

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

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Docket No. 261 MD 2017

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LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, et al.,  
*Petitioners,*

v.

COMMONWEALTH OF PENNSYLVANIA, et al.,  
*Respondents.*

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**ANSWER AND NEW MATTER OF GOVERNOR TOM WOLF TO  
PETITION FOR REVIEW**

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Date: November 17, 2017

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**NOTICE TO PLEAD**

You are hereby notified to file a written reply to Respondent's New Matter filed in response to Petitioners' Petition for Review Addressed to the Court's Original Jurisdiction within thirty (30) days from service hereof.

Respectfully submitted,

HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER

Dated: November 17, 2017

/s/ Michele D. Hangley

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## **ANSWER**

Respondent, Governor Tom Wolf, in his official capacity as Governor, hereinafter, “Governor” or “Governor Wolf”, by and through his undersigned counsel, hereby submits this Answer with New Matter to the Petition for Review.

## **INTRODUCTION**

1. This paragraph contains Petitioners’ characterization of the Petition for Review (“Petition”) and/or conclusions of law, to which no response is required.

2. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the U.S. Supreme Court and the Pennsylvania Supreme Court, those opinions speak for themselves. Any mischaracterization of the opinions is denied.

3. It is admitted that the Pennsylvania General Assembly passed the Congressional Redistricting Act of 2011 (“2011 Plan”) on December 20, 2011, and that then-Governor Tom Corbett signed the 2011 Plan into law on December 22, 2011. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

4. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

5. After reasonable investigation and based upon information and belief, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the statewide congressional vote and the competitiveness of congressional elections in Pennsylvania since 2012. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

6. After reasonable investigation and based upon information and belief, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the statewide congressional vote and the competitiveness of Democratic candidates in congressional elections in Pennsylvania in 2012 and 2014. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

7. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres<sup>1</sup> and Commissioner Marks, who have access to official election returns, it is admitted that the 2011 Plan placed the city of Reading in the 16<sup>th</sup> Congressional District; the cities of Scranton, Wilkes-Barre, and Easton in the 17<sup>th</sup> Congressional District; and portions of the city of Chester in the 1<sup>st</sup>

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<sup>1</sup> Acting Secretary Torres was substituted by operation of Pennsylvania Rule of Appellate Procedure 502(c), upon the resignation of former Secretary Cortés on October 10, 2017.

Congressional District and the 7<sup>th</sup> Congressional District, respectively. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

8. It is admitted, upon information and belief, that the illustrations set forth in ¶¶ 55-59 of the Petition accurately reflect the district boundaries for the 6<sup>th</sup> Congressional District, the 7<sup>th</sup> Congressional District, and the 12<sup>th</sup> Congressional District. By way of further response, these illustrations speak for themselves. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

9. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

10. This paragraph is a conclusion of law to which no response is required.

11. This paragraph is a conclusion of law to which no response is required.

12. This paragraph is a conclusion of law to which no response is required.

### **PARTIES**

13. Petitioner League of Women Voters was dismissed as a party by Order of the Commonwealth Court on November 13, 2017; therefore, no response is required.

14. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Carmen Febo San Miguel is a registered Democrat who resides in the 1<sup>st</sup> Congressional District in Philadelphia and who consistently votes. It is further admitted that official election returns support Petitioners' averments in this paragraph regarding the competitiveness of the 1<sup>st</sup> Congressional District under the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

15. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted only that official election returns support Petitioners' averments in this paragraph regarding the competitiveness of the 2<sup>nd</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied. By way of further response, upon information and belief, there are five individuals named James Solomon registered as Democrats in the 2<sup>nd</sup> Congressional District.

16. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that John Greiner is a registered Democrat who resides in the 3<sup>rd</sup> Congressional District in Erie County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 3<sup>rd</sup> Congressional District before and after the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

17. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that John Capowski is a registered Democrat who resides in the 4<sup>th</sup> Congressional District in Cumberland County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 4<sup>th</sup> Congressional District before and after the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.



18. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Gretchen Brandt is a registered Democrat who resides in the 5<sup>th</sup> Congressional District in Centre County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 5<sup>th</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

19. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Thomas Rentschler is a registered Democrat who resides in the 6<sup>th</sup> Congressional District in Berks County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 6<sup>th</sup> Congressional District before and after the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth

of the remaining averments or characterizations of this paragraph; therefore, they are denied.

20. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Mary Elizabeth Lawn is a registered Democrat who resides in the 7<sup>th</sup> Congressional District in Delaware County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 1<sup>st</sup> Congressional District and the 7<sup>th</sup> Congressional District. The Governor lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

21. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Lisa Isaacs is a registered Democrat who resides in the 8<sup>th</sup> Congressional District in Bucks County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the

8<sup>th</sup> Congressional District before and after the 2011 Plan. The Governor lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

22. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Don Lancaster is a registered Democrat who resides in the 9<sup>th</sup> Congressional District in Indiana County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 9<sup>th</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

23. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Jordi Comas is a registered Democrat who resides in the 10<sup>th</sup> Congressional District in Union County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the

10<sup>th</sup> Congressional District before and after the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

24. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Robert Smith is a registered Democrat who resides in the 11<sup>th</sup> Congressional District in Luzerne County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 11<sup>th</sup> Congressional District before and after the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

25. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that William Marx is a registered Democrat who resides in the 12<sup>th</sup> Congressional District in Westmoreland County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the

competitiveness of the 12<sup>th</sup> Congressional District before and after the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

26. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Richard Mantell is a registered Democrat who resides in the 13<sup>th</sup> Congressional District in Montgomery County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 13<sup>th</sup> Congressional District before and after the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

27. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Priscilla McNulty is a registered Democrat who resides in the 14<sup>th</sup> Congressional District in Allegheny County and who consistently votes. Based on information

previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 14<sup>th</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

28. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Thomas Ulrich is a registered Democrat who resides in the 15<sup>th</sup> Congressional District in Lehigh County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 15<sup>th</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

29. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Robert B. McKinstry, Jr. is a registered Democrat who resides in the 16<sup>th</sup> Congressional District in Chester County and who consistently votes. Based on

information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 16<sup>th</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

30. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Mark Lichty is a registered Democrat who resides in the 17<sup>th</sup> Congressional District in Monroe County and who consistently votes. Based on information previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 17<sup>th</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

31. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to registration and voting information pertaining to this Petitioner, it is admitted that Lorraine Petrosky is a registered Democrat who resides in the 18<sup>th</sup> Congressional District in Westmoreland County and who consistently votes. Based on information

previously supplied by Respondents Torres and Marks, it is further admitted that official election returns support Petitioners' averments regarding the competitiveness of the 18<sup>th</sup> Congressional District since 2002. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

32. The Commonwealth of Pennsylvania was dismissed by Order dated October 4, 2017; therefore, no response is required.

33. Admitted.

34. Admitted.

35. It is admitted only that Thomas W. Wolf is the Governor of the Commonwealth of Pennsylvania and that one of the Governor's official duties is signing or vetoing bills passed by the General Assembly. The remaining averments and characterizations contained in this paragraph are specifically denied.

36. It is admitted only that Pedro A. Cortés was the Secretary of the Commonwealth of Pennsylvania at the time the Petition for Review was filed. He has since resigned from that position. It is admitted that the Secretary of the Commonwealth is charged with specific, discrete and enumerated tasks and duties, and specific, discrete and enumerated powers, related to the conduct of elections under the Election Code and other laws. Governor Wolf expressly denies that the Secretary of the Commonwealth has what Petitioners have described as an



independent, free-standing power of “general supervision and administration” of “elections and election laws.” Rather, by way of further answer, the Secretary of the Commonwealth has no authority beyond that specifically assigned by the Election Code and other laws.

37. It is admitted only that Jonathan Marks is the Commissioner of the Bureau of Commissions, Elections, and Legislation, and in that capacity, carries out some of the specifically enumerated tasks and duties of the Secretary of the Commonwealth on behalf of the Secretary of the Commonwealth. It is specifically denied that he has an independent, free-standing power of “supervision and administration of Pennsylvania’s elections and electoral process;” rather (and by way of further answer), he has only such powers of “supervision and administration” as are assigned, by the Election Code and other laws, to the Secretary of the Commonwealth, and further delegated to him.

38. Admitted.

39. Admitted.

40. Admitted.

### **JURISDICTION**

41. Admitted.

## **FACTUAL ALLEGATIONS**

42. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

43. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

44. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

45. It is admitted that Republicans won control of the Pennsylvania House of Representatives and the governorship in the 2010 general election, and that Republicans also retained control of the Pennsylvania Senate in the 2010 general election. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

46. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

47. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

48. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

49. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

50. It is admitted, upon information and belief, that Senate Bill 1249 was introduced on September 14, 2011, by Republican primary sponsors Majority Floor Leader Dominic F. Pileggi, President Pro Tempore Joseph B. Scarnati, III, and Senator Charles T. McIlhinney, Jr. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

51. It is admitted, upon information and belief, that Senate Bill 1249, as introduced and through second consideration in the Senate, contained no exact verbal description of each of the congressional districts, but rather contained the placeholder language as averred by Petitioners in this paragraph. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

52. It is admitted, upon information and belief, that Senate Bill 1249 was amended twice on December 14, 2011, with the exact verbal descriptions of each of the congressional districts, and that the Senate passed the bill on that same date. The Governor lacks knowledge or information sufficient to form a belief as to the truth

of the remaining averments or characterizations of this paragraph; therefore, they are denied.

53. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied. By way of further response, the averments in this paragraph characterize remarks and writings made by political analysts. The remarks and writings speak for themselves. Any mischaracterization of the remarks or writings is denied.

54. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied. By way of further response, the averments in this paragraph characterize remarks and writings made by political analysts. The remarks and writings speak for themselves. Any mischaracterization of the remarks or writings is denied.

55. This paragraph is a conclusion of law to which no response is required. To the extent a response is required, it is admitted, based upon information supplied by Respondents Torres and Marks in their Answer and New Matter, that the illustration in this paragraph accurately represents that Montgomery County is split among five congressional districts. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

56. It is admitted, based upon information supplied by Respondents Torres and Marks in their Answer and New Matter, that the illustration in this paragraph accurately represents the shape of the 6<sup>th</sup> Congressional District. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

57. It is admitted, based upon information supplied by Respondents Torres and Marks in their Answer and New Matter, that the illustration in this paragraph accurately represents the shape of the 12<sup>th</sup> Congressional District. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

58. It is admitted, based upon information supplied by Respondents Torres and Marks in their Answer and New Matter, that the illustrations in this paragraph accurately represent the shape of the 7<sup>th</sup> Congressional District. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

59. This paragraph is a conclusion of law to which no response is required. To the extent a response is required, it is admitted, based upon information supplied by Respondents Torres and Marks in their Answer and New Matter, that the illustration in this paragraph accurately represents the evolution of the 7<sup>th</sup>

Congressional District over time. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

60. It is admitted, upon information and belief, that the appendix that is attached to the Petition appears to be an accurate representation of the 2011 Congressional District Plan for the Commonwealth of Pennsylvania.

61. This paragraph is a conclusion of law to which no response is required.

62. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

63. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

64. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the competitiveness of the 1<sup>st</sup> Congressional District and the 2<sup>nd</sup> Congressional District under the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

65. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

66. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied. By way of further response, the averments of this paragraph refer to statements made by Senator Anthony Williams recorded in the Senate Legislative Journal, a document that speaks for itself.

67. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Senator Jay Costa recorded in the Senate Legislative Journal, a document that speaks for itself.

68. Admitted, upon information and belief.

69. Admitted, upon information and belief.

70. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Dan Frankel recorded in the House Legislative Journal, a document that speaks for itself.

71. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Frank Dermody recorded in the House Legislative Journal, a document that speaks for itself.

72. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Robert Freeman recorded in the House Legislative Journal, a document that speaks for itself.

73. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Steve Samuelson recorded in the House Legislative Journal, a document that speaks for itself.

74. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Babette Josephs recorded in the House Legislative Journal, a document that speaks for itself.

75. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Michael Hanna recorded in the House Legislative Journal, a document that speaks for itself.

76. Admitted, upon information and belief, that Governor Wolf's predecessor in office, then-Governor Tom Corbett, signed the bill into law in time for the 2012 congressional elections.

77. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted that official election returns support Petitioners' averments as set forth in the chart in this paragraph showing each party's



share of the two-party vote in congressional districts in the 2012 general election. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

78. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the average winning percentage in congressional districts in the 2012 general election. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

79. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied. By way of further response, the averments of this paragraph quote the *2012 REDMAP Summary Report*, a document that speaks for itself.

80. Based upon the previously filed Answer and New Matter of Respondents Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the percentage of congressional seats Republicans won in the 2014 general election compared to their statewide vote

share. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

81. Based upon the previously filed Answer and New Matter of Respondent Acting Secretary Torres and Commissioner Marks, who have access to official election returns, admitted.

82. Based upon the previously filed Answer and New Matter of Respondent Acting Secretary Torres and Commissioner Marks, who have access to official election returns, admitted.

83. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments or characterizations contained in this paragraph; therefore, they are denied.

84. This paragraph contains conclusions of law to which no response is required. To the extent further response is required, the Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

85. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments or characterizations contained in this paragraph; therefore, they are denied.

86. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

87. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied. By way of further response, the averments of this paragraph which contain explanations of the “Markov chain” analysis are quoted from the report cited in footnote no. 15 to this paragraph. The report and the explanation of the analysis speak for themselves.

88. It is admitted, upon information and belief, that the efficiency gap is a statistical approach designed to measure how efficiently a party’s voters are distributed across districts. To the extent Petitioners cite and/or characterize the opinion of the three-judge panel in *Whitford*, that opinion speaks for itself. Any mischaracterization of the opinion is denied.

89. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

90. It is admitted, upon information and belief, that the “mean-median gap” is a statistical approach designed to measure how a party’s voters are distributed across districts. The Governor lacks knowledge or information sufficient to form a

belief as to the truth of the remaining averments of this paragraph, and they are therefore denied.

91. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

92. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

93. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

94. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

95. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

96. The averments of this paragraph contain characterizations of a 2015 article, including a chart representing voting history of members of Congress. The report along with the charts contained therein speak for themselves and any mischaracterizations of the same are denied.

97. The averments of this paragraph contain data from the U.S. Congress Votes Database. The data contained therein speak for themselves and any mischaracterizations of the same are denied.

98. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Governor lacks knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

**COUNT I**  
**Violation of the Pennsylvania Constitution's**  
**Free Expression and Association Clauses, Art. I, §§ 7, 20**

99. The Governor incorporates ¶¶ 1-98 as if fully set forth herein.

100. This paragraph quotes portions of the Pennsylvania Constitution, a document that speaks for itself.

101. This paragraph quotes portions of the Pennsylvania Constitution, a document that speaks for itself.

102. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the Pennsylvania Supreme Court, those opinions speak for themselves. Any mischaracterization of the opinions is denied.

103. This paragraph is a conclusion of law to which no response is required.

104. This paragraph is a conclusion of law to which no response is required.

105. This paragraph is a conclusion of law to which no response is required.

106. This paragraph is a conclusion of law to which no response is required.

107. This paragraph is a conclusion of law to which no response is required.

108. This paragraph is a conclusion of law to which no response is required.

To the extent Petitioners cite to an opinion of the U.S District Court for the District of Maryland, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

109. Based upon the previously filed Answer and New Matter of Respondent Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the competitiveness of the 1<sup>st</sup> Congressional District and the 7<sup>th</sup> Congressional District under the 2011 Plan. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

110. Based upon the previously filed Answer and New Matter of Respondent Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the competitiveness of the 3<sup>rd</sup> Congressional District. Based on that same information from respondent elections officials, it is also admitted that Representative Mike Kelly was reelected in 2014 and 2016 and that he ran unopposed in 2016. The Governor lacks knowledge or information

sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

111. Based upon the previously filed Answer and New Matter of Respondent Acting Secretary Torres and Commissioner Marks, who have access to official election returns, it is admitted that official election returns support Petitioners' averments in this paragraph regarding the competitiveness of the 11<sup>th</sup> Congressional District. Based on that same information supplied by respondent elections officials, it is also admitted that Representative Lou Barletta was elected in 2010 and he has been reelected by more than 17% in each election since. The Governor lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

112. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the U.S District Court for the District of Maryland, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

113. This paragraph is a conclusion of law to which no response is required.

**COUNT II**  
**Violation of the Pennsylvania Constitution's**  
**Equal Protection Guarantees, Art. I, §§ 1 and 26, and Free and Equal Clause,**  
**Art. I, § 5**

114. The Governor incorporates ¶¶ 1-113 as if fully set forth herein.

115. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the Pennsylvania Supreme Court and the U.S District Court for the Western District of Wisconsin, those opinions speak for themselves. Any mischaracterization of the opinions is denied.

116. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to an opinion of the United States Supreme Court, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

117. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to an opinion of the Pennsylvania Supreme Court, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

118. This paragraph is a conclusion of law to which no response is required.

119. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to an opinion of the Pennsylvania Supreme Court, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

120. This paragraph is a conclusion of law to which no response is required.



WHEREFORE, the Governor respectfully requests that the Court enter judgment in his favor, together with such further relief, as the Court deems just and appropriate.

**[remainder of page intentionally left blank]**

### **NEW MATTER**

In further answer to the Petition filed by Petitioners, the Governor avers the following new matter:

121. The Governor incorporates ¶¶ 1-120 as if fully set forth herein.

122. The Petition fails to state any claim against the Governor upon which relief may be granted.

123. The 2011 Plan was developed, in its entirety, by the members and staff of the Pennsylvania General Assembly.

124. Governor Wolf was not in office at the time. He was not consulted by anyone acting on behalf of the General Assembly at any point during the development of the 2011 Plan.

125. The Governor had no role of any kind whatever in the development of 2011 Plan.

126. The 2011 Plan was developed and came into effect wholly without any action or omission on the part of Governor Wolf.

**[remainder of page intentionally left blank]**

WHEREFORE, the Governor respectfully requests that the Court enter judgment in his favor, together with such further relief, as the Court deems just and appropriate.

Respectfully submitted,

HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER

Dated: November 17, 2017

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**VERIFICATION**

The undersigned, Tom Wolf, Governor of Pennsylvania, verifies that the statements made in the foregoing Answer and New Matter are true and correct to the best of his knowledge, information, and belief. The undersigned understands that statements therein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Dated: Nov. 17, 2017

A handwritten signature in black ink that reads "Tom Wolf". The signature is written in a cursive, flowing style. The "T" is large and loops around the "o". The "W" is also cursive and loops. The signature is positioned above a horizontal line.

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Tom Wolf  
Governor of Pennsylvania

## **CERTIFICATE OF SERVICE**

I, Michele D. Hangley, hereby certify that on this 17<sup>th</sup> day of November 2017, the foregoing **Answer and New Matter of Governor Tom Wolf to Petition for Review** has been served upon counsel in the manner indicated below, which service satisfies the requirements of Pennsylvania Rule of Appellate Procedure 121:

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**VIA First-Class Mail, Postage Prepaid**

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