

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

<b>REPUBLICAN NATIONAL</b>	)	
<b>COMMITTEE et al.,</b>	)	
<b>Petitioners,</b>	)	<b>ELECTION MATTER</b>
<b>v.</b>	)	
	)	
<b>LEIGH M. CHAPMAN, in her capacity</b>	)	<b>No. 447 MD 2022</b>
<b>as Acting Secretary of the</b>	)	
<b>Commonwealth of Pennsylvania et al.,</b>	)	
	)	
<b>Respondents.</b>	)	

**ANSWER TO APPLICATION FOR SPECIAL RELIEF SEEKING  
PRELIMINARY INJUNCTION UNDER PA.R.A.P. 1532**

Now comes Respondent, Allegheny County Board of Elections (Allegheny), by and through George M. Janocko, Allegheny County Solicitor, Allan J. Opsitnick, Assistant County Solicitor, and Lisa G. Michel, Assistant County Solicitor, and files the following Answer to Petitioners' Application for Special Relief Seeking a Preliminary Injunction, averring as follows:

1. Paragraph 1 states a conclusion of law to which no response is required. To the extent that any facts are averred, after reasonable investigation, Allegheny has insufficient knowledge or information in order to form a belief as to the truth of the averments contained in these paragraphs regarding other county boards of election. By way of further response, Allegheny has, for the past several elections, returned absentee and mail-in ballots (mail-in ballots) to voters where the outer envelope and the declaration thereon has not been properly completed.
2. Paragraph 2 states a conclusion of law to which no response is required. County, however, avers that the Petitioners' summary of *Pa. Democratic Party v. Boockvar*, 238 A.2d 345,

374 (Pa. 2020) misstates the Supreme Court's holding. In *Pa. Democratic Party*, the petitioner was demanding that the 67 county boards of election institute and implement a cure process. The Supreme Court held that it would not compel the county boards to take on this task, especially at the late date of the petition when ballots were being printed and transmitted to voters. Moreover, the Court in *Pa. Democratic Party* did not indicate that county boards were prohibited from implementing a cure process for mail in ballots.

3. Paragraph 3 states a conclusion of law to which no response is required. The Supreme Court's opinion speaks for itself. By way of further response, as set forth above, the Court did not indicate that county boards are prohibited from permitting voters to cure defects, prior to the final return date of a mail-in ballot.
4. Paragraph 4 states a conclusion of law to which no response is required. The Supreme Court's opinion speaks for itself. By way of further response, as set forth above, the Court did not indicate that county boards are prohibited from permitting voters to cure defects, prior to the final return date of a mail-in ballot.
5. Respondent specifically denies the averment of this paragraph as stated. The Petitioners did not reference the specific legislation. As such, all the respondents are left to guess as to which legislation and its content. To the extent the Petitioners may be referring to House Bill 1300 in June 2021, it is noteworthy that ballot "cure" provisions were only one component of that voluminous legislation.
6. Paragraph 6 states a conclusion of law to which no response is required. To the extent that a response is required, the Respondent specifically denies the averment believing it to be erroneous.

7. Paragraph 7 states a conclusion of law and argument to which no response is required. Allegheny denies the premise asserted in the averments in Paragraph 7 that any county board's adoption of a policy or practice to notify voters of a technical defect and provide a limited opportunity to cure has been prohibited by the Supreme Court of Pennsylvania or any other court of competent jurisdiction.
8. Paragraph 8 states a conclusion of law and argument to which no response is required.
9. Paragraph 9 states argument to which no response is required. To the extent a response is necessary, Allegheny opposes the issuance of any injunctive relief.
10. Paragraph 10 states a conclusion of law to which no response is required.
11. Paragraph 11 states a conclusion of law to which no response is required. To the extent a response is necessary, Allegheny avers that injunctive relief is necessary or required.
12. Paragraph 12 states a conclusion of law to which no response is required. To the extent a response is necessary, Allegheny specifically denies that the elements for a preliminary injunction have been established as a matter of law.
13. Paragraph 13 states a conclusion of law to which no response is required. To the extent a response is necessary, Allegheny incorporates its responses to the above paragraphs as though set forth at length as its response to the averments in Paragraph 13.
14. Paragraph 14 states a conclusion of law to which no response is required. To the extent a response is necessary, Allegheny incorporates its responses to the above paragraphs as though set forth at length as its response to the averments in Paragraph 14.
15. Paragraph 14 states a conclusion of law to which no response is required. To the extent a response is necessary, Allegheny incorporates its responses to the above paragraphs as though set forth at length as its response to the averments in Paragraph 14. By way of

additional response, Allegheny asserts that the Petitioners misstate the precise legal issue and holding in *Pa. Democratic Party*.

16. Paragraph 15 states a conclusion of law to which no response is required. To the extent a response is necessary, Allegheny incorporates its responses to the above paragraphs as though set forth at length as its response to the averments in Paragraph 16.

17. Paragraph 17 states a conclusion of law to which no response is required. To the extent a response is necessary, Allegheny incorporates its responses to the above paragraphs as though set forth at length as its response to the averments in Paragraph 17. Additionally, Allegheny avers that the public interest will be adversely affected, particularly the cohort of those citizens who vote by absentee ballot due to physical limitation that impede their mobility and access to the polling sites and who will be disenfranchised by not having a reasonable opportunity to correct a technical defect.

WHEREFORE, for the above reasons and those to be set forth more fully in the response to the Petition for Review by all Respondents, including without limitation, the other responding county board of elections, the Respondent Allegheny County Board of Elections respectfully requests this Honorable Court to deny the Application for Special Relief in the Nature of a Preliminary Injunction.

Respectfully submitted,  
/s/ George M. Janocsko

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## CERTIFICATE OF COMPLIANCE

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.

Submitted by: Allan J. Opsitnick

Signature: /s/ Allan J. Opsitnick

Name: Allan J. Opsitnick

Attorney #: 28126

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**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving true and correct copies of the foregoing **ANSWER TO APPLICATION FOR SPECIAL RELIEF SEEKING PRELIMINARY INJUNCTION UNDER PA.R.A.P. 1532** upon the persons and in the manner indicated below, which satisfies the requirements of Pa. R. A. P. 121:

**Service by eService as Addressed as Follows:**

To all active counsel of record listed as participants on Commonwealth Court docket in this matter.

Date: September 16, 2022

*/s/ Allan J. Opsitnick* \_\_\_\_\_  
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