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Attorneys for Petitioner  
County of Delaware

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**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY**

COUNTY OF DELAWARE  
201 W. FRONT STREET  
MEDIA, PA 19063

PETITIONER

v.

ROBERT MANCINI  
4 GUERNSEY LANE  
MEDIA, PA 19063

RESPONDENT

ADMINISTRATIVE AGENCY APPEAL  
(RIGHT TO KNOW LAW)

NO. 2023-000307

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**PETITIONER'S PRE-TRIAL STATEMENT**

Petitioner County of Delaware (the "County"), by and through its counsel, hereby submits its Pre-Trial Statement:

**A. Narrative of the Case**

This consolidated appeals matter involves a question of law – whether a citizen's request to review election records is governed by the Pennsylvania Right to Know Law (the "RTK Law") or the Pennsylvania Election Code (the "Election Code"). Respondent filed several requests for election records by and through the process set forth in the RTK Law to the County Open Records Officer. The County denied such requests because the Election Code contains provisions regarding access to election records which supercede the provisions of the RTK Law. Rather than submit his requests to the Delaware County

Bureau of Elections, the Respondent appealed such denials to the Pennsylvania Office of Open Records (the “OOR”). The OOR erroneously granted Respondent’s appeals in four (4) substantially similar Final Determinations, and the County then appealed such Final Determinations to this Court.

After the filing of these consolidated appeals by the County, two (2) Delaware County Court of Common Pleas decisions were handed down that vindicate the County’s position that each of the four (4) Final Determinations are premised on an error of law and must be reversed. In *Joshua Monighan v. The Delaware County Courthouse*, Delaware County CCP Docket No. CV 2022-005757, Judge Dozer held that “[a]ny party who is seeking election documents, must proceed under Section 2648 of the Election Code.” In *County of Delaware v. Patricia Bleasdale*, Delaware County CCP Docket No. CV 2022-009473, the Court considered an OOR Final Determination that was identical in substance to the four (4) Final Determinations that are the subject of the present appeal. Judge Eckel held that “upon discerning (and finding expressly) that the records requested were governed by another law (the Election Code), OOR should have yielded jurisdiction to the BOE [Bureau of Elections] with respect to the Request.” Judge Eckel therefore ordered that the Final Determination of the OOR be reversed.

The County therefore seeks an Order reversing the OOR Final Determinations. Respondent would remain able to submit his requests for election records to the Delaware County Bureau of Elections.

**B. Damages**

No damages are sought. The County seeks only an Order reversing the erroneous Final Determinations of the OOR.

**C. Witnesses**

This appeal does not require witnesses, testimony or evidence, as the appeal involves solely a question of law, not fact. Nonetheless, the County reserves the right to call the following witnesses to testify on its behalf:

1. Delaware County Open Records Officer Anne Coogan.
2. Delaware County Deputy Solicitor Jonathan Lichtenstein
3. Delaware County Bureau of Elections Director James Allen

**D. Exhibits**

This appeal does not require exhibits, as the appeal involves solely a question of law, not fact, and all relevant documents have been submitted in prior pleadings.

Nonetheless, the County reserve the right to introduce the following exhibits:

1. Respondent's four (4) requests submitted under the RTK Law.
2. The County's four (4) denial letters.
3. Four (4) OOR Final Determinations of the OOR.

The County further reserves the right to use any exhibits introduced by Respondent.

**E. Expert Reports**

None.

**F. Stipulations Requested**

There are no genuine issues of material fact to be tried; there is solely the legal issue of whether the OOR had the authority to grant Requester's appeals under the RTK Law where the OOR acknowledged that the requested records are governed by the

Election Code. Respondent is therefore requested to stipulate that there are no disputes as to material facts. This appeal involves solely a question of law.

**E. Availability of Exhibits**

All exhibits have been previously produced as exhibits to pleadings.

**H. Estimated Length of Trial**

One half of a one day. This appeal should be decided on the basis of oral argument on the sole relevant question of law.

**I. Statement of Legal Issues**

This consolidated appeals matter deals solely with whether a citizen's request to inspect election records is governed by the RTK Law or the Election Code. The RTK Law contains the following provision: "IF THE PROVISIONS OF THIS ACT REGARDING ACCESS TO RECORDS CONFLICTS WITH ANY OTHER FEDERAL OR STATE LAW, THE PROVISIONS OF THIS ACT SHALL NOT APPLY." 65 P.S. § 67.3101.1 (emphasis in original). The Election Code has express provisions governing access to and inspection of election records. 25 P.S. § 2648. Accordingly, the sole legal relevant issue is whether the OOR can order that election records be provided under and pursuant to the provisions and procedures of the RTK Law, where the RTK Law expressly states that its provisions do not apply where another statute – the Election Code – has provisions which conflict with the RTK Law.

Respectfully submitted,

ROBERT W. SCOTT, P.C.

By:   
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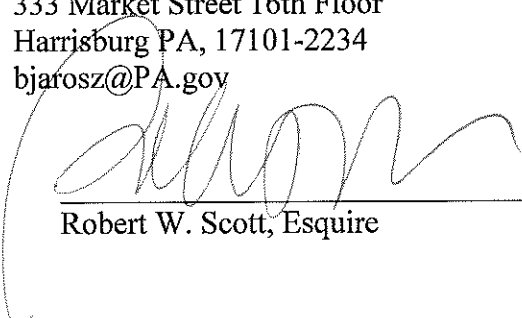
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 6, 2023, a true copy of the foregoing  
Petitioner's Pre-Trial Statement was electronically filed with the Office of Judicial  
Support and electronically served upon the following:

Robert Mancini  
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