

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 464 MD 2021

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 Bachunis; Tom DeWall; Stephanie McNulty; and Janet Temin,

Petitioners,

v.

Leigh M. Chapman, in Her Capacity as Acting Secretary of the Commonwealth of Pennsylvania; and Jessica Matthis, in Her Acting Capacity as Director of the Bureau of Election Services and Notaries,

Respondents.

No. 465 MD 2021 (consolidated at No. 464 MD 2021)

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

Petitioners,

v.

Leigh M. Chapman, in Her Capacity as Acting Secretary of the Commonwealth of Pennsylvania; and Jessica Matthis, in Her Acting Capacity as Director of the Bureau of Election Services and Notaries,

Respondents.

APPLICATION FOR LEAVE TO FILE RESPONSIVE EXPERT REPORT

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**AMICUS PARTICIPANTS VOTERS OF THE COMMONWEALTH'S
APPLICATION FOR LEAVE TO FILE RESPONSIVE EXPERT REPORT**

1. On December 31, 2021, Amicus Participants Haroon Bashir, Valerie Biancaniello, Tegwyn Hughes, and Jeffrey Wenk (collectively, “Voters of the Commonwealth”), filed an application for leave to intervene in these consolidated actions.

2. On January 14, 2022, this Court entered an Order denying the Voters of the Commonwealth’s application for leave to intervene but permitted them to participate as Amicus Participants (the “Order”).

3. Under the Order, Amicus Participants were permitted to file a brief, expert report, and one proposed congressional redistricting map by January 24, 2022.

4. Under the Order, only Parties are permitted to file responsive briefs and expert reports.

5. On January 24, 2022, in addition to filing a brief, expert report, and proposed congressional redistricting map, the Proposed Voter Intervenors also filed a notice of appeal and jurisdictional statement with respect to the Order.

6. That appeal remains pending at docket numbers 9 MAP 2022 and 10 MAP 2022.

7. In light of the Proposed Voter Intervenors’ pending appeal, the Proposed Voter Intervenors seek leave to file a responsive expert report, attached hereto as Exhibit A.

8. As required of Parties, the responsive expert report has been prepared by the same expert witness that prepared the expert report filed with the Proposed Voter Intervenors' submissions on January 24.

9. Granting the Proposed Voter Intervenors leave to file the attached responsive expert report will minimize any prejudice to the Proposed Voter Intervenors if the Supreme Court reverses the Court's decision to deny intervention.

10. No Party will be prejudiced by the Court's receipt of the responsive expert report.

WHEREFORE, the Proposed Voter Intervenors respectfully request that this Honorable Court grant the within motion and deem as filed the responsive expert report attached to this application as Exhibit A.

Respectfully submitted,

GALLAGHER GIANCOLA LLC

Dated: January 26, 2022

/s/ Kathleen A. Gallagher

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Exhibit A

(Responsive Report of
Sean Trende)

Redistricting Data Hub, a widely utilized resource that collects political data relevant to the redistricting process and makes it publicly available to researchers. *See* <https://redistrictingdatahub.org/>. These blocks also contain population data. Here, I utilized the population counts that were not adjusted for prisoner population.

4. I also downloaded precinct shapefiles that included political data from the Redistricting Data Hub, and matched them to the appropriate district. In addition, I downloaded a shapefile for the current congressional districts.

5. I obtained a list of addresses for incumbents from counsel and geocoded those addresses to obtain latitude and longitude data.

6. Using a widely utilized statistical and graphics programming language called R, I used the block assignment file to match the shapefile of the blocks to their respective districts. From this, I was able to create a shapefile of the districts submitted to this Court.

7. After reviewing the various metrics, it is clear that the map submitted by the Voters of the Commonwealth consistently performs well across almost all metrics. Unlike many other plans, extraneous considerations such as partisanship did not subordinate the neutral criteria adopted by the Supreme Court of Pennsylvania in the preparation of a congressional redistricting plan.

COMPACTNESS

8. To evaluate the compactness of the districts, I employed three commonly used metrics: Reock, Polsby-Popper and Schwartzberg. All three metrics are based on comparing the drawn district to a circle, which is the most compact shape. All three are described in my first Declaration.

9. Table 1 describes the various compactness measures of the plans submitted to the Court. The Pennsylvania Voters’ map compares favorably to every map across almost every compactness metric.

Table 1: Comparison of Compactness Measures														
All Maps														
Measure	Ali	Cit. Voters	Conc. Cits.	DTL	PA Voters	Carter	Gov. Wolf	Gressman	House Ds	House Rs	Resch 1	Resch 2	Senate Ds 1	Senate Ds 2
Reock														
Mean	0.407	0.418	0.416	0.436	0.442	0.413	0.401	0.395	0.392	0.383	0.426	0.414	0.373	0.379
Median	0.404	0.412	0.427	0.429	0.436	0.430	0.396	0.398	0.409	0.328	0.434	0.406	0.369	0.382
Minimum	0.234	0.210	0.199	0.227	0.343	0.214	0.203	0.264	0.226	0.270	0.307	0.307	0.209	0.197
Polsby-Popper														
Mean	0.352	0.349	0.352	0.378	0.396	0.321	0.381	0.348	0.279	0.321	0.363	0.352	0.315	0.335
Median	0.363	0.344	0.354	0.372	0.379	0.303	0.392	0.328	0.251	0.288	0.381	0.372	0.314	0.355
Minimum	0.208	0.234	0.244	0.233	0.229	0.172	0.219	0.187	0.148	0.194	0.246	0.216	0.220	0.242
Schwartzberg														
Mean	0.590	0.588	0.591	0.611	0.626	0.562	0.613	0.585	0.521	0.561	0.599	0.591	0.558	0.576
Median	0.603	0.587	0.595	0.610	0.616	0.551	0.626	0.572	0.501	0.537	0.617	0.610	0.561	0.595
Minimum	0.456	0.484	0.494	0.482	0.478	0.415	0.468	0.432	0.385	0.440	0.496	0.464	0.469	0.492

10. To put this in further perspective, Tables 2-4 order the average, middle, and worst Reock scores across the various plans. The mean reflects a simple average, the median is useful to avoid weighting a single outlier too heavily, while the minimum indicates whether or not a mapmaker “sacrificed” a single district in the service of drawing some other district.

Table 2: Mean Reock Scores

All Maps

Map	Score
Voters of the Commonwealth	0.442
Draw the Lines	0.436
Resenthaler 1	0.426
Citizen Voters	0.418
Concerned Citizens	0.416
Resenthaler 2	0.414
Carter	0.413
Ali	0.407
Governor Wolf	0.401
Gressman	0.395
House Democrats	0.392
House Republicans	0.383
Senate Democrats 2	0.379
Senate Democrats 1	0.373

Table 3: Median Reock Scores

All Maps

Map	Score
Voters of the Commonwealth	0.436
Resenthaler 1	0.434
Carter	0.43
Draw the Lines	0.429
Concerned Citizens	0.427
Citizen Voters	0.412
House Democrats	0.409
Resenthaler 2	0.406
Ali	0.404
Gressman	0.398
Governor Wolf	0.396
Senate Democrats 2	0.382
Senate Democrats 1	0.369
House Republicans	0.328

Table 4: Minimum Reock Scores

All Maps	
Map	Score
Voters of the Commonwealth	0.343
Reschenthaler 1	0.307
Reschenthaler 2	0.307
House Republicans	0.27
Gressman	0.264
Ali	0.234
Draw the Lines	0.227
House Democrats	0.226
Carter	0.214
Citizen Voters	0.21
Senate Democrats 1	0.209
Governor Wolf	0.203
Concerned Citizens	0.199
Senate Democrats 2	0.197

SPLITS OF POLITICAL SUBDIVISIONS

11. The map submitted by Voters of the Commonwealth also compares favorably to other maps based on splits of political subdivisions. The following split more counties than the Voters of the Commonwealth map (15): Ali (16), Concerned Citizens (16), Governor Wolf (16), House Democrats (16), Senate Democrats 1 (17) and Senate Democrats 2 (16).

12. It also avoids the three-way county splits found in other maps, including the frequently repeated, ahistorical three-way split of Montgomery County. The following maps split counties three ways (other than Philadelphia, which must be split three ways): Ali

(Chester, Montgomery); Citizen Voters (Berks, Montgomery); Concerned Citizens (4-way split of Philadelphia); Draw the lines (Montgomery); Carter (Berks, Montgomery); Governor Wolf (Berks, Montgomery); Gressman (Berks); House Democrats (Berks); House GOP (Dauphin, 4-way split of Philadelphia); Reschenthaler 1 and 2 (Dauphin, Montgomery); Senate Dems 1 (Berks); Senate Dems 2 (Montgomery).

13. It avoids the nearly unprecedented split of Bucks County found in Ali, the Governor’s Map, Gressman, the House Democrats, and both Senate Democrats maps.

14. It avoids the gratuitous cracking of the City of Pittsburgh found in Ali, Concerned Citizens, Draw the Lines, the Governor’s Map, and both Senate Democrats’ maps.

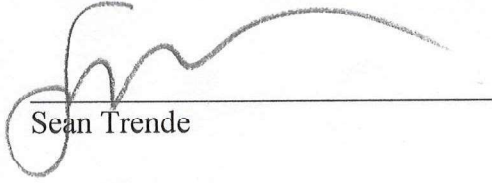
PARTISANSHIP

15. The following table compares partisanship measures across the various plans, using different sets of election as described in my first declaration. A negative score indicates bias favoring Democrats and a positive score indicates bias favoring Republicans.

Metric	Ali	Cit.Voters	Conc.Cits	DTL	PA.Voters	Carter	Gov	Gressman	House.Ds	House.Rs	Rens.1	Rens.2	Sen.Ds.1	Sen.Ds.2
Mean Median, Trump/Biden	0.0	2.2	0.3	0.3	3.0	0.3	-1.8	0.3	-1.7	2.8	1.4	1.4	0.6	-1.6
Mean Median, All 2020	0.0	0.9	0.2	0.2	2.0	0.0	-1.1	0.1	-0.8	1.9	0.5	0.5	0.3	-1.3
Mean Median, 2016-2020	0.4	1.0	0.3	0.3	2.2	0.5	0.3	0.2	0.1	2.1	1.4	1.4	0.9	-0.2
Efficiency Gap, Trump/Biden	-2.9	3.6	-3.1	-3.0	3.6	-3.0	-2.9	-3.0	-8.7	3.5	3.6	3.6	-3.0	-2.9
Efficiency Gap 2020	-9.0	3.0	-3.7	-3.6	3.0	-9.1	-3.5	-9.0	-9.3	3.0	3.0	3.0	3.1	-3.5
Efficiency Gap 2016-2020	-6.3	-0.9	-6.5	-6.4	5.6	-6.4	-1.0	-6.3	-12.1	5.5	-0.9	-0.9	0.3	-6.3

I declare under penalty of perjury under the law of the Commonwealth of Pennsylvania that the foregoing is true and correct.

Signed on: January 26, 2022, at Delaware County, Ohio, United States of America



Sean Trende

**CERTIFICATE OF COMPLIANCE
WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the *Public Access Policy of the United 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.

GALLAGHER GIANCOLA LLC

Dated: January 26, 2022

/s/ Kathleen A. Gallagher
Kathleen A. Gallagher
Russell D. Giancola

PROOF OF SERVICE

I hereby certify that on January 26, 2022, I served the foregoing Application for Leave to File Responsive Expert Report to be served on the Court and on all counsel of record via the Court's e-filing system.

GALLAGHER GIANCOLA LLC

Dated: January 26, 2022

/s/ Kathleen A. Gallagher
Kathleen A. Gallagher
Russell D. Giancola

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ORDER OF COURT

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AND NOW, this ____ day of January, 2022, upon consideration of the Application for Leave to File Responsive Expert Report (the “Application”) filed by the Proposed Voter Intervenors, and any opposition thereto, it is hereby ORDERED that said application is GRANTED. The expert report attached as Exhibit A to the Application is deemed filed.

BY THE COURT:

_____, J.