



**A.) STATEMENT OF JURISDICTION AND STANDARD OF REVIEW AND SCOPE OF REVIEW**

1. The basis for jurisdiction of this Honorable Court is Section 17(d) of Article II of the Pennsylvania Constitution and 42 Pa.C.S.A. 725(1). This is a permitted direct appeal by aggrieved parties of the Final Order Adopting a Final Reapportionment Plan for the Commonwealth of Pennsylvania General Assembly. Article 2, Section 17 of the Pennsylvania Constitution provides that:

(d) Any aggrieved person may file an appeal from the final plan directly to the Supreme Court within 30 days after the filing thereof. If the appellant establishes that the final plan is contrary to law, the Supreme Court shall issue an order remanding the plan to the commission and directing the commission to reapportion the Commonwealth in a manner not inconsistent with such order.

2. This appeal is addressed to this Honorable Court's appellate jurisdiction and is in the nature of a Petition for Review, pursuant to Pennsylvania Rules of Appellate Procedure 3321.

3. The scope of review is plenary, as set forth in this Honorable Court's opinion in Holt v. 2011 The Legislative Reapportionment Commission, 38 A.2d 711 (Pa., 2012).

4. The standard of review is de novo, as set forth in this Honorable Court's opinion in Holt. supra.

**B.) IDENTITY OF PARTIES SEEKING REVIEW**

5. Angel Cruz is a citizen and resident of the Commonwealth of Pennsylvania residing therein at Philadelphia, PA. He is a duly elected State Representative in the 180<sup>th</sup> Legislative District in Philadelphia and files this Petition both as an elected State

Representative and as an individual registered Democratic voter who is aggrieved by the final Reapportionment Plan of the 2011 State Reapportionment Commission.

6. W. Curtis Thomas is a citizen and resident of the Commonwealth of Pennsylvania residing therein at 1022 N. Lawrence Street, Philadelphia, PA. He is a duly elected State Representative in the 181<sup>st</sup> Legislative District in Philadelphia and files this Petition both as an elected State Representative and as an individual registered Democratic voter who is aggrieved by the final Reapportionment Plan of the 2011 State Reapportionment Commission.

7. Rosita C. Youngblood is a duly elected State Representative in the 198<sup>th</sup> Legislative District in Morris Street, Philadelphia, PA and files this Petition both as an elected State Representative and as an individual registered Democratic voter who is aggrieved by the final Reapportionment Plan of the 2011 State Reapportionment Commission.

8. John P. Sabatina, Jr. is a duly elected State Representative in the 174<sup>th</sup> Legislative District in Philadelphia, Pa and files this Petition both as an elected State Representative and as an individual registered Democratic voter who is aggrieved by the final Reapportionment Plan of the 2011 State Reapportionment Commission and who filed objections to the Final Plan.

9. Angel Ortiz is a former City Councilman in the City of Philadelphia and files this Petition as community activist and as an individual registered Democratic voter who is aggrieved by the final Reapportionment Plan of the 2011 State Reapportionment Commission who filed objections at a public hearing.

10. Brian Eddis is a registered Democratic voter and resident of the Commonwealth of Pennsylvania whose address is 1259 Stanwood Street, Philadelphia, PA 19111.

11. Joseph F. West, Sr. is a voter and resident of the Commonwealth of Pennsylvania whose address is 8040 Rowland Avenue Apt. A-11 Philadelphia PA 19136 registered

Republican voter in the City of Philadelphia.

12. Karen A. West, 8040 Rowland Avenue, Apt. A-11, Philadelphia PA 19136 is a registered Democratic voter in the City of Philadelphia.

**C.) IDENTITY OF RESPONDENT**

13. The Respondent is the 2011 Legislative Reapportionment Commission of the Commonwealth of Pennsylvania. Pursuant to 17(b) of Article II of the Pennsylvania Constitution, the Legislative Reapportionment Commission (“LRC”) is composed of Senator Dominic Pileggi, the Majority Leader of the Pennsylvania Senate; Senator Jay Costa, the Minority Leader of the Pennsylvania Senate; State Representative Michael Turzai, the Majority Leader of the House of Representatives; State Representative Frank Dermody, the Minority Leader of the House of Representatives; and the Honorable Stephen McEwen, the fifth member selected by this Honorable Court after the four other Commission Members were unable to agree on a fifth member. Judge McEwen serves as a Chair of the LRC and is a Senior Judge of the Superior Court of Pennsylvania. Charles O’Conner, Jr. is the Executive Director of the 2011 LRC with an address of 104 North Office Building, Harrisburg, Pennsylvania 17120-3079. The 2011 LRC is represented by the Honorable Joseph A. Del Sole, Del Sole, Cavanaugh, Strode, LLC, 200 First Avenue, Suite 300, Pittsburgh, PA 15222-1512.

**D.) DETERMINATION TO BE REVIEWED**

14. The appellants seek that the Final Plan approved by the LRC on June 8, 2012 be declared unconstitutional in violation of Article II, Section 16 of the Pennsylvania Constitution and contrary to this Honorable Court’s opinion in Holt and that remand be ordered by this Honorable Court to the LRC for adoption of a constitutional Final Plan in accordance within constitutional parameters, including due process, and this

Honorable Court's opinion in Holt, supra.

15. The appellants seek that the Final Plan approved by the LRC on June 8, 2012 be declared unconstitutional because the procedure used to adopt the Final Plan violated the Sunshine Act 65 Pa. Cons Stat Section 702 in that preparation of proposed maps were conducted in secret and the LRC conducted an executive session prior to the general meeting which did not disclose the nature of the meeting and comments received by the LRC were not placed in the public record.

16. The appellants seek that the Final Plan approved by the LRC on June 8, 2012 be declared unconstitutional because it violates Pennsylvania Constitution Article I, Sections 1, 5 and 26 establishing due process under the Pennsylvania Constitution in that the Final Plan was not released with adequate time for public comment on the Final Plan. As noted in the comments during the June 8, 2012 meeting, maps were not made available even to LRC commission members until hours before the Final Plan adoption.

**E.) THE CONTROLLING CONSTITUTIONAL PROVISIONS**

17. One of the controlling constitutional provisions under the Pennsylvania Constitution is Article II, Section 16 of the Pennsylvania Constitution, which states as follows:

“The Commonwealth shall be divided into 50 Senatorial and 203 Representative Districts, which shall be composed of compact and contiguous territory, as nearly equal in population as practicable. Each Senatorial District shall elect one Senator, and each Representative District, one Representative. Unless absolutely necessary, no county, City, incorporated town, borough, township or ward shall be divided in forming either a Senatorial or Representative District.” (Article II, Section 16 of the Pennsylvania Constitution).

18. Other constitutional provisions are Article I, Section 1 of the Pennsylvania Constitution which reads as follows:

Section 1.

All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness.

19. Other constitutional provisions are Article I, Section 5 of the Pennsylvania Constitution which reads as follows:

Section 5.

*Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.*

20. Other constitutional provisions are Article I, Section 26 of the Pennsylvania Constitution which reads as follows:

Section 26.

*Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.*

**F.) RELEVANT PROCEDURAL BACKGROUND**

21. The 2011 LRC was constituted for the purpose of reapportioning the State Representative and State Senate Districts in the Commonwealth of Pennsylvania.
22. A Final Plan was adopted but was declared unconstitutional by this Honorable Court in Holt, supra.
23. The 2011 LRC then meet again in response to the Holt opinion.
24. On April 12, 2012, the LRC adopts a revised preliminary plan at a public administrative meeting.
25. On May 3, 2012, the LRC holds a public hearing in Harrisburg, PA. Appellant Angel Ortiz testifies at the hearing but is cut off by Chairman McEwen regarding his

testimony.

26. On May 7, 2012, the LRC holds a public hearing in Harrisburg, PA. 27.

27. No further public hearings are held either in Harrisburg or other areas of the Commonwealth.

28. No transcripts of the public hearings were made available to the public either before adoption of the Final Plan or to petitioners to date.

29. Faulty videos of the hearings are posted on the LRC's website.

30. No copies of additional comments received by the LRC are posted on the website or are made publicly available.

31. On June 7, 2012, maps for the Final Plan are distributed to those who ask for them. Some maps were not distributed to Petitioners until after the Final Plan vote adoption.

32. On June 8, 2012, LRC holds an executive session. It is unclear what the purpose of the executive session is as the reason is not posted on the website or the video.

33. During the June 8, 2012 public administrative meeting, the four commission members were asked for comments.

34. Representative Dermody asked that remarks and maps by Representative John Sabatina be entered into the record.

35. The remarks and maps were entered into the record as objections but no action was taken to even consider what Representative Sabatina presented.

36. No other public comment was allowed at the public administrative meeting.

37. At the June 8, 2012 meeting, the LRC adopted a revised Final Plan.

38. The Final Plan was approved by a vote of 4 to 1 with Commission Member Costa casting a no vote (See Exhibit A).

39. This Petition for Review is filed on or before the 30 day period allowed.

**G. GENERAL STATEMENT OF OBJECTIONS TO THE FINAL PLAN OF THE 2011 LRC**

40. All Petitioners object to the procedure used by the LRC to adopt the Final Plan.

41. Petitioners believe the plan as a whole did not address even the simplest of changes that were pointed out by this Honorable Court in Holt, supra.

42. The LRC decided to pick and choose which objections listed in Holt that they wished to address.

43. Further, the LRC did not address at all, according to the comments of a Commission Member, the Philadelphia situation and the Latino objections. (See video of June 8, 2012 meeting as no transcript is available)

44. Many Petitioners were deprived of their right to object to the Final Plan as it was distributed literally hours before the final vote and some did not receive it until after the vote.

45. Petitioners believe that the Final Plan is unconstitutional and violates Article II, Section 16 of the Pennsylvania Constitution.

46. Petitioners believe that the Final Plan and the actions of the LRC are in violation of this Honorable Court's opinion in Holt, supra.

47. This Honorable Court in Holt charged the LRC to "act in good faith and with fidelity" Holt, supra.

48. The rushed and secretive actions regarding the distribution of final maps and lack of opportunity to protest was not done in good faith by the LRC.

49. This Honorable Court stated that the Pennsylvania Constitution has multiple imperatives in redistricting, which must be balanced.

50. However, this Honorable Court in Holt stated:

"our own review of our governing precedent in deciding these appeals has led us to conclude that it should be recalibrated to allow the LRC more flexibility in formulating plans, and particularly with respect to population deviation. This adjustment should allow more breathing space for concerns of contiguity,



compactness, and the integrity of political subdivisions to be respected. Holt, supra.

51. Given this clear guidance, the LRC should have heeded the clear objections of those offering testimony to the LRC as well as the areas identified by this Honorable Court in Holt, supra. .

52. It was clear that minority interests, both in the Latino and African-American Communities, were not addressed at all.

53. As stated in testimony before the LRC on May 2, 2012, one state senate district (the Second in Philadelphia) was deliberately moved so as to dilute the Latino vote and to forego any opportunity for the first Pennsylvania Latino State Senator to be elected from the Latino community despite concrete evidence that population trends in this community are rising at higher levels compared to other racial groups and that defects existed in the collection of census data in these communities.

54. One could argue that this was isolated, however, that objection regarding the Reading Latino community was also raised before the LRC in testimony (See Exhibits F-H).

55. The LRC had enough time and flexibility to address such a large omission and concerns of a growing minority population in its quest for fairness.

56. The LRC continues to disregard dividing political subdivisions unless it is absolutely necessary.

57. For example, the Final Plan divides the 66 Wards of the City of Philadelphia across a number of General Assembly districts disregarding the integrity of the Ward and Division political subdivision system that has existed in the City and County of Philadelphia for in excess of 50 plus years.

58. Adoption of the Final Plan proposed by either Representative John Sabatina, Jr. and/or the comments for the Latino community as offered by Angel Ortiz would reduce the number of Philadelphia General Assembly districts that are split across political subdivisions of Wards and Divisions (See Exhibits B –J) .

59. There are alternatives that reduce the number but they were not considered by the LRC, such as the plans attached to this Petition as Exhibits B-J) .

60. The Final Plan disregards the rights of the elected committeepersons and ward leaders who, along with the community groups and voters, shape the political culture of each area of the City and County of Philadelphia.

61. The Final Plan did not provide any rationale as to why it is absolutely necessary to split Wards and Divisions into so many different General Assembly districts.

62. The Final Plan did not provide any rationale as to why it is absolutely necessary to split the Latino communities of different areas of the Commonwealth into districts where their voting power makes them a minority and they cannot be adequately represented.

63. The Final Plan did not address numerous objections that were raised to the Preliminary Plan.

64. The Final Plan did not allow any opportunity for objections and the exercise of due process before the LRC.

65. The Final Plan is not fair to all Pennsylvanians in that it divides communities and discourages voters from voting for candidates who represent their communities.

66. The Final Plan did not consider all objections and reconcile contiguity, compactness and political subdivision integrity.

67. The LRC did not act in a fair manner by keeping its work secretive and in violation of the Sunshine Act.

68. The LRC violated this Honorable Court's Order despite clear guidance from this Court.

69. The LRC did not address all the issues raised by prior Petitioners and noted in this Honorable Court's opinion in Holt, supra.

70. Several areas of the Commonwealth were still left in excessively divided subdivisions when the Court clearly allowed the LRC to adjust districts where before there were concerns of population equity.

71. This Honorable Court wisely decided that the importance of individual voters to form a community and engage in political pursuits with the members of that community formed an important bedrock of our political system and that excessive interference with those voter's right for no compelling reason was unconstitutional.

72. This Honorable Court charged the political leaders of the General Assembly to listen to the people of those communities and to form a plan that was responsive to their concerns.

73. These Petitioners contend that a Final Plan could be adopted with a statewide map which incorporates all the changes that have been attached to this Petition which would address the concerns of those who testified before the LRC and

those who were denied the opportunity.


74. The LRC failed in its mandate as they did not meet the constitutional standards and Petitioners are asking this Honorable Court to once again defend the constitutional principles and aid the voters of the Commonwealth of Pennsylvania in ordering the LRC produce a plan in accordance with the Pennsylvania Constitution or suffer this Honorable Court to conduct hearings and adopt a constitutional Final Plan.

**H.) RELIEF REQUESTED BY THE PETITIONERS**

The Petitioners, by their counsel, Margaret M. Stuski, Esquire, respectfully request this Honorable Court to declare the adoption of the Final Plan on June 8, 2012 unconstitutional and to remand the Final Plan to the LRC for further proceedings in accord with this Honorable Court's prior decision in Holt, supra and to further require the LRC to operate with due process and to produce a plan that complies with Article II, Section 16 of the Pennsylvania Constitution and for all the reasons set forth above. The Petitioners respectfully request oral argument.

Dated: July 9, 2012

Respectfully Submitted,



Margaret M. Stuski, Esquire  
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VERIFICATION

Angel Cruz hereby verify that the facts set forth in the attached  
Petition for Review are true and correct to the best of my knowledge, information and belief. I  
understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A.  
Section 4904 relating to unsworn falsification to authorities.

Date:

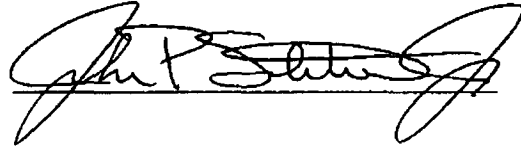
6/9/2012

Angel Cruz

**VERIFICATION**

I, John P. Sabatina Jr. , hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 7/9/12

A handwritten signature in black ink, appearing to read "John P. Sabatina Jr.", written over a horizontal line. The signature is stylized and cursive.

**VERIFICATION**

I, Rosita C. Youngblood, hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

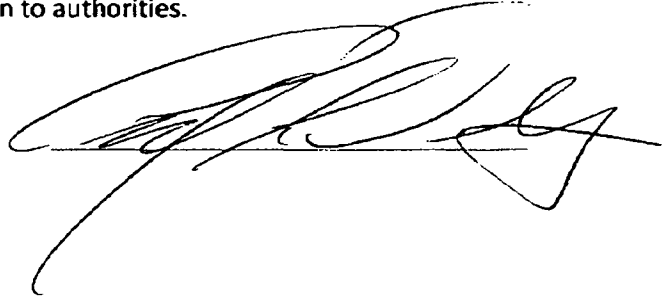
Date: Monday, July 9, 2012

A handwritten signature in black ink, appearing to read "Rosita C. Youngblood", written in a cursive style.

VERIFICATION

I, ANGEL LORTIZ, hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 6/9/2012





VERIFICATION

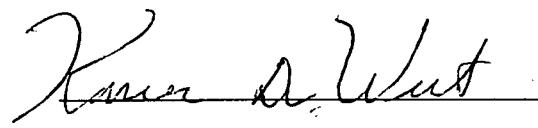
I, Brian Edelis, hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 7-9-12

Brian Edelis

Karen A. West, hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

Date: 7-8-2012

Handwritten signature of Karen A. West in cursive script, written over a horizontal line.

Joseph F West Sr. , hereby verify that the facts set forth in the attached Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S.A. Section 4904 relating to unsworn falsification to authorities.

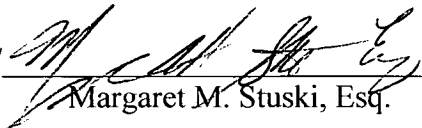
Date: 7-8-2012

A handwritten signature in cursive script, appearing to read "Joseph F West Sr.", written over a horizontal line.

VERIFICATION

I, Margaret M. Stusk, Esquire, verify that the statements made in this Petition for Review are true and correct to the best of my information and belief. This attorney verification is being made due to the unavailability of some of the Petitioners. I understand that false statements herein are made subject to the penalties of 18 Pa. Cons. Stat. § 4904 relating to unsworn falsification to authorities.

Date: July 9, 2012

/s/   
Margaret M. Stuski, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify I am this date serving a copy of the Petitioners' Petition for Review in the captioned matter upon the following persons in the manner indicated below, which service complies with the Pennsylvania Rules of Appellate Procedure.

Service by First Class Mail and/or electronic mail to:

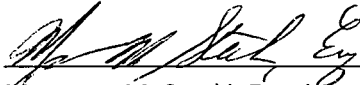
1.) Charles O'Conner, Jr., Executive Director  
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2.) Honorable Linda Kelly  
Attorney General of Pennsylvania  
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3.) Judge Joseph A. Del Sole  
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4.) Shauna Christine Clemmer, Esquire  
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Date: July 9, 2012

  
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**Received in Supreme Court**

**JUL 09 2012**

**Middle**