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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FILED
HARRISBURG,

SEP 13 2002

MARY E. DIANDREA, C
Per 
Deputy Clerk

RICHARD VIETH and NORMA JEAN VIETH,

Plaintiffs

v.

**THE COMMONWEALTH OF PENNSYLVANIA,
et al.,**

Defendants

NO. 3:CV-01-2439

**(JUDGES RAMBO
NYGAARD &
YOHN)**

**DEFENDANTS GOVERNOR SCHWEIKER, SECRETARY WEAVER
AND COMMISSIONER FILLING'S JOINDER
IN THE REPLY TO PLAINTIFFS' RESPONSE TO MOTION
TO ADD NECESSARY PARTY**

Defendants Governor Schweiker, Secretary of the Commonwealth Weaver, and Commissioner Filling, through their undersigned counsel, hereby joins in the Reply to Plaintiffs' Response to Motion to Add Necessary Party of the Presiding Officers filed on this date in the above-captioned action. We write separately to provide some context to the violations of the Pennsylvania Election Code¹ by the Board of Elections of Armstrong County (the Board).

25 P.S. §2746(a) when it was enacted in 1999, applied in the special circumstances during the period from June 1, 2000 to May 1, 2002. Under §2746 no alteration of precincts was permitted after December 31, 2000 until May 1, 2002.² The Board, on February 19, 2002 — well within the statutory “freeze out” prescribed

¹The Pennsylvania Election Code, 25 P.S. §2706, *et seq.*, is a statutory enactment codifying nearly every aspect of the electoral process.

²Section 2746 was subsequently amended to extend this period.

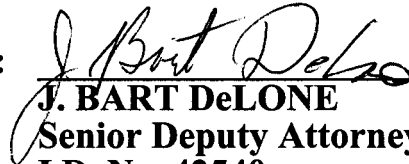
by §2746 — sought an order altering precinct boundaries. That order was granted on March 15, 2002. Also during the statutory “freeze out” period.

In addition to the violation of §2746, the Board failed to file a report with the Pennsylvania Department of State's Bureau of Commissions, Elections, and Legislation (the Bureau) notifying it of the change that had been made by the Armstrong County Court of Common Pleas order of March 15, 2002. Irrespective of §2746, the Board is required at all times by §2747(b) of the Election Code to file with the Bureau a report of precinct changes made, as an amendment to the report that all boards are required to file with the Bureau under §2748(a). The Bureau is required to maintain these reports and their amendments for the use of the General Assembly and the public. *See* 25 P.S. §2748(b). In failing to issue a timely report to the Bureau of its ill-timed alteration of the South Buffalo Election Districts, the Board compounded its error by keeping the Bureau in the dark regarding the March 15 alteration. Moreover, the Board's failure to report as required by law also deprived the General Assembly of this information. This is precisely what the reporting provisions of the Pennsylvania Election Code are designed to prevent.

This Court should grant the motion to add a necessary party and direct that, upon service of the Court's order granting the motion, the Board shall become a party to this litigation.

Respectfully submitted,

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DATED: September 13, 2002

CERTIFICATE OF SERVICE

I, **J. BART DeLONE**, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, hereby certify that on September 13, 2002, I caused to be served a copy of the foregoing document entitled **Defendants Governor Schweiker, Secretary Weaver, and Commissioner Filling's Joinder in the Reply to Plaintiffs' Response to Motion to Add Necessary Party**, upon the following:

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