

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

TOM WOLF, Governor of the	:	
Commonwealth of Pennsylvania, and	:	
LEIGH M. CHAPMAN, Acting	:	
Secretary of the Commonwealth of	:	
Pennsylvania,	:	
	:	
	:	
<i>Petitioners,</i>	:	
	:	
v.	:	No. 482 MD 2022
	:	
GENERAL ASSEMBLY OF THE	:	
COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
	:	
	:	
<i>Respondent.</i>	:	

[PROPOSED] ORDER

AND NOW, this ___ day of November 2022, upon consideration of Respondent’s Unopposed Application Leave to File an Over-length Brief and for an Enlargement of Time to File Such Brief, **IT IS HEREBY ORDERED** that Respondent’s Application is **GRANTED**. Respondent is permitted to file a brief that does not exceed 21,000 words. It is also **HEREBY ORDERED** that the briefing schedule set forth in Paragraphs 3 and 4 of this Court’s October 26, 2022 Order is **REVISED** as follows:

1. Respondent, and any Intervenors aligned with Respondent, shall file and serve a Brief(s) in Opposition to Petitioners’ Application for Summary Relief and

Reply Brief(s) to any Opposition to the Preliminary Objections (8 copies), **no later than Monday, November 28, 2022.**

2. Petitioners, and any Intervenors aligned with Petitioners, shall file and serve a Reply Brief(s) in further support of Petitioners' Application for Summary Relief (8 copies) **no later than Monday, December 5, 2022.**

J.

1. On September 28, this Court issued an order granting Petitioners' Application to Expedite for Briefing and Argument and concurrently issued a briefing schedule ("**Initial Briefing Schedule**"). **Ex. A.**

2. Under the Initial Briefing Schedule, Respondent was required to file and serve an Answer or Preliminary Objections and a Brief in Support of its Preliminary Objections no later than October 7.²

3. The Initial Briefing Schedule then granted Petitioners until October 28—21 calendar days—to file a Brief in Support of the Application for Summary Relief and in Opposition to any Preliminary Objections.³ Meanwhile, Respondent had until November 11—14 calendar days—to file and serve a Brief in Opposition to Petitioners' Application for Summary Relief and a Reply Brief.⁴

4. On October 7, Respondent filed Preliminary Objections to the Petition for Review.

5. On and before October 7, the four caucuses⁵ comprising the General Assembly filed applications to intervene.

² Initial Briefing Schedule ¶ 3.

³ *Id.* ¶ 4.

⁴ *Id.* ¶ 5.

⁵ The applications to intervene were filed by: (1) Senator Kim Ward, Majority Leader of the Pennsylvania Senate, and the Pennsylvania Senate Republican Caucus ("**Senate Republican Intervenors**"); (2) Senator Jay Costa, Democratic Leader of the Pennsylvania Senate, and the Pennsylvania Senate Democratic Caucus ("**Senate Democratic Intervenors**"); (3) Representative Kerry A. Benninghoff, Majority Leader of the Pennsylvania House, and the Pennsylvania House Republican Caucus ("**House Republican Intervenors**"); (4) State

6. After a status conference, the Court granted the four caucuses' applications to intervene and issued a revised briefing schedule (“**Revised Briefing Schedule**”) on October 26. **Ex. B.**

7. Under the Revised Briefing Schedule, the Senate Republican Intervenors and the House Republican Intervenors were required to file briefs in support of their preliminary objections (which had been attached to their applications to intervene) by October 31.⁶

8. Ostensibly, the Revised Briefing Schedule extended Petitioners' time to file Brief in Support of the Application for Summary Relief and in Opposition to all three sets of Preliminary Objections to November 10, 2022.⁷ This extension had the effect of granting Petitioners 48 calendar days in which to prepare their brief in support of their September 23 Application for Summary Relief and 34 calendar days in which to respond to Respondent's October 7 Preliminary Objections.

9. The Revised Briefing Schedule now requires that Respondent file and serve a Brief in Opposition to Petitioners' Application for Summary Relief and Reply Brief to any Opposition to Respondent's Preliminary Objections on

Representative Joanna E. McClinton, and the Democratic Caucus of the Pennsylvania House of Representatives (“**House Democratic Intervenors**”).

⁶ Revised Briefing Schedule ¶ 1.

⁷ *Id.* ¶ 2.

November 21.⁸ This represents a net loss of 4 calendar days from the Initial Briefing Schedule to prepare, file, and serve responsive briefing.⁹

10. On top of the decreased time to prepare a responsive briefing and despite ongoing efforts to resolve the case, three of the four undersigned counsel are scheduled to appear at a trial in the Dauphin County Court of Common Pleas beginning on November 21. Under the Initial Briefing Schedule, Respondent's brief had been due ten days before trial.¹⁰

11. Further, Respondent must now respond to each of the three briefs separately filed by the Petitioners, the House Democratic Intervenors, and the Senate Democratic Intervenors. The three briefs filed on November 10 in support of Petitioners' Application for Summary Relief and in Opposition to all Preliminary Objections total 176 pages and 41,665 words.

12. Under Pa.R.A.P. 2135(a)(1), Respondent's Brief in Opposition to Petitioners' Application for Summary Relief is limited to 14,000 words and Respondent's Reply Brief to the Opposition to all Preliminary Objections is limited to 7,000 words.

13. In the interests of judicial economy and to more efficiently respond to the arguments advanced in Petitioners' and the House Democratic Intervenors' and

⁸ *Id.* ¶ 3.

⁹ Compare Initial Briefing Schedule ¶¶ 4-5 with Revised Briefing Schedule ¶¶ 2-3.

¹⁰ Initial Briefing Schedule ¶ 5.

the Senate Democrats Intervenors' briefing, Respondent requests leave from this Court to file a single responsive brief that is no more than 21,000 words in length.

14. In addition, Respondent requests that it be granted until Monday, November 28—seven more calendar days, two of which include judicial closures for the Thanksgiving holiday—in which to file its over-length brief.

15. Correspondingly, Respondent also requests that the due date for the Reply Briefs of Petitioners, and any Intervenors aligned with Petitioners, be moved to Monday, December 5. Respondent is not requesting any change to the argument date.

16. Under Pa.R.A.P. 3707, on November 14, Respondents sought the concurrence of all parties. The Senate Republican Intervenors and the House Republican Intervenors concur in this application. The Petitioners, the House Democratic Intervenors, and the Senate Democratic Intervenors do not oppose Respondent's requests to file an over-length brief that does not exceed 21,000 words, for a seven-day enlargement of time to file this brief, and to reschedule the due date for the Reply Briefs of Petitioners, and any Intervenors aligned with Petitioners, to Monday, December 5—under the strict condition that there is no resultant change to the December 14 argument date.

WHEREFORE, Respondent requests (1) leave to file a single brief in opposition to Petitioners' Application for Summary Relief and in reply to all

Opposition Briefs to all Preliminary Objections that does not exceed 21,000 words in length; (2) an additional seven-day enlargement of time to file its brief; and (3) rescheduling the due date for the Reply Briefs of Petitioners, and any Intervenors aligned with Petitioners, to Monday, December 5.

Respectfully submitted,

POST & SCHELL PC

Dated: Nov. 15, 2022

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Counsel for Respondent

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.

Dated: Nov. 15, 2022

/s/ Erik R. Anderson
Erik R. Anderson

CERTIFICATE OF SERVICE

I certify that I served this document on the individuals and in the manner reflected below, which service satisfies the requirements of Pa. R.A.P. 121:

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Dated: Nov. 15, 2022

/s/ Erik R. Anderson

Erik R. Anderson

EXHIBIT A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Tom Wolf, Governor of the	:	
Commonwealth of Pennsylvania,	:	
and Leigh M. Chapman, Acting	:	
Secretary of the Commonwealth of	:	
Pennsylvania,	:	
Petitioners	:	
	:	
v.	:	
	:	
General Assembly of the	:	
Commonwealth of Pennsylvania,	:	
Respondent	:	No. 482 M.D. 2022

PER CURIAM

ORDER

NOW, September 28, 2022, upon consideration of Petitioners’ Application for Expedited Briefing and Argument and Respondent’s Answer thereto, the Application is **GRANTED** as set forth below:

1. Applications to Intervene, complete with proposed filings and a memorandum of law in support thereof (3 copies) shall be filed and served no later than **October 7, 2022**. All answers to any Applications to Intervene (3 copies) shall be filed and served no later than **October 14, 2022**. If a party opposes any Application to Intervene, a memorandum of law in opposition thereto (3 copies) shall accompany their answer. Any party who fails to file a response will be considered by the Court to be unopposed to the Applications to Intervene.
2. The Court may schedule a status conference at any time after **October 14, 2022**.

3. Respondent shall file and serve an Answer or Preliminary Objections and a Brief in Support of Preliminary Objections (8 copies) no later than **October 7, 2022**.
4. Petitioners shall file and serve a Brief in Support of their Application for Summary Relief and in Opposition to any Preliminary Objections (8 copies) no later than **October 28, 2022**.
5. Respondent shall file and serve a Brief in Opposition to Petitioners' Application for Summary Relief and Reply Brief to any Preliminary Objections (8 copies) no later than **November 11, 2022**.
6. Petitioner may file and serve a Reply Brief in further support of their Application for Summary Relief no later than **November 18, 2022**.
7. The Prothonotary shall list Petitioners' Application for Summary Relief and any Preliminary Objections on the earliest available argument list.

No extensions of these deadlines will be granted absent exigent circumstances.

EXHIBIT B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Tom Wolf, Governor of the	:	
Commonwealth of Pennsylvania,	:	
and Leigh M. Chapman, Acting	:	
Secretary of the Commonwealth of	:	
Pennsylvania,	:	
Petitioners	:	
	:	
v.	:	No. 482 M.D. 2022
	:	
General Assembly of the	:	
Commonwealth of Pennsylvania,	:	
Respondent	:	

PER CURIAM

ORDER

NOW, October 26, 2022, this Court having ruled upon the applications for leave to intervene in this matter in the Memorandum Opinion issued on October 26, 2022, it is hereby **ORDERED** that the briefing schedule set forth in Paragraphs 4 through 7 of this Court’s September 28, 2022 Order is **REVISED** as follows:

1. Senate and House Republican Intervenors shall file and serve Briefs in Support of their respective Preliminary Objections (8 copies), **no later than Monday, October 31, 2022.**
2. Petitioners, and any Intervenors aligned with Petitioners, shall file and serve a Brief(s) in Support of Petitioners’ Application for Summary Relief and in Opposition to any Preliminary Objections (8 copies), **no later than Thursday, November 10, 2022.**
3. Respondent, and any Intervenors aligned with Respondent, shall file and serve a Brief(s) in Opposition to Petitioners’ Application for

Summary Relief and Reply Brief(s) to any Opposition to the Preliminary Objections (8 copies), **no later than Monday, November 21, 2022.**

4. Petitioners, and any Intervenors aligned with Petitioners, shall file and serve a Reply Brief(s) in further support of Petitioners' Application for Summary Relief (8 copies), **no later than Monday, November 28, 2022.**
5. Any *amicus* brief (8 copies) shall be filed and served in accordance with Pa.R.A.P. 531(b)(4).
6. The Prothonotary is directed to list this matter for oral argument on the December 2022 argument list in Harrisburg.

No extensions of these deadlines will be granted absent exigent circumstances.