



properly apportioned, and requesting that this Honorable Court adopt a remedial plan.

2. On December 20, 2021, this Honorable Court entered a scheduling order whereby, as pertinent herein:

- parties were to submit any proposed remedial plans by January 28, 2022; and
- if the General Assembly and Governor failed to legislatively adopt a redistricting plan by January 30, 2022, this Honorable Court would hold a hearing beginning on January 31, 2022 to receive evidence and select a plan as well as make any necessary changes to the 2022 election schedule/calendar.

3. On January 6, 2022, the Court held a hearing regarding the proposed intervenors in this matter.

4. Meanwhile, Petitioners also filed applications for relief before our Supreme Court seeking its assumption of extraordinary jurisdiction over this matter.

5. On January 10, 2022, Petitioners' King's Bench applications were denied "without prejudice to Petitioners to file an application in [this Honorable] Court, requesting that court to accelerate the timetable set forth in its December 20, 2021 order." *Carter v. Degraffenreid*, 141 MM 2021 (Pa. order filed Jan. 10, 2022); *Gressman v. Degraffenreid*, 142 MM 2021 (Pa. order filed Jan. 10, 2022).

6. On January 11, 2022, both the Carter Petitioners and the Gressman Petitioners filed such applications.

7. Therein, Petitioners seek relief as follows, as pertinent herein:
- a. the *Carter* Petitioners urge that this Honorable Court should order the following:
    - i. that parties submit a single, final proposed redistricting plan, together with a supporting expert report and/or brief, by *next* Friday, January 21, 2022, at 5 p.m.;
    - ii. that parties submit any responsive expert reports and/or briefs by Wednesday, January 26, 2022, at 5 p.m.;
    - iii. that this Honorable Court hold oral argument on Friday, January 28, 2022; and
    - iv. that this Honorable Court issue a final decision by Monday, January 31, 2022, at 5:00 p.m.; and
  - b. the *Gressman* Petitioners urge that this Honorable Court should order the following:
    - i. that parties submit a single, final proposed redistricting plan, together with a supporting expert report and/or brief, by this Friday, January 14, 2022, at 5:00 p.m.;
    - ii. that parties submit any responsive expert reports and/or briefs, by next Wednesday, January 19, 2022;
    - iii. that this Honorable Court hold oral argument next Friday, January 21, 2022; and
    - iv. that this Honorable Court issue a final decision by Monday, January 24, at 5:00 p.m.

Petitioners' requests to expedite are directed at enabling this matter to proceed through the adjudicatory and appellate processes and administrative compliance in time for candidates' circulation of nomination petitions in mid-February.

8. On January 11, 2022, this Court directed Respondents and potential intervenors to file any answers to the applications to expedite containing “specific responses to Petitioners’ proposed dates for expedited review” and “the submission of maps and expert reports in lieu of a hearing[.]”<sup>1</sup> Order, 1/11/22.

9. Proposed Senate Democratic Caucus Intervenors now file this Response to Applications for Expedited Review.

***Specific Responses to Petitioners’ Proposed Dates for Expedited Review***

10. Preliminarily, regarding Petitioners’ proposed dates for expedited review, Proposed Senate Democratic Caucus Intervenors note that this Honorable Court’s initial, December 20, 2021 Scheduling Order appeared to be intended, in part, to permit the General Assembly and Governor time to exercise their constitutional authority and duty to adopt a redistricting plan and set a deadline for such action.

11. Additionally, it bears noting that Proposed Senate Democratic Caucus Intervenors’, as well as numerous other proposed intervenors’, applications for intervention remain pending before this Honorable Court, such that numerous individuals and entities remain uncertain whether they will be permitted to intervene or to what extent they may be permitted to participate in this matter.

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<sup>1</sup> Technically, this Honorable Court’s order was filed before the *Carter* Petitioners’ application; however, for the sake of expediency, Proposed Democratic Senate Intervenors respond to both applications herein.

12. In this regard, Proposed Senate Democratic Caucus Intervenors find themselves in agreement with the *Carter* Petitioners implication that the *Gressman* Petitioners' deadlines may not "give all parties, as well as this [Honorable] Court, sufficient time to prepare, respond to, and consider submissions." *Carter* Petitioners' Application for Expedited Review, 1/11/22, at 3.

13. Additionally, as with all election matters, our Supreme Court has demonstrated a willingness and ability to move with great alacrity in reviewing election matters. *Accord League of Women Voters of Pa. v. Commonwealth*, 181 A.3d 1083 (Pa. order filed Feb. 19, 2018) (explaining that the Court evaluated and rejected numerous submitted redistricting plans, and developed its own remedial plan within two *days*).

14. In light of all the foregoing, Proposed Senate Democratic Caucus Intervenors believe that this Honorable Court's initial timeline for resolution, as modified and set forth more fully below, to include the submission of maps and expert reports in lieu of an evidentiary hearing is reasonable and balances the competing interests of providing time to promote the legislative adoption of a redistricting plan, providing the parties adequate time to prepare, and accounts for our Supreme Court's deliberative needs.

15. In the alternative, if the Court desires to shorten the original timeline the *Carter* Petitioners' timeline is more reasonable than the proposed *Gressman*

Petitioners' timeline; however, the Court's original timeline provides the most effective path toward promoting the adoption of a legislatively developed Congressional redistricting plan. In any event, the Proposed Senate Democratic Caucus Intervenors are prepared to comply with any directive this Honorable Court issues.

16. In any event, Proposed Democratic Senate Intervenors certainly leave it to this Honorable Court to schedule oral argument and issue a decision according to its own institutional prerogatives and with due care for the deliberative and practical necessities implicated herein.

17. Additionally, with respect to Petitioners requesting this Honorable Court set a deadline by which to reach a decision in this matter, Proposed Senate Democratic Caucus Intervenors again defer to this Honorable Court's own institutional prerogatives in that regard.

#### *Number of Plans*

18. To the extent Petitioners argue that parties should be precluded from submitting multiple proposed plans, Proposed Senate Democratic Caucus Intervenors disagree.

19. Indeed, inasmuch as a party may be required to advance alternative theories of the highly complex governing law in the redistricting context, including the relative priorities to be given to the numerous factors worthy of consideration in

redistricting, it would be prudent to permit the parties to submit plans consistent with those multifarious theories.

20. For example, a party should not be precluded from arguing on one hand that prioritization of avoiding vote dilution over political-subdivision integrity is legally appropriate, and results in one map, and arguing in the alternative that, if the opposite prioritization is legally appropriate, it would result in another.

21. Indeed, this Honorable Court and our Supreme Court have previously permitted parties to submit a reasonable number of alternative redistricting plans. *See Mellow v. Mitchell*, 607 A.2d 204 (Pa. 1992) (involving plaintiff-petitioners who submitted three alternative plans).

***Submission of Maps and Expert Reports In Lieu of a Hearing is Sufficient to  
Provide the Court with the Information Needed to Make a Decision***

22. This matter does not present disputes of fact, but rather disputes of remedy. Unlike a normal matter, there are essentially no facts that can reasonably be disputed. The geographic dimensions proposed in each map are not subject to contrary interpretations and evaluation of the relevant competing factors represented by each map are susceptible to evaluation by mathematical tools that are publicly available and can be addressed by expert reports.

23. In light of that, Proposed Senate Democratic Caucus Intervenors agree that neither discovery or a traditional evidentiary hearing are needed to provide the Court

with the information needed to render a judicial decision in this matter. Therefore, we agree that it would be expeditious and otherwise appropriate for this Honorable Court to adopt alternative adjudicatory procedures whereby parties are permitted to submit their proposed plan or plans, together with supporting expert reports and/or briefs, and then, after said submissions, permitted to submit rebuttal expert reports and/or briefs analyzing other parties' proposed plans, all in advance of oral argument and this Honorable Court's issuance of a decision based on the record before it.

24. Proposed Democratic Senate Caucus Intervenors note that, to the extent this Honorable Court does not modify the overall timeline established by its December 20, 2021 order, but does adopt the aforementioned alternative adjudicatory procedures, staggered deadlines for initial submissions and responsive submissions prior to the January 31, 2021 hearing would enable participants to comply with the procedure, which could presumably be redirected to the presentation of oral argument.

25. Indeed, Proposed Democratic Senate Caucus Intervenors note that the adoption of such a process would likely reduce the total timeline of this matter by several days as compared to this Honorable Court's existing Scheduling Order.

Respectfully submitted,

/s/ Marco S. Attisano  
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**CERTIFICATE OF COMPLIANCE**

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Marco S. Attisano (PA 316736)  
Marco S. Attisano

**PROOF OF SERVICE**

On January 12, 2022, I caused a copy of the foregoing to be served on all counsel of record, pursuant to the Court's instructions, via email address

CommCourtFiling@pacourts.us:

/s/ Marco S. Attisano

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