

IN THE SUPREME COURT OF PENNSYLVANIA

No. 159 MM 2017

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, *et al.*,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA, *et al.*,

Respondents.

**PETITIONERS' APPLICATION FOR LEAVE TO FILE A REPLY IN
SUPPORT OF PROPOSED REMEDIAL PLANS**

Mary M. McKenzie
Attorney ID No. 47434
Michael Churchill
Attorney ID No. 4661
Benjamin D. Geffen
Attorney ID No. 310134
PUBLIC INTEREST LAW CENTER
1709 Benjamin Franklin Parkway
2nd Floor
Philadelphia, PA 19103
Telephone: +1 215.627.7100
mmckenzie@pubintl.org

David P. Gersch*
John A. Freedman*
R. Stanton Jones*
Elisabeth S. Theodore*
Daniel F. Jacobson*
John Robinson*
John Cella (Attorney ID No. 312131)
Andrew D. Bergman*
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
david.gersch@apks.com
* Admitted pro hac vice.

Petitioners request leave of the Court to file a Reply in response to Respondents Michael C. Turzai and Joseph B. Scarnati III's Brief in Opposition to Proposed Remedial Congressional Districting Maps. Petitioners' proposed Reply is attached as Exhibit A.

Dated: February 18, 2018

Respectfully submitted,

/s/ Benjamin D. Geffen

Mary M. McKenzie
Attorney ID No. 47434
Michael Churchill
Attorney ID No. 4661
Benjamin D. Geffen
Attorney ID No. 310134
PUBLIC INTEREST LAW CENTER
1709 Benjamin Franklin Parkway
2nd Floor
Philadelphia, PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
John A. Freedman*
R. Stanton Jones*
Elisabeth S. Theodore*
Daniel F. Jacobson*
John Robinson*
John Cella (Attorney ID No. 312131)
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
david.gersch@apks.com

Andrew D. Bergman*
ARNOLD & PORTER
KAYE SCHOLER LLP
Suite 1600
700 Louisiana Street
Houston, TX 77002-2755
Telephone: +1 713.576.2400
Fax: +1 713.576.2499

* Admitted pro hac vice.

Counsel for Petitioners

IN THE SUPREME COURT OF PENNSYLVANIA

League of Women Voters of Pennsylvania, <i>et al.</i> ,)	
)	
<i>Petitioners,</i>)	
)	
v.)	No. 159 MM 2017
)	
The Commonwealth of Pennsylvania, <i>et al.</i> ,)	
)	
)	
<i>Respondents.</i>)	
)	

[PROPOSED] ORDER

AND NOW, this _____ day of _____, 2018, upon consideration of Petitioners’ Application for Leave to File a Reply in Support of Proposed Remedial Plans, it is hereby ORDERED that the Application for Leave to File a Reply is GRANTED. The Prothonotary is directed to accept for filing the Reply that was submitted as Exhibit A to Petitioners’ Application.

BY THE COURT:

J.

Exhibit A

IN THE SUPREME COURT OF PENNSYLVANIA

No. 159 MM 2017

LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, *et al.*,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA, *et al.*,

Respondents.

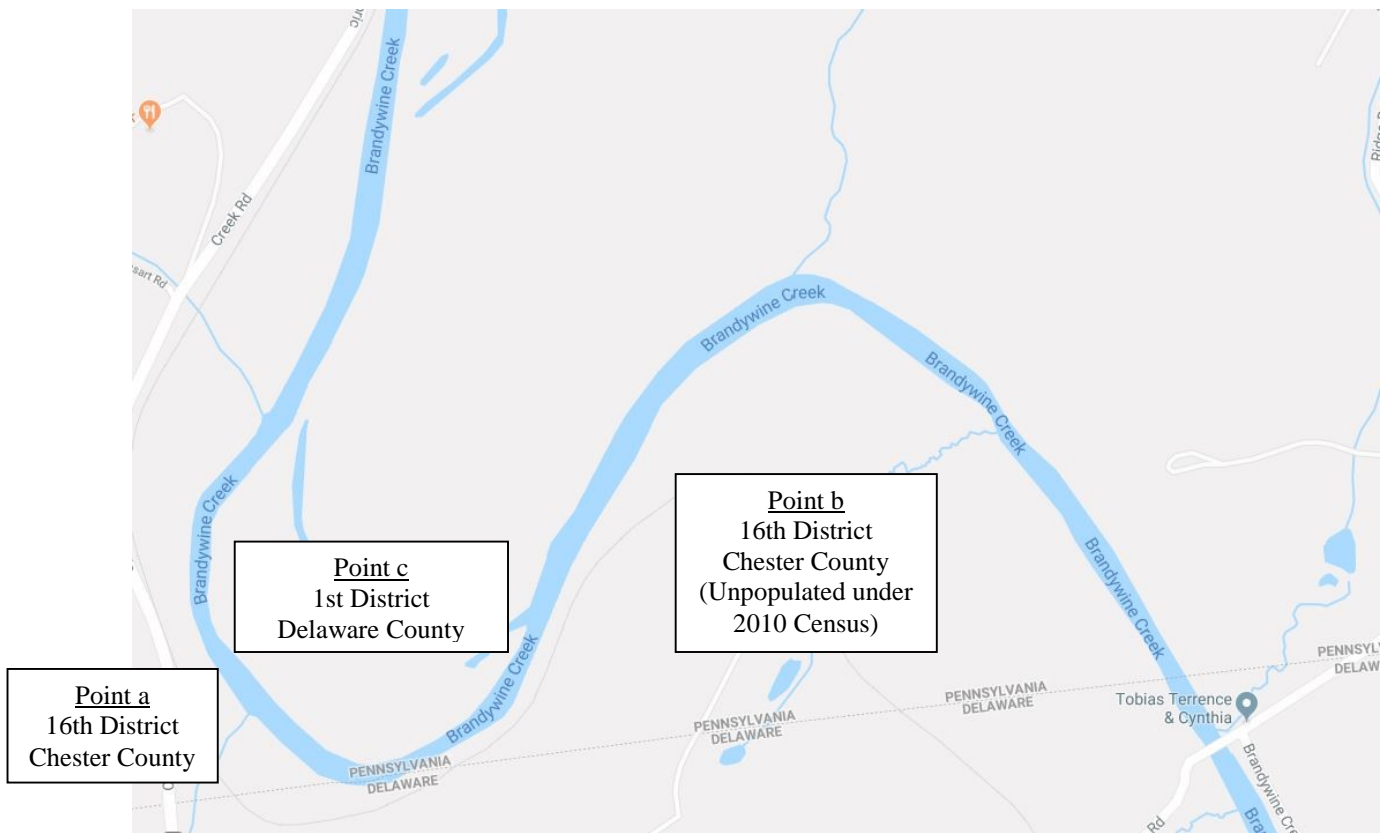
**PETITIONERS' REPLY IN SUPPORT OF PROPOSED REMEDIAL
PLANS**

Mary M. McKenzie
Attorney ID No. 47434
Michael Churchill
Attorney ID No. 4661
Benjamin D. Geffen
Attorney ID No. 310134
PUBLIC INTEREST LAW CENTER
1709 Benjamin Franklin Parkway
2nd Floor
Philadelphia, PA 19103
Telephone: +1 215.627.7100
mmckenzie@pubintl.org

David P. Gersch*
John A. Freedman*
R. Stanton Jones*
Elisabeth S. Theodore*
Daniel F. Jacobson*
John Robinson*
John Cella (Attorney ID No. 312131)
Andrew D. Bergman*
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
david.gersch@apks.com
* Admitted pro hac vice.

Petitioners submit this Reply in response to Legislative Respondents' Brief in Opposition filed on February 18, 2018. Specifically, Petitioners submit this reply solely to address Legislative Respondents' contention that Petitioners' Map A is not contiguous.

The relevant portion of Petitioners' Map A is depicted below.



The portions of the map designated as Point a and Point b are both within Chester County and in the proposed 16th District. Point c is in Delaware County and in the proposed 1st District. Legislative Respondents claim that Points a and b are not contiguous, but that is not so—they are connected through the Brandywine Creek in the lower-left portion of the above map. Moreover, Point b, which is a

single census block, has zero population according to the 2010 Census. (Point b corresponds to the block ID number 420293031001044 in the block assignment files that Petitioners provided to the Court.)

It is well established that contiguity can be established through water in appropriate circumstances. *See, e.g., Favors v. Cuomo*, No. 11-CV-5632 DLI RR, 2012 WL 928216, at *11 (E.D.N.Y. Mar. 12, 2012). Such is appropriate here, since Point b is not connected to *any* other portion of Pennsylvania except through the Brandywine Creek. In other words, it is impossible to create a contiguous district that includes Point b unless contiguity is established through water. If Petitioners' Map A is not contiguous, then neither Legislative Respondents' map nor any other districting of Pennsylvania is either.

Thus, Point b must be paired with another portion of Pennsylvania through the Brandywine Creek, and pairing it with Point a is appropriate given that they are both in Chester County. Nonetheless, if this Court perceives this to be a problem, it can of course reassign the unpopulated Point b to be in the 1st District, or make any other adjustments the Court deems appropriate.

Dated: February 18, 2018

Respectfully submitted,

/s/ Benjamin D. Geffen

Mary M. McKenzie
Attorney ID No. 47434
Michael Churchill
Attorney ID No. 4661
Benjamin D. Geffen
Attorney ID No. 310134
PUBLIC INTEREST LAW CENTER
1709 Benjamin Franklin Parkway
2nd Floor
Philadelphia, PA 19103
Telephone: +1 215.627.7100
Facsimile: +1 215.627.3183
mmckenzie@pubintl.org

David P. Gersch*
John A. Freedman*
R. Stanton Jones*
Elisabeth S. Theodore*
Daniel F. Jacobson*
John Robinson*
John Cella (Attorney ID No. 312131)
ARNOLD & PORTER
KAYE SCHOLER LLP
601 Massachusetts Ave., NW
Washington, DC 20001-3743
Telephone: +1 202.942.5000
Facsimile: +1 202.942.5999
david.gersch@apks.com

Andrew D. Bergman*
ARNOLD & PORTER
KAYE SCHOLER LLP
Suite 1600
700 Louisiana Street
Houston, TX 77002-2755
Telephone: +1 713.576.2400
Fax: +1 713.576.2499

* Admitted pro hac vice.

Counsel for Petitioners

CERTIFICATION OF COMPLIANCE WITH PUBLIC ACCESS POLICY

I hereby certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Record of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

I certify that the preceding Application and Brief do not contain confidential information.

/s/ Benjamin D. Geffen
Benjamin D. Geffen

Dated: February 18, 2018