



TIMOTHY BONNER, et al.,

Petitioners/Appellees,

v.

VERONICA DEGRAFFENREID, in her official  
capacity as Acting Secretary of the Commonwealth  
of Pennsylvania, et al.,

Respondents/Appellants.

No. 15 MAP 2022

No. 18 MAP 2022

No. 19 MAP 2022

**RESPONDENTS/APPELLANTS' APPLICATION  
FOR ENLARGEMENT OF WORD LIMIT FOR REPLY BRIEF**

Respondents/Appellants, the Pennsylvania Department of State (the “Department”) and the Acting Secretary of the Commonwealth, respectfully submit this Application for an enlargement of the word limit for their reply brief due on March 2, 2022. In support of the Application, Respondents state as follows:

1. The above-captioned proceeding involves consolidated appeals from the Commonwealth Court’s *en banc* Orders entered January 28, 2022, in the consolidated cases below. Pursuant to the Commonwealth Court’s 3-2 decision, those Orders declared that Act 77 of 2019, which established procedures allowing all Pennsylvanians to vote by mail, violates the Pennsylvania Constitution and was void *ab initio*.

2. The issues presented in this appeal are of great public significance. Since Act 77 was implemented, millions of Pennsylvanians have cast more than

4.7 million mail-in ballots during the 2020 and 2021 election cycles.<sup>1</sup> Moreover, as the Commonwealth Court acknowledged, more than 1.3 million Pennsylvanians have put themselves on Pennsylvania’s permanent mail-in voting list, indicating their intention to vote by mail in all future elections. *See* Opinion dated January 28, 2022, slip op. at 49, No. 244 M.D. 2021 (Pa. Commw. Ct.).

3. Reflecting the weight of these issues, the briefing below was voluminous, including multiple rounds of cross-applications for relief and submissions by Respondents, two separate groups of Petitioners, a group of Intervenor-Petitioners, and a set of Intervenor-Respondents.

4. Respondents filed a timely initial brief in this appeal on February 15, 2022.

5. There are three sets of appellees in this matter. Each set of appellees filed a separate answering brief on February 25, 2022. Collectively, the briefs of appellees exceed 150 pages.

6. Two of the sets of appellees have filed cross-appeals pressing claims that were not addressed by the Commonwealth Court below.

7. Respondents’ reply brief is “the second brief of the ... designated appellant in this appeal.” Pa.R.A.P. 2135(2). Pursuant to Pa.R.A.P. 2135(2), “[i]n

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<sup>1</sup> *See* <https://www.electionreturns.pa.gov/ReportCenter/Reports> (permitting generation of reports for each election since 2020, which list the total number of mail-in ballots).

cross appeals under Pa.R.A.P. 2136, the second brief of the ... designated appellant shall not exceed 16,500 words.”

8. On February 9, 2022, the Court entered an Order stating that “Rule of Appellate Procedure 2136(b) (providing for four rounds of briefs in cross appeal scenarios) is inapplicable to the instant consolidated appeals.”

9. Respondents had understood that, although the Order rendered Pa.R.A.P. 2136(b) inapplicable, this proceeding nonetheless involved a “cross appeal” within the meaning of Pa.R.A.P. 2136(a). On that basis, Respondents believed that their second brief was governed by the word limit set forth in Pa.R.A.P. 2135(a)(2) .

10. If Respondents’ interpretation was incorrect, Respondents respectfully request leave to exceed the word limit for a reply brief under Pa.R.A.P. 2135(a)(1). Specifically, Respondents’ respectfully request leave to submit a reply brief not to exceed 14,000 words.

11. Respondents respectfully submit that an enlarged word limit is warranted given the number and length of appellee briefs to which Respondents are replying, each of which raises some discrete arguments requiring a response; the number and nature of the issues to be addressed in this proceeding; and the existence of cross-appeals.

WHEREFORE, Respondents/Appellants respectfully request that the Court grant their Application and enter an Order in the form attached hereto.

Dated: March 3, 2022

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**IN THE SUPREME COURT OF PENNSYLVANIA**

DOUG McLINKO,

Petitioner/Appellee,

v.

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF STATE, et al.,

Respondents/Appellants.

TIMOTHY BONNER, et al.,

Petitioners/Appellees,

v.

VERONICA DEGRAFFENREID, in her official  
capacity as Acting Secretary of the Commonwealth  
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**CASES  
CONSOLIDATED**

No. 14 MAP 2022

No. 17 MAP 2022

No. 15 MAP 2022

No. 18 MAP 2022

No. 19 MAP 2022

**[PROPOSED] ORDER**

AND NOW, this \_\_\_\_ day of March, 2022, upon consideration of Respondents/Appellants' Application for Enlargement of Word Limit for Reply Brief, it is hereby ORDERED that the Application is GRANTED. IT IS

FURTHER ORDERED that Respondents/Appellants may submit a reply brief not to exceed 14,000 words.

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J.

**CERTIFICATION REGARDING PUBLIC ACCESS POLICY**

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

Dated: March 3, 2022

/s/ Robert A. Wiygul  
Robert A. Wiygul