

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LEAGUE OF WOMEN VOTERS OF	:	
PENNSYLVANIA, et al.,	:	
Petitioners,	:	
	:	
v.	:	No. 261 M.D. 2017
	:	
THE COMMONWEALTH OF	:	
PENNSYLVANIA, et al.,	:	
Respondents.	:	

**ANSWER AND NEW MATTER OF SECRETARY OF THE
COMMONWEALTH PEDRO A. CORTÉS AND COMMISSIONER OF
ELECTIONS JONATHAN MARKS TO PETITION FOR REVIEW**

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Commonwealth
Pedro A. Cortés and Commissioner of
Elections Jonathan Marks*

Date: August 10, 2017

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v.	:	No. 261 M.D. 2017
	:	
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PENNSYLVANIA, et al.,	:	
Respondents.	:	

NOTICE TO PLEAD

You are hereby notified to file a written reply to Respondents’ New Matter filed in response to Petitioners’ Petition for Review Addressed to the Court’s Original Jurisdiction within thirty (30) days from service hereof.

s/ Timothy E. Gates

Timothy E. Gates
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*Counsel for Secretary of the
Commonwealth Pedro A. Cortés and
Commissioner of Elections Jonathan
Marks*

Date: August 10, 2017

ANSWER

Respondents, Pedro A. Cortés, in his official capacity as Secretary of the Commonwealth (“Secretary”), and Jonathan Marks, in his official capacity as Commissioner of the Bureau of Commissions, Elections and Legislation (“Commissioner”), by and through their undersigned counsel, hereby submit this Answer with New Matter to the Petition for Review.

INTRODUCTION

1. This paragraph contains Petitioners’ characterization of the Petition for Review (“Petition”) and/or conclusions of law, to which no response is required.

2. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the U.S. Supreme Court and the Pennsylvania Supreme Court, those opinions speak for themselves. Any mischaracterization of the opinions is denied.

3. It is admitted, upon information and belief, that the Pennsylvania General Assembly passed the Congressional Redistricting Act of 2011 (“2011 Plan”) on December 20, 2011, and that then-Governor Tom Corbett signed the 2011 Plan into law on December 22, 2011. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

4. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

5. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the statewide congressional vote in Pennsylvania since 2012. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

6. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the statewide congressional vote in Pennsylvania in 2012 and 2014. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

7. It is admitted, upon information and belief, that the 2011 Plan placed the city of Reading in the 16th Congressional District; the cities of Scranton, Wilkes-Barre, and Easton in the 17th Congressional District; and portions of the city of Chester in the 1st Congressional District and the 7th Congressional District, respectively. The Secretary and Commissioner lack knowledge or information

sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

8. It is admitted, upon information and belief, that the illustrations set forth in ¶¶ 55-59 of the Petition accurately reflect the district boundaries for the 6th Congressional District, the 7th Congressional District, and the 12th Congressional District. By way of further response, these illustrations speak for themselves. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

9. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

10. This paragraph is a conclusion of law to which no response is required.

11. This paragraph is a conclusion of law to which no response is required.

12. This paragraph is a conclusion of law to which no response is required.

PARTIES

13. Admitted, upon information and belief.

14. It is admitted, upon information and belief, that Carmen Febo San Miguel is a registered Democrat who resides in the 1st Congressional District in Philadelphia and who consistently votes. The Secretary and Commissioner lack

knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

15. It is admitted, upon information and belief, that James Solomon is a registered Democrat who resides in the 2nd Congressional District in Philadelphia. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied. By way of further response, there are five individuals named James Solomon registered as Democrats in the 2nd Congressional District.

16. It is admitted, upon information and belief, that John Greiner is a registered Democrat who resides in the 3rd Congressional District in Erie County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

17. It is admitted, upon information and belief, that John Capowski is a registered Democrat who resides in the 4th Congressional District in Cumberland County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

18. It is admitted, upon information and belief, that Gretchen Brandt is a registered Democrat who resides in the 5th Congressional District in Centre County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

19. It is admitted, upon information and belief, that Thomas Rentschler is a registered Democrat who resides in the 6th Congressional District in Berks County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

20. It is admitted, upon information and belief, that Mary Elizabeth Lawn is a registered Democrat who resides in the 7th Congressional District in Delaware County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

21. It is admitted, upon information and belief, that Lisa Isaacs is a registered Democrat who resides in the 8th Congressional District in Bucks County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

22. It is admitted, upon information and belief, that Don Lancaster is a registered Democrat who resides in the 9th Congressional District in Indiana County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

23. It is admitted, upon information and belief, that Jordi Comas is a registered Democrat who resides in the 10th Congressional District in Union County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

24. It is admitted, upon information and belief, that Robert Smith is a registered Democrat who resides in the 11th Congressional District in Luzerne County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

25. It is admitted, upon information and belief, that William Marx is a registered Democrat who resides in the 12th Congressional District in Westmoreland County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

26. It is admitted, upon information and belief, that Richard Mantell is a registered Democrat who resides in the 13th Congressional District in Montgomery County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

27. It is admitted, upon information and belief, that Priscilla McNulty is a registered Democrat who resides in the 14th Congressional District in Allegheny County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

28. It is admitted, upon information and belief, that Thomas Ulrich is a registered Democrat who resides in the 15th Congressional District in Lehigh County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

29. It is admitted, upon information and belief, that Robert B. McKinstry, Jr. is a registered Democrat who resides in the 16th Congressional District in Chester County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

30. It is admitted, upon information and belief, that Mark Lichty is a registered Democrat who resides in the 17th Congressional District in Monroe County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

31. It is admitted, upon information and belief, that Lorraine Petrosky is a registered Democrat who resides in the 18th Congressional District in Westmoreland County and who consistently votes. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

32. Admitted.

33. Admitted.

34. Admitted, upon information and belief.

35. It is admitted only that Thomas W. Wolf is the Governor of the Commonwealth of Pennsylvania and that one of the Governor's official duties is signing or vetoing bills passed by the General Assembly. The remaining averments and characterizations contained in this paragraph are specifically denied.

36. It is admitted only that Pedro A. Cortés is the Secretary of the Commonwealth of Pennsylvania, and in that capacity, the Election Code and other laws charge him with specific, discrete and enumerated tasks and duties, and

specific, discrete and enumerated powers, related to the conduct of elections. It is specifically denied that he has a power of “general supervision and administration of Pennsylvania’s elections and election laws;” rather (and by way of further answer), it is the Election Code and other laws which provide him with what authority he has. In no way does he have some independent, free-standing power of “general supervision and administration” of “elections and election laws” beyond that specifically assigned by the Election Code and other laws.

37. It is admitted only that Jonathan Marks is the Commissioner of the Bureau of Commissions, Elections, and Legislation, and in that capacity, carries out some of the specifically-enumerated tasks and duties of the Secretary of the Commonwealth on behalf of the Secretary of the Commonwealth. It is specifically denied that he has a power of “supervision and administration of Pennsylvania’s elections and electoral process;” rather (and by way of further answer), he has only such powers of “supervision and administration” as are assigned, by law, to the Secretary of the Commonwealth, and further delegated to him. In no way does he have some independent, free-standing power of “supervision and administration” of “elections and [the] electoral process” beyond that specifically assigned by the Election Code and other laws.

38. Admitted.

39. Admitted.

40. Admitted.

JURISDICTION

41. Admitted.

FACTUAL ALLEGATIONS

42. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

43. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

44. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

45. It is admitted, upon information and belief, that Republicans won control of the Pennsylvania House of Representatives and the governorship in the 2010 general election, and that Republicans also retained control of the Pennsylvania Senate in the 2010 general election. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

46. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

47. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

48. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

49. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

50. It is admitted, upon information and belief, that Senate Bill 1249 was introduced on September 14, 2011, by Republican primary sponsors Majority Floor Leader Dominic F. Pileggi, President Pro Tempore Joseph B. Scarnati, III, and Senator Charles T. McIlhinney, Jr. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

51. It is admitted, upon information and belief, that Senate Bill 1249, as introduced and through second consideration in the Senate, contained no exact

verbal description of each of the congressional districts, but rather contained the placeholder language as averred by Petitioners in this paragraph. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

52. It is admitted, upon information and belief, that Senate Bill 1249 was amended twice on December 14, 2011, with the exact verbal descriptions of each of the congressional districts, and that the Senate passed the bill on that same date. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

53. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied. By way of further response, the averments in this paragraph characterize remarks and writings made by political analysts. The remarks and writings speak for themselves. Any mischaracterization of the remarks or writings is denied.

54. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied. By way of further response, the averments in this paragraph

characterize remarks and writings made by political analysts. The remarks and writings speak for themselves. Any mischaracterization of the remarks or writings is denied.

55. This paragraph is a conclusion of law to which no response is required. To the extent a response is required, it is admitted, upon information and belief, that the illustration in this paragraph accurately represents that Montgomery County is split among five congressional districts. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

56. It is admitted, upon information and belief, that the illustration in this paragraph accurately represents the shape of the 6th Congressional District. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

57. It is admitted, upon information and belief, that the illustration in this paragraph accurately represents the shape of the 12th Congressional District. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

58. It is admitted, upon information and belief, that the illustrations in this paragraph accurately represent the shape of the 7th Congressional District. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

59. This paragraph is a conclusion of law to which no response is required. To the extent a response is required, it is admitted, upon information and belief, that the illustration in this paragraph accurately represents the evolution of the 7th Congressional District over time. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

60. It is admitted, upon information and belief, that the appendix that is attached to the Petition appears to be an accurate representation of the 2011 Plan for the Commonwealth of Pennsylvania.

61. This paragraph is a conclusion of law to which no response is required.

62. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

63. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

64. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the percentage of the vote received in recent elections by the Democratic candidates in the 1st Congressional District and the 2nd Congressional District under the 2011 Plan. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

65. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

66. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Senator Anthony Williams recorded in the Senate Legislative Journal, a document that speaks for itself.

67. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Senator Jay Costa recorded in the Senate Legislative Journal, a document that speaks for itself.

68. Admitted, upon information and belief.

69. Admitted, upon information and belief.

70. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Dan Frankel recorded in the House Legislative Journal, a document that speaks for itself.

71. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Frank Dermody recorded in the House Legislative Journal, a document that speaks for itself.

72. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Robert Freeman recorded in the House Legislative Journal, a document that speaks for itself.

73. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Steve Samuelson recorded in the House Legislative Journal, a document that speaks for itself.

74. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Babette Josephs recorded in the House Legislative Journal, a document that speaks for itself.

75. Admitted, upon information and belief. By way of further response, the averments of this paragraph refer to statements made by Representative Michael Hanna recorded in the House Legislative Journal, a document that speaks for itself.

76. Admitted, upon information and belief, with the qualification that then-Governor Tom Corbett signed the bill into law in time for the 2012 congressional elections.

77. It is admitted, upon information and belief, that official election returns support Petitioners' averments as set forth in the chart in this paragraph showing each party's share of the two-party vote in congressional districts in the 2012 general election. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

78. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the average winning percentage in congressional districts in the 2012 general election. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

79. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they

are therefore denied. By way of further response, the averments of this paragraph quote the *2012 REDMAP Summary Report*, a document that speaks for itself.

80. It is admitted, upon information and belief, that official election returns support Petitioners' averments in this paragraph regarding the percentage of congressional seats Republicans won in the 2014 general election compared to their statewide vote share. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

81. Admitted, upon information and belief.

82. Admitted, upon information and belief.

83. It is admitted, upon information and belief, that in recent years several sophisticated modeling techniques have been developed to identify political gerrymandering. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

84. It is admitted, upon information and belief, that redistricting criteria such as contiguity, compactness, equal population, and minimizing county splits have been traditionally used to create district plans. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the

truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

85. It is admitted, upon information and belief, that utilizing different types of computer modeling with different objectives would produce alternative plans. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

86. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

87. It is admitted, upon information and belief, that mathematicians at Carnegie Mellon University and the University of Pittsburgh studied the congressional boundaries in Pennsylvania utilizing a modeling technique known as “Markov chain” analysis. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied. By way of further response, the averments of this paragraph which contain explanations of the “Markov chain” analysis are quoted from the report cited in footnote no. 15 to this paragraph. The report and the explanation of the analysis speak for themselves.

88. It is admitted, upon information and belief, that the efficiency gap is a statistical approach designed to measure how efficiently a party's voters are distributed across districts. To the extent Petitioners cite and/or characterize the opinion of the three-judge panel in *Whitford*, that opinion speaks for itself. Any mischaracterization of the opinion is denied.

89. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

90. It is admitted, upon information and belief, that the "mean-median gap" is a statistical approach designed to measure how a party's voters are distributed across districts. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and they are therefore denied.

91. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

92. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

93. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

94. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

95. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

96. The averments of this paragraph contain characterizations of a 2015 article, including a chart representing voting history of members of Congress. The report along with the charts contained therein speak for themselves and any mischaracterizations of the same are denied.

97. The averments of this paragraph contain data from the U.S. Congress Votes Database. The data contained therein speak for themselves and any mischaracterizations of the same are denied.

98. This paragraph contains conclusions of law to which no response is required. To the extent a response is required, the Secretary and Commissioner lack

knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph, and they are therefore denied.

COUNT I
Violation of the Pennsylvania Constitution's
Free Expression and Association Clauses, Art. I, §§ 7, 20

99. The Secretary and Commissioner incorporate ¶¶ 1-98 as if fully set forth herein.

100. This paragraph quotes portions of the Pennsylvania Constitution, a document that speaks for itself.

101. This paragraph quotes portions of the Pennsylvania Constitution, a document that speaks for itself.

102. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the Pennsylvania Supreme Court, those opinions speak for themselves. Any mischaracterization of the opinions is denied.

103. This paragraph is a conclusion of law to which no response is required.

104. This paragraph is a conclusion of law to which no response is required.

105. This paragraph is a conclusion of law to which no response is required.

106. This paragraph is a conclusion of law to which no response is required.

107. This paragraph is a conclusion of law to which no response is required.

108. This paragraph is a conclusion of law to which no response is required.

To the extent Petitioners cite to an opinion of the U.S District Court for the District

of Maryland, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

109. It is admitted, upon information and belief, that the 1st Congressional District has consistently elected Democrats and the 7th Congressional District has consistently elected Republicans under the 2011 Plan. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

110. It is admitted, upon information and belief, that the 3rd Congressional District elected a Republican in 2002, 2004, 2006 and 2010, while electing a Democrat in 2008. It is also admitted, upon information and belief, that Representative Mike Kelly was reelected in 2014 and 2016 and that he ran unopposed in 2016. The Secretary and Commissioner lack knowledge or information sufficient to form a belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

111. It is admitted, upon information and belief, that the 11th Congressional District elected a Democrat in 2008, while electing a Republican in 2010. It is also admitted, upon information and belief, that Representative Lou Barletta was elected in 2010 and he has been reelected by more than 17% in each election since. The Secretary and Commissioner lack knowledge or information sufficient to form a

belief as to the truth of the remaining averments or characterizations of this paragraph; therefore, they are denied.

112. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the U.S District Court for the District of Maryland, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

113. This paragraph is a conclusion of law to which no response is required.

COUNT II
Violation of the Pennsylvania Constitution's
Equal Protection Guarantees, Art. I, §§ 1 and 26, and Free and Equal
Clause, Art. I, § 5,

114. The Secretary and Commissioner incorporate ¶¶ 1-113 as if fully set forth herein.

115. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to opinions of the Pennsylvania Supreme Court and the U.S District Court for the Western District of Wisconsin, those opinions speak for themselves. Any mischaracterization of the opinions is denied.

116. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to an opinion of the United States Supreme Court, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

117. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to an opinion of the Pennsylvania Supreme Court, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

118. This paragraph is a conclusion of law to which no response is required.

119. This paragraph is a conclusion of law to which no response is required. To the extent Petitioners cite to an opinion of the Pennsylvania Supreme Court, that opinion speaks for itself. Any mischaracterization of the opinions is denied.

120. This paragraph is a conclusion of law to which no response is required.

WHEREFORE, the Secretary and Commissioner respectfully request that the Court enter judgment in their favor, together with such further relief, as the Court deems just and appropriate.

NEW MATTER

In further answer to the Petition filed by Petitioners, the Secretary and Commissioner aver the following new matter:

121. The Secretary and Commissioner incorporate ¶¶ 1-120 as if fully set forth herein.

122. The Petition fails to state any claim against the Secretary or Commissioner upon which relief may be granted.

123. The 2011 Plan was developed, in its entirety, by the members and staff of the Pennsylvania General Assembly.

124. Neither the Secretary nor the Commissioner, nor any members of their staff, were consulted by anyone acting on behalf of the General Assembly at any point during the development of the 2011 Plan.

125. The Secretary and the Commissioner had no role of any kind whatsoever in the development of 2011 Plan.

126. The Secretary and Commissioner's role in congressional redistricting is limited to advertising the verbal descriptions of the newly created congressional districts in newspapers across the Commonwealth, in accordance with the mandate of Section 304 of Act 131-2011.

127. Their only other role is to administer primary and general elections for the U.S. House of Representatives in accordance with the Election Code and the redistricting plan legally in effect at the time.

128. The 2011 Plan was developed and came into effect wholly without any action or omission on the part of the Secretary or Commissioner.

WHEREFORE, the Secretary and Commissioner respectfully request that the Court enter judgment in their favor, together with such further relief, as the Court deems just and appropriate.

Respectfully submitted,

s/ Timothy E. Gates

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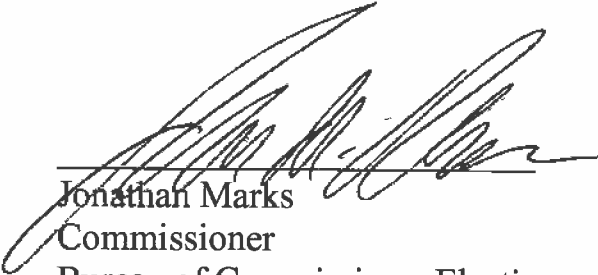
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*Counsel for Secretary of the
Commonwealth Pedro A. Cortés and
Commissioner Jonathan Marks*

Date: August 10, 2017

VERIFICATION

The undersigned, Jonathan Marks, Commissioner of the Bureau of Commissions, Elections and Legislation, verifies that the statements made in the foregoing Answer and New Matter are true and correct to the best of his knowledge, information and belief. The undersigned understands that statements therein are made subject to the penalties of 18 Pa.C.S § 4904 relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read 'Jonathan Marks', is written over a horizontal line.

Jonathan Marks
Commissioner
Bureau of Commissions, Elections
and Legislation
Pennsylvania Department of State

Date: August 10, 2017

CERTIFICATE OF SERVICE

I, TIMOTHY E. GATES, hereby certify that on this 10th day of August 2017, the foregoing **Answer and New Matter of Secretary of the Commonwealth Pedro A. Cortés and Commissioner of Elections Jonathan Marks to Petition for Review** has been served upon counsel in the manner indicated below, which service satisfies the requirements of Pennsylvania Rule of Appellate Procedure 121:

VIA PACFile:

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