

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

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Cassandra Adams Jones, <i>et al.</i> ,	)	
	)	
<i>Petitioners,</i>	)	
	)	<b>No. 717 MD 2018</b>
v.	)	
	)	
Kathy Boockvar, <i>et al.</i> ,	)	
	)	
<i>Respondents.</i>	)	
_____	)	

**[PROPOSED] ORDER**

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 2019, upon consideration of the Preliminary Objections to the Petition for Review of Respondents Robert Torres, in his capacity as Secretary of the Commonwealth of Pennsylvania, Jonathan Marks, in his capacity as Commissioner of the Bureau of Commissions, Elections, and Legislation of the Pennsylvania Department of State, and Thomas Wolf, in his capacity as Governor of Pennsylvania, the Answer of Petitioners, and all briefs filed in support of or opposition thereto, it is hereby **ORDERED** that the Preliminary Objections are **OVERRULED**.

**BY THE COURT:**

\_\_\_\_\_  
, Judge

Molly Tack-Hooper  
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P.O. Box 60173  
Philadelphia, PA 19102

Counsel for Petitioners;  
additional counsel appear on the signature page

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**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

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Cassandra Adams Jones, *et al.*,

*Petitioners,*

v.

Kathy Boockvar, *et al.*,

*Respondents.*

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) **No. 717 MD 2018**  
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**PETITIONERS' ANSWER TO PRELIMINARY OBJECTIONS OF  
RESPONDENTS GOVERNOR TOM WOLF, FORMER ACTING  
SECRETARY TORRES, AND COMMISSIONER MARKS**

Petitioners submit this Answer to the Preliminary Objections to the Petition for Review (“Petition”) filed by Respondents Robert Torres,<sup>1</sup> in his capacity as Secretary of the Commonwealth of Pennsylvania, Jonathan Marks, in his capacity as Commissioner of the Bureau of Commissions, Elections, and Legislation of the Pennsylvania Department of State, and Thomas Wolf, in his capacity as Governor

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<sup>1</sup> Kathy Boockvar has replaced Robert Torres as Acting Secretary of the Commonwealth of Pennsylvania.

of Pennsylvania (collectively, the “Executive Respondents”), 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.

### **Background**

1. Admitted.
2. Denied. Petitioners served the Petition, which on its face alleges 25 P.S. § 3146.6(a) is unconstitutional, on the Office of Attorney General on November 13, 2018, as documented by the Declaration of Service filed on February 12, 2019. The averments in the footnote to this paragraph are conclusions of law to which no responsive pleading is required. To the extent a response is required, the footnote to this paragraph is denied.
3. Admitted that Petitioners include the ACLU of Pennsylvania and nine individual voters.
4. Admitted as to footnote 2, insofar as Christopher Jones is identified in paragraph 54 of the Petition, and the constitutional challenges asserted in the Petition are applicable to Christopher Jones. Denied insofar as the averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

5. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

6. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

7. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

8. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

9. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

10. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

11. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

12. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

13. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

14. Denied. The averments in this paragraph, including the footnote, purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

15. Admitted.

16. Admitted.

17. 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, among other responsibilities, Governor Wolf is responsible for the faithful execution of the Election Code pursuant to Pa. Const. Art. IV, § 2. Moreover, the Governor must issue certifications of election signed by himself and deliver them to the highest vote getters for the respective offices, and

“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.

18. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

19. Denied. The averments in this paragraph, including the footnote, purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

**ANSWER TO PRELIMINARY OBJECTION I OF EXECUTIVE  
RESPONDENTS**

20. Paragraphs 1 – 19 above are incorporated by reference as if fully set forth herein.

21. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

22. 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 admitted.

23. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

24. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

25. Admitted in part; denied in part. Petitioners admit that they have not joined county elections officials. Petitioners deny that it is necessary to do so and deny the remainder of this paragraph. By way of further response, Petitioners seek a declaration that the Friday absentee ballot return deadline is unconstitutional, and for Respondents to establish and cause to be followed a new absentee ballot return deadline that complies with the Pennsylvania and United States Constitutions.

26. The averments in this paragraph, including the footnote, are conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied.

27. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

28. The averments in this paragraph, including the footnote, are conclusions of law to which no responsive pleading is required. To the extent a response is required, this paragraph is denied.

29. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the First Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

**ANSWER TO PRELIMINARY OBJECTION II OF EXECUTIVE  
RESPONDENTS**

30. Paragraphs 1 – 29 above are incorporated by reference as if fully set forth herein.

31. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

32. 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.



33. 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.

34. 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.

35. Denied. There are nine individual Petitioners and one organizational Petitioner.

36. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

37. 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.

38. 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. The averments in the footnote to this paragraph purport to summarize the Petition and are therefore denied. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

WHEREFORE, Petitioners respectfully request that the Court overrule the Second Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

**ANSWER TO PRELIMINARY OBJECTION III OF EXECUTIVE  
RESPONDENTS**

39. Paragraphs 1 – 38 above are incorporated by reference as if fully set forth herein.

40. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

41. 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.

42. 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.

43. 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.

44. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

45. Admitted insofar as the next opportunity to vote in a statewide primary election will be in May 2019. Denied insofar as there will be special elections in portions of the Commonwealth before May 2019.

46. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

47. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

48. 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.

49. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the Third Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

**ANSWER TO PRELIMINARY OBJECTION IV OF EXECUTIVE RESPONDENTS**

50. Paragraphs 1 – 49 above are incorporated by reference as if fully set forth herein.

51. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

52. 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.

53. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the Fourth Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

**ANSWER TO PRELIMINARY OBJECTION V OF EXECUTIVE  
RESPONDENTS**

54. Paragraphs 1 – 53 above are incorporated by reference as if fully set forth herein.

55. Admitted.

56. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

57. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

58. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

59. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

60. 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.

61. 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.

62. 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.

63. 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.

64. 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.

65. 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.

66. 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.

67. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

68. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the Fifth Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

**ANSWER TO PRELIMINARY OBJECTION VI OF EXECUTIVE  
RESPONDENTS**

69. Paragraphs 1 – 68 above are incorporated by reference as if fully set forth herein.

70. Admitted insofar as several Petitioners assert that they were prevented from casting an absentee ballot that was counted in the November 2018 general election. Denied insofar as the averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

71. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

72. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

73. 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.

74. 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.

75. 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.

76. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the Sixth Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.



**ANSWER TO PRELIMINARY OBJECTION VII OF EXECUTIVE  
RESPONDENTS**

77. Paragraphs 1 – 76 above are incorporated by reference as if fully set forth herein.

78. Admitted.

79. 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.

80. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the Seventh Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

**ANSWER TO PRELIMINARY OBJECTION VIII OF EXECUTIVE  
RESPONDENTS**

81. Paragraphs 1 – 80 above are incorporated by reference as if fully set forth herein.

82. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

83. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

84. 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.

85. 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.

86. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the Eighth Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

**ANSWER TO PRELIMINARY OBJECTION IX OF EXECUTIVE  
RESPONDENTS**

87. Paragraphs 1 – 86 above are incorporated by reference as if fully set forth herein.

88. Admitted.

89. Admitted.

90. 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.

91. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

92. 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.

93. Denied. The averments in this paragraph purport to summarize the Petition. Petitioners refer to the Petition for its full and complete contents and deny anything inconsistent therewith.

94. 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.

95. 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.

WHEREFORE, Petitioners respectfully request that the Court overrule the Ninth Preliminary Objection to the Petition for Review filed by Respondents Torres, Marks and Wolf.

Dated: February 13, 2019

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Respectfully submitted,

/s/ Benjamin D. Geffen

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