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** Pro hac vice application
forthcoming*

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY,
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

IN RE: CANVASS OF
ABSENTEE AND MAIL-IN
BALLOTS OF NOVEMBER 5,
2024 ELECTION

Civil Division
November Term
No. 241101877

Statutory Appeal
Election Matter

PROPOSED ANSWER

Proposed Intervenors-Respondents DSCC and Bob Casey for Senate, Inc. (“Proposed Intervenors”), by and through their attorneys, submit the following Proposed Answer to Petitioners’ Petition for Review of the decision of the Philadelphia County Board of Elections on November 13, 2024, to count undated or misdated mail ballots in the November 5, 2024 General Election. Proposed Intervenors respond to the allegations in the Petition as follows:

1. Proposed Intervenors admit the allegations in Paragraph 1.
2. Paragraph 2 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.
3. Paragraph 3 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.
4. Paragraph 4 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.
5. Paragraph 5 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

6. Paragraph 6 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

7. Paragraph 7 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

8. Paragraph 8 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

9. Paragraph 9 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

10. Paragraph 10 contains mere characterizations, legal contentions, and conclusions to which no response is required.

11. Paragraph 11 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

12. Proposed Intervenor deny the allegations in Paragraph 12.

13. Paragraph 13 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

JURISDICTION

14. Paragraph 14 contains legal conclusions to which no response is required.

PARTIES

15. Proposed Intervenor admit the allegations in Paragraph 15.

16. Proposed Intervenor admit the allegations in Paragraph 16.

17. Proposed Intervenor admit the allegations in Paragraph 17.

18. Proposed Intervenor admit the allegations in Paragraph 18.

19. Proposed Intervenor admit the allegations in Paragraph 19.

DECISION OF THE BOARD AT ISSUE

20. Proposed Intervenor admit that at a public meeting on November 13, 2024, the Philadelphia County Board of Elections voted to count undated or misdated mail ballots. Paragraph 20 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required.

FACTUAL BACKGROUND

21. Proposed Intervenor admit that the General Assembly amended the Election Code in 2019 to permit all Pennsylvanians to vote by mail without any

excuse. Paragraph 21 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required.

22. Paragraph 23 contains mere characterizations, legal contentions, and conclusions to which no response is required.

23. Paragraph 24 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

24. Proposed Intervenors admit that litigants have filed lawsuits seeking invalidation of the date requirement. Paragraph 24 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

25. Proposed Intervenors admit that litigants have argued that the date requirement violates the materiality provision of the Civil Rights Act of 1964. Paragraph 25 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the remaining allegations.

26. Proposed Intervenors admit the allegations in paragraph 26.

27. Proposed Intervenors admit that litigants filed a King's Bench petition seeking to invalidate the date requirement, and the Pennsylvania Supreme Court

issued an order on October 5, 2024, that contains the quoted text. Paragraph 27 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required.

28. Paragraph 28 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

29. Proposed Intervenors admit the allegations in Paragraph 29.

30. Proposed Intervenors admit that the Commissioners voted to count 607 mail ballots that were undated or misdated. Paragraph 30 otherwise contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the remaining allegations.

GROUND FOR APPEAL

31. Proposed Intervenors deny the allegations in Paragraph 31.

32. Paragraph 32 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

33. Paragraph 33 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenors deny the allegations.

34. Paragraph 34 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

35. Paragraph 35 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

36. Paragraph 36 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

37. Paragraph 37 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

38. Paragraph 38 contains mere characterizations, legal contentions, and conclusions to which no response is required. To the extent a response is required, Proposed Intervenor deny the allegations.

39. Proposed Intervenor deny the allegations in Paragraph 39.

PRAYER FOR RELIEF

Proposed Intervenor deny that Petitioners are entitled to any relief.

GENERAL DENIAL

Proposed Intervenors deny every allegation in the Compliant that is not expressly admitted herein.

AFFIRMATIVE DEFENSES

1. Petitioners' claim is barred because they seek relief inconsistent with the Pennsylvania Constitution's Free and Equal Elections Clause.
2. Petitioners' claim is barred by the doctrine of judicial estoppel.

Dated: November 18, 2024

Respectfully submitted,

/s/ Adam C. Bonin

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Counsel for Proposed Intervenors DSCC and Bob Casey for Senate, Inc.

**CERTIFICATE OF COMPLIANCE WITH CASE RECORDS PUBLIC
ACCESS POLICY**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Adam C. Bonin
Adam C. Bonin, PA 80929

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2024, I caused a true and correct copy of this document to be served on all counsel of record via PACFile.

/s/ Adam C. Bonin
Adam C. Bonin, PA 80929