

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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No. 517 M.D. 2016

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RICHARD A. SPRAGUE, HON. RONALD D. CASTILLE AND  
HON. STEPHEN ZAPPALA, SR.,

Petitioners,

v.

PEDRO A. CORTÉS, SECRETARY OF THE COMMONWEALTH,  
IN HIS OFFICIAL CAPACITY,

Respondent.

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**BRIEF OF SECRETARY OF THE COMMONWEALTH PEDRO A.  
CORTÉS IN SUPPORT OF APPLICATION FOR SUMMARY RELIEF**

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## **STATEMENT OF JURISDICTION**

This Court has jurisdiction over original actions against the Commonwealth and its agencies pursuant to Section 761 of the Judicial Code, 42 Pa.C.S. § 761. However, as explained *infra*, the Pennsylvania Supreme Court's final order dated September 2, 2016 in *Sprague v. Cortes (Sprague II)* has divested this Court of jurisdiction to grant Petitioners the relief that they seek. *See* Order at 1, *Sprague v. Cortés (Sprague II)*, No. 75 MAP 2016, (Pa. Sept. 2, 2016) (per curiam).

## **STATEMENT OF THE SCOPE AND STANDARD OF REVIEW**

This case concerns the wording of the ballot question related to the mandatory judicial retirement age. This Court's standard of review is *de novo* and the scope of review is plenary. *See Pa. State Ass'n of Jury Comm'rs v. Com.*, 78 A.3d 1020, 1028 (Pa. 2013).

Pennsylvania Rule of Appellate Procedure 1532(b) provides that “[a]t any time after the filing of a petition for review in an . . . original jurisdiction matter[,] the court may on application enter judgment if the right of the applicant thereto is clear.” Pa. R.A.P. 1532(b). In evaluating a request for summary relief, the Court applies the same standards that apply on summary judgment. *See Myers v. Com.*, 128 A.3d 846, 849 (Pa. Cmwlth. 2015). “Summary judgment is appropriate when, after review of the record in the light most favorable to the non-moving party, it is determined that no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.” *Carbo v. Redstone Twp.*, 960 A.2d 899, 901 n.4 (Pa. Cmwlth. 2008) (citation omitted).

## STATEMENT OF THE QUESTIONS INVOLVED

I. Whether Petitioners' request for relief is completely barred by the doctrines of *res judicata* and collateral estoppel?

*Suggested answer:* Yes.

II. Whether Petitioners lack standing to challenge the wording of the ballot question?

*Suggested answer:* Yes.

III. Whether Petitioners' request for relief violates Article V, Section 2 of the Pennsylvania Constitution?

*Suggested answer:* Yes.

IV. Whether Petitioners' request for relief is barred by the "law of the case" doctrine?

*Suggested answer:* Yes.

V. Whether Petitioners fail to assert a justiciable controversy where the Secretary of the Commonwealth drafted, and the Office of Attorney General approved, a ballot question that is fair, accurate, and clearly apprises voters of the question or issue to be voted on, in compliance with the Pennsylvania Constitution and the Election Code, and consistent with the ballot question directed by the General Assembly?

*Suggested answer:* Yes.

VI. Whether this Court should decline to exercise its plenary powers to alter language in the proposed ballot question, and thereby afford deference to the Secretary of the Commonwealth and the General Assembly, who are not acting *ultra vires*, but are acting within the powers allocated to them by the Pennsylvania Constitution?

*Suggested answer:* Yes.

VII. Whether Petitioners' request for relief should be denied because of the doctrine of laches?

*Suggested answer:* Yes.

VIII. Whether Petitioners are entitled to injunctive relief?

*Suggested Answer:* No.

## **STATEMENT OF THE CASE**

### **I. The Mandatory Judicial Retirement Age**

In its current form, Article V, Section 16(b) of the Pennsylvania Constitution requires Pennsylvania jurists to retire on the last day of the calendar year in which the jurist turns 70. *See* Pa. Const. art. V, § 16(b). As originally adopted in 1968, however, Article V, Section 16(b) of the Pennsylvania Constitution required jurists to retire *immediately* “upon attaining the age of [70] years.” Pa. Const. art. V, § 16(b) (1968). The electorate voted to amend the language in 2001 to “specify [the existing requirement] that retirement must occur on December 31<sup>st</sup> of the year the jurist turns 70.” *Driscoll v. Corbett*, 69 A.3d 197, 200 (Pa. 2013) (citing Pa. Const. art. V, § 16(b) (2001)); *see also* Ex. A to Pet’rs’ Br. at p. 53.

### **II. The Joint Resolutions and the Original Ballot Question**

On October 22, 2013, the Pennsylvania General Assembly, acting pursuant to its authority in Article XI of the Pennsylvania Constitution, passed H.B. 79, a joint resolution seeking to amend Article V, Section 16(b) of the Pennsylvania Constitution. *See* Ex. 1 (H.B. 79, 2013 Reg. Sess. (Pa. 2013)) & Ex. 2 (H.B. 79 Legislative History). The amendment proposed raising the mandatory retirement age of jurists to age 75. *See* Ex. 1. In accordance with the requirements of Article XI, Section 1 of the Pennsylvania Constitution, the Secretary of the Commonwealth published notice of the proposed constitutional amendment in

newspapers throughout the Commonwealth in the months before the General Election on November 4, 2014. Ex. 5 (Mark Aff.) at ¶ 6, p. 1.

A little more than two years later, on November 17, 2015, the next consecutive session of the General Assembly passed H.B. 90, a joint resolution identical to the preceding legislative session's H.B. 79. *See* Ex. 3 (H.B. 90, 2015 Reg. Sess. (Pa. 2015)) & Ex. 4 (H.B. 90 Legislative History). Pursuant to the Secretary's duties imposed on him by the Election Code, the Secretary and the Department of State drafted, and the Office of Attorney General ("OAG") approved, the language for the ballot question. Ex. 5 (Marks Aff.) at ¶ 8, p. 2. The ballot question as originally drafted stated as follows:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?

*See* Ex. 6 (Ballot Question) & Ex. 7 (Advertisement). OAG composed a "Plain English Statement" analyzing the purpose, limitations and effects of the proposed amendment. *See* Ex. 6 (Plain English Statement) & Ex. 7. In addition to the text of the proposed amendment, the Secretary published notice of the ballot question and the Plain English Statement in newspapers across the Commonwealth in January, February and March 2016. Ex. 5 (Mark Aff.) at ¶ 10, p. 2. This proposed

amendment on judicial retirement age was designated Proposed Constitutional Amendment 1. *See* Ex. 7. Pursuant to the explicit text in the authorizing joint resolutions, the ballot question was scheduled to be placed on the ballot for the primary election on April 26, 2016.<sup>1</sup> *See* Ex. 1 & Ex. 3.

### III. The First Emergency Application for Extraordinary Relief

Certain members of the Republican leadership in the State Senate filed an Emergency Application for Relief in the Pennsylvania Supreme Court on March 6, 2016, objecting to the ballot question drafted by the Secretary and seeking a modification. *See* Ex. G to Pet’rs’ Compl. On March 22, 2016, the parties to that action<sup>2</sup> filed a Joint Application for Emergency Relief and asked the Supreme Court to approve a stipulated resolution that would have, *inter alia*, moved the ballot question to the 2016 general election in November with revised language.<sup>3</sup>

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<sup>1</sup> Specifically, the joint resolutions provided that the Secretary “shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the ***first primary, general or municipal election*** which meets the requirements of and is in conformance with section 1 of Article XI of the Constitutional of Pennsylvania and ***which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.***” *See* Ex. 1 & Ex. 3 (emphasis added). Section 605 of the Election Code, 25 P.S. § 2755, requires proposed constitutional amendments to be submitted to the electorate on a November ballot. However, that section of the Election Code begins with qualifying language that states “[u]nless the General Assembly shall prescribe otherwise with respect to . . . the manner and time of submitting to the qualified electors of the State any proposed amendment or amendments to the Constitution . . . .” *Id.*

<sup>2</sup> As of that date, the parties to the action were the Pennsylvania Senate Majority Caucus, the President Pro Tempore and the Majority Leader of the Pennsylvania Senate, the Secretary, the Pennsylvania Department of State, and the OAG.

<sup>3</sup> The Secretary and the Department of State agreed to participate in the Joint Application for Emergency Relief in order to bring certainty to a process that had been rendered uncertain by the

*See* Ex. I to Pet'rs' Compl. On March 23, 2016, the Supreme Court denied both the Joint Application for Emergency Relief and the Emergency Application for Extraordinary Relief. *See* Order, *In re: Proposed Constitutional Amendment 1, Ballot Question*, No. 29 MM 2016 (Pa. Mar. 23, 2016) (per curiam).

#### **IV. The General Assembly's Passage of H.R. 783**

On April 6, 2016, the House of Representatives passed H.R. 783, labeled a concurrent resolution. *See* Ex. 9 (H.R. 783 Legislative History). Among other things, H.R. 783 directed the Secretary to remove the ballot question from the primary ballot on April 26, 2016, and place a revised version of the ballot question on the general election ballot on November 8, 2016, as follows:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75 years?

Ex. 8 (H.R. 783, 2015 Reg. Sess. (Pa. 2015)).

The Senate passed H.R. 783 on April 11, 2016. *See* Ex. 9. H.R. 783 does not by its terms call for presentment to the Governor for approval or veto (rather, it calls for transmission directly to the Secretary); it was not, in fact, presented to the Governor. *See* Ex. 8 & Ex. 9.

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Application for Extraordinary Relief. Had the Supreme Court approved the stipulated resolution, the ballot question would have been moved to the 2016 general election ballot, with new language, under the auspices of a court order and in time for the counties to remove the question from the April 2016 ballot. As noted in text, the Supreme Court denied the Joint Application.

## V. The Litigation in Response to H.R. 783

On April 14, 2016, less than two weeks prior to the then-pending primary election on April 26, 2016, the Honorable Jay Costa, the Honorable Daylin Leach, and the Honorable Christine M. Tartaglione (“*Costa* Petitioners”), duly-elected members of the Pennsylvania Senate, filed a Petition for Review in the Nature of a Complaint for Declaratory and Equitable Relief, which alleged violations of the state constitution and statutes, and the anticipated violation of certain absentee voters’ rights to vote, and sought injunctive relief. See Pet., *Costa v. Cortés*, No. 251 M.D. 2016 (Pa. Cmwlth. Apr. 14, 2016). H.R. 783 was the basis for the *Costa* Petitioners’ complaints. The *Costa* Petitioners also filed an application for special relief requesting a preliminarily injunction to enjoin the Secretary from implementing H.R. 783. See Appl., *Costa*, No. 251 M.D. 2016 (Pa. Cmwlth. Apr. 15, 2016).

This Court held a hearing on the *Costa* Petitioners’ injunctive request on April 19, 2016, and issued a decision the following day, on April 20, 2016. See Slip Op., *Costa*, No. 251 M.D. 2016 (Pa. Cmwlth. Apr. 20, 2016 (Brobson, J.)) (as amended).<sup>4</sup> The Honorable P. Kevin Brobson of the this Court denied the *Costa*

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<sup>4</sup> On April 28, 2016, Judge Brobson amended the Memorandum Opinion, but he did not alter the Order of April 20, 2016. On July 7, 2016, this Court issued an Order re-designating the Memorandum Opinion as a published Opinion. See Order, *Costa*, No. 251 M.D. 2016 (Pa. Cmwlth. July 7, 2016) (per curiam).

Petitioners' Application for Summary Relief in the Nature of a Preliminary Injunction as part of his April 20, 2016 ruling. *Id.*

Thereafter, the parties in the case briefed the legal issues, and a panel of this Court heard oral argument on the cross-applications for summary relief on June 9, 2016.

On July 6, 2016, this Court issued an Order and Opinion granting the Senate Republicans' application for summary relief, and denying *Costa* Petitioners' application. The court held that H.R. 783 is a valid exercise of the General Assembly's "time" and "manner" powers under Article XI, Section 1 of the Pennsylvania Constitution. *See Costa v. Cortés*, 143 A.3d 1004, 1013 (Pa. Cmwlth. 2016).

## **VI. The 2016 General Primary Election**

The General Primary election was held on April 26, 2016. In conformity with Judge Brobson's Order of April 20, 2016, the Secretary removed the ballot question from the official ballot certification, and efforts were made at the polling places to inform voters of its status. Ex. 5 (Marks Aff.) at ¶ 12, p. 2. However, Judge Brobson's ruling came just six days before the primary election on April 26, 2016, and the county boards of election could not physically remove the ballot question from the ballot. Pet'rs' Compl. at ¶ 54. Accordingly, voters were presented with ballot materials containing the original language for the ballot

question. Sec’y’s Answer at ¶ 55. Pursuant to H.R. 783, which Judge Brobson declined to enjoin, the Secretary did not conduct an official tabulation, computation, or canvass of the votes for the ballot question. Ex. 5 (Marks Aff.) at ¶ 13, p. 2.

## **VII. The Pre-Election Advertisements and the Revised Ballot Question**

For the ballot question to proceed on the 2016 general election ballot, the first round of advertisements had to be published no later than August 8, 2016. Ex. 5 (Marks Aff.) at ¶ 19, p. 3. In order to meet that deadline, the Secretary had to reserve advertising space in newspapers, and provide the text of the advertisements, *including the language of the ballot question*, no later than July 27, 2016. Ex. 5 (Marks Aff.) at ¶ 20, p. 3. Thus, in late May, given uncertainty concerning both the nature and timing of future court rulings in the *Costa* case, and in order to resolve that uncertainty in time for the pre-election advertising that had to be arranged in July 2016 and begin in August 2016, the Secretary decided to voluntarily amend his wording of the ballot question to conform to the text of the ballot question contained in H.R. 783. Ex. 5 (Marks Aff.) at ¶ 14, p. 2. The Secretary submitted the revised ballot question to OAG for approval. Ex. 5 (Marks Aff.) at ¶ 14, p. 2. On June 14, 2016, Solicitor General Bruce L. Castor, Jr., on behalf of OAG, approved the form of the ballot question, as set forth in H.R. 783,

and provided a copy of the Plain English Statement, which he noted was the same as the original Plain English Statement. Ex. 5 (Marks Aff.) at ¶ 16, p. 2.

The Secretary published the first round of advertisements in newspapers between August 2, 2016 and August 6, 2016, and the second round of advertisements between September 2, 2016 and September 8, 2016. Ex. 5 (Marks Aff.) at ¶¶ 21-22, p. 3. The third round of advertisements must be accomplished no later than October 8, 2016. *See* Pa. Const. art. XI, § 1. The final round of advertisements are scheduled to run between October 1, 2016 and October 8, 2016. Ex. 5 (Marks Aff.) at ¶ 23, p. 3. The deadline to provide or alter the text of the October advertisement is September 26, 2016. Ex. 5 (Marks Aff.) at ¶ 23, p. 3.

### **VIII. The 2016 General Election**

The ballot question will be submitted to the electorate on the ballot for the general election on November 8, 2016. *See* Ex. 5 (Marks Aff.) at ¶ 25, p. 3 & Ex. 8. The county boards of election were required to transmit absentee ballots and balloting materials to all covered uniformed-service and overseas voters in extremely remote and isolated areas who submitted an application no later than August 30, 2016, and to all other covered uniformed-service and overseas voters who submitted an application no later than September 23, 2016. *See* 25 P.S. § 3146.5(a) and 25 Pa.C.S. §§ 3508(a)(1) & (b)(1).

A total of 13,209 military-overseas absentee ballots have been transmitted thus far to uniformed-service and overseas voters, and 149 of those voted ballots have been returned. Ex. 5 (Marks Aff.) at ¶¶ 27-28, p. 3. The military-overseas ballots contain the ballot question in its current form. Ex. 5 (Marks Aff.) at ¶ 29, p. 4.

In terms of civilian absentee ballots, provisional ballots and Election Day ballots, the county boards of election require at least five or six weeks, if not more, prior to Election Day to finalize civilian absentee and Election Day balloting materials to ensure adequate time to prepare, print and proofread the ballots, and to conduct pre-election testing of voting equipment. Ex. 5 (Marks Aff.) at ¶ 30, p. 4. The majority of the county boards of elections will finalize their civilian absentee and Election Day balloting materials during the week of September 26-30, 2016 or the week of October 3-7, 2016. Ex. 5 (Marks Aff.) at ¶ 31, p. 4.

**IX. Petitioners' Initial Complaint and The Supreme Court's Exercise of Extraordinary Jurisdiction (*Sprague I and II*)**

On July 21, 2016, Petitioners filed a Complaint for Declaratory and Injunctive Relief in this Court's original jurisdiction captioned *Sprague v. Cortés*, No. 409 M.D. 2016 (*Sprague I*). See Ex. 10 (*Sprague I* Compl.). Petitioners sought one count of declaratory and injunctive relief on the basis that the ballot question relating to the judicial retirement age, as required by H.R. 783, and

adopted by the Secretary, is unlawfully misleading because it advises voters only of the proposed amended constitutional language and does not inform voters that the existing mandatory judicial retirement age is 70. Ex. 10. Petitioners requested a declaration that the ballot question violates Pennsylvania law, and sought to enjoin the Secretary from presenting the question on the 2016 general election ballot. Ex. 10.

On the same day they filed their complaint, Petitioners also filed an Emergency Application for Extraordinary Relief, asking the Supreme Court to assume plenary jurisdiction over the matter. *See* Ex. 11 (*Sprague II* Pet'rs' Emergency Appl.). The Secretary filed an answer to the Emergency Application, and agreed that the Supreme Court should exercise extraordinary jurisdiction so as to finally put the matter to rest. *See* Ex. P to Pet'rs' Compl. The Secretary disagreed with the merits of Petitioners' claims and requested relief. *See* Ex. P to Pet'rs' Compl. The Supreme Court granted Petitioners' Emergency Application for Extraordinary Relief on July 27, 2016. *See* Ex. Q to Pet'rs' Compl. Because there were no material issues of fact in dispute, both parties filed applications for summary relief. *See* Ex. S & Ex. W to Pet'rs' Compl.

Thereafter, on September 2, 2016, the Supreme Court entered a final unanimous Per Curiam order stating that because the Court was evenly divided, it lacked authority to grant Petitioners' challenge to the ballot question, and held that

“the *status quo* of the matter prior to the filing of the lawsuit is maintained.” Order at 1, *Sprague v. Cortés (Sprague II)*, No. 75 MAP 2016, (Pa. Sept. 2, 2016) (per curiam), attached as Ex. 12. Petitioners filed a motion for reconsideration of the Per Curiam order and requested the Supreme Court to remand the matter to this Court. See Ex. CC to Pet’rs’ Compl. The Supreme Court, however, by Per Curiam order dated September 16, 2016, denied Petitioners’ application for reconsideration, and concluded that “there is no longer an action pending in the lower court that requires further adjudication.” Order at 4, *Sprague II*, (Pa. Sept. 16, 2016) (per curiam), attached as Ex. 13.

#### **X. The Present Challenge to the Wording of the Ballot Question**

Despite their failed request for remand, Petitioners, in an apparent attempt to circumvent the constitutional order of judicial hierarchy, have now filed a new action in this Court captioned *Sprague v. Cortés*, No. 517 M.D. 2016 (*Sprague III*). The new action filed on September 19, 2016, is brought by the exact same petitioners as in *Sprague I* and *Sprague II*, raises the exact same issues, and contains the exact same cause of action that was adjudicated in *Sprague II*. Cf. Ex. 10, Ex. 11 & Pet’rs’ Compl.

## SUMMARY OF ARGUMENT

At the outset, it should be noted that Petitioners' claims are completely barred by the doctrines of *res judicata* and collateral estoppel. The issues, causes of action, persons and parties to the action, and the qualities and capacities of the litigants from *Sprague II* are all present here in *Sprague III*. This Court must reject Petitioners' attempt to litigate this case for a third time. To accept Petitioners' complaint would not only violate the doctrines of *res judicata* and collateral estoppel, but also run afoul of the plain language of Article V, Section 2 of the Pennsylvania Constitution. Moreover, the law of the case doctrine bars Petitioners from litigating this case anew, wherein the Supreme Court of Pennsylvania adjudicated this matter and ordered the *status quo*, with the practical effect of denying Petitioners' request for relief.

Even if Petitioners were not barred from re-litigating this matter, Petitioners lack standing to bring the challenge in the first instance. Petitioners are not individually harmed or injured by the wording of the ballot question because none of them are sitting Supreme Court justices, judges, or magisterial district judges. Moreover, Petitioners are not injured by the wording of the ballot question because as evidenced by the Complaint, they fully comprehend the meaning of the ballot question. Finally, Petitioners' interests are not aligned to the class they purport to

represent, which is a class of voters they contend are misinformed and uneducated. For these reasons, the Court should not even consider this suit.

If the Court decides to peer into the merits of Petitioners' claims, it will see that they are baseless. *First*, the ballot question as formulated by H.R. 783, adopted by the Secretary and approved by the Office of Attorney General is fair, accurate, and clearly apprises voters of the question or issue to be voted on. The ballot question meets all the requirements in the law and should be used in November. In fact, Petitioners' argument that the current ballot question is misleading is belied by their own ability to clearly comprehend the ballot question and articulate the proposed change to the Constitution's mandatory judicial retirement age. To the extent Petitioners' contentions have any merit—which they do not—any defect is wholly cured by the newspaper publications required under Article XI, Section 1 of the Pennsylvania Constitution, and the notices required to be posted in the polling place.

*Second*, the Secretary and the General Assembly are entitled to act free of interference under the political question doctrine. Both the executive and the legislative branches of government acted within the power conferred upon them by the Pennsylvania Constitution. As a consequence of that authority, the Secretary understood that there were many different ways to frame a ballot question, and so he ultimately adopted the language of the ballot question as set

forth in H.R. 783, which meets the legal requirements of being fair, accurate and clear.

*Finally*, the principle of laches bars Petitioners' request for relief. In contrast to Petitioners' assertions, Petitioners have not and will not suffer immediate or irreparable harm. Rather, Petitioner's requested relief, if granted, would irreparably harm the interests of voters throughout the Commonwealth. The proposed amendment, including the ballot question, has already been advertised in accordance with the Pennsylvania Constitution, and absentee ballots have already been mailed to our citizens serving in the military and living abroad. At this late stage in the process, it is unlikely that any court will be able to decide the issue of the wording of the ballot question before the county boards of elections must finalize civilian absentee ballots and Election Day balloting materials for the 2016 general election. Accordingly, the Secretary urges this Court to deny Petitioners' invitation to disrupt the election process in which significant races are at stake.

For these reasons, the Secretary respectfully requests that this Court enter judgment in the Secretary's favor, and dismiss Petitioners' complaint with prejudice, so as to expeditiously conclude this dispute and render certain the propriety of the ballot question.

## ARGUMENT

This case is the *third* of its kind, challenging the wording of the ballot question related to the mandatory judicial retirement age. Notwithstanding the Secretary's authority under the Election Code to present the ballot question, which is fair, accurate and clear, to the electorate, Petitioners seek a third bite at the apple *after* the Supreme Court exercised its extraordinary jurisdiction, removed the matter from this Court's original jurisdiction, and fully disposed of Petitioners' request for relief.

Seemingly unhappy with the Supreme Court's resolution, Petitioners have now filed a *new* action in this Court raising the same issues and cause of action that was fully adjudicated by the Supreme Court, in an attempt to circumvent the law of the case and in direct violation of Article V, Section 2 of the Pennsylvania Constitution. The timing of this new action wholly disenfranchises the electorate because the proposed constitutional amendment, including the ballot question, has already been advertised, and absentee voters have already begun voting on the ballot question.

The Secretary urges this Court to *finally* dismiss Petitioners' latest action outright *with prejudice*, thereby denying Petitioners' invitation to disrupt the election process any further in which significant races are at stake.

**I. The Supreme Court Has Already Decided this Matter, thus *Res Judicata* and Collateral Estoppel Bar Further Consideration of this Complaint.**

*Res judicata* is an affirmative defense that may be raised by a defendant to defeat claims made in repetitive litigation. *Res judicata* “prohibits parties involved in prior, concluded litigation from subsequently asserting claims in a later action that were raised, or could have been raised, in the previous adjudication.” *Wilkes ex rel. Mason v. Phoenix Home Life Mut. Ins. Co.*, 902 A.2d 366, 376 (Pa. 2006) (citations omitted).

For *res judicata* to apply, “there must be a concurrence of four conditions: (1) identity of issues, (2) identity of causes of action, (3) identity of persons and parties to the action, and (4) identity of the quality or capacity of the parties suing or sued.” *Safeguard Mut. Ins. Co. v. Williams*, 345 A.2d 664, 668 (Pa. 1975).

Petitioners previously filed suit in this Court on July 21, 2016, and that same day, petitioned for emergency relief in the Supreme Court, which petition was granted July 27, 2016. When the Supreme Court issued its order on September 2, 2016, Petitioners’ request for relief was not granted, and the matter was concluded and conclusively put to rest. Nevertheless, Petitioners attempt to resurrect their claims with a new filing in this Court—with an appeal to the Supreme Court all but assured.

When the common law jurists first developed and applied the concept of *res judicata*, they could easily have been thinking of this *Sprague III* case as the type of inefficient, burdensome re-litigation they sought to prevent. The outline of *res judicata* doctrine coincides almost perfectly with the fact pattern present in this action.

Indeed, this Court has previously applied *res judicata* principals to preclude similar litigation on a ballot question.<sup>5</sup> In *Bergdoll v. Com. (Bergdoll II)*, 858 A.2d 185 (Pa. Cmwlth. 2004), *aff'd* 874 A.2d 1148 (Pa. 2005), this Court similarly addressed serial challenges to both ballot questions and the Plain English Statements related thereto. The *Bergdoll* petitioners had previously litigated the matter to the Supreme Court, arguing that proposed ballot questions encompassed multiple constitutional amendments. Upon review, the Supreme Court held in *Bergdoll's* favor, found the ballot questions improper, and directed the manner in which the questions should be submitted to the electorate. *See Bergdoll v. Kane (Bergdoll I)*, 731 A.2d 1261 (Pa. 1999).

Nevertheless, upon publication of these subsequent questions, *Bergdoll* again challenged the ballot questions, and again asserted that the proposed questions improperly encompassed multiple amendments. On consideration, this Court held that collateral estoppel precluded further review, stating: “Our

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<sup>5</sup> While *Bergdoll II* decided the matter under the related collateral estoppel, or “broad *res judicata*” doctrine, the analysis is indistinguishable for purposes of this matter.

Supreme Court’s decision in *Bergdoll I* ends any further inquiry in the present case into how many ballot questions should be teased out of the present amendment proposals.” *Bergdoll II*, 858 A.2d at 196-197.

Similarly here, Petitioners challenged a proposed ballot question, taking their challenge to the Pennsylvania Supreme Court. Upon review, the Supreme Court declined to grant Petitioners the relief that they sought, *see* Order at 1, *Sprague II*, No. 75 MAP 2016 (Pa. Sept. 2, 2016) (per curiam), and further declined to remand the matter to this Court for further review. *See* Order at 4, *Sprague II*, No. 75 MAP 2016 (Pa. Sept. 16, 2016) (per curiam). Nevertheless, here, as in *Bergdoll II*, Petitioners have filed yet another action in this Court, in an apparent attempt to challenge the Supreme Court’s decision. Such attempt is similarly barred by *res judicata*.

The issues, causes of action, persons and parties to the action, and the qualities and capacities of the litigants from *Sprague II* are all present here in *Sprague III*. To call *Sprague III* a rehash would almost be a mischaracterization—in that “rehash” implies that the elements of the first case would appear in a different form, but the *Sprague III* complaint reads as little but an annotated copy of the *Sprague I* and *II* complaint.

All of the identical elements enumerated in *Safeguard*, *supra*, are present. The issues—identical. The causes of action—unchanged. The persons and parties

to the action—indistinguishable. The qualities and capacities of the litigants—one and same. Therefore, because all of the elements identified in *Safeguard* are similarly present here, *res judicata* operates as a complete bar to the relief Petitioners now seek.

## **II. Petitioners Lack Standing to Challenge the Ballot Question.**

To have standing to bring a lawsuit in Pennsylvania’s courts, a party must demonstrate it has an actual, substantial, direct or immediate interest in the claim sought to be litigated. *Pa. Medical Soc. v. Dep’t of Public Welfare*, 39 A.3d 267, 278 (Pa. 2012). The Supreme Court has articulated these elements to prove standing as follows:

“a “substantial” interest is an interest in the outcome of the litigation which surpasses the common interest of all citizens in procuring obedience to the law; a “direct” interest requires a showing that the matter complained of caused harm to the party’s interest; an “immediate” interest involves the nature of the causal connection between the action complained of and the injury to the party challenging it, and is shown where the interest the party seeks to protect is within the zone of interests sought to be protected by the statute or constitutional guarantee in question.

*Id.*

Here, Petitioners’ interests are insufficient to demonstrate standing for want of ability to satisfy *any* of the three elements for standing: interests that are substantial, direct or immediate.

Petitioners have no actual or substantial interest in the outcome of the litigation that surpasses the common interest of all citizens. Indeed, none of the Petitioners are sitting Supreme Court Justices, judges or magisterial district judges, and thus they could not be affected by the substance of the ballot question. Additionally, Petitioners cannot show any direct or immediate interest in the outcome of the litigation because none of them are injured or harmed by the wording of the ballot question. Petitioners in this case approach this suit under the guise that the ballot question is misleading. However, Petitioners themselves fully comprehend the meaning of the ballot question and are able to articulate the proposed change to the mandatory judicial retirement age.<sup>6</sup>

Moreover, Petitioners appear to argue on behalf of voters across the Commonwealth whom they perceive to be uninformed and uneducated—somewhat analogous to a class action lawsuit. However, Petitioners’ interests are not aligned to the class they purport to represent and they should not be permitted to represent the interests of the entire electorate. The presumption underlying Petitioners’ Complaint is that they do not believe common voters in the Commonwealth will comprehend the proposed ballot question and that Petitioners must instead step in to protect uninformed common voters from confusion. This

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<sup>6</sup> To state a claim for a declaratory judgment, a party must allege an interest which is direct, substantial and immediate, and must demonstrate the existence of a real or actual controversy, as the courts of this Commonwealth are generally proscribed from rendering decisions in the abstract. *Com., Office of Gov’r v. Donahue*, 98 A.3d 1223, 1229 (Pa. 2014).

presumption is not only insulting, it is fundamentally flawed, and has been rejected by the Supreme Court. *See Stander v. Kelley*, 250 A.2d 474, 480 (Pa. 1969) (“In a Republican or Democratic form of Government, similar contention is made after almost every election—the people didn’t know or did not understand what (or whom) they were really voting for. This generalization has never been proved and will not be assumed by us.”) The electorate themselves are likely more aware of this proposed amendment than they were earlier this year. The ballot question and the related litigation brought even before the case *sub judice*, has garnered media attention across the Commonwealth with news articles, reports and editorials, reaching the citizens in this Commonwealth and beyond.<sup>7</sup>

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<sup>7</sup> *See e.g.* Karen Langley, *Ballot Question on Pennsylvania Judges’ Retirement Age may be Delayed*, *Pittsburg Post-Gazette*, Apr. 7, 2016, at <http://www.post-gazette.com/news/politics-state/2016/04/07/Ballot-question-on-Pennsylvania-judges-retirement-age-may-be-delayed/stories/201604070023>.

*See also* Matt Miller, *Pa. Court Backs Delaying Referendum on Upping Judge Retirement Age to Fall Election*, *PennLive*, July 6, 2016, at [http://www.pennlive.com/news/2016/07/pa\\_court\\_backs\\_delaying\\_refere.html](http://www.pennlive.com/news/2016/07/pa_court_backs_delaying_refere.html).

*See also* Maria Panaritis, *Suit: Politics, porn scandal behind changes in Pa. ballot question*, *The Philadelphia Inquirer* via *Philly.com*, Aug. 9, 2016, updated Aug. 10, 2016 at [http://www.philly.com/philly/news/politics/20160810\\_Suit\\_\\_politics\\_\\_porn\\_scandal\\_behind\\_changes\\_in\\_Pa\\_\\_ballot\\_question.html](http://www.philly.com/philly/news/politics/20160810_Suit__politics__porn_scandal_behind_changes_in_Pa__ballot_question.html).

*See also* Angela Coulombis, *Supreme Court deadlock ends challenge to referendum on Pa. judge retirement age*, *Pittsburgh Post-Gazette*, Sept., 2, 2016, at <http://www.post-gazette.com/news/state/2016/09/02/Supreme-Court-deadlock-ends-challenge-to-referendum-on-Pennsylvania-judge-retirement-age/stories/201609020213>.

A Google search of *Pennsylvania Judicial Retirement Age Amendment* returns additional examples of media coverage related to this matter in the news tab of the search results, <https://www.google.com/#q=pennsylvania+Judicial+retirement+age+amendment&tbm=nws>.

Because Petitioners themselves comprehend the proposed ballot question, they are not harmed, and this Court should dismiss their Complaint in its entirety.

**III. Re-litigating the Supreme Court’s September 2, 2016 Per Curium Order would violate Article V, Section 2 of the Pennsylvania Constitution.**

Article V, Section 2 of the Pennsylvania Constitution establishes the Supreme Court as “the highest court of the Commonwealth and in this court shall be reposed the supreme judicial power of the Commonwealth” which “shall have such jurisdiction as shall be provided by law.” Pa Const. art V, § 2. Similarly, the Constitution established this Court, and vests it with “such jurisdiction as shall be provided by law.” Pa. Const. art. V, § 4. Here, Petitioner’s request that this Court usurp the Supreme Court’s “supreme judicial power of the Commonwealth” offends the constitutionally established structure of the judiciary, and the instant Complaint should therefore be dismissed.

As discussed, *infra*, by Per Curiam order dated September 2, 2016, the evenly divided Supreme Court declined to grant Petitioners the same relief that they seek in this action. Further, by order dated September 16, 2016, a majority of the Supreme Court denied Petitioners’ request to remand the matter to this Court, noting that “plaintiffs do not present a compelling reason for reargument, but rather seek a new avenue of relief.” Order at 3, *Sprague II*, No. 75 MAP 2016, (Pa. Sept. 16, 2016) (per curiam). Therein, the majority explicitly rejected the dissent’s

assertion that “nothing ‘precludes the parties from seeking relief in the Commonwealth Court at this juncture . . . .’” Order at 4, *Sprague II*, No. 75 MAP 2016, (Pa. Sept.16, 2016) (per curiam).

Nevertheless, Petitioners have pursued precisely the action that the Supreme Court disavowed in its September 16 reconsideration order. In so doing, Petitioners appear to contend that the Commonwealth’s unified judicial system establishes this Court as the Supreme Court’s “tiebreaker.” No such jurisdiction is vested in this Court by either the Pennsylvania Constitution or any other law. Indeed, Petitioners’ argument would effectively vest this Court with the same extraordinary jurisdiction that the Supreme Court exercised in hearing this matter initially. Such a result would be unsupportable in fact or law. *See, e.g., Guarassi v. Scott*, 25 A.3d 294 (Pa. Cmwlth. 2011) (Commonwealth Court’s jurisdiction does not share the Supreme Court’s exclusive supervisory authority). Therefore, respondents are entitled to judgment as a matter of law, and Petitioners’ Complaint should be dismissed with prejudice.

#### **IV. Petitioners’ Complaint is Barred by the “Law of the Case” Doctrine.**

This law of the case doctrine “refers to a family of rules which embody the concept that a court involved in the later phases of a litigated matter should not reopen questions decided by another judge of that same court or by a higher court

in the earlier phases of the matter.” *Com. v. Starr*, 664 A.2d 1326 (Pa. 1995) (citing 21 C.J.S. Courts § 149a; 5 Am.Jur.2d Appeal and Error § 744).

Here, after the Pennsylvania Supreme Court refused to grant Petitioners the relief that they sought, the Petitioners unsuccessfully sought to compel, via a request for reargument, this Court to consider this matter on remand. Having failed in this ill-conceived maneuver, Petitioners now attempt to evade the law of the case doctrine by filing the instant action, alleging the same facts, and seeking the same relief as pled in *Sprague II*. Such attempt should not be permitted to succeed.

The law of the case doctrine is founded in principles that “serve not only to promote the goal of judicial economy . . . but also operate (1) to protect the settled expectations of the parties; (2) to insure uniformity of decisions; (3) to maintain consistency during the course of a single case; (4) to effectuate the proper and streamlined administration of justice; and (5) to bring litigation to an end.” *Starr*, at 1331 (citing 21 C.J.S. Courts § 149a; Judicial Puzzle at 604-605). In this case, Petitioners’ action frustrates each of these principles.

Initially, the Supreme Court has already established the result in this matter, and settled the expectations of the parties. As such, any further action by this Court would result in non-uniform decisions. Similarly, as this case has already been addressed by the Supreme Court, further action by this Court would result in

inconsistencies which either party could employ to frustrate the orderly and streamlined resolution of this matter. For these reasons, the law of the case bars Petitioners' transparent attempt to "end-run" the Supreme Court's September 2 and September 16 decision. Therefore, the instant Complaint, which is simply Petitioners' most recent iteration of the very same case, should be dismissed.

**V. The Ballot Question Adopted by the Secretary and Approved by OAG is Fair, Accurate, and Clearly Apprises Voters of the Question or Issue to be Voted On.**

A. The Secretary Has the Statutory Authority to Formulate the Ballot Question.

Article XI, Section 1 of the Pennsylvania Constitution grants the General Assembly plenary authority to determine the "time" and "manner" of the presentation of the proposed constitutional amendment to the voters, subject only to the requirement that such presentation occur at least three months after action by the General Assembly.<sup>8</sup> The General Assembly, pursuant to Sections 201(c), 605 and 1110(b) of the Election Code, 25 P.S. §§ 2621(c), 2755 and 3010(b), gives the Secretary the authority to determine the form of this and other ballot questions.

Here, in accordance with their statutory powers and duties under the Election Code, the Secretary originally drafted, and OAG, who owes a special duty

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<sup>8</sup> See Pa. Const. art. XI, § 1 (providing that "such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time *at least three months after being so agreed to by the two Houses*, as the General Assembly shall prescribe") (emphasis added).

in ensuring a process that complies with the Constitution, approved a ballot question on the judicial retirement age. Following brief litigation in this Court regarding the wording of the proposed ballot question, the General Assembly passed H.R. 783.

Whether H.R. 783 is a valid exercise of the General Assembly's constitutional power, given the Secretary's explicit authority to draft ballot questions under the Election Code, is one of the issues appealed to the Supreme Court in *Costa v. Cortés*, No. 70 MAP 2016 (Pa. Sept. 2, 2016) (per curiam). Because of the uncertainty concerning both the nature and timing of court rulings regarding the ballot question, the Secretary voluntarily changed the form of the ballot question to conform to H.R. 783, and OAG approved the revised ballot question.<sup>9</sup>

Of course, as with any Constitutional amendment, there are many ways to draft a question, which ultimately have the same meaning and effect. The Election Code sets a limit of seventy-five words for a ballot question, 25 P.S. § 3010(b), providing the outer bounds for the Secretary as he drafts the wording.

Indeed, ballot questions are not self-drafting. The Secretary has considered a number of different ways to phrase the question, and, for the reasons explained

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<sup>9</sup> H.R. 783, like any other act of the General Assembly, is entitled to a presumption of constitutionality, and no court has struck down the concurrent resolution. *See Pa. St. Ass'n of Jury Comm'rs v. Com.*, 78 A.3d 1020, 1032 (Pa. 2013) (“Indeed, a legislative enactment will not be deemed unconstitutional unless it clearly, palpably, and plainly violates the Constitution.”)

above, has now settled on one apparently not to the liking of Petitioners. But whether any particular phrasing, selected from the universe of permissible options, is “better” or “worse” than another, in the view of Petitioners (or other outsiders to the process who happen to have an opinion) is not properly part of the analysis. The existence of one permissible form does not render all others impermissible. The validity of the present version ought to be analyzed on its own merits, and assessed as to whether it “fairly, accurately and clearly apprize[s] the voter of the question or issue to be voted on.” *Stander*, 250 A.2d at 480. It need not be held up against some supposedly superior version championed by outsiders.

Were this Court to grant the requested relief—an order directing the Secretary to use the language that Petitioners prefer—then all future ballot questions could be subject to challenge by any voter who believes that he or she could do better. As a practical matter, the Election Code must be read to grant the Secretary broad discretion as to the particular language that will appear on the ballot. This Court should decline Petitioners’ invitation to serve as the Secretary’s editor.

B. The Ballot Question Fairly, Accurately, and Clearly Apprises Voters of the Question or Issue to be Voted On.

Petitioners allege that the ballot question at issue is misleading and unlawful. Petitioners’ arguments fail for several reasons.

Under the Pennsylvania Constitution, questions on constitutional amendments must “fairly, accurately and clearly apprise the voter of the question or issue to be voted on.” *Stander*, 250 A.2d at 480. Where “the form of the ballot is so lacking in conformity with the law and so confusing that the voters cannot intelligently express their intentions . . . it may be proper and necessary for a court to nullify an election. But where the irregularity complained of could not reasonably have misled the voters,” there is no cause for judicial relief. *Oncken v. Ewing*, 8 A.2d 402, 404 (Pa. 1939).

The ballot question as currently drafted and set to appear on the general election ballot (prescribed by H.R. 783, independently adopted by the Secretary, and approved by OAG) satisfies the *Stander* requirements. As the ballot question clearly and accurately states, if adopted by the voters, this amendment would set the judicial retirement age at the end of the year in which the jurist turns 75.

A closer review of the facts of the *Stander* case provides even greater support that the ballot question here passes constitutional scrutiny. The ballot question challenged in *Stander* was “but a tiny and minuscular statement of the very *lengthy* provisions of the proposed Judiciary Article V.” *Stander*, 250 A.2d at 480 (emphasis added). The amendment at issue was a *complete* revision of Article V relating to the Judiciary. For that revision, the ballot question submitted to the electorate read as follows:

‘JUDICIARY—Ballot Question V: Shall Proposal 7 on the JUDICIARY, adopted by the Constitutional Convention, establishing a unified judicial system, providing directly or through Supreme Court rules, for the qualifications, selection, tenure, removal, discipline and retirement of, and prohibiting certain activities by justices, judges, and justices of the peace, and related matters, be approved?’

*Id.* Clearly, there is nothing in the *Stander* ballot question explaining any of the several substantive changes that would result from a “yes” vote, *including explaining that a retirement age of 70 was being imposed on jurists for the first time.*

Despite this lack of information, the Supreme Court upheld the ballot question and determined that it “fairly, accurately and clearly apprized the voter of the question or issue to be voted on.” *Id.* The court reached this conclusion because it determined that the ballot question was buttressed by other information—namely, the publications showing the proposed changes to the Constitution and notices (like the OAG’s Plain English Statement) available in the polling places. *Id.* Thus, under the principles of *Stander*, Petitioners are not entitled to relief.

Moreover, Petitioners’ reliance on two Florida cases is not persuasive. In neither case did the Florida Supreme Court take issue with the ballot question *per se*. Instead, the Court invalidated the election because a Florida statute requiring a summary of the chief purpose of the amendment was not satisfied. *See Wadhams*

*v. Bd of Cty. Comm'rs*, 567 So.2d 414, 416 (Fla. 1990); *Askew v. Firestone*, 421 So.2d 151, 154 (Fla. 1982). Such particularities are not at issue here.

Finally, to the extent Petitioners' contentions have any merit—which they do not—any defect is wholly cured by the newspaper publications required under Article XI, Section 1 of the Pennsylvania Constitution, and the notices required to be posted in the polling place by section 201.1 of the Election Code, 25 P.S. § 2621.1. Voters will have the chance to examine the actual text of the changes to be wrought by their vote, along with OAG's Plain English Statement explaining the effects of the change as follows:

Presently, the Pennsylvania Constitution provides that justices, judges, and justices of the peace be retired on the last day of the calendar year in which they attain the age of 70 years. Justices of the peace are currently referred to as magisterial district judges.

If the ballot question were to be approved, justices, judges and magisterial district judges would be retired on the last day of the calendar year in which they attain the age of 75 years rather than the last day of the calendar year in which they attain the age of 70 years.

Ex. 5 (Marks Aff.) at Ex. B. Notably, even though the ballot question has changed, the Plain English Statement has remained the same throughout the entire process. *Cf.* Ex. 6 and Ex. 5 (Marks Aff.) at Ex. B. Thus, through the advertisements, voters will have been exposed to the same Plain English Statement a total of six times—three times prior to the primary election and three times prior to the November election.

As noted above, this Plain English Statement, in addition to being published in various newspapers, will be posted in at least three distinct areas in all polling places. *See* 25 P.S. § 2621.1. Additionally, the county boards of election must include the Plain English Statement, along with the text of the proposed amendment and ballot question, in the notice of election published by the board in a newspaper in the county between three and 10 days prior to the election. *See* 25 P.S. §§ 2621.1 and 3041.

C. The Circumstances and Information Have Evolved From the Time of the Original Ballot Question.

No doubt, the Secretary consulted the ballot question from 2001 when he drafted the original ballot question in this matter, but a steadfast comparison to that ballot question is not warranted. The proposed amendment in 2001 changed the Constitution to require retirement of jurists at a set time period at the end of the calendar year, as opposed to the retirements occurring on a rolling basis throughout the year. That amendment was more about creating efficiencies and certainties in how the judicial retirement system operated. Here, this proposed amendment is merely raising the age of retirement by five years. With that premise in mind, it is easy to see why more information was necessary in the actual ballot question in 2001—how the retirement system itself worked was being changed.

Additionally, in the time since the Secretary drafted the original question, the General Assembly has spoken through H.R. 783. The General Assembly has made its intent known to the Secretary with regard to the ballot question, and even went so far as to direct him to use the specified wording. The General Assembly, as the originator of the proposed amendment, is entitled to deference, particularly where, as here, the Secretary does not disagree.

**VI. The Secretary and the General Assembly Are Entitled to Act Free of Interference under the Political Question Doctrine.**

Petitioners object to the present form of the ballot question, and in several places in Petitioners' submission to this Court, they seek an order prohibiting the Secretary from using this version they disfavor. To the extent Petitioners might claim that the Secretary or the legislature are acting *ultra vires*, review by this Court would be wholly permissible under the political question doctrine.<sup>10</sup>

Petitioners allege no such aberrant departure from constitutional order. Rather than claiming that the Secretary and the legislature do not have the power to

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<sup>10</sup> A political question is not involved when a court concludes that another branch acted within the power conferred upon it by the Constitution:

“In such cases . . . the court does not refuse judicial review; it exercises it. It is not dismissing an issue as nonjusticiable; it adjudicates. It is not refusing to pass upon the power of the political branches; it passes upon it, only to affirm that they had the power which had been challenged and that nothing in the Constitution prohibited the particular exercise of it.”

*Sweeney v. Tucker*, 375 A.2d 698, 705 (Pa. 1977) (quoting Louis Henkin, *Is There A “Political Question” Doctrine?*, 85 Yale L.J. 597, 606 (1976)).

fix the question to be presented to the voters, the gravamen of their complaint is that the Secretary and the legislature do have that power, but Petitioners just do not like how they have exercised that power. This Court should not afford them any relief on that basis.

Our Constitution allocates certain powers to the executive, legislative and judicial branches of government. One corollary resulting from this system is that each branch may act in its respective sphere within the limits set by the Constitution, and is entitled to act free of interference from the other branches. *Sweeney v. Tucker*, 375 A.2d 698, 705 (Pa. 1977) (“Under the principle of separation of the powers of government, however, no branch should exercise the functions exclusively committed to another branch.”). While not perfectly coextensive, the political question doctrine flows directly from the doctrine of separation of powers.

The *Sweeney* Court appeared to endorse one scholar’s description of the doctrine: “a political question exists when ‘the Constitution has committed to another agency of government the autonomous determination of the issue raised.’” *Sweeney*, 375 A.2d at 705 (quoting Herbert Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 Harv. L. Rev. 1, 7–8 (1959)).

As previously discussed, Article XI empowers the General Assembly to determine the “manner” in which a constitutional amendment is to be submitted to

the electorate. But in passing H.R. 783, the legislature was not acting in a vacuum: the General Assembly had previously, by statute, charged the Secretary with determining “the form and wording of constitutional amendments” “with the approval of the Attorney General.” 25 P.S. §§ 2621(c), 2755. Thus, the manner had been prescribed by the General Assembly either generally, through the Election Code, or specially, through H.R. 783.<sup>11</sup>

The ballot language adopted by the Secretary complies with all constitutional requirements and standards of due process. On many occasions, the Supreme Court has pronounced its aversion to arrogating to the courts powers beyond those granted in the Constitution; in particular, it has disclaimed the prerogative to exercise the powers granted to the legislature. *Pap’s A.M. v. City of Erie*, 719 A.2d 273, 281 (Pa. 1998), *rev’d on other grounds*, 529 U.S. 277 (2000) (“To aggregate to ourselves the power to write legislation would upset the delicate balance in our tripartite system of government.”); *First Citizens Nat. Bank v. Sherwood*, 879 A.2d 178, 182 (Pa. 2005) (declining to interfere with statutory scheme developed by legislature on separation of powers grounds). This Court

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<sup>11</sup> Authority over the manner of submitting ballot questions ultimately flows from the people, through the Constitution, to the General Assembly, which in turn, has charged the Secretary with determining the form of the ballot question through the Election Code and/or H.R. 783. The Secretary acts here only as the steward of the duties granted to him by the legislature, not from some inherent or independent power. An attack on the language developed by the Secretary should thus be analyzed identically to an attack on language developed by the legislature itself and prescribed *in haec verba*.

should follow those principles and decline to order the changes sought by Petitioners.

### **VII. Petitioners' Request for Relief is Barred by the Doctrine of Laches.**

Petitioners should be barred by the doctrine of laches from engaging this Court at this late stage of the constitutional amendment process. “[L]aches bars relief when there has been a delay arising from the claimant’s failure to exercise due diligence in instituting an action, and such delay has resulted in prejudice to the other party.” *Sernovitz v. Dershaw*, 127 A.3d 783, 789 (Pa. 2015).

Petitioners have had several opportunities to pursue relief. The ballot question about which Petitioners complain was passed by the General Assembly on April 11, 2016. Through several filings in the *Costa* case, including on May 13, 2016, and June 15, 2016, the Secretary advised this Court that he adopted the ballot question as set forth in H.R. 783, and approved by OAG. Yet, Petitioners failed to join these matters, but opted instead to pursue an eleventh-hour filing in this Court on July 21, 2016. *Sprague I*. Petitioners gained no new information in the intervening months; whatever the merits of their claims now, such were these claims when the General Assembly originally adopted H.R. 783.

On their own accord, Petitioners made the choice to ask the Supreme Court to remove *Sprague I* from this Court’s jurisdiction.<sup>12</sup> The High Court exercised its extraordinary authority to do so and decided the case with finality in *Sprague II*. However, it took the Supreme Court six weeks of time to dispose of the case. Then, not to be defeated, Petitioners filed a motion for reconsideration, which was denied by the Supreme Court on September 16, 2016—an additional two weeks of time.

“Whether laches is established requires a factual determination based upon the circumstances of each case.” *Stilp v. Hafer*, 718 A.2d 290, 293 (Pa. 1998). For example, in *Stander v. Kelley*, 246 A.2d 649 (Pa. 1968), the trial court was presented with a request by a petitioner to enjoin the Secretary of the Commonwealth from printing questions pertaining to Constitutional amendments on the April 23, 1968 ballot. Procedurally, the proposed amendments were first advertised in the first week of April 1968, the initial complaint was filed April 11, 1968, and the election was to be held on April 23, 1968. The trial court refused to

---

<sup>12</sup> In light of previous litigation filed with the Supreme Court in March 2016 regarding the wording of the ballot question, Petitioners certainly should have anticipated the recusal of Chief Justice Saylor in *Sprague II*. See Order, *In re: Proposed Constitutional Amendment 1, Ballot Question*, No. 29 MM 2016 (Pa. Mar. 23, 2016) (stating that Chief Justice Saylor did not participate in the consideration or decision of the matter). Yet, presumably understanding that the Chief Justice’s recusal established the possibility of an evenly divided court, Petitioners still chose to bypass this Court and asked the Supreme Court to assume plenary jurisdiction.

enter the injunctive relief because of the doctrine of laches. The Pennsylvania Supreme Court found that decision was not a clear abuse of discretion or a palpable error of law. *Id.* Subsequently, the petitioner filed an amended pleading seeking permanent injunctive relief, which was denied by the trial court. The Supreme Court affirmed the dismissal of the action on substantive grounds and, in a footnote, commented on the timing of the litigation. *See Stander*, 250 A.2d at 476 n.1. The Secretary submits that this footnote is *dicta*.

Even if that footnote were controlling, however, the situation here calls for the application of the doctrine of laches to bar Petitioners' request for relief. To that end, the ballot language at issue in this case was first known in April 2016. Petitioners did nothing. In fact, they waited until July 21, 2016, to finally bring their request and seek this Court's intervention. Then, they made the decision to circumvent this Court and take the matter to the highest Court where it was expected that the Chief Justice would recuse, thus setting up the possibility of an evenly divided court.

Petitioners have filed this new action at a point on the election calendar when the proposed constitutional amendment, including the ballot question, has already been advertised, and absentee voters have already begun voting on the ballot question. And, at this late stage in the process, it is unlikely that any court will be able to decide the issue of the wording of the ballot question before the

county boards of elections must finalize civilian absentee ballots and Election Day balloting materials for the 2016 general election.

Petitioners' delay is especially concerning considering that an altered ballot question (which Petitioners suggest as a remedy) would be almost certain to miss the pre-election advertising of the joint resolution and would be too late to be changed on the general election ballot.<sup>13</sup>

Petitioners offer no valid explanation for their failure to timely pursue relief from this Court initially.<sup>14</sup> By virtue of their delay, Petitioners readily contributed to the emergent nature of the relief they seek, and their request for relief should be denied.

---

<sup>13</sup> Article XI, Section 1 of the Pennsylvania Constitution provides, in relevant part, that following passage of a proposed constitutional amendment by a majority of the members of both houses of the General Assembly in two consecutive sessions:

the Secretary of the Commonwealth shall cause the same again to be published . . . and such proposed amendment or amendments shall be submitted to the qualified electors of the State in such manner, and at such time at least three months after being so agreed to by the two Houses, as the General Assembly shall prescribe[.]

Pa. Const. art. XI, § 1. By its express terms, Article XI, Section 1 requires only publication of the “proposed amendment or amendments.” However, Section 2621.1 of the Election Code, 25 P.S. § 2621.1, requires the Secretary to include the Plain English Statement in the advertisements. Implicit in the Election Code requirement is that the Secretary actually include the ballot question so that the citizens are aware of what the Plain English Statement is referencing.

<sup>14</sup> Petitioners will likely submit that the basis for their delay was to determine if the *Costa* case would moot the need for the instant lawsuit. However, Petitioners' excuse for the delay, is somewhat contrary to the position they took with the Supreme Court that the two cases “do not present a single overlapping issue.” See Pet'rs.' Reply at ¶4, *Sprague v. Cortes*, No. 100 M.M. 2016 (filed July 26, 2016).

### **VIII. Petitioners are Not Entitled to Injunctive Relief.**

In order to prevail on their claim for injunctive relief, Petitioners must establish the following elements: (1) the relief is necessary to prevent irreparable harm to the movants; (2) the injunction would restore the parties to the *status quo* as it existed before the alleged wrongful act; (3) greater injury would result from a refusal to grant the injunction than from granting it; and (4) the movants' right to relief is clear. *SEIU Healthcare Pa. v. Com.*, 104 A.3d 495, 501 (Pa. 2014).

First, as the Secretary has explained *supra*, Petitioners are not harmed, nor will they be harmed, if the ballot question remains in its current form. Petitioners are not sitting Justices of the Supreme Court, judges or magisterial district judges, and their professional lives will not be altered on account of the constitutional amendment and ballot question. Moreover, Petitioners fully comprehend the meaning of the ballot question. Accordingly, there is no harm that this Court must prevent by granting injunctive relief.

Second, an injunction would not restore the parties to the *status quo* as it existed before the alleged wrongful act. Petitioners cannot establish that an injunction would restore the *status quo*, in fact such an injunction would instead clearly alter the *status quo* rather than maintain it. The Supreme Court heard the case in *Sprague II*, issued a final order and returned the matter to the *status quo*—*i.e.*, a denial of the relief Petitioners are seeking. Clearly, an injunction will not

restore Petitioners to the *status quo*. As such, this Court should not entertain Petitioners' latest attempt to upend the *status quo*.

Third, greater harm will result to the voters of the Commonwealth and would disenfranchise absentee voters in the military, who already face obstacles in returning their voted ballot on time, if this Court were to grant Petitioners' request for injunctive relief. The proposed amendment, including the ballot question, has already been advertised in accordance with the Pennsylvania Constitution, and absentee ballots have already been mailed to our citizens serving in the military and living abroad. For these individuals, voting on the ballot question has already begun. At this late stage in the process, it is unlikely that any court will be able to decide the issue of the wording of the ballot question before the county boards of elections must finalize civilian absentee ballots and Election Day balloting materials for the 2016 general election. Accordingly, the Secretary urges this Court to deny Petitioners' invitation to disrupt the election process in which significant races are at stake.

Fourth and finally, Petitioners' right to relief is anything but clear. The ballot question as formulated by H.R. 783, adopted by the Secretary and approved by the Office of Attorney General is fair, accurate, and clearly appraises voters of the question or issue to be voted on. To the extent Petitioners' contentions have any merit—which they do not—any defect is wholly cured by the newspaper

publications required under Article XI, Section 1 of the Pennsylvania Constitution, and the notices required to be posted in the polling place.<sup>15</sup> Moreover, the Secretary and the General Assembly are entitled to act free of interference under the political question doctrine. Both the executive and the legislative branches of government acted within the power conferred upon them by the Pennsylvania Constitution. Accordingly, this Court must deny Petitioners' request for injunctive relief.

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<sup>15</sup> The Court may also take notice of the extensive media coverage of the ballot question lawsuits, which on its own has provided significant education to the public at large about the nature of the proposed ballot question.

**CONCLUSION**

For these reasons, the Secretary respectfully requests this Honorable Court grant the Secretary's application for summary relief, and dismiss Petitioners' Complaint with prejudice.

Respectfully submitted,

*s/ Timothy E. Gates* \_\_\_\_\_

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*Counsel for Secretary of the  
Commonwealth Pedro A. Cortés*

Date: September 26, 2016

## **CERTIFICATE OF WORD COUNT**

Pursuant to Pa.R.A.P. 2135(d), I, Timothy E. Gates, Chief Counsel for the Pennsylvania Department of State, hereby certify that this filing contains 11,942 words and, thus, complies with the word count limit imposed by Pa.R.A.P. 2135(a)(1). In making this certification, I have relied on the word count of the word processing system used to prepare this filing.

*s/ Timothy E. Gates* \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

I, Timothy E. Gates, Chief Counsel of the Pennsylvania Department of State, hereby certify that on September 26, 2016, I caused to be served a true and correct copy of the foregoing document titled Brief of Secretary of the Commonwealth Pedro A. Cortes in Support of Application for Summary Relief:

*Via PACFile and E-mail:*

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# **EXHIBIT 1**

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 79

Session of  
2013

INTRODUCED BY HARPER, MCGEEHAN, QUINN, KRIEGER, DEAN, BOBACK,  
GOODMAN, GODSHALL, LONGIETTI, GILLEN, EVERETT, MOUL,  
DENLINGER AND PEIFER, JANUARY 10, 2013

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 10, 2013

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth  
2 of Pennsylvania, further providing for compensation and  
3 retirement of justices, judges and justices of the peace.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby resolves as follows:

6 Section 1. The following amendment to the Constitution of  
7 Pennsylvania is proposed in accordance with Article XI:

8 That section 16(b) of Article V be amended to read:

9 § 16. Compensation and retirement of justices, judges and  
10 justices of the peace.

11 \* \* \*

12 (b) Justices, judges and justices of the peace shall be  
13 retired on the last day of the calendar year in which they  
14 attain the age of [70] 75 years. Former and retired justices,  
15 judges and justices of the peace shall receive such compensation  
16 as shall be provided by law. Except as provided by law, no  
17 salary, retirement benefit or other compensation, present or  
18 deferred, shall be paid to any justice, judge or justice of the

1 peace who, under section 18 or under Article VI, is suspended,  
2 removed or barred from holding judicial office for conviction of  
3 a felony or misconduct in office or conduct which prejudices the  
4 proper administration of justice or brings the judicial office  
5 into disrepute.

6 \* \* \*

7 Section 2. (a) Upon the first passage by the General  
8 Assembly of this proposed constitutional amendment, the  
9 Secretary of the Commonwealth shall proceed immediately to  
10 comply with the advertising requirements of section 1 of Article  
11 XI of the Constitution of Pennsylvania and shall transmit the  
12 required advertisements to two newspapers in every county in  
13 which such newspapers are published in sufficient time after  
14 passage of this proposed constitutional amendment.

15 (b) Upon the second passage by the General Assembly of this  
16 proposed constitutional amendment, the Secretary of the  
17 Commonwealth shall proceed immediately to comply with the  
18 advertising requirements of section 1 of Article XI of the  
19 Constitution of Pennsylvania and shall transmit the required  
20 advertisements to two newspapers in every county in which such  
21 newspapers are published in sufficient time after passage of  
22 this proposed constitutional amendment. The Secretary of the  
23 Commonwealth shall submit this proposed constitutional amendment  
24 to the qualified electors of this Commonwealth at the first  
25 primary, general or municipal election which meets the  
26 requirements of and is in conformance with section 1 of Article  
27 XI of the Constitution of Pennsylvania and which occurs at least  
28 three months after the proposed constitutional amendment is  
29 passed by the General Assembly.

# **EXHIBIT 2**



# **EXHIBIT 3**

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 90

Session of  
2015

INTRODUCED BY HARPER, CALTAGIRONE, BARBIN, BOBACK, CARROLL,  
COHEN, DIAMOND, FREEMAN, GILLEN, GODSHALL, GOODMAN, GRELL,  
GROVE, KRIEGER, LONGIETTI, MURT, PETRI, SCHLOSSBERG, WATSON  
AND GIBBONS, JANUARY 21, 2015

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 21, 2015

A JOINT RESOLUTION

1 Proposing an amendment to the Constitution of the Commonwealth  
2 of Pennsylvania, further providing for compensation and  
3 retirement of justices, judges and justices of the peace.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby resolves as follows:

6 Section 1. The following amendment to the Constitution of  
7 Pennsylvania is proposed in accordance with Article XI:

8 That section 16(b) of Article V be amended to read:

9 § 16. Compensation and retirement of justices, judges and  
10 justices of the peace.

11 \* \* \*

12 (b) Justices, judges and justices of the peace shall be  
13 retired on the last day of the calendar year in which they  
14 attain the age of [70] 75 years. Former and retired justices,  
15 judges and justices of the peace shall receive such compensation  
16 as shall be provided by law. Except as provided by law, no

1 salary, retirement benefit or other compensation, present or  
2 deferred, shall be paid to any justice, judge or justice of the  
3 peace who, under section 18 or under Article VI, is suspended,  
4 removed or barred from holding judicial office for conviction of  
5 a felony or misconduct in office or conduct which prejudices the  
6 proper administration of justice or brings the judicial office  
7 into disrepute.

8 \* \* \*

9 Section 2. (a) Upon the first passage by the General  
10 Assembly of this proposed constitutional amendment, the  
11 Secretary of the Commonwealth shall proceed immediately to  
12 comply with the advertising requirements of section 1 of Article  
13 XI of the Constitution of Pennsylvania and shall transmit the  
14 required advertisements to two newspapers in every county in  
15 which such newspapers are published in sufficient time after  
16 passage of this proposed constitutional amendment.

17 (b) Upon the second passage by the General Assembly of this  
18 proposed constitutional amendment, the Secretary of the  
19 Commonwealth shall proceed immediately to comply with the  
20 advertising requirements of section 1 of Article XI of the  
21 Constitution of Pennsylvania and shall transmit the required  
22 advertisements to two newspapers in every county in which such  
23 newspapers are published in sufficient time after passage of  
24 this proposed constitutional amendment. The Secretary of the  
25 Commonwealth shall submit this proposed constitutional amendment  
26 to the qualified electors of this Commonwealth at the first  
27 primary, general or municipal election which meets the  
28 requirements of and is in conformance with section 1 of Article  
29 XI of the Constitution of Pennsylvania and which occurs at least  
30 three months after the proposed constitutional amendment is

1 passed by the General Assembly.

# **EXHIBIT 4**

# Pennsylvania General Assembly

[http://www.legis.state.pa.us/cfdocs/billInfo/bill\\_history.cfm?year=2015&sid=0&body=H&type=B&bn=90](http://www.legis.state.pa.us/cfdocs/billInfo/bill_history.cfm?year=2015&sid=0&body=H&type=B&bn=90)

07/20/2016 03:05 PM

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## Bill Information - History

### House Bill 90; Regular Session 2015-2016

**Sponsors:** [HARPER](#), [CALTAGIRONE](#), [BARBIN](#), [BOBACK](#), [CARROLL](#), [COHEN](#), [DIAMOND](#), [FREEMAN](#), [GILLEN](#), [GODSHALL](#), [GOODMAN](#), [GRELL](#), [GROVE](#), [KRIEGER](#), [LONGIETTI](#), [MURT](#), [PETRI](#), [SCHLOSSBERG](#), [WATSON](#), [GIBBONS](#) and [DAVIS](#)

**Printer's No.(PN):** [251\\*](#) , [80](#)

**Short Title:** A Joint Resolution proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for compensation and retirement of justices, judges and justices of the peace.

**Actions:**

[PN 0080](#) Referred to [JUDICIARY](#), Jan. 21, 2015

[PN 0251](#) Corrective Reprint, Printer's No. 251, Jan. 28, 2015

Reported as committed, [Feb. 3, 2015](#)

First consideration, Feb. 3, 2015

Laid on the table, Feb. 3, 2015

Removed from table, Feb. 4, 2015

Second consideration, Feb. 9, 2015

Re-committed to [APPROPRIATIONS](#), Feb. 9, 2015

Re-reported as committed, [Feb. 10, 2015](#)

Third consideration and final passage, Feb. 10, 2015 ([154-44](#))

(Remarks see House Journal Page [157](#)), Feb. 10, 2015

In the Senate

Referred to [JUDICIARY](#), Feb. 13, 2015

Reported as committed, [Feb. 17, 2015](#)

First consideration, Feb. 17, 2015

Laid on the table, April 15, 2015

Removed from table, April 15, 2015

Laid on the table, June 1, 2015

Removed from table, June 1, 2015

Laid on the table, June 24, 2015

Removed from table, June 24, 2015

Re-referred to [APPROPRIATIONS](#), June 30, 2015

Re-reported as committed, [Oct. 27, 2015](#)

Second consideration, Oct. 28, 2015

Third consideration and final passage, Nov. 16, 2015 ([36-13](#))

(Remarks see Senate Journal Page [1190](#)), Nov. 16, 2015

Signed in House, Nov. 17, 2015

Signed in Senate, Nov. 17, 2015

Filed in the Office of the Secretary of the Commonwealth, Nov. 17, 2015

Pamphlet Laws Resolution No. 1

\* denotes current Printer's Number

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# **EXHIBIT 5**

## AFFIDAVIT

I, Jonathan Marks, do hereby state and verify that the statements made below 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 and am making this statement under penalty of perjury.

1. I am employed by the Department of State (Department) as the Commissioner of the Bureau of Commissions, Elections and Legislation (BCEL). As part of my duties, I supervise the administration of the Department's duties relating to elections. Under my authority as Commissioner, I am responsible for managing the process by which the Department meets the constitutional requirements regarding the publication of proposed constitutional amendments.

2. Pursuant to Article XI, § 1 of the Pennsylvania Constitution, after the General Assembly passes a proposed constitutional amendment, the Secretary of the Commonwealth shall cause the proposed constitutional amendment to be published in at least two newspapers in every county in which such newspapers are published in each of the three months prior to the next general election. If the next General Assembly also passes the proposed constitutional amendment, the Secretary of the Commonwealth shall again cause the proposed constitutional amendment to be published in at least two newspapers in every county in which such newspapers are published at least three months after the General Assembly's vote and prior to being submitted to the qualified electors in the form of a ballot question.

3. The Department contracts with Mid-Atlantic Newspaper Services, Inc. (MANSI) Media for the provision of services related to the publication of proposed constitutional amendments.

4. Department staff work extensively with MANSI to effectuate the publication of proposed constitutional amendments in accordance with Article XI, § 1. In order to properly effectuate publication, the Department requires lead time prior to the final edit date to have an outside vendor translate the final text of the advertisement to Spanish, which must then be reviewed by bilingual staff at the Department. The printer then develops ad copy for the English and Spanish versions of the advertisements in numerous sizes for the various different-sized publications. Each separate ad copy must be proofed and approved by the Department. Any changes or corrections result in new ad copy that must once again be reviewed and approved.

5. On October 22, 2013, Joint Resolution 2013-3 (H.B. 79), proposing an amendment to the constitution further providing for compensation and retirement of justices, judges, and justices of the peace, was filed with the Secretary of the Commonwealth.

6. The publications for Joint Resolution 2013-3 ran from July 29-August 2, 2014, August 28-September 11, 2014, and September 26-October 2, 2014.

7. On November 17, 2015, Joint Resolution 2015-1 (H.B. 90), again proposing an amendment to the constitution further providing for compensation and retirement of justices, judges, and justices of the peace, was filed with the Secretary of the Commonwealth.

8. The Secretary prepared a ballot question for Joint Resolution 2015-1, and the Office of the Attorney General approved the ballot question and provided the plain English statement to the Secretary on December 9, 2015.

9. Pursuant to the explicit text in the authorizing joint resolutions, the Secretary scheduled the ballot question for the General Primary to be held on April 26, 2016.

10. The publications for Joint Resolution 2015-1 ran January 19-January 29, 2016; February 19-February 25, 2016, with one newspaper publishing on March 2, 2016; and March 18-March 24, 2016.

11. House Resolution 783 of 2016 (H.R. 783), a concurrent resolution adopted by the majorities in both houses of the General Assembly on April 12, 2016, directed the Secretary of the Commonwealth to remove the ballot question for Proposed Constitutional Amendment 1 (mandatory judicial retirement age) from the General Primary ballot on April 26, 2016, and to place a revised version of the ballot question on the General Election ballot on November 8, 2016.

12. In accordance with the Commonwealth Court's order dated April 20, 2016, the Secretary of the Commonwealth removed Proposed Constitutional Amendment 1 from the official ballot certification and efforts were made at the polling places via a notice to inform voters of its status.

13. Pursuant to H.R. 783, which was not enjoined, the Secretary did not conduct an official tabulation, computation, or canvass of the votes for Proposed Constitutional Amendment 1.

14. Given the uncertainty due to the nature and timing of court rulings regarding the ballot question, as well as the impending publication deadlines, the Secretary of the Commonwealth voluntarily changed the form of the ballot question to conform to the text of H.R. 783 and submitted it on May 31, 2016, to the Office of the Attorney General for approval under the terms of 25 P.S. § 2621.1. A copy of the transmission memorandum to the Office of the Attorney General is attached hereto as Exhibit A.

15. Pursuant to the requirements of 25 P.S. § 2621.1, whenever a proposed constitutional amendment shall be submitted to the qualified electors, the Attorney General shall prepare a statement in plain English which indicates the purpose, limitations and effects of the ballot question on the people of the Commonwealth. The Secretary of the Commonwealth is required to include such statement in the publications required by Article XI, § 1 of the Pennsylvania Constitution and certify such statement to the county boards of elections.

16. In a letter dated June 14, 2016, Solicitor General Bruce L. Castor, Jr., on behalf of the Office of the Attorney General, conveyed approval of the form of the ballot question, as set forth in H.R. 783, and transmitted a copy of the plain English statement to the Department. A copy of the letter and enclosures is attached hereto as Exhibit B.

17. As set forth in 25 P.S. §§ 2621.1 and 3041, the county boards of election must include the plain English statement, along with the text of the proposed amendment and the ballot question, in the notice of elections published by the board in a newspaper in the county between three and 10 days before the election.

18. The county boards of election, in accordance with 25 P.S. § 2621.1, must also require that at least three copies of the Attorney General's plain English statement be posted in or about the polling place outside of the enclosed space for voting.

19. For the revised Proposed Constitutional Amendment 1 to be properly placed on the November 2016 ballot pursuant to the requirements of Article XI, § 1 of the Pennsylvania Constitution, the first round of advertisements must be published no later than August 8, 2016.

20. In order to meet that timeframe, advertising space had to be reserved in newspapers, and the Secretary had to provide the text of the advertisements, including the language of the ballot question, to MANSI no later than July 27, 2016.

21. The Secretary published the first round of newspaper advertisements, including the language of the ballot question, between August 2, 2016 and August 6, 2016. A copy of the publication dates from MANSI is attached hereto as Exhibit C.

22. The Secretary published the second round of advertisements between September 2, 2016 and September 8, 2016. *See Exhibit C.*

23. The third round of advertisements is scheduled to be published between October 1, 2016 and October 8, 2016, with a final edit date of September 26, 2016. *See Exhibit C.*

24. The estimated total cost for the three publications relating to the proposed constitutional amendment providing for the mandatory retirement of jurists is \$697,004.98, with each round of advertisements estimated to cost approximately \$232,000.00. *See Exhibit C.*

25. The Secretary certified the ballot question for inclusion on the 2016 General Election ballot on September 14, 2016.

26. By law, the county boards of election were required to transmit absentee ballots and balloting materials to all covered uniformed-service and overseas voters in extremely remote and isolated areas who submitted an application no later than August 30, 2016, and to all other covered uniformed-service and overseas voters who submitted an application no later than September 23, 2016.

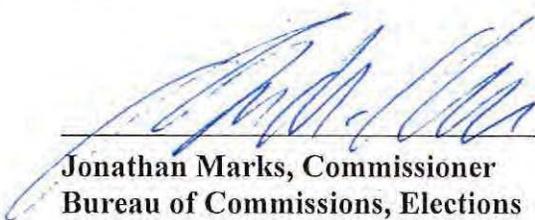
27. A total of 13,209 military-overseas absentee ballots have been transmitted thus far to uniformed-service and overseas voters.

28. A total of 149 voted military-overseas absentee ballots have been returned thus far for the 2016 general election.

29. The military-overseas absentee ballots contain the ballot question in its current form.

30. The county boards of election require at least five or six weeks, if not more, prior to Election Day to finalize civilian absentee and Election Day balloting materials to ensure adequate time to prepare, print and proofread the ballots, and to conduct pre-election testing of voting equipment.

31. The majority of the county boards of elections will finalize their civilian absentee and Election Day balloting materials during the week of September 26-30, 2016 or the week of October 3-7, 2016.



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

DATE: September 26, 2016

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF STATE  
OFFICE OF CHIEF COUNSEL



SUBJECT: Proposed Constitutional Amendment 1 – Mandatory Judicial Retirement Age

TO: Robert A. Mulle  
Executive Deputy Attorney General  
Office of Attorney General, Civil Law Division

Amy M. Elliott  
Chief Deputy Attorney General  
Legal Review Section  
Office of Attorney General, Civil Law Division

FROM: Timothy E. Gates  
Chief Counsel  
Department of State

A handwritten signature in black ink, appearing to read 'Timothy E. Gates', written over the printed name.

DATE: May 31, 2016

---

The Pennsylvania General Assembly, acting pursuant to its authority in Article XI of the Pennsylvania Constitution, passed joint resolutions in 2013 and again in 2015 to propose an amendment to Article V, Section 16(b) of the Constitution, which would raise the mandatory judicial retirement age from 70 to 75 years. Following each passage, and in accordance with the duties imposed on him by Article XI, the Secretary of the Commonwealth (Secretary) advertised the proposed amendment in 2014 and again in early 2016.

Pursuant to the Secretary's duties imposed on him by the Election Code, the Secretary drafted, and the Office of the Attorney General approved, the language for the ballot question. The Office of the Attorney General composed a "Plain English Statement" analyzing the effects of the proposed amendment. In addition to the text of the amendment, the ballot question and the Plain English Statement were published in the 2016 advertisements. This proposed amendment on judicial retirement age was designated Proposed Constitutional Amendment 1. Pursuant to the explicit text in the authorizing joint resolutions, it was scheduled for the 2016 General Primary to be held April 26, 2016.

On April 6, 2016, the House of Representatives passed House Resolution 783 (H.R. 783), a concurrent resolution, which (1) directed the Secretary to remove Proposed Constitutional Amendment 1 from the April 2016 ballot certification; (2) directed county election authorities to remove Ballot Question 1 from ballot materials; (3) directed the Secretary to disregard any votes

Exhibit A

cast on Proposed Constitutional Amendment 1, and not to certify any results; (4) directed the Secretary to place Ballot Question 1 on the ballot for the November 2016 General Election, using a specified wording; and (5) directed the Secretary to advertise Ballot Question 1 again in each of the three months leading up to the General Election on November 8, 2016. The Senate passed H.R. 783 on April 11, 2016.

Following the passage of H.R. 783, the Honorable Jay Costa, the Honorable Daylin Leach, and the Honorable Christine Tartaglione, duly-elected members of the Pennsylvania Senate (Petitioners) sought relief in Commonwealth Court by filing a petition for review on April 14, 2016. Petitioners also filed an application requesting a preliminary injunction to enjoin the Secretary from implementing H.R. 783. The court held a hearing on April 19, 2016, and issued a decision the following day denying the preliminary injunction. In conformity with the court's order of April 20, 2016, the Secretary removed Proposed Constitutional Amendment 1 from the official ballot certification for the 2016 General Primary, and efforts were made at the polling places to inform voters of its status.

The merits of Petitioners' application for summary relief are currently pending before Commonwealth Court. The matter has been briefed by the parties and oral argument is scheduled for June 9, 2016.

For Proposed Constitutional Amendment 1 to proceed on the November 2016 ballot, the first rounds of advertisements must be published no later than August 8, 2016. Because the nature and timing of future court rulings creates uncertainty concerning the ballot question language that should be employed in the 2016 General Election, and in order to resolve that uncertainty in time for the pre-election advertising that must begin in August and be arranged in July, the Secretary has decided to revise the ballot question for Proposed Constitutional Amendment 1 to conform to the text contained in H.R. 783. The revised ballot question is attached to this memorandum for your review and approval.<sup>1</sup> The Secretary would appreciate if your office would transmit the Office of the Attorney General's approval of this wording, along with the Plain-English Statement, to him as soon as possible, but in any event by June 15, 2016. The entire package, including the ballot question and the Plain English Statement, must be translated to Spanish and given to the Department of State's vendor, MANSI Media, by July 15, 2016, to ensure accurate and timely placement of the advertisements prior to the 2016 General Election.

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<sup>1</sup> The language of the ballot question submitted here was previously addressed by the Office of the Attorney General in connection with an Application for Extraordinary Relief filed with the Supreme Court by the Pennsylvania Senate Majority Caucus and the President Pro Tempore and the Majority Leader of the Senate. See *In re: Proposed Constitutional Amendment 1, Ballot Question*, No. 29 M.M. 2016 (Pa. 2016).

If you have any questions regarding this matter, please do not hesitate to contact me.

Enclosure

cc: The Honorable Pedro A. Cortés, Secretary of the Commonwealth  
H: Geoffrey Moulton, Jr., Deputy General Counsel, Governor's Office of General Counsel

**REVISED PROPOSED BALLOT QUESTION 1**

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75 years?



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF ATTORNEY GENERAL  
HARRISBURG, PA. 17120

16TH FLOOR  
STRAWBERRY SQUARE  
HARRISBURG, PA 17120  
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KATHLEEN G. KANE  
ATTORNEY GENERAL

June 14, 2016

Timothy E. Gates  
Chief Counsel  
Department of State  
301 North Office Building  
401 North Street  
Harrisburg, PA 17120

In Re: Proposed Constitutional Amendment 1  
Mandatory Retirement Age

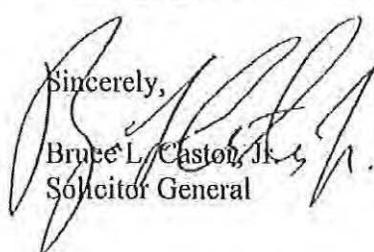
Dear Mr. Gates:

The Office is in receipt of your May 31, 2016, request for approval of the wording of the ballot question for proposed Constitutional Amendment 1 and for transmission of a Plain English Statement. After reviewing your submission, the Office approves the wording of Revised Proposed Ballot Question 1. This approval should not be construed as an acknowledgement of the General Assembly's authority to designate the specific wording of the ballot question. This approval is limited to the form of the question as prepared by the Department of State, and presented to this Office on May 31, 2016.

Enclosed is a copy of the Plain English Statement originally transmitted to the Department on December 9, 2015. After reviewing all relevant material, the Office has determined that a revised Plain English Statement is unnecessary. The enclosed statement continues to adequately describe the purposes, limitations, and effects of the proposed ballot question. The transmission of the Statement should not be construed as acknowledging the General Assembly's authority to mandate, by resolution, that a particular Plain English Statement be utilized.

The Office of Attorney General is aware of the on-going litigation regarding proposed Constitutional Amendment 1. The Office takes no position on the litigation. The approval of the question and transmission of the Plain English Statement should only be viewed as the Office discharging its duties under the Election Code.

Sincerely,

  
Bruce L. Castor, Jr.  
Solicitor General

Enclosure

Exhibit B

**REVISED PROPOSED BALLOT QUESTION 1**

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75 years?

**Plain English Statement**  
**Joint Resolution No. 2015-1**

**Amending the Mandatory Judicial Retirement Age**

The purpose of the ballot question is to amend the Pennsylvania Constitution to require that justices, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years.

Presently, the Pennsylvania Constitution provides that justices, judges and justices of the peace be retired on the last day of the calendar year in which they attain the age of 70 years. Justices of the peace are currently referred to as magisterial district judges.

If the ballot question were to be approved, justices, judges and magisterial district judges would be retired on the last day of the calendar year in which they attain the age of 75 years rather than the last day of the calendar year in which they attain the age of 70 years.

This amendment to the mandatory retirement age would be applicable to all judges and justices in the Commonwealth, including the justices of the Pennsylvania Supreme Court, Judges of the Commonwealth Court, Superior Court, county courts of common pleas, community courts, municipal courts in the City of Philadelphia, and magisterial district judges.

The ballot question is limited in that it would not amend any other provisions of the Pennsylvania Constitution related to the qualification, election, tenure, or compensation of the justices, judges or magisterial district judges.

The effect of the ballot question would be to allow all justices, judges, and magisterial district judges to remain in office until the last day of the calendar year in which they attain the age of 75 years. This would permit all Justices, Judges, and magisterial district judges to serve an additional five years beyond the current required retirement age.



### 2016 Constitutional Amendment - JUDGES BALLOT v1

Run Date	Newspaper	Section/Location	Ad Size	Description	Column Width	Ad Depth	Total Cost
8/1/2016	EMLENTON PROGRESS-NEWS	Main News, RHP, FF	x Half Page BW	Half Pg (10.25 x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$709.64
8/1/2016	PHILADELPHIA TRIBUNE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$10727.64
8/1/2016	SAXTON BROAD TOP BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$356.10
8/1/2016	SHIPPENSBURG NEWS CHRONICLE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$358.55
8/1/2016	ADV - JUNATA SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	ADV - NEWPORT NEWS-SUN	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	BMN - BIRDSBORO NEWS OF SOUTH-EPN BERKS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	BMN - HAMBURG ITEM	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	BMN - BIRDSBORO NEWS OF SOUTHEAN BERKS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	BMN - HAMBURG ITEM	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	CAMERON COUNTY ECHO	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$350.91
8/1/2016	CHESTER COUNTY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$669.69
8/1/2016	CRANBERRY EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$699.15
8/1/2016	DOWN - NEWS OF DELAWARE COUNTY	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,572.48
8/1/2016	DUSHORE SULLIVAN REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$454.31
8/1/2016	LVTG - EMMAUS EAST PENN PRESS SALISBURY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	LVTG - EMMAUS EAST PENN PRESS SALISBURY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	FOREST CITY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	7	10.5	\$454.52
8/1/2016	HAWLEY NEWS EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$870.66
8/1/2016	MC MURRAY ALMANAC	Main News, RHP, FF	x Half Page BW	Half Pg (10x11), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,000.00
8/1/2016	MIDDLETOWN PRESS & JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$870.66
8/1/2016	MONROSE SUSQUEHANNA COUNTY INDEPENDENT	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	6.5	\$310.06
8/1/2016	MUNCY LUMINERY	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$563.85
8/1/2016	ODYSSEA VALLEY LOG	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	8	\$277.92
8/1/2016	PHILADELPHIA ALDIA	Main News, RHP, FF	x Full Page BW	Full Pg (10 x 11), B&W, CAPTION: Amendment on Ballot, NEW MATERIAL	1	1	\$5,120.58
8/1/2016	NEW PITTSBURGH COURIER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,607.13
8/1/2016	PORT ROYAL TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$530.45
8/1/2016	POTTER LEADER ENTERPRISE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$663.39
8/1/2016	TIONESTA FOREST PRESS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$376.74
8/1/2016	WELLSBORO-MANSFIELD GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$663.39
8/1/2016	WESTFIELD FREE PRESS-COURIER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$430.92
8/1/2016	WYOMING COUNTY PRESS EXAMINER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$619.99
8/1/2016	YEAGERTOWN COUNTY OBSERVER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$593.46
8/1/2016	ADV - ADVANCE PUBLICATIONS PERRY & JUNATA COUNTIES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$999.57
8/1/2016	ADV - DUNCANNOON RECORD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	ADV - PERRY COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	ALLENTOWN MORNING CALL	Main News, RHP, FF	x Half Page BW	Half Pg (10 x 11), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$3,611.20
8/1/2016	ALLENTOWN MORNING CALL	Main News, RHP, FF	x Half Page BW	Half Pg (10 x 11), B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW	1	1	\$3,611.20
8/1/2016	ALDOSA MIRROR	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,683.80
8/1/2016	BEAVER COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,571.03
8/1/2016	BEDFORD DAILY GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$606.06
8/1/2016	BMN - BERKS MONT NEWSPAPERS INC	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,297.80
8/1/2016	BMN - BOYERTOWN AREA TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	BMN - KUTZTOWN PATRIOT	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	BMN - BERKS MONT NEWSPAPERS INC	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$1,297.80
8/1/2016	BMN - BOYERTOWN AREA TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	BMN - KUTZTOWN PATRIOT	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	BLAKESLEE JOURNAL OF POCONO PLATEAU	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	5	6.5	\$454.60

Exhibit C

8/1/2016	BLOOMSBURG PRESS ENTERPRISE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,938.51
8/1/2016	BRADFORD ERA	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,065.33
8/1/2016	BLOOMVILLE JEFFERSONIAN DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$555.03
8/1/2016	BUTLER EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,060.92
8/1/2016	CARLISLE SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,442.07
8/1/2016	CENTRE COUNTY GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg (10.25" x 8"). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$472.40
8/1/2016	CENTRE DAILY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,016.00
8/1/2016	CHAMBERSBURG PUBLIC OPINION	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,326.15
8/1/2016	CLEARFIELD PROGRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$588.38
8/1/2016	CORRY EVENING JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$568.85
8/1/2016	DANVILLE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$477.07
8/1/2016	DELAWARE COUNTY TIMES	Main News, RHP, FF	x Full Page BW	FULL Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	9.5	\$2,063.14
8/1/2016	DUBOIS COURIER EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$346.89
8/1/2016	LVPG - LEHIGH VALLEY PRESS GROUP	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,387.45
8/1/2016	LVPG - BETHLEHEM PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	LVPG - PASSAIC-NORTHWESTERN PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	LVPG - WHITEHALL-CORLAY PRESS, NORTHAMPTON PRESS, CATASQUA PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
8/1/2016	LVPG - LEHIGH VALLEY PRESS GROUP	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH A3, NEW MATERIAL	6	10.5	\$1,387.45
8/1/2016	LVPG - BETHLEHEM PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH A3, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	LVPG - PASSAIC-NORTHWESTERN PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH A3, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	LVPG - WHITEHALL-CORLAY PRESS, NORTHAMPTON PRESS, CATASQUA PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH A3, NEW MATERIAL	6	10.5	\$0.00
8/1/2016	EASTON EXPRESS TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,903.23
8/1/2016	ELLWOOD CITY LEDGER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$810.18
8/1/2016	ERIC TIMES-NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$4,447.17
8/1/2016	FULTON COUNTY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$405.72
8/1/2016	GETTYSBURG TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$944.37
8/1/2016	BUCKS COUNTY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,874.06
8/1/2016	DOYLESTOWN INTELLIGENCE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,025.69
8/1/2016	GREENVILLE RECORD-ARGUS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$928.62
8/1/2016	HANOVER EVENING SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,501.29
8/1/2016	HUNTINGDON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$887.67
8/1/2016	INDIANA GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,282.68
8/1/2016	JOHNSTOWN TRIBUNE DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,945.25
8/1/2016	KANE REPUBLICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$403.92
8/1/2016	LNP MEDIA GROUP - LANCASTER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,856.31
8/1/2016	LATROBE BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$663.39
8/1/2016	LEBANON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,757.07
8/1/2016	LEHIGHTON TIMES NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$871.92
8/1/2016	LEWISTOWN SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,304.73
8/1/2016	LITITZ RECORD EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$829.08
8/1/2016	LOCK HAVEN EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$994.77
8/1/2016	MAINLINE - MAINLINE NEWSPAPERS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW (Scol x 8)	1	1	\$505.05
8/1/2016	MAINLINE - CRESSION MAINLINE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
8/1/2016	MAINLINE - EBENSBURG MOUNTAINEER HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
8/1/2016	MAINLINE - NANTY GLO JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
8/1/2016	MAINLINE - NORTH-EAST CAMBRIA STAR COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
8/1/2016	MAINLINE - PORTAGE DISPATCH	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
8/1/2016	MARTINSBURG MORRISONS COVE HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$242.31
8/1/2016	MERIDALE TRI-SUNE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,431.59
8/1/2016	MEYERSDALE NEW REPUBLIC	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	8	10.5	\$1,603.56
8/1/2016	MILFORD PAKE COUNTY DISPATCH	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,124.55
8/1/2016	MILTON-LEWISBURG STANDARD JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	8	\$474.72
8/1/2016	NEW BETHLEHEM LEADER-INDICATOR	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$555.03
8/1/2016	NEW CASTLE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,658.16

8/1/2016	NORFOLK TIMES HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,092.42
8/1/2016	CITY OF DEERFIELD FRANKLIN NEWS HERALD CLARION NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,112.20
8/1/2016	HARRISBURG PATRIOT NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,054.87
8/1/2016	PHILADELPHIA DAILY NEWS	Main News, RHP, FF	x Full Page BW	Full Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	5	10	\$0.00
8/1/2016	PHILADELPHIA DAILY NEWS	Main News, RHP, FF	x Full Page BW	Full Pg. B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	5	10	\$0.00
8/1/2016	PHILADELPHIA EL HISPANO	Main News, RHP, FF	x Full Page BW	Full Pg. B&W, CAPTION: Amendment on Ballot, NEW MATERIAL	5	10	\$1,342.00
8/1/2016	PHILADELPHIA INQUIRER	Main News, RHP, FF	x Half Page BW	Half Pg (5col x 10.5). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$16,906.32
8/1/2016	PHILADELPHIA INQUIRER	Main News, RHP, FF	x Half Page BW	Half Pg (5col x 10.5). B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	1	1	\$16,906.32
8/1/2016	CONNELLSVILLE DAILY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,017.45
8/1/2016	TRILUNE REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$4,670.19
8/1/2016	RITTSBURG LEADER TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,017.45
8/1/2016	PITTSBURGH POST-GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$10,343.97
8/1/2016	POTTSTOWN MERCURY	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,092.42
8/1/2016	POTTSTOWN REPUBLICAN HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,644.93
8/1/2016	PUNASUTAWNEY SPIRIT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$704.97
8/1/2016	READING EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg (10.5 x 8.5). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,587.90
8/1/2016	READING EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg (10.5 x 8.5). B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	1	1	\$1,587.90
8/1/2016	RENOVO RECORD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$331.38
8/1/2016	RIDGWAY RECORD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$550.62
8/1/2016	SAINTE MARYS DAILY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$609.84
8/1/2016	SAVRE MORNING TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	9	10.5	\$555.23
8/1/2016	SCRANTON TIMES-TRILUNE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,245.39
8/1/2016	SHAMONK NEWS-ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$330.97
8/1/2016	SHARON HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,216.34
8/1/2016	SOMERSET DAILY AMERICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,290.87
8/1/2016	STROUDSBURG RECORD	Main News, RHP, FF	x Half Page BW	Half Pg (11.5 x 10.5). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,206.42
8/1/2016	SOUTH SCHUYLKILL NEWS	Main News, RHP, FF	x Half Page BW	Half Pg (5col x 10.5). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$378.55
8/1/2016	SUNSHINE DAILY ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,150.52
8/1/2016	TITUSVILLE HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$564.43
8/1/2016	TOWANDA DAILY REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$825.55
8/1/2016	LIVONIA TOWN HERALD-STANDARD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,974.23
8/1/2016	WARREN TIMES OBSERVER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,314.81
8/1/2016	WASHINGTON OBSERVER-REPORTER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,460.15
8/1/2016	WAYNE INDEPENDENT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$742.77
8/1/2016	WAYNESSBORO RECORD HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$877.59
8/1/2016	WEST CHESTER DAILY LOCAL NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,057.77
8/1/2016	WILKES BARRE CITIZENS VOICE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,051.28
8/1/2016	WILKES BARRE TIMES LEADER	Main News, RHP, FF	x Half Page BW	Half Pg (5col x 10.5). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,895.00
8/1/2016	WILLIAMSPORT SUN GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,392.93
8/1/2016	YORK RECORD DISPATCH SUNDAY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,514.77
8/1/2016	HAZLETON STANDARD-SPEAKER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,238.42
8/1/2016	CARBONDALE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$454.31
8/1/2016	GREENE COUNTY MESSENGER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,207.08
8/1/2016	HOY FINE DE SEMANA	Main News, RHP, FF	x Full Page BW	Full Pg (10x10.5). B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW MATERIAL	1	1	\$1,578.95
8/1/2016	MILFORD FIVE COUNTY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg (10.25 x 6.5). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$656.43
8/1/2016	BLAIRSVILLE DISPATCH	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,045.17
8/1/2016	SNYDER COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07
8/1/2016	LIVON COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07
8/1/2016	CAMERON COUNTY ENDEAVOR	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$530.45
8/1/2016	CARBONDALE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$454.31
8/1/2016	GREENE COUNTY MESSENGER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,207.08
8/1/2016	HOY FINE DE SEMANA	Main News, RHP, FF	x Full Page BW	Full Pg (10x10.5). B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW MATERIAL	1	1	\$1,578.95
8/1/2016	MILFORD FIVE COUNTY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg (10.25 x 6.5). B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$656.43
8/1/2016	BLAIRSVILLE DISPATCH	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,045.17
8/1/2016	SNYDER COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07

9/2/2016	UNION COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$487.07
9/3/2016	CAMERON COUNTY ENCEAVOR	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$530.46
9/6/2016	EMLENTON PROGRESS-NEWS	Main News, RHP, FF	x Half Page BW	Half Pg (10.25 x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$709.64
9/6/2016	PHILADELPHIA TRIBUNE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$10,727.64
9/6/2016	SAXTON BROAD TOP BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$296.10
9/6/2016	SHIPPENSBURG NEWS-CHRONICLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$368.55
9/7/2016	ADV - JUNIATA SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/7/2016	ADV - NEWPORT NEWS-SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/7/2016	BMN - BIRDSBORO NEWS OF SOUTHERN BERKS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/7/2016	BMN - HAMBURG ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/7/2016	BMN - BIRDSBORO NEWS OF SOUTHERN BERKS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
9/7/2016	BMN - HAMBURG ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
9/7/2016	CAMERON COUNTY ECHO	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$350.91
9/7/2016	CHESTER COUNTY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$669.63
9/7/2016	CRANESBURY EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$656.15
9/7/2016	DCAN - NEWS OF DELAWARE COUNTY	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,572.48
9/7/2016	DUSHORE SULLIVAN REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$484.31
9/7/2016	LVPJ - EMMAUS EAST FENY PRESS SAUSSURY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/7/2016	LVPJ - EMMAUS EAST FENY PRESS SAUSSURY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
9/7/2016	FOREST CITY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	7	10.5	\$454.52
9/7/2016	HAWLEY NEWS EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$686.07
9/7/2016	MCMEUSEY ALJMANAC	Main News, RHP, FF	x Half Page BW	Half Pg (10x13), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,000.00
9/7/2016	MIDDLETON PRESS & JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$470.65
9/7/2016	MONTCOKE SUSQUEHANNA COUNTY INDEPENDENT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	6.5	\$310.05
9/7/2016	MUNCY LUMINARY	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$563.85
9/7/2016	ORISONIA VALLEY LOG	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	8	\$277.92
9/7/2016	PHILADELPHIA AL DIA	Main News, RHP, FF	x Full Page BW	Full Pg (10 x 11), B&W, CAPTION: Amendment on Ballot, NEW MATERIAL	1	1	\$5,120.58
9/7/2016	NEW PITTSBURGH COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,607.13
9/7/2016	FORT FIDAL TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$530.45
9/7/2016	FOTTER LEADER ENTERPRISE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$654.39
9/7/2016	TIOBESTIA FOREST PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$376.74
9/7/2016	WELLSBORO-MANSFIELD GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$663.39
9/7/2016	WESTFIELD FREE PRESS-COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$430.92
9/7/2016	WYOMING COUNTY PRESS-COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$619.92
9/7/2016	YEAGERTOWN COUNTY OBSERVER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$593.46
9/8/2016	ADV - ADVANCE PUBLICATIONS PERRY & JUNIATA COUNTIES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$693.57
9/8/2016	ADV - DUNCANNOON RECORD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/8/2016	ADV - FERRY COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/8/2016	ALLEN TOWN MORNING CALL	Main News, RHP, FF	x Half Page BW	Half Pg (10 x), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$3611.20
9/8/2016	ALLEN TOWN MORNING CALL	Main News, RHP, FF	x Half Page BW	Half Pg (10 x), B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW	1	1	\$3,611.20
9/8/2016	ALTONA MIRROR	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,521.03
9/8/2016	BEAVER COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,571.80
9/8/2016	BEDFORD DAILY GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$506.06
9/8/2016	BMN - BERKS MONT NEWS PAPERS INC	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,297.80
9/8/2016	BMN - BOYERTOWN AREA TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
9/8/2016	BMN - KUTZTOWN PATRIOT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$1,297.80
9/8/2016	BMN - BOYERTOWN AREA TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
9/8/2016	BMN - KUTZTOWN PATRIOT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
9/8/2016	BLAKESLEE JOURNAL OF POCONO PLATEAU	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	5	6.5	\$444.60
9/8/2016	BLOOMSBURG PRESS-ENTERPRISE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,313.51
9/8/2016	BRADFORD ERA	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,065.33
9/8/2016	BROOKVILLE JEFFERSON AN DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$555.03
9/8/2016	BUTLER EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,060.92
9/8/2016	CAPLISE SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,442.07
9/8/2016	CENTRE COUNTY GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg (10.25 x 8), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$422.40
9/8/2016	CENTRE DAILY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,016.00
9/8/2016	CHAMBERSBURG PUBLIC OPINION	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,226.15
9/8/2016	CLEARFIELD PROGRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$583.38
9/8/2016	CORRY EVENING JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$563.85
9/8/2016	DANVILLE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07
9/8/2016	DELAWARE COUNTY TIMES	Main News, RHP, FF	x Full Page BW	Full Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	9	9.5	\$2,059.14

9/8/2016	DUBOIS COURIER-EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$946.89
9/8/2016	LVPG - LEDIGH VALLEY PRESS GROUP	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,382.85
9/8/2016	LVPG - BETHLEHEM PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$9.00
9/8/2016	LVPG - PARKLAND-NORTHWESTERN PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$9.00
9/8/2016	LVPG - WHITEHALL-CORLAY PRESS, NORTHAMPTON PRESS, CATASAGUA PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,382.85
9/8/2016	LVPG - LEDIGH VALLEY PRESS GROUP	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$9.00
9/8/2016	LVPG - BETHLEHEM PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$9.00
9/8/2016	LVPG - PARKLAND-NORTHWESTERN PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$9.00
9/8/2016	LVPG - WHITEHALL-CORLAY PRESS, NORTHAMPTON PRESS, CATASAGUA PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$1,903.23
9/8/2016	EASTON EXPRESS-TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$810.18
9/8/2016	ELLWOOD CITY LEDGER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$4,447.17
9/8/2016	ERIC TIMES-NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$405.72
9/8/2016	FULTON COUNTY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$944.37
9/8/2016	GETTYSBURG TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,874.05
9/8/2016	BUCKS COUNTY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,055.59
9/8/2016	DOYLESTOWN INTELLIGENCER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$928.62
9/8/2016	GREENVILLE RECORD-JOYOUS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,501.23
9/8/2016	HANOVER EVENING SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$587.67
9/8/2016	HUNTINGDON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,282.68
9/8/2016	INDIANA GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,945.25
9/8/2016	JOHNSTOWN TRIBUNE DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$483.92
9/8/2016	KANE REPUBLICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,866.31
9/8/2016	LNP MEDIA GROUP - LANCASTER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$653.39
9/8/2016	LATROSE BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,257.07
9/8/2016	LEBANON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$871.92
9/8/2016	LEHIGH COUNTY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,304.73
9/8/2016	LEWISTOWN SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$829.08
9/8/2016	LEWIS RECORD-EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$954.77
9/8/2016	LOCK HAVEN EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$954.77
9/8/2016	GREENVILLE RECORD-JOYOUS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW (col x 8)	3	1	\$505.05
9/8/2016	HANOVER EVENING SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$9.00
9/8/2016	INDIANA GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$9.00
9/8/2016	JOHNSTOWN TRIBUNE DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$9.00
9/8/2016	KANE REPUBLICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$9.00
9/8/2016	LNP MEDIA GROUP - LANCASTER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$842.31
9/8/2016	LATROSE BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,431.59
9/8/2016	LEBANON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	8	10.5	\$1,609.56
9/8/2016	LEHIGH COUNTY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,224.55
9/8/2016	LEWISTOWN SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	8	\$474.72
9/8/2016	LEWIS RECORD-EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$555.03
9/8/2016	LOCK HAVEN EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,658.16
9/8/2016	GREENVILLE RECORD-JOYOUS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,292.42
9/8/2016	HANOVER EVENING SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,112.20
9/8/2016	INDIANA GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,054.87
9/8/2016	JOHNSTOWN TRIBUNE DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	5	10	\$9.00
9/8/2016	KANE REPUBLICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, NEW MATERIAL	5	10	\$1,342.00
9/8/2016	LNP MEDIA GROUP - LANCASTER	Main News, RHP, FF	x Half Page BW	Half Pg. (col x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$26,906.32
9/8/2016	LATROSE BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. (col x 10.5), B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	1	1	\$26,906.32
9/8/2016	LEBANON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,017.45
9/8/2016	LEHIGH COUNTY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$4,670.19
9/8/2016	LEWISTOWN SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,017.45
9/8/2016	LEWIS RECORD-EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$10,349.57
9/8/2016	LOCK HAVEN EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,092.42
9/8/2016	GREENVILLE RECORD-JOYOUS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,844.93
9/8/2016	HANOVER EVENING SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$704.97
9/8/2016	INDIANA GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. (10.5 x 8.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,587.50
9/8/2016	JOHNSTOWN TRIBUNE DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. (10.5 x 8.5), B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	1	1	\$1,587.50
9/8/2016	KANE REPUBLICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$331.38
9/8/2016	LNP MEDIA GROUP - LANCASTER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$550.62
9/8/2016	LATROSE BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$609.84

9/8/2016	SAVRE MORNING TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	9	10.5	\$855.23
9/8/2016	SCANTON TIMES TRIBUNE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,246.39
9/8/2016	SHAMONGH NEWS-ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$330.97
9/8/2016	SHARON HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,216.34
9/8/2016	SOMERSET DAILY AMERICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,290.87
9/8/2016	STROUDSBURG FOCUS RECORD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,306.42
9/8/2016	SOUTH SCHUYLKILL NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. (col x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$378.55
9/8/2016	SUNBURY DAILY ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,199.52
9/8/2016	TITUSVILLE HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$564.48
9/8/2016	TOWANDA DAILY REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$826.56
9/8/2016	UNIONTOWN HERALD-STARBOARD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,974.23
9/8/2016	WARREN TIMES OBSERVER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,314.81
9/8/2016	WASHINGTON OBSERVER-REPORTER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,450.15
9/8/2016	WAYNE INDEPENDENT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$747.77
9/8/2016	WAYNESBORO RECORD HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.59
9/8/2016	WEST CHESTER DAILY LOCAL NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,057.77
9/8/2016	WILKES BARRE CITIZENS VOICE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,051.78
9/8/2016	WILKES BARRE TIMES LEADER	Main News, RHP, FF	x Half Page BW	Half Pg. (col x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,895.00
9/8/2016	WILLIAMSPORT SUN-GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,392.93
9/8/2016	YORK RECORD DISPATCH SUNDAY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,514.77
9/8/2016	HAZLETON STANDARD-SPEAKER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,238.42
10/1/2016	CAMELTON COUNTY ENVOYER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$530.46
10/1/2016	EMBLETON PROGRESS-NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. (10.25 x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$709.64
10/1/2016	PHILADELPHIA TRIBUNE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$10,727.64
10/1/2016	SAXTON BROAD TOP BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$796.10
10/1/2016	SHIPPENSBURG NEWS-CHRONICLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$388.55
10/5/2016	ADV - JUNATA SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/5/2016	ADV - NEWPORT NEWS-SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/5/2016	BMN - BIRDSBORO NEWS OF SOUTHERN BERKS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/5/2016	BMN - HAMBURG ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/5/2016	BMN - BIRDSBORO NEWS OF SOUTHERN BERKS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/5/2016	BMN - HAMBURG ITEM	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/5/2016	CAMELTON COUNTY ECHO	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$350.91
10/5/2016	CHESTER COUNTY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$569.69
10/5/2016	CRANBURY EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$656.15
10/5/2016	DCNN - NEWS OF DELAWARE COUNTY	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,572.43
10/5/2016	DUSHORE SULLIVAN REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$454.31
10/5/2016	LVFG - EMMANUEL EAST PENN PRESS SAUBURRY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/5/2016	LVFG - EMMANUEL EAST PENN PRESS SAUBURRY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/5/2016	FORREST CITY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	7	10.5	\$444.52
10/5/2016	HANLEY NEWS EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$656.07
10/5/2016	MONMOUTH ALMANAC	Main News, RHP, FF	x Half Page BW	Half Pg. (10x11), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,000.00
10/5/2016	MIDDLETOWN PRESS & JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$370.56
10/5/2016	MONTFOSSE SUSQUEHANNA COUNTY INDEPENDENT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	6.5	\$310.05
10/5/2016	MUNICIPAL MARY	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$563.85
10/5/2016	ORISONA VALLEY LOG	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	8	\$277.92
10/5/2016	PHILADELPHIA AL DIA	Main News, RHP, FF	x Full Page BW	Full Pg (10 x 11), B&W, CAPTION: Amendment on Ballot, NEW MATERIAL	1	1	\$5,120.58
10/5/2016	NEW PITTSBURGH COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,607.13
10/5/2016	PORT ROYAL TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$530.45
10/5/2016	POTTER LEADER-ENTERPRISE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$663.39
10/5/2016	TRONESTA FOREST PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$376.74
10/5/2016	WELLSBORO MANSFIELD GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$663.39
10/5/2016	WESTFIELD FREE PRESS-COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$430.92
10/5/2016	WYOMING COUNTY PRESS EXAMINER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$519.92
10/5/2016	YAGERTOWN COUNTY OBSERVER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$593.45
10/6/2016	ADV - ADVANCE PUBLICATIONS PERRY & JUNATA COUNTIES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$599.57
10/6/2016	ADV - DUNCANSON RECORD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/6/2016	ADV - PERRY COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/6/2016	ALLENTOWN MORNING CALL	Main News, RHP, FF	x Half Page BW	Half Pg (10 x), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$3,611.20
10/6/2016	ALLENTOWN MORNING CALL	Main News, RHP, FF	x Half Page BW	Half Pg (10 x), B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW	1	1	\$3,611.20
10/6/2016	ALTONA MIRROR	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,683.80
10/6/2016	BEAVER COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,571.03

10/6/2016	BEDFORD DAILY GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$606.06
10/6/2016	EMN - BEAS MONT NEWSPAPERS INC	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,297.80
10/6/2016	EMN - BOYERTOWN AREA TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/6/2016	EMN - KUTZTOWN PATRIOT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/6/2016	EMN - BEAS MONT NEWSPAPERS INC	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$1,297.80
10/6/2016	EMN - BOYERTOWN AREA TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/6/2016	EMN - KUTZTOWN PATRIOT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/6/2016	BLAKESLEE JOURNAL OF POCONO PLATEAU	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	5	6.5	\$444.60
10/6/2016	BLOOMSBURG PRESS-ENTERPRISE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,933.51
10/6/2016	BRADFORD ERA	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,055.33
10/6/2016	BROOKVILLE JEFFERSONIAN DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$555.03
10/6/2016	BUTLER EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,020.92
10/6/2016	CARLISLE SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,412.07
10/6/2016	CENTRE COUNTY GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$172.40
10/6/2016	CENTRE DAILY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,016.00
10/6/2016	CHAMBERSBURG PUBLIC OPINION	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,325.15
10/6/2016	CLEARFIELD PROGRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$583.38
10/6/2016	CORRY EVENING JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$563.85
10/6/2016	DANVILLE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07
10/6/2016	DELAWARE COUNTY TIMES	Main News, RHP, FF	x Full Page BW	Full Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	9.5	\$2,053.14
10/6/2016	DUBOIS COURIER-EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$545.63
10/6/2016	LVPG - LEHIGH VALLEY PRESS GROUP	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,387.85
10/6/2016	LVPG - BETHLEHEM PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/6/2016	LVPG - PARKLAND-NORTHWESTERN PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/6/2016	LVPG - WHITEHALL-COPLAY PRESS, NORTHAMPTON PRESS, CATASQUA PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$0.00
10/6/2016	LVPG - LEHIGH VALLEY PRESS GROUP	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$1,387.85
10/6/2016	LVPG - BETHLEHEM PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/6/2016	LVPG - PARKLAND-NORTHWESTERN PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/6/2016	LVPG - WHITEHALL-COPLAY PRESS, NORTHAMPTON PRESS, CATASQUA PRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot SPANISH Ad, NEW MATERIAL	6	10.5	\$0.00
10/6/2016	EASTON EXPRESS-TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,910.23
10/6/2016	ELLWOOD CITY LEDGER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$810.18
10/6/2016	ERIE TIMES-NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$4,417.17
10/6/2016	FULTON COUNTY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$405.72
10/6/2016	GETTYSBURG TIMES	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$541.37
10/6/2016	BUCKS COUNTY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,374.06
10/6/2016	DOHLESTOWN INTELLIGENCER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,655.69
10/6/2016	GREENVILLE RECORD-JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$928.62
10/6/2016	HANOVER EVENING SUN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,501.23
10/6/2016	HUNTINGDON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$587.62
10/6/2016	INDIANA GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,282.68
10/6/2016	JOHNSTOWN TRIBUNE DEMOCRAT	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,945.25
10/6/2016	KANE REPUBLICAN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$493.92
10/6/2016	LANP MEDIA GROUP - LANCASTER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,656.31
10/6/2016	LATROBE BULLETIN	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$663.39
10/6/2016	LEBANON DAILY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,757.07
10/6/2016	LEHIGHON TIMES NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$371.95
10/6/2016	LEWISTOWN SENTINEL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,304.73
10/6/2016	LITIZ RECORD-EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$929.08
10/6/2016	LOCKHAVEN EXPRESS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$994.77
10/6/2016	MAINLINE - MAINLINE NEWSPAPERS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW (Scott #8)	1	1	\$505.05
10/6/2016	MAINLINE - GRESSON MAINLINER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
10/6/2016	MAINLINE - EBENSBURG MOUNTAINEER HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
10/6/2016	MAINLINE - NANTY GLO JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
10/6/2016	MAINLINE - NORTHERN CAMBRIA STAR-COURIER	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
10/6/2016	MAINLINE - PORTAGE DISPATCH	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$0.00
10/6/2016	MARTINSBURG MORRISONS COVE HERALD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$842.31
10/6/2016	MEADVILLE TRIBUNE	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,431.99
10/6/2016	MEYERSDALE NEW REPUBLIC	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	8	10.5	\$1,603.56
10/6/2016	MILFORD PIKE COUNTY DISPATCH	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,124.55
10/6/2016	MILTON-LEWISBURG STANDARD-JOURNAL	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	8	\$474.72
10/6/2016	NEW BETHLEHEM LEADER-VANGUARD	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$555.03
10/6/2016	NEW CASTLE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg. B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,658.16

10/6/2016	NORFOLK TIMES HERALD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,092.42
10/6/2016	OK CITY DEERHOOK FRANKLIN NEWS HERALD-CLARION NEWS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,112.20
10/6/2016	HARRISBURG PATRIOT NEWS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,054.97
10/6/2016	PHILADELPHIA DAILY NEWS	Main News, RHP, FF	x Full Page BW	Full Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	5	10	\$0.00
10/6/2016	PHILADELPHIA DAILY NEWS	Main News, RHP, FF	x Full Page BW	Full Pg, B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	5	10	\$0.00
10/6/2016	PHILADELPHIA EL HISPANO	Main News, RHP, FF	x Full Page BW	Full Pg, B&W, CAPTION: Amendment on Ballot, NEW MATERIAL	5	10	\$1,342.00
10/6/2016	PHILADELPHIA INQUIRER	Main News, RHP, FF	x Half Page BW	Half Pg (6col x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$26,906.32
10/6/2016	PHILADELPHIA INQUIRER	Main News, RHP, FF	x Half Page BW	Half Pg (6col x 10.5), B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	1	1	\$26,906.32
10/6/2016	CONNELLSVILLE DAILY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,017.45
10/6/2016	IF SUONE REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$4,670.19
10/6/2016	WITTING'S LEADER TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,017.45
10/6/2016	PITTSBURGH POST-GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$10,343.97
10/6/2016	PITTSBURGH POST-GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,022.42
10/6/2016	POTTSTOWN MERCURY	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,644.93
10/6/2016	POTTSTOWN REPUBLICAN-HERALD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,644.93
10/6/2016	PUNXSUTAWNEY SPIRIT	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$704.97
10/6/2016	READING EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg (10.5 x 8.5), B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW	1	1	\$1,987.90
10/6/2016	READING EAGLE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$331.38
10/6/2016	RENOVO RECORD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$550.62
10/6/2016	RENOVO RECORD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$609.84
10/6/2016	RODGWAY RECORD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	9	10.5	\$355.23
10/6/2016	SAINTE MARYS DAILY PRESS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,256.39
10/6/2016	SAVRE MORNING TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$330.97
10/6/2016	SCRANTON TIMES-TRI-UNE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,218.54
10/6/2016	SHAMOKON NEWS-ITEM	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,290.87
10/6/2016	SHARON HERALD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,266.42
10/6/2016	SOMERSET DAILY AMERICAN	Main News, RHP, FF	x Half Page BW	Half Pg (6col x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$378.55
10/6/2016	STROUDSBURG RECORD	Main News, RHP, FF	x Half Page BW	Half Pg (11.543 x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$178.55
10/6/2016	SOUTH SCRANTON NEWS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,199.52
10/6/2016	SUNBURG DAILY ITEM	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$554.43
10/6/2016	TITUSVILLE HERALD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$826.56
10/6/2016	TOVANDA DAILY REVIEW	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,974.23
10/6/2016	UNIONTOWN HERALD-STANDARD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,314.81
10/6/2016	WARREN TIMES OBSERVER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$2,650.15
10/6/2016	WASHINGTON OBSERVER-REPORTER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$742.77
10/6/2016	WAYNE INDEPENDENT	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$877.59
10/6/2016	WAYNESBORO RECORD-HERALD	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,027.77
10/6/2016	WEST CHESTER DAILY LOCAL NEWS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,895.00
10/6/2016	WILKES BARRE CITIZENS VOICE	Main News, RHP, FF	x Half Page BW	Half Pg (6col x 10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,922.93
10/6/2016	WILKES BARRE CITIZENS VOICE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$3,514.77
10/6/2016	WILLIAMSPORT SUN-GAZETTE	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$454.31
10/6/2016	YORK RECORD DISPATCH SUNDAY NEWS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$1,238.42
10/7/2016	HAZLETON STANDARD-SPEAKER	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$454.31
10/7/2016	CARSONDALE NEWS	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,207.08
10/7/2016	GREENE COUNTY MESSENGER	Main News, RHP, FF	x Half Page BW	Full Pg (10x10.5), B&W, CAPTION: Amendment on Ballot, SPANISH AD NEW MATERIAL	1	1	\$1,578.95
10/7/2016	HOY FIDEL SEMANA	Main News, RHP, FF	x Full Page BW	Full Pg (10x10.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	1	1	\$696.43
10/7/2016	MILFORD PIKE COUNTY COURIER	Main News, RHP, FF	x Half Page BW	Half Pg (10.25 x 6.5), B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$1,065.17
10/7/2016	BLAIRSVILLE DISPATCH	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07
10/7/2016	SNYDER COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07
10/7/2016	UNION COUNTY TIMES	Main News, RHP, FF	x Half Page BW	Half Pg, B&W, CAPTION: Amendment on Ballot, Ad Copy NEW	6	10.5	\$497.07
	Susquehanna Design and Printing						\$497.07
	TOTAL						\$697,004.93

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# **EXHIBIT 6**

**Proposed Constitutional Amendment 1  
Amending the Mandatory Judicial  
Retirement Age**

**Ballot Question**

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?

YES

NO

**Plain English Statement of Office of Attorney General**

The purpose of the ballot question is to amend the Pennsylvania Constitution to require that justices, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years.

Presently, the Pennsylvania Constitution provides that justices, judges and justices of the peace be retired on the last day of the calendar year in which they attain the age of 70 years. Justices of the peace are currently referred to as magisterial district judges.

If the ballot question were to be approved, justices, judges and magisterial district judges would be retired on the last day of the calendar year in which they attain the age of 75 years rather than the last day of the calendar year in which they attain the age of 70 years.

This amendment to the mandatory retirement age would be applicable to all judges and justices in the Commonwealth, including the justices of the Pennsylvania Supreme Court, judges of the Commonwealth Court, Superior Court, county courts of common pleas, community courts, municipal courts in the City of Philadelphia, and magisterial district judges.

The ballot question is limited in that it would not amend any other provisions of the Pennsylvania Constitution related to the qualification, election, tenure, or compensation of the justices, judges or magisterial district judges.

The effect of the ballot question would be to allow all justices, judges, and magisterial district judges to remain in office until the last day of the calendar year in which they attain the age of 75 years. This would permit all justices, judges, and magisterial district judges to serve an additional five years beyond the current required retirement age.

# **EXHIBIT 7**

**JOINT RESOLUTION 2015-1**

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, further providing for compensation of justices, judges and justices of the peace.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI: section 16(b) of Article V be amended to read:

Compensation and retirement of justices, judges and justices of the peace.

Justices, judges and justices of the peace shall be retired on the first day of the calendar year in which they attain the age of [70]. Former and retired justices, judges and justices of the peace shall receive such compensation as shall be provided by law. Except as otherwise provided by law, no salary, retirement benefit or other compensation, or deferred, shall be paid to any justice, judge or justice of the peace who, under section 18 or under Article VI, is suspended, removed or barred from holding judicial office for conviction of a crime or misconduct in office or conduct which prejudices the proper administration of justice or brings the judicial office into disrepute.

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

**PROPOSED CONSTITUTIONAL AMENDMENT 1  
AMENDING THE MANDATORY JUDICIAL  
RETIREMENT AGE**

**Ballot Question**

Should the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?

**Main English Statement of the Office of  
Attorney General**

The purpose of the ballot question is to amend the Pennsylvania Constitution to require that justices, judges and justices of the peace (including magisterial district judges) be retired on the last day of the

**JOINT RESOLUTION 2015-2**

Proposing integrated amendments to the Constitution of the Commonwealth of Pennsylvania, including the elimination of the Traffic Court of Philadelphia.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following integrated amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1) That section 1 of Article V be amended to read:

§ 1. Unified judicial system.

The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, county courts, municipal [and traffic] courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace. All courts and justices of the peace and their jurisdiction shall be in the unified judicial system.

(2) That the heading and subsection (c) of section 6 of Article V be amended to read:

§ 6. Community courts; Philadelphia Municipal Court [and Traffic Court].

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(c) In the City of Philadelphia there shall be a municipal court [and a traffic court]. The number of judges and the jurisdiction [of each] shall be as provided by law. [These courts] This court shall exist as long as a community court has not been established or in the event one has been discontinued under this section.

(3) That subsection (d) of section 10 of Article V be amended to read:

§ 10. Judicial administration.

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(d) The Chief Justice and president judges of all courts with seven or less judges shall be the justice or judge longest in continuous service on their respective courts; and in the event of his resignation from this position the justice or judge next longest in continuous service shall be the Chief Justice or president judge. The president judges of all other courts shall be selected for five-year terms by the members of their respective courts[, except that the president judge of the traffic court in the City of Philadelphia shall be appointed by the Governor]. A Chief Justice or president judge may resign such position and remain a member of the court. In the event of a tie vote for office of president judge in a court which does not have a president judge, the Supreme Court shall appoint as president judge one of the judges receiving the highest number of votes.

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(4) That subsection (b) of section 12 of Article V be amended to read:

§ 12. Qualifications of justices, judges and justices of the peace.

\*\*\*

(b) [Judges of the traffic court in the City of Philadelphia and justices] Justices of the peace shall be members of the bar of the Supreme Court or shall complete a course of training and instruction in the duties of their respective offices and pass an examination prior to assuming office. Such examinations shall be as provided by law.

(5) That subsection (a) of section 15 of Article V be amended to read:

§ 15. Tenure of justices, judges and justices of the peace.

(a) The regular term of office of justices and judges shall be ten years and the regular term of office of judges of the municipal court [and traffic court] in the City of Philadelphia and of justices of the peace shall be six years. The tenure of any justice or judge shall not be affected by changes in judicial districts or reduction in the number of judges.

\*\*\*

Section 2. (a) Upon the first passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments.

(b) Upon the second passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments. The Secretary of the Commonwealth shall submit these proposed constitutional amendments under section 1 of this resolution to the qualified electors of this Commonwealth as a single ballot question at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendments are passed by the General Assembly.

**PROPOSED CONSTITUTIONAL AMENDMENT 2**

# **EXHIBIT 8**

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE RESOLUTION****No. 783** Session of  
2015

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INTRODUCED BY HARPER AND MARSICO, APRIL 4, 2016

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AS RE-REPORTED FROM COMMITTEE ON RULES, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 5, 2016

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## A CONCURRENT RESOLUTION

1 Further providing for submission to the electorate of a  
2 constitutional amendment on retirement for justices, judges  
3 and justices of the peace.

4 WHEREAS, Pursuant to Article XI of the Constitution of  
5 Pennsylvania, the General Assembly has proposed an amendment to  
6 section 16(b) of Article V of the Constitution of Pennsylvania  
7 providing that justices, judges and justices of the peace be  
8 retired on the last day of the calendar year in which they  
9 attain the age of 75; and

10 WHEREAS, In October 2013, a majority of both houses of the  
11 General Assembly passed Joint Resolution No. 2013-JR3 and  
12 presented it to the Secretary of the Commonwealth, who published  
13 it pursuant to section 1 of Article XI of the Constitution of  
14 Pennsylvania; and

15 WHEREAS, In November 2015, in the General Assembly next  
16 afterwards chosen, a majority of both houses of the General  
17 Assembly passed Joint Resolution No. 2015-JR1 and presented it  
18 to the secretary; and

1 WHEREAS, Pursuant to ~~section~~ SECTIONS 201(c), 201.1 AND 605 <--  
2 of the act of June 3, 1937 (P.L.1333, No.320), known as the  
3 Pennsylvania Election Code, the secretary prepared a ballot  
4 question as Proposed Constitutional Amendment 1, which was  
5 approved by the Attorney General, and published along with the  
6 proposed amendment and the plain English statement prepared by  
7 the Office of Attorney General pursuant to section 1 of Article  
8 XI of the Constitution of Pennsylvania; and

9 WHEREAS, Proposed Constitutional Amendment 1 is scheduled to  
10 appear on the ballot for primary election on April 26, 2016; and

11 ~~WHEREAS, The General Assembly believes that the ballot~~ <--  
12 ~~question as prepared by the secretary contains unnecessary~~  
13 ~~language and consequently may be confusing to electors; and~~

14 ~~WHEREAS, On March 6, 2016, the General Assembly filed an~~  
15 ~~application asking the Pennsylvania Supreme Court to order that~~  
16 ~~the ballot question be amended; and~~

17 ~~WHEREAS, On March 23, 2016, the Supreme Court denied approval~~  
18 ~~of a stipulated resolution between the parties, noting that~~  
19 ~~"such denial shall not be construed as condoning or constraining~~  
20 ~~any future legislative or executive action by the parties"; and~~

21 WHEREAS, The General Assembly has prepared a revised ballot  
22 question for Proposed Constitutional Amendment 1 which ~~avoids~~ <--  
23 ~~confusion~~ and, IN THE VIEW OF THE GENERAL ASSEMBLY, more <--  
24 accurately reflects the language of Joint Resolution No. 2013-  
25 JR3 and Joint Resolution No. 2015-JR1; and

26 WHEREAS, There is insufficient time to publish the revised  
27 ballot question before primary election on April 26, 2016, as  
28 required by section 1 of Article XI of the Constitution of  
29 Pennsylvania; and

30 WHEREAS, Under section 802 of the Pennsylvania Election Code,

1 only persons registered and enrolled as members of a political  
2 party are entitled to vote in any primary election of that  
3 party; and

4 WHEREAS, More than 1 million Pennsylvania registered voters  
5 are not registered and enrolled as members of one of the two  
6 major political parties and therefore are not entitled to vote  
7 in the primary election of either of those political parties;  
8 and

9 WHEREAS, Many of those registered voters may be unaware of  
10 their right to vote on Proposed Constitutional Amendment 1  
11 during the primary election on April 26, 2016, and consequently  
12 may not cast a vote on the ballot question; and

13 WHEREAS, Proposed Constitutional Amendment 1 is a matter of  
14 Statewide importance to all citizens of the Commonwealth, not  
15 merely registered members of the two major political parties;  
16 and

17 WHEREAS, If Proposed Constitutional Amendment 1 were to be  
18 placed on the ballot for the general election on November 8,  
19 2016, the secretary will have sufficient time to publish the  
20 revised ballot question as required under the Constitution of  
21 Pennsylvania and registered voters who are not members of one of  
22 the two major political parties will be more likely to  
23 participate in the decision to approve or disapprove Proposed  
24 Constitutional Amendment 1; and

25 WHEREAS, Under section 1 of Article XI of the Constitution of  
26 Pennsylvania, it is within the authority of the General Assembly  
27 to prescribe the manner and time at which proposed amendments to  
28 the Constitution are submitted to the qualified electors of the  
29 Commonwealth for approval; therefore be it

30 RESOLVED (the Senate concurring), That ~~the General Assembly~~ <--

1 ~~direct~~ the Secretary of the Commonwealth ~~to~~ remove the ballot <--  
2 question for Proposed Constitutional Amendment 1 from the ballot  
3 certification for the primary election on April 26, 2016; and be  
4 it further

5 RESOLVED, That ~~the General Assembly direct the secretary to~~ <--  
6 ~~direct~~ the county boards of election ~~to~~ remove, to the extent <--  
7 possible, the ballot question for Proposed Constitutional  
8 Amendment 1 from the ballot; and be it further

9 RESOLVED, That ~~the General Assembly direct~~ the secretary ~~to~~ <--  
10 disregard any vote on Proposed Constitutional Amendment 1 in the  
11 primary election on April 26, 2016, and ~~prohibit the secretary~~ <--  
12 ~~from making~~ THE SECRETARY NOT MAKE a tally of votes cast on <--  
13 Proposed Constitutional Amendment 1; and be it further

14 RESOLVED, That the General Assembly direct the secretary to  
15 place Proposed Constitutional Amendment 1 on the ballot for the  
16 general election on November 8, 2016, in the following form:

17 Shall the Pennsylvania Constitution be amended to require  
18 that justices of the Supreme Court, judges, and  
19 magisterial district judges be retired on the last day of  
20 the calendar year in which they attain the age of 75  
21 years?;

22 and be it further

23 RESOLVED, That, to ensure compliance with section 1 of  
24 Article XI of the Constitution of Pennsylvania, the General  
25 Assembly direct the secretary to publish the ballot question for  
26 Proposed Constitutional Amendment 1 as revised along with the  
27 proposed amendment and the plain English statement previously  
28 prepared by the Office of Attorney General, in each of the three  
29 months prior to the general election on November 8, 2016; and be  
30 it further

1       RESOLVED, That, upon passage by a majority of both houses of  
2 the General Assembly, this concurrent resolution be transmitted  
3 to the Secretary of the Commonwealth for implementation.

# **EXHIBIT 9**

# Pennsylvania General Assembly

[http://www.legis.state.pa.us/cfdocs/billInfo/bill\\_history.cfm?year=2015&sind=0&body=H&type=R&bn=783](http://www.legis.state.pa.us/cfdocs/billInfo/bill_history.cfm?year=2015&sind=0&body=H&type=R&bn=783)

07/20/2016 03:14 PM

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## Bill Information - History

### House Resolution 783; Regular Session 2015-2016

Sponsors: [HARPER](#) and [MARSICO](#)

Printer's No.(PN): [3091\\*](#) , [3071](#)

Short Title: A Concurrent Resolution further providing for submission to the electorate of a constitutional amendment on retirement for justices, judges and justices of the peace.

Actions:

- [PN 3071](#) Referred to [JUDICIARY](#), April 4, 2016
- Reported as committed, [April 5, 2016](#)
- Re-committed to [RULES](#), April 5, 2016
- [PN 3091](#) Re-reported as amended, [April 5, 2016](#)
- Adopted, April 6, 2016 ([110-77](#))
- (Remarks see House Journal Page ), April 6, 2016
- In the Senate
- Referred to [RULES AND EXECUTIVE NOMINATIONS](#), April 7, 2016
- Reported as committed, [April 11, 2016](#)
- Adopted, April 11, 2016 ([32-17](#))
- (Remarks see Senate Journal Page ), April 11, 2016
- Signed in House, April 12, 2016
- Signed in Senate, April 12, 2016

\* denotes current Printer's Number  
 ? [How to Read a Bill](#) ? [About PDF Documents](#)

# **EXHIBIT 10**



You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

Dauphin County Bar Association, Lawyer Referral Service  
213 North Front Street, Harrisburg, PA 17101  
(717) 232-7536



## **I. INTRODUCTION**

The Pennsylvania General Assembly proposes amending the Pennsylvania Constitution to raise the constitutionally-mandated judicial retirement age from 70 to 75. The Pennsylvania Constitution requires that the Secretary of the Commonwealth put the constitutional amendment proposed by the General Assembly to a statewide vote. In order to do so, the Secretary of the Commonwealth developed a very straightforward question for the April 2016 primary election ballot. The ballot question developed by the Secretary of the Commonwealth asked voters in simple terms whether the Pennsylvania Constitution should be amended to require that the Commonwealth's Supreme Court justices, judges and magisterial district judges "be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70."

When a group of senators asked the Supreme Court just over 5 months ago to revise this ballot question by striking the language advising that jurists of the Commonwealth are currently required under the Constitution to retire at the age of 70, the Defendant, Secretary of the Commonwealth Pedro A. Cortés, submitted an opposition brief correctly arguing that the senators' proposed ballot language would mislead voters into believing that the proposed constitutional amendment

would result in the inaugural imposition of a mandatory judicial retirement age, rather than a raising of the current compulsory retirement age by 5 years. In an inexplicable about-face, however, the Secretary has since adopted the very ballot language he told the Supreme Court would amount to a fraud on the Pennsylvania electorate.

Instead of asking whether voters wish to raise the judicial retirement age by 5 years, the ballot question that the Secretary of the Commonwealth intends to present to the electorate will, in accordance with directions from the General Assembly, simply ask voters in the next general election whether the Pennsylvania Constitution should be amended to require that the Commonwealth's jurists "be retired on the last day of the calendar year in which they attain the age of 75 years[.]" Unlike the ballot question that the Secretary of the Commonwealth developed for the April 2016 primary election—which asked voters whether they wished to amend the Constitution to require that the Commonwealth's judicial officers "be retired on the last day of the calendar year in which they attain the age of 75 years, *instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70*"—the question the General Assembly has directed the Secretary of the Commonwealth to place on the November 2016 general election ballot omits the fact that Supreme Court justices, judges and magisterial district judges of the Commonwealth are currently required

to retire at the age of 70. The ballot question developed by the General Assembly and adopted by the Secretary of the Commonwealth is misleadingly designed to garner “yes” votes from voters who are actually in favor of restricting the terms of Supreme Court justices, judges and magisterial district judges but are unaware that the proposed amendment will have the opposite effect.

The question of whether the Constitution should be amended to require that Supreme Court justices, judges and magisterial district judges “be retired on the last day of the calendar year in which they attain the age of 75 years” is designed to exploit the many voters who are unaware that the Pennsylvania Constitution currently requires state court jurists to retire at the age of 70. These voters will be misled to believe that they are being asked whether the Commonwealth should institute a constitutionally-mandated judicial retirement age where none exists. The Secretary of the Commonwealth should not be permitted to present voters with a deceitful ballot question that does not advise voters of the true nature of the General Assembly’s proposal to amend the Pennsylvania Constitution to *raise* the compulsory retirement age by 5 years.

## **II. THE PARTIES**

1. Richard A. Sprague, Esquire, is a resident and citizen of the Commonwealth of Pennsylvania, a member of the Pennsylvania Bar, a registered voter, a taxpayer of the Commonwealth of Pennsylvania, and he is eligible and

intends to vote in the November 2016 general election in the Commonwealth of Pennsylvania.

2. The Honorable Ronald D. Castille, former Chief Justice of the Pennsylvania Supreme Court, is a resident and citizen of the Commonwealth of Pennsylvania, a registered voter, a taxpayer of the Commonwealth of Pennsylvania, and he is eligible and intends to vote in the November 2016 general election in the Commonwealth of Pennsylvania.

3. The Honorable Stephen Zappala, Sr., former Chief Justice of the Pennsylvania Supreme Court, is a resident and citizen of the Commonwealth of Pennsylvania, a registered voter, a taxpayer of the Commonwealth of Pennsylvania, and he is eligible and intends to vote in the November 2016 general election in the Commonwealth of Pennsylvania.

4. Pedro A. Cortés, Esquire is the Secretary of the Commonwealth of Pennsylvania, and in that capacity, he is responsible for determining and publishing the language that appears on statewide ballots concerning any proposed amendment to the Pennsylvania Constitution, including the proposed constitutional amendment that is the subject of this action.

### **III. JURISDICTION**

5. This Court has original jurisdiction over the present action for declaratory and injunctive relief pursuant to 42 Pa. C. S. § 761, which vests this

Court with “original jurisdiction of all civil actions or proceedings . . . [a]gainst the Commonwealth government, including any officer thereof, acting in his official capacity.”<sup>1</sup>

#### **IV. BACKGROUND**

##### **Constitutionally-Mandated Judicial Retirement Ages**

6. The operative Pennsylvania Constitution is the fifth Constitution that has governed the Commonwealth since the United States declared its independence in 1776.

7. The four previous Pennsylvania Constitutions—adopted in 1776, 1790, 1838 and 1874, respectively—did not prescribe an age by which Supreme Court justices, judges and magisterial district judges of the Commonwealth were required to retire.

8. Following a Constitutional Convention held in 1967 and 1968, Pennsylvania voters adopted the presently-controlling Pennsylvania Constitution, which revised the judiciary article of the previous Constitution and set a mandatory retirement age for justices of the Pennsylvania Supreme Court, lower court judges and magisterial district judges.

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<sup>1</sup> In conjunction with the filing of this Complaint, Plaintiffs Richard A. Sprague, Esquire, Hon. Ronald D. Castille and Hon. Stephen Zappala Sr. filed an Emergency Application for Extraordinary Relief Pursuant to 42 Pa.C.S. § 726 for the Exercise of Extraordinary Jurisdiction requesting that the Pennsylvania Supreme Court assume plenary jurisdiction over the above-captioned matter.

9. Article V, Section 16(b) of the original 1968 Pennsylvania Constitution required all judicial officers of the Commonwealth to retire immediately upon attaining the age of 70. (*See Driscoll v. Corbett*, 69 A.3d 197, 200 (Pa. 2013)) (“Section 16(b), as adopted in 1968, stated: ‘Justices, judges and justices of the peace shall be retired upon attaining the age of seventy years.’”)

10. This constitutional requirement remained operative until 2001, when primary ballots across the Commonwealth of Pennsylvania contained the following question asking Pennsylvania voters if they wished to amend Article V, Section 16(b) of the original 1968 Pennsylvania Constitution: “Shall the Constitution of Pennsylvania be amended to provide that justices of the Supreme Court, judges and justices of the peace shall be retired on the last day of the calendar year in which they attain the age of 70 years, rather than on the day they attain the age of 70?” (*See Staff Report of the General Assembly of the Commonwealth of Pennsylvania, Ballot Questions and Proposed Amendments to the Pennsylvania Constitution, A Compilation with Statistics from 1958 to 2006 at p. 53, a true and correct copy of which is attached hereto as Exhibit A.*)

11. 67.5% of the voters who answered the ballot question regarding the 2001 proposed constitutional amendment voted “yes.” As a result, Article V, Section 16(b) of the Pennsylvania Constitution was amended in 2001 to require that the Commonwealth’s judicial officers need not retire on the day that they

reach 70 years of age, but instead, on the last day of the calendar year in which they reach the age of 70. (*Id.*)

12. In the years following the 2001 amendment to Article V, Section 16(b), several members of the legislature introduced unsuccessful bills proposing to amend the Pennsylvania Constitution to either raise the mandatory judicial retirement age beyond 70 or to abolish the constitutional requirement that the Commonwealth’s judicial officers retire upon reaching a certain age. (*See, e.g.*, H.B. 2657, 2010 Reg. Sess. (Pa. 2010); H.B. 2129, 2012 Reg. Sess. (Pa. 2012).)

13. In 2013, several groups of Pennsylvania jurists “sought to renew the attack on Article V, Section 16(b) via multiple legal actions commenced in both federal and state courts.” *Driscoll v. Corbett*, 69 A.3d 197, 200 (2013).

14. The Pennsylvania Supreme Court joined the federal courts in rejecting these legal challenges to Article V, Section 16(b), noting in a 2013 decision that the only way to increase or eliminate the constitutionally-mandated judicial retirement age “is to pursue further amendment to the Pennsylvania Constitution.” *Id.* at 215.

### **Recent Efforts To Raise The Judicial Retirement Age**

15. Shortly after the Supreme Court confirmed the legality of Article V, Section 16(b)’s requirement that Pennsylvania judicial officers retire on the last day of the calendar year in which they attain the age of 70, the Pennsylvania House

of Representatives considered a resolution proposing to present the Pennsylvania electorate with a ballot question regarding whether the constitutionally-mandated judicial retirement age should be raised from 70 to 75.

16. Pursuant to Article XI, Section 1 of the Pennsylvania Constitution, in order for the resolution to result in a Constitutional amendment, it must be approved by a majority vote of both houses of the General Assembly in two consecutive sessions, as well as “submitted to the qualified electors of the State” and “approved by a majority of those voting thereon.” *See* Pa. Const. Art. XI, § 1.

17. The first affirmative vote by the General Assembly came on October 22, 2013, when the General Assembly passed H.B. 79, a joint resolution proposing to amend Article V, Section 16(b) to require that the Commonwealth’s jurists retire on the last day of the year in which they attain 75, rather than 70 as presently required by the Pennsylvania Constitution. (*See* H.B. 79, 2013 Reg. Sess. (Pa. 2013) and H.B. 79 legislative history, true and correct copies of which are attached hereto as Exhibits B and C.)

18. In accordance with the requirements of Article XI, Section 1 of the Pennsylvania Constitution and H.B. 79, following the General Assembly’s affirmative vote, the Secretary of the Commonwealth published notice of the proposed amendment through advertisements in newspapers throughout the Commonwealth. (*See* Pa. Const. Art. XI, § 1) (providing that once a proposed

amendment to the Pennsylvania Constitution is “agreed to by a majority of the members elected to each House . . . the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published.”)

19. During the next legislative session, on November 16, 2015, the General Assembly passed H.B. 90, a joint resolution identical to the preceding session’s H.B. 79, proposing to amend Article V, Section 16(b) to require that the Commonwealth’s jurists retire on the last day of the year in which they attain 75, rather than 70. (*See* H.B. 90, 2015 Reg. Sess. (Pa. 2015) and of H.B. 90 legislative history, true and correct copies of which are attached hereto as Exhibits D and E.)

20. Consistent with the requirements of the Election Code, 25 P.S. § 2621(c), H.B. 90 directed the Secretary of the Commonwealth to develop a ballot question concerning the General Assembly’s proposal to amend Article V, Section 16(b) and to submit that ballot question “to the qualified electors of this Commonwealth at the first primary, general or municipal election . . . which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.” (*See* Exhibit D) (*see also* 25 P.S. § 2621(c)) (“The Secretary of the Commonwealth shall exercise in the manner provided by this act all powers granted to him by this act, and shall perform all the duties imposed upon him by

this act, which shall include . . . the form and wording of constitutional amendments or other questions to be submitted to the electors of the State at large.”.)

21. As required by Article XI, Section 1 of the Pennsylvania Constitution and H.B. 90, the Secretary of the Commonwealth published notice of the proposed amendment in newspapers across the commonwealth along with a “plain English” statement prepared by the Attorney General explaining “the purpose, limitations and effects of the ballot question on the people of the Commonwealth.” *See* 25 Pa.C.S. § 2621.1.

22. The Secretary of the Commonwealth’s public notice explained that voters would be asked to approve or deny the General Assembly’s proposed amendment to Article V, Section 16(b) by answering “yes” or “no” to the following ballot question developed by the Secretary of the Commonwealth: “Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?” (*See* Public Notice by Secretary of the Commonwealth Pedro A. Cortés, a true and correct copy of which is attached hereto as Exhibit F.)

23. Election officials thereafter created ballots for the April 26, 2016 primary election containing the question the Secretary published in Newspapers across the Commonwealth regarding the General Assembly's proposal to amend the Pennsylvania Constitution to require that justices of the Supreme Court and inferior judicial officers retire on the last day of the year in which they attain the age of 75, instead of the last day of the year in which they attain the age of 70 as presently required under the Pennsylvania Constitution.

24. The Secretary of the Commonwealth developed the language of the April 2016 primary election ballot question concerning the General Assembly's proposal to amend Article V, Section 16(b) in accordance with Section 201 of the Pennsylvania Election Code, 25 P.S. § 2621(c), which vests the Secretary of the Commonwealth with authority over "the form and wording of constitutional amendments or other questions to be submitted to the State at large." 25 P.S. § 2621(c).

25. Consistent with the Election Code's delegation of authority over ballot questions to the Secretary of the Commonwealth, neither one of the bills the General Assembly passed proposing to change the constitutionally-mandated judicial retirement age from 70 to 75 (*i.e.*, neither H.B. 79 nor H.B. 90) set forth or even suggested language for a ballot question concerning the proposed amendment.

26. Around the time of the General Assembly's approval of the second joint resolution proposing to amend the Pennsylvania Constitution to require that the Commonwealth's judicial officers retire on the last day of the year in which they reach the age of 75, rather than 70 as the Constitution presently requires, the Pennsylvania Supreme Court became embroiled in a statewide controversy that gained national media attention and sparked well-known negative opinions among the Commonwealth's electorate about the Pennsylvania judiciary.

27. In August 2015, following former Pennsylvania Supreme Court Justice Joan Orié Melvin's May 1, 2013 resignation from judicial service, the Court of Judicial Discipline of the Commonwealth of Pennsylvania entered an Opinion and Order officially removing former Justice Orié Melvin from office and deeming her ineligible for future judicial service as a result of her four felony convictions for crimes including theft/diversion of services and criminal conspiracy. *See In re: Joan Orié Melvin Justice of the Supreme Court of Pennsylvania*, No. 7 JD 2012 (Aug. 14, 2015 Pa. Ct. of Judicial Discipline).

28. Later in 2015, Pennsylvania citizens, lawyers, politicians, and the Governor began calling for then-Justice Michael Eakin to resign from the Pennsylvania Supreme Court as a result of the public disclosure of racist and misogynistic emails the former Justice exchanged with members of the judiciary,

members of the Office of the Attorney General, and other individuals and state officials.

29. On March 24, 2016, the Court of Judicial Discipline of the Commonwealth of Pennsylvania issued an Opinion and Order acknowledging former Justice Eakin's resignation from the Pennsylvania Supreme Court; finding that the former Justice's use of a pseudonymous email address to exchange emails containing imagery of "sexism, racism, and bigotry" with officers of the court and state officials demonstrated the former Justice's "arrogance" and "seriously jeopardized the reputation of the judiciary"; and imposing a \$50,000 fine on former Justice Eakin. *See In re: J. Michael Eakin Justice of the Supreme Court of Pennsylvania*, No. 13 JD 2015 (Mar. 24, 2016 Pa. Ct. of Judicial Discipline).

30. Former Justice Orié Melvin's removal from the Pennsylvania Supreme Court and former Justice Eakin's resignation from the Court came shortly after former Justice Seamus McCaffery resigned his seat on the Pennsylvania Supreme Court as a result of an email scandal, similar to that in which former Justice Eakin was embroiled, involving the exchange of pornographic, misogynistic and racist emails.

31. During the same time period when criminal conduct and violations of the Code of Judicial Conduct and Pennsylvania Constitution caused former Justices Orié Melvin, Eakin and McCaffery to lose their seats on the Pennsylvania

Supreme Court, the media also reported on criminal convictions of, and scandals surrounding, lower state court judges and magisterial district judges.

32. Amidst the controversy surrounding the judiciary, which garnered mass media attention and cast doubt on the electorate's willingness to amend the Constitution to extend the limited tenure of Supreme Court justices, judges and magisterial district judges, a group of legislators sought to strike certain portions of the ballot question that the Secretary of the Commonwealth had developed for the April 2016 primary election regarding the General Assembly's proposed amendment to Article V, Section 16(b).

33. In particular, these legislators sought to strike from the ballot question developed by the Secretary of the Commonwealth any reference to the embattled Supreme Court as well as any indication that the proposed amendment would *raise* the constitutionally-mandated retirement age for Supreme Court justices, judges and magisterial district judges by five years.

34. On March 6, 2016, 8 days before then-Justice Eakin officially announced his resignation from the Pennsylvania Supreme Court, the Pennsylvania Senate Majority Caucus, Senate President Pro Tempore Joe Scarnati, and Senate Majority Leader Jake Corman filed an "Emergency Application for Extraordinary Relief" asking the Supreme Court to "strike the following terms and phrases" from

the Secretary of the Commonwealth's ballot question regarding the General

Assembly's proposed amendment to Article V, Section 16(b):

Shall the Pennsylvania Constitution be amended to require that Justices ~~of the Supreme Court~~, judges and justices of the peace (~~known as magisterial district judges~~) be retired on the last day of the calendar year in which they attain the age of 75 years, ~~instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?~~

(See Emergency Application for Extraordinary Relief by Pennsylvania Senate Majority Caucus, Senate President Pro Tempore Joe Scarnati, and Senate Majority Leader Jake Corman, a true and correct copy of which is attached hereto as Exhibit G.)<sup>2</sup>

35. These Senators' Emergency Application for Relief advanced three arguments in support of their request that the Supreme Court strike certain language from the ballot question devised by the Secretary of the Commonwealth. First, the Senators contended that the phrase "of the Supreme Court" after the word "Justices" would confuse voters into thinking the proposed amendment would apply to justices of the United States Supreme Court, and that the phrase "known as magisterial district judges" after the term "justices of the peace" would mislead voters into thinking "that the proposed amendment does not apply to judges of the

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<sup>2</sup> The Pennsylvania Senate Majority Caucus, Senate President Pro Tempore Joe Scarnati, and Senate Majority Leader Jake Corman are hereinafter collectively referred to as the "Senators."

court of common pleas, the Superior Court, and the Commonwealth Court.” (*See* Exhibit G at pp. 1-2.) Second, the Senators argued that the “terms and phrases sought to be stricken are inconsistent with the proposed constitutional amendment . . .” (*Id.* at p. 2.) Finally, the Senators seeking to rewrite the ballot question devised by the Secretary of the Commonwealth argued that the phrase “instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70” was “nothing more than superfluous and gratuitous commentary,” and that a ballot question regarding a proposed constitutional amendment need not state “what the current state of the law may be at the time of the proposed amendment.” (*Id.*)

36. On March 11, 2016, the Secretary of the Commonwealth, the Pennsylvania Department of State, and the Office of the Attorney General filed an Answer in Opposition to the Emergency Application for Extraordinary Relief, pointing out that the Senators’ Application should be denied because the proposed ballot question advocated for therein “would deny Pennsylvania voters relevant information regarding the proposed constitutional amendment.” (*See* March 11, 2016 Answer of Secretary of the Commonwealth Pedro A. Cortés at p. 7, a true and correct copy of which is attached hereto as Exhibit H.)

37. In particular, the Secretary of the Commonwealth argued that “the phrase ‘instead of the current requirement that they be retired on the last day of the

calendar year in which they attain the age of 70' should remain on the ballot question" because a ballot question that does not advise voters that "the *existing* language in the Constitution would be *changed to 75 instead of 70 . . .* would likely leave the voter wondering what the current requirement is—or worse yet, leave the voter with the impression that there is no requirement at all." (*Id.* at p. 17) (emphasis in original).

38. The Secretary of the Commonwealth therefore explained to the Supreme Court in his Answer in Opposition to the Senators' Application for Extraordinary relief that the Senators' proposed ballot question would "deprive voters of relevant information on the ballot itself regarding the mandatory retirement age requirement as it currently exists in the Pennsylvania Constitution." (*Id.* at p. 16.)

39. Shortly after opposing the Senators' Application for Extraordinary Relief, however, the Secretary of the Commonwealth reversed course and agreed to present the voters of the Commonwealth with a ballot question that is nearly identical to the ballot question that the Secretary of the Commonwealth had argued 11 days earlier to the Supreme Court would mislead voters as to the true nature of the proposed amendment to Article V, Section 16(b) of the Pennsylvania Constitution.

40. On March 22, 2016, the Senators who filed the Emergency Application for Relief, the Secretary of the Commonwealth, the Pennsylvania Department of State, and the Office of the Attorney General filed a Joint Application for Extraordinary Relief requesting that the Supreme Court approve a stipulation providing that the Secretary of the Commonwealth would: (1) remove from the April 26, 2016 primary election ballots the question that the Secretary had initially developed concerning the General Assembly's proposal to amend the Constitution by raising the constitutionally-mandated judicial retirement age from 70 to 75, (2) direct the county boards of elections to do the same, and (3) place on the November 8, 2016 general election ballot the following question:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75 years?

(See Joint Application for Extraordinary Relief dated March 22, 2016, a true and correct copy of which is attached hereto as Exhibit I.)

41. On March 23, 2016, the Supreme Court entered an Order denying the Senators' Emergency Application for Extraordinary Relief and the Joint Application seeking approval of the Stipulated Resolution and modified ballot

question. (*See In re Proposed Constitutional Amendment 1, Ballot Question*, No. 29 MM 2016 (Pa. Mar. 23, 2016)).<sup>3</sup>

42. Following the Supreme Court’s denial of the Joint Application seeking to change the ballot question that the Secretary of the Commonwealth had devised for the April 2016 primary election pursuant to the Secretary’s authority under Section 201 of Pennsylvania Election Code, 25 P.S. § 2621(c), groups of legislators introduced concurrent resolutions to remove the proposed Amendment from the April 2016 primary ballot, to place the proposed amendment on the November 2016 general election ballot, and to require the Secretary of the Commonwealth to adopt a ballot question drafted by the General Assembly.

43. On April 6, 2016, the House of Representatives approved one such concurrent resolution, H.R. 783, and the Senate approved the resolution on April 11, 2016. (*See H.R. 783 and H.R. 783 legislative history, true and correct copies of which are attached hereto as Exhibits J and K.*)

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<sup>3</sup> The ballot question agreed to in the Stipulation rejected by the Supreme Court, which the Secretary of the Commonwealth plans to present to voters in the November 2016 general election, is nearly identical to the ballot question the Senators asked the Supreme Court to adopt in their Petition for Extraordinary Relief. Notwithstanding the Senators’ attempt to strike from the ballot question any reference to the Supreme Court, however, the ballot question set forth in the proposed Stipulation, which is the same question the Secretary of the Commonwealth intends to place on the November 2016 general election ballot, includes the phrase “of the Supreme Court” after the word “justices.” In addition, the ballot question the Secretary of the Commonwealth intends to present to voters in the November 2016 general election, as set forth in the Stipulation the Supreme Court rejected, refers to the Commonwealth’s lowest-ranking judicial officers as “magisterial district judges,” while the Senators’ Petition for Extraordinary Relief requested that the Supreme Court revise the ballot question devised by the Secretary of the Commonwealth for the April 2016 primary election by referring to the lowest-ranking judicial officers of the Commonwealth as “justices of the peace.”

44. Because the General Assembly approved H.R. 783 just 15 days before the 2016 primary election, after absentee ballots had already been distributed and cast, the General Assembly recognized that it would be impossible for the Secretary of the Commonwealth to remove his previously-devised question from the statewide primary election ballots, as the voting machines and ballots across the Commonwealth had already been finalized.

45. Accordingly, H.R. 783 directed the Secretary of the Commonwealth to “disregard any vote” on the proposed amendment, and the Resolution instructed county boards of election that, “to the extent possible,” they were to remove from the April 2016 primary election ballots the following question devised by the Secretary of the Commonwealth:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?

*(See Exhibit J.)*

46. H.R. 783 also divested the Secretary of the Commonwealth of his authority over “the form and wording of constitutional amendments or other questions to be submitted to the State at large” and directed the Secretary to place on the November 8, 2016 general election ballot a question drafted by the General

Assembly, which misleadingly omits that the proposed amendment would increase the mandatory retirement age, and instead suggests that the proposed amendment would result in the inaugural imposition of a mandatory retirement age for Supreme Court justices, judges and magisterial district judges of the Commonwealth.

47. In particular, H.R. 783 directs the Secretary of the Commonwealth to place the proposed constitutional amendment “on the ballot for the general election on November 8, 2016, in the following form”:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75?

(See Exhibit J.)

48. The differences between the ballot question the Secretary of the Commonwealth developed for the April 2016 primary election and the ballot question set forth by the General Assembly in H.R. 783 can be seen below, with the language the General Assembly removed from Secretary of the Commonwealth’s ballot question stricken:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and ~~justices of the peace (known as magisterial district judges)~~ be retired on the last day of the calendar year in which they attain the age of 75 years, ~~instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?~~

49. The key difference between the ballot questions developed by the Secretary of the Commonwealth and the General Assembly is that the ballot question devised by the Secretary of the Commonwealth notified voters that the proposed constitutional amendment would raise the constitutionally-mandated retirement age for Supreme Court justices, judges and magisterial district judges by 5 years, while the ballot question drafted by the General Assembly gives no indication that the Constitution currently contains a mandatory retirement age for Supreme Court justices, judges and magisterial district judges lower than that sought to be imposed by the proposed constitutional amendment. In other words, the language the General Assembly has ordered the Secretary of the Commonwealth to place on the ballot in the upcoming general election gives the misimpression that voters are being asked to impose a mandatory judicial retirement age for the first time, rather than to raise an existing mandatory judicial retirement age.

50. On April 14, 2016, three days after the General Assembly approved H.R. 783, a group of legislators asked the Commonwealth Court to preliminarily enjoin the Secretary of the Commonwealth from implementing H.R. 783 because of the alleged improper process through which the General Assembly passed the concurrent resolution purportedly contravening the Secretary of the Commonwealth's authority under Pennsylvania law.

51. Specifically, Senators Joy Costa, Daylin Leach, and Christine M. Tartaglione filed an Application for a Preliminary Injunction seeking to enjoin the Secretary of the Commonwealth from implementing H.R. 783 on the grounds that the concurrent resolution: (1) unconstitutionally directed the Secretary to infringe on the rights of voters who had already cast absentee ballots; (2) should have been presented to the Governor for his approval; and (3) compelled the Secretary of the Commonwealth to act contrary to his duties with respect to the legal process for voting on a constitutional amendment.

52. On April 20, 2016, the Commonwealth Court, by the Honorable P. Kevin Brobson, found that Senators Costa, Leach, and Tartaglione did not meet the high burden required to obtain preliminary injunctive relief and therefore declined to preliminarily enjoin H.R. 783 in advance of the April 2016 primary election.

53. Given that Judge Brobson's decision declining to preliminarily enjoin H.R. 783 came just 6 days before the April 26, 2016 primary election, it was impossible to remove from the primary ballots the question the Secretary of the Commonwealth devised concerning the General Assembly's proposal to raise the judicial retirement age from 70 to 75, as the final primary election ballots containing the Secretary of the Commonwealth's question had been created and distributed prior to Judge Brobson's decision.

54. Thus, although the Secretary of the Commonwealth was prohibited from conducting an official tally of the vote, the April 2016 primary election ballots across the Commonwealth contained the following question developed by the Secretary of the Commonwealth:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?

55. According to the Pennsylvania Department of State, 2,395,250 Pennsylvania Citizens answered the ballot question, with 50.99% voting “no” and 49.01% voting “yes.” (*See* Pennsylvania Department of State, Tuesday, April 26, 2016 Official Returns, a true and correct copy of which is attached hereto as Exhibit L.)

56. Pursuant to H.R. 783, the electorate’s vote at the April 2016 primary election against amending the Constitution to require that judicial officers “be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70” was invalidated and had no legal effect.

57. Instead, the Secretary of the Commonwealth intends to place on the November 2016 general election ballot the following question set forth by the General Assembly in H.R. 783:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75?

(*See* Affidavit of Jonathan Marks, Commissioner Bureau of Commissions, Elections and Legislation, Department of State, a true and correct copy of which is attached hereto as Exhibit M.)

58. On July 6, 2016, a panel of the Commonwealth Court, in an Opinion authored by Judge Brobson, held that the General Assembly acted within its authority by passing the portions of H.R. 783 withdrawing the proposed constitutional amendment to Article V, Section 16(b) from the April 2016 primary election ballot and placing the proposed amendment on the November 2016 general election ballot. (*See* Commonwealth Court Opinion dated July 6, 2016, a true and correct copy of which is attached hereto as Exhibit N.)

59. The Commonwealth Court's July 6, 2016 Opinion upholding the process by which the General Assembly passed H.R. 783 does not address the propriety of the language of the ballot question regarding the General Assembly's proposed amendment to Article V, Section 16(b).

60. The Commonwealth Court, however, implicitly acknowledges in the Opinion that one cannot understand the effect and purpose of the proposed amendment without knowing the present law regarding judicial retirement. In order to give meaning to its statement that the proposed amendment would “amend section 16(b) of Article V of the Pennsylvania Constitution to provide that Pennsylvania justices, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75,” the Commonwealth Court felt it necessary to include a footnote explaining that “Section 16(b) of Article V of the Pennsylvania Constitution currently provides that Pennsylvania justices, judges, and magisterial district judges be retired on the last day of the year in which they attain the age of 70.” (*See* Exhibit N at p. 3.)

61. The Commonwealth Court also accurately described the true nature and effect of the proposed constitutional amendment, which is not merely to impose a constitutionally-mandated judicial retirement age, but rather to “*raise* the judicial retirement age to 75.” (*Id.* at. p. 4, n. 4) (emphasis added).

**The Ballot Question Regarding The Proposed Constitutional Amendment Is Misleading And Does Not Give Voters Notice Of The Actual And Intended Purpose Of The Proposed Amendment**

62. In a democracy, it is indisputable that voters are required to have the information necessary to make the best decisions on matters of critical importance

such as a constitutional amendment regarding the retirement age of state judicial officers.

63. The Pennsylvania Constitution currently requires that the Commonwealth's jurists retire on December 31 of the year in which they attain the age of 70.

64. The General Assembly proposes a constitutional amendment raising this mandatory retirement age by 5 years, from 70 to 75.

65. Under the General Assembly's proposal, Supreme Court justices, judges and magisterial district judges of the Commonwealth would be required to retire on the last day of the year in which they attain the age of 75, rather than the last day of the year they turn 70, as currently required under Article V, Section 16(b) of the Pennsylvania Constitution.

66. Before the General Assembly's proposal can result in an amendment to the Constitution, it must be presented to the qualified electorate and approved by a majority vote. Pa. Const. Art. XI, § 1.

67. In order to satisfy the constitutional requirement that the General Assembly's proposed constitutional amendment be presented to the electorate for a vote, the Secretary of the Commonwealth must present the electorate with a ballot question that advises "voters of the true meaning and ramifications of [the proposed] constitutional amendment on which they are asked to vote." 26 Am.

Jur. 2d Elections § 287 (2015); *accord*, *Stander v. Kelley*, 250 A.2d 474, 480 (Pa. 1969); *Weiner v. Sec’y of Comm.*, 558 A.2d 185, 188 (Pa. Commw. Ct. 1989).

68. Thus, the ballot question concerning the General Assembly’s proposed amendment to Article V, Section 16(b) must ask whether voters wish to *raise* the judicial retirement age from 70 to 75, not merely whether voters are in favor of a constitutionally-mandated judicial retirement age of 75.

69. Despite previously arguing before the Supreme Court that voters will be misled by a ballot question that does not advise of the current constitutionally-mandated judicial retirement age, the Secretary of the Commonwealth has stated his intention to adopt the ballot question set forth by the General Assembly in H.R. 783, which omits any reference to the current compulsory retirement age for the Commonwealth’s jurists, and to place that question before the electorate in the November 2016 general election. (*See* Exhibit M.)

70. The question the Secretary of the Commonwealth plans to put on the November 2016 general election ballot in accordance with H.R. 783 asks only whether voters wish to amend the constitution to require that Supreme Court justices, judges and magisterial district judges retire at a certain age, not whether the constitutionally-mandated retirement age should be raised by 5 years.

71. This ballot question is inconsistent with past ballot questions concerning proposed amendments that *change* the wording of provisions of the

Pennsylvania Constitution, which—like the ballot question the Secretary devised for the April 2016 primary election regarding the General Assembly’s proposed amendment to Article V, Section 16(b)—advised voters of the state of the Constitution at the time of the vote and the impact of the proposed amendment.

For example:

- a. When the General Assembly proposed amending the Constitution to state, “In all criminal prosecutions the accused hath a right to be heard by himself and his counsel, to demand the nature and cause of the accusation against him, to [~~meet the witnesses face to face~~] **be confronted with the witnesses against him,**” the ballot question on the proposed amendment stated: “Shall the Pennsylvania Constitution be amended to provide (1) that a person accused of a crime has the right to be ‘confronted with the witnesses against him,’ **instead of the right to ‘meet the witnesses face to face[?]**” *See Bergdoll v. Kane*, 694 A.2d 1155, 1158 (Pa. 1997).
  
- b. When the General Assembly proposed amending the Constitution to specify that a justice’s or judge’s retirement must occur on December 31<sup>st</sup> of the year the jurist turns 70, rather than immediately upon reaching the age of 70, the ballot question on the proposed amendment stated: “Shall the Constitution of Pennsylvania be amended to provide that justices of the Supreme Court, judges and justices of the peace shall be retired on the last day of the calendar year in which they attain the age of 70 years, **rather than on the day they**

**attain the age of 70?”** (See Exhibit A at p. 53) (emphasis added).<sup>4</sup>

- c. When the General Assembly proposed amending the Constitutional rights of absentee voters, the ballot question on the proposed amendment stated: “Shall the Pennsylvania Constitution be amended to require the enactment of legislation permitting absentee voting by qualified electors who at the time of an election may be absent from the municipality where they reside because their duties, occupation or business require them to be elsewhere, **which would change the current law permitting absentee voting by such qualified electors only when they are absent from the entire county where they reside?”** (*Id.* at p. 51) (emphasis added).
- d. When the General Assembly proposed amending the Constitution to add seats on the Superior Court, the ballot question on the proposed amendment stated: “Shall Article V, section 3, and section 13, subsection b, and the Schedule to Article V, section 11 of the Pennsylvania Constitution be amended **to permit an increase in the number of judges of the Superior Court from its present number of seven**, make changes to initial terms of additional judges and further provide for the selection of the president judge of the Superior Court?” (*Id.* at p. 34) (emphasis added).<sup>5</sup>

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<sup>4</sup> In asking the Supreme Court for permission to rewrite the ballot question that the Secretary of the Commonwealth drafted for the April 2016 primary election regarding the General Assembly’s proposal to raise the Constitutionally-mandated judicial retirement age, the Pennsylvania Senate Majority Caucus, Senate President Pro Tempore Joe Scarnati, and Senate Majority Leader Jake Corman inaccurately represented to the Supreme Court that “[p]ast ballot questions in this Commonwealth have been historically limited to what the new law would be if amended, not what the current state of the law may be at the time of the proposed amendment.” (See Exhibit G at p. 2.)

<sup>5</sup> There is a very important distinction between the knowledge a voter must have in order to understand the actual and intended purpose of a constitutional amendment that adds a whole new provision to the Pennsylvania Constitution and an amendment that changes the wording of an existing provision of the Constitution. While a ballot question may only need to apprise a voter of proposed new constitutional language when a proposed amendment will add an entirely new

72. As the Secretary of the Commonwealth explained to the Supreme Court in opposing the Senators’ Emergency Application for Extraordinary Relief seeking to revise the ballot question that the Secretary had devised for the April 2016 primary election, where a proposed amendment would change current language of the Constitution—rather than merely add new language—voters must be apprised of the current state of the Constitution in order to understand the character and purpose of the proposed amendment and the issue on which they are voting. (*See Exhibit H at pp. 16-20.*)

73. The Pennsylvania Supreme Court, consistent with federal courts and state high courts across the country, has held that a ballot question regarding a proposed constitutional amendment must identify the manner in which the Constitution will be amended and show the “character and purpose” of the proposed amendment “without misleading or deceiving voters.” 29 C.J.S. *Elections* § 170; *accord, Stander v. Kelley*, 250 A.2d 474, 480 (Pa. 1969); *Oncken v. Ewing*, 8 A.2d 402, 403 (Pa. 1939) (“It may be proper and necessary for a court to nullify an election . . . [if] the form of the ballot is so lacking in conformity with the law and so confusing that the voters cannot *intelligently* express their intentions . . . .”); *Charleston Cty. Sch. Dist. v. Charleston Cty.*

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provision to the Pennsylvania Constitution, a voter cannot understand the actual and intended purpose of a proposed constitutional amendment that will change an existing provision of the Constitution unless the ballot question on the proposed amendment informs the voter of the state of the Constitution at the time of the vote on the proposed amendment.

*Election Comm'n*, 519 S.E.2d 567, 573 (S.C. 1999) (“The summarized question must explain the measure ‘plainly, fairly, and in such words that the average voter may understand its character and purpose’”) (internal citations omitted); *Concrete, Inc. v. Rheaume Builders*, 132 A.2d 133, 135 (N.H. 1957) (A ballot question regarding a proposed constitutional amendment must give an “ordinary person a clear idea of what he is voting for or against”); *Wadhams v. Bd. of Cty. Comm’rs*, 567 So. 2d 414, 417 (Fla. 1990) (“What the law requires is that the *ballot* be fair and advise the voter sufficiently to enable him *intelligently* to cast his ballot”) (emphasis in original); *Burton v. Georgia*, 953 F.2d 1266, 1269 (11th Cir. 1992) (Ballot language should not be so “misleading that voters cannot recognize the subject of the amendment at issue[,]” as such ballot language results in voters being “deceived, in a concrete and fundamental way, about ‘what they are voting for or against’”); *Cartagena v. Calderon*, 150 F. Supp. 2d 338, 344 (D.P.R. 2001).

74. As the Pennsylvania Supreme Court has explained:

The Constitution is the fundamental law of our Commonwealth, and in matters relating to alterations or changes in its provisions, the courts must exercise the most rigid care to preserve to the people the right assured to them by this instrument. ***No method of amendment can be tolerated which does not provide the electorate adequate opportunity to be fully advised of proposed changes.***

*Com. ex. rel. Schnader v. Beamish*, 164 A. 615, 616-617 (Pa. 1932) (emphasis added).

75. Thus, “the first and most important question” in determining whether a ballot question regarding a proposed amendment passes constitutional muster is, “[d]oes the question as stated on the ballot fairly, accurately and clearly apprise the voter of the question or issue to be voted on?” *See Weiner v. Sec’y of Comm.*, 558 A.2d 185, 188 (Pa. Commw. Ct. 1989) (quoting *Stander v. Kelley*, 250 A.2d 474, 480 (Pa. 1969)).

76. With respect to the ballot question at issue in this case, this question must be answered in the negative.

77. The pertinent issue to be voted on is very straightforward: whether the constitutionally-mandated judicial retirement age should be raised by 5 years.

78. The “true meaning and ramification” of the proposed amendment is that it would allow Supreme Court justices, judges and magisterial district judges to serve an additional 5 years, retiring on the last day of the year in which they attain the age of 75, rather than 70 as presently required under the Pennsylvania Constitution. *See 26 Am. Jur. 2d Elections § 287 (2015)*.

79. But the ballot question the Secretary of the Commonwealth intends to put on the November 2016 general election ballot will not give voters “fair notice . . . of the character and purpose of the [proposed] amendment” because the ballot question will not give voters notice that they are being asked to raise the constitutionally-mandated judicial retirement age by 5 years. *Id.*

80. Instead, the ballot question set forth by the General Assembly in H.R. 783, which the Secretary of the Commonwealth intends to adopt, asks whether a judicial retirement age of 75 should be imposed, not whether the current judicial retirement age of 70 should be increased by 5 years.

81. The ballot question is misleadingly designed to garner “yes” votes from voters who are unaware that there is currently a judicial retirement age set forth in the Pennsylvania Constitution but who are in favor of a restricted mandatory judicial retirement age.

82. A voter who is in favor of restricting the tenure of Supreme Court justices, judges and magisterial district judges but who is unaware that the Pennsylvania Constitution currently requires Supreme Court justices, judges and magisterial district judges to retire at the age of 70 (as many voters likely are), would respond “yes” to the ballot question “Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75 years?”

83. Indeed, such a voter who is not well-versed in the Pennsylvania Constitution would understand the above-worded ballot question set forth by the General Assembly and adopted by the Secretary of the Commonwealth to ask whether the Pennsylvania Constitution should be amended to institute a mandatory

retirement age for Supreme Court justices, judges and magisterial district judges and would be shocked to learn that they were in fact voting to raise the current constitutionally-mandated judicial retirement age by 5 years.

**COUNT I**  
**Declaratory and Injunctive Relief**

84. Plaintiffs incorporate the paragraphs above as though fully set forth herein.

85. Plaintiffs' right to vote on a ballot question setting forth the true nature of the General Assembly's proposed amendment to Article V, Section 16(b) is direct, substantial and immediate.

86. The ballot question set forth in H.R. 783 presents a real, actual controversy that implicates constitutional concerns.

87. The relief Plaintiffs request is narrowly tailored to abate the injuries Plaintiffs and their fellow voters will suffer if the Secretary of the Commonwealth is not enjoined from presenting them with the ballot question set forth by the General Assembly in H.R. 783.

88. The ballot question regarding the General Assembly's proposed amendment to Article V, Section 16(b), as drafted by the General Assembly and adopted by the Secretary of the Commonwealth, fails to accurately and clearly apprise Plaintiffs and their fellow voters of the question to be voted on—*i.e.*,

whether the constitutionally-mandated judicial retirement age should be raised by 5 years.

89. Article XI, Section I of the Pennsylvania Constitution guarantees the right of the Plaintiffs and the qualified electors of this Commonwealth to approve any proposed constitutional amendment.

90. The ballot question regarding the General Assembly's proposed amendment to Article V, Section 16(b) is so misleading and non-reflective of the proposed amendment that if the Secretary of the Commonwealth is permitted to place it on the November 2016 general election ballot, Plaintiffs and their fellow citizens comprising the qualified electors of this Commonwealth will be effectively stripped of the right guaranteed by Article XI, Section 1 of the Pennsylvania Constitution to approve the proposed amendment to the Constitution.

91. The misleading nature of the ballot question regarding the General Assembly's proposed amendment to Article V, Section 16(b), as drafted by the General Assembly and adopted by the Secretary of the Commonwealth, would also infringe on Plaintiffs' and the Pennsylvania electorate's due process rights under the Pennsylvania Constitution.

92. The deprivation of State constitutional rights that Plaintiffs will suffer if this Court fails to enjoin the Secretary of the Commonwealth from presenting the electorate with the misleading ballot question set forth by the General Assembly in

H.R. 783 and adopted by the Secretary of the Commonwealth cannot be compensated in damages.

93. The narrowly-tailored relief Plaintiffs request will prevent Plaintiffs and all other qualified Pennsylvania voters from being deprived of their constitutional right to intelligently vote on the General Assembly's proposed amendment to Article V, Section 16(b) of the Pennsylvania Constitution.

94. Greater injury will result from refusing, rather than granting, the relief requested, as Plaintiffs merely request that the Secretary of the Commonwealth be required in accordance with Pennsylvania law to present the electorate with a ballot question that accurately and clearly apprises voters that they are being asked to vote on the General Assembly's proposal to amend the Constitution to raise the mandatory judicial retirement age from 70 to 75, such as the ballot question the Secretary of the Commonwealth drafted for the April 2016 primary election.

95. Permitting the ballot question with the present language, which fails to advise voters of the true meaning and ramification of the proposed amendment, will result in the irreparable and permanent deprivation of the Plaintiffs' and the Pennsylvania electorate's right to vote on the proposed Constitutional amendment.

96. Plaintiffs' right to relief is clear.

97. The balance of equities favors Plaintiffs' request for injunctive and declaratory relief.

**WHEREFORE**, Plaintiffs respectfully that this Court enter an Order: (1) declaring unlawful the ballot question set forth by the General Assembly in H.R. 783 and adopted by the Secretary of the Commonwealth; (2) enjoining the Secretary of the Commonwealth from placing on the November 2016 general election ballot the question set forth in H.R. 783 and approved by the Secretary; and (3) directing the Secretary of the Commonwealth to present the proposed constitutional amendment to the qualified voters of the Commonwealth of Pennsylvania in a form that advises voters of the true nature of the proposed amendment, which is to amend the Pennsylvania Constitution to raise the compulsory retirement age from 70 to 75.

Respectfully submitted,

**SPRAGUE & SPRAGUE**

By: /s/ Richard A. Sprague  
RICHARD A. SPRAGUE (I.D. #04266)  
BROOKE SPIGLER COHEN (I.D. #204648)  
JORDANN R. CONABOY (I.D. #319337)  
WILLIAM H. TRASK (I.D. # 318229)  
The Wellington Bldg., Suite 400  
135 S. 19<sup>th</sup> Street  
Philadelphia, Pennsylvania 19103  
(215) 561-7681

**VERIFICATION**

I, Richard A. Sprague, Esquire, Plaintiff in the foregoing Complaint for Declaratory and Injunctive Relief, herby verify that the facts in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that the statements in the foregoing Complaint are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: July 21, 2016

/s/ Richard A. Sprague  
Richard A. Sprague, Esquire

**VERIFICATION**

I, Hon. Ronald D. Castille, Plaintiff in the foregoing Complaint for Declaratory and Injunctive Relief, herby verify that the facts in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that the statements in the foregoing Complaint are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: July 21, 2016

/s/ Ronald D. Castille  
Hon. Ronald D. Castille

**VERIFICATION**

I, Hon. Stephen Zappala, Sr., Plaintiff in the foregoing Complaint for Declaratory and Injunctive Relief, hereby verify that the facts in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that the statements in the foregoing Complaint are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Date: July 21, 2016

/s/ Stephen Zappala, Sr.  
Hon. Stephen Zappala, Sr.

**PROOF OF SERVICE**

I, Jordann R. Conaboy, Esquire, hereby certify that on this 21<sup>st</sup> day of July, 2016, I caused true and correct copies of the foregoing Complaint for Declaratory and Injunctive Relief, with exhibits, to be served on the individuals listed below *via* hand delivery:

Pedro A. Cortés, Esquire  
Secretary of the Commonwealth  
**Office of the Secretary**  
302 North Office Building  
Harrisburg, PA 17120

Kathleen G. Kane, Esquire  
Bruce L. Castor, Jr., Esquire  
**Office of the Attorney General**  
15<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

Timothy F. Yates, Esquire  
**Pennsylvania Department of State**  
**Office of General Counsel**  
306 North Office Building  
Harrisburg, PA 17120

/s/ Jordann R. Conaboy \_\_\_\_\_  
Jordann R. Conaboy, Esquire

# **EXHIBIT 11**

**IN THE SUPREME COURT OF PENNSYLVANIA  
MIDDLE DISTRICT**

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**NO.** \_\_\_\_\_

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**RICHARD A. SPRAGUE, HON. RONALD D. CASTILLE AND  
HON. STEPHEN ZAPPALA, SR.,**

**Petitioners,**

**v.**

**PEDRO A. CORTÉS, SECRETARY OF THE COMMONWEALTH OF  
PENNSYLVANIA, IN HIS OFFICIAL CAPACITY,**

**Respondent.**

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**EMERGENCY APPLICATION FOR EXTRAORDINARY  
RELIEF PURSUANT TO 42 Pa.C.S. § 726 FOR THE EXERCISE OF  
EXTRAORDINARY JURISDICTION**

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1. Issues of immediate public importance compel Petitioners Richard A. Sprague, Esquire, Hon. Ronald D. Castille and Hon. Stephen Zappala, Sr. (collectively, “Petitioners”) to respectfully petition this Honorable Court to assume plenary jurisdiction, pursuant to 42 Pa.C.S. § 726, over the matter captioned in the Commonwealth Court of Pennsylvania as *Richard A. Sprague et. al. v. Pedro A. Cortés*.
2. Because Petitioners have a clear right to relief, and because swift resolution of this matter is critical to a fair election process, it is respectfully

submitted that this Application should be granted and that the matter should be decided on an expedited basis prior to August 8, 2016, the deadline by which Respondent Secretary of State Pedro A. Cortés, Esquire (“Respondent”) must advertise the proposed constitutional amendment at issue.

## **I. INTRODUCTION**

3. Democracy requires that voters be given the information necessary to make informed decisions on matters of critical importance, such as when voting to approve or reject the current proposal to amend the Pennsylvania Constitution to raise the constitutionally-mandated retirement age for the Commonwealth’s judicial officers.

4. This case concerns an attempted infringement by public officials on the right grounded in the Pennsylvania Constitution for members of the electorate to be informed on matters for which they cast their votes.

5. Respondent intends to present the voters of the Commonwealth with a ballot question that he has already acknowledged is so lacking in information about the proposed constitutional amendment to be voted on as to constitute a fraud on the electorate.

6. In order to prevent the Pennsylvania electorate from being presented in the November 2016 general election with this misleading and unconstitutional ballot question regarding a proposed amendment to the Pennsylvania Constitution

that would raise the constitutionally-mandated judicial retirement age from 70 to 75, this Court should assume plenary jurisdiction over Petitioners' challenge to the ballot question, declare the ballot question to be in violation of Pennsylvania law, and enjoin the Secretary of the Commonwealth from presenting the misleading ballot question to Pennsylvania voters.

## **II. PARTIES**

7. Richard A. Sprague, Esquire, is a resident and citizen of the Commonwealth of Pennsylvania, a member of the Pennsylvania Bar, a registered voter, a taxpayer of the Commonwealth of Pennsylvania, and he is eligible and intends to vote in the November 2016 general election in the Commonwealth of Pennsylvania.

8. The Honorable Ronald D. Castille, former Chief Justice of the Pennsylvania Supreme Court, is a resident and citizen of the Commonwealth of Pennsylvania, a registered voter, a taxpayer of the Commonwealth of Pennsylvania, and he is eligible and intends to vote in the November 2016 general election in the Commonwealth of Pennsylvania.

9. The Honorable Stephen Zappala, Sr., former Chief Justice of the Pennsylvania Supreme Court, is a resident and citizen of the Commonwealth of Pennsylvania, a registered voter, a taxpayer of the Commonwealth of

Pennsylvania, and he is eligible and intends to vote in the November 2016 general election in the Commonwealth of Pennsylvania.

10. Pedro A. Cortés, Esquire is the Secretary of the Commonwealth of Pennsylvania, and in that capacity, he is responsible for determining and publishing the language that appears on statewide ballots concerning any proposed amendment to the Pennsylvania Constitution, including the proposed constitutional amendment that is the subject of this action.

### **III. FACTUAL OVERVIEW**

11. The facts underlying the matter captioned in the Commonwealth Court as *Richard A. Sprague et. al. v. Pedro A. Cortés* are set forth fully in the Complaint attached hereto as Appendix 1, which Petitioners incorporate by reference as through set forth fully herein and to which Petitioners respectfully direct the Court's attention.

12. In the interest of preserving judicial resources, Petitioners provide herein only a brief overview of the facts set forth in the attached Commonwealth Court Complaint, which justify the exercise of this Court's extraordinary jurisdiction under 42 Pa.C.S. § 726.

13. The Pennsylvania General Assembly proposes raising by 5 years the compulsory judicial retirement age set forth in Article V, §16(b) of the Pennsylvania Constitution.

14. Under the General Assembly's proposal, which must be presented to the qualified electorate and approved by a majority of those voting thereon, the Pennsylvania Constitution would be amended to permit Supreme Court justices and inferior judicial officers to remain in office until the last day of the calendar year in which they attain the age of 75, rather than the age of 70 as currently required under the Pennsylvania Constitution.

15. Respondent, who is charged under the Pennsylvania Election Code, 25 P.S. § 2621(c), with devising the "form and wording" of ballot questions regarding proposed constitutional amendments, developed for the April 2016 primary election a ballot question regarding the General Assembly's proposal to amend the Pennsylvania Constitution to raise the mandatory judicial retirement age from 70 to 75.

16. Respondent's ballot question read as follows:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and justices of the peace (known as magisterial district judges) be retired on the last day of the calendar year in which they attain the age of 75 years, instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?

(See Appx. 1, Ex. F.)

17. Shortly before the April 2016 primary election, however, the General Assembly passed a concurrent resolution directing Respondent to remove the

proposed constitutional amendment from the April 2016 primary election ballot and place on the November 2016 general election ballot a question which misleadingly omits that the proposed amendment would increase the current constitutionally-mandated retirement age, and instead suggests that the proposed amendment would result in the inaugural imposition of a mandatory retirement age for Supreme Court justices, judges and magisterial district judges of the Commonwealth.

18. Specifically, in H.R. 783, the General Assembly directed Respondent to present voters during the November 2016 general election with the following ballot question:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75?

(See Appx. 1, Ex. J.)<sup>1</sup>

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<sup>1</sup> A panel of the Commonwealth Court recently issued an Opinion upholding the process by which the General Assembly approved H.R. 783. (See Appx. 1, Ex. N.) *The Commonwealth Court's July 6, 2016 Opinion is unrelated to and has no bearing on the present matter*, as it does not address the propriety of the language of the ballot question regarding the General Assembly's proposed amendment to Article V, Section 16(b). In its Opinion, however, the Commonwealth Court implicitly acknowledged that one cannot understand the effect and purpose of the proposed amendment without knowing the present law regarding judicial retirement. In order to give meaning to its statement that the proposed amendment would "amend section 16(b) of Article V of the Pennsylvania Constitution to provide that Pennsylvania justices, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75," the Commonwealth Court felt it necessary to include a footnote explaining that "Section 16(b) of Article V of the Pennsylvania Constitution currently provides that Pennsylvania justices, judges, and magisterial district judges be retired on the last day of the year in which they attain the age of 70." (See Appx. 1, Exhibit N at p. 3.)

19. While the ballot question devised by Respondent for the April 2016 primary election notified voters that the proposed constitutional amendment would raise the constitutionally-mandated retirement age for the Commonwealth's Supreme Court justices, judges and magisterial district judges by 5 years, the ballot question drafted by the General Assembly gives no indication that the Constitution currently contains a mandatory retirement age for Supreme Court justices, judges and magisterial district judges lower than that sought to be imposed by the proposed constitutional amendment.<sup>2</sup>

20. The General Assembly's ballot question gives the misimpression that voters are being asked to impose a mandatory judicial retirement age for the first time, rather than to raise the existing mandatory judicial retirement age.

21. For this reason, when a group of senators asked this Court to revise the ballot question Respondent drafted for the April 2016 primary election by striking the language advising that jurists of the Commonwealth are currently required under the Pennsylvania Constitution to retire at the age of 70, Respondent

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<sup>2</sup> The differences between the ballot question that the Secretary of the Commonwealth developed for the April 2016 primary election and the ballot question set forth by the General Assembly in H.R. 783 can be seen below, with the language the General Assembly removed from Secretary of the Commonwealth's ballot question stricken:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges and ~~justices of the peace (known as magisterial district judges)~~ be retired on the last day of the calendar year in which they attain the age of 75 years, ~~instead of the current requirement that they be retired on the last day of the calendar year in which they attain the age of 70?~~

submitted an opposition brief in this Court correctly arguing that the senators' proposed ballot language would mislead voters into believing that the proposed constitutional amendment would result in the inaugural imposition of a mandatory judicial retirement age, rather than a raising of the current compulsory retirement age by 5 years.

22. In an inexplicable about-face, however, Respondent has since adopted the very ballot language he previously advised this Court would amount to a fraud on the Pennsylvania electorate and has stated his intention to place that misleading ballot question before the electorate in the upcoming November 2016 general election.

23. Accordingly, on July 21, 2016, Petitioners filed a Complaint for Declaratory and Injunctive Relief requesting that the Commonwealth Court declare unlawful, and enjoin Respondent from presenting to the Pennsylvania electorate, the following ballot question:

Shall the Pennsylvania Constitution be amended to require that justices of the Supreme Court, judges, and magisterial district judges be retired on the last day of the calendar year in which they attain the age of 75 years?

(*See Appx. 1.*)

24. As set forth more fully in the Commonwealth Court Complaint attached hereto as Appendix 1, the ballot question developed by the General Assembly and adopted by Respondent is designed to exploit and garner "yes"

votes from the many voters who are in favor of a restricted mandatory judicial retirement age but are unaware that there is currently a lower judicial retirement age set forth in the Constitution.

25. Such a voter who is not well-versed in the Pennsylvania Constitution would understand the above-worded ballot question set forth by the General Assembly and adopted by Respondent to ask whether the Pennsylvania Constitution should be amended to institute a mandatory retirement age for Supreme Court justices, judges and magisterial district judges, and would be shocked to learn that they were in fact voting to raise the current constitutionally-mandated judicial retirement age by 5 years.

26. Indeed, Respondent himself argued to this Court that the ballot question is patently misleading because it does not advise voters that “the *existing* language in the Constitution would be *changed to 75 instead of 70*” and that the ballot question “would likely leave the voter wondering what the current requirement is—or worse yet, leave the voter with the impression that there is no requirement at all.” (*See* Appx. 1, Ex. H at p. 17) (emphasis in original).

#### **IV. THIS COURT SHOULD EXERCISE EXTRAORDINARY JURISDICTION**

27. Pursuant to 42 Pa.C.S. § 726, this Court may assume plenary jurisdiction over any matter pending before any court of this Commonwealth

involving an issue of immediate public importance and “enter a final order or otherwise cause right and justice to be done.” 42 Pa.C.S. § 726.

28. This Court has consistently recognized the immediate public importance of issues related to the propriety of elections, as well as ballot questions, and the Court has assumed plenary jurisdiction over such controversies. *See, e.g., Stander v. Kelley*, 250 A.2d 474 (Pa. 1969); *Sprague v. Casey*, 550 A.2d 184 (Pa. 1988); *Cavanaugh v. Davis*, 440 A.2d 1380 (Pa. 1982); *Jackson v. Davis*, 493 A.2d 687 (1985).

29. It is respectfully submitted that the Court should likewise assume plenary jurisdiction over the matter pending in the Commonwealth Court of Pennsylvania captioned *Richard A. Sprague et. al. v. Pedro A. Cortés* because the matter involves issues of significant public importance affecting the operation of government throughout the Commonwealth.

30. The ballot question at issue will infringe on Petitioners’ and their fellow voters’ state constitutional right to vote on an amendment to the Pennsylvania Constitution, as well as their due process rights under the Pennsylvania Constitution.

31. Further, the resolution of this matter will have a substantial impact on the election and holder of every judicial office in the Commonwealth, thereby

directly, substantially, and immediately affecting Petitioners, the candidates for those offices, the electorate, and the Bar of this Commonwealth.

32. It is virtually certain that any order issued by the Commonwealth Court in this matter would be appealed to this Court. Consequently, Petitioners respectfully submit that this Court should assume immediate plenary jurisdiction over the matter in order to resolve it in advance of the November 8, 2016 general election.<sup>3</sup>

## V. CONCLUSION

33. Based on the foregoing Petition and the Commonwealth Court Complaint attached hereto as Appendix 1, Petitioners Richard A. Sprague, Esquire, Hon. Ronald D. Castille and Hon. Stephen Zappala, Sr. respectfully request that this Court exercise its authority under 42 Pa.C.S. § 726 and assume extraordinary jurisdiction over the matter captioned in the Commonwealth Court of Pennsylvania as *Richard A. Sprague et. al. v. Pedro A. Cortés*.

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<sup>3</sup> The Pennsylvania Constitution requires that after a proposed amendment to the Pennsylvania Constitution is “agreed to by a majority of the members elected to each House . . . the Secretary of the Commonwealth shall cause the same to be published three months before the next general election, in at least two newspapers in every county in which such newspapers shall be published.” Pa. Const. Art. XI, § 1. In order to meet this constitutional requirement in advance of the November 8, 2016 general election, Respondent must advertise by *no later than August 8, 2016* the General Assembly’s proposal to amend the Pennsylvania Constitution by raising the constitutionally-mandated judicial retirement age from 70 to 75. (See Appx. 1, Ex. M.) The advertisement will include the ballot question for the November 2016 general election regarding the proposed constitutional amendment. Accordingly, Petitioners respectfully request that this Court assume plenary jurisdiction over the Commonwealth Court case captioned *Richard A. Sprague et. al. v. Pedro A. Cortés* as expeditiously as possible.

Respectfully submitted,

**SPRAGUE & SPRAGUE**

By: /s/Richard A. Sprague  
RICHARD A. SPRAGUE (I.D. #04266)  
BROOKE SPIGLER COHEN (I.D. #204648)  
JORDANN R. CONABOY (I.D. #319337)  
WILLIAM H. TRASK (I.D. # 318229)  
The Wellington Bldg., Suite 400  
135 S. 19<sup>th</sup> Street  
Philadelphia, Pennsylvania 19103  
(215) 561-7681

Date: July 21, 2016

**PROOF OF SERVICE**

I, Jordann R. Conaboy, Esquire, hereby certify that on this 21<sup>st</sup> day of July, 2016, I caused true and correct copies of the foregoing Emergency Application for Extraordinary Relief, with exhibits, to be served on the individuals listed below *via* hand delivery:

Pedro A. Cortés, Esquire  
Secretary of the Commonwealth  
**Office of the Secretary**  
302 North Office Building  
Harrisburg, PA 17120

Kathleen G. Kane, Esquire  
Bruce L. Castor, Jr., Esquire  
**Office of the Attorney General**  
15<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

Timothy F. Yates, Esquire  
**Pennsylvania Department of State**  
**Office of General Counsel**  
306 North Office Building  
Harrisburg, PA 17120

/s/ Jordann R. Conaboy  
Jordann R. Conaboy, Esquire

# **EXHIBIT 12**

**[J-96-2016]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

RICHARD A. SPRAGUE, HON. RONALD	:	No. 75 MAP 2016
D. CASTILLE AND HON. STEPHEN	:	
ZAPPALA, SR.,	:	
	:	
Plaintiffs	:	
	:	
v.	:	
	:	
PEDRO A. CORTES, SECRETARY OF	:	
THE COMMONWEALTH OF	:	
PENNSYLVANIA, IN HIS OFFICIAL	:	
CAPACITY,	:	
	:	
Defendant	:	

**ORDER**

**PER CURIAM**

**DECIDED: September 2, 2016**

**AND NOW**, this 2nd day of September, 2016, the Court being evenly divided in its determination as to which parties are entitled to the grant of summary relief, this Court is without authority to grant relief and the *status quo* of the matter prior to the filing of the lawsuit is maintained. See *Creamer v. Twelve Common Pleas Judges*, 281 A.2d 57 (Pa. 1971) (holding that where this Court was evenly divided in a King's Bench original jurisdiction matter challenging gubernatorial appointments to judicial vacancies, the appropriate disposition was to enter a *per curiam* order noting that the requested relief could not be granted, thereby maintaining the *status quo* of the matter).

Chief Justice Saylor did not participate in the consideration or decision of this matter.

Justice Baer files an Opinion In Support Of Denying Plaintiffs' Application For Summary Relief And Granting Defendant's Application for Summary Relief in which Justice Donohue and Justice Mundy join.

Justice Todd files an Opinion in Support of Granting Plaintiffs' Application For Summary Relief and Denying Defendant's Application for Summary Relief in which Justice Dougherty joins and Justice Wecht joins in part.

Justice Wecht files an Opinion in Support of Granting Plaintiffs' Application For Summary Relief and Denying Defendant's Application for Summary Relief.

Judgment Entered 9/2/2016



CHIEF CLERK

# **EXHIBIT 13**



that the requested relief could not be granted, thereby maintaining the *status quo* of the matter.

Plaintiffs have now sought reconsideration, contending that this Court erred by restoring the *status quo* as it existed prior to filing their lawsuit, and, instead, should have restored the *status quo* as it existed before this Court accepted plenary jurisdiction, *i.e.*, when their challenge was pending in Commonwealth Court. They contend that this Court's reliance upon Creamer to restore the *status quo* that existed prior to commencement of the action is misplaced because Creamer did not involve this Court's exercise of extraordinary jurisdiction over a matter originally commenced in a lower court. Plaintiffs submit that because this Court's reliance on Creamer served to quash their legal challenge and deny them from ever having their day in court, we must vacate our order and remand the matter to Commonwealth Court for disposition.

In his answer, the Secretary contends that this Court entered a final adjudication on the phrasing of the judicial retirement ballot question and that issue may not be relitigated before an inferior tribunal. See PA. CONST. art. V, § 2 (providing that this Court "shall be the highest court of the Commonwealth and in this court shall be reposed the supreme judicial power of the Commonwealth"). The Secretary argues that our decision in Creamer is dispositive as it held that the universal rule, providing that a matter remains in *status quo* if the judicial body is equally divided, applies even where there is no lower court order for an appellate court to affirm. He contends that Plaintiffs received exactly what they asked for when they sought to have this Court remove their case from the Commonwealth Court and exercise plenary jurisdiction over the matter pursuant to Section 726 of the Judicial Code, *i.e.*, a full and fair opportunity to litigate the issue before the highest court in the Commonwealth so as to obtain a prompt, final decision. Merely because Plaintiffs did not receive the result they desired, the

Secretary argues, does not afford them the right to relitigate the issue in a lower court that lacks authority to hear the case. Finally, the Secretary submits that remanding the matter to the Commonwealth Court at this late date would be against the public interest because we are at a point on the election calendar where the ballot question has already been advertised in accordance with the constitutional mandate and absentee voting on the ballot question has already begun.

It is well-established that reargument is not a matter of right, but of sound judicial discretion, and will be granted “only when there are compelling reasons therefor.” Pa.R.A.P. 2543. See Note to Pa.R.A.P. 2543 (setting forth compelling reasons such as: (1) where a panel decision is inconsistent with a different panel decision of the same court; (2) where the court has overlooked or misapprehended a fact of record material to the outcome of the case; (3) where the court has overlooked or misapprehended a controlling or directly relevant authority; and (4) where a controlling or directly relevant authority relied upon by the court has been expressly reversed, modified, overruled or otherwise materially affected during the pendency of the matter).

Plaintiffs do not present a compelling reason for reargument, but rather seek a new avenue of relief. They cite no controlling or directly relevant authority that this Court overlooked, and instead suggest only that our reliance upon Creamer was somehow misplaced. This claim is unpersuasive. This Court unanimously agreed that Creamer was controlling as it held that where the Court was evenly divided and there was no previous adjudication by a lower court, we lack authority to grant relief and, thus, must restore the *status quo* prior to filing the lawsuit. This is precisely what occurred here.

While Creamer did not involve the additional fact that the plaintiffs had originally filed the action in a lower court and later sought this Court’s exercise of extraordinary

jurisdiction, such fact does not alter the legal analysis. Section 726 of the Judicial Code makes clear that, when exercising extraordinary jurisdiction, this Court is removing the case from the lower court to impose a final order in the matter. See 42 Pa.C.S. § 726 (providing that “the Supreme Court may, on its own motion or upon the petition of any party, in any matter pending before any court or magisterial district judge of this Commonwealth involving an issue of immediate public importance, assume plenary jurisdiction of such matter at any stage thereof and enter a final order or otherwise cause right and justice to be done”). As acknowledged by Plaintiffs in their original application seeking this Court’s invocation of extraordinary jurisdiction under Section 726 of the Judicial Code, there is no longer an action pending in the lower court that requires further adjudication. See Plaintiffs’ Emergency Application for Extraordinary Relief at 11 (asserting that “[i]t is virtually certain that any order issued by the Commonwealth Court in this matter would be appealed to this Court. Consequently, Petitioners respectfully submit that this Court should assume immediate plenary jurisdiction over the matter in order to resolve it in advance of the November 8, 2016 general election.”).

The dissenting statement asserts that nothing “precludes the parties from seeking relief in the Commonwealth Court at this juncture, or prevents our Court from remanding the matter for a merits disposition.” Slip Op. at 2 (Todd, J., dissenting). The dissent proceeds to conclude that it would “remand this case to that tribunal forthwith for expedited resolution.” Respectfully, the dissent conflates the deadlock on the Court relating to the merits of Plaintiffs’ challenge to the phrasing of the ballot question and this Court’s unanimous *per curiam* order restoring this matter to the *status quo* prior to the filing of the litigation. This Court deliberately and unanimously considered the application of Creamer to the facts presented and disposed of the case in accordance

with governing precedent. Plaintiffs do not demonstrate to the contrary. What Plaintiffs and the dissent now advocate is not this Court's reconsideration of the matter pursuant to Rule 2543, but rather a remand of the case for the Commonwealth Court to consider anew. Such action, based upon a motion for reconsideration, would be unprecedented, unsupported by legal authority, and outside the scope of Rule 2543.

Accordingly, this 16th day of September, 2016, the Application for Reconsideration is **DENIED**. Additionally, the Application for Leave to File a Reply Brief to the Secretary's Answer filed by Plaintiffs is **GRANTED**. The Application for Leave to File an Answer to Plaintiff's Application filed by Amicus Curiae is **DENIED**.

Chief Justice Saylor did not participate in the consideration or decision of this matter.

Justice Todd files a dissenting statement in which Justice Wecht joins.