



3. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

4. DENIED.

5. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

6. DENIED.

7. DENIED.

8. DENIED.

9. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

10. DENIED. The implementation of the Accessible Write-In Ballot (AWIB) solution rectified any inaccessibility issues in connection with the primary election.

11. DENIED, *see* Paragraph 10, *supra*.

12. DENIED. The stipulated order referenced in this Paragraph is a writing that speaks for itself, and Plaintiffs' characterizations are DENIED.

13. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

14. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

15. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

16. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

17. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

18. ADMITTED in part, DENIED in part. It is ADMITTED only that Joseph Drenth is a blind individual who is registered to vote in Pennsylvania. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining averments of this Paragraph, so they are DENIED.

19. ADMITTED in part, DENIED in part. It is ADMITTED only that the NFB-PA is a 501(c)(3) non-profit corporation comprised of blind Pennsylvanians and their families and friends. Defendants are without knowledge or information

sufficient to form a belief as to the truth or falsity of the remaining averments of this Paragraph, so they are DENIED.

20. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the averments of this Paragraph, so they are DENIED.

21. ADMITTED in part, DENIED in part. It is ADMITTED only that Kathy Boockvar is the Secretary of the Commonwealth, and in that official capacity, the Pennsylvania Election Code and other laws charge her with specific, discrete and enumerated tasks and duties, and specific, discrete and enumerated powers, related to the conduct of elections. The remaining averments of this Paragraph set forth legal conclusions to which no response is required.

22. ADMITTED in part, DENIED in part. It is ADMITTED only that the Department of State has been named as a Defendant and that Pennsylvania Election Code assigns the Department with specific, discrete and enumerated tasks and duties, and specific, discrete and enumerated powers, related to the conduct of elections. The remaining averment of this Paragraph is a legal conclusion to which no response is required. To the extent that it is deemed factual in nature, it is DENIED.

23. ADMITTED, upon information and belief.

24. DENIED. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of this Paragraph so it is DENIED.

25. ADMITTED in part, DENIED in part. It is ADMITTED only that the CDC has issued interim guidance, last updated on March 27, 2020, that provides recommendations for election polling locations. By way of further response, counties in Pennsylvania adapted in-person election day voting for the June 2, 2020 primary election by facilitating social distancing, implementing increased sanitation measures and providing personal protection for poll workers and voters. Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining averments of this Paragraph, so they are DENIED.

26. DENIED. By way of further response, *see* Paragraph 10, *supra*.

27. DENIED. By way of further response, *see* Paragraph 10, *supra*.

28. ADMITTED.

29. DENIED. As of May 10, 2020, Pennsylvanians had submitted 1,239,872 applications for absentee and mail-in ballots for the June 2, 2020 primary election. By comparison, the 2018 primary election generated 1,621,026 votes for *all* ballots.

30. DENIED. By way of further answer, counties in Pennsylvania adapted in-person election day voting for the June 2, 2020 primary election by

facilitating social distancing, implementing increased sanitation measures and providing personal protection for poll workers and voters. Defendants are without knowledge or information regarding the remaining averments of this Paragraph, so they are DENIED.

31. DENIED. By way of further response, polling places were not closed for the June 2, 2020 primary election, rather, some counties in Pennsylvania consolidated polling place locations in accordance with Act 12 of 2020. Further, counties adapted in-person election day voting for the June 2, 2020 primary election by facilitating social distancing, implementing increased sanitation measures and providing personal protection for poll workers and voters. Defendants are without knowledge or information regarding the remaining averments of this Paragraph, so they are DENIED.

32. ADMITTED.

33. ADMITTED.

34. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

35. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

36. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED. By way of further response, *see* Paragraph 10, *supra*.

37. ADMITTED upon information and belief.

38. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

39. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED. By way of further response, *see* Paragraph 10, *supra*.

40. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED. By way of further response, *see* Paragraph 10, *supra*.

41. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED. By way of further response, *see* Paragraph 10, *supra*.

42. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

43. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

44. DENIED. By way of further response, *see* Paragraph 10, *supra*.

45. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

46. ADMITTED.

47. ADMITTED.

48. ADMITTED.

49. ADMITTED.

50. ADMITTED. By way of further response, due to civil disturbances that impeded voters' ability to return their mail-in and absentee ballots during the weekend before and continuing through the date of the primary election, Governor Tom Wolf signed an executive order extending the deadline for county election offices in Allegheny, Dauphin, Delaware, Erie, Montgomery, and Philadelphia counties to received absentee and mail-in ballots by mail to 5 p.m. on June 9, 2020, provided the ballots were postmarked no later than June 2, 2020.

51. It is ADMITTED only that no Pennsylvanian, including military and overseas voters, can vote by casting a ballot online.

52. DENIED. By way of further response, *see* Paragraph 10, *supra*.

53. ADMITTED.

54. DENIED. By way of further response, *see* Paragraph 10, *supra*.

55. DENIED. By way of further response, *see* Paragraph 10, *supra*.

56. DENIED. By way of further response, *see* Paragraph 10, *supra*.

57. DENIED. By way of further response, *see* Paragraph 10, *supra*.

58. DENIED. By way of further response, *see* Paragraph 10, *supra*.

59. DENIED. By way of further response, *see* Paragraph 10, *supra*.

60. ADMITTED.

61. DENIED. By way of further response, military and overseas citizens may apply for absentee ballots by mail, email or facsimile in Pennsylvania but not using the same online form as civilian absentee voters.

62. ADMITTED.

63. ADMITTED.

64. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

65. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

66. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED.

67. DENIED. Defendants are without knowledge or information regarding the averments of this Paragraph, so they are DENIED. By way of further response, *see* Paragraph 10, *supra*.

68. DENIED. By way of further response, *see* Paragraph 10, *supra*.

69. DENIED.

70. DENIED. The letter referenced in this Paragraph is a writing that speaks for itself, and Plaintiffs' characterizations are DENIED.

71. DENIED. The letter referenced in this Paragraph is a writing that speaks for itself, and Plaintiffs' characterizations are DENIED.

72. DENIED.

73. DENIED.

74. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required.

75. DENIED. The press release referenced in this Paragraph is a writing that speaks for itself, and Plaintiffs' characterizations are DENIED.

76. DENIED. By way of further response, *see* Paragraph 10, *supra*.

### **COUNT I**

77. Defendants hereby incorporate the foregoing Paragraphs as if set forth more fully herein.

78. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

79. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

80. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

81. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

82. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

83. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

84. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

85. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

86. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, it is ADMITTED only that Mr. Drenth is a registered voter. Defendants are without knowledge or information regarding the remaining averments of this Paragraph, so they are DENIED.

87. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

88. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

89. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

90. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

91. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

92. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

93. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

94. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

95. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

96. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

97. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

98. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

## **COUNT II**

99. Defendants hereby incorporate the foregoing Paragraphs as if set forth more fully herein.

100. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

101. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

102. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

103. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

104. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

105. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

106. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

107. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

108. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

109. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

110. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

111. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

112. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

113. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

114. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

115. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

116. DENIED. The averments of this Paragraph set forth legal conclusions to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

117. DENIED. The averments of this Paragraph set forth prayers for relief to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

118. DENIED. The averments of this Paragraph set forth prayers for relief to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

119. DENIED. The averments of this Paragraph set forth prayers for relief to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

120. DENIED. The averments of this Paragraph set forth prayers for relief to which no response is required. To the extent that they are deemed factual in nature, they are DENIED

121. DENIED. The averments of this Paragraph set forth prayers for relief to which no response is required. To the extent that they are deemed factual in nature, they are DENIED.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Any and all claims asserted by Plaintiffs are barred by the applicable Statute of Limitations, laches, and/or equitable estoppel.

**SECOND AFFIRMATIVE DEFENSE**

Defendants have, at all times, acted reasonably and in good faith.

**THIRD AFFIRMATIVE DEFENSE**

Defendants have implemented a solution that complies with their obligations under the law.

**FOURTH AFFIRMATIVE DEFENSE**

This case is not justiciable as it became moot when Defendant implemented the AWIB solution.

**FIFTH AFFIRMATIVE DEFENSE**

This case is not justiciable because there is no actual controversy.

**SIXTH AFFIRMATIVE DEFENSE**

This case is not justiciable because it is not ripe.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' requested technology would impose an undue burden on the Defendant beyond what is required under the law.

**EIGHTH AFFIRMATIVE DEFENSE**

Defendants' solution is feasible and adequate.

**NINTH AFFIRMATIVE DEFENSE**

Plaintiffs' requested modifications would fundamentally alter the Defendants' programs, particularly in regard to their request for online submission, as no voter is permitted to vote online in Pennsylvania.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs' requests are not feasible, adequate or plausible.

**ELEVENTH AFFIRMATIVE DEFENSE**

This action is barred under the doctrine of mootness.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiffs do not have standing.

**THIRTEENTH AFFIRMATIVE DEFENSE**

The Complaint does not state a claim upon which relief can be granted.

**FOURTEENTH AFFIRMATIVE DEFENSE**

This action is barred under Eleventh Amendment Immunity, Sovereign Immunity, Qualified Immunity, Governmental Immunity and any other applicable immunity.

**Respectfully submitted,**

**JOSH SHAPIRO  
Attorney General**

**By:** *s/ Nicole J. Boland*

**NICOLE J. BOLAND  
Deputy Attorney General  
Attorney ID 314061**

**KAREN M. ROMANO  
Chief Deputy Attorney General  
Civil Litigation Section**

**Office of Attorney General  
15<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120  
Phone: (717) 783-3146**

**[nboland@attorneygeneral.gov](mailto:nboland@attorneygeneral.gov)**

**Date: June 11, 2020**

**Counsel for Defendants**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JOSEPH DRENTH</b> <i>and</i> <b>NATIONAL</b>	:	
<b>FEDERATION OF THE BLIND OF</b>	:	
<b>PENNSYLVANIA,</b>	:	
	<b>Plaintiffs</b>	<b>No. 1:20-0829</b>
	:	
<b>v.</b>	:	<b>Judge Wilson</b>
	:	
<b>KATHY BOOCKVAR</b> <i>and</i>	:	<b>Electronically Filed Document</b>
<b>DEPARTMENT OF STATE OF THE</b>	:	
<b>COMMONWEALTH OF</b>	:	
<b>PENNSYLVANIA,</b>	:	
	<b>Defendants</b>	<i>Complaint Filed 05/21/20</i>

**CERTIFICATE OF SERVICE**

I, Nicole J. Boland, Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on June 11, 2020, I caused to be served a true and correct copy of the foregoing document titled Answer and Affirmative Defenses to the following:

**VIA ECF**

**Kelly Darr, Esquire**  
**Robin Resnick, Esquire**  
**Disability Rights Pennsylvania**  
**1800 John F. Kennedy Boulevard**  
**Suite 900**  
**Philadelphia, PA 19103**  
[kdarr@disabilityrightspa.org](mailto:kdarr@disabilityrightspa.org)  
[rresnick@disabilityrightspa.org](mailto:rresnick@disabilityrightspa.org)  
*Counsel for Plaintiffs*

**Kobie A. Flowers, Esquire**  
**James O. Strawbridge, Esquire**  
**Sharon M. Krevor-Weisbaum, Esquire**  
**Brown Goldstein & Levy, LLP**  
**120 East Baltimore Street**  
**Suite 1700**  
**Baltimore, MD 21202**  
[kflowers@browngold.com](mailto:kflowers@browngold.com)  
[jstrawbridge@browngold.com](mailto:jstrawbridge@browngold.com)  
[skw@browngold.com](mailto:skw@browngold.com)  
*Counsel for Plaintiffs*

*s/ Nicole J. Boland*  
\_\_\_\_\_  
**NICOLE J. BOLAND**