.**

Date: December 27, 2021

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NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this Petition for Review and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, Pennsylvania 17101
(717) 232-7536

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carol Ann Carter; Monica Parrilla;
Rebecca Poyourow; William Tung;
Roseanne Milazzo; Burt Siegel;
Susan Cassanelli; Lee Cassanelli;
Lynn Wachman; Michael Guttman;
Maya Fonkeu; Brady Hill; Mary
Ellen Balchunis; Tom DeWall,
Stephanie McNulty and Janet
Temin,

Petitioners,

v.

Veronica Degraffenreid, in her
official capacity as the Acting
Secretary of the Commonwealth of
Pennsylvania; Jessica Mathis, in
her official capacity as Director for
the Pennsylvania Bureau of
Election Services and Notaries,

Respondents,

Phillip T. Gressman; Ron Y.
Donagi; Kristopher R. Tapp;
Pamela Gorkin; David P. Marsh;
James L. Rosenberger; Amy
Myers; Eugene Boman; Gary
Gordon; Liz McMahon; Timothy G.
Freeman; and Garth Isaak,

Petitioners,

v.

CASES CONSOLIDATED

No. 464 M.D. 2021

No. 465 M.D. 2021

**PROPOSED INTERVENORS-
PETITIONERS' ("CITIZEN-VOTER
INTERVENORS") [PROPOSED]
PETITION FOR REVIEW**

Counsel of Record for Proposed
Intervenors-Petitioners:

Dillon, McCandless, King,
Coulter & Graham L.L.P.

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Veronica Degraffenreid, in her official capacity as the Acting Secretary of the Commonwealth of Pennsylvania; Jessica Mathis, in her official capacity as Director for the Pennsylvania Bureau of Election Services and Notaries,

Respondents,

Leslie Osche, Kim Geyer, Michael T. Slupe, Candee Barnes, Thomas Reep, Brandy Reep, Kenneth Lunsford, Tammy Lunsford, James Thompson, Pamela Thompson, Joseph Renwick, Stephanie Renwick, Louis Capozzi, David Ball, Mary E. Owlett, Kristine Eng, Justin Behrens, James P. Foreman, Matthew J. Stuckey, Anthony J. Luther, Linda C. Daniels, Jeffrey Piccola, James Vasilko, Jay Hagerman, and Evan P. Smith,

Proposed Intervenors-Petitioners,

v.

Veronica Degraffenreid, in her official capacity as the Acting Secretary of the Commonwealth of Pennsylvania; Jessica Mathis, in her official capacity as Director for the Pennsylvania Bureau of Election Services and Notaries,

Respondents.

NOTICE TO PLEAD

TO: RESPONDENTS.

You are hereby notified to file a written response to the enclosed Petition for Review within thirty (30) days from service hereof or a judgment may be entered against you.

Respectfully Submitted,

**Dillon, McCandless, King,
Coulter & Graham L.L.P.**

Date: December 27, 2021

By: /s/ Thomas W. King, III

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*Counsel for Proposed Intervenors-
Petitioners ("Citizen-Voter
Intervenors")*

PROPOSED INTERVENORS-PETITIONERS' ("CITIZEN-VOTER INTERVENORS") [PROPOSED] PETITION FOR REVIEW

Proposed Intervenors-Petitioners, Leslie Osche, Kim Geyer, Michael T. Slupe, Candee Barnes, Thomas Reep, Brandy Reep, Kenneth Lunsford, Tammy Lunsford, James Thompson, Pamela Thompson, Joseph Renwick, Stephanie Renwick, Louis Capozzi, David Ball, Mary E. Owlett, Kristine Eng, Justin Behrens, James P. Foreman, Matthew J. Stuckey, Anthony J. Luther, Linda C. Daniels, Jeffrey Piccola, James Vasilko, Jay Hagerman, and Evan P. Smith (collectively referred to as the "Citizen-Voter Intervenors"), by and through their undersigned counsel, respectfully file the within Proposed Petition for Review in the above-referenced consolidated litigation, averring in support thereof as follows:

I. JURISDICTION

1. This Court has original jurisdiction under 42 Pa.C.S. § 761(a)(1).

II. PARTIES

2. Leslie Osche ("Ms. Osche") is a voter and a county commissioner in Butler County, Pennsylvania.
3. Kim Geyer ("Ms. Geyer") is a voter and a county commissioner in Butler County, Pennsylvania.
4. Michael T. Slupe ("Sheriff Slupe") is a voter and the Sheriff of Butler County, Pennsylvania.

5. Candee Barnes ("Ms. Barnes") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

6. Thomas Reep ("Mr. Reep") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

7. Brandy Reep ("Mrs. Reep") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

8. Kenneth Lunsford ("Mr. Lunsford") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

9. Tammy Lunsford ("Mrs. Lunsford") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

10. James Thompson (Mr. Thompson") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

11. Pamela Thompson ("Mrs. Thompson") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

12. Joseph Renwick ("Mr. Renwick") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

13. Stephanie Renwick ("Mrs. Renwick") resides in and is a voter in Summit Township, Butler County, Pennsylvania.

14. Louis Capozzi ("Mr. Capozzi") resides in and is a voter in Cumberland County, Pennsylvania.

15. David Ball ("Mr. Ball") resides in and is a voter in Washington County, Pennsylvania.

16. Mary E. Owlett ("Ms. Owlett") resides in and is a voter in Tioga County, Pennsylvania.

17. Kristine Eng ("Ms. Eng") resides in and is a voter in Centre County, Pennsylvania.

18. Justin Behrens ("Mr. Behrens") resides in and is a voter in Luzerne County, Pennsylvania.

19. James P. Foreman ("Mr. Foreman") resides in and is a voter in Blair County, Pennsylvania.

20. Matthew J. Stuckey ("Mr. Stuckey") resides in and is a voter in Blair County, Pennsylvania.

21. Anthony J. Luther ("Mr. Luther") resides in and is a voter in Blair County, Pennsylvania.

22. Linda C. Daniels ("Ms. Daniels") resides in and is a voter in Blair County, Pennsylvania.

23. Jeffrey Piccola ("Mr. Piccola") resides in and is a voter in York County, Pennsylvania.

24. James Vasilko ("Mr. Vasilko") resides in and is a voter in Cambria County, Pennsylvania.

25. Jay Hagerman ("Mr. Hagerman") resides in and is a voter in Allegheny County, Pennsylvania.

26. Evan P. Smith ("Mr. Smith") resides in and is a voter in Allegheny County, Pennsylvania.

27. Respondents are Veronica Degraffenreid, in her official capacity as the Acting Secretary of the Commonwealth of Pennsylvania, and Jessica Mathis, in her official capacity as Director for the Pennsylvania Bureau of Election Services and Notaries.

III. STANDING OF THE CITIZEN-VOTER INTERVENORS

28. On December 20, 2021, the Commonwealth Court issued a scheduling Order indicating that "[a]ny applications to intervene...shall be filed by December 31, 2021," and that "[a] party to this proceeding who wishes to submit to the Court for consideration a proposed 17-district congressional reapportionment plan consistent with the results of the 2020 Census shall file the proposed plan by January 28, 2022."

29. If permitted to intervene, the Citizen-Voter Intervenors intend to accept the Commonwealth Court's invitation to submit for consideration a proposed 17-district congressional reapportionment plan consistent with the results of the 2020 Census by January 28,

2022, and that is a significant reason for requesting intervention in these consolidated cases.

30. If permitted to intervene, the Citizen-Voter Intervenors' map will contain "congressional districts composed of compact and contiguous territory; as nearly equal in population as practicable; and which do not divide any county, city, incorporated town, borough, township or ward except where necessary to ensure quality of population." *League of Women Voters v. Cmms.*, 178 A.3d 737, 742 (Pa. 2018).

31. It is undisputed that the Citizen-Voter Intervenors have the right to have their votes counted in accordance with the Pennsylvania Constitution, which another basis of their challenge to the various reapportionment maps purported to be under consideration in this matter. See e.g. *Albert v. 2001 Legis. Reapportionment Commn.*, 790 A.2d 989, 994–95 (Pa. 2002) ("[w]e agree that it is the right to vote and the right to have one's vote counted that is the subject matter of a reapportionment challenge.").

32. Accordingly, the Citizen-Voter Intervenors respectfully file the within Application seeking intervention in the consolidated cases so they can submit their own proposed congressional map.

IV. FACTS

33. In Pennsylvania, courts have routinely granted intervention status to voters in challenges to Pennsylvania's election laws. See e.g. *League of Women Voters of Pennsylvania v. Cmmw.*, 178 A.3d 737, 741, n.5 (Pa. 2018) (noting that the Commonwealth Court permitted intervention to Republican voters from each congressional district, "including...active members of the Republican Party.")

34. As Justice Wecht rightly stated in 2018, "fidelity to our Constitution does not include drawing lines down the middle of streets or separating neighbors from one another," and "[i]t doesn't include carving up municipalities." *League of Women Voters of Pennsylvania v. Cmmw.*, 179 A.3d 1080, 1084 (Pa. 2018).

35. "[T]he Constitution says 'one person, one vote,' and it does not allow for unconstitutional gerrymandering." *Id.*

36. Unfortunately, the many of the proposed congressional maps draw lines down the middle of streets, separates neighbors from one another, and carves up municipalities.

37. This is the same issue that occurred in 2018, and it affects all the active Citizen-Voter Intervenors listed above in various ways.

Butler County

38. Citizen-Voter Intervenors from Butler County have seen Butler County suffer serious divisions of its municipalities in the 2018 congressional map.

39. Prior to 2018, all of Butler County was included within one congressional district.

40. In 2018, Butler County was divided into three different congressional districts:

- a. The 15th Congressional District which includes most of the eastern part of the County, along with various counties stretching as far east as Centre County, approximately 140 miles to the east of Butler County.
- b. The 16th Congressional District which includes most of the western and central parts of the County, along with various counties stretching as far north as Erie County, approximately 110 miles to the North of Butler County.
- c. The 17th Congressional District which includes a single precinct in Cranberry Township, which is in the southeastern part of the County, along with all of Beaver County to the west and various townships in the northern part of Allegheny County to the South.

41. The Citizen-Voter Intervenors intend to present a Congressional reapportionment plan (map) that protects the associational rights of the citizens and voters of Butler County.

42. In addition to maintaining three congressional districts within Butler County, the proposed congressional maps further divide municipalities within Butler County into different congressional districts.

43. For example, the proposed congressional maps divide Summit Township, which is in the Southeastern part of the County, in half with part of residents in one congressional district and the other part of the residents in a different congressional district.

44. The Citizen-Voter Intervenors intend to present a Congressional reapportionment plan (map) that does not divide Summit Township or any other municipality into different congressional districts and that protects the associational rights of the citizens and voters of Summit Township, Butler County.

45. In addition, the present (2018) map included a single voting precinct in Cranberry Township, which is the southeastern part of the County, in the 17th Congressional District, along with all of Beaver County, various townships in Allegheny County and adds additional municipalities through Washington County.

46. The Citizen-Voter Intervenors intend to present a Congressional reapportionment plan (map) that does not divide voting precincts within Butler County into different congressional districts and that protects that

associational rights of the citizens and voters of all voting precincts within Butler County.

Blair County

47. With respect to Blair County, the 2018 map included all of Blair County within the 13th Congressional Districts.

48. Various reapportionment maps have proposed to divide Blair County into multiple congressional districts.

49. The Citizen-Voter Intervenors intend to present a reapportionment map that maintains all of Blair County within the same congressional district and protects the associational rights of the citizens and voters of Blair County.

Washington County

50. With respect to Washington County, the 2018 map included all of Washington County within the 14th Congressional District.

51. The proposed maps, along with other reapportionment maps, unnecessarily divide municipalities within Washington County into multiple congressional districts.

52. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Washington County.

Cambria County

53. With respect to Cambria County, the 2018 map included a large portion of the County within the 15th Congressional Districts and a small portion of the County within the 13th Congressional District.

54. Both of these Congressional Districts contain counties within the central part of Pennsylvania.

55. The proposed congressional map, along with various other reapportionment maps, unnecessarily divide and include a small portion of Cambria County in a congressional district that includes counties in the western most part of the Commonwealth.

56. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Cambria County.

Tioga County

57. With respect to Tioga County, the 2018 map included all of Tioga County within the 12th Congressional Districts. However, a prior map split Tioga County into two Congressional Districts.

58. At least one of the proposed reapportionment maps proposes to divide Tioga County into multiple congressional districts.

59. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Tioga County.

Centre County

60. With respect to Centre County, the pre 2018 map included all of Centre County within the 15th Congressional Districts.

61. At least one of the reapportionment maps proposes to divide Centre County into multiple congressional districts.

62. The Citizen-Voter Intervenors intend to present a reapportionment map that returns Centre County to one congressional district and protects the associational rights of the citizens and voters of Centre County.

Allegheny County

63. With respect to Allegheny County, the 2018 map divided Allegheny County into multiple congressional districts, including, placing individual voting precincts and wards within Allegheny County into different congressional districts.

64. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Allegheny County.

Cumberland County

65. With respect to Cumberland County, the 2018 map divided Cumberland County into multiple congressional districts.

66. Various reapportionment maps have proposed to divide Cumberland County in varying degrees between multiple congressional districts which directly impacts associational rights.

67. The Citizen-Voter Intervenors intend to present a reapportionment map that protects the associational rights of the citizens and voters of Cumberland County.

V. STATEMENT OF RELIEF SOUGHT

68. The Citizen-Voter Intervenors have an interest in the ability to associate with their neighbors and community members.

69. "It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech." *NAACP v. Alabama*, 357 U.S. 449, 460 (1958).

70. Both the First and the Fourteenth Amendments guarantee the "freedom to associate with others for the common advancement of political beliefs and ideas." *Id.*

71. Under the Pennsylvania Constitution, “[e]lections shall be free and equal; and no power, civil or military shall at any time interfere to prevent the free exercise of the right of suffrage.” Article 1, §5, Pa. Const.

72. Additionally, the Pennsylvania Constitution provides “a right in a peaceable manner to assemble together for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance.” Article 1, §20, Pa. Const.

73. The Pennsylvania Constitution also provides “[a]ll men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.” Article 1, §1, Pa. Const.

74. The Pennsylvania Constitution also provides “[n]either the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.” Article 1, §26, Pa. Const.

75. The proposed congressional maps violate the Pennsylvania Constitution because they draw lines down the middle of streets, separate neighbors from one another, and carve up municipalities.

76. The Citizen-Voter Intervenors have no other remedy at law to remedy the violations of the constitutional provisions above.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request:

- a) that the Court review and enact a map that will contain "congressional districts composed of compact and contiguous territory; as nearly equal in population as practicable; and which do not divide any county, city, incorporated town, borough, township or ward except where necessary to ensure quality of population." *League of Women Voters v. Cmmw.*, 178 A.3d 737, 742 (Pa. 2018);
- b) an Order enjoining the enactment of any contrary proposed 17-district congressional reapportionment plan; and
- c) any other further relief that is just and necessary.

Respectfully Submitted,
**Dillon, McCandless, King,
Coulter & Graham L.L.P.**

Date: December 27, 2021

By: /s/ Thomas W. King, III
Thomas W. King III
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724-283-2200 (phone)
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VERIFICATION

I, Kim Geyer, am authorized to make this verification. I verify that the statements made in the Petition for Review are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in cursive script that reads "Kimberly D. Geyer". The signature is written in black ink and is positioned above a horizontal line.

Kim Geyer

*On behalf of Citizen-Voter
Intervenors*

CERTIFICATE OF COMPLIANCE

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.

/s/ Thomas W. King, III
Thomas W. King, III

VERIFICATION

I, Kim Geyer, am authorized to make this verification. I verify that the statements made in the Application to Intervene are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

A handwritten signature in cursive script, appearing to read "Kim Geyer", is written over a horizontal line.

Kim Geyer
*On behalf of Citizen-Voter
Intervenors*

CERTIFICATE OF COMPLIANCE

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.

/s/ Thomas W. King, III
Thomas W. King, III

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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CASES CONSOLIDATED

No. 464 M.D. 2021

No. 465 M.D. 2021

PROPOSED ORDER

Veronica Degraffenreid, in her official capacity as the Acting Secretary of the Commonwealth of Pennsylvania; Jessica Mathis, in her official capacity as Director for the Pennsylvania Bureau of Election Services and Notaries,

Respondents,

Leslie Osche, Kim Geyer, Michael T. Slupe, Candee Barnes, Thomas Reep, Brandy Reep, Kenneth Lunsford, Tammy Lunsford, James Thompson, Pamela Thompson, Joseph Renwick, Stephanie Renwick, Louis Capozzi, David Ball, Mary E. Owlett, Kristine Eng, Justin Behrens, James P. Foreman, Matthew J. Stuckey, Anthony J. Luther, Linda C. Daniels, Jeffrey Piccola, James Vasilko, Jay Hagerman, and Evan P. Smith,

Proposed Intervenors-Petitioners,

v.

Veronica Degraffenreid, in her official capacity as the Acting Secretary of the Commonwealth of Pennsylvania; Jessica Mathis, in her official capacity as Director for the Pennsylvania Bureau of Election Services and Notaries,

Respondents.

PROPOSED ORDER

AND NOW, this ___ day of _____, 202___, upon consideration of the **PROPOSED INTERVENORS-PETITIONERS' ("CITIZEN-VOTER INTERVENORS") APPLICATION TO INTERVENE**, and any opposition thereto, it is hereby ORDERED that the Proposed Intervenor-Petitioners' Application is GRANTED and the Prothonotary shall file and docket their Petition for Review forthwith.

It is FURTHER ORDERED that Proposed Intervenor-Petitioners shall submit their proposed 17-district congressional reapportionment plan consistent with the results of the 2020 Census on or before January 28, 2022.

J.