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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

**RESPONDENTS MICHAEL C. TURZAI AND JOSEPH B. SCARNATI III'S
MEMORANDUM OF LAW IN SUPPORT OF SUSTAINING
PRIVILEGE ASSERTIONS MADE IN RESPONSE TO
PETITIONERS' DISCOVERY REQUESTS**

Respondents Michael C. Turzai, the Speaker of the Pennsylvania House of Representatives (“Speaker Turzai”), and Joseph B. Scarnati III, the President Pro Tempore of the Pennsylvania Senate (“Senator Scarnati,” collectively with Speaker Turzai, “Legislative Respondents”), respectfully submit this Memorandum of Law In Support of their Privilege Assertions made in response to certain discovery propounded by Petitioners in this matter.

I. INTRODUCTION

Petitioners are challenging the constitutionality of the Pennsylvania’s 2011 Congressional district map, which was adopted into law by Pennsylvania’s General Assembly in early 2011 (the “2011 Plan”). In conjunction with that challenge, Petitioners have propounded expansive discovery requests on Legislative Respondents, and have served subpoenas on 18 nonparty individuals and organizations. The discovery requests and subpoenas seek disclosure of information concerning every aspect of Legislative Respondents’ involvement in contemplating, considering, crafting and/or drafting the 2011 Plan, including, among other things, the criteria for drafting the 2011 Plan, all of the information Legislative Respondents reviewed when considering the 2011 Plan, and who

Legislative Respondents consulted with regarding the 2011 Plan. Legislative Respondents objected to the discovery requests because the documents and information sought are immune from disclosure under several applicable privileges and immunities. Legislative Respondents' objections should be sustained.

First, nearly all of the documents and information sought are protected from disclosure under Pennsylvania's Speech or Debate privilege (sometimes referred to as the legislative privilege), a Constitutional privilege that protects members of the General Assembly from having to disclose information regarding their legislative activity. Because the discovery sought by Petitioners exclusively concerns Legislative Respondents' consideration, drafting and crafting of the 2011 Plan, the documents and information sought clearly relate to legislative activity and therefore are immune from discovery.

Second, the documents and information sought by Petitioners is protected from disclosure under the First Amendment of the U.S. Constitution. The First Amendment protects the rights of organizations to freely communicate with their legislators about legislation. If disclosure were allowed here, it would have a chilling effect on organizations' ability to exercise their First Amendment rights and communicate with legislators.¹

¹ The First Amendment Privilege may be properly asserted by the nonparty targets of the Subpoenas, but Legislative Respondents are asserting the objection on their behalf in an abundance of caution given the fast pace of this litigation.

Third, to the extent that the discovery requests seek information that is shielded from production under the attorney-client privilege or work product doctrine, Legislative Respondents have asserted appropriate objections. But, an assessment of the legitimacy of these objections is premature because the parties have not yet exchanged privilege logs.

For these reasons and the additional reasons set forth below, the Legislative Respondents' privilege assertions should be sustained and the requested discovery denied.

II. FACTUAL BACKGROUND

Legislative Respondents assume that the Court is generally familiar with the factual and procedural background of this case, and will therefore refrain from reiterating it herein.

A. The Discovery Requests Served On Legislative Respondents

On June 30, 2017, Petitioners served expansive Interrogatories and Requests for Production of Documents (“RFPs” and together with the Interrogatories, the “Discovery Requests”) on Legislative Respondents. Among other things, the Discovery Requests seek: (1) all communications and documents in any way related to the creation or passage of the 2011 Plan; (2) the identities and roles of all individuals involved in the creation or passage of the 2011 Plan; and (3) the criteria

employed by Legislative Respondents in formulating or drafting the 2011 Plan. *See generally*, **Exhibit A** (RFPs) and **Exhibit B** (Interrogatories).²

On August 14, 2017, Legislative Respondents timely objected to the Discovery Requests because, among other things, the information sought in the Discovery Requests is exempt from disclosure under the: (1) the Speech or Debate Clause privilege; (2) the First Amendment privilege; and (3) the attorney-client privilege and/or the attorney work-product doctrine.³

B. The Subpoenas

On July 20, 2017, Petitioners served notices of intent to serve subpoenas upon 17 different parties (the “Subpoenas”). Legislative Respondents are objecting to all the Subpoenas.⁴ Eleven of the Subpoenas are directed to current or former employees of the General Assembly, who were employees of the General Assembly at the time that the 2011 Plan was drafted or passed, and whose

² Petitioners’ Discovery Requests were also directed to Pennsylvania’s General Assembly. Certain of the undersigned counsel previously represented the General Assembly in this matter, but on October 27, 2017, the law firm of Stradley Ronon Stevens & Young, LLP entered an appearance as counsel for the General Assembly, and the undersigned subsequently withdrew as counsel for that entity. Legislative Respondents understand that the General Assembly’s current counsel will be separately submitting a brief addressing the discovery requests served on the General Assembly.

³ Legislative Respondents’ Objections to Petitioners’ First Set of Interrogatories and RFPs are attached hereto as **Exhibit C** (Senator Scarnati’s Objections); and **Exhibit D** (Speaker Turzai’s Objections), respectively.

⁴ On August 11, 2017, Petitioners served an 18th notice of intent to serve a subpoena on former Governor Corbett. Although Legislative Respondents previously objected to the subpoena on former Governor Corbett under the Executive Privilege, it is Legislative Respondents’ understanding that former Governor Corbett will assert the privilege on his own behalf if and when the Subpoena is served.

payments were provided by the Legislative Branch of the Commonwealth's government. These individuals include: (1) Drew Crompton, the Chief of Staff to Senator Scarnati and General Counsel to the Senate Republican Caucus; (2) Erik Arneson, the former Policy Director to former Senate Majority Leader Dominic Pileggi; (3) Gail Reinhard, the Executive Director of the Senate Government Committee; (4) David Woods, the former Chief of Staff to former Senate Majority Leader Dominic Pileggi; (5) Heather Cevasco, the former Chief of Staff to Senator Charles McIlhinney Jr;⁵ (6) William Schaller, a current staff member of the Pennsylvania House of Representatives; (7) Glenn Grell, a State Representative in the Pennsylvania House of Representatives; (8) Tony Aliano, the former Chief of Staff to the former Speaker of the Pennsylvania House of Representatives Sam Smith; (9) Krystjan Callahan, the former Chief of Staff to Speaker Turzai; (10) Dave Thomas, former Chief Counsel to former Speaker Sam Smith; and (11) John Memmi, a former staffer in the Pennsylvania Senate who constructed congressional district maps for the Senate. *See* Subpoenas, attached hereto collectively as **Exhibit E**. For the avoidance of doubt, at the time that the 2011 Plan was being considered and passed, each of these individuals was employed by the General Assembly or was a member of the General Assembly.

⁵ Senator McIlhinney was the Chairman of the Senate State Government Committee, which oversaw the redistricting legislation for the Pennsylvania Senate.

Two of Subpoenas are directed to third-parties, Dr. Thomas B. Hofeller and Adam Kincaid. *See Exhibit F.* During the relevant period, Dr. Hofeller was a consultant at the Republican National Committee (“RNC”) and Mr. Kincaid was an employee at the National Republican Congressional Committee (“NRCC”). The RNC and NRCC are partisan organizations affiliated with Legislative Respondents’ political party.⁶

Finally, four of the Subpoenas are directed to political organizations including the RNC, the NRCC, the Republican State Leadership Committee and the State Government Leadership Foundation. *See Exhibit G.* These entities are political organizations affiliated with Legislative Respondents’ political party. Legislative Respondents are unaware of the source of any payments, if any, made to these organizations or Messrs. Kinkaid or Hofeller, but do not believe that any such payments originated from Legislative Respondents or the General Assembly.

Like the Document Requests served on Legislative Respondents, the Subpoenas seek substantial documentary evidence regarding the deliberative process and information purportedly considered by Legislative Respondents during the consideration, crafting, drafting and passage of the 2011 Plan.

⁶ While unknown to Legislative Respondents, it is of course possible that one or more of these parties was involved in advising members of the General Assembly with respect to the 2011 Plan.

On August 9, 2017, Legislative Respondents served Objections to the Subpoenas. *See Exhibit H.* Thereafter, on September 12, 2017, Petitioners filed a Motion to Strike the Objections (hereinafter, “Motion to Strike”), and Legislative Respondents filed a Response in Opposition to the Motion to Strike on September 26, 2017. *See* Petitioners’ Motion to Strike, Sept. 12, 2017 and Legislative Respondents and General Assembly’s Response in Opp. to Motion to Strike, Sept. 26, 2017.

On October 16, 2017, the Court entered an Order requiring Legislative Respondents to file a Memorandum of Law in support of their privilege objections to Petitioners’ Discovery Requests.⁷

III. ARGUMENT

A. Pennsylvania’s Speech or Debate Clause Protects From Disclosure the Discovery Sought by Petitioners

1. The History and Scope of the Speech or Debate Clause

The Speech or Debate Clause provides that “any speech or debate in either House [of the General Assembly] *shall not be questioned in any other place.*” PA.

⁷ The Court’s November 13, 2017 Order did not amend this aspect of the October 16, 2017 Order. *See* Order of the Hon. P. Kevin Brobson, Nov. 13, 2017. Petitioners also served a deposition notice seeking to depose members of the General Assembly regarding certain topics, and General Assembly filed a Motion to Quash the deposition notice. *See* General Assembly’s Motion to Quash Petitioners’ Notice of Deposition, Sept. 22, 2017.

CONST. art. II, § 15 (emphasis added).⁸ The Clause is rooted in the principle of separation of powers, and it is specifically designed to protect legislators from “judicial interference with legitimate legislative objectives.” *Finn v. Rendell*, 990 A.2d 100, 106 (Pa. 2010). Indeed, the very purpose of the Speech or Debate Clause is to safeguard the “independence and integrity of the legislature” and to “insure[] that legislators are free to represent the interests of their constituents without fear that they will be later called to task in the courts for that representation.” *Firetree, Ltd. v. Fairchild*, 920 A.2d 913, 920 (Pa. Commw. Ct. 2007).

To that end, the immunity guaranteed by the Speech or Debate clause is interpreted broadly “to protect legislators from judicial interference with their legitimate legislative activities.” *Consumer Party of Pa.*, 507 A.2d at 329. And, because the immunity is absolute, it protects legislators from having to provide oral testimony or produce discovery concerning topics that are covered by the immunity. *Hamilton v. Hennessey*, 783 A.2d 852, 855 (Pa. Commw. Ct. 2001) (en banc); *McNaughton v. McNaughton*, 72 Pa. D. & C.4th 363, 369 (Ct. C.P. Dauphin

⁸ Pennsylvania’s Speech or Debate Clause has the same scope as and is “essentially identical to and obviously derived from” the federal Speech or Debate Clause. *Consumers Educ. & Protective Ass’n v. Nolan*, 368 A.2d 675, 680 (Pa. 1977). Although Pennsylvania Courts are “not bound by the cases interpreting the federal speech or debate clause, those cases provide guidance in formulating the policy considerations underlying the Pennsylvania Speech or Debate clause.” See *Consumer Party of Pa. v. Com.*, 507 A.2d 323, 330 (Pa. 1986).

Cnty. 2005) (internal citations omitted) (holding that the Speech or Debate Clause of the Pennsylvania Constitution “protects documents from discovery, if the documents contain information that is the product or result of activity within the legitimate legislative sphere”); accord *Minpeco, S.A v. Conticommodity Services, Inc.*, 844 F.2d 856, 859 (D.C. Cir. 1988); *Brown & Williamson Tobacco Corp. v. Williams*, 62 F.3d 408, 421 (D.C. Cir. 1995) (“A party is no more entitled to compel congressional testimony – or production of documents – than it is to sue congressmen.”).

The Pennsylvania Supreme Court has made clear that “nothing is more within the legitimate legislative sphere [and immune from disclosure under the Speech or Debate Clause] than the process leading up to and the passage of legislation.” *Consumer Party of Pa.*, 510 Pa. at 173; *Firetree*, 920 A.2d at 920 (“Legitimate legislative activity ... is not confined to conduct that actually occurs in the State Capitol building.”). Thus, a legislator’s informal fact-finding is protected under the Speech or Debate Clause because fact-finding, information gathering, and investigative activities are “essential prerequisites to the drafting of bills and the enlightened debate over proposed legislation,” and thus those activities fall within the protected legislative sphere. *Gov’t of Virgin Islands v. Lee*, 775 F.2d 514, 521 (3d Cir. 1985); see also *McNaughton*, 72 Pa. D. & C. 4th at 370 (approvingly noting that federal courts have held that obtaining property and

records for a committee hearing and preparing investigative reports are within the legitimate legislative sphere); *Sudarkasa v. Glanton*, 57 Pa. D. & C. 4th 472, 505 (Ct. C.P. Phila. Cty. 2002) (ruling that the exchange of any information or communication pursuant to an investigation of a Commonwealth-funded university conducted in part by a Senate committee was privileged); *Melvin v. Doe*, 48 Pa. D. & C. 4th 566, 574 (Ct. C.P. Allegheny Cty. 2000) (requesting information concerning judicial vacancies protected by Speech or Debate Clause privilege); *Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 505 (1975) (“To conclude that the power of inquiry is other than an integral part of the legislative process would be a miserly reading of the Speech or Debate Clause”).

Pennsylvania law has also extended the Speech or Debate Clause privilege over acts taken by legislative aides or employees. This is because it would be “literally impossible, in view of the complexities of the modern legislative process with Congress almost constantly in session and matters of legislative concern constantly proliferating, for Members of Congress to perform their legislative tasks.” *Lincoln Party v. General Assembly*, 682 A.2d 1326, 1333 (Pa. Commw. Ct. 1996); see also *Sweeney v. Tucker*, 375 A.2d 698, 703-04 (Pa. 1977); *Consumer Party of Pa.*, 507 A.2d at 330 (“[The Speech or Debate] Clause applies to

legislative aide[s] for conduct which would be a protected legislative act if performed by the legislator himself.”).⁹

Likewise, the work performed by consultants who are retained by legislators to assist with legislative functions, including the creation and passage of legislation, is protected by the Speech or Debate Clause privilege to the extent consultants are provided direct assistance to the legislator in drafting, crafting or considering legislation. *See Parson v. Pa. Higher Educ. Assistance Agency*, 910 A.2d 177, 187 (Pa. Commw. Ct. 2006) (noting that records of “agents” for the legislature or an “arm” of the legislature could qualify as legislative records under the Speech or Debate Clause); *see also Doe v. McMillan*, 412 U.S. 306, 312 (1973) (noting that the Speech or Debate Clause grants immunity to congressional members, congressional staffers, consultants, and investigators); *Walker v. Jones*, 733 F.2d 923, 929 (D.C. Cir. 1984) (Ginsburg, J.); *accord Edwards v. Vesilind*, 790 S.E.2d 469, 482-83 (Va. 2016) (holding that Virginia’s Speech or Debate Clause protects communications between consultants, legislators, and legislative aides that are within the legislative sphere); *Holmes v. Farmer*, 475 A.2d 976, 983-84 (R.I. 1984) (same); *Ariz. Indep. Redistricting Comm’n v. Fields*, 75 P.3d 1088,

⁹ This is consistent with federal law holding that a legislator and his or her aides are to be “treated as one.” *Gravel v. United States*, 408 U.S. 606, 616 (1972); *see also Lunderstadt v. Colafella*, 885 F.2d 66, 74 (3d Cir. 1989) (acknowledging extension of the privilege to legislative aides).

1097-98 (Ariz. Ct. App. 2003) (holding that legislators must be able to freely communicate with redistricting experts without fear of judicial oversight).

Additionally, the Speech or Debate Clause privilege shields from disclosure a legislator's communications with partisan organizations when those communications concern legislative activity. *See, e.g., Bruce v. Riddle*, 631 F.2d 272, 279-80 (4th Cir. 1980) (“[M]eeting with ‘interest’ groups, professional or amateur...is a part and parcel of the modern legislative procedures through which legislators receive information possibly bearing on the legislation they are to consider.”) (citing *Tenney v. Brandhove*, 341 U.S. 367 (1951)).¹⁰

Read collectively, the foregoing precedent establishes that the Speech or Debate Clause privilege corollary must be applied absolutely to protect state legislators and their aides from disclosing any information that was a part of the deliberative and communicative processes in considering, crafting, drafting and/or passing legislation, including any information received from, or views expressed by, outside consultants and partisan groups.

¹⁰ *See also Almonte v. City of Long Beach*, 478 F.3d 100, 107 (2d Cir. 2007) (“Meeting[s] with ... partisans, political interest groups, or constituents—to discuss issues that bear on potential legislation...are also a routine and legitimate part of the modern-day legislative process.”).

2. **The Speech or Debate Clause Prohibits Disclosure of the Information Sought in the Discovery Requests and the Subpoenas**

a. **Application of the Speech or Debate Clause Privilege to Petitioners' Discovery Requests**

A review of Petitioners' Discovery Requests reveals that they unequivocally seek the disclosure of documents and information regarding legislative activity that goes straight to the heart of what is shielded from disclosure under the Speech or Debate Clause privilege. For example, the RFPs seek, among other things:

- “All proposals, analyses, memoranda, notes and calendar entries in whatever medium...they are maintained referring or relating to the 2011 Plan;”¹¹
- “All documents referring or relating to all consideration or criteria that were used to develop the 2011 Plan...;” and
- “All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.”

See **Ex. A**, RFPs 1(a); 1(b); 1(d). Likewise, the Interrogatories request that Legislative Respondents:

- “Identify each person who had any involvement in the development of the 2011 Plan...;”
- “Identify ... all criteria that were considered or used in developing the 2011 Plan...;” and

¹¹ The Discovery Requests define “2011 Plan” broadly as “the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor ... any preliminary or draft plans ... and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.” See **Ex. A** at p. 2, ¶ 1.

- “[I]dentify and describe how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criterion in developing the 2011 Plan.”

See **Ex. B**, Interrogatories, 1, 4 and 6. See also **Ex. A**, RFPs No. 1(b) – (d); **Ex. B**, Interrogatories Nos. 4, 5, 6) (seeking Information and documents regarding what Legislative Respondents considered in drafting, crafting and considering the 2011 Plan); **Ex. A**, RFPs No. 1(e) – (g); **Ex. B**, Interrogatories Nos. 1-3 and 7) (seeking information about the roles of, and information provided by, consultants, aides and political organizations regarding the 2011 Plan).

Because the documents and information sought in the Discovery Requests is plainly related to legislative activity, the Speech or Debate Clause absolutely bars production of the requested information. See *Eastland*, 421 U.S. at 509-10 n.16 (emphasis added); *Tenney*, 341 U.S. at 378 (holding that courts “should not go beyond the narrow confines of determining that a committee’s inquiry may fairly be deemed within its province.”); *Smolsky v. Pa. Gen. Assembly*, 34 A.3d 316, 322 (Pa. Commw. Ct. 2011) (dismissing action where questioned activity “clearly falls within the legitimate sphere of legislative activity”); *McNaughton*, 72 Pa. D. & C. 4th at 369 (holding that the Speech or Debate Clause “protects documents *from discovery*, if the documents contain information that is the product or result of activity within the legitimate legislative sphere”) (emphasis added). Accordingly,

the objections to the Discovery Requests based on the Speech or Debate Clause privilege should be sustained.

b. Application of the Speech or Debate Clause Privilege to Petitioners' Subpoenas

As identified above, each of the Subpoenas requests discovery from third-party individuals and entities that is identical in substance to the privileged information sought by Petitioners' Discovery Requests directed to Legislative Respondents. And, as detailed above, the third parties who are subject to the objectionable 17 Subpoenas are: (1) individuals who were employed by the General Assembly at the time that the 2011 Plan was considered, drafted, crafted and/or passed; (2) outside consultants who, according to Petitioners, may have assisted in drafting or crafting the Plan; and (3) partisan groups who are affiliated with Legislative Petitioners' political party. The privilege that is guaranteed by Pennsylvania's Speech or Debate Clause privilege undoubtedly prohibits disclosure of information from these individuals to the extent such information relates to the consideration, drafting, crafting and/or passage of the 2011 Plan. *See Gravel*, 408 U.S. at 608-09, 616, 622; *Doe*, 412 U.S. at 312; *Consumer Party of Pa.*, 507 A.2d at 330; *see also Edwards v. Vesilind*, 790 S.E.2d 469, 481-83 (Va. 2016). Thus, to the extent the employees, aides, outside consultants, or partisan groups that are subject to the Subpoenas communicated with Legislative

Respondents about the drafting, crafting or passage of legislation, including the 2011 Plan, those communications would necessarily be immune from disclosure under the Speech or Debate Clause privilege. *Id.*¹²

c. The Absolute Immunity Guaranteed To State Legislators Under the Pennsylvania Constitution Cannot Be Qualified

Petitioners will likely argue, as they have in their previous briefing, that the Court should ignore the broad immunity guaranteed to members of the General Assembly by the Speech or Debate Clause, and instead find that this immunity is qualified when the case advances allegations of gerrymandering. *See* Petitioners' Answer to the General Assembly's Application for a Protective Order Regarding Petitioners' Notice of Deposition ("Petitioners' Answer"), No. 4 ("Courts have consistently granted discovery in gerrymandering cases notwithstanding assertions of a legislative privilege, including discovery of legislators themselves.").¹³ In sole support of this position, Petitioners rely upon a handful of lower federal court decisions that have found that the *Federal Constitution's* Speech or Debate Clause only provides only qualified immunity with respect to state legislators in gerrymandering cases. *Id.* (quoting *Favors v. Cuomo*, 285 F.R.D. 187, 217

¹² In their Motion to Strike, Petitioners point out that the Speech or Debate Clause privilege does not shield a legislator from producing all documents in his/her possession. Petitioners' Motion to Strike, Sept. 12, 2017, at p. 5. Legislative Respondents do not dispute this point, and they intend to produce responsive non-privileged documents that are in their possession.

¹³ *See* Petitioners' Answer to the General Assembly's Application for a Protective Order Regarding Petitioners' Notice of Deposition, Oct. 9, 2017.

(E.D.N.Y. 2012); *Benisek v. Lamone*, 2017 WL 959641, at *9 (D. Md. Mar. 13, 2017); *Bethune-Hill v. Va. State Bd. of Elections*, 114 F. Supp. 3d 323, 345 (E.D. Va. 2015); *Comm. for a Fair & Balanced Map v. Ill. State Bd. Of Elections*, 2011 WL 4837508, at *11 (N.D. Ill. Oct. 12, 2011); *League of Women Voters of Fla. v. Fla. House of Representatives*, 132 So.3d 135, 154 (Fla. 2013)). But, these decisions are inapposite – this is not a federal court case assessing the bounds of the Federal Constitution’s protection of state legislators.¹⁴ .

To understand why that is the case, a brief history of the Federal Speech or Debate Clause as it applies to state legislators is required. Just as the Pennsylvania Constitution contains a Speech or Debate Clause that shields from disclosure information concerning the legislative activities of members of the General Assembly, the Federal Constitution contains a Speech or Debate Clause that shields from disclosure information concerning the legislative activities of

¹⁴ Petitioners argue that “nearly every case” that has addressed Speech or Debate Clause immunity in the context of a gerrymandering case has found that the immunity is qualified. *Id.* That is simply not the case. Federal Courts regularly find that absolute immunity applies in gerrymandering cases. *Chen v. City of Houston*, No. H-97-1180, Mem. Op. at 3-4 (S.D. Tex. Oct. 31, 1997) (attached as **Exhibit I**) (barring deposition of city councilmember on actions involving redistricting); *Simpson v. City of Hampton*, 166 F.R.D. 16, 18-19 (E.D. Va. 1996) (Speech or debate privilege encompasses testimonial privilege that blocked production of legislator's files and notes in redistricting case); *Martinez v. Bush*, No. 1:02-cv-20244 AJ, Mem. Op. at 3-6 (S.D. Fla. July 12, 2002) (three-judge panel) (attached as **Exhibit J**) (barring depositions of state legislators and staff on their motivations and reasons for enacting redistricting plan). See also *Hispanic Coalition on Reapportionment v. Legis. Reapportionment Comm’n*, 536 F. Supp. 578, 582-583 n.2 (E.D. Pa. 1982) (noting that deposition of legislator was prohibited); *Backus v. South Carolina*, No. 3:11-cv-03120-HFF-MBS-PMD, 2012 U.S. Dist. LEXIS 37055 (D.S.C. Feb. 8, 2012).

members of Congress. U.S. CONST. art. I, § 6, cl. 1; *Supreme Court of Va. v. Consumers Union of United States*, 446 U.S. 719, 731 (1980) (purpose of the clause is to ensure that legislative activity “may be performed independently without fear of outside interference.”).¹⁵

But, while the Federal Speech or Debate Clause expressly grants absolute immunity to members of Congress, it provides no immunity to state legislators. Nevertheless, as a matter of comity and federal common law, the U.S. Supreme Court, in *Tenny v. Brandlove*, extended immunity to state and local legislators. 341 U.S. 367 (1951). Then, 30 years after *Tenney* was decided, a state senator from Tennessee who was charged under federal racketeering statutes sought to rely on federal common law immunity to suppress evidence at trial. *U.S. v. Gillock*, 445 U.S. 360, 365 (1980). In rejecting the defendant’s argument, the U.S. Supreme Court held that the Speech or Debate Clause privilege could not be invoked because a state legislator’s immunity is a creature of common law, and therefore, unlike a constitutional immunity, it could be qualified. The Court explained: “where important federal interests are at stake, as in the enforcement of federal criminal statutes, comity yields” and the Speech or Debate Clause privilege

¹⁵ The Federal Constitution’s Speech or Debate Clause protects those acts that are “an integral part of the deliberative and communicative processes by which [legislators] participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation...which the Constitution places within the jurisdiction of either House.” *Gravel*, 408 U.S. at 625.

can be pierced. *Id.* The Court made clear, however, that the immunity of members of Congress, which derives directly from the U.S. Constitution, remains absolute. *Id.*

The holding in *Gillock* was straightforward: Speech or Debate immunity can be qualified, but only if that immunity is not constitutionally protected. And the foregoing decisions cited by Petitioners are all federal cases that cite to *Gillock* for the proposition that federal common law immunity can be qualified.

But, those cases are inapplicable here because, unlike the legislators in those cases, Legislative Respondents are not seeking to enforce a common law immunity that can be qualified. Rather, Legislative Respondents rely upon the immunity that is guaranteed by the Pennsylvania Constitution. Thus, federal cases holding the legislative privilege can be a qualified one in matters of redistricting, including the decisions relied upon by Petitioners, are inapposite. Accordingly, the Court should find that the immunity guaranteed by the Speech or Debate Clause of Pennsylvania's Constitution remains intact and wholly applicable here. *See, e.g., Consumer Party of Pa.*, 507 A.2d at 329.¹⁶

¹⁶ Petitioners' argument that the Court should qualify immunity here solely because this is a gerrymandering case must also be rejected for another reason. The U.S. Supreme Court has never issued an opinion extending its holding in *Gillock* to the civil context. To the contrary, only a few months after *Gillock* was decided, the U.S. Supreme Court discussed whether the Speech or Debate Clause immunity can also be limited in the context of civil lawsuits. *See Consumers Union*, 446 U.S. at 725-26. The U.S. Supreme Court answered in the negative, stating that, "while the separation-of-powers doctrine justifies a broader privilege for Congressmen than for state legislators *in criminal actions*...[the Court] generally ha[s] equated

d. The Speech or Debate Clause Privilege Applies To Documents Received From and/or Shared With Third Parties

Petitioners also have argued that courts have “rejected the notion that a [Speech or Debate] privilege protects communications between legislators and third parties, such as consultants, experts, and even committee staff.” See Petitioners’ Answer to the General Assembly’s Application for a Protective Order Regarding Petitioners’ Notice of Deposition, Oct. 9, 2017, at No. 19 (citing *Page v. Va. State Bd. of Elections*, 15 F. Supp. 3d 657 (E.D. Va. 2014); *Baldus v. Members of the Wis. Gov’t Accountability Bd.*, 843 F. Supp. 2d 955, 956-57 (E.D. Wis. 2012); *Comm. for a Fair & Balanced Map v. Ill. State Bd. of Elections*, No.11 C 5065, 2011 WL 4837508 (N.D. Ill. Oct. 12, 2011); *Rodriguez v. Pataki*, 280 F. Supp. 2d 89, 101 (S.D.N.Y. 2003). But, Petitioners’ assertion is highly misleading.

The cases relied upon by Petitioners are all qualified immunity cases, which, as detailed above, are inapplicable here. See *id.* And, as detailed above, when applying the constitutional Speech or Debate Clause immunity, courts regularly find communications and interactions with third parties, including legislative aides, consultants and political organizations are protected by the Speech or Debate

the legislative immunity to which state legislators are entitled under’ civil actions.’ *Id.* at 733 (emphasis added). Later, in *Bogan v. Scott-Harris*, a unanimous U.S. Supreme Court once again held that the Speech or Debate Clause privilege is *absolute* for state legislators in civil cases. See *Bogan v. Scott-Harris*, 523 U.S. 44, 47-49 (1998). The lower court decisions relied upon by Petitioners thus misapplied the *Gillock* decision by attempting to extend its application to *civil* gerrymandering cases. Accordingly, these decisions should not be relied upon by this Court in determining the scope of Speech or Debate Clause immunity.

Clause privilege, to the extent that such communications and interactions occurred within the legislative sphere. *See e.g., Lincoln Party*, 682 A.2d at 1333 (Speech or Debate Clause privilege covers communications with aides); *Doe*, 412 U.S. at 312 (noting that the Speech or Debate Clause grants immunity to congressional members, congressional staffers, consultants, and investigators). In short, Petitioners’ argument that communications with third parties, including legislative aides, are not protected by Pennsylvania’s Speech or Debate Clause immunity must be rejected.

e. **The Speech or Debate Clause Privilege Is Not Solely A “Use” Privilege**

In their Motion to Strike, Petitioners argued that the Court should overrule Legislative Respondents’ Speech or Debate Clause privilege objections because the Speech or Debate Clause privilege is a “use” privilege that protects against introduction into evidence, but not disclosure during the discovery process. In support of their argument, Petitioners cite to *In re Search of Elec. Commc’ns in the Account of chakafattah@gmail.com at Internet Serv. Provider Google, Inc.*, 802 F.3d 516, 525 (3d Cir. 2015), 802 F.2d 516, 529 (3d Cir. 2015)) (hereinafter, “*ChakaFattah*”). Petitioners are, once again, wrong.

Although certain federal courts have found that the Speech or Debate Clause privilege is a “use” privilege *in the criminal context*, it is clear that the privilege is

a non-disclosure privilege in the civil context. *See e.g., Lady Liberty Transp. Co. v. Civil Phila. Parking Auth.*, No. 05-1322, 2007 U.S. Dist. LEXIS 14899, *32 n.46 (E.D. Pa. Mar. 1, 2007) (Speech or Debate Clause Speech or Debate Clause privilege protects against disclosure in the civil context); *Minpeco, S.A.*, 844 F.2d at 859 (same). Indeed, the Court in *ChakaFattah* expressly limited its holding to “documents disclosed to the government in the course of an investigation.” 802 F.2d at 529. This distinction makes sense because a prosecutor is less likely to abuse the “use” rule than a private litigant. Thus, the Court should reject the idea that the Speech or Debate Clause privilege protects against “use” and not disclosure in the civil context. *See id.*¹⁷ *See also McNaughton*, 72 Pa. D. & C. 4th at 369 (holding that the Speech or Debate Clause “protects documents *from discovery*, if the documents contain information that is the product or result of activity within the legitimate legislative sphere”) (emphasis added).

¹⁷ Petitioners also erroneously argue that Legislative Respondents’ objections to the Subpoenas are premature because, “[i]f the recipients of the nonparty subpoenas believe production is protected by a Speech or Debate privilege doctrine, [the nonparty] can assert that privilege and this Court should adjudicate it then, not before *service* of the subpoenas. The General Assembly may likewise assert its own objections at that time to the extent it has standing to do so and to the extent it can offer any “facts showing that [any] privilege [is] properly invoked.” *See Motion to Strike*, p. 5 (emphasis in original). Petitioners misstate the procedure for objecting to Subpoenas in Pennsylvania. Rules 4009.21 and 4009.22 of the Pennsylvania Rules of Civil Procedure “expressly require notice and allow for the opportunity [for a party to object] before the subpoena is served.” *Office of Dist. Atty. Of Phila. v. Bagwell*, 155 A.3d 1119, 11130 n.12 (Pa. Commw. Ct. 2017) (emphasis added); *Dep’t of Health v. Office of Open Records*, 4 A.3d 803, 812 n.11 (Pa. Commw. Ct. 2010) (“[T]he defendant nursing facility would have the opportunity to lodge objections before a subpoena could be served on the Department.”). As these cases make clear, Legislative Respondents’ objections prior to service of the Subpoenas were timely. *See id.*

B. The Application of the First Amendment Privilege

To the extent that the Court finds that the Speech or Debate Clause privilege does not prohibit disclosure of communications between members of the General Assembly and third party organizations (and it should not so find), the First Amendment nevertheless shields disclosure of such communications. In particular, the First Amendment protects the rights of organizations to advocate political beliefs in the most effective way, and necessarily entails the right to do so privately. *Buckley v. Valeo*, 424 U.S. 1, 75 (1976). Because the right to associate effectively is necessarily intertwined with the right to associate privately, the Supreme Court has recognized that “compelled disclosure of political affiliations and activities can impose just as substantial a burden on First Amendment rights as can direct regulation.” *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003) (emphasis added) (internal citations omitted). For this reason, the First Amendment privilege protects an organization’s lobbying strategy. *In re Motor Fuel Temperature Sales Practices Litig.*, 641 F.3d 470, 489 (10th Cir. 2011).

Here, Legislative Respondents have asserted the First Amendment privilege to the extent that the Discovery Requests or Subpoenas seek documents revealing communications with third parties, including political organizations and constituents. If these communications are disclosed to Petitioners, it will reveal these organizations’ protected information and chill the ability of lobbying

organizations to communicate effectively with their legislators. *Id.* Thus, Legislative Respondents have appropriately asserted the First Amendment privilege, and their objections based on this privilege should be sustained.¹⁸

C. The Application of the Attorney-Client Privilege

Legislative Respondents have also objected to the Discovery Requests and Subpoenas to the extent that the discovery sought is immune from disclosure under the Attorney-Client Privilege or the Work-Product Doctrine. The attorney-client privilege is “[t]he oldest of the privileges for confidential communications known to the common law.” *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981); *see also Levy v. Senate of Pa.*, 65 A.3d 361, 368 (Pa. 2013) (“This Court has repeatedly noted that the attorney-client privilege is deeply rooted in our common law and is the most revered of our common-law privileges.”) The work-product doctrine, while closely related to the attorney-client privilege, provides broader protection. *Bagwell v. Pa. Dep’t of Educ.*, 103 A.3d 409, 415 (Pa. Commw. Ct. 2014). Under the doctrine, Pennsylvania law excludes from discovery the “mental

¹⁸ While the recipients of the Subpoenas may also object to the Subpoenas under the First Amendment privilege (or other privileges or immunities), Legislative Respondents felt compelled, in light of the fast pace of this litigation, to assert the objections to preserve those objections. As Petitioners have acknowledged, if the non-party recipients of the subpoenas “believe production is protected by a Speech or Debate privilege doctrine, they can assert that privilege and this Court should adjudicate it then.” *See* Petitioners’ Motion to Strike, Sept. 12, 2017, at 5.

impressions of a party's attorney or his . . . conclusions, opinions, memoranda, notes or summaries, legal research or legal theories.” *See* Pa. R. Civ. P. 4003.3.

Several of Petitioners' Discovery Requests expressly seek the production of, or information about, communications between Legislative Respondents and their legal counsel. *E.g.*, **Ex. A**, RFP No. 1(f) (seeking “[a]ll communications with any consultants, advisors, *attorneys*.”) (emphasis added). Moreover, four of the Subpoenas are directed at attorneys. And the remaining requests appear to seek, at least in part, documents or information that might be shielded from disclosure under the work-product doctrine or attorney-client privilege. Clearly, there are likely to be documents that are responsive to the Discovery Requests or Subpoenas but which are immune from discovery under the attorney-client privilege or the work product doctrine.

Since the Supreme Court's recent Order lifting the stay in this case, Legislative Respondents have re-initiated the process of collecting and analyzing documents for production. Once this analysis is complete, Legislative Respondents will produce a privilege log that details the factual basis for any documents withheld pursuant to the attorney-client privilege or work product doctrine. Accordingly, it would be premature for the Court to rule on the legitimacy of Legislative Respondents' reliance on attorney-client privilege and the work-product doctrine at this time.

IV. CONCLUSION

For all of the foregoing reasons and authorities, Legislative Respondents respectfully request that this Court enter an order sustaining their objections to Petitioners' Discovery Requests and the Subpoenas.

Dated: November 17, 2017

Respectfully Submitted,

BLANK ROME LLP

By: /s/ Brian S. Paszamant

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Jason A. Snyderman, Esquire
John P. Wixted, Esquire
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130 North 18th Street
Philadelphia, PA 19103-6998
Counsel for Joseph B. Scarnati III

**HOLTZMAN VOGEL
JOSEFIK TORCHINSKY PLLC**

By: /s/ Jason Torchinsky

Jason Torchinsky, Esquire
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Warrenton, Virginia 20186
*Admitted Pro Hac Vice
Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

CIPRIANI & WERNER, P.C.

By: /s/ Kathleen A. Gallagher

Kathleen A. Gallagher
Carolyn B. McGee
650 Washington Road, Suite 700
Pittsburgh, PA 15228
Counsel for Michael C. Turzai

CERTIFICATE OF COMPLIANCE

Pursuant to Pennsylvania Rule of Appellate Procedure 2135(d), I, Jason Torchinsky, counsel for Respondents Michael C. Turzai and Joseph B. Scarnati III, hereby certify that the foregoing Memorandum of Law in Support of Their Privilege Assertions does not exceed 14,000 words.

Dated: November 17, 2017

/s/ Jason Torchinsky

EXHIBIT A

David P. Gersch
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601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
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MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
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IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

**PETITIONERS' FIRST SET OF REQUESTS FOR PRODUCTION
TO ALL RESPONDENTS**

Pursuant to Rules 4009.1 and 4009.11 of the Pennsylvania Code, Petitioners hereby request that Respondents produce at the office of Public Interest Law Center, located at 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA, or at such other place as mutually agreed upon by the parties, all of the documents described in the following request for production (the "Request") that are in Respondents' possession, custody, or control, in the manner and time required by Rule 4009.12. Petitioners also request that Respondents supplement their answers under Rule 4007.4.

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.
2. "Individual Respondents" refers to Thomas W. Wolf, Michael J. Stack III, Michael C. Turzai, Joseph B. Scarnati III, Pedro A. Cortés, Jonathan M. Marks, and their predecessors in office.
3. "Entity Respondents" refers to The Commonwealth of Pennsylvania and The Pennsylvania General Assembly.
4. "Respondents" refers to the Individual Respondents and the Entity Respondents.
5. With respect to the Individual Respondents, "You" and "Your" refers to the Individual Respondents and their predecessors in office, attorneys, representatives, agents, and others acting on your behalf.

6. With respect to the Entity Respondents, “You” and “Your” refers to the Entity Respondents and all branches of government, including departments, agencies, committees, and subcommittees, as well as attorneys, representatives, members, employees, agents, and others acting on behalf of the Entity Respondents.

7. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such

information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

8. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

9. A request seeking production of communications between you and an individual or entity includes communications between you and the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

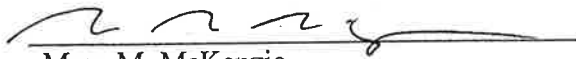
e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

Dated: June 30, 2017

By:



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David P. Gersch*
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* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

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Washington, DC 20001-3743

Mary M. McKenzie
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1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA,
JAMES WRIGHT, CARMEN FEBO SAN MIGUEL,
JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, MARY
ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX,
RICHARD MANTELL, PRISCILLA MCNULTY,
THOMAS ULRICH, ROBERT MCKINSTRY, MARK
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Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA;
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OF THE PENNSYLVANIA SENATE; MICHAEL C.
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JOSEPH B. SCARNATI III, IN HIS CAPACITY AS
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TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF
PENNSYLVANIA; JONATHAN M. MARKS, IN HIS
CAPACITY AS COMMISSIONER OF THE BUREAU OF
COMMISSIONS, ELECTIONS, AND LEGISLATION OF
THE PENNSYLVANIA DEPARTMENT OF STATE,

Respondents.

Docket No.

CERTIFICATE OF SERVICE

I, John Robinson, hereby certify that this 30th day of June, 2017, I have served the attached Petitioners' First Requests for Production to All Respondents to the persons and entities identified below by certified mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

Governor Thomas W. Wolf
Office of the Governor
508 Main Capitol Building
Harrisburg, PA 17120

Lieutenant Governor Michael J. Stack III
President of the Senate
200 Main Capitol Building
Harrisburg, Pennsylvania 17120

Representative Michael C. Turzai
Speaker of the House
139 Main Capitol
PO Box 202028
Harrisburg, PA 17120-2028

Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol

Secretary Pedro A. Cortés
Pennsylvania Department of State
Office of the Secretary
302 North Office Building
Harrisburg, PA 17120

Commissioner Jonathan M. Marks
Pennsylvania Department of State
Bureau of Commissions, Elections and Legislation
210 North Office Building, 401 North Street
Harrisburg, PA 17120



John Robinson
Arnold & Porter Kaye Scholer LLP
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EXHIBIT B

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Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
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JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' FIRST SET OF INTERROGATORIES TO ALL RESPONDENTS

Pursuant to Rule 4005 of the Pennsylvania Code, Petitioners hereby serve Respondents with the following First Set of Interrogatories and request a complete written response within 30 days as required by Rule 4006. Respondents are required to answer these interrogatories separately and fully in writing, under oath, and to serve a copy of their answers on the undersigned within 30 days after service hereof. The interrogatories are continuing in nature until the date of trial, and Respondents are required to serve supplemental answers as additional information may become available to them, per Rule 4007.4. If you object to a specific interrogatory, the reasons for the objections should be stated in writing and served upon Petitioners' counsel. If objection is made to part of an interrogatory, the part shall be specified.

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Individual Respondents" refers to Thomas W. Wolf, Michael J. Stack III, Michael C. Turzai, Joseph B. Scarnati III, Pedro A. Cortés, Jonathan M. Marks, and their predecessors in office.

3. "Entity Respondents" refers to The Commonwealth of Pennsylvania and The Pennsylvania General Assembly.

4. "Respondents" refers to the Individual Respondents and the Entity Respondents.

5. With respect to the Individual Respondents, "You" and "Your" refers to the Individual Respondents and their predecessors in office, attorneys, representatives, agents, and others acting on their behalf.

6. With respect to the Entity Respondents, “You” and “Your” refers to the Entity Respondents and all branches of government, including departments, agencies, committees, and subcommittees, as well as attorneys, representatives, agents, and others acting on behalf of the Entity Respondents.

7. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval listings, together with programs and program documentation necessary to utilize or retrieve such

information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

8. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

INTERROGATORIES

1. Identify each person who had any involvement in the development of the 2011 Plan. Provide the name of any entity with which each such person was affiliated at the time of their involvement with the 2011 Plan.

RESPONSE:

2. For each person identified in response to interrogatory 1, describe that person's role with respect to the development of the 2011 Plan.

RESPONSE:

3. Identify each person who before December 14, 2011 you communicated, caused to be communicated, or are aware had received a copy of the 2011 plan, or any part that was being considered for inclusion in the 2011 Plan.

RESPONSE:

4. Identify and describe all criteria that were considered or used in developing the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area's likelihood of supporting Republican or Democratic candidates, and any others.

RESPONSE:

5. For each criterion identified in Your Response to Interrogatory 4, explain how each consideration or criterion was measured, including the specific data and specific formulas used in assessing the criterion.

RESPONSE:

6. For each criterion identified in Your Response to Interrogatory 4, identify and describe how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criterion in developing the 2011 Plan.

RESPONSE:

7. For each criterion identified in Your Response to Interrogatory 4, identify who selected the criterion and describe how the criterion was communicated to the persons involved with the development of the 2011 Plan. Identify any documents referring or relating these communications.

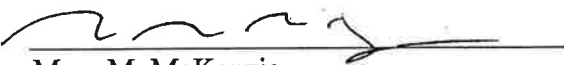
RESPONSE:

8. Identify, including by name and manufacturer, any computer programs or software used to develop the 2011 Plan. If any computer programs or software used to develop the 2011 Plan were modified for that purpose, state what modifications were made.

RESPONSE:

Dated: June 30, 2017

By:


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Floor
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filed.

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Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA,
JAMES WRIGHT, CARMEN FEBO SAN MIGUEL,
JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, MARY
ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX,
RICHARD MANTELL, PRISCILLA MCNULTY,
THOMAS ULRICH, ROBERT MCKINSTRY, MARK
LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA;
PENNSYLVANIA GENERAL ASSEMBLY;
THOMAS W. WOLF, IN HIS CAPACITY AS
GOVERNOR OF PENNSYLVANIA; MICHAEL J.
STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT
OF THE PENNSYLVANIA SENATE; MICHAEL C.
TURZAI, IN HIS CAPACITY AS SPEAKER OF THE
PENNSYLVANIA HOUSE OF REPRESENTATIVES;
JOSEPH B. SCARNATI III, IN HIS CAPACITY AS
PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF
PENNSYLVANIA; JONATHAN M. MARKS, IN HIS
CAPACITY AS COMMISSIONER OF THE BUREAU OF
COMMISSIONS, ELECTIONS, AND LEGISLATION OF
THE PENNSYLVANIA DEPARTMENT OF STATE,

Respondents.

Docket No.

CERTIFICATE OF SERVICE

I, John Robinson, hereby certify that this 30th day of June, 2017, I have served the attached Petitioners' First Set of Interrogatories to All Respondents to the persons and entities identified below by certified mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

Governor Thomas W. Wolf
Office of the Governor
508 Main Capitol Building
Harrisburg, PA 17120

Lieutenant Governor Michael J. Stack III
President of the Senate
200 Main Capitol Building
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Representative Michael C. Turzai
Speaker of the House
139 Main Capitol
PO Box 202028
Harrisburg, PA 17120-2028

Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol

Secretary Pedro A. Cortés
Pennsylvania Department of State
Office of the Secretary
302 North Office Building
Harrisburg, PA 17120

Commissioner Jonathan M. Marks
Pennsylvania Department of State
Bureau of Commissions, Elections and Legislation
210 North Office Building, 401 North Street
Harrisburg, PA 17120



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EXHIBIT C

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>)	
)	

**RESPONDENT JOSEPH B. SCARNATI III’S OBJECTIONS TO
PETITIONERS’ FIRST SET OF INTERROGATORIES
TO ALL RESPONDENTS**

Respondent Joseph B. Scarnati III (“Respondent”) hereby serves his Objections to Petitioners’ First Set of Interrogatories to All Respondents pursuant to Pennsylvania Rule of Civil Procedure 4006.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. Respondent objects to the overly broad and burdensome nature of these Interrogatories. They are overly broad and unduly burdensome insofar as they request information from Respondent that is neither material nor relevant to this litigation.

2. Respondent objects to these Interrogatories to the extent that they seek information that is protected under the attorney-client privilege, the attorney work product doctrine, and all other common law or statutory privileges, including but not limited to the protections where they are afforded, to include, without limitation, the Pennsylvania Speech or Debate Clause privilege, the First Amendment privilege, the attorney-client privilege, the attorney work product privilege, and the common interest privilege. Respondent hereby reserves all claims of privilege or other immunities from disclosure. Any inadvertent disclosure of any information in response to Petitioners' discovery requests shall not constitute a waiver of any privilege or other immunity from disclosure. Respondent reserves the right to demand the return of any such information or documents, together with all copies thereof, and the right to object to the use of any such information or documents that may have been inadvertently disclosed.

3. Respondent objects to Petitioners' discovery requests to the extent that they purport to require him to provide information that is not presently in his possession, custody or control.

4. Respondent objects to the extent that Petitioners' discovery requests seek information that is confidential and/or proprietary. To the extent Respondent has any such information that is responsive to any of

Petitioners' Requests, such confidential or proprietary information will only be produced subject to a Protective Order entered in this case.

5. Respondent objects to these Interrogatories to the extent that the instructions or definitions contained in Petitioners' discovery requests impose burdens beyond those established by the Pennsylvania Rules of Civil Procedure, or the local rules and practices of this Court.

6. Respondent incorporates by reference his Application for Stay filed in this matter as though fully set forth herein.

7. In responding to these discovery requests, Respondent does not concede that any of the information which may be provided is relevant or material to the subject matter of this litigation. Furthermore, Respondent does not concede that any information which may be provided is admissible in evidence or reasonably calculated to lead to the discovery of admissible evidence. Respondent hereby reserves the right to object to the use, at trial or otherwise, of any information provided in response to any Interrogatory.

8. Respondent reserves the right to modify, supplement and/or amend any or all of his responses to Petitioners' discovery requests, as necessary or appropriate.

9. Respondent's Preliminary Statement and his General Objections apply to all of the discovery requests and responses herein.

OBJECTIONS TO INTERROGATORIES

1. Identify each person who had any involvement in the development of the 2011 Plan. Provide the name of any entity with which each such person was affiliated at the time of their involvement with the 2011 Plan.

ANSWER: Respondent incorporates his Preliminary Statement and General Objections. Further, Respondent specifically objects to this Interrogatory on the grounds that it seeks the discovery of information which is categorically prohibited from production on the basis of the Pennsylvania Speech or Debate Clause, the First Amendment Privilege, the Attorney-Client Privilege and the Attorney Work Product Privilege, and/or the Common Interest Privilege.

Respondent further specifically objects to this Interrogatory on the grounds that it violates Pennsylvania Rule of Civil Procedure 4011 in that it is unduly burdensome, overly broad, and intended to cause unreasonable annoyance, and expense to Respondent.

By way of further Answer, Respondent has filed an Application for Stay of this litigation with the Court. It is unreasonable and overly burdensome to expend the governmental resources and taxpayer dollars necessary to respond to the Interrogatory until such time as the Court has decided whether or not this litigation will move forward.

2. For each person identified in response to Interrogatory 1, describe that person's role with respect to the development of the 2011 Plan.

ANSWER: See response to Interrogatory Number 1 above which is incorporated herein by reference as though fully set forth.

3. Identify each person who before December 14, 2011 you communicated, caused to be communicated, or are aware had received a copy of the 2011 plan, or any part that was being considered for inclusion in the 2011 Plan.

ANSWER: See response to Interrogatory Number 1 above which is incorporated herein by reference as though fully set forth.

4. Identify and describe all criteria that were considered or used in developing the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area's likelihood of supporting Republican or Democratic candidates, and any others.

ANSWER: See response to Interrogatory Number 1 above which is incorporated herein by reference as though fully set forth.

5. For each criterion identified in Your Response to Interrogatory 4, explain how each consideration or criterion was measured, including the specific data and specific formulas used in assessing the criterion.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

6. For each criterion identified in Your Response to Interrogatory 4, identify and describe how each consideration or criterion affected the

2011 Plan, including any rule or principle guiding the use of each consideration or criterion in developing the 2011 Plan.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

7. For each criterion identified in Your Response to Interrogatory 4, identify who selected the criterion and describe how the criterion was communicated to the persons involved with the development of the 2011 Plan. Identify any documents referring or relating these communications.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

8. Identify, including by name and manufacturer, any computer programs or software used to develop the 2011 Plan. If any computer programs or software used to develop the 2011 Plan were modified for that purpose, state what modifications were made.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

Dated: August 14, 2017

Respectfully Submitted,

BLANK ROME, LLP

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Jason A. Snyderman, Esquire
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*Admitted Pro Hac Vice Counsel for
Michael C. Turzai; Admission to be
filed for Pennsylvania General
Assembly and Joseph B. Scarnati III*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Respondent Joseph B. Scarnati, III's Objections to Petitioners' First Set of Interrogatories to All Respondents was served upon the following counsel of record by electronic mail by agreement of the parties, this 14th day of August, 2017:

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Counsel for Possible Intervenors

Dated: August 14, 2017

Respectfully Submitted,

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Counsel for Joseph B. Scarnati III

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

**RESPONDENT JOSEPH B. SCARNATI III’S OBJECTIONS TO
PETITIONERS’ FIRST SET OF REQUESTS FOR
PRODUCTION TO ALL RESPONDENTS**

Respondent Joseph B. Scarnati III (“Respondent”) hereby serves his Objections to Petitioners’ First Set of Requests for Production to All Respondents pursuant to Pennsylvania Rule of Civil Procedure 4009.12.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. Respondent objects to the overly broad and burdensome nature of these Requests for Production of Documents. They are overly broad and unduly burdensome insofar as they request information and documents from Respondent that are neither material nor relevant to this litigation.

2. Respondent objects to these discovery requests to the extent that they seek information and/or documents that are protected under the

attorney-client privilege, the attorney work product doctrine, and all other common law or statutory privileges, including but not limited to the protections where they are afforded, to include, without limitation, the Pennsylvania Speech or Debate Clause privilege, the First Amendment privilege, the attorney-client privilege, the attorney work product privilege, and the common interest privilege. Respondent hereby reserves all claims of privilege or other immunities from disclosure. Any inadvertent disclosure of any information or document in response to Petitioners' discovery requests shall not constitute a waiver of any privilege or other immunity from disclosure. Respondent reserves the right to demand the return of any such information or documents, together with all copies thereof, and the right to object to the use of any such information or documents that may have been inadvertently disclosed.

3. Respondent objects to Petitioners' discovery requests to the extent that they purport to require him to provide information that is not presently in his possession, custody or control.

4. Respondent objects to the extent that Petitioners' discovery requests seek information that is confidential and/or proprietary. To the extent Respondent has any such information that is responsive to any of

Petitioners' Requests, such confidential or proprietary information will only be produced subject to a Protective Order entered in this case.

5. Respondent objects to these Requests for Production of Documents to the extent that the instructions or definitions contained in Petitioners' discovery requests impose burdens beyond those established by the Pennsylvania Rules of Civil Procedure, or the local rules and practices of this Court.

6. Respondent incorporates by reference his Application for Stay filed in this matter as though fully set forth herein.

7. In responding to these discovery requests, Respondent does not concede that any of the information which may be provided is relevant or material to the subject matter of this litigation. Furthermore, Respondent does not concede that any information which may be provided or documents produced are admissible in evidence or reasonably calculated to lead to the discovery of admissible evidence. Respondent hereby reserves the right to object to the use, at trial or otherwise, of any document produced herewith or information provided in response to any Request.

8. Respondent reserves the right to modify, supplement and/or amend any or all of his responses to Petitioners' discovery requests, as necessary or appropriate.

9. Respondent's Preliminary Statement and his General Objections apply to all of the discovery requests and responses herein.

OBJECTIONS TO DOCUMENTS REQUESTED

1. All documents referring or relating to the 2011 Plan, including, but not limited to:

a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.

RESPONSE: Respondent incorporates his Preliminary Statement and General Objections. Further, Respondent specifically objects to Request Number 1, including all subparts thereto, on the grounds that it seeks the discovery of information which is categorically prohibited from production on the basis of the Pennsylvania Speech or Debate Clause, the First Amendment Privilege, the Attorney-Client Privilege, the Attorney Work Product Privilege, and the Common Interest Privilege.

Respondent further specifically objects to Request Number 1 and all subparts thereof on the grounds that it violates Pennsylvania Rule of Civil Procedure 4011 in that it is unduly burdensome, overly broad and intended to cause unreasonable annoyance, embarrassment, oppression and undue expense to Respondent.

By way of further Answer, Respondent has filed an Application for Stay of this litigation with the Court. It is unreasonable and overly burdensome to expend the governmental resources and taxpayer dollars necessary to respond to the Request until such time as the Court has decided whether or not this litigation will move forward.

b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area's likelihood of supporting Republican or Democratic candidates, and any others.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican

Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

Dated: August 14, 2017

Respectfully Submitted,

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*Admitted Pro Hac Vice Counsel for
Michael C. Turzai; Admission to be
filed for Pennsylvania General
Assembly and Joseph B. Scarnati III*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Respondent Joseph B. Scarnati, III's Objections to Petitioners' First Set of Requests for Production to All Respondents was served upon the following counsel of record by electronic mail by agreement of the parties, this 14th day of August, 2017:

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Counsel for Possible Intervenors

Dated: August 14, 2017

Respectfully Submitted,

BLANK ROME, LLP

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Counsel for Joseph B. Scarnati III

EXHIBIT D

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

**RESPONDENT MICHAEL C. TURZAI’S OBJECTIONS TO
PETITIONERS’ FIRST SET OF INTERROGATORIES
TO ALL RESPONDENTS**

Respondent, Michael C. Turzai, in His Capacity as Speaker of the Pennsylvania House of Representatives, (hereinafter “the Speaker”), by and through his undersigned counsel, and pursuant to the Pennsylvania Rules of Civil Procedure 4006(a)(1)(2) and 4009.12(a)(1) and Rules 311 and 313 of the Original Jurisdiction Rules of the Commonwealth Court, hereby serves the within Objections to Petitioners’ First Set of Interrogatories to All Respondents.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The Speaker objects to the overly broad and burdensome nature of these Interrogatories. They are overly broad and unduly burdensome insofar as

they request information from The Speaker that is neither material nor relevant to this litigation.

2. The Speaker objects to these Interrogatories to the extent that they seek information that is protected under the attorney-client privilege, the attorney work product doctrine, and all other common law or statutory privileges, including but not limited to the protections where they are afforded, to include, without limitation, the Pennsylvania Speech or Debate Clause privilege, the First Amendment privilege, the attorney-client privilege, the attorney work product privilege, and the common interest privilege. The Speaker hereby reserves all claims of privilege or other immunities from disclosure. Any inadvertent disclosure of any information in response to Petitioners' discovery requests shall not constitute a waiver of any privilege or other immunity from disclosure. The Speaker reserves the right to demand the return of any such information or documents, together with all copies thereof, and the right to object to the use of any such information or documents that may have been inadvertently disclosed.

3. The Speaker objects to Petitioners' discovery requests to the extent that they purport to require the Speaker to provide information that is not presently in his possession, custody or control.

4. The Speaker objects to the extent that Petitioners' discovery requests seek information that is confidential and/or proprietary. To the extent the Speaker

has any such information that is responsive to any of Petitioners' Requests, such confidential or proprietary information will only be produced subject to a Protective Order entered in this case.

5. The Speaker objects to these Interrogatories to the extent that the instructions or definitions contained in Petitioners' discovery requests impose burdens beyond those established by the Pennsylvania Rules of Civil Procedure, or the local rules and practices of this Court.

6. The Speaker incorporates by reference his Application for Stay filed in this matter as though fully set forth herein.

7. In responding to these discovery requests, The Speaker does not concede that any of the information which may be provided is relevant or material to the subject matter of this litigation. Furthermore, The Speaker does not concede that any information which may be provided is admissible in evidence or reasonably calculated to lead to the discovery of admissible evidence. The Speaker hereby reserves the right to object to the use, at trial or otherwise, of any information provided in response to any Interrogatory.

8. The Speaker reserves the right to modify, supplement and/or amend any or all of his responses to Petitioners' discovery requests, as necessary or appropriate.

9. The Speaker's Preliminary Statement and his General Objections apply to all of the discovery requests and responses herein.

ANSWERS TO INTERROGATORIES

1. Identify each person who had any involvement in the development of the 2011 Plan. Provide the name of any entity with which each such person was affiliated at the time of their involvement with the 2011 Plan.

ANSWER: The Speaker incorporates his Preliminary Statement and General Objections. Further, the Speaker specifically objects to this Interrogatory on the grounds that it seeks the discovery of information which is categorically prohibited from production on the basis of the Pennsylvania Speech or Debate Clause, the First Amendment Privilege, the Attorney-Client Privilege and the Attorney Work Product Privilege, and/or the Common Interest Privilege.

The Speaker further specifically objects to this Interrogatory on the grounds that it violates Pennsylvania Rule of Civil Procedure 4011 in that it is unduly burdensome, overly broad, and intended to cause unreasonable annoyance, and expense to The Speaker.

By way of further Answer, The Speaker has filed an Application for Stay of this litigation with the Court. It is unreasonable and overly burdensome to expend the governmental resources and taxpayer dollars necessary to respond to the Interrogatory until such time as the Court has decided whether or not this litigation will move forward.

2. For each person identified in response to Interrogatory 1, describe that person's role with respect to the development of the 2011 Plan.

ANSWER: See response to Interrogatory Number 1 above which is incorporated herein by reference as though fully set forth.

3. Identify each person who before December 14, 2011 you communicated, caused to be communicated, or are aware had received a copy of the 2011 plan, or any part that was being considered for inclusion in the 2011 Plan.

ANSWER: See response to Interrogatory Number 1 above which is incorporated herein by reference as though fully set forth.

4. Identify and describe all criteria that were considered or used in developing the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area's likelihood of supporting Republican or Democratic candidates, and any others.

ANSWER: See response to Interrogatory Number 1 above which is incorporated herein by reference as though fully set forth.

5. For each criterion identified in Your Response to Interrogatory 4, explain how each consideration or criterion was measured, including the specific data and specific formulas used in assessing the criterion.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

6. For each criterion identified in Your Response to Interrogatory 4, identify and describe how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criterion in developing the 2011 Plan.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

7. For each criterion identified in Your Response to Interrogatory 4, identify who selected the criterion and describe how the criterion was communicated to the persons involved with the development of the 2011 Plan. Identify any documents referring or relating these communications.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

8. Identify, including by name and manufacturer, any computer programs or software used to develop the 2011 Plan. If any computer programs or software used to develop the 2011 Plan were modified for that purpose, state what modifications were made.

ANSWER: See response to Interrogatory Number 4 above which is incorporated herein by reference as though fully set forth.

Dated: August 14, 2017

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of ***RESPONDENT MICHAEL C. TURZAI'S OBJECTIONS TO PETITIONERS' FIRST SET OF INTERROGATORIES TO ALL RESPONDENTS*** was served upon the following counsel of record by electronic mail by agreement of the parties, this 14th day of August, 2017:

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REPRESENTATIVE MICHAEL C.

TURZAI, IN HIS CAPACITY AS

SPEAKER OF THE PENNSYLVANIA

HOUSE OF REPRESENTATIVES AND

THE PENNSYLVANIA GENERAL

ASSEMBLY

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The Speaker objects to the overly broad and burdensome nature of these Requests for Production of Documents. They are overly broad and unduly burdensome insofar as they request information and documents from the Speaker that are neither material nor relevant to this litigation.

2. The Speaker objects to these discovery requests to the extent that they seek information and/or documents that are protected under the attorney-client privilege, the attorney work product doctrine, and all other common law or statutory privileges, including but not limited to the protections where they are afforded, to include, without limitation, the Pennsylvania Speech or Debate Clause privilege, the First Amendment privilege, the attorney-client privilege, the attorney work product privilege and the common interest privilege. The Speaker hereby reserves all claims of privilege or other immunities from disclosure. Any inadvertent disclosure of any information or document in response to Petitioners' discovery requests shall not constitute a waiver of any privilege or other immunity from disclosure. The Speaker reserves the right to demand the return of any such information or documents, together with all copies thereof, and the right to object to the use of any such information or documents that may have been inadvertently disclosed.

3. The Speaker objects to Petitioners' discovery requests to the extent that they purport to require him to provide information that is not presently in his possession, custody or control.

4. The Speaker objects to the extent that Petitioners' discovery requests seek information that is confidential and/or proprietary. To the extent The Speaker has any such information that is responsive to any of Petitioners' Requests, such confidential or proprietary information will only be produced subject to a Protective Order entered in this case.

5. The Speaker objects to these Requests for Production of Documents to the extent that the instructions or definitions contained in Petitioners' discovery requests impose burdens beyond those established by the Pennsylvania Rules of Civil Procedure, or the local rules and practices of this Court.

6. The Speaker incorporates by reference his Application for Stay filed in this matter as though fully set forth herein.

7. In responding to these discovery requests, the Speaker does not concede that any of the information which may be provided is relevant or material to the subject matter of this litigation. Furthermore, the Speaker does not concede that any information which may be provided or documents produced are admissible in evidence or reasonably calculated to lead to the

discovery of admissible evidence. The Speaker hereby reserves the right to object to the use, at trial or otherwise, of any document produced herewith or information provided in response to any Request.

8. The Speaker reserves the right to modify, supplement and/or amend any or all of his responses to Petitioners' discovery requests, as necessary or appropriate.

9. Respondent's Preliminary Statement and his General Objections apply to all of the discovery requests and responses herein.

DOCUMENTS REQUESTED

1. All documents referring or relating to the 2011 Plan, including, but not limited to:

a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (e.g., paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.

RESPONSE: The Speaker incorporates his Preliminary Statement and General Objections. Further, the Speaker specifically objects to Request Number 1, including all subparts thereto, on the grounds that it seeks the discovery of information which is categorically prohibited from production on the basis of the Pennsylvania Speech or Debate Clause, the First Amendment Privilege, the Attorney-Client Privilege, the Attorney Work Product Privilege and the Common Interest Privilege.

The Speaker further specifically objects to Request Number 1 and all subparts thereof on the grounds that it violates Pennsylvania Rule of Civil Procedure 4011 in that it is unduly burdensome, overly broad and intended to cause unreasonable annoyance, embarrassment, oppression and undue expense to The Speaker.

By way of further Answer, The Speaker has filed an Application for Stay of this litigation with the Court. It is unreasonable and overly burdensome to expend the governmental resources and taxpayer dollars necessary to respond to the Request until such time as the Court has decided whether or not this litigation will move forward.

b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area's likelihood of supporting Republican or Democratic candidates, and any others.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or

principle guiding the use of each consideration or criteria in developing the 2011 Plan.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

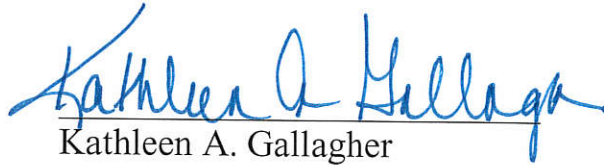
RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

RESPONSE: See response to 1(a) above which is incorporated herein by reference as though fully set forth.

Dated: August 14, 2017

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of ***RESPONDENT MICHAEL C. TURZAI'S OBJECTIONS TO PETITIONERS' FIRST SET OF REQUESTS FOR PRODUCTION TO ALL RESPONDENTS*** was served upon the following counsel of record by electronic mail by agreement of the parties, this 14th day of August, 2017:

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TURZAI, IN HIS CAPACITY AS

SPEAKER OF THE PENNSYLVANIA

HOUSE OF REPRESENTATIVES AND

THE PENNSYLVANIA GENERAL

ASSEMBLY

EXHIBIT E

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

Docket No. 261 MD 2017

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

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District of Columbia. Pro hac vice motion to be
filed.

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No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017 _____

COMMONWEALTH COURT
OF PENNSYLVANIA

League of Women Voters of Pennsylvania, et al.

vs.

The Commonwealth of Pennsylvania, et al.

TO Erik Arneson _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center, _____

1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

to testify on behalf of _____ in the above case, and to remain until
excused.

2. And to bring with you the following: all of the documents described in the attached request for production. _____

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____

(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Gail Reinard

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

to testify on behalf of _____ in the above case, and to remain until
excused.

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____ (signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

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2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

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 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
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Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
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601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017 _____

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO David W. Woods _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center, _____
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.
to testify on behalf of _____ in the above case, and to remain until
excused.

2. And to bring with you the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

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Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
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Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
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IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
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STATE,

Respondents.

Docket No. 261 MD 2017

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Petitioners intend to serve a subpoena identical to the one that is attached to this notice.

You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

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- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

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Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
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Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
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*Counsel for Secretary Pedro A. Cortés
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/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
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601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
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1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
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MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

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Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
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CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

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IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
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OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
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STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

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Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

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Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

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650 Washington Road, Suite 700
Pittsburgh, PA 15228

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Jason A. Snyderman
John P. Wixted
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One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
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601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
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/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

Court Subpoena

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CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

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Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

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306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
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Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
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MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
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STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
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David P. Gersch*
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Telephone: +1 202.942.5000
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David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

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/s/ Benjamin D. Geffen

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Counsel for Petitioners

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By:

/s/ Mary M. McKenzie

Mary M. McKenzie
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Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
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Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
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No. 261 MD _____, 2017

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The Commonwealth Court
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- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
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TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

EXHIBIT F

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
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JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
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GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
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By:

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No. 261 MD _____, 2017

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League of Women Voters of Pennsylvania, et al.,

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The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
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with the foregoing subpoena by: (Describe method of service)

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- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
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Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
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Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
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*Counsel for Michael C. Turzai and
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650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

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Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
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David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
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1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
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By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
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1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
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Counsel for Petitioners

No. 261 MD _____, 2017

Court Subpoena

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The Commonwealth Court
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listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

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- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

EXHIBIT G

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice.

You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

COMMONWEALTH COURT
OF PENNSYLVANIA

League of Women Voters of Pennsylvania, et al.

vs.

The Commonwealth of Pennsylvania, et al.

TO Republican National Committee

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,

1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ ~~in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican State Leadership Committee (RSLC);
- (ii) The National Republican Congressional Committee (NRCC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The State Government Leadership Foundation (SGLF);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
- (xvii) Pennsylvania State Representative Eli Evankovich;
- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
- (xxxiv) Drew Crompton;
- (xxxv) Dave Thomas;
- (xxxvi) Krystjan Callahan;
- (xxxvii) Tony Aliano;
- (xxxviii) Glenn Grell;
- (xxxix) Gail Reinard;
- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

2. All documents referring or relating to the planning, purpose, execution, and results of Project REDMAP from its inception through the date of service of this subpoena.

3. All communications and reports to donors or contributors to the Republican State Leadership Committee or the State Government Leadership Fund that refer, reflect, or discuss the purpose of or the strategy behind the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of congressional districts following the 2010 Census.

4. All PowerPoint slides from any training on redistricting presented to members of the Pennsylvania General Assembly (or their agents, employees, consultants, or representatives) or to former Pennsylvania Governor Thomas Corbett.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017

COMMONWEALTH COURT
OF PENNSYLVANIA

League of Women Voters of Pennsylvania, et al.

vs.

The Commonwealth of Pennsylvania, et al.

TO National Republican Congressional Committee

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,

1709 Benjamin Franklin Parkway, #2 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

to testify on behalf of _____ in the above case, and to remain until
excused.

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican National Committee (RNC);
- (ii) The Republican State Leadership Committee (RSLC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The State Government Leadership Foundation (SGLF);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
- (xvii) Pennsylvania State Representative Eli Evankovich;
- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
- (xxxiv) Drew Crompton;
- (xxxv) Dave Thomas;
- (xxxvi) Krystjan Callahan;
- (xxxvii) Tony Aliano;
- (xxxviii) Glenn Grell;
- (xxxix) Gail Reinard;
- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

2. All documents referring or relating to the planning, purpose, execution, and results of Project REDMAP from its inception through the date of service of this subpoena.

3. All communications and reports to donors or contributors to the Republican State Leadership Committee or the State Government Leadership Fund that refer, reflect, or discuss the purpose of or the strategy behind the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of congressional districts following the 2010 Census.

4. All PowerPoint slides from any training on redistricting presented to members of the Pennsylvania General Assembly (or their agents, employees, consultants, or representatives) or to former Pennsylvania Governor Thomas Corbett.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
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e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican National Committee (RNC);
- (ii) The National Republican Congressional Committee (NRCC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The State Government Leadership Foundation (SGLF);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
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- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
- (xxxiv) Drew Crompton;
- (xxxv) Dave Thomas;
- (xxxvi) Krystjan Callahan;
- (xxxvii) Tony Aliano;
- (xxxviii) Glenn Grell;
- (xxxix) Gail Reinard;
- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

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2. All documents referring or relating to the planning, purpose, execution, and results of Project REDMAP from its inception through the date of service of this subpoena.

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4. All PowerPoint slides from any training on redistricting presented to members of the Pennsylvania General Assembly (or their agents, employees, consultants, or representatives) or to former Pennsylvania Governor Thomas Corbett.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
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David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO State Government Leadership Foundation

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, Pennsylvania at M.
to testify on behalf of in the above case, and to remain until
excused.

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____

Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican National Committee (RNC);
- (ii) The Republican State Leadership Committee (RSLC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The National Republican Congressional Committee (NRCC);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
- (xvii) Pennsylvania State Representative Eli Evankovich;
- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
- (xxxiv) Drew Crompton;
- (xxxv) Dave Thomas;
- (xxxvi) Krystjan Callahan;
- (xxxvii) Tony Aliano;
- (xxxviii) Glenn Grell;
- (xxxix) Gail Reinard;
- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

2. All documents referring or relating to the planning, purpose, execution, and results of Project REDMAP from its inception through the date of service of this subpoena.

3. All communications and reports to donors or contributors to the Republican State Leadership Committee or the State Government Leadership Fund that refer, reflect, or discuss the purpose of or the strategy behind the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of congressional districts following the 2010 Census.

4. All PowerPoint slides from any training on redistricting presented to members of the Pennsylvania General Assembly (or their agents, employees, consultants, or representatives) or to former Pennsylvania Governor Thomas Corbett.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

EXHIBIT H

IN THE COMMONWEALTH COURT, PENNSYLVANIA

CIVIL DIVISION

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER, MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER, JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF, IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA; MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA; JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF STATE,

Respondents.

CASE NUMBER: 261 MD 2017

RESPONDENTS' OBJECTIONS TO PETITIONERS' NOTICE OF INTENT TO SERVE SUBPOENAS PURSUANT TO RULE 4009.21

FILED ON BEHALF OF:

MICHAEL C. TURZAI, IN HIS CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES AND THE PENNSYLVANIA GENERAL ASSEMBLY, Respondents.

COUNSEL OF RECORD:

KATHLEEN A. GALLAGHER

Pa. ID# 37950

CAROLYN BATZ MCGEE

Pa. ID# 208815

JOHN E. HALL

Pa. ID# 11095

CIPRIANI & WERNER, P.C.

650 Washington Road, Suite 700

Pittsburgh, PA 15228

(412) 563-2500

JASON TORCHINSKY

SHAWN SHEEHY

HOLTZMAN VOGEL JOSEFIAK

TORCHINSKY PLLC

45 North Hill Drive; Suite 100

Warrenton, VA 20186

(540) 341-8808

FILED ON BEHALF OF:

SENATOR JOSEPH B. SCARNATI III, IN HIS CAPACITY AS SENATE PRESIDENT PRO TEMPORE, Respondent.

COUNSEL OF RECORD:

BRIAN S. PASZAMANT

Pa. ID# 078410

JASON A. SNYDERMAN

Pa. ID# 080239

JOHN P. WIXTED

Pa. ID# 309044

BLANK ROME, LLP

One Logan Square

130 North 18th Street

Philadelphia, PA 19103-6998

(215) 569-5500

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

League of Women Voters of Pennsylvania,)
)
et al.,)
) Civ. No. 261 MD 2017
)
) *Petitioners*,)
)
) v.)
)
) The Commonwealth of Pennsylvania,)
)
et al.,)
)
) *Respondents*.)

**RESPONDENTS' OBJECTIONS TO PETITIONERS' NOTICE OF INTENT TO
SERVE SUBPOENAS PURSUANT TO RULE 4009.21**

Respondents Michael C. Turzai and Joseph B. Scarnati III, by and through their undersigned counsel, pursuant to Pa. R. Civ. P. 4009.21(c) set forth the following Objections to the Petitioners' Notice of Intent to Serve Subpoenas to Produce Documents and Things pursuant to Pa. R. Civ. P. 4009.21 and state in support thereof:

1. On July 17, 2017, Petitioners served Respondents with 17 documents entitled, *Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21* (collectively, "the Notices"). A copy of each of the Notices is attached hereto as composite Exhibit "A".

2. Attached to each of the 17 Notices is a Subpoena directed to various third-party individuals and entities which Subpoena seeks the production of certain documents (the "Subpoenas"). The documents requested by each Subpoena are nearly identical and

all of the Subpoenas seek the production of information pertaining to the 2011 Congressional Redistricting.

3. Of the 17 Subpoenas, 11 are addressed to current and/or former employees of Respondents, including but not limited to former Chiefs of Staff, and Legislative Assistants. One is addressed to a former Republican Member of the Pennsylvania House of Representatives (collectively referred to as the “Legislative Subpoenas”).

4. The remaining six Subpoenas are directed to the Republican National Committee (“RNC”), the National Republican Congressional Committee, the Republican State Leadership Committee and the State Government Leadership Foundation as well as two individuals who, upon information and belief, have been associated with the RNC or NRCC (collectively referred to as the “Entity Subpoenas”).

5. Respondents object to the Subpoenas in that the Subpoenas are improper and subject to protective orders and/or quashing in that:

a. Production of the information sought via the Legislative Subpoenas is prohibited pursuant to the Speech and Debate Clause of the Pennsylvania Constitution out of which the Legislative Privilege arises, PA. Const. Art 2, Sec. 15. *See Consumers Educ. & Prot. Ass’n v. Nolan*, 368 A.2d 675, 680 (Pa. 1977) and *Firetree, Ltd. v. Fairchild*, 920 A.2d 913, 918-919 (Pa. Cmwlth. 2007); and

b. Both the Legislative Subpoena and the Organization Subpoena request documents protected by First Amendment Privilege, *Pennsylvanians for Union Reform v. Pa. Office of Admin.*, 129 A.3d 1246 (Pa. Cmwlth. 2014), *Roberts v. United States Jaycees*, 468 U.S. 609 (1984), *Perry v. Schwarzenegger*, 591 F.3d 1147 (9th Cir.

2010); *AFL-CIO v. FEC*, 333 F.3d 168 (D.C. Cir. 2003), *Federal Election Commission v. Machinists Non-Partisan Political League*, 655 F.2d 380 (D.C. Cir. 1981); and

c. The Subpoenas seek the production of documents protected by the attorney-client privilege and the attorney work product doctrine, 42 Pa.C.S. § 5928; Pa. R.C.P. No. 4003.3; *see Levy v. Senate of Pennsylvania*, 65 A. 3d 361 (Pa. 2013), *Gillard v. AIG Ins. Co.*, 15 A.3d 44 (Pa. 2011); and

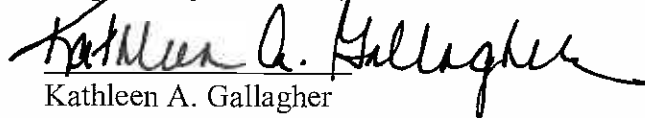
d. The Subpoena requests are overly broad, *see* Pa. R.C.P. No 4003.1(a); Pa. R.C.P. No. 4011; *see also In re Twenty-Fourth Statewide Investigating Grand Jury*, 589 Pa. 89 (Pa. 2006); *Hamilton v. Hennessey*, 783 A.2d 852 (Pa. Cmwlth. 2001); and

e. The Subpoenas seek the production of information that is not relevant to the Petitioners' claims. *See* Pa. R.C.P. No 4003.1(a); Pa. R.C.P. No. 4011; *see also Hamilton v. Hennessey*, 783 A.2d 852 (Pa. Cmwlth. 2001); *Croyle v. Smith*, 78 Pa. D. & C.4th196; *see generally* Pa.R.E. 401.

WHEREFORE, for all of the foregoing reasons, Respondents respectfully submit the within Objections to the Subpoenas and request that the Court issue an Order prohibiting Petitioners from effectuating service of the Subpoenas.

Dated: August 9, 2017

Respectfully submitted,



Kathleen A. Gallagher
PA Attorney # 37950
Carolyn Batz McGee
PA Attorney # 208815
John E. Hall
PA Attorney #11095
Cipriani & Werner, P.C.
650 Washington Road, Suite700

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Email: kgallagher@c-wlaw.com
Email: cmcgee@c-wlaw.com
Email: jhall@c-wlaw.com
*Counsel for Representative Michael C.
Turzai, In His Capacity as Speaker of the
Pennsylvania House of Representatives
and the Pennsylvania General Assembly*

s/ Brian S. Paszamant
Brian Paszamant
PA Attorney # 078410
Jason A. Snyderman
PA Attorney # 080239
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103-6998
Phone: 215.569.5774
Fax: 215.832.5774
Email: paszamant@blankrome.com
Email: snyderman@blankrome.com
*Counsel for Joseph B. Scarnati III, In His
Capacity as Pennsylvania Senate President
Pro Tempore*

s/ Jason Torchinsky
Jason Torchinsky
Shawn Sheehy
Holtzman Vogel Josefiak Torchinsky PLLC
45 North Hill Drive
Suite 100
Warrenton, VA 20186
Phone: 540.341.8808
Email: jtorchinsky@hvjt.law
Email: ssheehy@hvjt.law
*Counsel for Representative Michael C.
Turzai, In His Capacity as Speaker of the
Pennsylvania House of Representatives
Admission to be filed for Joseph B. Scarnati
III, In His Capacity as Pennsylvania Senate
President Pro Tempore and the
Pennsylvania General Assembly*

CERTIFICATE OF SERVICE

That counsel for the Respondent, REPRESENTATIVE MICHAEL C. TURZAI, IN HIS CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES AND THE PENNSYLVANIA GENERAL ASSEMBLY, hereby certifies that a true and correct copy of the ***RESPONDENTS' OBJECTIONS TO PETITIONERS' NOTICE OF INTENT TO SERVE SUBPOENAS PURSUANT TO RULE 4009.21*** has been served on the 9th day of August, 2017 to the following entities, by first class mail, postage pre-paid:

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206
Counsel for Michael J. Stack III

That the same document was served to counsel identified below by electronic mail by agreement of the parties:

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101
Counsel for Respondent Tom Wolf

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120
*Counsel for Secretary Pedro A. Cortés and
Commissioner Jonathan M. Marks*

Brian S. Paszamant
Jason A. Snyderman
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130 North 18th Street
Philadelphia, PA 19103-6998
*Counsel for Senator Joseph B. Scarnati III, In His Capacity
as Pennsylvania Senate President Pro Tempore*

Mary M. McKenzie
Michael Churchill
Benjamin D. Geffen
Public Interest Law Center
1709 Benjamin Franklin Parkway; 2nd Floor
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David P. Gersch
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Arnold & Porter Kaye Scholer LLP
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Counsel for Petitioners

Jason Torchinsky
Shawn T. Sheehy
**Holtzman Vogel Josefiak Torchinsky
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Warrenton, VA 20186
*Counsel for Representative Michael C.
Turzai, In His Capacity as Speaker of the
Pennsylvania House of Representatives
and Admission to be filed for Senator Joseph
B. Scarnati III, In His Capacity as
Pennsylvania Senate President Pro Tempore
and The Pennsylvania General Assembly*

Respectfully submitted,

BY: 

KATHLEEN A. GALLAGHER
CAROLYN BATZ MCGEE
JOHN E. HALL

Counsel for the Respondents, THE PENNSYLVANIA
GENERAL ASSEMBLY AND REPRESENTATIVE
MICHAEL C. TURZAI, IN HIS CAPACITY AS
SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES

EXHIBIT "A"

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
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1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Tony Aliano _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.
~~to testify on behalf of _____ in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

- e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

- f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

- g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Erik Arneson _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center, _____
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ ~~in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production. _____

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____ (signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Heather Cevasco

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,

1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ ~~in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
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 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
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 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
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Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Krystjan Callahan

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,

1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

~~to testify on behalf of _____ in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Drew Crompton

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ ~~in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. "2011 Plan" means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania's congressional districts following the 2010 census.

2. "Document" is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants' work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term "Document" includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

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INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

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REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

- e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

- f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

- g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017 _____

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Glenn Grell _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ ~~in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

CC2600
Rev. 07/09

No. 261 MD _____ 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Thomas B. Hofeller _____

1. You are ordered by the Court to come to produce at the office of Public Interest Law Center, _____

1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

to testify on behalf of _____ in the above case, and to remain until
excused.

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production. _____

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Adam Kincaid

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.
to testify on behalf of _____ in the above case, and to remain until
excused.

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date: _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. “Communication” means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity’s agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO John Memmi

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ in the above case, and to remain until
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I,

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(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

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2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

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- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
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 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
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CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO William R. Schaller

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

~~to testify on behalf of _____ in the above case, and to remain until excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

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On the _____ day of _____, 20____, I, _____

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(name of person served)

with the foregoing subpoena by: (Describe method of service)

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1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017 _____

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Dave Thomas _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, # 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ ~~in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Gail Reinard _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

~~to testify on behalf of~~ _____ ~~in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

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5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO David W. Woods

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,

1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.

to testify on behalf of _____ in the above case, and to remain until
excused.

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronic mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs, and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 with any affiliate of the Republican Party, including, but not limited to, the Republican National Committee (RNC), the National Republican Congressional Committee (NRCC), the Republican State Leadership Committee (RSLC), the REDistricting Majority Project (REDMAP), or the State Government Leadership Foundation (SGLF) that refer or relate to the 2011 Plan.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017 _____

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican National Committee (RNC);
- (ii) The Republican State Leadership Committee (RSLC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The State Government Leadership Foundation (SGLF);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
- (xvii) Pennsylvania State Representative Eli Evankovich;
- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
- (xxxiv) Drew Crompton;
- (xxxv) Dave Thomas;
- (xxxvi) Krystjan Callahan;
- (xxxvii) Tony Aliano;
- (xxxviii) Glenn Grell;
- (xxxix) Gail Reinard;
- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

2. All documents referring or relating to the planning, purpose, execution, and results of Project REDMAP from its inception through the date of service of this subpoena.

3. All communications and reports to donors or contributors to the Republican State Leadership Committee or the State Government Leadership Fund that refer, reflect, or discuss the purpose of or the strategy behind the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of congressional districts following the 2010 Census.

4. All PowerPoint slides from any training on redistricting presented to members of the Pennsylvania General Assembly (or their agents, employees, consultants, or representatives) or to former Pennsylvania Governor Thomas Corbett.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017

COMMONWEALTH COURT
OF PENNSYLVANIA

League of Women Voters of Pennsylvania, et al.

vs.

The Commonwealth of Pennsylvania, et al.

TO Republican National Committee

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center, _____

1709 Benjamin Franklin Parkway, at 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

~~to testify on behalf of _____ in the above case, and to remain until~~
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____ served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican State Leadership Committee (RSLC);
- (ii) The National Republican Congressional Committee (NRCC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The State Government Leadership Foundation (SGLF);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
- (xvii) Pennsylvania State Representative Eli Evankovich;
- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
- (xxxiv) Drew Crompton;
- (xxxv) Dave Thomas;
- (xxxvi) Krystjan Callahan;
- (xxxvii) Tony Aliano;
- (xxxviii) Glenn Grell;
- (xxxix) Gail Reinard;
- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

2. All documents referring or relating to the planning, purpose, execution, and results of Project REDMAP from its inception through the date of service of this subpoena.

3. All communications and reports to donors or contributors to the Republican State Leadership Committee or the State Government Leadership Fund that refer, reflect, or discuss the purpose of or the strategy behind the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of congressional districts following the 2010 Census.

4. All PowerPoint slides from any training on redistricting presented to members of the Pennsylvania General Assembly (or their agents, employees, consultants, or representatives) or to former Pennsylvania Governor Thomas Corbett.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

Linda C. Barrett
Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
Holtzman Vogel
Josefiak Torchinsky PLLC
45 North Hill Drive, Suite 100
Warrenton, VA 20186

*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

Kathleen A. Gallagher
Cipriani & Werner, P.C.
650 Washington Road, Suite 700
Pittsburgh, PA 15228

Counsel for Michael C. Turzai

Brian S. Paszamant
Jason A. Snyderman
John P. Wixted
Blank Rome LLP
One Logan Square
130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____, 2017

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO Republican State Leadership Committee

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center,
1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, Pennsylvania _____ at _____ M.
~~to testify on behalf of _____~~ in the above case, and to remain until
~~excused.~~

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production.

The deadline for production of documents is August 30, 2017

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican National Committee (RNC);
- (ii) The National Republican Congressional Committee (NRCC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The State Government Leadership Foundation (SGLF);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
- (xvii) Pennsylvania State Representative Eli Evankovich;
- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
- (xxxiv) Drew Crompton;
- (xxxv) Dave Thomas;
- (xxxvi) Krystjan Callahan;
- (xxxvii) Tony Aliano;
- (xxxviii) Glenn Grell;
- (xxxix) Gail Reinard;
- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

f. All communications with any consultants, advisors, attorneys, or political scientists referring or relating to the 2011 Plan.

g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

2. All documents referring or relating to the planning, purpose, execution, and results of Project REDMAP from its inception through the date of service of this subpoena.

3. All communications and reports to donors or contributors to the Republican State Leadership Committee or the State Government Leadership Fund that refer, reflect, or discuss the purpose of or the strategy behind the REDMAP project or which report or evaluate the success or effectiveness of the REDMAP project in bringing about the reapportionment of congressional districts following the 2010 Census.

4. All PowerPoint slides from any training on redistricting presented to members of the Pennsylvania General Assembly (or their agents, employees, consultants, or representatives) or to former Pennsylvania Governor Thomas Corbett.

CERTIFICATE OF SERVICE

I, Benjamin D. Geffen, hereby certify that this 20th day of July, 2017, I have served the attached Petitioners' Notice of Intent to Serve a Subpoena to Produce Documents and Things for Discovery Pursuant to Rule 4009.21, along with a copy of the proposed Subpoena to Produce Documents or Things for Discovery Pursuant to Rule 4009.22 to the following entities by first-class mail.

Commonwealth of Pennsylvania
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

Pennsylvania General Assembly
c/o Senator Joseph B. Scarnati III
Senate President Pro Tempore
Senate Box 203025
Harrisburg, PA 17120-3025
Room: 292 Main Capitol Building
c/o Representative Michael C. Turzai
Speaker of the House
139 Main Capitol Building
PO Box 202028
Harrisburg, PA 17120-2028

I have served the same documents to counsel identified below by electronic mail by agreement of the parties.

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Sean M. Concannon
Thomas P. Howell
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Counsel for Respondent Tom Wolf

Lazar M. Palnick
1216 Heberton Street
Pittsburgh, PA 15206

Counsel for Michael J. Stack III

Jason Torchinsky
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*Counsel for Michael C. Turzai and
Joseph B. Scarnati III*

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130 North 18th Street
Philadelphia, PA 19103

Counsel for Joseph B. Scarnati, III

Timothy E. Gates
Ian B. Everhart
Kathleen M. Kotula
Department of State
Office of Chief Counsel
306 North Office Building
Harrisburg, PA 17120

*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

David P. Gersch
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Counsel for Petitioners

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, CARMEN
FEBO SAN MIGUEL, JAMES SOLOMON, JOHN GREINER, JOHN
CAPOWSKI, GRETCHEN BRANDT, THOMAS RENTSCHLER,
MARY ELIZABETH LAWN, LISA ISAACS, DON LANCASTER,
JORDI COMAS, ROBERT SMITH, WILLIAM MARX, RICHARD
MANTELL, PRISCILLA MCNULTY, THOMAS ULRICH, ROBERT
MCKINSTRY, MARK LICHTY, LORRAINE PETROSKY,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THE
PENNSYLVANIA GENERAL ASSEMBLY; THOMAS W. WOLF,
IN HIS CAPACITY AS GOVERNOR OF PENNSYLVANIA;
MICHAEL J. STACK III, IN HIS CAPACITY AS LIEUTENANT
GOVERNOR OF PENNSYLVANIA AND PRESIDENT OF THE
PENNSYLVANIA SENATE; MICHAEL C. TURZAI, IN HIS
CAPACITY AS SPEAKER OF THE PENNSYLVANIA HOUSE OF
REPRESENTATIVES; JOSEPH B. SCARNATI III, IN HIS
CAPACITY AS PENNSYLVANIA SENATE PRESIDENT PRO
TEMPORE; PEDRO A. CORTÉS, IN HIS CAPACITY AS
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA;
JONATHAN M. MARKS, IN HIS CAPACITY AS COMMISSIONER
OF THE BUREAU OF COMMISSIONS, ELECTIONS, AND
LEGISLATION OF THE PENNSYLVANIA DEPARTMENT OF
STATE,

Respondents.

Docket No. 261 MD 2017

PETITIONERS' NOTICE OF INTENT TO SERVE A SUBPOENA TO PRODUCE DOCUMENTS AND THINGS FOR DISCOVERY PURSUANT TO RULE 4009.21

Petitioners intend to serve a subpoena identical to the one that is attached to this notice. You have twenty (20) days from the date listed below in which to file of record and serve upon the undersigned an objection to the subpoena. If no objection is made, the subpoena may be served.

Dated: July 20, 2017

By:

/s/ Mary M. McKenzie

Mary M. McKenzie
Attorney ID No. 47434
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd
Floor
Philadelphia PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
David.Gersch@apks.com
* Not admitted in Pennsylvania, admitted in the
District of Columbia. Pro hac vice motion to be
filed.

Counsel for Petitioners

No. 261 MD _____ 2017 _____

League of Women Voters of Pennsylvania, et al.

COMMONWEALTH COURT
OF PENNSYLVANIA

vs.

The Commonwealth of Pennsylvania, et al.

TO State Government Leadership Foundation _____

1. You are ordered by the Court to ~~come to~~ produce at the office of Public Interest Law Center, _____

1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia _____, Pennsylvania _____ at _____ M.

to testify on behalf of _____ in the above case, and to remain until
excused.

2. ~~And to bring with you~~ the following: all of the documents described in the attached request for production. _____

The deadline for production of documents is August 30, 2017 _____

If you fail to attend or to produce the documents or things required by this subpoena, you may be subject to the sanctions authorized by Rule 234.5 of the Pennsylvania Rules of Civil Procedure, including but not limited to costs, attorney fees and imprisonment.

Issued by: Mary M. McKenzie, 1709 Benjamin Franklin Parkway, 2nd Floor, Philadelphia, PA 19103 (215) 627-7100; Attorney ID No. 47434
(State attorney's name, address, telephone number and identification number)

BY THE COURT,

Date: July 13, 2017 _____

By /s/ _____
Chief Clerk

Seal of the Court

No. 261 MD _____, 2017

Court Subpoena

League of Women Voters of Pennsylvania, et al.,

v.

The Commonwealth of Pennsylvania, et al.

The Commonwealth Court
of Pennsylvania

COMMONWEALTH OF PENNSYLVANIA, ss:

On the _____ day of _____, 20____, I, _____

_____, served _____
(name of person served)

with the foregoing subpoena by: (Describe method of service)

I verify that the statements in this return of service are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 relating the unsworn falsification to authorities.

Date _____
(signature)

DEFINITIONS

1. “2011 Plan” means the 2011 Congressional Redistricting Plan for Pennsylvania that was signed into law in 2011 by the Governor of Pennsylvania any preliminary or draft plans that preceded the 2011 Congressional Redistricting Plan, and any proposal, strategies or plans to redraw Pennsylvania’s congressional districts following the 2010 census.

2. “Document” is used in its broadest sense and is intended to be comprehensive and to include, without limitation, a record, in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) it is maintained, and includes originals and each and every non-identical copy of all writings of every kind, including drafts, legal pleadings, brochures, circulars, advertisements, letters, internal memoranda, minutes, notes or records of meetings, reports, comments, affidavits, statements, summaries, messages, worksheets, notes, correspondence, diaries, calendars, appointment books, registers, travel records, tables, calculations, books of account, budgets, bookkeeping or accounting records, telephone records, tables, stenographic notes, financial data, checks, receipts, financial statements, annual reports, accountants’ work papers, analyses, forecasts, statistical or other projections, newspaper articles, press releases, publications, tabulations, graphs, charts, maps, public records, telegrams, books, facsimiles, agreements, opinions or reports of experts, records or transcripts of conversations, discussions, conferences, meetings or interviews, whether in person or by telephone or by any other means and all other forms or types of written or printed matter or tangible things on which any words, phrases, or numbers are affixed, however produced or reproduced and wherever located, which are in Your possession, custody or control. The term “Document” includes electronical mail and attachments, data processing or computer printouts, tapes, documents contained on floppy disks, hard disks, computer hard drives, CDs , and DVDs, or retrieval

listings, together with programs and program documentation necessary to utilize or retrieve such information, and all other mechanical or electronic means of storing or recording information, as well as tape, film or cassette sound or visual recordings and reproduction for film impressions of any of the aforementioned writings.

3. "Communication" means any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, and other understandings between or among two or more persons, by any means or mode of conveying information including, but not limited to, telephone, television, or telegraph or electronic mail.

4. A request seeking production of communications with an individual or entity includes communications with the individual or entity's agents, employees, consultants, or representatives.

INSTRUCTIONS

1. This Request applies to all Documents within Your possession, custody or control, Your entities, affiliates, predecessors-in-interest, successors-in-interest, and all of Your past and present attorneys, agents, representatives, accountants, consultants, or employees.

2. Any Document that responds, in whole or in part, to any portion or clause of this Request should be produced.

3. This Request calls for the separate production of any copy or copies of a Document that is no longer identical by reason of notation or modification of any kind whatsoever.

4. If there are no Documents responsive to the Request, You shall so state in writing.

5. All objections should be set forth with specificity and should include a brief statement of the grounds for the objection.

6. For each Document withheld from production on the basis of a claim of any privilege or discovery immunity, identify:

- (a) the Date;
- (b) the author(s);
- (c) the recipient(s);
- (d) the type of Document;
- (e) the subject matter of the Document;
- (f) the number of pages;
- (g) the nature of the asserted privilege; and
- (h) the basis of the claim of the privilege asserted.

7. If You know, or have reason to believe, that any Document would have been responsive to the Request herein but for its loss or destruction, provide the following:

- (a) A description of the Document sufficiently particular to identify it for purposes of a court order, including, but not limited to, the type of Document, the Date, the author, the addressee or addressees, the number of pages and the subject matter;
- (b) A list of all natural persons who participated in the preparation of the Document;
- (c) A list of all natural persons to whom the Document was circulated or its contents communicated, or who were ever custodians of the Document;
- (d) State whether each Document was destroyed pursuant to a policy regarding document retention and, if so, state the terms of that policy and identify each Document or natural person who has knowledge concerning Your response or upon which or whom You relied in whole or in part in making Your response; and
- (e) If any Document was lost or destroyed other than pursuant to a policy regarding document retention, state the circumstances under which each Document was lost or destroyed and identify each Document or natural person who has knowledge of those circumstances.

8. The Request shall be read to be inclusive rather than exclusive. The connectives “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of a Request all responses that might otherwise be construed as outside its scope.

“Including” shall be construed to mean “including without limitation.” The word “any” shall be construed to mean “all” and *vice versa*. The singular shall include the plural and *vice versa*.

9. This Request is continuing in nature. You should supplement Your response and produce additional Documents if You obtain or become aware of further Documents responsive to this Request.

REQUESTS

1. All documents referring or relating to the 2011 Plan, including, but not limited to:
 - a. All proposals, analyses, memoranda, notes, and calendar entries in whatever medium (*e.g.*, paper, computerized format, e-mail, photograph, audiotape) they are maintained referring or relating to the 2011 Plan.
 - b. All documents referring or relating to all considerations or criteria that were used to develop the 2011 Plan, such as compactness, contiguity, keeping political units or communities together, equal population, race or ethnicity, incumbent protection, a voter or area’s likelihood of supporting Republican or Democratic candidates, and any others.
 - c. All documents referring or relating to how each consideration or criterion was measured, including the specific data and specific formulas used in assessing compactness and partisanship.
 - d. All documents referring or relating to how each consideration or criterion affected the 2011 Plan, including any rule or principle guiding the use of each consideration or criteria in developing the 2011 Plan.

e. All communications since January 1, 2009 referring or relating to the 2011 Plan, including all communications to, from, or between the following organizations or individuals referring or relating to the 2011 Plan:

- (i) The Republican National Committee (RNC);
- (ii) The Republican State Leadership Committee (RSLC);
- (iii) The REDistricting Majority Project (REDMAP);
- (iv) The National Republican Congressional Committee (NRCC);
- (v) Former Pennsylvania Governor Thomas Corbett;
- (vi) Former Pennsylvania State Senator Dominic F. Pileggi;
- (vii) Pennsylvania State Senator Joseph B. Scarnati III;
- (viii) Pennsylvania State Senator Charles T. McIlhinney Jr.;
- (ix) Former Pennsylvania State Senator Michael Brubaker;
- (x) Pennsylvania State Senator Jacob Corman;
- (xi) Pennsylvania State Senator Michael Folmer;
- (xii) Pennsylvania State Senator Donald White;
- (xiii) Pennsylvania State Representative Daryl Metcalfe;
- (xiv) Pennsylvania State Representative Seth Grove;
- (xv) Pennsylvania State Representative James Cox;
- (xvi) Pennsylvania State Representative George Dunbar;
- (xvii) Pennsylvania State Representative Eli Evankovich;
- (xviii) Pennsylvania State Representative Matthew Gabler;
- (xix) Pennsylvania State Representative Glenn Grell;
- (xx) Pennsylvania State Representative Marcia Hahn;
- (xxi) Pennsylvania State Representative Rob Kauffman;
- (xxii) Pennsylvania State Representative Jerome Knowles;

- (xxiii) Pennsylvania State Representative Timothy Krieger;
- (xxiv) Pennsylvania State Representative T. Mark Mustio;
- (xxv) Pennsylvania State Representative Bradley Roae;
- (xxvi) Pennsylvania State Representative Lynda Schlegel-Culver;
- (xxvii) Pennsylvania State Representative Jerry Stern;
- (xxviii) Any other member of the Pennsylvania General Assembly;
- (xxix) Thomas Hofeller;
- (xxx) David W. Woods;
- (xxxi) Erik Arneson;
- (xxxii) John Memmi;
- (xxxiii) William R. Schaller;
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- (xxxv) Dave Thomas;
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- (xl) Heather Cevasco; and
- (xli) The Republican Party of Pennsylvania.

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g. All communications with any committees, legislators, or legislative staffers referring or relating to the 2011 Plan.

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*Counsel for Secretary Pedro A. Cortés
and Commissioner Jonathan M. Marks*

/s/ Benjamin D. Geffen

Benjamin D. Geffen
Attorney ID No. 310134
Public Interest Law Center
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

EXHIBIT I

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
ENTERED

OCT 31 1997

EDWARD CHEN, *et al.*,
Plaintiffs,

§
§
§
§
§
§
§

VS.

CIVIL ACTION NO. H-97-1180

CITY OF HOUSTON,
Defendant.

Michael N. Milby, Clerk

MEMORANDUM AND ORDER

This Voting Rights Act case is currently before the Court on Houston City Councilmember Martha Wong's Motion to Quash Subpoena [Doc. #45]. The issue is whether the existence of legislative immunity precludes the deposition of Councilmember Wong and any inquiry through Councilmember Wong into legislative motive concerning the adoption of the City's redistricting plan. The Court has considered the briefs filed by the parties and the limited case law, including conflicting decisions by various district courts. Based on this review, the Court concludes the motion to quash should be granted.

Federal common law immunity for state legislators was recognized by the United States Supreme Court in *Tenney v. Brandhove*, 341 U.S. 367, 376, *reh'g denied* 342 U.S. 843 (1951). This absolute legislative immunity was subsequently extended to "regional legislators" to the extent they act in a capacity similar to members of the state legislature. *Lake Country Estates, Inc. v. Tahoe Regional Planning Agency*, 440 U.S. 391, 402-06 (1979).

In the Fifth Circuit, the immunity has also been extended to local legislators for acts in furtherance of their legislative duties.¹ *Hernandez v. City of Lafayette*, 643 F.2d 1188, 1193 (5th Cir. 1981), *cert. denied*, 455 U.S. 907 (1982). Legislative immunity also “functions as an evidentiary and testimonial privilege.” *Marylanders for Fair Representation, Inc. v. Schaefer*, 144 F.R.D. 292, 298 (D. Md. 1992).

Plaintiffs argue that legislative immunity should not apply to a Voting Rights Act case in which the legislators’ motive is an element of their claim.² The Supreme Court has long recognized “that judicial inquiries into legislative or executive motivation represent a substantial intrusion into the workings of other branches of government. Placing a decision-maker on the stand is therefore ‘usually to be avoided’.” *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 268 n.18 (1977), *quoting Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 420 (1971). The Supreme Court in *Arlington Heights* also approved the district court’s order which “forbade questioning Board members about their motivation at the time they cast their votes.” *Arlington Heights*, 429 U.S. at 270 n.20.

Federal district courts which have considered the legislative immunity issue in the Voting Rights Act context have reached different conclusions. In *United States v. Irvin*, 127

¹ Plaintiffs admit in their response to Councilmember Wong’s motion that the focus of their inquiry is “the legislative process, including the factual bases and analyses available to the Council, as well as the impact of the plan, the sequencing of events, departures from usual practices, and similar matters.” Brief in Opposition, Doc. #48, p. 8.

² The Court notes that the relevant inquiry concerns the intent of the City through its City Council acting as a legislative body, not the intent of any individual councilmember.

F.R.D. 169, 173-74 (C.D. Cal. 1989), the district court applied a balancing of interests approach and required disclosure of records of nonpublic meetings of the county board of supervisors. The California court recognized the general rule that inquiry into the mental processes of administrative decision-makers should not be permitted. The court in *Irvin* then noted that there was “little evidence concerning the events immediately preceding the Board’s adoption of the final redistricting plan.” *Id.* at 173. Balancing competing interests, the court determined that the legislative immunity “must yield in this instance to the need for disclosure.” *Id.* at 174.

A different result was reached by district courts on the east coast. In *Simpson v. City of Hampton*, 166 F.R.D. 16 (E.D. Va. 1996) and *Marylanders for Fair Representation*, 144 F.R.D. at 18, the district courts held that legislative immunity foreclosed discovery. The district court in *Simpson* relied heavily on the decision of the United States Court of Appeals for the Fourth Circuit in *Burtnick v. McLean*, 76 F.3d 611 (4th Cir. 1996). In *Burtnick*, the Fourth Circuit held that legislative immunity applied in an employment discrimination context to entitle a member of the Baltimore Board of Estimates to assert a privilege from testifying in federal district court as to his motives in abolishing the plaintiff’s job. *Id.* at 613.

Plaintiffs argue that instead of recognizing testimonial legislative immunity in Voting Rights Act cases, the Court should apply a four-factor analysis, citing *American Civil Liberties Union of Mississippi, Inc. v. Finch*, 638 F.2d 1336, 1344 (5th Cir. 1981). Initially, the Court notes that the four-factor test recommended by Plaintiffs is directed more properly

toward testimonial privilege regarding confidential relationships, not legislative functions of governmental officials.

Additionally, were the Court to apply this four-factor analysis instead of recognizing legislative immunity's testimonial privilege, the result would be the same. Confidential communications among legislators in conducting legislative business is an essential element of our system of government, a system which is to be fostered and protected by the community. The Court would also find that the damage to the legislative process if the legislators were required to disclose their own confidential communications and thoughts, as well as those of their fellow legislators, would be significant. This injury would be far greater than the injury to Plaintiffs in this case who are entitled to obtain records available to the public and evidence available from any councilmember who elects to waive the privilege.

The Court concludes that the deposition of Houston City Councilmember Wong is precluded by the testimonial privilege element of legislative immunity which the councilmember has chosen to exercise.³ Plaintiffs may present any direct evidence of intent they may be able to obtain from other, non-privileged sources, such as records of public proceedings, public statements by councilmembers, and evidence provided by councilmembers who elect to waive their testimonial privilege.

³ The testimonial privilege is personal and can be waived by any individual councilmember. *See Burtnick v. McLean*, 76 F.3d 611, 613 (4th Cir. 1996). Any councilmember identified by the City as a trial witness waives the privilege and will be required to provide relevant discovery requested by Plaintiffs.

IT IS ORDERED that Houston City Councilmember Wong's Motion to Quash Subpoena [Doc. #45] is **GRANTED**.

SIGNED this 31st day of October, 1997, at Houston, Texas.

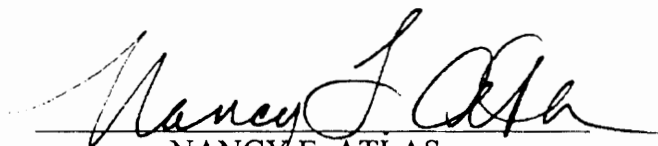

NANCY F. ATLAS
UNITED STATES DISTRICT JUDGE

EXHIBIT J

49, 118 S. Ct. 966, 970, 140 L. Ed. 2d 79 (1998) (“[W]e have held that state and regional legislators are entitled to absolute immunity from liability under § 1983 for their legislative activities.”) (citing *Tenney v. Brandhove*, 341 U.S. 367, 372-375, 71 S. Ct. 783, 786-88, 95 L. Ed. 1019 (1951)); *Ellis v. The Coffee County Bd. of Registrars*, 981 F.2d 1185, 1190 (11th Cir. 1993) (noting that the Supreme Court has extended absolute immunity in legislative functions to state legislators); *Berkley v. Common Council of the City of Charleston*, 63 F.3d 295, 301 n.5 (4th Cir. 1995) (“[T]he Supreme Court has also recognized an absolute immunity from section 1983 liability for state and regional legislators, who are not otherwise protected by the Speech or Debate Clause and whose state immunity would not protect them from suits brought under section 1983.”) (citations omitted).

The plaintiffs and intervenors in the case at bar do not seek to hold any legislator individually liable; rather, they seek discovery about processes and acts conducted by the legislators in order to prove that the redistricting plan violates the United States Constitution and the Voting Rights Act, 42 U.S.C. § 1973. There is a split amongst the circuit courts of appeals as to the nature and extent of the immunity state legislators enjoy in this context. One group of decisions extends state legislators full immunity analogous to the Speech or Debate Clause immunity granted to members of Congress by Art. I, § 6, cl. 1 of the Constitution. This immunity is subject to limitations imposed by the Supreme Court, such as the prosecution of a state legislator for violating the federal bribery statute. *See, e.g., United States v. Gillock*, 445 U.S. 360, 373-74, 100 S. Ct. 1185, 1193-94, 63 L. Ed. 2d 454 (1980) (holding that in the context of a federal criminal prosecution for bribery, federal common law does not recognize an evidentiary privilege for state legislators because the interest in avoiding federal interference was less than in a civil action brought by a private plaintiff to vindicate private rights); *Miles-Un-Ltd, Inc. v. Town of New Shoreham*, 917 F. Supp. 91, 100 (D.N.H. 1996) (holding generally that federal common law legislative immunity does not extend to traditionally legislative actions taken in bad faith, because of corruption or on primarily personal grounds, but noting that the court must consider whether disclosure is required to fully develop the facts and that “generally speaking, the motivation of local legislators in passing regulations is protected from disclosure.”).

The Fourth Circuit has adopted this full legislative immunity approach, *Burtnick v. McLean*, 76 F.3d 611, 613 (4th Cir. 1996), and district courts in other circuits have applied this reasoning.

See Cano v. Davis, 193 F. Supp. 2d 1177, 1180-81 (C.D. Cal. 2002) (full immunity); *M Sec. and Invs., Inc. v. Miami-Dade Co.*, No. 00CV1951, 2001 WL 1685515, at *2 (S.D. Fla. Aug. 14, 2001) (adopting Fourth Circuit reasoning); *Miles-Un-Ltd, Inc.*, 917 F. Supp. 91 at 100 (same). In contrast, the Third Circuit refused to recognize immunity for state legislators commensurate with the Speech or Debate Clause protection but did not preclude the possibility of a deliberative process privilege. *See In re Grand Jury*, 821 F.2d 946, 958-59 (3rd Cir. 1987) (rejecting a qualified speech or debate privilege for state legislators in the context of a grand jury subpoena duces tecum, but refusing to preclude “the possibility of a more narrowly tailored privilege for confidential deliberative communications,” that applies only to “confidential deliberations of law or policymaking, reflecting opinions, recommendations or advice”). The deliberative process privilege is a qualified one that may be overcome by showing a sufficient need for the information or by making a prima facie showing of misconduct. *See id.*

Under either approach, state legislators are protected from answering questions about their motives for and decisions about establishing a process for gathering information from which to craft legislation. They are also protected from discovery as to their thought and decision-making processes in voting on the redistricting plan. We therefore decline to align ourselves specifically with one line of analysis or the other.

The privilege of legislative immunity applies to state legislators’ actions taken “in the sphere of legitimate legislative activity.” *Tenney*, 341 U.S. at 376, 71 S. Ct. at 788. The Eleventh Circuit has defined legislative activity as any conduct in furtherance of a legislator’s duties. *See DeSisto College, Inc. v. P. Line*, 888 F.2d 755, 764-65 (11th Cir. 1989). Decision-making regarding the implementation of processes leading up to redistricting, which the *Martinez* plaintiffs seek to discover, qualifies as such an activity. The drafting of the redistricting plan, thought processes, and decision making processes in voting on the redistricting plan, which the *Deutsch* intervenors seek to discover, also qualifies as legislative activity.

Legislative immunity from liability also functions as a testimonial privilege concerning the motivations for engaging in such activities. *See, e.g., Schlitz v. Commonwealth of Virginia*, 854 F.2d 43, 45 (4th Cir. 1988) (“Where...the suit would require [state] legislators to testify regarding conduct in their legislative capacity, the doctrine of legislative immunity has full force.”), *overruled on other*

grounds, *Berkley*, 63 F.3d at 303; *Marylanders for Fair Representation, Inc. v. Shaefer*, 144 F.R.D. 292, 297-98 (D. Md. 1992) (“Legislative immunity not only protects state legislators from civil liability, it also functions as an evidentiary and testimonial privilege.”), *quoted in M Sec. and Invs., Inc.*, 2001 WL 1685515, at *2 (S.D. Fla. Aug. 14, 2001); *Knights of Columbus v. Town of Lexington*, 138 F. Supp. 2d 136, 140 (D. Mass. 2001) (“Legislative immunity functions as an evidentiary and testimonial privilege.”). *See also Hispanic Coalition on Reapportionment v. Legislative Reapportionment Comm’n*, 536 F. Supp. 578, 583 n.2 (E.D. Pa. 1982) (noting earlier protective order entered in case), *aff’d*, 459 U.S. 801, 103 S. Ct. 32, 74 L. Ed. 2d 46 (1982).

Not only is the testimony privileged, but we also fail to see what probative value such testimony would give to the *Martinez* plaintiffs' and Deutsch intervenors' case. The Deutsch intervenors hope to show through deposition testimony that the legislature attempted to carve out districts to benefit one or more legislators' ability to win a seat in the United States House of Representatives, or to benefit or harm some minority group. This theory is simply flawed because the Deutsch intervenors would have to show that the intent of a few legislators was imputed to the entire legislature or that the entire body was somehow overwhelmingly influenced by those few, an impossible task. *See, e.g., Marylanders for Fair Representation, Inc.*, 144 F.R.D. at 299 n.16 (noting that even if the plaintiffs could obtain information from individual legislators concerning the redistricting process, “it is questionable how much assistance such information might prove in establishing plaintiffs' *prima facie* case” because the motivation of the entire legislature, rather than the motivation of a handful of members, is relevant) (citation omitted). *Cf. Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 558, 113 S. Ct. 2217, 2239-40, 124 L. Ed. 2d 472 (1993) (Scalia, J., concurring in part and concurring in the judgment) (“[I]t is virtually impossible to determine the singular ‘motive’ of a collective legislative body...and this Court has a long tradition of refraining from such inquiries.”) (citations omitted); *Edwards v. Aguillard*, 482 U.S. 578, 636-37, 107 S. Ct. 2573, 2605-06, 96 L. Ed. 2d 510 (1987) (Scalia, J., dissenting) (noting that “determining the subjective intent of legislators is a perilous enterprise” because “[t]o look for *the sole* purpose of even a single legislator is probably to look for something that does not exist” as there are an infinite number of possible motivations behind a legislator's decision to enact a statute, that even if it were possible to assess an individual legislator's intent, it is unclear how many of them must

have the invalidating intent to establish legislative intent). Thus, even if we were operating under a deliberative process privilege, we find that the plaintiffs and intervenors have failed to make a showing sufficient to overcome the privilege.²

We believe that a state legislator cannot, under the circumstances of this case, be compelled to testify concerning his or her reasons for actions taken as part of the legislative process, which includes not only the casting of votes but also the processes leading to the formulation and consideration of legislation. *See, e.g., Simpson v. City of Hampton*, 166 F.R.D. 16, 18 (E.D. Va. 1996) (holding that, although legislative intent is a factor examined under the totality of circumstances test for Voting Rights Act violations, city council members' personal notes and files were protected by testimonial legislative privilege); *Marylanders for Fair Representation, Inc.*, 144 F.R.D. at 298 n.12 (holding that the Governor of Maryland was entitled to legislative immunity for his actions in preparing and presenting a legislative redistricting plan). *But see United States v. Irvin*, 127 F.R.D. 169, 174 (C.D. Cal. 1989) (holding that need for information to achieve the objectives of the Voting Rights Act overcame qualified deliberate process privilege for pre-decisional, non-factual, non-public communications within federal agencies).

Similarly, a legislator's staff cannot, under the circumstances of this case, be compelled to testify concerning communications with the legislator on the same subjects. *See Ellis*, 981 F.2d at 1192 (noting that the Supreme Court has extended the privilege of absolute legislative immunity to "committee staff, consultants, investigators, and congressional aides, insofar as they are engaged in legislative functions"); *Marylanders for Fair Representation, Inc.*, 144 F.R.D. at 298 ("The doctrine of legislative immunity is also applicable to legislative staff members, officers, or other employees of a legislative body, although it is considered 'less absolute' as applied to these individuals.").

The Deutsch intervenors' arguments about comity are not persuasive. All of the counts in the *Martinez* plaintiffs' corrected second amended complaint and the Deutsch intervenors' amended complaint are federal claims. We do not need to look to state law to determine whether Florida grants legislative immunity here because testimonial privilege is a matter of federal law with regard to the federal claims in this case. *See Fed. R. Evid. 501; Florida Ass'n of Rehab. Facilities, Inc.*, 164

²We note, in any event, that at trial there was no dispute that the party in power normally seeks to maximize its political strength through the redistricting process.

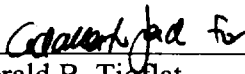
F.R.D. 257, 261, 265 n.2 (N.D. Fl. 1995) (holding that privilege is a matter of federal law where jurisdiction is premised upon a federal question and that Florida law is not dispositive where the privilege asserted is a federal one); *Irvin*, 127 F.R.D. at 171 (holding that federal privilege law, rather than the privilege law of the forum state, applied in a federal question case).

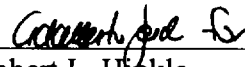
For the reasons set forth above, the plaintiffs and intervenors may not conduct depositions of Senators Latvala or Webster, or Representatives Feeney, Diaz-Balart, Rubio, or Thompson. They may, however, depose other state legislators or staff members who have not invoked the privilege.³ As stated at the May 29, 2002 status conference, given the types of questions sought to be asked by the plaintiffs and intervenors, we conclude that, as to the legislators whose counsel represented that their clients wanted to invoke legislative immunity, there is no need for the legislators to make that invocation personally at a deposition in response to specific questions. *See Florida Ass'n of Rehab. Facilities, Inc.*, 164 F.R.D. at 260 (holding that the issue of whether there was a legislative evidentiary privilege to preclude all questions pertaining to legislative duties was ripe even though the deponents did not appear at depositions and assert their privilege in the context of specific questions, where the Florida Legislature claimed that there was no testimony the deponents could provide outside of the scope of their legislative duties). *Cf. United States v. Klinger*, 128 F.3d 705, 709 (9th Cir. 1997) (affirming the exclusion of witness testimony where the district court conducted a thorough colloquy on the issue with counsel for both sides without holding an evidentiary hearing and holding that, “[w]here the district court finds that the witness could invoke his Fifth Amendment privilege as to all questions, it may recognize a witness’s blanket privilege against self-incrimination if ‘the court, based on its knowledge of the case and of the testimony expected from witnesses could legitimately refuse to answer essentially all relevant questions’”) (quoting *United States v. Tsui*, 646 F.2d 365, 368 (9th Cir. 1981)); *United States v. Goodwin*, 625 F.2d 693, 701 (5th Cir. 1980) (holding that a witness may be totally excused from testifying under the Fifth Amendment privilege “only if the court finds that he could ‘legitimately refuse to answer essentially all relevant questions’”) (quoting *United States v. Gomez-Rojas*, 507 F.2d 1213, 1220 (5th Cir. 1975)).

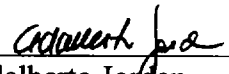
³Because the legislative testimonial privilege is a personal privilege, it must be waived or asserted by each individual legislator personally or through his or her attorney. *See Marylanders for Fair Representation, Inc.*, 144 F.R.D. at 298.

As stated in this court's May 30, 2002 order [D.E. 201], the plaintiffs may depose staff member John Guthrie, but may not inquire into communications between Mr. Guthrie and any legislator regarding the legislator's reasons for actions taken as part of the legislative process. The plaintiffs may, however, question Mr. Guthrie about all statements in his Rule 26(a)(2) report/affidavit, including communications with legislators relating to statements in the report/affidavit, whether consistent or inconsistent with statements in the report.

DONE and ORDERED in chambers in Miami, Florida, this 11th day of July, 2002.


Gerald B. Tjoflat
United States Circuit Judge


Robert L. Hinkle
United States District Judge


Adalberto Jordan
United States District Judge

Copy to: All counsel of record and *pro se* parties
Hon. Gerald B. Tjoflat
Hon. Robert L. Hinkle