

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

<b>Sam Janesch and Angela Couloumbis,</b>	:	
Petitioners,	:	
	:	
v.	:	<b>No.</b> _____
	:	
<b>Pennsylvania House of Representatives,</b>	:	
Respondent.	:	

**PETITION FOR REVIEW**

Sam Janesch and Angela Couloumbis, investigative reporters for Pennsylvania news outlets *The Caucus* and *Spotlight PA*, petition for review of the final determination of the House of Representatives Appeals Officer (“AO”) partially denying their request for production of records under Pennsylvania’s Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* In support of their petition, they assert:

**Jurisdiction**

1. Appellate jurisdiction lies with this Honorable Court pursuant to 65 P.S. § 67.1301(a), 42 Pa.C.S. § 763(a)(2), and Rule 1511 of the Pennsylvania Rules of Appellate Procedure.

## **Parties**

2. Petitioners are investigative reporters Sam Janesch and Angela Couloumbis.

3. Respondent is the Pennsylvania House of Representatives (“House”), a legislative agency subject to the RTKL. 65 P.S. §§ 67.102, 67.303.

## **Background**

4. On October 15, 2021, Petitioners submitted an RTKL request (the “Request”) to the House.

5. The Request sought records pertaining to legal work performed by outside law firms or individual lawyers hired or retained by any House employee or the House.

6. By letter dated November 22, 2021, the House informed Petitioners that it had granted in part and denied in part the Request.

7. The House granted the Request insofar as it produced records responsive to the Request.

8. The House denied the Request insofar as it redacted certain information found in the produced records.

9. The House asserted that all redactions of the produced records were necessary to protect (a) information subject to the attorney-client privilege, (b)

information subject to the attorney work-product privilege, or (c) personal financial information. *See* 65 P.S. §§ 67.305(b)(2), 67.708(b)(6), 67.708(c).

10. On December 14, 2021, Petitioners timely appealed the partial denial of the Request to the House AO.

11. The AO is designated by the House of Representatives to receive and determine appeals of the House's RTKL decisions. 65 P.S. § 67.503(c)(2)(ii).

12. In their appeal to the AO, Petitioners challenged the House's partial denial of the Request pursuant to the attorney-client privilege and attorney work-product privilege.

13. In their appeal to the AO, Petitioners did not challenge the House's partial denial of the request for the purpose of protecting personal financial information.

14. On January 19, 2022, the AO issued a final determination affirming the House's partial denial of the Request pursuant to the attorney-client privilege and attorney work-product privilege. A true and correct copy of the AO's final determination is attached as Exhibit A.

### **Determination for Which Review is Sought**

15. Petitioners seek review of the AO's January 19, 2022 determination affirming the House's partial denial of the Request.

### **Objections to the Determination**

16. The AO erred in concluding that the House's partial denial of the Request pursuant to the attorney-client privilege and attorney work-product privilege was proper under the RTKL and the Supreme Court of Pennsylvania's construction thereof. *See, e.g., Levy v. Senate of Pennsylvania*, 619 Pa. 586 65 A.3d 361, 370 (2013).

### **Relief Sought**

WHEREFORE, Petitioners respectfully request that this Honorable Court:

- reverse the AO's determination of January 19, 2022; *and*
- order that all redactions concealing information not strictly subject to the attorney-client privilege or work-product privilege be lifted from the responsive records; *and*
- order that the House provide particularized justifications for all redactions that remain in the responsive records, including by, at minimum, specifying the privilege that purportedly exempts each piece of redacted information from disclosure.

Dated: February 18, 2022

Respectfully submitted,

*/s/ Paula Knudsen Burke*

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Paula Knudsen Burke

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**CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY**

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.

Dated: February 18, 2022

/s/ Paula Knudsen Burke

Paula Knudsen Burke

PA ID: 87607

## PROOF OF SERVICE

I hereby certify that I have served the foregoing document, Petition for Review, upon the persons listed on the date and in the manner indicated below, which satisfies the requirements of Pa. R.A.P. 121:

*Notification by email and first class mail addressed as follows:*

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Dated: February 18, 2022

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