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

KATHY BARNETTE and CLAY D. BREECE,

Plaintiffs, : NO. 2:20-cv-05477

v.

KENNETH E. LAWRENCE, VALERIE ARKOOSH, : MD, MPH, and FRANK DEAN, :

Defendants.

<u>DEFENDANTS' MOTION TO EXPEDITE CONSIDERATION OF DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' COMPLAINT</u>

Defendants, Kenneth E. Lawrence, Valerie Arkoosh, MD, MPH, and Frank Dean, hereby move for an Order to expedite consideration of Defendants' Motion to Dismiss Plaintiffs' Complaint. In support of this Motion, Movants state:

- 1. "It is beyond cavil that 'voting is of the most fundamental significance under our constitutional structure." *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (citation omitted).
- 2. Plaintiffs' Complaint seeks an order to stop counting and spoil Montgomery County residents' validly cast absentee and mail-in ballots. (Compl. at 14.)
- 3. In effect, Plaintiffs seek to disenfranchise Montgomery County voters, jeopardizing those voters' fundamental right to vote.
- 4. In addition to their Complaint, Plaintiffs filed a Motion for Temporary Restraining Order. (ECF 10.)
- 5. The Court held a hearing and oral argument on Plaintiffs' TRO request, before granting Plaintiffs leave to file a supplemental memorandum in support of the TRO motion.

- 6. Plaintiffs' supplemental memorandum (ECF 32) discusses, at length, the purported merits of Plaintiffs' Complaint, including describing Plaintiffs' theory of Article III standing and their argument that Plaintiffs have stated a claim that Defendants violated the Fourteenth Amendment.
- 7. Plaintiffs moved to withdraw their Motion for Temporary Restraining Order (*see* ECF 35), and the Court granted that request (ECF 37).
- 8. Given the fundamental rights implicated by Plaintiffs' Complaint, the pall that Plaintiffs' request to spoil votes casts over the election process, and the fact that Plaintiffs' supplemental briefing substantively addressed the issues raised in Defendants' Motion to Dismiss (*see* ECF 32), Defendants request, pursuant to Local Rule 7.1(c) and Federal Rule of Civil Procedure 6(c)(1)(c), expedited consideration of Defendants' Motion to Dismiss Plaintiffs' Complaint.

Respectfully submitted,

HANGLEY ARONCHICK SEGAL PUDLIN & SCHILLER

Dated: November 9, 2020

By: /s/ Michele D. Hangley
Mark A. Aronchick (I.D. No. 20261)
Michele D. Hangley (I.D. No. 82779)
Robert A. Wiygul (I.D. No. 310760)
John B. Hill (I.D. No. 328340)*
One Logan Square, 27th Floor
Philadelphia, PA 19103
Telephone: (215) 496-7050
Email: mhangley@hangley.com

Milton Velez
Office of the Solicitor
Montgomery County Courthouse
P.O. Box 311
Norristown, Pa 19404
610-278-6285
Email: Myelez@montcopa.org

Philip W. Newcomer Montgomery County Solicitor's Office One Montgomery Plz, Ste 800 P.O. Box 311 Norristown, Pa 19404-0311 610-278-3033 Email: pnewcome@montcopa.org

Counsel for Kenneth E. Lawrence, Valerie Arkoosh, MD, MPH, and Frank Dean

*Admitted in Pennsylvania; Application for admission to Eastern District of Pennsylvania Pending

CERTIFICATE OF SERVICE

I, Michele D. Hangley, certify that on the 9th day of November, 2020, a copy of the foregoing Motion to Expedite Consideration of Defendants' Motion to Dismiss was served by ECF filing on all counsel.

/s/ Michele D. Hangley
Michele D. Hangley