

Commonwealth Docket Sheet

Docket Number: 1309 CD 2024

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November 21, 2024



CAPTION

Brian T. Baxter and Susan T. Kinniry
v.
Philadelphia Board of Elections,
Republican National Committee,
and Republican Party of Pennsylvania

Appeal of: Republican National
Committee and Republican Party
of Pennsylvania

CASE INFORMATION

Initiating Document: Notice of Appeal
Case Status: Closed
Case Processing Status: October 30, 2024 Completed
Journal Number: SE-017a-2024
Case Category: Election Case Type(s): Election

CONSOLIDATED CASES

RELATED CASES

Table with 4 columns: Docket No / Reason, Type, Docket No / Reason, Type. Row 1: 1305 CD 2024, Consolidated, 1305 CD 2024, Related. Row 2: Same Record Below, Cross Appeal

COUNSEL INFORMATION

Appellant Republican Party of Pennsylvania

Pro Se: No

IFP Status:

Attorney: Gallagher, Kathleen A.
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Fax No:

Attorney: King, Thomas W., III
Law Firm: Dillon, McCandless, King, Coulter & Graham, LLP
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Butler, PA 16001-5742
Phone No: (724) 283-2200

Fax No:

Attorney: Gore, John M.
Law Firm: Jones Day
Address: 51 Louisiana Avenue, N.W.
Washington, DC 20001
Phone No: (202) 879-3939

Fax No:



COUNSEL INFORMATION

Appellant **Republican National Committee**

Pro Se: No

IFP Status:

Attorney: Gallagher, Kathleen A.
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Phone No: (412) 308-5512 Fax No:

Attorney: King, Thomas W., III
Law Firm: Dillon, McCandless, King, Coulter & Graham, LLP
Address: Dillon Mccandless Et Al
 128 W Cunningham St
 Butler, PA 16001-5742

Phone No: (724) 283-2200 Fax No:

Attorney: Gore, John M.
Law Firm: Jones Day
Address: 51 Louisiana Avenue, N.W.
 Washington, DC 20001

Phone No: (202) 879-3939 Fax No:



COUNSEL INFORMATION

Appellee Philadelphia County Board of Elections

Pro Se: No

IFP Status:

Attorney:	Stohr, Alison L.	
Law Firm:	PHILADELPHIA LAW DEPARTMENT	
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Attorney:	Eisenstein, Ilana H.	
Law Firm:	DLA Piper LLP (US)	
Address:	Dla Piper Llp 1650 Market St Ste 5000 Philadelphia, PA 19103	
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Attorney:	Benjet, Brian Howard	
Law Firm:	DLA Piper	
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Phone No:	(215) 656-3311	Fax No:

Attorney:	Furst, Lydia Maureen	
Law Firm:	City of Philadelphia Law Department	
Address:	1515 Arch St 15th Floor Philadelphia, PA 19102	
Phone No:	(215) 683-3573	Fax No:

Attorney:	Fabens-Lassen, Ben Caldwell	
Law Firm:	DLA Piper LLP (US)	
Address:	1650 Market St Ste 5000 Philadelphia, PA 19103	
Phone No:	(215) 656-3325	Fax No:

Attorney:	Pfautz, Michael Wu-Kung	
Law Firm:	Philadelphia Law Department	
Address:	City Of Philadelphia Law Dept 1515 Arch St Fl 15 Philadelphia, PA 19102	
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Attorney:	Josefovits, M. David	
Law Firm:	DLA Piper LLP (US)	
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COUNSEL INFORMATION

Appellee Kinniry, Susan T.

Pro Se: No

IFP Status:

Attorney: De Palma, Claudia
 Law Firm: Public Interest Law Center (The)
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Attorney: McKenzie, Mary M.
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Attorney: Schneider, Marian Karen
 Law Firm: ACLU of Pennsylvania, Pittsburgh
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 Phone No: (610) 420-0632 Fax No:

Attorney: Walczak, Witold J.
 Law Firm: ACLU of Pennsylvania, Pittsburgh
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Attorney: Loney, Stephen Allen
 Law Firm: ACLU of Pennsylvania
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Attorney: Geffen, Benjamin David
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 Phone No: (267) 546-1308 Fax No:

Attorney: Steiker-Ginzberg, Kate Ilana
 Law Firm: ACLU of Pennsylvania
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COUNSEL INFORMATION

Appellee Baxter, Brian T.

Pro Se: No

IFP Status:

Attorney: De Palma, Claudia
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Phone No: (267) 546-1313 Fax No:

Attorney: McKenzie, Mary M.
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Attorney: Schneider, Marian Karen
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Phone No: (610) 420-0632 Fax No:

Attorney: Walczak, Witold J.
Law Firm: ACLU of Pennsylvania, Pittsburgh
Address: P.o. Box 23058 Pittsburgh, PA 15222
Phone No: (412) 681-7864 Fax No:

Attorney: Loney, Stephen Allen
Law Firm: ACLU of Pennsylvania
Address: P.o. Box 60173 Philadelphia, PA 19102
Phone No: (215) 592-1513 Fax No:

Attorney: Geffen, Benjamin David
Law Firm: Public Interest Law Center (The)
Address: Public Interest Law Center 2 Penn Center, 1500 Jfk Blvd Ste 802 Philadelphia, PA 19102
Phone No: (267) 546-1308 Fax No:

Attorney: Steiker-Ginzberg, Kate Ilana
Law Firm: ACLU of Pennsylvania
Address: Po Box 60173 Philadelphia, PA 19102
Phone No: (917) 444-6803 Fax No:

FEE INFORMATION

Table with 5 columns: Fee Dt, Fee Name, Fee Amt, Receipt Dt, Receipt No, Receipt Amt. Row 1: 10/03/2024, Notice of Appeal, 90.25, 10/07/2024, 2024-CMW-H-001513, 90.25

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AGENCY/TRIAL COURT INFORMATION

Order Appealed From:	September 27, 2024	Notice of Appeal Filed:	October 3, 2024
Order Type:	Lower Court Order		
Documents Received:	October 3, 2024		

Court Below:	Philadelphia County Court of Common Pleas		
County:	Philadelphia	Division:	Philadelphia County Civil Division
Judge:	Crumlish, James C., III	OTN:	
Docket Number:	September Term, 2024 NO. 02481	Judicial District:	01

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content Description
Testimony	October 04, 2024	
Trial Court Record	October 10, 2024	
Trial Court Opinion	October 10, 2024	

Date of Remand of Record:

BRIEFING SCHEDULE

None

None

DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
October 3, 2024	Notice of Appeal Filed			
	Republican National Committee		Appellant	
	Republican Party of Pennsylvania		Appellant	
October 3, 2024	Consolidated - Same Record Below Commonwealth Court			
October 3, 2024	Order Filed			10/03/2024
	Per Curiam			
	Document Name: Consolidation Order 1305 & 1309 CD 2024 /Scheduling Order			

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DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
	<p>Comment: NOW, October 3, 2024, it is ORDERED as follows:</p> <ol style="list-style-type: none"> The above appeals are consolidated sua sponte. All further filings in these consolidated matters shall be captioned as set forth above. The Philadelphia County Board of Elections and the Republican National Committee and Republican Party of Pennsylvania are Designated Appellants. Designated Appellants shall each file a Statement of Issues to be Presented on Appeal by October 8, 2024, at 12:00 p.m., in the Prothonotary's Office in Harrisburg. The Statement of Issues may be filed in person or through the Court's electronic filing system (PACFile). The Statement of Issues may not be filed by facsimile without express prior permission from the Court. The Statement of Issues shall be served on all parties and the presiding judge in the Court of Common Pleas of Philadelphia County (trial court), and a proof of service shall be promptly filed with the Court. The trial court shall no later than October 10, 2024, at 12:00 p.m., transmit to this Court the record in this matter, including an opinion or statement in support of its order and the hearing transcript. Transmission shall not be delayed by proceeding under Pa.R.A.P. 1925(b). Designated Appellants and Appellees shall file (4 copies) and serve (1 copy) simultaneous briefs on the merits of the appeal no later than October 15, 2024, at 12:00 p.m., in the Prothonotary's Office in Harrisburg. Briefs may be filed in person or through the Court's electronic filing system (PACFile). Briefs may not be filed by facsimile without express prior permission from the Court. If a brief is filed through the Court's electronic filing system, the party or counsel shall also provide the Prothonotary's Office within one business day, 3 paper copies of the brief. Motions may not be filed by facsimile without the express prior permission of the Court. Designated Appellants are excused from filing reproduced records. These appeals shall be submitted for decision on the briefs filed without oral argument, unless otherwise ordered. In addition to transmitting and mailing copies of this Order to counsel of record and any pro se party, the Prothonotary is directed to transmit and mail a copy to the Honorable James C. Crumlish, III, of the Philadelphia County Court of Common Pleas and to the Office of Judicial Records - Civil of that court. 			
October 3, 2024	Entry of Appearance			
	Geffen, Benjamin David	Baxter, Brian T.	Appellee	
	Geffen, Benjamin David	Kinniry, Susan T.	Appellee	
	Document Name: Attorney Benjamin D. Geffen for Designated Appellees Brian T. Baxter & Susan T. Kinniry			
October 4, 2024	Entry of Appearance			
	Schneider, Marian Karen	Baxter, Brian T.	Appellee	
	Schneider, Marian Karen	Kinniry, Susan T.	Appellee	
	Document Name: Attorney Marian K. Schneider for Designated Appellees Brian T. Baxter & Susan T. Kinniry			
October 4, 2024	Entry of Appearance			
	Steiker-Ginzberg, Kate Ilana	Baxter, Brian T.	Appellee	
	Steiker-Ginzberg, Kate Ilana	Kinniry, Susan T.	Appellee	
	Document Name: Attorney Kate Steiker-Ginzberg for Designated Appellees Brian T. Baxter & Susan T. Kinniry			
October 4, 2024	Entry of Appearance			
	Walczak, Witold J.	Baxter, Brian T.	Appellee	
	Walczak, Witold J.	Kinniry, Susan T.	Appellee	
	Document Name: Attorney Witold J. Walczak for Designated Appellees Brian T. Baxter & Susan T. Kinniry			

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DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
October 4, 2024	Transcripts of Testimony Court Reporters, Digital Recording, and Interpreters Administration - First Judicial District of Pennsylvania			
October 7, 2024	Entry of Appearance McKenzie, Mary M. McKenzie, Mary M.	Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	
	Document Name: Atty. McKenzie for Appellees Baxter and Kinniry			
October 7, 2024	Application for Relief Loney, Stephen Allen Loney, Stephen Allen	Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	
	Document Name: Appellees' Application for Expedited Briefing Schedule			
October 8, 2024	Filed - Other Gallagher, Kathleen A. Gallagher, Kathleen A.	Republican Party of Pennsylvania Republican National Committee	Appellant Appellant	
	Document Name: Republican Appellants' Statement of Issues			
October 8, 2024	Filed - Other McKenzie, Mary M. McKenzie, Mary M.	Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	
	Document Name: Notice of Family Relation with Judge			
October 8, 2024	Filed - Other Stohr, Alison L.	Philadelphia County Board of Electic	Appellee	
	Document Name: Philadelphia County Bd. of Elections' Statement of Issues			
October 8, 2024	Answer to Application for Relief Gallagher, Kathleen A. Gallagher, Kathleen A.	Republican Party of Pennsylvania Republican National Committee	Appellant Appellant	
	Document Name: Republican Appellants' Opposition to Expedited Briefing			
October 8, 2024	Order Granting Application for Relief Per Curiam			10/08/2024
	Document Name: IN PART/ Parties Briefs are due Oct. 14, 2024, 12:00 Noon			
	Comment: NOW, October 8, 2024, upon review of the October 7, 2024 Application for Expedited Briefing Schedule (Application) filed by Brian T. Baxter and Susan T. Kinniry, which the Philadelphia Board of Elections does not oppose, and the Answer in Opposition to Expedite Briefing filed on behalf of the Republican National Committee and Republican Party of Pennsylvania, the Application is GRANTED in part. Designated Appellants and Appellees shall file an electronic copy and serve (1 copy) simultaneous briefs on the merits of the appeal no later than Monday, October 14, 2024, at 12:00 p.m., in the Prothonotary's Office through the Court's electronic filing system. (PAC-file). Counsel shall also provide the Prothonotary's Office within one business day 8 paper copies of the brief. The remainder of the Court's October 3, 2024 Order remains in full force and effect.			

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Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
October 9, 2024	Entry of Appearance Josefovits, M. David Eisenstein, Ilana H. Benjet, Brian Howard Fabens-Lassen, Ben Caldwell	Philadelphia County Board of Electic Appellee Philadelphia County Board of Electic Appellee Philadelphia County Board of Electic Appellee Philadelphia County Board of Electic Appellee		
	Document Name: Attys. Benjet, Eisenstein and Faben-Lassen for Phila. Co. Bd. of Elections			
October 10, 2024	Trial Court Record Received Philadelphia County Civil Division			
October 10, 2024	Trial Court Opinion Received Philadelphia County Civil Division			
October 10, 2024	Certificate of Service Filed Loney, Stephen Allen Loney, Stephen Allen	Baxter, Brian T. Kinniry, Susan T.	Appellee Appellee	
	Document Name: Service on Atty. General			
October 14, 2024	Memorandum of Law Filed Eisenstein, Ilana H.	Philadelphia County Board of Electic Appellee		
	Document Name: Designated Apt. Brief			
October 23, 2024	Application to be Admitted Pro Hac Vice Filed Gallagher, Kathleen A. Gallagher, Kathleen A.	Republican Party of Pennsylvania Republican National Committee	Appellant Appellant	
	Document Name: PHV - John Gore, Esq.			
October 25, 2024	Order Granting Application to be Admitted Pro Hac Vice Per Curiam			10/25/2024
	Document Name: John M. Gore, Esq. is admitted Pro Hac Vice for Republican Party Appellants			
	Comment: NOW, October 25, 2024, upon consideration of Kathleen A. Gallagher, Esquire's Application for Admission Pro Hac Vice for John M. Gore, Esquire on behalf of Appellants Republican National Committee and Republican Party of Pennsylvania, it is hereby ordered: (1) John M. Gore, Esquire is admitted pro hac vice to the bar of the Commonwealth of Pennsylvania under Pennsylvania Bar Admission Rule 301, as co-counsel on behalf of Appellants Republican National Committee and Republican Party of Pennsylvania in this matter; (2) John M. Gore, Esquire shall abide by the rules of this Court including all disciplinary rules; (3) John M. Gore, Esquire shall immediately notify this Court of any matter affecting his standing at the bar of any other court where he may be admitted to practice; and, (4) Kathleen A. Gallagher, Esquire, the moving attorney herein, shall continue to be responsible as counsel of record for the conduct of this matter on behalf of Appellants Republican National Committee and Republican Party of Pennsylvania.			

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DOCKET ENTRY

Filed Date	Docket Entry / Filer	Representing	Participant Type	Exit Date
October 30, 2024	Affirmed Ceisler, Ellen			10/30/2024
	Document Name: Memorandum Opinion : Orders of Philadelphia County Court of Common Pleas are AFFIRMED.			
	Comment: AND NOW, this 30th day of October, 2024, the Court of Common Pleas of Philadelphia County's (trial court) September 26 and September 28, 2024 orders are AFFIRMED. The Philadelphia County Board of Elections is ORDERED to count the undated mail-in ballots cast by Designated Appellees Brian T. Baxter and Susan T. Kinniry, and the absentee and mail-in ballots cast by the other 67 qualified electors whose ballots were rejected due to outer envelope dating errors, in the September 17, 2024 Special Election in the 195th and 201st Legislative Districts in Philadelphia County, and take any other steps necessary in accordance with the parties' Consent Order of Court entered by the trial court on September 25, 2024.			
	[10/30/2024 - Subsequent to the Memorandum Opinion being docketed, Court staff realized that the Supreme Court's August 27, 2024 Order (temporarily modifying the appeal period in matters related to the November 5, 2024 General Election) was erroneously appended to the docket entry. See Memorandum Opinion at p. 13, n. 16. Accordingly, the Supreme Court's Order has been removed from this docket entry.]			
October 31, 2024	Filed - Other Republican National Committee Republican Party of Pennsylvania		Appellant Appellant	
	Document Name: 76-77 EM 2024.Application for Extraordinary Relief.			
November 1, 2024	Order Filed Supreme Court of Pennsylvania			11/01/2024
	Document Name: 76-77 EM 2024-Order Granting Emergency App. for Extraordinary Relief Pending Filing of PAA.			
	Comment: AND NOW, this 1st day of November, 2024, the Emergency Application for Extraordinary Relief Pending Filing of Petition for Allowance of Appeal is GRANTED only [76 and 77 EM 2024] - 2 to the extent that the Commonwealth Court's decision docketed at 1305 C.D. 2024 and 1309 C.D. 2024 is stayed and shall not be applied to the November 5, 2024 General Election. This stay is entered without prejudice to the filing and due consideration on the merits of any petition for allowance of appeal that the parties may file or the disposition of an appeal should this Court grant such petition. The Application for Leave to File Amicus Brief on Behalf of Restoring Integrity and Trust in Elections, Inc. and the Application for Leave to File Amicus Brief by Pennsylvania Department of State and Secretary of the Commonwealth Al Schmidt are GRANTED. The Proposed Intervenor-Respondents' Combined Application to Intervene and Response to the RNC's and RPP's Emergency Stay Application by the Democratic National Committee and Pennsylvania Democratic Party is DENIED as moot without prejudice to renew their request in connection with any forthcoming petition for allowance of appeal or appeal in the above-captioned matter.			
	Justice Donohue files a concurring statement in which Chief Justice Todd joins .			
	Justice Dougherty files a concurring statement.			
November 12, 2024	Petition for Allowance of Appeal to PA Supreme Court Filed Republican National Committee Republican Party of Pennsylvania		Appellant Appellant	
	Document Name: 395-396 EAL 2024			
	Comment: 395 EAL 2024			

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SESSION INFORMATION

Journal Number: SE-017a-2024
 Consideration Type: Submitted Briefs-EnBanc
 Listed/Submitted Date: October 15, 2024

Panel Composition:

The Honorable Renee Cohn Jubelirer	President Judge
The Honorable Patricia A. McCullough	Judge
The Honorable Michael H. Wojcik	Judge
The Honorable Ellen Ceisler	Judge
The Honorable Matthew S. Wolf	Judge

DISPOSITION INFORMATION

Final Disposition:	Yes	Judgment Date:	
Related Journal No:		Disposition Author:	Ceisler, Ellen
Category:	Decided	Disposition Date:	October 30, 2024
Disposition:	Affirmed		

Disposition Comment: AND NOW, this 30th day of October, 2024, the Court of Common Pleas of Philadelphia County's (trial court) September 26 and September 28, 2024 orders are AFFIRMED. The Philadelphia County Board of Elections is ORDERED to count the undated mail-in ballots cast by Designated Appellees Brian T. Baxter and Susan T. Kinniry, and the absentee and mail-in ballots cast by the other 67 qualified electors whose ballots were rejected due to outer envelope dating errors, in the September 17, 2024 Special Election in the 195th and 201st Legislative Districts in Philadelphia County, and take any other steps necessary in accordance with the parties' Consent Order of Court entered by the trial court on September 25, 2024.

[10/30/2024 - Subsequent to the Memorandum Opinion being docketed, Court staff realized that the Supreme Court's August 27, 2024 Order (temporarily modifying the appeal period in matters related to the November 5, 2024 General Election) was erroneously appended to the docket entry. See Memorandum Opinion at p. 13, n. 16. Accordingly, the Supreme Court's Order has been removed from this docket entry.]

Dispositional Filing:	Memorandum Opinion	Filing Author:	Ceisler, Ellen
Filed Date:	10/30/2024 12:00:00AM		

Dispositional Filing:	Dissenting Opinion	Filing Author:	Wolf, Matthew S.
Filed Date:	10/30/2024 12:00:00AM		

Dispositional Filing:	Dissenting Opinion	Filing Author:	McCullough, Patricia A.
Filed Date:	10/30/2024 12:00:00AM		