

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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League of Women Voters of Pennsylvania, <i>et al.</i> ,)	
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	<i>Petitioners,</i>)	
)	
)	No. 261 MD 2017
	v.)	
)	
The Commonwealth of Pennsylvania, <i>et al.</i> ,)	
)	
)	
	<i>Respondents.</i>)	
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[PROPOSED] ORDER

AND NOW, this day of , 2017, upon consideration of Respondent Governor Tom Wolf’s Preliminary Objections to the Petition for Review, and the Answer of Petitioners thereto, it is hereby **ORDERED** that the Preliminary Objections are **OVERRULED**.

BY THE COURT:

J.

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**PETITIONERS' ANSWER TO PRELIMINARY OBJECTIONS OF
RESPONDENT GOVERNOR TOM WOLF**

Petitioners submit this Answer to the Preliminary Objections of Respondent Governor Tom Wolf (“Governor Wolf”) and request that the Court overrule the Preliminary Objections. Petitioners’ grounds for opposing these Preliminary Objections are set forth below and will be addressed more fully during briefing.

Governor Wolf claims that he should be dismissed from this lawsuit because he had no role in enacting the 2011 Plan nor is he charged with any statutory or constitutional duties to enforce or administer the 2011 Plan. Preliminary Objections ¶¶ 4-5. But these Preliminary Objections gloss over two critical facts in the Petition that establish that Governor Wolf is a proper party to this lawsuit.

First, in Pennsylvania, boundaries for congressional districts are drawn by legislative action in a bill that proceeds through both chambers of the General Assembly and is signed into law by the Governor. Governor Wolf is named in this lawsuit in his official capacity because if as a result of this lawsuit the Court orders the General Assembly to enact a new plan, Governor Wolf or his successor would be responsible for signing the bill and carrying out the gubernatorial duties associated with congressional elections under a districting plan. *See* Petition for Review, ¶ 34. “Necessary parties are those whose presence . . . is essential if the Court is to resolve completely the controversy before it and render complete relief.” *York-Adams Cty. Constables Ass’n by Sponseller v. Court of Common Pleas of York Cty.*, 474 A.2d 79, 81 (Pa. Commw. 1984). Thus, Governor Wolf is a

necessary party for relief because he would be charged with signing any revised plan into law.

Second, Governor Wolf is responsible for the faithful execution of the 2011 Plan and likewise he or his successor would be responsible for the faithful execution of any revised plan ordered by the Court. Petition for Review, ¶ 35. Under the Pennsylvania constitution “supreme executive power shall be vested in the Governor, who shall take care that the laws be faithfully executed.” Pa. Const. Art. IV, § 2. And more specifically, under Pennsylvania law relating to congressional elections, following any such election the Governor is required to “issue certificates of election under the seal of the Commonwealth, duly signed by himself, and attested by the Secretary of the Commonwealth, and deliver the same to the candidates receiving the highest number of votes for the respective offices.” 25 P.S. § 3163. In addition, the Governor is directed to “transmit the returns of such election ... to the Speaker of the House of Representatives of the United States, in the case of the election of representatives in Congress.” *Id.*

Because Governor Wolf would be responsible for implementing relief as well as the faithful execution of any redistricting plan, he is a proper party to this lawsuit and his Preliminary Objections should be overruled.

Background

1. Admitted.

2. Admitted. Petitioners admit the averments in this paragraph but further respond by directing the Court to the Petition.

3. Admitted.

4. Admitted. By way of further response, Governor Wolf is named in his official capacity.

5. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further response, Governor Wolf is responsible for the faithful execution of the 2011 Plan pursuant to Pa. Const. Art. IV, § 2.

Moreover, under Pennsylvania law, “[u]pon completing the tabulation of any election for United States Senator or Representative in Congress, the Secretary of the Commonwealth shall lay the same before the Governor, who shall immediately issue certificates of election under the seal of the Commonwealth, duly signed by himself, and attested by the Secretary of the Commonwealth, and deliver the same to the candidates receiving the highest number of votes for the respective offices.

The Governor shall also transmit the returns of such election to the President of the United States Senate, in the case of the election of a United States Senator, and to

the Speaker of the House of Representatives of the United States, in the case of the election of representatives in Congress.” 25 P.S. § 3163

6. Admitted. By way of further response, Petitioners refer to paragraphs 34-35 of their Petition.

7. Denied. By way of further response, Respondents, including Governor Wolf or his successor, would be responsible for implementing the relief Petitioners seek. In Pennsylvania the boundaries for congressional districts are redrawn by legislative action in a bill that proceeds through both chambers of the General Assembly and is signed into law by the Governor. If as a result of this lawsuit the Court orders the General Assembly to enact a new plan, complete relief will require Governor Wolf or his successor to sign into law a redistricting bill that complies with the constitution.

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OF RESPONDENT GOVERNOR WOLF**

8. Paragraphs 1-7 above are incorporated by reference as if fully set forth herein.

9. Admitted.

10. Denied. By way of further response, Petitioners also allege that Respondents, including Governor Wolf, “are named in their official capacities as parties who would be responsible for implementing the relief Petitioners seek.” Petition for Review, ¶ 34.

11. Admitted in part; denied in part. Petitioners admit that they do not allege that Governor Wolf had any role in enacting the 2011 Plan. Petitioners deny the remaining averments in paragraph 11. By way of further response, Governor Wolf is responsible for the faithful execution of the 2011 Plan.

12. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied. By way of further response, “in Pennsylvania, the boundaries for congressional districts are redrawn every ten years after the national census by legislative action in a bill that proceeds through both chambers of the General Assembly and is signed into law by the Governor.” Respondents, including Governor Wolf, are “parties who would be responsible for implementing the relief Petitioners seek.” Petition for Review, ¶ 34.

13. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required.

14. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. By way of further answer, Respondents, including Governor Wolf, “are named in their official capacities as parties who would be responsible for implementing the relief Petitioners seek.” Petition for Review, ¶ 34.

15. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. By way of further answer, Governor Wolf would be responsible for implementing the relief Petitioners seek. Accordingly, Governor Wolf is a necessary party whose presence is essential if the Court is to render complete relief. *York-Adams Cty. Constables Ass'n by Sponseller v. Court of Common Pleas of York Cty.*, 474 A.2d 79, 81 (Pa. Commw. 1984).

16. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. By way of further answer, Governor Wolf would be responsible for implementing the relief Petitioners seek.

17. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. By way of further answer, Governor Wolf would be responsible for implementing the relief Petitioners seek.

18. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. By way of further answer, Governor Wolf would be responsible for implementing the relief Petitioners seek.

19. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required.

20. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required.

21. Denied. The averments in this paragraph are conclusions of law to which no responsive pleading is required. By way of further answer, Governor Wolf would be responsible for implementing the relief Petitioners seek.

WHEREFORE, Petitioners respectfully request that the Preliminary Objections of Governor Tom Wolf be overruled.

Dated: September 8, 2017

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Respectfully submitted,

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