

**IN THE
COMMONWEALTH COURT OF PENNSYLVANIA**

IN RE MAY 17, 2022 GENERAL)
PRIMARY FOR THE)
REPUBLICAN NOMINEE FOR) CASE NO. 301 M.D. 2022
THE OFFICE OF THE UNITED)
STATES SENATE)

**APPLICATION FOR RECONSIDERATION OF AMENDED
ORDER SCHEDULING HEARING FOR JUNE 6, 2022**

Petitioners hereby respectfully request that this Court reconsider its Amended Order entered today scheduling a hearing on the Amended Petitioner for June 6, 2022. Petitioners request that this Court enter a revised Order that schedules the hearing for Friday, June 3, 2022, with intervening dates also changed as necessary.

1. As this Court is aware, there is a certification deadline of June 8, 2022, for the results of the primary contest for the Republican candidate for United States Senate. *See* 25 P.S. § 3154(g)(6).

2. In the Amended Petition in this matter, Petitioners seek relief in the form of a hand recount of ballots from 150 Election Districts.

3. If this Court does not hold a hearing on the pending Amended Petition until 10:00 a.m. on Monday, June 6, 2022, assuming Petitioners were to prevail and this Court were to issue its ruling in their favor from the bench at the conclusion of the hearing, that would leave the affected counties with fewer than

36 hours to conduct the requested hand count of the 150 Election Districts and still meet the June 8, 2022 certification deadline.

4. Petitioners are concerned that the timing issue may leave them with a pyrrhic victory as they would not be able to benefit from the relief sought by the time the certification window closes.

5. Accordingly, Petitioners hereby request that this Court reconsider its June 1, 2022 Amended Order and issue a revised Order substantially in the form below (also duplicated as a Proposed Order accompanying this Application):

a. Boards of Elections for Allegheny, Bucks, Centre, Chester, Cumberland, Delaware, Erie, Lancaster, Monroe, Schuylkill, Westmoreland, and York Counties and the Secretary **may** file a **response** to the Amended Petition no later than **12:00 Noon on Thursday, June 2, 2022.** Any party who fails to file a **response** by 12:00 Noon on Thursday, June 2, 2022, will be considered by the Court to be unopposed to the relief requested in the Amended Petition.

b. **Dr. Mehmet C. Oz and any other potential intervenors may file an application to intervene no later than 12:00 Noon on Thursday, June 2, 2022.** Any potential intervenor shall attach to the application to intervene a copy of any response which the

potential intervenor will file in the action if permitted to intervene.

c. A hearing on the Amended Petition, and the **responses** thereto, is hereby scheduled for **Friday, June 3, 2022 at _____**
__m., in Courtroom _____, 3rd Floor, Pennsylvania Judicial Center, Harrisburg, Pennsylvania. **Petitioner shall retain the services of a court stenographer for the hearing.**

6. Counsel for Petitioners has provided counsel for the above-named counties and the Boards of Election thereof, as well as Dr. Mehmet C. Oz and his counsel with a copy of the initial Petition (via email on May 31, 2022) and the Amended Petition (via email today) in this matter. Counsel for Petitioners also have provided counsel for the Secretary with a copy of the Amended Petition via email today.

7. While the above schedule is slightly accelerated, Petitioners believe it is necessary to ensure that any relief they may obtain from this Court is not illusory and to ensure the relevant county Boards of Elections have sufficient time to prepare for and conduct the hand recount.

8. A proposed order is attached.

Dated: June 1, 2022

Respectfully submitted,

/s/ Ronald L. Hicks, Jr.

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Counsel for Petitioners

CERTIFICATE OF COMPLIANCE

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.

Dated: June 1, 2022

/s/ Ronald L. Hicks, Jr.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the within Application was served this 1st day of June, 2022, via email to the following:

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ORDER OF COURT

AND, NOW, to-wit, this _____ day of _____, 20____, upon consideration of Petitioners' Application for Reconsideration of Amended Order Scheduling Hearing for June 6, 2022, it is hereby ORDERED, ADJUDGED and DECREED that said Application is GRANTED.

This Court's Amended Order of June 1, 2022, setting a schedule for consideration of the Petition filed in this case is modified as noted below. In all other respects, this Court's June 1, 2022 Amended Order remains in place.

- a. Boards of Elections for Allegheny, Bucks, Centre, Chester, Cumberland, Delaware, Erie, Lancaster, Monroe, Schuylkill, Westmoreland, and York Counties and the Secretary **may** file a **response** to the Amended Petition no later than **12:00 Noon on Thursday, June 2, 2022.** Any party who fails to file a **response** by 12:00 Noon on Thursday, June 2, 2022, will be considered by the

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BY THE COURT:

J.