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*\*Motions for Admission Pro Hac Vice Forthcoming*

*Attorneys for Proposed Intervenor-Defendant DNC Services Corp. / Democratic National Committee*

**IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY**

DONALD J. TRUMP FOR PRESIDENT, INC. et  
al,

Petitioners,

v.

MONTGOMERY COUNTY BOARD OF  
ELECTIONS,

Defendant,

No. 2020-18680

DNC SERVICES CORP. / DEMOCRATIC  
NATIONAL COMMITTEE,

Proposed Intervenor-  
Defendant

## **MEMORANDUM OF LAW IN SUPPORT OF PETITION TO INTERVENE**

Proposed Intervenor Defendant, the DNC Services Corp./Democratic National Committee (“DNC”), by and through its undersigned counsel, respectfully submits this memorandum of law in support of its Petition to Intervene as Defendant in the above-captioned proceeding pursuant to Rule 2327 of the Pennsylvania Rules of Civil Procedure.

In addition to this Petition and Memorandum of Law in support of intervention, the DNC submits its Proposed Answer In Opposition to Petitioners’ Petition for Review.

### **REASONS FOR PROPOSED INTERVENORS’ APPLICATION**

1. Pursuant to Pennsylvania Rule of Procedure 2327, a non-party may seek leave to intervene by filing an application with the court.

2. The DNC seeks to intervene pursuant to Pennsylvania Rule of Civil Procedure 2327(4), which states, 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 . . .

(4) 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.

Pa.R.C.P. 2327.

3. The DNC meets the requirements for intervention under Pennsylvania Rule of Civil Procedure 2327(4).

4. The DNC is a national committee, as that term is defined by and used in 52 U.S.C. § 30101, dedicated to electing local, state, and national candidates of the Democratic Party to public office throughout the United States including in Pennsylvania. The DNC has members and constituents

across the Commonwealth, including eligible voters who submitted absentee and mail-in ballots in the November 3 election in Montgomery County. As such, the DNC has a particular and distinct interest in Pennsylvania's election processes, and specifically in the adjudication of mail-in and absentee ballots in Montgomery County.

5. Petitioners ask this Court to throw out lawfully cast mail-in and absentee ballots. Many of those ballots were undoubtedly cast by DNC's member voters and were cast in favor of DNC's member candidates.

6. The DNC has a concrete and protectible interest in protecting its voters from having their ballots rejected. The relief requested by Petitioners will result in Democratic voters being disenfranchised and could harm the electoral prospects of Democratic candidates. As such, the DNC and its members maintain a powerful and legally enforceable interest in Pennsylvania's election processes that is implicated by this lawsuit.

7. The named Defendant, Montgomery County Board of Elections (the "County Board"), does not adequately represent the DNC's interests. The County Board's stake in this lawsuit is defined solely by its statutory duties to conduct elections, but the DNC's interest in this litigation is defined by its interest in protecting its voters and its candidate's electoral prospects. Where, as here, one of the original parties to the suit is a government entity like the County Board, whose positions "are necessarily colored by its view of the public welfare rather than the more parochial views of a proposed intervenor whose interest is personal to it," intervention is appropriate. *See, e.g., Kleissler v. U.S. Forrest Serv.*, 157 F.3d 964, 972 (3d Cir. 1998) (citing *Conservation Law Found. of New England v. Mosbacher*, 966 F.2d 39, 44 (1st Cir. 1992) and *Mausolf v. Babbitt*, 85 F.3d 1295, 1303 (8th Cir. 1996)).

8. For these reasons, courts routinely find that political party committees like the DNC should be granted intervention in cases where plaintiffs seek to make it harder to vote or harder to have that vote counted. *E.g. Parnell v. Allegheny Board of Elections*, No. 20-cv-01570 (W.D. Pa. Oct. 22, 2020), ECF No. 34 (granting intervention to Democratic Congressional Campaign Committee in lawsuit regarding processing of ballots); *Donald J. Trump for President v. Bullock*, No. 20-cv-66 (D. Mon. Sept. 08, 2020), ECF No. 35 (granting Democratic Congressional Campaign Committee, Democratic Senatorial Campaign Committee, and Montana Democratic Party intervention in lawsuit by four Republican party entities); *Donald J. Trump for President, Inc.*, No. 20-cv-10753, 2020 WL 5229209, at \*1 (D. N.J. Sept. 01, 2020) (granting Democratic Congressional Campaign Committee intervention in lawsuit by Republican candidate and party entities); *Cook County Republican Party v. Pritzker*, No. 20-cv-4676 (N.D. Ill. Aug. 28, 2020) (granting Democratic Congressional Campaign Committee intervention in lawsuit by Republican party entity); *Issa v. Newsom*, No. 20-cv-01044, 2020 WL 3074351, at \*3 (E.D. Cal. June 10, 2020) (granting Democratic Congressional Campaign Committee and California Democratic Party intervention in lawsuit by Republican congressional candidate); *Paher v. Cegavske*, No. 20-cv-00243, 2020 WL 2042365, at \*4 (D. Nev. April 28, 2020) (granting Democratic National Committee and other Democratic Party entities intervention in election law case brought by conservative interest group).

9. The DNC has promptly filed its Petition to Intervene and its intervention will neither delay the resolution of this matter nor prejudice any party.

10. Attached to the Petition is Proposed Intervenors' Answer in Opposition to Petitioner's request for relief.

Dated: November 6, 2020

Respectfully submitted,

**PERKINS COIE, LLP**

By: /s/ Michael R. McDonald  
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**CERTIFICATE OF SERVICE**

I, Michael R. McDonald, Esquire, do hereby certify that on November 6, 2020, I caused a true and correct copy of the foregoing Memorandum of Law in Support of Petition to Intervene to be served *via the Court's electronic filing system* on all counsel of record.

/s/ Michael R. McDonald  
Michael R. McDonald

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