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Petitioners are hereby notified to
plead to the enclosed New Matter on
or before November 22, 2017 in
accordance with the Court's
November 13, 2017 Order.

/s/ Brian S. Paszamant

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Joseph B. Scarnati III

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and Joseph B. Scarnati III*

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

_____)	
League of Women Voters of Pennsylvania,)	
<i>et al.</i> ,)	
<i>Petitioners,</i>)	Civ. No. <u>261 MD 2017</u>
)	
v.)	
)	
The Commonwealth of Pennsylvania, <i>et al.</i> ,)	
<i>Respondents.</i>)	
_____)	

**RESPONDENTS MICHAEL C. TURZAI AND
JOSEPH B. SCARNATI III'S ANSWER AND NEW MATTER TO
THE PETITION FOR REVIEW**

Respondents Michael C. Turzai and Joseph B. Scarnati III (collectively, "Legislative Respondents") file this Answer and New Matter to the Petition for Review filed by Petitioners League of Women Voters of Pennsylvania, *et al.* (collectively, "Petitioners").

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, upon information and belief, 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. This paragraph contains Petitioners' characterization of the Petition to which no

response is required. Legislative Respondents 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.

4. Admitted in part; denied in part. It is admitted that computers were used in crafting the 2011 Plan. The remaining allegations in this paragraph are denied.

5. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the statewide congressional vote in Pennsylvania since 2012. The remaining averments or characterizations of this paragraph are comprised exclusively of Petitioners' characterization of elections results, to which no response is required.

6. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the statewide congressional vote in Pennsylvania in 2012 and 2014. The 2011 Plan is a document the contents of which speaks for itself. Legislative Respondents 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.

7. It is admitted, upon information and belief, that the 2011 Plan placed the city of Reading in the 16th Congressional District; the cities of Scranton, Wilkes-Barre, and Easton in the 17th Congressional District; and portions of the city of Chester in the 1st Congressional District and the 7th Congressional District, respectively. The 2011 Plan is a document the contents of which speaks for itself. Legislative Respondents deny the remaining averments or characterizations in this paragraph.

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 6th Congressional District, the 7th Congressional District, and the 12th Congressional District. By way of further response, these illustrations speak for themselves. The 2011 Plan is a document the contents of which speaks for itself. Legislative Respondents deny the remaining averments or characterizations in this paragraph.

9. This paragraph constitutes multiple conclusions of law to which no response is required.

10. This paragraph constitutes multiple conclusions 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. To the extent a response is required, this paragraph contains Petitioners' characterization of their Petition, to which no response is required.

PARTIES

A. Petitioners

13. Petitioner League of Women Voters of Pennsylvania has been dismissed as a party from this action. As such, no response to this paragraph is required. To the extent a response is deemed necessary, Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterization of this paragraph; therefore they are denied.

14. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

15. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

16. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

17. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

18. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

19. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

20. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

21. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

22. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

23. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

24. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

25. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

26. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

27. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

28. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

29. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

30. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

31. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments or characterizations of this paragraph; therefore, they are denied.

B. Respondents

32. Admitted.

33. Admitted.

34. Admitted, except that it is denied that Republicans “controlled every step of the process.”

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 denied.

36. It is admitted only that Robert Torres is the Secretary of the Commonwealth of Pennsylvania, and in that capacity, the Election Code and other laws charge him with specific, discrete and enumerated tasks and duties, and specific, discrete and enumerated powers, related to the conduct of elections. It is denied that he has a power of “general supervision and administration of Pennsylvania’s elections and election laws;” rather (and by way of further answer), it is the Election Code and other laws which provide him with his authority. In no way does he have independent, free-standing power of “general supervision and administration” of “elections and election laws” 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 denied that he has a 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 law, to the Secretary of the

Commonwealth, and further delegated to him. In no way does he have independent, free-standing power of “supervision and administration” of “elections and [the] electoral process” beyond that specifically assigned by the Election Code and other laws.

38. Admitted.

39. Admitted.

40. Admitted.

JURISDICTION

41. Admitted.

FACTUAL ALLEGATIONS

A. National Republican Party Officials Target Pennsylvania for Partisan Gerrymandering

42. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

43. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

44. It is admitted that Pennsylvania currently holds 18 seats in the U.S. House of Representatives. Legislative Respondents lack knowledge or

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

45. It is admitted, upon information and belief, 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 remaining averments or characterizations of this paragraph are denied.

46. It is admitted only that certain members of the Pennsylvania Senate and House had limited communications with the members of the U.S. House of Representatives concerning the 2011 Plan. The remaining averments of this paragraph are denied.

47. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

48. This paragraph constitutes multiple conclusions of law to which no response is required. To the extent that a response is required, Legislative Respondents admit computers and data were used to create the 2011 Plan. The remaining averments in this paragraph are denied.

49. Denied.

B. Republicans Introduce Senate Bill 1249

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 remaining averments or characterizations of this paragraph 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 remaining averments or characterizations of this paragraph are denied. By way of further response, Legislative Respondents aver that there was nothing atypical concerning the introduction or its progress through Pennsylvania's General Assembly.

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 remaining averments or characterizations of this paragraph are denied. By way of further response, Legislative

Respondents aver that there was nothing atypical concerning the introduction or its progress through Pennsylvania's General Assembly.

53. 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. 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 constitutes multiple conclusions of law to which no response is required. To the extent a response is required, it is admitted, upon information and belief, that the illustration in this paragraph accurately represents that Montgomery County is split among five congressional districts. The remaining averments or characterizations of this paragraph are denied.

56. It is admitted, upon information and belief, that the illustration in this paragraph accurately represents the shape of the 6th Congressional District. The remaining averments or characterizations of this paragraph are denied.

57. It is admitted, upon information and belief, that the illustration in this paragraph accurately represents the shape of the 12th Congressional District. The remaining averments or characterizations of this paragraph are denied.

58. It is admitted, upon information and belief, that the illustrations in this paragraph accurately represent the shape of the 7th Congressional District. The remaining averments or characterizations of this paragraph 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, upon information and belief, that the illustration in this paragraph accurately represents the evolution of the 7th Congressional District over time. The remaining averments or characterizations of this paragraph 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 Plan for the Commonwealth of Pennsylvania.

61. This paragraph constitutes multiple conclusions of law to which no response is required.

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

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

64. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the percentage of the vote received in recent elections by the Democratic candidates in the 1st Congressional District and the 2nd Congressional District under the 2011 Plan. The remaining averments or characterizations of this paragraph constitute conclusions of law to which no response is required.

65. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph relating to voting history, and they are therefore denied. The remaining averments are denied.

66. Admitted, upon information and belief. 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.

69. Admitted, in part, upon information and belief, and denied, in part. The averments of this paragraph concerning the characterization of Democratic Representative's objections to SB 1249 are denied.

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, with the qualification that then Governor Tom Corbett signed the bill into law in time for the 2012 congressional elections and with the qualification that the bill was not a *fait accompli*. By way of a further answer, SB 1249 would not have been passed in the House but for the Democrat votes in favor of the bill.

C. Senate Bill 1249 Burdened the Representational Rights of Democratic Voters

77. It is admitted, upon information and belief, 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 remaining averments or characterizations of this paragraph are denied.

78. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the average winning percentage in congressional districts in the 2012 general election. By way of further response, in 2010, the Pennsylvania Congressional Delegation consisted of seven Democrats and twelve Republicans. The remaining averments or characterizations of this paragraph are denied.

79. Legislative Respondents lack 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. It is admitted, upon information and belief, 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 remaining averments or characterizations of this paragraph are denied.

81. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the percentage of congressional seats Republicans won in the 2016 general election compared to their statewide vote share. The remaining averments or characterizations of this paragraph are denied.

82. Admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding vote share and margins. The remaining averments or characterizations of this paragraph are denied.

83. It is admitted, upon information and belief, that in recent years several modeling techniques have been developed to attempt to identify political gerrymandering. The remaining averments or characterizations of this paragraph are denied.

84. It is admitted, upon information and belief, that redistricting criteria such as contiguity, compactness, equal population, and minimizing county splits have been traditionally used to create district plans. The remaining averments or characterizations of this paragraph are denied.

85. It is admitted, upon information and belief, that utilizing different types of computer modeling with different objectives would

produce alternative plans. The remaining averments or characterizations of this paragraph are denied.

86. Legislative Respondents lack knowledge or information sufficient to form a belief as what alternate plans would look like or show, and therefore the averments of this paragraph concerning such are denied. The remaining averments or characterizations in this paragraph are denied.

87. It is admitted, upon information and belief, that mathematicians at Carnegie Mellon University and the University of Pittsburgh studied the congressional boundaries in Pennsylvania utilizing a modeling technique known as “Markov chain” analysis. Legislative Respondents lack knowledge or information sufficient to form a belief as to what this modeling purports to show, and therefore the averments or characterizations of this paragraph 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 so-called “efficiency gap” is a statistical approach designed to measure how efficiently a party’s voters are distributed across districts and has been the subject of substantial criticism. 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, Legislative Respondents lack 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. Legislative Respondents lack 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. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

92. Legislative Respondents lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

93. Legislative Respondents lack 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, Legislative Respondents deny the averments of this paragraph, and they are therefore denied.

95. This paragraph constitutes multiple conclusions of law to which no response is required. To the extent a response is required, Legislative Respondents lack 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 speaks for itself 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 Legislative Respondents lack 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. Legislative Respondents incorporate ¶¶ 1-98 of this Answer and New Matter 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 constitutes multiple conclusions 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 opinion is denied.

109. It is admitted, upon information and belief, only that the 1st Congressional District has consistently elected Democrats and the 7th Congressional District has consistently elected Republicans under the 2011 Plan. Legislative Respondents lack information or knowledge sufficient to form a belief as to the truth of the remaining averments in this paragraph and they are therefore denied.

110. It is admitted, upon information and belief, only that the 3rd Congressional District elected a Republican in 2002, 2004, 2006 and 2010, while electing a Democrat in 2008. It is also admitted, upon information and belief, that Representative Mike Kelly was reelected in 2014 and 2016 and that he ran unopposed in 2016. The remaining averments or characterizations of this paragraph are conclusions of law to which no response is required.

111. It is admitted, upon information and belief, that the 11th Congressional District elected a Democrat in 2008, while electing a Republican in 2010. It is also admitted, upon information and belief, that Representative Lou Barletta was elected in 2010 and he has been reelected by a margin more than 17% in each election since. The remaining averments or characterizations of this paragraph are conclusions of law to which no response is required.

112. This paragraph constitutes multiple conclusions 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 opinion 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 Legislative Respondents incorporate ¶¶ 1-113 of this Answer and New Matter as if fully set forth herein.

115. This paragraph constitutes multiple conclusions 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 mischaracterizations of those opinions are denied.

116. This paragraph constitutes multiple conclusions 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 opinion is denied.

117. This paragraph constitutes multiple conclusions 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 opinion is denied.

118. This paragraph constitutes multiple conclusions of law to which no response is required.

119. This paragraph constitutes multiple conclusions 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 opinion is denied.

120. This paragraph constitutes multiple conclusions 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 opinion is denied.

WHEREFORE, Legislative Respondents respectfully request that the Court enter judgment in their favor, together with any such other and further relief, as the Court deems just and appropriate.

NEW MATTER

In further answer to the Petition filed by Petitioners, Legislative Respondents aver the following new matter:

121. Legislative Respondents incorporate ¶¶ 1-120 of this Answer and New Matter as if fully set forth herein.

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

123. Some or all Petitioners' lack standing to advance one or more of the claims they purport to advance.

124. Some or all of Petitioners' claims are barred by the doctrine of laches.

125. Some or all of Petitioners' claims are barred by the doctrine of legislative immunity.

126. Some or all of Petitioners' claims are barred by the applicable statutes of limitation.

127. Some or all of Petitioners' claims are nonjusticiable.

128. Some or all of Plaintiffs' claims are barred by Petitioners' failure to articulate a manageable judicial standard.

129. Plaintiffs' claims are barred because the Court cannot provide the remedies sought.

130. Some or all of the Petitioner's claims are barred by Article 1, Section 4 of the U.S. Constitution which vests the power to establish Congressional districts in the state legislature.

131. The 2011 Plan was lawfully crafted and enacted in accordance with applicable state and federal law.

132. The 2011 Plan was not based on any unconstitutional partisan gerrymandering.

133. The 2011 Plan was not crafted through a "secret process," as Petitioners have averred.

134. Both chambers of the General Assembly considered and passed SB 1249, and as such, the 2011 Plan was lawfully enacted by a bipartisan legislature.

135. Any deviation from U.S. Supreme Court precedent in this matter violates the Commonwealth of Pennsylvania Legislature's duty and authority under the Elections Clause, article 1, Section 4 of the U.S. Constitution since there have been no applicable state statutory or

constitutional amendments since the decision in *Erfer v. Commonwealth*, 794 A.2d 325 (Pa. 2002).

Legislative Respondents respectfully reserve the right to amend and/or supplement their New Matter as this matter proceeds through discovery and through trial.

Dated: November 17, 2017

Respectfully Submitted,

BLANK ROME LLP

CIPRIANI & WERNER, P.C.

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/s/ Kathleen Gallagher

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Attorneys for Respondents

Senator Joseph B. Scarnati III and

Representative Michael C. Turzai

VERIFICATION

I, Michael C. Turzai, verify that the statements made herein in the attached **ANSWER AND NEW MATTER** are true and correct to the best of my knowledge and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsifications to authorities.

DATE: 11/17/17

Michael C. Turzai
Michael C. Turzai

VERIFICATION

I, Joseph B. Scarnati, III, hereby verify that the statements set forth in the foregoing Answer and New Matter to the Petition for Review are true and correct to the best of my knowledge, information, and belief. I understand that these statements are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

/s/ Joseph B. Scarnati, III
Joseph B. Scarnati, III

Dated: November 17, 2017