



**Pennsylvania Coalition for Civil Justice Reform 2022 Candidate Questionnaire**

**Position and/or District Number: HD 178**

**Ilya Breyman**

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\_\_\_\_\_ **Dem** \_\_\_\_\_

**Candidate Name (print)**

**Party**

\_\_\_/signed/\_\_\_\_\_

\_\_\_\_\_ **08/15/2022** \_\_\_\_\_

**Candidate Signature**

**Date**

1. Does Pennsylvania's legal climate encourage the establishment of businesses in Pennsylvania and their continued presence in the state?

Yes \_\_\_\_\_ No \_\_\_\_\_ Undecided \_\_\_\_\_ x \_\_\_\_\_

2. COVID-19 has ravaged the Commonwealth for two years. It has devastated businesses, particularly restaurants and nursing homes. All businesses open to the public are exposed to liability for COVID transmission even if the business has complied with public health directives. Our health care facilities have been overwhelmed by the influx of COVID patients resulting in non-essential services being curtailed. Governor Wolf vetoed legislation that would have provided temporary and targeted COVID related liability relief to the business and health care communities.

Will you support legislation providing temporary and targeted COVID liability relief to businesses, health care facilities and practitioners, and manufacturers of personal protective equipment?

Yes  \_\_\_\_\_ No \_\_\_\_\_ Undecided \_\_\_\_\_

Comments: My family operates private early education centers in Philadelphia and I remember we spent countless late nights trying to devise strategies and procedures to keep both our employees and children safe during COVID. We realized how important it was to remain open because working families couldn't afford to be without child care. Except for the period when DHS instructed all centers to remain closed, we stayed open - even when public schools were offering "online" instruction only. I believe that providing liability relief to those who are navigating an uncertain economic situation while serving their communities is a must and the government should act accordingly.

3. Pennsylvania's Fair Share Act became law in 2011. Since then, defendants in civil cases have been required to pay only their fair share of a verdict, where before, a defendant could possibly be held responsible for an entire verdict even if only 1 percent at fault! Over the course of time however, Pennsylvania Appellate Courts have handed down decisions that have weakened the Act and strayed from original legislative intent. The high court has found that the apportioning of fault in the Fair Share Act does not apply to strict liability asbestos cases (*Roverano v. John Crane, Inc.*). The Superior Court also determined recently that the act only applies when a plaintiff is found to be without any negligence at all (*Spencer v. Johnson*).

Will you support legislation to restore the original legislative intent of the Fair Share Act?

Yes  \_\_\_\_\_ No \_\_\_\_\_ Undecided \_\_\_\_\_

Comments: Universal application of the joint and several liability doctrine when defendants are marginally at fault is unfair. FSA provided enough exemptions to ensure that those who intentionally injure plaintiffs or commit environmental crimes are still held responsible. Justice only works when laws and precedents are applied fairly.

4. A False Claims Act encourages bounty hunters, known as "qui tam" plaintiffs, to sue on behalf of the government when they have information that a business has received government payment for which it is not entitled. The qui tam plaintiff keeps a significant portion of any verdict and thus has an economic incentive to bring lawsuits. Pennsylvania already recovers funding under the federal False Claims Act for any false claims made against the state, yet there are those trying to adopt a state False Claims Act that would divert even more money recovered to the bounty hunting qui tam plaintiff.

Will you oppose any legislation containing a state False Claims Act?

\_\_\_\_\_x\_\_\_\_\_ Yes                      \_\_\_\_\_No                      \_\_\_\_\_Undecided

Comments: This legislation would be duplicative and unnecessary.

5. Venue shopping is when an attorney files suit in a county known for its high verdicts even though the case has little or no connection to the county. One such high verdict location in Pennsylvania is Philadelphia. Verdicts are known to be so high in Philadelphia that the American Tort Reform Association has listed Philadelphia as one of the nation's worst Judicial Hellholes for several years in a row. The current medical liability venue rule requires cases to be filed where the cause of action arises. The Supreme Court is considering a proposal to rescind the current medical liability venue rule and replace it with one that will allow venue shopping to run rampant again in Pennsylvania.

- A. Do you support requiring medical liability cases to be filed in the county in which the injury took place which is consistent with the current statutory and rule requirement?

Yes \_\_\_\_\_x\_\_\_\_\_                      No \_\_\_\_\_                      Undecided \_\_\_\_\_

Comments: Venue shopping is unfair to defendants. It also leads to medical professionals spending less time on treating patients and more time on protecting themselves from another lawsuit. It limits their incentive to pursue more aggressive care even when their patients' lives would depend on it.

- B. Will you support a constitutional amendment to limit venue for all civil tort cases in Pennsylvania to the county where the cause of action arose? Limiting venue to the county where the cause of action arose will prevent businesses from being dragged into the high verdict Philadelphia court system, unless the cause of action arose in Philadelphia.

Yes \_\_\_\_\_x\_\_\_\_\_                      No \_\_\_\_\_                      Undecided \_\_\_\_\_

Comments: Philadelphia is ranked as a judicial hellhole. As long as there are still innocent Pennsylvanian businesses being "dragged into the judicial hellhole," I feel it's the legislature's duty to do everything in its power to work towards backfilling said hellhole in the interest of public safety.

- C. In the alternative, will you support a constitutional amendment that removes exclusive authority of the Supreme Court to determine venue and allow the legislature to set venue rules and policy?

Yes \_\_\_\_\_                      No \_\_\_\_\_                      Undecided \_\_\_\_\_x\_\_\_\_\_

Comments: I am not opposed to this in principle, but I would like to understand how this would affect the balance of power between the judiciary and the legislature.