

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

BRYAN CUTLER,

Petitioner,

v.

LEIGH M. CHAPMAN, THE
PENNSYLVANIA DEPARTMENT OF
STATE, and THE BOARD OF
ELECTIONS OF ALLEGHENY
COUNTY,

Respondents,

JOANNA MCCLINTON,

Intervenor.

588-MD-2022

**PENNSYLVANIA DEMOCRATIC PARTY'S
CONCURRENCE TO EMERGENCY APPLICATION FOR DISMISSAL**

Pursuant to this Court's Order of January 5, 2023, proposed intervenor the Pennsylvania Democratic Party files this response to the emergency application for dismissal filed by Leader Joanna McClinton.

The Pennsylvania Democratic Party concurs with the emergency application for dismissal. With the recent selection of Speaker Mark Rozzi, and Speaker Rozzi's reaffirmation of the February 7, 2023 Special Election dates for House Districts 34 and 35 (and this Court's order with respect to District 32), this court need not involve itself any longer.

The writs issued by Speaker Rozzi on Tuesday evening make clear that there is no basis by which the Petitioner's pending Application for Special Relief should be granted. *See* Writs of Special Election in Districts 34 and 35, attached as Exhibits A and B to the pending emergency application. Thus, while the Pennsylvania Democratic Party continues to believe that dismissal is appropriate for the grounds raised in its pending preliminary objections, the Pennsylvania Democratic Party concurs that there are separate grounds identified Leader McClinton to dismiss this matter immediately.

Notably, both Leader Cutler and Leader McClinton were among the 115 bipartisan members who voted for Speaker Rozzi on Tuesday, adopting a political solution to the essentially political question of chamber leadership. *See* House RCS 4 (Jan. 3, 2023) (available at www.legis.state.pa.us/cfdocs/legis/RC/Public/rc_view_action2.cfm?sess_yr=2023&sess_ind=0&rc_body=H&rc_nbr=4).

Upon becoming Speaker, Speaker Rozzi immediately issued writs confirming the December 7 special election writs issued by Leader McClinton. *See* Exhibits A and B to Leader McClinton's application for emergency relief. The language of each writ is expressly clear, as it calls for the elections to occur "ON THE DAY ESTABLISHED IN THE WRIT ISSUED ON DECEMBER 7, 2022, BY LEADER JOANNA E. MCCLINTON". *See id.* at p 1 of each writ.

The PA Dems thus concur that the immediate dismissal sought by Leader McClinton in her application for relief is appropriate.

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January 6, 2023

Counsel for Pennsylvania Democratic Party

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing document was served upon all counsel of record on January 6, 2023, via electronic service:

/s/ Kevin Greenberg _____
Kevin Greenberg

CERTIFICATE OF COMPLIANCE

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.

s/ Kevin Greenberg
Kevin Greenberg