

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

ALLEGHENY REPRODUCTIVE	:	
HEALTH CENTER, <i>et al.</i> ,	:	No. 26 MD 2019
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	:	
Petitioners,	:	
	:	
v.	:	
	:	
PENNSYLVANIA DEPARTMENT OF	:	
HUMAN SERVICES, <i>et al.</i> ,	:	
	:	
	:	
Respondents.	:	

**PETITIONERS’ ANSWER TO THE APPLICATION FOR LEAVE TO
INTERVENE OF SENATORS JOSEPH B. SCARNATI, III, ET AL.**

Petitioners Allegheny Reproductive Health Center, Allentown
 Women’s Center, Berger & Benjamin LLP, Delaware County Women’s Center,
 Philadelphia Women’s Center, Planned Parenthood Keystone, Planned Parenthood
 Southeastern Pennsylvania, and Planned Parenthood of Western Pennsylvania

(collectively, “Petitioners”) submit this Answer to the Application for Leave to Intervene of Senators Joseph B. Scarnati, III, Jacob Corman, Ryan Aument, Michele Brooks, John DiSanto, Michael Folmer, John Gordner, Scott Hutchinson, Wayne Langerholc, Daniel Laughlin, Scott Martin, Robert Mensch, Michael Regan, Mario Scavello, Patrick Stefano, Judy Ward, Kim Ward, and Eugene Yaw (collectively, “Proposed Senate Intervenors”).

INTRODUCTION

The Proposed Senate Intervenors’ attempt to intervene in this challenge to the constitutionality of Pennsylvania’s prohibition on the use of Medical Assistance funding for abortions (the “Coverage Ban”) should be rejected because they cannot meet the threshold requirements for intervention. As legislators, they have no role whatsoever in implementing, enforcing, or administering the Coverage Ban. Moreover, this litigation does not call into question any unique role that they have as legislators. Finally, their interests are already being adequately represented by the Department of Human Services, which is vigorously defending the law.

Appropriately, the Respondents in this lawsuit are the government entities and individuals charged with enforcing the Coverage Ban, namely, the Pennsylvania Department of Human Services and its officers (collectively, the “Commonwealth Respondents”). The Commonwealth Respondents have filed

preliminary objections requesting dismissal of Petitioners' claims, arguing that the Coverage Ban has been deemed constitutional by the Supreme Court in *Fischer v. Department of Public Welfare*, 509 Pa. 293 (1985) and that Petitioners lack standing. One day after the Commonwealth Respondents filed their preliminary objections, a group of legislators filed applications to intervene, along with their own version of preliminary objections similarly seeking dismissal of the case.

The Proposed Senate Intervenors claim that they should be granted party status, along with the Commonwealth Respondents, because: 1) they could have been joined as an original party; 2) they have a legally enforceable interest in the outcome of the matter; and 3) their interests will not be adequately represented by the Commonwealth Respondents. Each of these arguments fails.

First, the Proposed Senate Intervenors are not proper parties to this case under Pa. R.C.P. ("Rule") 2327(3) because they are not responsible for implementing, enforcing, or administering the Coverage Ban. As a result, there was no basis to join the Proposed Senate Intervenors as respondents in the original Petition for Review in the Nature of a Complaint Seeking Declaratory Judgment and Injunctive Relief ("Petition for Review").

The Proposed Senate Intervenors similarly lack any legally enforceable interest in this litigation sufficient to justify intervention under Rule 2327(4). Legislators' ability to intervene under Rule 2327(4) is limited and once a

legislator's vote on legislation has been cast and counted, that legislator's legally enforceable interest in that legislation ends.

Finally, Proposed Senate Intervenors' interests are more than adequately represented by the Commonwealth Respondents in this litigation. The Commonwealth Respondents filed preliminary objections to defend the Coverage Ban and dismiss the Petition for Review in its entirety. The Proposed Senate Intervenors fail to establish how the defense of this action is inadequate. The Commonwealth Respondents and the Proposed Senate Intervenors both share the same ultimate goal: to uphold the Coverage Ban enacted by the General Assembly and to have the Petition for Review dismissed. If Proposed Intervenors wish to express their views in their own words, they may do so through *amicus* briefing.

The Proposed Senate Intervenors' Application for Leave to Intervene should be denied.

ANSWERS

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Denied as stated. By way of further response, Petitioners deny any averments in Paragraph 11 to the extent that they are inconsistent with or mischaracterize the Petition for Review in the Nature of a Complaint Seeking Declaratory Judgment and Injunctive Relief (“Petition for Review”). *See* Petition for Review at ¶¶ 90-92.

12. Admitted.

13. Admitted.

14. Admitted. By way of further response, Petitioners also seek such other, further, and different relief as the Court may deem just and proper. *See* Petition for Review at 30, “Wherefore” Clause.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted. By way of further response, Proposed Senate Intervenors' Application to Intervene should be denied for the reasons discussed in Petitioners' Brief in Opposition to Application for Leave to Intervene by Senate President Pro Tempore Joseph B. Scarnati, III, et al. (hereinafter, "Petitioners' Brief in Opposition to Application for Leave to Intervene").

23. Admitted.

24. Admitted.

25. Admitted.

26. Admitted in part; denied in part. Petitioners admit that Proposed Senate Intervenors seek to intervene pursuant to Pa. R.C.P. 2327(3) and (4). The remaining averments contained in Paragraph 26 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors could not have been joined as original parties in this action, nor do Proposed Senate Intervenors have a specific, substantial, or legally enforceable interest in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B.

27. Admitted.

28. Denied. The averments contained in Paragraph 28 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors could not have joined or been joined as an original party in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.A.

29. Denied. The averments contained in Paragraph 29 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, the quotation from *MCT Transportation v. Philadelphia Parking Authority*, 60 A.3d 899, 904 n.7 (Pa. Commw. Ct. 2013) recited in Paragraph 29 is non-binding dicta from a footnote and, for the reasons discussed in Petitioners' Brief in Opposition to Application for Leave to Intervene at § III.A n.2, does not reflect well-established Pennsylvania law.

30. Admitted in part; denied in part. Petitioners admit that Senator Scarnati has been named as a respondent or been permitted to intervene (at least when unopposed) in actions involving constitutional challenges. The remaining averments contained in Paragraph 30 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny any suggestion in Paragraph 30 that

the Proposed Senate Intervenors could have been named as respondents in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.A.

31. Admitted.

32. Admitted in part; denied in part. Petitioners admit that Senator Scarnati has been named as a respondent in the case underlying the Pennsylvania Supreme Court's decision in *William Penn School District v. Pennsylvania Department of Education*, 170 A.3d 414 (Pa. 2017). The remaining averments in Paragraph 32 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny any suggestion in Paragraph 32 that Proposed Senate Intervenors could have been named as respondents in the present case or should be permitted to intervene. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

33. Admitted.

34. Denied. The averments contained in Paragraph 34 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny any suggestion in Paragraph 34 that Proposed Senate Intervenors could have been named as respondents in the present case or should be permitted to intervene.

See Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

35. Denied. The averments contained in Paragraph 35 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors could not have been named as respondents in the present case because they have no role in administering, implementing or enforcing the statutes and regulations challenged by the Petition for Review. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.A.

36. Denied. The averments contained in Paragraph 36 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors could not have been named as respondents in the present case because they have no role in administering, implementing or enforcing the statutes and regulations challenged by the Petition for Review. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.A.

37. Admitted in part, denied in part. It is admitted only that the concept of standing can be useful in determining whether a party has a substantial, direct, and immediate interest in a matter. The remaining averments contained in Paragraph 37 are conclusions of law to which no response is required. To the

extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors do not have a legally enforceable interest sufficient to intervene in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.B.

38. Denied. The averments contained in Paragraph 38 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors do not have a legally enforceable interest sufficient to intervene in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.B.

39. Denied. The averments contained in Paragraph 39 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Justice Dougherty's concurring opinion in *Markham v. Wolf*, 635 Pa. 288, 308-09 (2016) is not binding precedent and does not support Proposed Senate Intervenors' argument that they have a legally enforceable interest sufficient to intervene in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.B.

40. Admitted.

41. Admitted.

42. Admitted.

43. Denied. The averments contained in Paragraph 43 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors' legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not requesting that this Court order that the Proposed Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary's constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petition for Review at 30, "Wherefore" Clause; *see also* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B.

44. Admitted.

45. Denied. The averments contained in Paragraph 45 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. As described in the Petition for Review, the Coverage Ban violates the Pennsylvania Constitution and the Proposed Senate Intervenors are restrained by the Pennsylvania Constitution.

46. Denied. The averments contained in Paragraph 46 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors' legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not requesting that this Court order that the Proposed Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary's constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petition for Review at 30, "Wherefore" Clause; *see also* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B.

47. Denied. The averments contained in Paragraph 47 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors do not have a legally enforceable interest in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.B.

48. Admitted. By way of further response, the averments contained in Paragraph 48 do not support any argument that Proposed Senate Intervenors

have a legally enforceable interest in the present case or should be permitted to intervene. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

49. Admitted. By way of further response, the averments contained in Paragraph 49 do not support any argument that Proposed Senate Intervenors have a legally enforceable interest in the present case or should be permitted to intervene. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

50. Denied. The averments contained in Paragraph 50 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, the averments in Paragraph 50 do not support any argument that Proposed Senate Intervenors have a legally enforceable interest in the present case or should be permitted to intervene. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

51. Denied. The averments contained in Paragraph 51 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, the averments in Paragraph 51 do not support any argument that Proposed Senate Intervenors have a legally enforceable interest in the present case or should be permitted to

intervene. *See* Petitioners’ Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

52. Denied. The Petition for Review does not seek any injunctive relief against the General Assembly, as suggested by Proposed Senate Intervenors. *See* Petition for Review at 30, “Wherefore” Clause. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors’ legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not requesting that this Court order that the Proposed Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary’s constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petitioners’ Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B.

53. Denied. The averments contained in Paragraph 53 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, *Markham* does not support the argument that Proposed Senate Intervenors have a legally enforceable interest in the present case or should be permitted to intervene. *See* Petitioners’ Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

54. Denied. The averments contained in Paragraph 54 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. The Petition for Review does not seek any injunctive relief against the General Assembly, as suggested by Proposed Senate Intervenors. *See* Petition for Review at 30, “Wherefore” Clause. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors’ legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not requesting that this Court order that the Proposed Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary’s constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petitioners’ Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B. Further, *Markham* does not support the argument that Proposed Senate Intervenors have a legally enforceable interest in the present case or should be permitted to intervene. *See* Petitioners’ Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

55. Denied. The averments contained in Paragraph 55 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny that the present action seeks to create new constitutional constraints on the

General Assembly's authority to legislate or that intervention should be permitted as of right or in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.A-C.

56. Denied. The averments contained in Paragraph 56 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny that Proposed Senate Intervenors have a legally enforceable interest that may be affected by the present case or that Proposed Senate Intervenors should be permitted to intervene. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

57. Admitted in part, denied in part. Petitioners admit that they have requested that the Court declare 18 Pa. C.S. §§ 3215(c) & (j) unconstitutional and enjoin their enforcement. The remaining averments contained in Paragraph 57 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny that Proposed Senate Intervenors have a right to be heard in the present case or that the present case implicates a restriction on their power pursuant to Article III, § 32. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

58. Admitted in part; denied in part. Petitioners admit only that the Abortion Control Act includes references to certain public policy goals. To the extent that the averments contained in Paragraph 58 are inconsistent with the Abortion Control Act, those averments are denied.

59. Denied. The averments contained in Paragraph 59 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners allege that *Fischer* was incorrectly reasoned at the time, goes against recent development in Pennsylvania law with respect to independent interpretations of our state constitution, and is contrary to a modern understanding of the way in which the denial of women's reproductive autonomy is a form of sex discrimination that perpetuates invidious gender and racial stereotypes. *See* Petition for Review at 2.

60. Admitted.

61. Admitted.

62. Admitted.

63. Denied. The averments contained in Paragraph 63 overstate the connection between the various subparts of 18 Pa. C.S. § 3215 and overstate the resulting consequences if this Court grants the relief requested by the Petition for Review. If the relief requested is granted and the statutory prohibition on funding

is determined to be unconstitutional, those provisions of 18 Pa. C.S. § 3215 would no longer apply.

64. Denied. The Petition for Review does not seek any injunctive relief against the General Assembly, as suggested by Proposed Senate Intervenors. *See* Petition for Review at 30, “Wherefore” Clause. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors’ legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not requesting that this Court order that the Proposed Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary’s constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petitioners’ Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B.

65. Denied. The Petition for Review does not seek any injunctive relief against the General Assembly, as suggested by Proposed Senate Intervenors. *See* Petition for Review at 30, “Wherefore” Clause. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors’ legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not requesting that this Court order that the Proposed

Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary's constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B.

66. Admitted.

67. Denied. By way of further response, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 67.

68. Denied. By way of further response, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 68.

69. Admitted in part, denied in part. It is admitted that the Abortion Control Act includes references to certain public policy goals. *See* Paragraph 58, *supra*, which is incorporated here by reference. To the extent that the averments in Paragraph 69 are inconsistent with the language of the Abortion Control Act, those averments are denied.

70. Denied. By way of further response, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 70. By way of further response, Petitioners specifically deny any averments in Paragraph 70 to the extent that they are

inconsistent with or mischaracterize the relief sought in the Petition for Review (see Petition for Review at 30, “Wherefore” Clause), and furthermore the averments in Paragraph 70 do not support the argument that Proposed Senate Intervenors have legislative standing to intervene in the present case. See Petitioners’ Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

71. Admitted in part; denied in part. Petitioners admit only that they are requesting declaratory and injunctive relief in the present case. The remaining averments contained in Paragraph 71 are denied. By way of further response, Proposed Senate Intervenors do not have a legally enforceable interest in the present case just because the result of a finding in favor of Petitioners may result in the General Assembly enacting legislation in the future. See Petitioners’ Brief in Opposition to Application for Leave to Intervene, at § III.B.

72. Admitted.

73. Admitted.

74. Admitted. By way of further response, the averments in Paragraph 74 do not support Proposed Senate Intervenors’ argument that they have a legally enforceable interest in the present case. See Petitioners’ Brief in Opposition to Application for Leave to Intervene, at § III.B.

75. Admitted.

76. Admitted. By way of further response, the averments in Paragraph 76 do not support Proposed Senate Intervenors' argument that they have a legally enforceable interest in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.B.

77. Admitted. By way of further response, the averments in Paragraph 77 do not support Proposed Senate Intervenors' argument that they have a legally enforceable interest in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.B.

78. Denied. The averments contained in Paragraph 78 mischaracterize the relief sought in the Petition for Review (*see* Petition for Review at 30, "Wherefore" Clause) and do not support Proposed Senate Intervenors' argument that they have a legally enforceable interest in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.B.

79. Admitted in part; denied in part. Petitioners admit only that they have not named as a respondent any representative from the General Assembly. The remaining averments contained in Paragraph 79 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny that the requested relief raises separation of powers concerns or seeks to restrict the

General Assembly's authority, and Petitioners further deny that naming a representative from the General Assembly as a respondent is necessary to protect the General Assembly's authority. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

80. Admitted in part; denied in part. Petitioners admit only that Proposed Senate Intervenors include high-ranking members of the Senate Appropriations, Finance, and Health and Human Services Committees. The remaining averments contained in Paragraph 80 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Petitioners deny that Proposed Senate Intervenors should be permitted to intervene or that the Proposed Senate Intervenors have a legally enforceable interest in the present case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

81. Admitted.

82. Denied. The averments contained in Paragraph 82 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors' interests are adequately represented by the Commonwealth Respondents. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.C.1.

83. Admitted.

84. Denied. The averments contained in Paragraph 84 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors' interests are adequately represented by the Commonwealth Respondents, and both the Commonwealth Respondents and the Proposed Senate Intervenors seek the same relief of dismissing the Petition for Review based on the Supreme Court's decision in *Fischer*. See Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.C.1.

85. Admitted.

86. Admitted in part; denied in part. Petitioners admit only that the Proposed Senate Intervenors are members of the Commonwealth's legislative branch. The remaining averments contained in Paragraph 86 are denied. By way of further response, Proposed Senate Intervenors' interests are adequately represented by the Commonwealth Respondents, and both the Commonwealth Respondents and the Proposed Senate Intervenors seek the same relief of dismissing the Petition for Review based on the Supreme Court's decision in *Fischer*. See Petitioners' Brief in Opposition to Application for Leave to Intervene, at § III.C.1

87. Denied. By way of further response, if Petitioners prevail, Proposed Senate Intervenors will still have the authority to propose and/or vote for any legislation they deem appropriate. It is the judiciary's constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B. Additionally, any decision by this Court or the Pennsylvania Supreme Court would be equally binding on both the executive and legislative branches.

88. Denied. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors' legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not requesting that this Court order that the Proposed Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary's constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B.

89. Denied. By way of further response, Petitioners are not seeking to diminish, impair, or restrict Proposed Senate Intervenors' legislative authority because Petitioners have asked the judiciary to review the constitutionality of a statute, a task that belongs solely to the judiciary. Moreover, Petitioners are not

requesting that this Court order that the Proposed Senate Intervenors take or refrain from taking any action whatsoever. It is the judiciary's constitutional role to determine whether a state law complies with the Pennsylvania Constitution. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-B. Additionally, any separation of powers issues do not favor intervention, because the General Assembly's interest in enacted legislation ceases once the legislators have duly cast their votes.

90. Admitted.

91. Denied. The averments contained in Paragraph 91 are conclusions of law to which no response is required. To the extent that a response is required, those averments are denied. By way of further response, Proposed Senate Intervenors do not have a right to intervene in this case. *See* Petitioners' Brief in Opposition to Application for Leave to Intervene, at §§ III.A-C.

92. Admitted.

93. Admitted.

WHEREFORE, Petitioners request that the Court deny the Proposed Senate Intervenors' Application for Leave to Intervene.

Dated: May 8, 2019

Respectfully Submitted,

By: /s/ Susan Frietsche
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CERTIFICATE OF COMPLIANCE

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

Dated: May 8, 2019

/s/ Thomas B. Schmidt III

CERTIFICATE OF SERVICE

I certify that on this 8th day of May, 2019, I am this day serving the foregoing Petitioners' Answer to the Application for Leave to Intervene of Senators Joseph B. Scarnati, III, et al. upon the persons and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121.

Service by first class mail addressed as follows:

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Dated: May 8, 2019

/s/ Jan P. Levin