

NEWMAN | WILLIAMS

A PROFESSIONAL CORPORATION

Gerard J. Geiger, Esq.
IDENTIFICATION NO. PA44099
712 MONROE STREET
P.O. BOX 511
STROUDSBURG, PA 18360-0511
(570) 421-9090 (voice)
(570) 424-9739 (fax)
ggeiger@newmanwilliams.com

Attorney for Defendants, Carbon County Board of
Commissioners; Wayne Nothstein, and
Lisa Dart

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

JUDICIAL WATCH, INC.,
Plaintiff,

v.

COMMONWEALTH of
PENNSYLVANIA;
Et al.,
Defendants

No. 1:20-cv-708

(Judge Christopher C. Conner)

**Answer and Affirmative Defenses to Plaintiff's First Amended
Complaint by Defendants, Carbon County Board of Commissioners,
Wayne Nothstein, and Lisa Dart**

The defendants, Carbon County Board of Commissioners, Wayne Nothstein, and Lisa Dart (Carbon defendants), answer plaintiff's amended complaint (Doc. No. 85), as follows.

1. Admitted in part and denied in part. The Carbon defendants admit that Judicial Watch intends to file a claim under the listed statute but denies Judicial Watch states a claim or has standing to file suit against the Carbon defendants.

2. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

3. Admitted in part and denied in part. The Carbon defendants admit that venue is proper in the Middle District but deny that Judicial Watch states a claim or has standing to sue the Carbon defendants.

4. Admitted in part and denied in part. It is admitted only that Plaintiff is Judicial Watch, Inc. Carbon defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations of this paragraph so they are denied.

5. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

6. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

7. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

8. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

9. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

10. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

11. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

12. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

13. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

14. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

15. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

16. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

17. Denied. This is a paragraph not directed to the Carbon defendants

who have no information as to the truth of these allegations.

18. Denied. This is a paragraph not directed to the Carbon defendants who have no information as to the truth of these allegations.

19. Denied. The County Board of Commissioners governs Carbon County pursuant to the Pennsylvania Code and denies it has jurisdiction over the conduct of elections within the County.

20. Admitted.

21. Admitted.

22. Admitted. The Carbon defendants admit that plaintiff intends to sue the Carbon defendants in their official capacity only. In this context, it is not clear whether plaintiff intends to sue the County or only its Board of Elections.

Regardless, if the claims are all official capacity claims, there was no reason to name Nothstein and Dart. There is also no viable claim against the Board of Commissioners based on Judicial Watch's allegations.

23. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

24. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

25. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

26. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

27. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

28. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

29. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

30. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

31. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the

allegations contained in this paragraph and they are, therefore, denied. However, the Carbon defendants deny that Judicial Watch has standing to pursue these claims. Judicial Watch has not identified any Carbon County voters who have a legal interest in enforcing voting laws in Carbon County, Pennsylvania.

32. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied. However, the Carbon defendants deny that Judicial Watch has standing to pursue these claims. Judicial Watch has not identified any Carbon County voters who have a legal interest in enforcing voting laws in Carbon County, Pennsylvania.

33. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied. However, the Carbon defendants deny that Judicial Watch has standing to pursue these claims. Judicial Watch has not identified any Carbon County voters who have a legal interest in enforcing voting laws in Carbon County, Pennsylvania.

34. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied. However, the Carbon defendants deny that Judicial Watch has standing to pursue these

claims. Judicial Watch has not identified any Carbon County voters who have a legal interest in enforcing voting laws in Carbon County, Pennsylvania.

Additionally, Judicial Watch has no evidence that ineligible voters cast ballots that undermined the integrity of any election.

35. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

36. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

37. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied. The cited link states: "Page not found"

38. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

39. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied. The Carbon

defendants also deny this paragraph as stating a legal conclusion.

40. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

41. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

42. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

43. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

44. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

45. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

46. Denied. After reasonable investigation, Carbon defendants are without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

47. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

48. Denied. The EAVS data speaks for itself. Defendants deny liability.

49. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

50. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied. Carbon defendants also deny this paragraph because it contains legal conclusions.

51. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

52. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

53. Denied. After reasonable investigation, Carbon defendants are without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

54. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied. The allegations are also denied as constituting legal conclusions.

55. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

56. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

57. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

58. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

59. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the

allegations contained in this paragraph and they are, therefore, denied. The reference to defendants not named as parties is entirely irrelevant to Judicial Watch's claims with the exception that they may have failed to name indispensable parties. Finally, Carbon defendants deny plaintiff has standing.

60. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

61. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

62. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

63. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

64. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

65. Denied. After reasonable investigation, Carbon defendants are without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

66. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

67. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

68. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

69. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

70. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

71. Denied. After reasonable investigation, Carbon defendants are without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

72. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

73. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

74. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

75. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

76. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the

allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

77. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

78. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

79. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

80. Denied. The Carbon defendants deny this paragraph as constituting legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

81. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, the Carbon defendants deny the allegations as legal conclusions.

However, Judicial Watch does not have standing and whatever efforts they made are not compensable.

82. 81. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

83. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, Judicial Watch was not compelled to expend any resources. It has no standing in this case and any resources it claims to have expended were unnecessary.

84. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, Judicial Watch was not compelled to expend any resources. It has no standing in this case and any resources it claims to have expended were unnecessary and are not compensable.

85. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, Judicial Watch was not compelled to expend any resources. It has no standing in this case and any resources it claims to have expended were unnecessary and are not compensable.

86. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

87. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

88. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

89. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, Judicial Watch has not identified any Carbon County defendants who have an interest in this case and has no standing to pursue claims against Carbon County.

90. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are

considered factual in nature, they are denied.

91. Denied. After reasonable investigation, Carbon defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and they are, therefore, denied.

Additionally, Judicial Watch has not identified any Carbon County defendants who have an interest in this case and has no standing to pursue claims against Carbon County.

92. Admitted in part and denied in part. Carbon defendants incorporate by reference their answers to the prior paragraphs.

93. Denied. Carbon defendants deny that there are any “aggrieved” Carbon defendants and none have been identified. Judicial Watch does not have standing and has no authority to represent Carbon voters.

94. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

95. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

96. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are

considered factual in nature, they are denied. Judicial Watch has not included any allegations as to how its members “suffered” an infringement in Carbon County.

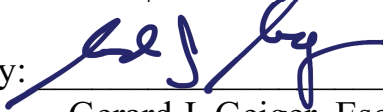
97. Denied. The allegations of this paragraph constitute legal conclusions to which no responsive pleading is required. To the extent that the allegations are considered factual in nature, they are denied.

WHEREFORE, the defendants ask that the court enter judgment in their favor and against the plaintiff.

Affirmative Defenses

1. Judicial Watch does not have standing.
2. Judicial Watch has no damages nor right to file suit.
3. Judicial Watch’s complaint is barred by the doctrine of laches.
4. Defendants have immunity from suit.
5. Judicial Watch’s claims are barred by the statute of limitations.

NEWMAN|WILLIAMS


By: 
Gerard J. Geiger, Esq.
Attorney I.D. # PA44099

Date: January 31, 2022

Certificate of Service

I hereby certify that on this date, a copy of the foregoing document was served on all counsel of record via ECF.

NEWMAN|WILLIAMS

By: 
Gerard J. Geiget Esq.
Attorney I.D. # PA44099

Date: January 31, 2022