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MARY E. D'ANDREA, CLERK
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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD VIETH, et al,	:	
	:	
Plaintiffs,	:	
	:	No. 1:CV-01-2439
	:	(Judge Rambo)
	:	
THE COMMONWEALTH OF	:	
PENNSYLVANIA, et al.	:	
	:	
Defendants.	:	

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO INTERVENE OF HOUSE REPUBLICAN CAUCUS**

The House Republican Caucus files this Memorandum of Law in support of its Motion to Intervene.

I. BACKGROUND

This action challenges Act 1, legislation putting into place 19 congressional districts pursuant to the 2000 Census. A hearing in this matter is presently scheduled before a three-judge court on March 12-13, 2002. It has come to the

attention of the House Republican Caucus that Plaintiffs, on February 7, 2002, issued a subpoena *duces tecum* to the Custodian of Records for Carnegie Mellon University, seeking production of the following documents:

(1) the contract between (a) the Pennsylvania House Republican Caucus and/or John Perzel and/or any related entity and (b) Carnegie Mellon University, the Pittsburgh Supercomputing Center, or any related individual or person relating to a demographic analysis of census data; and (2) all communications, including request for maps or data, between Beverly Clayton and/or the Office of Sponsored Research (and its employees) and the Pennsylvania House Republican Caucus, any member of that Caucus, and/or any employee or representative of any member pertaining to that contract.

The documents requested are protected against disclosure by the federal common law legislative privilege. The House Republican Caucus, as the entity which engaged in the legislative activity implicated by the documents, has standing to assert the privilege.

II. QUESTION PRESENTED

Should the House Republican Caucus be permitted to intervene for the sole purpose of joining Presiding Officers' Motion to Quash Subpoena or For Protective Order that concerns documents requested by the subpoena *duces tecum*, dated February 7, 2002, issued to Carnegie Mellon University?

Suggested Answer: YES.

III. ARGUMENT

Intervention as of right for the limited purpose of asserting and protecting the legislative privilege is appropriate under Fed.R.Civ.P. 24. *See Gravel v. United States*, 408 U.S. 606 (1972) (United States Senator, as intervenor, asserting the legislative privilege to quash subpoena issued to legislative aide); *In re Grand Jury Proceedings*, 563 F.2d 577 (3d Cir. 1977) (state senator permitted to intervene in government proceeding to assert privilege against production of documents); *see*

also United States v. American Tel. & Tel. Co., 642 F.2d 1285 (D.C. Cir. 1980) (privileges, including work product privilege, satisfy the definition of "legal interest" in Fed.R.Civ.P 24; otherwise, entity with claim of privilege could suffer the obvious injustice of having his claim erased without ever being heard); *In re Grand Jury Matter*, 735 F.2d 1330 (11th Cir. 1984) (per curiam) (vacating district court's denial of motion to intervene by clients of attorney subpoenaed to appear before grand jury with client files).

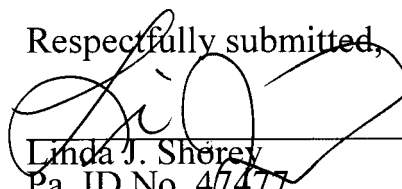
The House Republican Caucus, if permitted to intervene, will join in the Motion to Quash or For Protective Order filed by Presiding Officers and adopt the memorandum of law filed in support thereof.

CONCLUSION

For the reasons set forth above, the House Republican Caucus requests that its motion to intervene for the limited purpose of supporting the Motion to Quash or For a Protective Order filed by Presiding Officers should be granted.

February 19, 2002

Respectfully submitted,



Linda J. Shorey
Pa. ID No. 47477
Julia M. Glencer
Pa. ID No. 80530
Jason E. Oyler
Pa. ID No. 84473
John P. Krill, Jr.
Pa. ID No. 16287
KIRKPATRICK & LOCKHART LLP
240 North Third Street
Harrisburg, PA 17101
(717) 231-4500
(717) 231-4501 (fax)
*Counsel for Intervenor
House Republican Caucus*

CERTIFICATE OF SERVICE

I certify that on February 19, 2002, I caused a copy of the foregoing Memorandum of Law in Support of Motion to Intervene of House Republican Caucus to be served on the following in the manner indicated:

Fax and First class mail

Paul M. Smith
Thomas J. Perrelli
Daniel Mach
Brian P. Hauck
JENNER & BLOCK, L.L.C
601 Thirteenth Street, NW
Washington, D.C. 20005
(202) 639-6000
Counsel for Plaintiffs

Hand Delivery

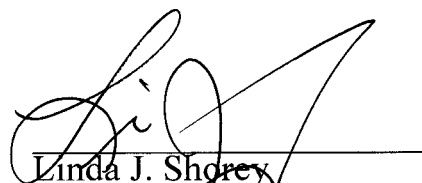
Robert B. Hoffman
REED SMITH LLP
213 Market Street, 9th Floor
P.O. Box 11844
Harrisburg, PA 17108
(717) 257-3042
Counsel for Plaintiffs

Hand Delivery

J. Bart DeLone
Senior Deputy Attorney General
Office of Attorney General
Appellate Litigation Section
15th Floor Strawberry Square
Harrisburg, PA 17120
(717) 783-3226
*Counsel for the Commonwealth,
Governor Schweiker, Secretary
Pizzigrilli, & Commissioner Filling*

First Class Mail and Fax

Walter P. DeForest
DeForest & Koscelnik
3000 Koppers Bldg.
436 Seventh Ave.
Pittsburgh, PA 15219
(412) 227-3101
Counsel for Carnegie Mellon University



Linda J. Shorey
Pa. ID No. 47477
KIRKPATRICK & LOCKHART LLP
240 North Third Street
Harrisburg, PA 17101
(717) 231-4500
(717) 231-4501 (fax)
*Counsel for Intervenor
House Republican Caucus*