EXHIBIT 1


Cited in ¶ 128 of the Amended Complaint
As of June 1, the County has sent out approximately 80,000 absentee or mail-in ballots. The County has made arrangements with the United State Postal Service to send 6,000 ballots today. Those applications will be delivered to homes by tomorrow. There are approximately 400 ballots that will not be mailed due to the timing and staffing constraints. Residents who do not receive their mail in ballot can vote provisionally at their polling location.

For residents who have not yet mailed in their ballot, you will have several options to have your vote counted:

- Ballots can be deposited in a secure box at the Delaware County Government Center and Courthouse:
  
  **Delaware County Government Center (Orange St. side entrance)**
  Monday, June 1 from 8:30a.m to 8pm
  Election Day from 8:30a.m. to 8:00p.m.

- **Delaware County Courthouse (Front St. entrance)**
  Monday, June 1 from 8:30a.m. to 4:30pm

  *Please use the Government Center/Orange Street entrance on Election Day

- Return your completed ballot in the sealed return envelope to ANY polling location on Election Day where there will be drop boxes while the polling locations are open. These drop boxes will be positioned just inside the polling location, where they are under observation by the poll workers. However, voters seeking to drop their mail in ballots will not be required to check in with the workers. Residents are asked to observe social distancing when dropping off a ballot to a polling location.

- Anyone who requested an absentee or mail-in ballot and did not receive it in time or who does not want to return it in one of the ways noted above, can go to their polling location and ask for a provisional ballot. The ballot will be put in an envelope and then counted when the County Election Bureau confirms that the requested mail-in ballot was not returned. Since all ballots are being counted centrally, provisional ballots will likely be included in the initial results.

Residents who are not able to deliver their ballot in person can designate a person to drop off their ballot by completing a Certification of Designated Agent form. The Designated Agent also needs to complete a form to allow them to drop off the ballot. Both forms can be downloaded and printed here: [www.delcopa.gov/electionsbureau/absenteevoting.html](http://www.delcopa.gov/electionsbureau/absenteevoting.html)

Delaware County processed approximately 85,000 absentee or mail-in ballots. To put this number into context, prior to this year, the most mail-in ballots ever previously processed was approximately 25,000 for the 2008 general election, and the projected number of mail-ins for this year’s primary from the Secretary of State’s office at the start of the year was 40,000.

As a result of the passing of Act 77 last year, which made mail-in balloting far more accessible, as well as the emphasis on mail-in voting due to COVID-19 concerns, the unprecedented number of mail-in ballots being requested for this year’s primary has created extraordinary challenges for elections offices across the state, including in Delaware County. Additionally, given that the state courts did not resolve ballot challenges and finalize the County’s ballot until April 28, the County was not able to send mail in ballots until May 4. This compressed the timeframe to process this historically high number of mail-in ballots, all in the midst of the COVID-19 pandemic, creating further staffing and logistical challenges. The Election Board was simultaneously consolidating polling locations and recruiting poll workers to fill in for long time election board members who decided not to work this election due to their elevated risk from COVID-19.

Delaware County is incredibly grateful to the many volunteers and County employees who are working outside of their own departments to work overtime in order to get out the mail in ballots. Over Memorial Day weekend and for the next several days, 40 volunteers and 27 temporary employees working in shifts to maintain social distancing are working extended hours to keep up with the demand for ballots by mail.
Mail-in ballots are just one option to vote. Delaware County will continue to have in person voting on Election Day, June 2, between 7:00a.m. and 8:00 p.m. Due to the COVID-19 pandemic, polling locations have been consolidated. The list of consolidated polling locations can be found online and registered voters whose polling location has changed are being notified by mail. Information on polling locations can be found here: www.delcopa.gov/departments/votingmachines.html.

If you are not sure of your voting precinct, you can check your new voting location by using your address here: https://www.pavoterservices.pa.gov/Pages/PollingPlaceInfo.aspx

Delaware County is providing personal protection equipment for every polling location to ensure the safety of both poll workers and the members of the public who are exercising their right to vote. The personal protection equipment includes face masks, gloves and sanitation kits provided by the state for poll workers. The County is also providing table shields, single use pens, and face shields for poll workers. The local election boards will implement procedures to maintain social distancing while signing-in and while voting. Poll workers will be wearing masks to protect voters and other poll workers. All voters who choose to vote in person are urged to wear face masks and maintain social distancing inside the polling locations in order to protect the poll workers and fellow voters. This will help reduce anxiety for everyone who is participating in our democratic process.

Poll workers are being contacted this week both by phone and by mail with details on online training. People who have volunteered to help fill vacancies will also be contacted.
EXHIBIT 2

https://www.delcopa.gov/electionsbureau/absenteevoting.html
REGULAR ABSENTEE VOTING

›Absentee Ballot Applications (Reason Required)
›Mail-In Ballot Applications (No Excuse)
›Apply for Absentee Ballot or Main-in Ballot Online
›Designation of Agent to Assist Disabled Voter in Voting by Absentee or Alternative Ballot
›Certification of Designated Agent
›Convicted Felon, Misdemeanant or Pretrial Detainee
›Cancellation from Annual Ballot Status

MILITARY AND OVERSEAS VOTERS

›Delaware County Unofficial Notice of Primary for Military and Overseas Voters
›Federal Post Card Application (FPCA) Guide
›Federal Post Card Application (FPCA) Form in PDF

EMERGENCY ABSENTEE VOTING

If your circumstances for Election Day change (medical emergency or receive notice after 5:00 p.m. April 21, 2020 that you will be absent from the municipality on April 28, 2020) you may apply for an emergency absentee ballot until 5:00 a.m., April 24, 2020. The application must be notarized prior to making application. The voted ballot must be received in the Bureau of Elections by 5:00 p.m. April 24, 2020.

›Emergency Absentee Ballot Application
›Designation of Agent to Assist Disabled Voter in Voting by Absentee or Alternative Ballot
›Certification of Designated Agent

Should you become physically disabled or ill between 5 p.m. on the Friday before Election Day and 8 p.m. on Election Day or if you find out after 5 p.m. on the Friday before Election Day that you will be absent from your municipality of residence on Election Day because of your business, duties or occupation, you can apply for an Emergency Absentee Ballot via the Court of Common Pleas (application is filed in the Bureau of Elections). If you are not able to appear in court to receive the ballot, you can designate, in writing, a representative to deliver the absentee ballot to you and return your completed absentee ballot to the Bureau of Elections. The voted ballot must be received in the Bureau of Elections no later than 8:00 p.m. April 28, 2020.

›Emergency Application for voters who experience an emergency between 5 p.m. on the Friday before Election Day and 8 p.m. on Election Day (PDF)
›Authorized Representative Form for voters who experience an emergency between 5 p.m. on the Friday before Election Day and 8 p.m. on Election Day (PDF)
ALTERNATIVE BALLOT VOTING

> Certification of Authorized Representative Form for voters who experience an emergency between 5 p.m. on the Friday before Election Day and 8 p.m. on Election Day (PDF)

> Application for Alternative Ballot Under the Voting Accessibility for the Elderly and Handicapped Act

For more information contact the Delaware County Bureau of Elections at 610-891-4673.

SEARCH UPDATES OF YOUR BALLOT REQUEST

Voter goes to

pavoterservices.pa.gov
Selects, Voter Services
Selects Election Ballot Status
EXHIBIT 3
Board of Elections of _______________ County

Designation of Agent to Assist Disabled Voter in Voting by Absentee or Alternative Ballot

I hereby designate __________________________________________ to serve as my agent for obtaining an absentee or alternative ballot for my use only and to return the ballot after I have completed it and sealed it in the required envelope to the Board of Elections of _______________ County. I understand that my completed ballot must be returned to the Board of Elections within the time prescribed by law for voting by absentee or alternative ballot. I am qualified under Pennsylvania law to vote by absentee or alternative ballot because of my physical disability.

____________________________     __________________________________________
Address of Voter    Voter’s Signature
EXHIBIT 4

https://www.inquirer.com/politics/election/pa-primary-election-mail-ballots-double-voting-20200616.html

Cited and incorporated by reference in ¶ 150 of the Amended Complaint
Philly elections officials caught 40 cases of double voting. It’s not fraud, but it’s still a problem.

by Jonathan Lai, Updated: June 16, 2020
Two days after Pennsylvania’s primary election, Philadelphia elections officials suddenly stopped counting votes.

They had to make sure no one had voted twice — once by mail and once in person — and they couldn’t count a stack of mail ballots in the meantime. Workers turned to scanning the poll books that people sign when they vote in person, and compared those to the list of mail ballots that had been returned, flagging any overlap.

**RELATED STORIES**

- The Pa. primary wasn’t a disaster. But it showed there’s work to do before November
- Tens of thousands of Pa. mail ballots were turned in after the deadline. November could be worse.
- Bernie Sanders is done but his fans in Pa. keep winning primaries

For five long days, the counting stopped.

In the end, the process largely worked: Officials identified 40 people who had returned a mail ballot and then also voted in person. The mail ballots caught in time were excluded to prevent double voting. (Four double votes had already been counted.)

There’s no evidence of fraud, and the problem wasn’t widespread. The June 2 primary was the first election in which any Pennsylvania voter could vote by mail, and coronavirus fears helped fuel an unexpected surge in mail ballot requests — some of which would have been returned too late to count were it not for last-minute deadline extensions granted by Gov. Tom Wolf and some county courts. People were likely trying to ensure their votes were counted and were inadvertently allowed to vote at their polling places.

“They’re not familiar with the process. They haven’t really done it ever before,” said Lisa Deeley, chair of the Philadelphia Board of City Commissioners, which runs elections. “We didn’t have an opportunity to educate the poll worker or the voter as thoroughly as we could have or should have.”

**Pennsylvania 2020 Newsletter**

Interested in how Pennsylvania is shaping the 2020 election? Sign up to receive our newsletter every Wednesday.

| your@email.com | Sign Up |

But it nevertheless raises a concern about November, when Pennsylvania is expected to play a critical role in deciding who wins the White House and results could take days to determine. If Philadelphia and other counties want to catch this kind of accidental double voting, they’ll need time to do so.
In the meantime, the world will wait to find out who won.

» READ MORE: From election night: We won't know the results for days. Here's what that means for November.

How double voting happens and how to spot it

Once you request a mail ballot, you're not supposed to be able to vote at the polls. If you try, you're supposed to be given a provisional paper ballot, which is set aside and only counted after officials confirm you were allowed to cast it.

Election officials mark your name in the poll books as having requested a mail ballot or voted by mail. When you check in, poll workers should flag you as not being allowed to vote on the machines.

But Philadelphia poll books were printed a week before the deadline to request a mail ballot. Almost 92,000 voters' mail ballot requests were processed after the books were printed.

Thus, the poll books didn’t identify those voters as having requested or cast mail ballots. City officials printed those names separately, and poll workers were supposed to use that list to ensure nobody double voted.

But even those who are listed in the books or on the separate list can be allowed to vote in person at times, due to poll worker error. That can happen when the workers ignore the mark in poll books signaling that a person had requested or submitted a mail ballot, or fail to consult the printed list.
That’s what happened to Denise Furey, a Republican ward leader, treasurer of the city’s Republican Party, and an official with the state GOP. She sent in her mail ballot but received no confirmation of its being received. So she went to the polls just in case.

“I assumed I was going to be filling out a provisional ballot; I said that to the lady at the front desk when I walked in,” Furey said.

Instead, she said, the poll worker let her vote on the machine. Furey said she was instructed to sign right over the mark that declared her ineligible to vote in that way.

“There needs to be procedures put in place. And really, what it comes down to is the election board workers probably need better training in the future,” she said. “I just think that it was a mistake made on the part of some poll workers, and it was a new system. Things are different, it just unfortunately happened.”

Knowing that poll workers make mistakes, Philadelphia elections officials only counted an early batch of ballots — the ones that had been received before poll books were printed — before putting everything on hold. They found the 40 people who cast two ballots. Of those, 36 were caught in time to prevent being counted twice.

The long wait for results

There’s no evidence of a conspiracy to cheat the system. Four votes out of 347,000 — about 0.001% — were double counted.

A spokesperson for the Pennsylvania Department of State, which oversees elections, said local officials “have a responsibility to engage in reconciliation that ensures the integrity of the election results.” But the law doesn’t say how.

That means officials will have to decide again in November whether to move quickly to count results that may have some double votes in them — or spend days checking poll books as everyone anxiously waits.

“Obviously, it was frustrating from the perspective of all of the candidates and their teams ... in terms of when we received results, and we wish there could be some way to figure this out better in advance of election day,” said Adam Bonin, a Democratic election lawyer in the city. “Harrisburg needs to be a part of that solution.”
We Recommend

| For the Phillies, Didi Gregorius is a power bat and the most interesting player in the clubhouse | Phillies should opt out of this crazy COVID-19 baseball season |
| Matt Breen, Staff Writer | Bob Brookover |

| Chuck Fletcher’s ability to balance the Flyers’ present and future has defined his success as GM. | Washington NFL team temporarily changes name to ‘Washington Football Team’ |
| Mike Sielski, Staff Columnist | EJ Smith, Staff Writer |

| Linda Mazaud, 77, ran a clothing boutique and put her family first | 11 Philadelphia-area rooftop restaurants and bars that are open during the pandemic |
| Gary Miles, Staff Writer | Michael Klein, Staff Writer |
IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania Democratic Party, Nilofer Ahmad, Danilo Burgos, Austin Davis, Dwight Evans, Isabella Fitzgerald, Edward Gainey, Manuel M. Guzman, Jr., Jordan A. Harris, Arthur Haywood, Malcolm Kenyatta, Patty H. Kim, Stephen Kinsey, Peter Schweyer, Sharif Street, and Anthony H. Williams,

Petitioners

v.

Kathy Boockvar, in her capacity as Secretary of the Commonwealth of Pennsylvania; Adams County Board of Elections; Allegheny County Board of Elections; Armstrong County Board of Elections; Beaver County Board of Elections; Bedford County Board of Elections; Berks County Board of Elections; Blair County Board of Elections; Bradford County Board of Elections; Bucks County Board of Elections; Butler County Board of Elections; Cambria County Board of Elections; Cameron County Board of Elections; Carbon County Board of Elections; Centre County Board of Elections; Chester County Board of Elections; Clarion County Board of Elections; Clearfield County Board of Elections; Clinton County Board of Elections; Columbia County Board of Elections; Crawford County Board of Elections; Cumberland County Board of Elections; Dauphin County Board of Elections; Delaware County Board of Elections; Elk County Board of Elections;
Erie County Board of Elections; Fayette County Board of Elections; Forest County Board of Elections; Franklin County Board of Elections; Fulton County Board of Elections; Greene County Board of Elections; Huntingdon County Board of Elections; Indiana County Board of Elections; Jefferson County Board of Elections; Juniata County Board of Elections; Lackawanna County Board of Elections; Lancaster County Board of Elections; Lawrence County Board of Elections; Lebanon County Board of Elections; Lehigh County Board of Elections; Luzerne County Board of Elections; Lycoming County Board of Elections; McKean County Board of Elections; Mercer County Board of Elections; Mifflin County Board of Elections; Monroe County Board of Elections; Montgomery County Board of Elections; Montour County Board of Elections; Northampton County Board of Elections; Northumberland County Board of Elections; Perry County Board of Elections; Philadelphia County Board of Elections; Pike County Board of Elections; Potter County Board of Elections; Schuylkill County Board of Elections; Snyder County Board of Elections; Somerset County Board of Elections; Sullivan County Board of Elections; Susquehanna County Board of Elections; Tioga County Board of Elections; Union County Board of Elections; Venango County Board of Elections; Warren County Board of Elections; Washington County Board of Elections; Wayne County Board of Elections; Westmoreland County Board of Elections; Wyoming County Board of Elections; and York County Board of Elections.
Elections, Respondents : No. 407 M.D. 2020

PER CURIAM ORDER

NOW, July 30, 2020, upon consideration of Petitioners’ Application for an Expedited Discovery Schedule and Evidentiary Hearing, and the Answers in partial opposition thereto, the Application is GRANTED in part, and DENIED in part. Respondents’ shall PAC-file and serve a responsive pleading to Petitioners’ Petition for Declaratory and Injunctive Relief (Petition) no later than Thursday, August 13, 2020. Any Respondent that files preliminary objections must also file an accompanying brief in support. Petitioners may PAC-file and serve a brief(s) in opposition no later than Thursday, August 27, 2020.

Furthermore, upon consideration of the Application for Leave to Intervene filed by Donald J. Trump for President, Inc., the Republican Party of Pennsylvania, and the Republican National Committee (collectively, Possible Republican Committee Intervenors), it is further ORDERED that consideration of the application is deferred. In the interim, if preliminary objections are filed in response to the Petition, Possible Republican Committee Intervenors may file a brief and/or briefs as amici curiae in support thereof. Possible Republican Committee Intervenors shall PAC-file and serve any amici curiae brief and/or briefs no later than Thursday, August 20, 2020.
IN THE COMMONWEALTH COURT OF PENNSYLVANIA

NAACP Pennsylvania State Conference, Petitioner

v.

Kathy Boockvar, Secretary of the Commonwealth, and Jessica Mathis, Director of the Bureau of Election Services and Notaries, Respondents

No. 364 M.D. 2020

PER CURIAM

ORDER

NOW, July 30, 2020, upon consideration of the Preliminary Objections to NAACP Pennsylvania State Conference’s (Petitioner) Petition for Review (Preliminary Objections) filed by Kathy Boockvar, Secretary of the Commonwealth, and Jessica Mathis, Director of the Bureau of Election Services and Notaries (Respondents), it is ORDERED that Respondents shall PAC-file and serve a brief in support of their Preliminary Objections no later than Thursday, August 13, 2020. Petitioner may file a brief in opposition to Respondents’ Preliminary Objections no later than Thursday, August 27, 2020.

Furthermore, upon consideration of the Petition to Intervene by Speaker of the Pennsylvania House of Representatives Bryan Cutler and Majority Leader of the Pennsylvania House of Representatives Kerry Benninghoff, the Motion to Intervene by Joseph B. Scarnati III, President Pro Tempore, and Jake Corman, Majority Leader of the Pennsylvania Senate (collectively, Possible Legislative Intervenors), and Petitioner’s Answer in Opposition to Individual Representatives’
and Senators’ Applications for Leave to Intervene; and the Application for Leave to Intervene filed by Donald J. Trump for President, Inc., the Republican Party of Pennsylvania, the Republican National Committee, and the National Republican Congressional Committee (collectively, Possible Republican Committee Intervenors) (collectively, Applications to Intervene), it is further ORDERED that consideration of the Applications to Intervene is deferred pending disposition of Respondents’ Preliminary Objections. In the interim, Possible Legislative and Republican Committee Intervenors may file a brief and/or briefs as amici curiae in support of Respondents’ Preliminary Objections. Possible Legislative and Republican Committee Intervenors shall PAC-file and serve any amici curiae brief and/or briefs no later than Thursday, August 13, 2020.
EXHIBIT 7
IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA DEMOCRATIC PARTY, NILOFER NINA AHMAD, DANilo BURGOS, AUSTIN DAVIS, DWIGHT EVANS, ISABELLA FITZGERALD, EDWARD GAINEY, MANUEL M. GUZMAN, JR., JORDAN A. HARRIS, ARTHUR HAYWOOD, MALCOLM KENYATTA, PATTY H. KIM, STEPHEN KENNEY, PETER SCHWEYER, SHARIF STREET, and ANTHONY H. WILLIAMS,

                   Petitioner,

v.                                                        Case No. 407 MD 2020

KATHY BOOCKVAR, in her capacity as Secretary of the Commonwealth of Pennsylvania;

ADAMS COUNTY BOARD OF ELECTIONS; ALLEGHENY COUNTY BOARD OF ELECTIONS; ARMSTRONG COUNTY BOARD OF ELECTIONS; BEAVER COUNTY BOARD OF ELECTIONS; BEDFORD COUNTY BOARD OF ELECTIONS; BERKS COUNTY BOARD OF ELECTIONS; BLAIR COUNTY BOARD OF ELECTIONS; BRADFORD COUNTY BOARD OF ELECTIONS; BUCKS COUNTY BOARD OF ELECTIONS; BUTLER COUNTY BOARD OF ELECTIONS; CAMBRIA COUNTY BOARD OF ELECTIONS; CAMERON COUNTY BOARD OF ELECTIONS; CARBON COUNTY BOARD OF ELECTIONS; CENTRE COUNTY BOARD OF ELECTIONS;
CHESTER COUNTY BOARD OF ELECTIONS; CLARION COUNTY BOARD OF ELECTIONS; CLEARFIELD COUNTY BOARD OF ELECTIONS; CLINTON COUNTY BOARD OF ELECTIONS; COLUMBIA COUNTY BOARD OF ELECTIONS; CRAWFORD COUNTY BOARD OF ELECTIONS; CUMBERLAND COUNTY BOARD OF ELECTIONS; DAUPHIN COUNTY BOARD OF ELECTIONS; DELAWARE COUNTY BOARD OF ELECTIONS; ELK COUNTY BOARD OF ELECTIONS; ERIE COUNTY BOARD OF ELECTIONS; FAYETTE COUNTY BOARD OF ELECTIONS; FOREST COUNTY BOARD OF ELECTIONS; FRANKLIN COUNTY BOARD OF ELECTIONS; FULTON COUNTY BOARD OF ELECTIONS; GREENE COUNTY BOARD OF ELECTIONS; HUNTINGDON COUNTY BOARD OF ELECTIONS; INDIANA COUNTY BOARD OF ELECTIONS; JEFFERSON COUNTY BOARD OF ELECTIONS; JUNIATA COUNTY BOARD OF ELECTIONS; LACKAWANNA COUNTY BOARD OF ELECTIONS; LANCASTER COUNTY BOARD OF ELECTIONS; LAWRENCE COUNTY BOARD OF ELECTIONS; LEBANON COUNTY BOARD OF ELECTIONS; LEHIGH COUNTY BOARD OF ELECTIONS; LUZERNE COUNTY BOARD OF ELECTIONS; LYCOMING COUNTY BOARD OF ELECTIONS; MCKEAN COUNTY BOARD OF ELECTIONS; MERCER COUNTY BOARD OF ELECTIONS; MIFFLIN
COUNTY BOARD OF ELECTIONS; MONROE COUNTY BOARD OF ELECTIONS; MONTGOMERY COUNTY BOARD OF ELECTIONS; MONTOUR COUNTY BOARD OF ELECTIONS; NORTHAMPTON COUNTY BOARD OF ELECTIONS; NORTHUMBERLAND COUNTY BOARD OF ELECTIONS; PERRY COUNTY BOARD OF ELECTIONS; PHILADELPHIA COUNTY BOARD OF ELECTIONS; PIKE COUNTY BOARD OF ELECTIONS; POTTER COUNTY BOARD OF ELECTIONS; SCHUYLKILL COUNTY BOARD OF ELECTIONS; SNYDER COUNTY BOARD OF ELECTIONS; SOMERSET COUNTY BOARD OF ELECTIONS; SULLIVAN COUNTY BOARD OF ELECTIONS; SUSQUEHANNA COUNTY BOARD OF ELECTIONS; TIOGA COUNTY BOARD OF ELECTIONS; UNION COUNTY BOARD OF ELECTIONS; VENANGO COUNTY BOARD OF ELECTIONS; WARREN COUNTY BOARD OF ELECTIONS; WASHINGTON COUNTY BOARD OF ELECTIONS; WAYNE COUNTY BOARD OF ELECTIONS; WESTMORELAND COUNTY BOARD OF ELECTIONS; WYOMING COUNTY BOARD OF ELECTIONS; and YORK COUNTY BOARD OF ELECTIONS,

Respondents.
APPLICATION FOR LEAVE TO INTERVENE

Proposed Intervenor-Respondents Donald J. Trump for President, Inc., the Republican Party of Pennsylvania, and the Republican National Committee (collectively, “Republican Committees”), by and through undersigned counsel, respectfully submit the following Application for Leave to Intervene as Respondents in this original jurisdiction matter under Pennsylvania Rules of Appellate Procedure 106, 123, and 1531(b) and Pennsylvania Rules of Civil Procedure 2326 through 2329, and aver the following in support thereof:

PRELIMINARY STATEMENT

The Republican Committees support and seek to uphold orderly free and fair elections for all Pennsylvanians and for all voters across the country.

For that reason, on June 29, 2020, two of the Republican Committees filed suit in the U.S. District Court for the Western District of Pennsylvania to protect the constitutional rights of Pennsylvania voters (“Federal Action”). In particular, the two Republican Committees’ Federal Action seeks a declaration that Commonwealth officials’ failure to implement the plain terms of Act 77—Pennsylvania’s new law that introduced no-excuse mail voting in the Commonwealth—violates the U.S. and Pennsylvania Constitutions.

Counts I and II of the two Republican Committees’ federal complaint brings claims that the Commonwealth’s authorization of Boards of Elections in some
counties to count absentee or mail ballots submitted without a secrecy envelope, and to count ballots submitted at “drop boxes” or locations other than the office of the county Board of Elections, violates the First and Fourteenth Amendments and the Equal Protection Clause of the U.S. Constitution. See Donald J. Trump For President, Inc. v. Boockvar, No. 2:20-cv-00966, Compl. ¶¶ 145–168 (W.D. Pa. June 29, 2020) (Ex. A). As the federal complaint lays out, these actions contravene the Pennsylvania Election Code by permitting the counting of invalid ballots, improperly “allow[] illegal absent and mail-in voting, ballot harvesting, and other fraud to occur and/or go undetected, and will result in dilution of validly cast ballots.” Id. ¶¶ 154, 164.

Count III pleads claims that the Commonwealth’s actions violate the Equal Protection and Free and Equal Elections Clauses of the Pennsylvania Constitution. See id. ¶¶ 168–174. Counts IV and V respectively plead claims that Pennsylvania’s residency and polling-place restrictions on poll watchers violate the U.S. and Pennsylvania Constitutions. See id. ¶¶ 175–188. And Counts VI and VII bring federal and state constitutional claims against Commonwealth officials’ failure to provide adequate notice of drop box locations. See id. ¶¶ 189–204.

The Federal Action already has begun to progress significantly toward resolution in advance of the November 3 general election. On July 17, the federal court entered a scheduling order granting a speedy hearing and expedited discovery
in that case.  *See* Federal Scheduling Order (Ex. B). That scheduling order encourages motion to dismiss briefing to be completed by July 31, requires discovery to be completed by August 26, and schedules the evidentiary hearing for September 22 and 23. *See* *id.* at 2–8.

Petitioners’ suit in this Court is in large part a mirror image of the Federal Action—and a transparent attempt to forum-shop away from federal court and into this Court. Petitioners filed this suit on July 10, eleven days after the two Republican Committees filed the Federal Action, and named as Respondents all the same parties whom the two Republican Committees named as defendants in the Federal Action. *See* Pet. Petitioners also ask this Court to *require* the very actions that the Republican Committees have alleged are unlawful.

Indeed, Count I of the Petition seeks a declaration directing Boards of Elections to establish drop boxes and collect ballots at locations other than the boards’ offices; Count IV seeks declaratory and injunctive relief requiring Boards of Elections to count ballots submitted without secrecy envelopes; and Count V seeks a declaration that the residency restriction on poll watchers does not violate the U.S. or Pennsylvania Constitutions. *Id.* ¶¶ 162–70, 192–207. The Petition also seeks injunctions extending Act 77’s Election Day Receipt Deadline (Count II, ¶¶ 171–
83) and requiring a cure period for invalidly cast absentee and mail ballots (Count III, ¶¶ 184–91).

The Republican Committees have a clear and obvious interest in the issues presented in this suit—and in ensuring that those issues are properly and fairly litigated in their first-filed federal suit. For this reason alone, the Court should grant intervention.

Moreover, the Republican Committees have a right to intervene in this suit for another—and independent—reason: they seek to uphold the Election Code under which they, their voters, their members, and their candidates exercise their constitutional rights to vote and to participate in elections in Pennsylvania. Petitioners ask the Court for a sweeping judicial order that would rewrite the terms of Act 77 and impose a different mail-voting regime on the Commonwealth, its citizens, and its voters. Petitioners’ requested relief not only would dramatically alter the rules governing the November general election in Pennsylvania, but also would usurp the political branches’ authority to enact the laws governing the Commonwealth’s elections.

As explained more fully below, political parties have a recognized interest to assert and protect the rights of their members in upcoming elections and to protect their own agendas and resources from such changes to election laws. Moreover, the Republican Committees have made significant investments in support of Republican
candidates up and down the ballot and in connection with voter mobilization and education efforts in Pennsylvania for the past many election cycles, and intend to do so again in 2020. The Republican Committees thus have a substantial and particularized interest in defending this action to preserve the structure of the competitive environment in which their supported candidates participate and to ensure that Pennsylvania carries out free and fair elections. No other party to this action represents these private interests, and therefore this timely application for intervention should be granted.

The Republican Committees respectfully request that the Court grant their application to intervene as Respondents, and to permit them to file of record the Preliminary Objections and Answer to Petitioners’ Application for Expedited Discovery Schedule and Evidentiary Hearing attached hereto.

I. BACKGROUND

A. The Republican Committees.

1. Donald J. Trump for President, Inc. (the “Trump Campaign”) is the principal committee for the reelection campaign of Donald J. Trump, the 45th President of the United States of America. President Trump is the presumptive Republican nominee for the office of the President of the United States of America in the upcoming November 3, 2020 General Election. The Trump Campaign seeks to intervene on its own behalf and on behalf of its candidate, President Trump.

2. The Republican Party of Pennsylvania is a major political party, 25 P.S. § 2831(a), and the “State committee” for the Republican Party in Pennsylvania, 25 P.S. § 2834, as well as a federally registered “State Committee” of the Republican Party as defined by 52 U.S.C. § 30101(15). The Republican Party of Pennsylvania on behalf of itself and its members nominates, promotes, and assists Republican candidates seeking election or appointment to federal, state, and local office in Pennsylvania. It works to accomplish this purpose by, among other things, devoting substantial resources toward educating, mobilizing, assisting, and turning out voters in Pennsylvania. The Republican Party of Pennsylvania has made significant contributions and expenditures in support of Republican candidates up and down the ballot and in mobilizing and educating voters in Pennsylvania in the past many election cycles and intends to do so again in 2020. The Republican Party of Pennsylvania has a substantial and particularized interest in ensuring that Pennsylvania carries out free and fair elections.

3. The Republican National Committee (“RNC”) is the national committee of the Republican Party as defined by 52 U.S.C. § 30101(14). The RNC
manages the Republican Party’s business at the national level, including development and promotion of the Party’s national platform and fundraising and election strategies; supports Republican candidates for public office at all levels across the country, including those on the ballot in Pennsylvania; and assists state parties throughout the country, including the Republican Party of Pennsylvania, to educate, mobilize, assist, and turn out voters. The RNC has made significant contributions and expenditures in support of Republican candidates up and down the ballot and in mobilizing and educating voters in Pennsylvania in the past many election cycles and intends to do so again in 2020. The RNC has a substantial and particularized interest in ensuring that Pennsylvania carries out free and fair elections.

B. Procedural history.

4. On June 29, the Trump Campaign and RNC, joined by other plaintiffs, filed a lawsuit in the U.S. District Court for the Western District of Pennsylvania against Kathy Boockvar, the Secretary of the Commonwealth, and the Boards of Elections of each of Pennsylvania’s 67 counties. See Compl. (Ex. A). The Trump Campaign and RNC filed that lawsuit in response to the Defendants’ widespread
failure to enforce the requirements of Act 77 in connection with the June 2 primary election.

5. In the Federal Action, the Trump Campaign and RNC seek declaratory and injunctive relief preventing the Boards of Elections from collecting absentee and mail-in ballots at any location other than the Boards’ offices. They also seek relief prohibiting the Boards of Elections from counting any absentee or mail-in ballot not contained in a secrecy envelope. Finally, the Trump Campaign and RNC request that the court enjoin certain restrictions on poll watchers, including the residency and polling-place restrictions.

6. On July 10, the Petitioners filed their Petition for Review in this matter addressed to the Court’s original jurisdiction. Petitioners seek to leverage the COVID-19 pandemic into a judicial rewrite of Act 77.

7. The Petition is in large part a mirror image of the two Republican Committees’ complaint in the Federal Action. Respondents in this action are the identical parties as the defendants in the Federal Action. Moreover, Petitioners ask the Court to declare that county Boards of Elections may collect absentee and mail-in ballots at locations other than the Boards’ offices; to extend the return deadline for absentee and mail-in ballots; to require that Respondents give voters the opportunity to cure defects on their ballots; to require that Respondents count ballots
not contained in a secrecy envelope; and to declare that the poll watcher residency requirement is lawful. See Pet. ¶¶ 162–207.

8. This case is still in its infancy. As of the filing of this Application for Leave to Intervene, the only pleadings that have been filed in this proceeding are two Motions to Expedite (one of which the Court denied) and Entries of Appearance for Respondents. The Court has set a deadline of July 27 for Respondents’ Answers to the pending Motion to Expedite.

9. On July 13, Petitioners moved to intervene in the Federal Action. Neither their motion to intervene nor their memorandum in support mentioned this lawsuit. See Docs. 83, 85, Donald J. Trump for President, Inc. v. Boockvar, Case No. 2:20-cv-966-NR (W.D. Pa.). Petitioners filed as an exhibit to their memorandum in support a proposed motion to dismiss, which would ask the federal court to stay the Federal Action pending this Court’s resolution of Petitioners’ claims. See Doc. 85-2, Donald J. Trump for President, Inc. v. Boockvar, Case No. 2:20-cv-966-NR (W.D. Pa.).

10. On July 17, the court in the Federal Action granted in part the two Republican Committees’ Motion to Expedite and issued a Scheduling Order providing for an expedited timeline of the case. See Scheduling Order (Ex. B). The scheduling order in the Federal Action encourages motion to dismiss briefing to be
completed by July 31, requires discovery to be completed by August 26, and
schedules the evidentiary hearing for September 22 and 23. See id. at 2–8.

II. THE GOVERNING INTERVENTION STANDARD

11. A nonparty may file an application for leave to intervene in an original

12. “The right to intervention should be accorded to anyone having an
interest of his own which no other party on the record is interested in protecting.”
Ct. 1998) (citing Bily v. Bd. of Property Assessment, Appeals and Review of
Allegheny Cty., 44 A.2d 250 (Pa. 1945)).

13. The standards for intervention under Pennsylvania Rules of Civil
Procedure 2326 to 2329 apply to an original jurisdiction petition for review because
Pennsylvania Rule of Appellate Procedure 106 (“Original Jurisdiction Matters”)
applies the “general rules” for practice in the courts of common pleas—namely, the
Rules of Civil Procedure—“so far as they may be applied.”

14. Pennsylvania Rule of Civil Procedure 2327(4) is permissive and
provides in pertinent part:

At any time during the pendency of an action, a person not a party
thereto shall be permitted to intervene therein, subject to these rules if
... the determination of such action may affect any legally enforceable
interest of such person whether or not such person may be bound by a
judgment in the action.


16. Moreover, the Court may, in its discretion, allow intervention even if it determines that one of the Rule 2329 exceptions applies. See Pa. R.C.P. 2329 (instructing that “an application for intervention may be refused” if an exception applies (emphasis added)); see also 7 Goodrich Amram 2d § 2329:7 (“Even though the petitioner’s interest is adequately represented in the pending action, this fact does not mandate the refusal of intervention since the refusal of intervention on the ground of the adequacy of the representation is permissive in nature.”).

17. The Court should grant the Republican Committees’ application to intervene because the Court’s determination of this action may affect the Republican Committees’ legally enforceable interests, no exception applies under Pennsylvania
Rule of Civil Procedure 2329, and the Republican Committees’ participation will aid the Court.

III. BASIS FOR THE REPUBLICAN COMMITTEES’ INTERVENTION

A. The Republican Committees have substantial interest in this action.

18. The Republican Committees, on behalf of their supported candidates, voters, and own institutional interests, have a substantial and particularized interest in preserving the state election laws challenged in this action, which were enacted to ensure the structure and integrity of Pennsylvania’s elections.

19. In the first place, courts have recognized that intervention is “uniquely” appropriate where the proposed intervenor represents the “‘mirror-image’ interests of the plaintiffs” who brought the lawsuit. Democratic Nat’l Comm. v. Bostelmann, No. 20-cv-249-wmc, 2020 U.S. Dist. LEXIS 76765, 2020 WL 1505640, at *5 (W.D. Wis. Mar. 28, 2020) (quoting Builders Ass’n of Greater Chicago v. Chicago, 170 F.R.D. 435, 441 (N.D. Ill. 1996)). This principle applies with full force to political parties and committees. See id. (permitting Republican National Committee to intervene in case brought by Democratic National Committee). In their memorandum in support of their motion to intervene in the Federal Action, Petitioners themselves have asserted that their “interests . . . mirror the interests, as applicable, of” the Republican Committees. Doc. 85 at 2, Donald J. Trump for President, Inc. v. Boockvar, Case No. 2:20-cv-966-NR (W.D. Pa.). Thus, by
Petitioners’ own assertion, the Republican Committees represent the mirror image of Petitioners’ interests and should be granted intervention in this suit. See id.; see also Bostelmann, 2020 U.S. Dist. LEXIS 76765, 2020 WL 1505640, at *5.

20. Moreover, there can be no question that the Republican Committees have direct and significant interests in the continued enforcement of Pennsylvania’s laws governing mail-in ballots—including the established return deadline—as those laws are designed to ensure “the integrity of [the] election process,” Eu v. San Fran. Cty. Democratic Cent. Comm., 489 U.S. 214, 231 (1989), and the “orderly administration” of elections, Crawford v. Marion Cty. Election Bd., 553 U.S. 181, 196 (2008) (op. of Stevens, J.). Were these validly enacted laws to be cast aside, the current competitive electoral environment in Pennsylvania, in which the Republican Committees invest substantial resources in support of Republican candidates to try to win elections, would be altered or impaired. See League of Women Voters v. Commonwealth, 178 A.3d 737, 741 n.5, 800 (Pa. 2018); see ¶¶ 1–4, supra.


22. If Petitioners’ action succeeds, the orderly administration of Pennsylvania’s elections will be upended shortly before a critical general election.

24. Such extremely late changes also risk confusing voters and undermine confidence in the electoral process. See, e.g., Purcell v. Gonzalez, 549 U.S. 1, 4-5 (2006) (“Court orders affecting elections . . . can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.”). And the Republican Committees will be forced to spend substantial resources informing their Republican voters of changes in the law, fighting inevitable confusion, and galvanizing participation as a result of such a change.

25. Such interference with Pennsylvania’s election scheme—and with the Republican Committees’ electoral activities—would impair the Republican Committees’ interests on behalf of their candidates, members, and themselves, and thus warrants intervention.

26. Finally, the Trump Campaign’s and RNC’s status as plaintiffs in the earlier-filed Federal Action further supports intervention. A party is entitled to intervention if “its interest may be impaired because it seeks relief that is divergent from, or incompatible with the relief sought by” the original parties. N. California River Watch v. Fluor Corp., No. 10-CV-05105-MEJ, 2014 WL 3385287, at *18 (N.D. Cal. July 9, 2014) (citing United States v. Stringfellow, 783 F.2d 821, 827 (9th Cir. 1986), vacated on other grounds, 480 U.S. 370 (1987)); see also San Diego Cattlemen’s Coop. Ass’n v. Vilsack, 318 F.R.D. 646, 649 (D.N.M. 2015) (allowing
plaintiffs in different lawsuits to intervene in each other’s cases in part because they “seek conflicting rulings on the same subject matter and request incompatible injunctions”). The potential preclusive or *stare decisis* effect of a decision is sufficient impairment of a party’s interest to justify intervention. *See, e.g.*, *Commonwealth of Pennsylvania v. President United States of America*, 888 F.3d 52, 59 (3d Cir. 2018).

27. In the Federal Action, the Trump Campaign and RNC have asked the court for an order that, *inter alia*, requires that county Boards of Elections collect absentee and mail-in ballots only at their respective offices; prohibits the counting of absentee and mail-in ballots that lack a secrecy envelope; and enjoins certain restrictions on poll watchers. *See Compl.* (Ex. A). Petitioners subsequently filed this parallel lawsuit seeking contrary relief, including an order declaring that Boards of Elections may establish multiple ballot-collection sites, requiring that Boards must count ballots not contained in a secrecy envelope, and confirming that the poll watcher residency requirement is lawful.

28. A judgment in this action granting some or all of the Petitioners’ requested relief threatens the availability of relief to the two Republican Committees in the Federal Action. Accordingly, the Republican Committees are entitled to intervene here to protect their interests in that case.
B. There is no basis to refuse the Republican Committees’ application for intervention.

29. Pennsylvania Rule of Civil Procedure 2329 provides that an application for intervention may be refused if: (1) the petitioner’s claim or defense “is not in subordination to and in recognition of the propriety of the action”; (2) the petitioner’s interest is already adequately represented; or (3) “the petitioner has unduly delayed in making application for intervention or the intervention will unduly delay, embarrass or prejudice the trial or the adjudication of the rights of the parties.”

30. None of these factors applies to the Republican Committees. ¹

31. First, the Republican Committees’ defense in this action is in subordination to and in recognition of the action’s propriety.

32. Second, no existing party adequately represents the Republican Committees’ particularized interests. See Pa. R.C.P. No. 2329(2). Petitioners clearly do not represent the Republican Committees’ interests in this case, and Respondents do not adequately represent them either.

33. Although the Republican Committees and Respondents putatively share some of the same goals in upholding Pennsylvania’s election laws, their interests are not identical.

¹ As explained above, the Court retains discretion to allow the Republican Committees to intervene even if it concludes that an exception under Rule 2329 applies. Pa. R.C.P. 2329; 7 Goodrich Amram 2d § 2329:7.
34. Respondents, as Commonwealth officials, do not represent the private interests of the Republican Committees at stake in this litigation, which are fundamentally different from, and far narrower than, the broad public interests represented by Respondents. Indeed, “the government’s representation of the public interest generally cannot be assumed to be identical to the individual parochial interest of a [private movant] merely because both entities occupy the same posture in the litigation.” Utah Ass’n of Counties v. Clinton, 255 F.3d 1246, 1255-56 (10th Cir. 2001); see also, e.g., Crossroads Grassroots Policy Strategies v. Fed. Election Comm’n, 788 F.3d 312, 321 (D.C. Cir. 2015) (“[W]e look skeptically on government entities serving as adequate advocates for private parties.” (citing Fund For Animals, Inc. v. Norton, 322 F.3d 728, 736 (D.C. Cir. 2003)).

35. Whereas the Republican Committees have particularized interests in maintaining the competitive electoral environment adopted through Act 77, Respondents have no interest in the election of particular candidates. See, e.g., Sierra Club v. Glickman, 82 F.3d 106, 110 (5th Cir. 1996) (holding that the government’s representation of the general public interest did not adequately represent the intervenor’s narrower private interests, despite the similarity in their goals). Instead, in acting on behalf of all Pennsylvania citizens and the Commonwealth, Respondents must consider “a range of interests likely to diverge from those of the intervenors.” Meek v. Metro. Dade Cty., 985 F.2d 1471, 1478
In other words, “[i]n litigating on behalf of the general public, the government is obligated to consider a broad spectrum of views, many of which may conflict with the particular interest of [a private party] intervenor.” *Utah Ass’n of Ctys.*, 255 F.3d at 1256. These considerations may include “the expense of defending the current [laws] out of [state] coffers,” *Clark v. Putnam Cty.*, 168 F.3d 458, 461–62 (11th Cir. 1999), “the social and political divisiveness of the election issue,” *Meek*, 985 F.2d at 1478, “their own desires to remain politically popular and effective leaders,” *id.*, and the interests of opposing parties, *In re Sierra Club*, 945 F.2d 776, 779–80 (4th Cir. 1991). Given that Respondents may take these other interests into account, their interests may diverge with the Republican Committee’s interests throughout this litigation.

36. Indeed, many Respondents have already taken positions contrary to those taken by the Republican Committees. Several Boards of Elections received ballots at locations other than their offices during the June primary. *See* Pet. ¶¶ 84–86. By way of example, the Delaware County Board of Elections installed drop boxes for the return of absentee and mail-in ballots at every polling place in the county, facilitating ballot harvesting in the process. *See* https://www.delcopa.gov/publicrelations/releases/2020/june2primaryupdate.html. And many Boards, pursuant to advice issued by Respondent Boockvar, counted absentee and mail-in ballots not contained in a secrecy envelope during that same
election. See id. ¶¶ 126–27. The Secretary of State’s issuance of guidance that directly violates the Election Code, and some Boards of Elections’ following of that advice, exceeded those Respondents’ authority under the Election Code. Instead, those Respondents effectively usurped the legislative authority of the General Assembly, implementing their own election rules without regard to the clear direction set forth in the Election Code. Thus, Respondents clearly do not adequately represent all the Republican Committees’ interests in this case.

37. Third, the Republican Committees have not unduly delayed submitting their application to intervene in this action, which remains in its infancy. The Petition was filed only 17 days ago, and the Republican Committees filed this application, together with the preliminary objections and answer to Petitioners’ Application for Expedited Discovery Schedule and Evidentiary Hearing, in compliance with the response deadline set by the Court. The Republican Committees’ Intervention will not cause any undue delay, embarrassment, or prejudice to any party, but it will aid the Court in resolving the important legal and factual questions before it.
IV. CONCLUSION

38. For the reasons set forth above, the Republican Committees have a clear right to intervene in this case challenging important state laws governing the administration of Pennsylvania’s elections.

39. Pursuant to Pennsylvania Rule of Civil Procedure 2328, the Republican Committees attach a copy of the pleading, in the form of Preliminary Objections (attached as Exhibit C), they will file in the action if permitted to intervene.

40. To avoid any undue delay, the Republican Committees have also attached a copy of the answer to Petitioners’ Application for Expedited Discovery Schedule and Evidentiary Hearing (attached as Exhibit D) they will file in the action if permitted to intervene.

WHEREFORE, for the foregoing reasons, Donald J. Trump for President, Inc., the Republican Party of Pennsylvania, and the Republican National Committee respectfully request that this Honorable Court GRANT this Application for Leave to Intervene, and DIRECT the Commonwealth Court Prothonotary to enter the names of Donald J. Trump for President, Inc. and Republican National Committee on the docket in this matter as Intervenor Respondents, and DOCKET the Intervenor Respondents’ Preliminary Objections, attached as Exhibit C, and Answer to Petitioners’ Application for Expedited Discovery Schedule and Evidentiary Hearing, attached as Exhibit D.
Dated: July 27, 2020

Respectfully submitted,

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*Pro hac vice application forthcoming
CERTIFICATION REGARDING PUBLIC ACCESS POLICY

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.

/s/ Kathleen A. Gallagher