

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

**REPRESENTATIVE BRYAN CUTLER, )  
LEADER OF THE REPUBLICAN )  
CAUCUS OF THE PENNSYLVANIA )  
HOUSE OF REPRESENTATIVES )**

**Petitioner,**

**v.**

**LEIGH M. CHAPMAN, ACTING )  
SECRETARY OF THE )  
COMMONWEALTH, THE )  
PENNSYLVANIA DEPARTMENT OF )  
STATE, and THE BOARD OF )  
ELECTIONS OF ALLEGHENY )  
COUNTY )**

**Respondents.**

**No. 588 MD 2022**

**MOTION TO APPEAR AT STATUS CONFERENCE BY REMOTE  
COMMUNICATION TECHNOLOGY**

**AND NOW** comes Respondent Allegheny County Board of Elections through its Solicitor George M. Janocsko and Assistant County Solicitors Allan J. Opsitnick and Lisa G. Michel and files the within Motion and avers as follows:

1. The Board of Elections of Allegheny County (hereafter “The Board”) is the recipient of the Writs of Election and its function is to give effect to such Writs by conducting elections, including preparation of and transmittal of mail-in ballots to voters who make application for such ballots, reserving physical polling places for such elections and staffing such polls; preparing the election materials and equipment for such elections, including printing paper ballots, testing equipment and delivering equipment to the polling places.

2. The Board submits that is a nominal party to this action and has no discretion, authority or control over the Writs or process for determining the dates of the special elections to fill vacancies in the three Allegheny County Pennsylvania House of Representatives seats.
3. A status conference is scheduled in this matter for Wednesday, December 21, 2022, at 10:00 a.m., in Courtroom 5001, Pennsylvania Judicial Center, Fifth Floor, 601 Commonwealth Avenue, Harrisburg, Pennsylvania, for the purpose of discussing this matter.
4. Unlike the Petitioner and Respondent Acting Secretary Chapman, who have offices in Harrisburg, Pennsylvania, Respondent Board and its counsel are located more than two hundred miles from the Court.
5. The Board submits that as a nominal party, other than urging a swift resolution, the Board takes no position in the legal dispute in this matter or who has the authority to issue a Writ of Election.
6. Given its nominal status, the Board's participation in this matter is limited.
7. Having counsel appear in-person when they will likely be merely listening to the proceedings and not adding substantively to the Court's determination in this matter is burdensome to the Board.
8. Remote technology has been used effectively by this Court, most recently in the elections matter captioned *RNC v. Chapman*, 447 MAP 2022.
9. Neither the Petitioner nor Respondent Chapman are prejudiced by allowing counsel for the Board to participate remotely in the scheduled conference.

**WHEREFORE,** Respondent Allegheny County Board of Elections moves that this Honorable Court allow its undersigned counsel to appear by remote teleconferencing at the status conference on Wednesday December 21, 2022, at 10:00 a.m.

Respectfully submitted,

/s/ George M. Janocsko

George M. Janocsko

County Solicitor

Pa. I.D. #26408

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/s/ Allan J. Opsitnick

Allan J. Opsitnick

Assistant County Solicitor

Pa. I.D. #28126

/s/ Lisa G. Michel

Lisa G. Michel

Assistant County Solicitor

Pa. I.D. #59997

ALLEGHENY COUNTY LAW DEPARTMENT

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Attorneys for Respondent Allegheny County

Board of Elections

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**[PROPOSED] ORDER OF COURT**

And now, this \_\_\_\_\_ day of December 2022, upon consideration of Respondent Allegheny County Board of Elections' Motion to Appear at Status Conference by Remote Communication Technology, said Motion is hereby **GRANTED**. It is hereby **ORDERED** that counsel for the Respondent Allegheny County Board of Elections shall appear by remote teleconferencing at the status conference on Wednesday December 21, 2022, at 10:00 a.m. Instructions to join shall be transmitted to the Respondent.

BY THE COURT,

\_\_\_\_\_  
J.

**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.

Submitted by: Allan J. Opsitnick

Signature: /s/ Allan J. Opsitnick

Name: Allan J. Opsitnick

Attorney #: 28126

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving true and correct copies of the foregoing **MOTION TO APPEAR AT STATUS CONFERENCE BY REMOTE COMMUNICATION TECHNOLOGY** upon the persons and in the manner indicated below, which satisfies the requirements of Pa. R. A. P. 121:

**Service by Electronic Mail as Addressed as Follows:**

To all active counsel of record listed as participants on Commonwealth Court docket in this matter.

Date: December 14, 2022

*/s/ Allan J. Opsitnick* \_\_\_\_\_  
Allan J. Opsitnick  
Assistant County Solicitor  
Pa. I.D. #28126  
aopsitnick@opsitnickslaw.com  
Attorney for Respondent - Allegheny  
County Board of Elections