

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Plaintiffs Bette Eakin, DSCC, DCCC, and AFT Pennsylvania respectfully move the Court for summary judgment in their favor. As explained in the accompanying memorandum in support, the undisputed material facts in this case establish that Plaintiffs have standing to assert their claims, that Defendants' enforcement of the Date Provision violates Section 101 of the Civil Rights Act of 1964, and that Defendants' enforcement of the Date Provision violates the First and Fourteenth Amendments to the U.S. Constitution. Because there are no genuinely disputed material facts and Plaintiffs are entitled to judgment as a matter of law, summary judgment is warranted.

Dated: April 21, 2023

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**MEMORANDUM IN SUPPORT OF
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INTRODUCTION

Voting-rights lawsuits are often fact intensive and complex, requiring courts to review voluminous evidence and weigh multiple competing interests. This is not one of those cases. This dispute can be easily resolved through a straightforward application of the unambiguous language found in the Civil Rights Act of 1964. Specifically, Section 101 of the Act prohibits states from refusing to count a person's ballot on the ground that the person made a mistake on a piece of paper that is immaterial to their qualification to vote. *See* 52 U.S.C. § 10101(a)(2)(B). The Pennsylvania law at issue in this case does precisely that: 25 P.S. §§ 3146.6(a) and 3150.16(a) require county boards of elections to reject an otherwise valid mail-in or absentee ballot if, in timely submitting that ballot, the voter mistakenly failed to write a correct date on the ballot return envelope (hereinafter, "Date Provision").

Because the date written on a mail ballot envelope has nothing to do with the voter's qualifications under Pennsylvania law—as even Defendant-Intervenors admit, ECF No. 196 at 12—rejecting ballots with missing or incorrect dates on their return envelopes plainly violates the Materiality Provision. In fact, a unanimous panel of the Third Circuit reached the same conclusion last year. *Migliori v. Cohen*, 36 F.4th 153, 164 (3d Cir. 2022), *vacated sub nom. Ritter v. Migliori*, 143 S. Ct. 297 (2022). While that decision was vacated by the U.S. Supreme Court after it became moot on appeal, the Third Circuit's reasoning remains highly persuasive authority. *Gregoire v. Centennial Sch. Dist.*, 674 F. Supp. 172, 178 (E.D. Pa. 1987) (finding Third Circuit opinion vacated by the Supreme Court "persuasive in pertinent aspects even" if "not binding precedent").

Undisputed evidence from across the Commonwealth, unavailable during the *Migliori* litigation, further demonstrates that the Date Provision imposes unjustified burdens on the constitutional right to vote. The county boards of elections tasked with reviewing and processing mail ballots openly acknowledged that they do not rely on the handwritten dates on return

envelopes to determine if a ballot is timely or a voter is qualified. Nor could they identify a single scenario in which the handwritten date would have thwarted a fraudulent ballot. Meanwhile, data from the 2022 general election demonstrates that the Date Provision disproportionately burdens Black, Hispanic, and older voters, as well as voters with less educational attainment or who vote by mail for the first time. And requiring county boards to reject mail ballots submitted in envelopes bearing an “incorrect” date, but leaving it to those counties to decide for themselves how to evaluate a date for correctness, all but ensures that election officials will reject ballots on an arbitrary basis, imposing yet another unconstitutional burden on the franchise.

The material facts in this case are not genuinely disputed, and they demonstrate that Plaintiffs are entitled to judgment as a matter of law on all counts. As a result, the Court should grant summary judgment in Plaintiffs’ favor.

BACKGROUND

I. Mail Voting in Pennsylvania

Pennsylvania voters may cast their vote by mail through one of two vehicles: an absentee ballot, which is available to those with a disability or who plan to be out of town on election day; or a mail-in ballot, which is available to all voters. 25 P.S. §§ 2602(z.6), 3146.1, 3150.11. In both form and function, they are identical. To obtain a mail-in or absentee ballot (collectively, “mail ballot”), a voter must submit an application and provide, among other things, their name, date of birth, and the amount of time they have resided in their election district. *Id.* §§ 3146.2, 3150.12(b).

Upon successful completion of the application process, the voter will receive a mail ballot, which they must fill out and place in a secrecy envelope. 25 P.S. §§ 3146.6(a), 3150.16(a). Then the voter must place the secrecy envelope into a second, “outer” envelope. *See id.* Before returning the ballot to their county board in person or by mail, the voter must also “fill out” the declaration printed on the outer envelope and enter a handwritten date. *Id.* To be considered timely received

and eligible for counting, a completed mail ballot must reach the county board no later than 8:00 p.m. on election day. *Id.* §§ 3146.6(c), 3150.16(c).

Notwithstanding the handwritten date entered on a mail ballot's outer envelope, county boards independently record the date and time they receive each voter's completed mail ballot by: (1) marking the outer envelope with a date and time stamp, and/or (2) scanning the outer envelope's barcode into the statewide registration system (known as "SURE") to create an electronic record of receipt. Pls.' Concise Statement of Material Facts ("CSMF") ¶¶ 52–57. And when reviewing each mail ballot, county boards use the *time stamp* on the outer envelope or the information entered into SURE to confirm whether each ballot was timely received. CSMF ¶¶ 58–64.

As part of the canvassing process, the county boards also set aside all ballots delivered after 8:00 p.m. on election day, 25 P.S. § 3146.8(g)(1)(ii), as well as ballots submitted by voters who passed away before election day, *id.* § 3146.8(d). For the remaining mail ballots, the county boards must examine their outer envelopes to determine whether: (1) the voter declaration is sufficiently completed, (2) the voter has provided necessary identification, and (3) the voter's information matches the registration file. *Id.* § 3146.8(g)(3). If so, the ballot will be counted; if not, the ballot is rejected. *Id.* § 3146.8(g)(4).

II. Prior Litigation Over the Date Provision

The Supreme Court of Pennsylvania's first opportunity to interpret the Date Provision occurred shortly before the November 2020 election. *In re Canvass of Absentee & Mail-in Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. 2020) ("*In re 2020 Canvass*"), *cert. denied sub nom. Donald J. Trump for President, Inc. v. Degraffenreid*, 141 S. Ct. 1451 (2021). While a majority of that court interpreted the Date Provision's text to prohibit counties from counting undated ballots, that voters had not been warned of such harsh consequences led the court to order

county boards not to reject mail ballots on that basis in that election. *See id.* at 1086–89 (Wecht., J., concurring and dissenting). Although the court did not address the legality of the Date Provision under federal law, a majority of the court expressed serious concerns that rejecting mail ballots based on such a technicality may be unlawful. *See id.* at 1074 n.5; *id.* at 1089 n.54 (Wecht, J., concurring in part).

Multiple courts have since concluded that the Date Instruction is entirely unrelated to voter qualifications. In May 2022, the Third Circuit held that the Date Provision violates the Materiality Provision, *Migliori*, 36 F.4th at 164, and the U.S. Supreme Court rejected an application to stay that decision pending appeal, *Ritter v. Migliori*, 142 S. Ct. 1824 (2022).¹ Meanwhile, in two separate cases relating to the 2022 primary election, the Commonwealth Court of Pennsylvania concluded that the Date Provision violates the Materiality Provision. *Chapman v. Berks Cnty. Bd. of Elections* (“*Berks Cnty.*”), No. 355 MD 2022, 2022 WL 4100998, at *18 (Pa. Cmwlth. Aug. 19, 2022); *see also McCormick for U.S. Senate v. Chapman*, No. 286 MD 2022, 2022 WL 2900112 (Pa. Cmwlth. June 2, 2022) (granting preliminary injunction). In *Berks County*, the court issued a thorough, well-reasoned 67-page opinion explaining that the Date Provision serves no purpose at all. 2022 WL 4100998, at *18.

Shortly before the 2022 general election, Intervenors in this case and a group of Republican voters asked the Supreme Court of Pennsylvania to exercise its extraordinary jurisdiction and interpret the Date Provision to prohibit county boards from counting mail ballots contained in

¹ Because the disputed judicial election at issue in *Migliori* was certified soon thereafter, the Supreme Court ultimately vacated the Third Circuit’s opinion as moot. *Ritter*, 143 S. Ct. at 297 (citing *United States v. Munsingwear, Inc.*, 340 U.S. 36, 39 (1950)). That vacatur does not call the Third Circuit’s reasoning into question; it simply reflects the Supreme Court’s “established practice” to “reverse or vacate the judgment below” when a case becomes moot while on appeal. *Munsingwear*, 340 U.S. at 39. *Migliori*’s holding and reasoning thus remain highly persuasive authority. *Gregoire*, 674 F. Supp. at 178.

envelopes with missing or incorrect dates. On November 1, the court granted their request, but grounded its ruling solely on its interpretation of Pennsylvania law. *Ball v. Chapman*, 284 A.3d 1189, 1192 (Pa. 2022). The court could not reach a decision on whether enforcement of the Date Provision would violate the Materiality Provision.² *Id.* Four days later, the court issued a supplemental order clarifying that, for purposes of the 2022 general election *only*, the date on the outer envelope must be deemed “incorrect” if (1) it predated the earliest date state law permitted counties to distribute mail ballots for that election, or (2) it post-dated election day. CSMF ¶¶ 6–7.

On February 8, 2023, the court published its opinions explaining its November 2022 orders. *Ball v. Chapman*, 289 A.3d 1 (Pa. 2023). While the majority opinion concluded that the “correct” date for purposes of the Date Provision is “the day upon which an elector signs the declaration” on the mail ballot’s envelope, it explained that “[h]ow county boards are to verify that the date an elector provides is, in truth, the day upon which he or she completed the declaration is a question that falls beyond [the court’s] purview.” *Id.* at 22–23. According to the court, “county boards of elections retain authority to evaluate the ballots that they receive in future elections—including those that fall within the date ranges derived from statutes indicating when it is possible to send out mail-in and absentee ballots—for compliance with the Election Code.” *Id.* at 23. As a result, in future elections each county board retains discretion in determining how to “verify that the date an elector provides is, in truth, the day upon which he or she completed the declaration,” and thus whether a mail ballot is in fact “incorrectly dated.” *Id.*

² The six justices were “evenly divided,” with Chief Justice Todd and Justices Donohue and Wecht concluding it would violate the Materiality Provision, and Justices Dougherty, Mundy, and Brobson concluding it would not. *Id.*

III. The November 2022 Election

Following the Supreme Court of Pennsylvania’s ruling, county boards rejected more than 10,000 mail ballots in the 2022 general election solely because the voter failed to correctly date the outer envelopes. CSMF ¶¶ 8–10. This includes instances in which voters mistakenly entered their birthdate, CSMF ¶¶ 14, 20, 26, or omitted the year (or accidentally wrote “2021” or 2023” instead of “2022”) despite entering the correct month and date, CSMF ¶¶ 21–22, 24. Indeed, counties refused to count mail ballots with “incorrect” dates even when the date stamp placed on the outer envelope by the county board made clear that the ballot was actually received on a date that was within the acceptable range set by the Pennsylvania Supreme Court’s November 5 Order, CSMF ¶¶ 14, 19–20, 23, 24, and many counties rejected mail ballots if the voter used the Day/Month/Year format commonly used outside of the United States, rather than a Month/Day/Year format. CSMF ¶¶ 17–18, 25, 27.

Of the 67 county boards, 45 provided no notice to voters that their undated or misdated mail ballot would not be counted, and 37 provided their voters with no opportunity to cure their rejected mail ballots. CSMF ¶¶ 11–12. Absent judicial intervention, the county boards will continue to reject mail ballots they deem non-compliant with the Date Provision. CSMF ¶ 28.

LEGAL STANDARD

Summary judgment must be entered if a “movant shows that there is no genuine dispute as to any material fact” and that they are “entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). A material fact is not genuinely disputed “when the record taken as a whole could not lead a rational trier of fact to find for the non-moving party.” *Old Republic Gen. Ins. Co. v. Scottsdale Ins. Co.*, Civ. A. No. 15-31ERIE, 2016 WL 11478178, at *1 (W.D. Pa. Mar. 2, 2016). Once Plaintiffs present evidence satisfying a claim, the burden “then shifts to the nonmovant to come forward with specific facts showing a genuine issue for trial.” *Tate v. Kubaney*, Civ. A. No. 09–

183 Erie, 2011 WL 4473042, at *1 (W.D. Pa. Sept. 26, 2011). For Defendants to satisfy their responsive burden, they “must present more than just bare assertions, conclusory allegations or suspicions to show the existence of a genuine issue.” *Id.* (quoting *Garcia v. Kimmell*, 381 F. App’x 211, 213 (3d Cir. 2010)). If Defendants fail to present evidence demonstrating the existence of a genuinely disputed material fact, Plaintiffs are entitled to summary judgment. *Id.* at *3.

ARGUMENT

I. Plaintiffs have standing to assert their claims.

Plaintiffs easily satisfy the three elements of Article III standing: (1) they have suffered (and will continue to suffer) “an injury in fact,” (2) those injuries are “fairly traceable to the challenged conduct of the defendant[s],” and (3) that injury “is likely to be redressed by a favorable judicial decision.” *Cottrell v. Alcon Labs.*, 874 F.3d 154, 162 (3d Cir. 2017) (quoting *Spokeo, Inc. v. Robins*, 578 U.S. 330, 337 (2016)). Because each Plaintiff seeks identical relief, only one Plaintiff needs to have standing to confer the Court with subject-matter jurisdiction. *Freeman v. Corzine*, 629 F.3d 146, 157 (3d Cir. 2010).

The causation and redressability elements of Plaintiffs’ standing can be disposed of quickly. To demonstrate causation, a plaintiff need only show that their injury is “fairly traceable” to the challenged conduct; even “an indirect causal relationship will suffice.” *Id.* at 153. Here, Plaintiffs’ injuries flow directly from Defendants’ past and future refusal to count otherwise valid mail ballots that arrive in undated or misdated outer envelopes. CSMF ¶¶ 82–90, 99–103, 110–112, 119–123. For the same reason, Plaintiffs’ injuries “will be redressed by a favorable decision”: An injunction prohibiting Defendants from rejecting otherwise valid mail ballots because they arrive in undated or misdated envelopes will redress Plaintiffs’ injuries because those ballots would then be counted. *Freeman*, 629 F.3d at 153 (quoting *Toll Bros., Inc. v. Twp. of Readington*, 555 F.3d 131, 142 (3d Cir. 2009)).

That leaves only Article III’s injury-in-fact requirement, which is “very generous” and requires only that a plaintiff experience a mere “trifle of injury.” *In re Glob. Indus. Techs., Inc.*, 645 F.3d 201, 210, 212 (3d Cir. 2011) (quoting *Bowman v. Wilson*, 672 F.2d 1145, 1151 (3d Cir. 1982)). That low bar is easily surpassed for each of the four plaintiffs here.

A. The Date Provision directly injured Ms. Eakin in 2022 and threatens to do so again in future elections.

The Date Provision imposed severe hardships on Plaintiff Bette Eakin during the 2022 general election. Ms. Eakin, who lives and is registered to vote in Erie County, was scheduled to be in Ohio on election day in November 2022 to receive care for a condition that has made her legally blind. CSMF ¶¶ 80–82. As a result, she sought an election worker’s help in requesting, obtaining, and completing a mail ballot and the declaration on the outer envelope. CSMF ¶ 82.³ But that ballot was later rejected because it did not comply with the Date Provision. CSMF ¶ 83. Ms. Eakin was forced to miss scheduled medical care appointments so that she could make calls to determine how to cure her ballot, CSMF ¶ 85, and her only feasible option to avoid disenfranchisement was to ask her husband to leave a hunting trip and drive two hours to return home and cure her ballot envelope by acting as her designated agent. CSMF ¶¶ 86–88.

Because of her condition, Ms. Eakin will be forced to vote by mail in upcoming elections and is concerned about the risk of arbitrary disenfranchisement—or having to jump through hoops to cure her ballot—due to enforcement of the Date Provision. And because she is forced to rely on the assistance of others to complete her ballot, she has no direct control over the way in which her

³ Regardless of whether it is submitted through the mail or in person, a ballot obtained prior to election day is considered a mail ballot. CSMF App. Ex. M. Even when they obtain and submit a mail ballot in person at their county board location, voters must follow the same procedures as those who obtain a mail ballot through the mail; that includes placing the completed ballot in a secrecy and outer envelope and signing and dating the voter declaration on the outer declaration. *See* 25 P.S. §§ 3146.6(a), 3150.16(a). As a result, those like Ms. Eakin who cast a mail ballot in person prior to election day are subject to the Date Provision. *Id.*

assistant may write the date on her ballot envelope, if at all, such that there is a “substantial risk” of another date error. *Clemens v. ExecuPharm Inc.*, 48 F.4th 146, 157 (3d Cir. 2022); *see also*, e.g., *Stringer v. Hughs*, Civ. A. No. SA-20-CV-46-OG, 2020 WL 6875182, at *7 (W.D. Tex. Aug. 28, 2020) (finding plaintiffs had standing to bring NVRA claim based on likelihood that they would try to use online driver’s license and voter registration system in the future and “should not be forced to wait and suffer a constitutional deprivation” (internal quotations and citations omitted)); CSMF ¶¶ 89–90. These impediments to Ms. Eakin’s ability to exercise her fundamental right to vote far exceed a mere “trifle” and easily satisfy the injury-in-fact’s low bar. *See Am. Ass’n of People with Disabilities v. Hood*, 278 F. Supp. 2d 1345, 1352 (M.D. Fla. 2003).

B. The Organizational Plaintiffs have associational standing to assert claims on behalf of their members and constituents.

AFT Pennsylvania (the “Federation”), DCCC, and DSCC have asserted claims on behalf of their members and constituents. These organizations can establish associational standing if: (1) their members and constituents “otherwise have standing in their own right,” (2) “the interests [the organizations] seek[] to protect are germane to [their] purpose,” and (3) the members and constituents’ participation is unnecessary to resolve Plaintiffs’ claims. *Citizens Coal Council v. Matt Canestrone Contracting, Inc.*, 40 F. Supp. 3d 632, 636–37 (W.D. Pa. 2014) (quoting *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977)). Each of those elements are satisfied here.

First, the Organizational Plaintiffs collectively have millions of members and constituents registered to vote throughout Pennsylvania, many of whom will have their mail ballots rejected under the Date Provision and thus “otherwise have standing [to sue] in their own right.” *Id.* The Federation has approximately 25,000 dues-paying members throughout the Commonwealth. CSMF ¶ 115. Because its members typically have to work on election day, many of them turn to

mail ballots to exercise their right to vote. CSMF ¶ 119. When they do so, the county boards' actions significantly increase the risk that some members will be disenfranchised because their ballots failed to comply with the Date Provision. Indeed, that is precisely what happened to at least one Federation member in 2022. CSMF ¶¶ 120–121.

DCCC and DSCC also have standing to sue on behalf of their constituents: millions of voters in Pennsylvania who support Democratic candidates for seats in Congress. Like the Federation's members, a sizeable group of DCCC and DSCC's constituents, including Ms. Eakin, are at risk of having their mail ballots rejected under the Date Provision in future elections, giving them standing to sue in their own right. In the absence of a formal membership structure, an organization like DCCC or DSCC may sue on behalf of its constituents so long as the constituents bear sufficient "indicia of membership" in, and share common interests with, the organization. *Hunt*, 432 U.S. at 344. That is the case for DCCC whose constituents are grassroots Democratic voters who not only contribute directly to DCCC and the candidates it supports, but also influence and "ultimately determine [DCCC's] strategic and political direction." CSMF ¶ 113; *see, e.g., Doe v. Stincer*, 175 F.3d 879, 886 (11th Cir. 1999) (holding organization had standing to sue on behalf of constituents who "possess the means to influence the priorities and activities the [organization] undertakes"); *Or. Advoc. Ctr. v. Mink*, 322 F.3d 1101, 1110–11 (9th Cir. 2003) (rejecting "formalistic" approach to this analysis and concluding that beneficiaries of organization's mission were "the functional equivalent of members"). DSCC's relationship with supporters of Democratic senatorial candidates in Pennsylvania is essentially identical. CSMF ¶ 104. There can be no question that DCCC, DSCC, and their constituents share common interests: they all seek to elect the Democratic candidate in congressional elections.

Second, the interests of those members and constituents that the Organizational Plaintiffs seek to protect in this case are plainly “germane” to their organizational purposes. *Citizens Coal Council*, 40 F. Supp. 3d at 636–37. DCCC and DSCC’s combined mission is to elect Democratic candidates to Congress. CSMF ¶¶ 92, 107. Vindicating the voting rights of Pennsylvanians who support Democratic congressional candidates will improve those candidates’ electoral prospects, directly serving DCCC and DSCC’s missions. *See Pa. Democratic Party v. Republican Party of Pa.*, Civ. A. No. 16-5664, 2016 WL 6582659, at *3 (E.D. Pa. Nov. 7, 2016) (recognizing Democratic party committee had standing “to protect the interests of both Democratic candidates running for office and Democratic voters”). Similarly, AFT’s mission is to advocate for policies that improve public education and further social justice, which it accomplishes by supporting the election of candidates who favor those policies. CSMF ¶¶ 117–118. By protecting the voting rights of Pennsylvanians who share similar goals, the Federation will improve the electoral prospects of candidates who espouse those policies, which furthers its mission.

Third, the Organizational Plaintiffs’ individual members or constituents need not participate in this litigation to resolve Plaintiffs’ claims. *Citizens Coal Council*, 40 F. Supp. 3d at 636–37. As evinced by the merits discussion below, Defendants’ rejection of mail ballots for failure to comply with the Date Provision is unlawful for reasons that do not require individualized evidence: The date on a mail ballot envelope is not material to determining voter qualifications, *see* 52 U.S.C. § 10101(a)(2)(b), nor does it advance any state interest that is sufficiently weight to justify the burden imposed on Pennsylvania voters. In this regard, the factual and legal issues are remarkably straightforward, and the Organizational Plaintiffs have standing to vindicate the rights of their individual members and constituents.

C. The Organizational Plaintiffs have standing to sue over their own injuries caused by the Date Provision.

Separate and apart from their associational standing, the Organizational Plaintiffs have standing if Defendants' actions "impaired [their] ability to carry out [their] mission," resulting in a diversion of resources. *Fair Hous. Rts. Ctr. in Se. Pa. v. Post Goldtex GP, LLC*, 823 F.3d 209, 214 n.5 (3d Cir. 2016); *see also Alexander v. Riga*, 208 F.3d 419, 427 n.4 (3d Cir. 2000). Here, the Organizational Plaintiffs easily satisfy this requirement: The disenfranchisement caused by Defendants' enforcement of the Date Provision frustrates their respective missions, and each organization has been, and will be, forced to divert resources away from existing activities and instead towards educating their constituents to avoid disenfranchisement and, where legally permissible, assisting voters to cure mail ballots that are rejected for dating errors. CSMF ¶¶ 91–103, 106–12, 115, 117–23.

Because Defendants' enforcement of the Date Provision forces each Organizational Plaintiff to divert its limited resources away from its core activities and instead towards efforts to mitigate the harm to their missions, each Organizational Plaintiff has suffered an injury-in-fact.

* * *

In sum, there is no genuine dispute over any of the material facts demonstrating Plaintiffs' standing to assert their claims. As a result, the Court should grant summary judgment in Plaintiffs' favor on the question of their standing.

II. The Date Provision violates the Materiality Provision of the Civil Rights Act.

The undisputed facts in this case demonstrate a straightforward violation of the Materiality Provision. The law prohibits election officials from:

[D]eny[ing] the right of any individual to vote in any election because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting, if such error or omission is not material in determining whether such individual is qualified under State law to vote in such election.

52 U.S.C. § 10101(a)(2)(B). This text consists of three clauses, giving rise to a three-element claim. First, the voting regulation at issue must result in the “den[ial of] the right of any individual to vote.” *Id.* Second, the cause of that denial must be “an error or omission on any record or paper relating to any application, registration, or other act requisite to voting.” *Id.* Third, that “error or omission” must be “[im]material in determining whether such individual is qualified under State law to vote in such election.” *Id.* As a unanimous Third Circuit panel already concluded at the summary-judgment phase, a challenge to the Date Provision indisputably satisfies each of these elements. *Migliori*, 36 F.4th at 164.

A. Element 1: Enforcement of the Date Provision denies Pennsylvanians the right to vote.

There is no dispute that the Date Provision requires county boards to reject undated or misdated mail ballots. Doing so denies Pennsylvanians the “right to vote” as that phrase is expressly defined under Section 101 of the Civil Rights Act. The U.S. Supreme Court has long explained that the right to vote includes not only the ability to “cast a ballot,” but also to “*have it counted*.” *United States v. Classic*, 313 U.S. 299, 318 (1941) (emphasis added). In enacting the Civil Rights Act of 1964, Congress wrote this understanding directly into the Materiality Provision by expressly defining the word “vote” as “all action[s] necessary to make a vote effective including . . . having [a] ballot counted and included in the appropriate totals of votes cast.” 52 U.S.C. § 10101(e); *see id.* § 10101(a)(3)(A) (incorporating this definition for purposes of the Materiality Provision’s use of the term “vote”). If, pursuant to the Date Provision, a county board rejects an otherwise valid mail ballot because it arrived in an envelope that was not correctly dated, there can be no question that it has prevented that voter’s ballot from being “counted and included in the appropriate totals of votes cast.” *Id.* § 10101(e). That is precisely what the county boards did in enforcing the Date Provision during the 2022 general election, CSMF ¶¶ 8–10, 13–27, and

they will continue to do so in future elections, CSMF ¶ 28.

Applying the Materiality Provision's unambiguous definition of the right to "vote," federal courts have repeatedly concluded that the statute prohibits enforcement of state laws, like the Date Provision, that require election officials to reject a ballot because of paperwork errors made by the voter in the process of submitting it. *See, e.g., Sixth Dist. Of Afr. Methodist Episcopal Church v. Kemp*, No. 1:21-CV-01284-JPB, 2021 WL 6495360, at *14 (N.D. Ga. Dec. 9, 2021) (finding plaintiffs stated plausible Materiality Provision claim in challenge against requirement that absentee voters write birth date on absentee ballot envelope); *League of Women Voters of Ark. v. Thurston*, No. 5:20-CV-05174, 2021 WL 5312640, at *4 (W.D. Ark. Nov. 15, 2021) (finding plaintiffs stated plausible Materiality Provision claim in challenge against requirement that absentee voters who have already demonstrated their eligibility to vote provide similar evidence with absentee ballot); *Martin v. Crittenden*, 347 F. Supp. 3d 1302, 1309 (N.D. Ga. 2018) (enjoining county from rejecting absentee ballots due to voter's failure to write correct year of birth on envelope because doing so likely violates Materiality Provision); *Ford v. Tenn. S.*, No. 06-2031-DV, 2006 WL 8435145, at *11 (W.D. Tenn. Feb. 1, 2006) (explaining the right to vote as defined in the Materiality Provision "includes not only the registration and eligibility to vote, but also the right to have that vote counted" and thus Materiality Provision prohibits rejecting a voter's ballot because of voter's failure to sign both ballot and poll book). It is accordingly no surprise that the Third Circuit in *Migliori* agreed that when a county board rejects a mail ballot because it is undated, it denies that voter the "right to vote" for purposes of the Materiality Provision. *Migliori*, 36 F.4th at 164.

B. Element 2: A missing or incorrect date on a mail ballot envelope is “an error or omission” on a paper relating to an “act requisite to voting.”

There also is no genuine dispute that rejecting undated or misdated ballots denies Pennsylvanians their right to vote “because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting.” 52 U.S.C. § 10101(a)(2)(B). When voters submit a misdated mail ballot, they commit an “error”; when they submit an undated ballot, they commit an “omission.” *Id.* Those errors and omissions occur on the outer envelope containing their mail ballot, which is a “paper.” *Id.* And the paper on which the mistake or omission occurs is related to an act “requisite to voting.” As explained, “voting” in the Materiality Provision constitutes “all action[s] necessary to make a vote effective including . . . *having [a] ballot counted.*” 52 U.S.C. § 10101(e); *id.* § 10101(a)(3)(A) (emphasis added); *see also Ford*, 2006 WL 8435145, at *11 (explaining that “act requisite to voting” includes more than “solely determining eligibility to vote” but also “the right to have that vote counted”). To have a mail ballot counted, the voter is *required* to correctly date the ballot return envelope. 25 P.S. §§ 3146.6(a), 3150.16(a); *Ball*, 289 A.3d at 8–9. Thus, correctly dating the outer envelope is definitionally an “act requisite to voting.” *See Migliori*, 36 F.4th at 162 n.56 (holding that the outer envelope “squarely constitutes a paper relating to an act for voting”).

In prior briefing in this case, Intervenors have sought to rewrite the statutory text by asserting that the Materiality Provision applies only to information a county board uses to determine a person’s eligibility to vote. *See, e.g.*, ECF No. 241 at 12–13 (“[T]he date requirement is not used to determine whether an individual is qualified under State law to vote, . . . so it does not implicate, let alone violate, the federal materiality provision.” (internal quotations and citation omitted)). But that theory requires not just ignoring, but *contradicting*, the actual words that Congress chose to include in the Materiality Provision. County boards determine a person’s

qualifications to vote when they process that person’s voter-registration application and application for a mail ballot. Thus, under Intervenor’s theory, the Materiality Provision would apply only to voter-registration applications and requests for a mail ballot. But in enacting the Civil Rights Act, Congress made clear that the Materiality Provision applies not only to papers relating to “registration” and “application[s],” but any “*other act requisite to voting.*” 52 U.S.C. 10101(a)(2)(B) (emphasis added). Intervenor’s theory would render that last phrase entirely superfluous. *See Idahoan Fresh v. Advantage Produce, Inc.*, 157 F.3d 197, 202 (3d Cir. 1998) (“In interpreting a statute, courts should endeavor to give meaning to every word which Congress used and therefore should avoid an interpretation which renders an element of the language superfluous.”). Because this Court must “presume Congress says what it means and means what it says,” it must reject Defendant-Intervenor’s atextual theory. *Simmons v. Himmelreich*, 578 U.S. 621, 627 (2016).

In sum, the Materiality Provision governs this case because enforcement of the Date Provision denies individuals their right to vote (by requiring county boards to reject mail ballots due to an error (writing the wrong date) or omission (writing no date) on a paper related to an act requisite to voting (completing the declaration on the mail ballot’s outer envelope). *Migliori*, 36 F.4th at 162 n.56 (reaching this exact conclusion). The only remaining question, then, is whether the date written on the outer envelope is “material in determining whether such individual is qualified under State law to vote in such election.” 52 U.S.C. § 10101(a)(2)(B). Because it is not, Defendant’s rejection of undated or misdated mail ballots violates the Materiality Provision.

C. Element 3: The date written on the ballot-return envelope is not material to determining a Pennsylvanian’s qualifications to vote.

No one in this case disputes that the date written on a mail ballot’s outer envelope is immaterial in “determining whether such individual is qualified under State law to vote in such

election.” 52 U.S.C. § 10101(a)(2)(B). In fact, Intervenors have already conceded this issue, for good reason. ECF No. 196 at 12 (“Plaintiffs are entirely correct that compliance with the date requirement is not material to any individual’s qualifications to vote.”). “In Pennsylvania, a voter is qualified if, by Election Day, ‘they are 18 years old, have been a citizen for at least one month, have lived in Pennsylvania and in their election district for at least thirty days, and are not imprisoned for a felony conviction.’” *Migliori*, 36 F.4th at 162–63 (citing 25 P.S. § 2811; 25 Pa. C.S. § 1301(a)); CSMF ¶ 29. As the Third Circuit held in *Migliori*, the date written on the outer envelope of a mail ballot provides no information relevant to any of these four qualifications. 36 F.4th at 163–64. And when each county board was asked during discovery whether it contends “that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot,” not a single one suggested that it did. *See* CSMF App. Ex. J (responses to Interrogatory No. 14).

* * *

There is no genuine dispute that Defendants have rejected (and will continue to reject) mail ballots solely because of a voter’s failure to write a correct date on the return envelope. CSMF ¶¶ 8–28. By doing so, Defendants are denying Pennsylvanians their “right to vote”—as that term is expressly defined within the Materiality Provision—“because of an error or omission” on a “paper relating to” an “act requisite to voting,” and that “error or omission is not material in determining whether such individual is qualified under State law to vote in such election.” 52 U.S.C. § 10101(a)(2)(B). Because the undisputed nature of Defendants’ enforcement of the Date Provision violates the plain language of the Materiality Provision, Plaintiffs are entitled to summary judgment on their Materiality Provision claim.

III. The Date Provision violates the First and Fourteenth Amendments.

In addition to violating the plain language of the Materiality Provision, Defendants' enforcement of the Date Provision separately violates the First and Fourteenth Amendments to the U.S. Constitution by imposing burdens on Pennsylvanians' fundamental right to vote that are not justified by any state interest. This constitutional claim is analyzed under the *Anderson-Burdick* test, which instructs the Court to balance the character and magnitude of the burdens imposed by Defendants' rejection of undated or misdated ballots against the precise interest that Defendants claim warrants that burden. See *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). "[E]ven when a law imposes only a slight burden on the right to vote, relevant and legitimate interests of sufficient weight still must justify that burden." *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1318–19 (11th Cir. 2019). Once Plaintiffs demonstrate the extent to which Defendants' actions burden the right to vote, Defendants must demonstrate how the "precise interests" they identify justify that specific burden. *Belitskus v. Pizzingrilli*, 343 F.3d 632, 645 (3d Cir. 2003) (quoting *Anderson*, 460 U.S. at 789). In other words, the Date Provision must *actually* advance whatever state interest Defendants identify. See *Price v. N.Y. State Bd. of Elections*, 540 F.3d 101, 109 (2d Cir. 2008).

Here, the undisputed facts clearly show that no state interest justifies the Date Provision's burden. As a result, Plaintiffs are entitled to summary judgment on their constitutional claim.

A. Defendants' enforcement of the Date Provision burdens Pennsylvanians' fundamental right to vote.

In the 2022 general election, Pennsylvania counties rejected 10,970 mail ballots that were timely received but did not comply with the Date Provision, 10,657 of which had no other defect that would have prevented them from being counted. CSMF ¶¶ 10. Defendants' rejection of those ballots imposed multiple burdens bearing most heavily on Black, Hispanic, and older voters—

demographic groups that are disproportionately impacted by the Date Provision. CSMF ¶¶ 33–43. Identifying and replicating the precise date format that county boards will accept, researching cure procedures for “defective” ballots, making last-minute arrangements and traveling to county board offices to correct undated or misdated ballots, and outright disenfranchisement all create non-trivial barriers to voting. *See Ne. Ohio Coal. for the Homeless v. Husted*, 837 F.3d 612, 632 (6th Cir. 2016) (holding that rejecting mail ballots based on voters’ failure to write their birthday and address with “technical precision” imposed unjustified burden). Navigating these hurdles requires resources that the most impacted demographic groups are least likely to have. CSMF ¶¶ 46–51.⁴

Furthermore, whenever a county board determines that a mail ballot fails to comply with the Date Provision, the consequence is always severe: The county board must refuse to count the ballot. And that dramatic result amplifies the burden on voters. Indeed, courts regularly factor the consequences of noncompliance with a challenged provision in their *Anderson-Burdick* analysis. In *Democratic Executive Committee of Florida v. Lee*, for example, the Eleventh Circuit recognized that the burdens imposed by an absentee ballot signature matching requirement included the increased risk of disenfranchisement from a perceived signature mismatch. 915 F.3d at 1319; *see also Council of Alt. Pol. Parties v. Hooks*, 121 F.3d 876, 881 (3d Cir. 1997) (incorporating the severity of the consequence of a minor party’s candidate failing to comply with filing deadline into assessment of burden).

The Sixth Circuit’s ruling in *Husted* is particularly instructive. There, the court invalidated an Ohio law requiring elections boards to reject absentee ballots contained in return envelopes on which voters failed to write accurately their birthdate and address. The court recognized that this

⁴ This is particularly so in 37 of the 67 counties that provide their voters with no opportunity to cure their ballots if they are rejected under the Date Provision. CSMF ¶ 12.

requirement “directly and measurably disenfranchises some voters,” creating a burden that outweighed any legitimate state interest. *Husted*, 837 F.3d at 631–34. The constitutional issue inherent in Ohio’s birthdate requirement is the same here: Because of the Date Provision, Pennsylvanians “may be disenfranchised based only on a technicality, [such as] transposing the location of the month and year numerals of a birthdate, writing the current date by mistake, and inverting digits[.]” *Id.* at 632. As the Sixth Circuit held, “Ohio has made no such justification for mandating technical precision in the address and birthdate fields of the absentee-ballot identification envelope.” *Id.* Because Plaintiffs challenge Pennsylvania’s similar technical-precision requirement for writing a date on a mail-ballot envelope, *Husted* is directly on point and illustrates why Defendants’ enforcement of the Date Provision is unconstitutional.

Separately, because the Date Provision provides no guidance on how to evaluate a written date for correctness, county boards will inevitably reject voters’ mail ballots on an arbitrary basis.⁵ Some counties may reject a voter’s mail ballot because they used the Day/Month/Year format commonly used by those living outside the United States (as opposed to Month/Day/Year), as at least 17 county boards did in 2022, while other counties may accept both formats, as roughly 30 counties did. CSMF ¶ 27. Some county boards may reject mail ballots whose outer envelopes contain a date and month but not a year, CSMF ¶ 16, while others may not. And some county boards may count mail ballots in envelopes containing dates that predate the first day the county board began distributing mail ballots for that particular election, CSMF ¶ 14, while others may not, CSMF ¶¶ 20, 23–24, 26. Making matters worse, county boards are under no obligation to

⁵ While the Supreme Court of Pennsylvania clarified that voters should write the “day upon which [the] elector signs the declaration,” it expressly left it up to each county board to decide for itself how to “verify that the date an elector provides is, in truth, the day upon which he or she completed the declaration.” *Ball*, 289 A.3d at 22–23.

explain to voters how they will go about determining whether a date is correct. Conditioning a voter’s ability to successfully cast a mail ballot on how well they can predict the standards imposed by their county also burdens on the right to vote. *Democratic Exec. Comm. of Fla.*, 915 F.3d at 1319–20 (lack of uniform standards for signature matching imposed serious burden because it conditioned voters’ right to vote on how well they complied with a given county’s idiosyncratic and error-prone evaluation method).

The disparities in county board rejection rates provide further evidence of these burdens.



These demographic patterns in undated ballot rejections are familiar ones: in Pennsylvania, Black, Hispanic, and older residents tend to have lower levels of income, formal educational attainment, economic security, English language proficiency, literacy, and health. CSMF App. Ex. I ¶ 16. Applying the “cost of voting” framework utilized by political scientists to analyze the impact of procedural and administrative frictions on voter participation, CSMF ¶¶ 46–48, Plaintiffs’ expert Dr. Hopkins explains that “voters with the fewest resources available to them are often the least equipped to overcome” additional procedural hurdles that raise the cost of voting. CSMF App. Ex. I ¶¶ 11–14. This includes, for example, voters with lower educational levels; less access to housing, transportation, or childcare; less flexible jobs; or less English-language fluency

or experience reading technical language. CSMF ¶¶ 48–49.

In other words, it is no coincidence that Defendants’ enforcement of the Date Provision disproportionately disenfranchises racial minorities and older voters. Rather, it demonstrates that Defendants’ enforcement of the Date Provision imposes the heaviest burdens on the least-resourced members of the electorate.

B. No state interest justifies the Date Provision’s burdens.

To pass constitutional muster, the Date Provision’s burdens, “[h]owever slight[,] must be justified by relevant and legitimate state interests ‘sufficiently weighty to justify the limitation.’” *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 191 (2008) (controlling op.) (quoting *Norman v. Reed*, 502 U.S. 279, 288–89 (1992)). But as the undisputed facts demonstrate, the Date Provision is nothing more than a compliance test that conditions voters’ ability to participate in the election of their governmental representatives on how well they can follow written instructions. To the extent the Date Provision purportedly serves *any* legitimate state interest, it would not justify the burdens imposed on Pennsylvania voters.

In previous filings, Intervenor invoked several potential interests advanced by individual Pennsylvania Supreme Court justices—in the immediate aftermath of the 2020 presidential election, without the benefit of a complete record or discovery—all of which completely unravel when confronted with the undisputed record in this case and a more comprehensive review of the Election Code. For instance, Intervenor suggested that the date written on ballot envelopes might provide “proof of when the elector actually executed the ballot in full, ensuring their desire to cast [that ballot] in lieu of appearing in person at a polling place.” ECF No. 241 at 5 (quoting *In re 2020 Canvass*, 241 A.3d at 1090 (Dougherty, J., concurring and dissenting) (cleaned up)). But Pennsylvania law squarely rejects this hypothetical: If a voter submits a completed mail ballot that is “timely received” by the county board but also votes in person on election day, *only the mail*

ballot will count, notwithstanding the date entered on the mail ballot envelope. *See* 25 P.S. § 3050(a.4)(5)(ii)(F); CSMF ¶¶ 70–71. Indeed, if that voter’s mail ballot has already been received, they will be marked in the district register at the voter’s polling as ineligible to vote at the polling place; if the mail ballot was not yet returned, the voter may only vote by provisional ballot unless the voter surrenders the mail ballot to the judge of elections for spoliation. *See* 25 P.S. §§ 3146.6(b), 3150.16(b). As a result, Intervenors’ rationale does not advance a legitimate state interest at all, but rather misreads Pennsylvania’s Election Code.

Intervenors also speculate that the date written on the outer envelope could “establish[] a point in time against which to measure the elector’s eligibility to cast the ballot.” ECF No. 241 at 5 (quoting *In re 2020 Canvass*, 241 A.3d at 1090 (Dougherty, J., concurring and dissenting)). But, again, doing so would violate the Election Code, which measures a voter’s eligibility to vote in an election as of *election day*, and not any earlier date. *See* 25 Pa. C.S. § 1301(a); *see also* CSMF ¶¶ 29–32. And Intervenors’ suggestion that the Date Provision ensures the voter “completed the ballot within the proper time frame and prevents the tabulation of potentially fraudulent back-dated votes,” ECF No. 241 at 5 (quoting *In re 2020 Canvass*, 241 A.3d at 1091 (Dougherty, J., concurring and dissenting)), is similarly implausible based on the undisputed record. When a county board receives a mail ballot, it makes a record of the date and time that ballot was received. CSMF ¶¶ 54, 57–59. It is *that* record—not the date written on the outer envelope—that county boards use to confirm that a mail ballot was timely. CSMF ¶¶ 60–64. In other words, because the “date stamp and the SURE system provide a clear and objective indicator of timeliness,” the “handwritten date [is] unnecessary and, indeed, superfl[u]ous,” and cannot justify any burden on the right to vote. *In re 2020 Canvass*, 241 A.3d at 1077.

Nor does the Date Provision prevent election fraud. As several county boards have agreed, the fact that a voter failed to write a date or wrote the wrong date does not suggest fraud. CSMF ¶¶ 65–68. Not a single county board could identify any credible fraud concern from the November 2022 election relating to the date written on the outer envelope of a mail ballot. CSMF ¶ 72. Indeed, Defendants’ reliance on a *single* incident involving a Lancaster County voter allegedly completing and backdating her recently deceased mother’s mail ballot further illustrates why the Date Provision is meaningless and superfluous. As the Lancaster County Board of Elections itself admitted, the perpetrator’s mother passed away before election day and had already been removed from the voter rolls for that election; thus, her mail ballot would never have been counted, *regardless of what was written on the outer envelope*. CSMF ¶¶ 73–75; 25 P.S. § 3146.8(d). So even in the sole example of potential fraud that Defendants have identified in this litigation, the Date Provision played no role in preventing the counting of a fraudulent ballot. None of the county boards have identified any other supporting state interest, and several—Berks, Lancaster, and Westmoreland County—have agreed that the date written on the mail ballot envelope serves no purpose at all other than to determine a mail ballot’s compliance with the Date Provision’s technical requirement. CSMF ¶¶ 76–79.

The undisputed facts in this case demonstrate that Defendants’ rejection of undated or incorrectly dated mail ballots imposes burdens on voters that are not justified by any state interest. Plaintiffs are therefore entitled to summary judgment on their constitutional claim.

CONCLUSION

The Court should grant summary judgment in Plaintiffs’ favor.

Dated: April 21, 2023

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**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

**CONCISE STATEMENT OF MATERIAL FACTS IN SUPPORT OF PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT**

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I. Mail Voting in Pennsylvania

1. Prior to 2020, voters in Pennsylvania were required to cast an in-person ballot on election day unless they met specific qualifications to submit an “absentee” ballot. 25 P.S. § 3146.1.

2. In 2019, Pennsylvania enacted Act 77, an omnibus election bill that introduced significant amendments to Pennsylvania’s Election Code and created a new method of voting—“mail-in” ballots—which extended the option of voting by mail to all eligible citizens of the Commonwealth as an alternative to voting in person on election day. 25 P.S. 3150.11 *et seq.*

3. Before submitting a completed mail-in or absentee ballot (collectively, “mail ballot”) to their county board of elections (“county board” or “BOE”), a voter must fill out the ballot, place the completed ballot in a secrecy envelope, and then place the secrecy envelope in an outer return envelope. 25 P.S. §§ 3146.6(a), 3150.16(a).

4. The outer envelope of every mail ballot contains a voter declaration that Pennsylvania law instructs voters to “fill out, date and sign.” 25 P.S. §§ 3146.6(a), 3150.16(a) (the “Date Provision”).

5. For a mail ballot to be considered timely received and eligible to be counted, it must reach the voter’s county board by 8:00 p.m. on election day. 25 P.S. §§ 3146.6(a), 3150.16(a).

6. On November 1, 2022, the Supreme Court of Pennsylvania issued an order directing all county boards of elections to set aside and not count any mail-in or absentee ballot “contained in undated or incorrectly dated outer envelope[.]” *Ball v. Chapman*, 284 A.3d 1189, 1192 (Pa. 2022) (per curiam).

7. On November 5, 2022, the Supreme Court of Pennsylvania issued a supplemental order stating that, for purposes of the 2022 general election only, the date on the outer envelope must be deemed incorrect if it (1) predated the earliest date state law permitted county boards to

distribute mail ballots for that election, or (2) postdated election day. Ex. L. For purposes of future elections, the Supreme Court of Pennsylvania indicated in a subsequent opinion that the voter should enter the date they sign the declaration, but expressly left it to the discretion of each county board to decide how to evaluate whether that written date “is, in truth, the day upon which [the voter] completed the declaration.” *Ball v. Chapman*, 289 A.3d 1, 23 (Pa. 2023).

II. Defendants’ enforcement of the Date Provision in the 2022 general election.

8. In the 2022 general election, Pennsylvania’s county boards set aside any mail ballot that arrived in an outer envelope they regarded as undated or misdated. Ex. K (responses to Requests for Admission No. 5–8).

9. In the 2022 general election, a total of 10,970 mail ballots were timely received but did not comply with the Date Provision. Ex. J (responses to Interrogatory 2).

10. In the 2022 general election, 10,657 of the 10,970 undated or misdated mail ballots received by county boards had no other defect that would have prevented them from being counted. Ex. J (responses to Interrogatories 2 and 8).

11. In the 2022 general election, 45 of the 67 county boards provided no notice to voters that their mail ballots were set aside due to noncompliance with the Date Instruction. Ex. J (responses to Interrogatory 11).

12. In the 2022 general election, 37 of the 67 county boards provided voters no opportunity to cure their mail ballot if it was rejected under the Date Provision. Ex. J (responses to Interrogatory 12).

13. In the 2022 general election, the Berks County BOE rejected a timely-received mail ballot on which the voter wrote the date “11/3/2023,” but would have counted the ballot had the voter written “11/3/2022.” Ex. F (Kauffman Dep.) at 84:18–86:7.

14. In the 2022 general election, the Berks County BOE rejected a timely-received mail

ballot because the voter wrote their birthdate on the outer envelope, even though the county board's stamp on the outer envelope indicated that it had timely received the mail ballot on October 17, 2022. *Id.* at 86:8–87:19.

15. When evaluating the date written on a mail ballot's outer envelope for correctness, the Berks County BOE accounts for the possibility that a voter may use either a Month/Day/Year format or a Day/Month/Year format, and will accept the ballot if the date is considered correct using either format. *Id.* at 51:13–53:5.

16. In the 2022 general election, the Lancaster County BOE would have rejected a mail ballot contained in an envelope on which the voter had written a day and month but omitted the year, even if the day and month were in the acceptable time range set by the Supreme Court of Pennsylvania's November 5, 2022 order. Ex. G (Miller Dep.) at 55:19–56:6.

17. In the 2022 general election, the Lancaster County BOE evaluated the date written on outer envelope assuming that the voter intended to use a Month/Day/Year format. *Id.* at 64:23–65:25.

18. In the 2022 general election, the Lancaster County BOE would have rejected any mail ballot if its outer envelope contained a date that was incorrect if read using a Month/Day/Year format, even if the date was correct if read using a Day/Month/Year format. *Id.*

19. In the 2022 general election, the Lancaster County BOE would have rejected a mail ballot with a handwritten date that read "11/25/22" even if the county board's stamp on the outer envelope indicated it had received the mail ballot on a date that fell within the acceptable range set by the Supreme Court of Pennsylvania's November 5 order. *Id.* at 78:9–79:21.

20. In the 2022 general election, the Lancaster County BOE would have rejected a mail ballot contained in an outer envelope on which the voter had written their birthdate, even if the

county board's stamp on the outer envelope indicated it had received the mail ballot on a date that fell within the acceptable range set by the Supreme Court of Pennsylvania's November 5 order. *Id.* at 80:10–82:10.

21. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot because its outer envelope had a handwritten date of “10/14/2023,” but would have counted that ballot if the last digit of that handwritten date was “2” instead of “3.” *Id.* at 76:13–77:22.

22. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot because its outer envelope had a handwritten date of “10/23/2033,” but would have counted the ballot if the last two digits of that handwritten date were “22” instead of “33.” *Id.* at 84:17–85:21.

23. In the 2022 general election, the Westmoreland County BOE rejected mail ballots with handwritten dates of “1/1/2022,” “8/17/2022,” “11/9/2022,” and “11/28/2022,” even though the county board's stamp on those envelopes indicated that they were each received on a date that fell within the acceptable range set by the Supreme Court of Pennsylvania's November 5 order. *Id.* at 74:9–79:9, 85:24–86:24.

24. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot with a handwritten date reading “10/9/2021” despite admitting that it would be impossible for someone to have filled the mail ballot on October 9, 2021, and despite the fact that the county board's stamp on the envelope indicated that it was timely received on October 13, 2022. *Id.* at 82:10–83:16.

25. In the 2022 general election, the Westmoreland County BOE rejected any mail ballot if its outer envelope contained a date that was incorrect if read using a Month/Day/Year format, even if the date was correct when read as using a Day/Month/Year format. *Id.* at 81:3–82:7, 83:20–84:14.

26. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot contained in an outer envelope where the voter had written their birthdate. *Id.* at 87:3–24.

27. In the 2022 general election, at least 17 counties rejected mail ballots contained in outer envelopes on which the voter wrote a date that was incorrect if read using a Month/Day/Year format (even if the date was correct if read using a Day/Month/Year format), while approximately 32 counties may have counted mail ballots in outer envelopes on which the written date was correct using a Month/Day/Year format *or* Day/Month/Year format. Ex. K (responses to Request for Admission No. 8).

28. Absent a change in the law or judicial intervention, all of Pennsylvania's county boards will not count mail ballots contained in envelopes that do not comply with the Date Provision. Ex. F (Kauffman Dep.) at 99:7–101:12; Ex. G (Miller Dep.) at 104:11–105:23, 111:16–112:9; Ex. H (McCloskey Dep.) at 88:13–89:6; Ex. K (responses to Request for Admission No. 5).

III. The county boards do not (and cannot) use the written date on a mail ballot's outer envelope to determine a person's qualifications to vote.

29. To be eligible to vote in Pennsylvania, a person must (1) be at least 18 years old, (2) have been a citizen for at least one month, (3) have lived in Pennsylvania and that election district for at least 30 days, and (4) not be imprisoned for a felony. 25 Pa. C.S. § 1301(a); 25 P.S. § 2811.

30. The only information that county boards use to determine a person's qualifications to vote is their age, citizenship status, length of residency in Pennsylvania and a given election district, and imprisonment status. Ex. E (Marks Dep.) at 102:5–9; Ex. F (Kauffman Dep.) at 33:20–34:8; Ex. G (Miller Dep.) at 36:17–38:3; Ex. H (McCloskey Dep.) at 31:17–32:16.

31. No county board uses the date written on a mail ballot's outer envelope to determine

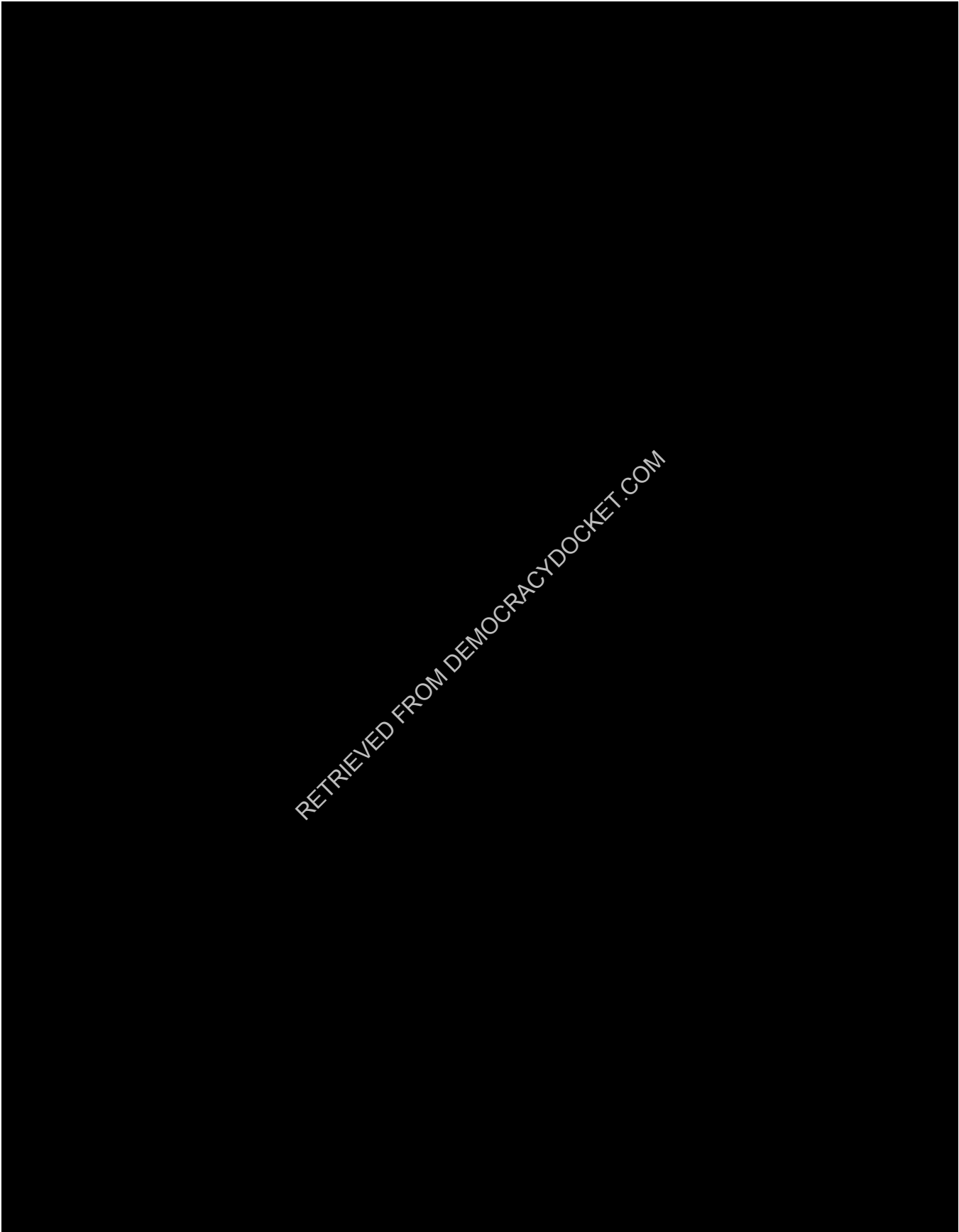
that person's qualifications to vote. Ex. K (responses to Request for Admission No. 1); Ex. E (Marks Dep.) at 98:9–102:15.

32. The date written on a mail ballot's outer envelope does not provide information relevant to the determination of a person's age, citizenship status, length of residency in Pennsylvania and their election district, or imprisonment status. Ex. J (responses to Interrogatory 14); Ex. E (Marks Dep.) 68:4–9; Ex. F (Kauffman Dep.) at 32:17–34:8; Ex. G (Miller Dep.) at 36:17–25, 37:1–6, 37:7–11, 37:12–15, 37:16–38:3; Ex. H (McCloskey Dep.) at 31:17–22, 32:23–33:2, 33:3–7, 33:8–11, 32:12–16.

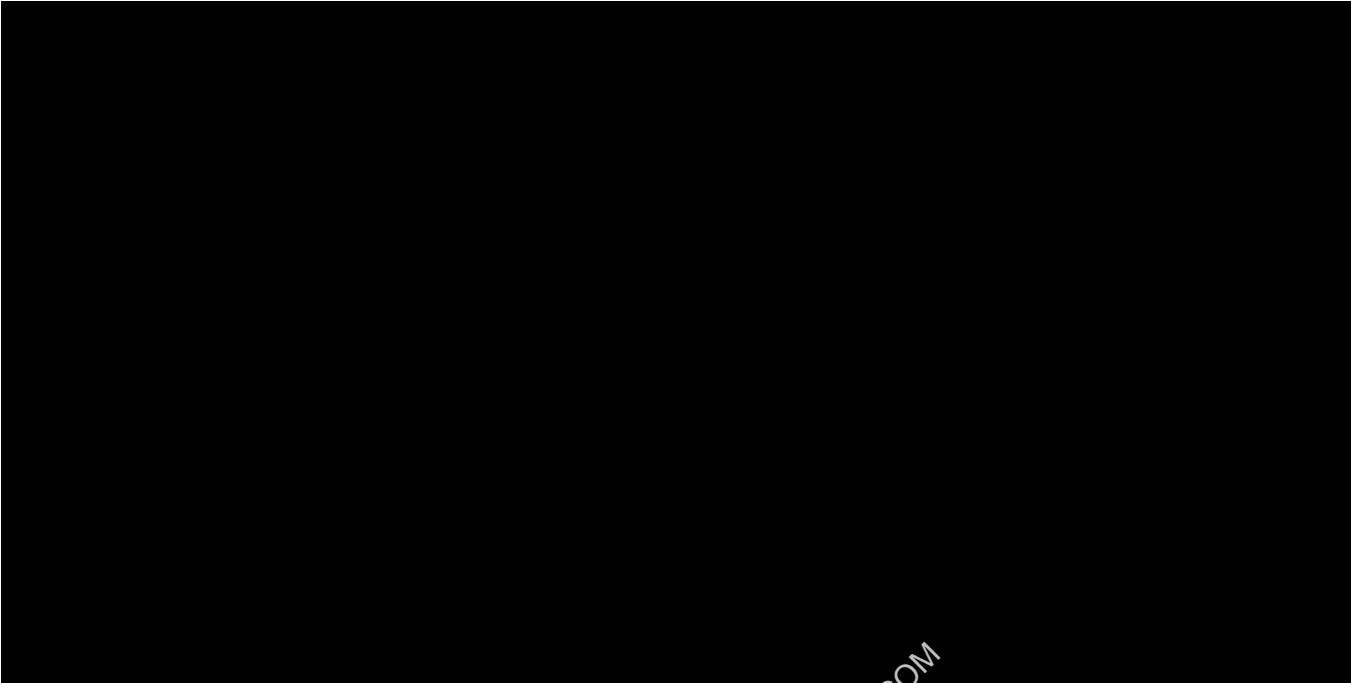
IV. The Date Provision's disparate impact.

33. Plaintiffs' expert, Dr. Daniel Hopkins, performed linear regression analyses to identify whether the Date Provision disproportionately impacted certain demographic groups of voters in the November 2022 election. Ex. I ¶¶ 21–22.

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46. “Cost of voting” is a framework that political scientists have employed for decades to describe how procedural and administrative frictions in the voting process that increase the “cost” of voting lead to fewer citizens successfully navigating the voting process. *Id.* ¶ 12.

47. Even among those who cast a ballot in an election, procedural and administrative frictions that raise that cost of voting may prevent their ballot from being counted. *Id.* ¶ 13.

48. Voters with fewer resources—including those with lower educational levels; less access to housing, transportation, childcare; less flexible jobs; less English-language fluency or experience reading technical language—are less able to overcome additional procedural frictions in the voting process. *Id.*

49. Black, Hispanic, and older voters in Pennsylvania have, on average, lower levels of socioeconomic resources, including “educational attainment, income, economic security, English language proficiency and literacy, and health,” and they are less likely, on average, to overcome procedural and administrative frictions in the voting process. *Id.* ¶ 16.

50. When a voter’s mail ballot is rejected because of noncompliance with the Date

Provision, they must take additional actions to ensure that their ballot is ultimately counted. *Id.* ¶ 19.

51. The additional actions voters must take to ensure their rejected mail ballot is counted increase the cost of voting. *Id.* ¶ 19.

V. The interests purportedly served by the Date Provision

A. Ensuring timely receipt of mail ballots

52. The Statewide Uniform Registry of Electors (“SURE”) system is the voter registration system in Pennsylvania used by all 67 county BOEs. Ex. G (Miller Dep.) at 114:11–14.

53. SURE allows counties to verify a voter’s identification during the mail ballot application process, maintain their official voter rolls, and record returned mail ballots. Ex. E (Marks Dep.) at 44:6–10, 45:8–15, 68:19–69:6.

54. The county boards are statutorily required to record the date and time that they receive a mail ballot. *Id.* at 70:5–19; 25 P.S. § 1222(c)(19)–(20).

55. Each county board has a mechanism in place to identify which ballots were timely received, and that mechanism does not rely on the date written by voters on the mail-ballot’s outer envelope. Ex. G (Miller Dep.) at 65:5–23.

56. The outer envelope for every mail ballot sent to a voter in Pennsylvania has a unique barcode. *Id.* at 69:7–19.

57. The Pennsylvania Department of State has instructed county boards to scan mail ballots into SURE as quickly as possible after they are received. Ex. E (Marks Dep.) at 82:20–83:17; Ex. E6.

58. As instructed by the Pennsylvania Department of State, Ex. E6, many counties scan the barcode on the outer envelope of a completed mail ballot upon receipt, which creates a record

in the SURE system of the date and time that the county board received the mail ballot, Ex. E (Marks Dep.) at 68:19–70:24, 116:12–119:8; Ex. F (Kauffman Dep.) at 55:25–56:22; Ex. G (Miller Dep.) at 114:11–24, 115:19–25; Ex. H (McCloskey Dep.) at 66:18–67:10.

59. As instructed by the Pennsylvania Department of State, Ex. E6, many counties also physically stamp the outer envelope with the date and time upon receiving a completed mail ballot. Ex. F (Kauffman Dep.) at 37:2–6, 77:8–24, 79:22–80:8; Ex. G (Miller Dep.) at 61:19–25, 69:11–23, 72:2–6, 85:19–86:5, 115:19–25; Ex. H (McCloskey Dep.) at 74:16–75:3, 110:9–13; Ex. K14 (“All incoming ballots are date stamped.”); Ex. K45 (“The envelopes are stamped with the date received.”).

60. The date on which the voter fills out the ballot or signs the declaration on the outer envelope has no bearing on whether it was timely received by the county. Ex. E (Marks Dep.) at 128:5–12.

61. The Berks County BOE does not use the handwritten date on a mail ballot’s outer envelope to determine whether the ballot was timely received. Ex. F (Kauffman Dep.) at 76:25–77:24.

62. The Lancaster County BOE does not use the handwritten date on a mail ballot’s outer envelope to determine whether the ballot was timely received. Ex. G (Miller Dep.) at 85:17–86:5.

63. The Westmoreland County BOE does not use the handwritten date on a mail ballot’s outer envelope to determine whether the ballot was timely received. Ex. H (McCloskey Dep.) at 74:16–75:3.

64. County boards can determine whether a mail ballot was timely received without ever looking at the date written on a mail ballot envelope. Ex. K (responses to Request for

Admission No. 2).

B. Fraud prevention

65. The fact that the outer envelope of a mail ballot has no written date is not a reason to suspect fraud. Ex. G (Miller Dep.) at 118:11–17.

66. The fact that a voter wrote the wrong year on the outer envelope of a mail ballot is not a reason to suspect fraud. Ex. F (Kauffman Dep.) at 84:17–85:11; Ex. G (Miller Dep.) at 70:13–71:6; Ex. H (McCloskey Dep.) at 76:19–77:12.

67. The fact that a voter wrote a date on the outer envelope of a mail ballot that precedes the first date they could have received the ballot is not a reason to suspect fraud. Ex. G (Miller Dep.) at 70:13–18, 82:11–15; Ex. H (McCloskey Dep.) at 87:3–19.

68. The fact that a voter wrote a date on the outer envelope of a mail ballot that falls after the date of the election is not a reason to suspect fraud. Ex. F (Kauffman Dep.) at 78:15–79:15, 84:18–85:11; Ex. H (McCloskey Dep.) at 76:19–77:9.

69. The date written on a mail-ballot's outer envelope provides no help to a county board in preventing that voter from also casting an in-person ballot on election day. Ex. G (Miller Dep.) at 116:2–118:2.

70. If a voter submits a mail ballot and then later casts an in-person provisional ballot on election day, the mail ballot will be counted and the in-person ballot will not be counted. *Id.* at 116:2–14.

71. If a voter submits a mail ballot and casts an in-person provisional ballot on election day, the date written on the mail-ballot's outer envelope provides no help to a county board in determining which ballot to count. *Id.* at 116:22–117:3.

72. No county identified, raised, or was made aware of any credible concern regarding fraud with respect to the way that voters wrote (or failed to write) the date on the outer envelope

of their mail ballots in the November 2022 election. Ex. J (responses to Interrogatory No. 10); Ex. G (Miller Dep.) at 82:11–24; Ex. H (McCloskey Dep.) at 88:4–12.

73. While a voter was referred to the district attorney in Lancaster County for allegedly voting on behalf of her deceased mother, the mother’s ballot would never have been counted in that election because the county had already removed her from the voter rolls after receiving information indicating she had passed away. Ex. G (Miller Dep.) at 87:18–94:15.

74. County boards are provided notification of a voter’s death by the Department of Health. Ex. F (Kauffman Dep.) at 35:23–36:3; Ex. G (Miller Dep.) at 101:24–102:5; 25 P.S. § 1505(a).

75. County boards do not use the date written on the outer envelope of a mail ballot to determine whether the voter passed away before election day or whether to count a ballot from such a person. Ex. F (Kauffman Dep.) at 36:20–37:25; Ex. H (McCloskey Dep.) at 36:12–23.

C. The Date Provision does not further any other state interest.

76. The date written on the outer envelope of a mail ballot provides no information regarding the date on which the voter filled out that ballot or the truthfulness of the voter’s affirmation. Ex. E (Marks Dep.) at 127:3–18, 135:6–21, 156:11–22, 204:6–19; Ex. G (Miller Dep.) at 61:11–16, 79:3–21; Ex. H (McCloskey Dep.) at 66:9–15, 70:5–10.

77. The Berks County BOE does not use the date written on a mail ballot’s outer envelope for any purpose other than to determine compliance with the Date Provision. Ex. F (Kauffman Dep.) at 39:22–40:2.

78. The Lancaster County BOE does not use the date written on a mail ballot’s outer envelope for any purpose other than to determine compliance with the Date Provision. Ex. G (Miller Dep.) at 113:23–114:8.

79. The Westmoreland County BOE does not use the date written on a mail ballot’s

outer envelope for any purpose other than to determine compliance with the Date Provision. Ex. H (McCloskey Dep.) at 37:8–38:2.

VI. Plaintiffs

A. Bette Eakin

80. Plaintiff Bette Eakin is a veteran and registered Democrat in Erie County. Ex. A (Eakin Decl.) ¶¶ 1–3.

81. In the 2022 general election, Ms. Eakin submitted a mail ballot to the Erie County Board of Elections before election day because of her medical condition, which required her to travel to Ohio to receive medical care through election day. *Id.* ¶ 4.

82. At the time she submitted her mail ballot, Ms. Eakin was undergoing care for a condition that has made her legally blind, forcing her to travel to a county board of elections office where she could obtain assistance in completing her ballot. An election worker helped Ms. Eakin request and obtain her mail ballot, complete the mail ballot, place the mail ballot in the secrecy and outer envelopes, and complete the declaration on the outer envelope. *Id.* ¶ 5.

83. Days later, when Ms. Eakin was receiving her medical treatment in Ohio, she received an email stating that her mail ballot had been rejected because there was a defect on her balloting materials, which she later learned was due to a missing date on the outer envelope. *Id.* ¶ 6. She was told that she would have to fix this error if she wanted her ballot to be counted. *Id.*

84. Voting is incredibly important to Ms. Eakin, and the news that her mail ballot had been rejected caused her to suffer significant emotional distress. *Id.* ¶ 7. Ms. Eakin suffers from post-traumatic stress disorder and a nervous disorder, and when she received the notification of her ballot's rejection, her anxiety skyrocketed. *Id.*

85. Ms. Eakin spent the rest of the day making phone calls to rectify the situation, and even missed scheduled medical care appointments to figure out how to ensure her ballot would be

counted. *Id.*

86. Because Ms. Eakin was receiving medical treatment out of state, her husband had to immediately leave his hunting trip and drive two hours back to Erie so that he could help make sure Ms. Eakin's ballot was counted. *Id.* ¶ 8.

87. Ms. Eakin's husband had to first stop at her son's residence and have her son assist him in printing a form that would authorize him to act as her designated agent. *Id.* ¶ 9.

88. Ms. Eakin's husband then retrieved her ballot from where she submitted it, traveled to their local polling place, explained the situation, and submitted all materials at the last possible moment before the polling place closed. *Id.*

89. Ms. Eakin is very concerned that the Date Provision will force her to go through a similar saga in future elections. *Id.* ¶ 10.

90. Because of her disability, Ms. Eakin must rely on the assistance of others to complete a mail ballot like she did in 2022. But given her condition and anxiety disorders, going to her polling place on election day is extremely difficult and presents a serious risk to her health. *Id.*

B. DSCC

91. Plaintiff DSCC is the Democratic Party's national senatorial committee, as defined by 52 U.S.C. § 30101(14). Ex. B (DSCC Decl.) ¶ 2.

92. DSCC's mission is to support the election of candidates of the Democratic Party across the country, including in Pennsylvania, to the U.S. Senate. *Id.* ¶ 3.

93. DSCC works to accomplish its mission by, among other things, mobilizing and persuading voters through grassroots mobilization of volunteers and field organizers to conduct get-out-the-vote activities such as door knocking, text messaging, and phone calling. *Id.* ¶ 4.

94. DSCC also runs paid television, digital, and radio advertisements, as well as

mailings, in support of Democratic candidates throughout the country, including in Pennsylvania. *Id.*

95. While most of DSCC's voter programs are focused on persuading eligible citizens to vote, DSCC also runs programs specifically geared toward explaining the voting process and how an eligible voter can successfully cast their ballot and have it counted. *Id.*

96. DSCC also separately allocates substantial personnel time and money for "curing" activities in multiple states where it anticipates close senatorial races. *Id.* ¶ 5.

97. DSCC's curing activities involve tracking data from counties, contacting voters whose ballots have been rejected, and helping them perform whatever task is necessary to ensure their ballot is ultimately counted, which varies by county. *Id.*

98. Since DSCC invests in persuading and mobilizing voters across the country, investing additional funds or personnel in one state will necessarily divert those resources from other states and key races. *Id.* ¶ 4.

99. The Date Provision frustrates DSCC's mission because it erects an obstacle to ensuring all mail ballots cast by Pennsylvanians who support Democratic Senate candidates are actually counted and impairs those Democratic candidates' electoral prospects. *Id.* ¶ 6.

100. In the 2022 general election, the Date Provision forced DSCC to divert substantial personnel time and money away from its advocacy and persuasion activities discussed above and instead towards explaining the Date Provision to voters and warning them of the consequences of failing to comply with the Date Provision. *Id.* ¶ 7.

101. The Date Provision also forced DSCC to divert resources in 2022 away from helping voters in other states cure their rejected ballots and instead towards identifying voters in Pennsylvania whose ballots had been rejected because of the Date Provision and helping them take

the steps necessary to ensure their ballots would be counted. *Id.*

102. Absent the requested injunction, the Date Provision will continue to force DSCC to divert personnel time and money away from its advocacy and persuasion activities in Pennsylvania *and* in other states and instead towards educating voters in Pennsylvania about the Date Provision and the severe consequences of failing to correctly date the outer envelope of a mail ballot and towards researching how each county will go about determining whether the date written on a mail-ballot envelope is “correct,” and their respective procedures for curing such ballots. *Id.* ¶ 8.

103. The Date Provision will also continue to force DSCC in future elections to divert resources away from efforts to assist voters in other states in resolving issues with their rejected ballots and towards helping voters in Pennsylvania ensure their undated or misdated mail ballots are ultimately counted. *Id.* ¶ 9.

104. Democratic voters provide financial support in the form of political contributions to DSCC and candidates supported by DSCC on a regular basis, and also help select DSCC’s leadership and ultimately determine DSCC’s strategic and political direction by electing candidates to the United States Senate. *Id.* ¶ 10.

105. In the 2022 general election, over 2.7 million Pennsylvanians cast a vote for the Democratic senatorial candidate. *Id.* ¶ 11.

C. DCCC

106. Plaintiff DCCC is the Democratic Party’s national congressional committee as defined by 52 U.S.C. § 30101(14). Ex. C (DCCC Decl.) ¶ 2.

107. DCCC’s mission is to support the election of candidates of the Democratic Party from across the country, including those running in Pennsylvania’s congressional districts, to the U.S. House of Representatives. *Id.* ¶ 3.

108. DCCC works to accomplish its mission by, among other things, running paid

advertisements in support of Democratic candidates; engaging in grassroots mobilization of volunteers and field organizers to perform persuasion efforts such as door knocking, text messaging, and phone banking, all towards the goal of convincing voters to support Democratic candidates; running paid canvasses for its members' campaigns to boost voter turnout; and encouraging voters to exercise their right to vote, through paid television, social media, and radio advertisements, phone calls, and mailings for voter education, as well as paying for professionals to assist in the aforementioned get-out-the-vote efforts. *Id.* ¶ 4. DCCC also supports efforts of state parties throughout the country, including in Pennsylvania, to conduct these activities by providing money, staff and volunteer time, and ongoing coordination. *Id.*

109. DCCC also allocates and devotes staff, volunteers, and funds to assist voters in curing absentee or mail ballots in states where it anticipates there will be close congressional races. *Id.* ¶ 5. Helping voters cure their ballots involves contacting voters whose ballots have been rejected and helping them perform whatever task is necessary to ensure that their ballot is ultimately counted. *Id.* These activities require DCCC to devote substantial personnel time and money to track data from counties, contact voters, and assist them in completing the curing process established in each county. *Id.*

110. The Date Provision frustrates DCCC's mission because it erects an obstacle to ensuring all ballots cast by Pennsylvanians who support Democratic congressional candidates are actually counted, which harms those Democratic candidates' electoral prospects. *Id.* ¶ 6.

111. As a result of the Date Provision, DCCC will be forced to divert personnel time and money away from its persuasion and mobilization activities and instead towards educating voters about the Date Provision and the severe consequences of failing to correctly date the outer envelope of a mail ballot, as well as spending personnel time researching how each county will go

about determining whether the date written on a mail-ballot envelope is “correct,” and their respective procedures for curing such ballots. *Id.* ¶ 7.

112. The Date Provision will also force DCCC to divert the resources it has allocated for ballot curing activities in other states towards races in Pennsylvania, which impairs DCCC’s ability to help voters and support Democratic candidates in other states. *Id.* ¶ 8.

113. DCCC also represents the interests of Democratic voters in Pennsylvania and considers those individuals to be DCCC’s constituents. *Id.* ¶ 9. Democratic voters provide financial support in the form of political contributions to DCCC and candidates supported by DCCC on a regular basis, and also help select DCCC’s leadership and ultimately determine DCCC’s strategic and political direction by electing candidates to the United States House of Representatives. *Id.* DCCC asserts its claims on behalf of itself and its constituents in Pennsylvania. *Id.*

114. In the 2022 general election, more than 2.4 million Pennsylvanians cast a vote for the Democratic congressional candidate in their district. *Id.* ¶ 10.

D. AFT Pennsylvania

115. Plaintiff AFT Pennsylvania (the “Federation”) is the Pennsylvania affiliate of the American Federation of Teachers and a union of professionals representing approximately 25,000 members in 55 local affiliates across Pennsylvania. Ex. D (AFT Decl.) ¶¶ 2–3.

116. The Federation’s members include public school educators and support staff, higher-education faculty and support staff, and other public employees such as social workers. *Id.* ¶ 3. These members attend meetings of, and pay dues to, their local AFT affiliates (who in turn contribute funds to the Federation as a whole), as well as elect delegates to a biannual statewide convention, which elects the Federation’s leadership. *Id.* ¶ 4.

117. The Federation advocates for sound, commonsense public education policies, including high academic and conduct standards for students and greater professionalism for

teachers and school staff, as well as excellence in public service through cooperative problem-solving and workplace innovations. *Id.* ¶ 5.

118. In furtherance of its mission, the Federation and its individual members devote significant resources towards advocating for education policies that improve the daily lives and livelihood of the Federation’s members, and correlatively, to ensure that those members are able to access the franchise to support these policies at the ballot box. These resources take the form of direct contributions to candidates, running phone banks and canvassing, and sharing information with members about getting out the vote. *Id.* ¶¶ 6–7.

119. Because Federation members typically have to work on election day, many turn to mail ballots to exercise their right to vote. *Id.* ¶ 8.

120. Any provision or policy requiring the rejection of valid mail ballots with missing or incorrect dates (“the Date Provision”) threatens to disenfranchise members of the Federation who are unquestionably eligible to vote. *Id.*

121. At least one Federation member had his mail ballot rejected in 2022 because of the Date Provision. *Id.* ¶ 9.

122. For the 2022 general election, the Date Provision forced the Federation to spend resources on digital communications such as email newsletters and online publications to educate its members about the need to correctly date the outer envelope of mail ballots, and also to spend staff and member time reaching out to help its members and other Pennsylvania voters cure their ballots after they were rejected because of the Date Provision. *Id.* ¶ 10.

123. The rejection of undated or misdated ballots frustrates the Federation’s mission of electing candidates who support the policies for which the Federation advocates, and will force the Federation to divert staff and member time in future elections from its advocacy efforts toward

educating its members and other voters specifically about the need to date their mail ballots and what to do if their ballot is rejected pursuant to the Date Provision. *Id.* ¶ 11. The Federation will also have to divert staff and member time helping voters whose mail ballots are rejected under the Date Provision ensure that their votes are ultimately counted. *Id.* And because the Federation has limited resources, the staff and member time spent on activities meant to mitigate the Date Provision's harms will necessarily divert resources away from the Federation's other core activities, including canvassing and get-out-the-vote efforts such as phone banking, door knocking, and rallying at community events like roundtables and book giveaways. *Id.*

Dated: April 21, 2023

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**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

**APPENDIX OF EXHIBITS ACCOMPANYING
PLAINTIFFS' CONCISE STATEMENT OF MATERIAL FACTS**

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M	Pa. Dep't of State, "Vote In Person By Mail Ballot Before Election Day," https://www.vote.pa.gov/Voting-in-PA/Pages/Early-Voting.aspx (retrieved April 16, 2023)	777

Dated: April 21, 2023

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Exhibit A

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**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

**DECLARATION OF BETTE EAKIN IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Bette Eakin, have personal knowledge of the facts contained in this affidavit and declare as follows:

1. I am 71 years old. I live and am registered to vote in Erie County, Pennsylvania.
2. I am a veteran. I served in the Women's Army Corps from 1969 to 1971 before retiring due to disability.
3. I am registered as a member of the Democratic Party in Pennsylvania.
4. In the 2022 general election, I submitted a mail ballot to the Erie County Board of Elections before election day. I was unable to cast an in-person ballot on election day in the 2022 general election because I was planning to be out-of-state on that day to receive medical care at the Louis Stokes Department of Veteran Affairs Blind Rehabilitation Center in Cleveland, Ohio.
5. At the time, I was undergoing care for hereditary macular degeneration and cataracts, which have made me legally blind. As a result, I had to pay roughly \$40 total for Uber rides to and from a location where the county board of elections could assist me in completing my mail ballot. There, an election worker assisted me in requesting the mail ballot, completing the

mail ballot, placing the ballot in the secrecy and outer envelopes, and completing the declaration on the outer envelope.

6. While I was being treated in Ohio days before the election, I received an email stating that the county board had rejected my mail ballot because there was “an error on your balloting materials,” which I later learned was due to a missing date on the outer envelope. I was told that I would have to fix this error if I wanted my ballot to be counted.

7. Voting is incredibly important to me. So the news that my ballot would not count because of an issue with the date written on the outer envelope was extremely upsetting. I suffer from post-traumatic stress disorder and a nervous disorder. When I received the notification of my ballot’s rejection, my anxiety skyrocketed. I had to spend the rest of the day making calls trying to understand what had happened to my ballot and how I could ensure my vote would be counted while I was in Ohio, and I ended up having to miss scheduled medical care appointments during this ordeal.

8. I was forced to ask my husband, who was away on a hunting trip a two-hour drive away from home, to immediately return so that he could help make sure my ballot was counted. Because of my condition, my husband has my power of attorney and is authorized to perform such activities on my behalf.

9. My husband returned that day and had to jump through several hoops to resolve the issue with my ballot. First, he had to first stop at my son’s residence and have my son assist him in printing out the form authorizing him to act as my designated agent. He then retrieved my original ballot from the location where I submitted it, traveled to our local polling place, explained the situation, and submitted all materials at the last possible moment before the polling place closed. Thankfully, the county board accepted and counted my ballot.

10. I am very concerned that I will have to go through another saga like this in future elections. Because of my condition, I will need assistance in completing ballots, like I did in 2022. Given my PTSD and anxiety disorder, navigating the crowds at the polls on election day would be extremely difficult and a serious risk to my health. Moreover, the crowds on election day make it much harder for me to access the assistance I need to submit a ballot.

11. I do not understand why a simple error like failing to write the date on the outer envelope of a mail ballot should force me to endure the incredibly stressful situation I faced last year and potentially deprive me of my right to vote.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

Bette Eakin 4/21/23

Bette Eakin

Exhibit B

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**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

**DECLARATION OF DEVAN BARBER IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Devan Barber, have personal knowledge of the facts contained in this affidavit and declare as follows:

1. I am a Senior Advisor of DSCC, where I am responsible for tracking, analyzing, and providing advice on DSCC's operations and strategy, including its use of paid staff and volunteer time as well as financial resources. I previously served as Deputy Executive Director for DSCC in 2020, Political Director for DSCC in 2018, and Research Director for DSCC in 2016.

2. DSCC is the Democratic Party's national senatorial committee, as defined by 52 U.S.C. § 30101(14).

3. DSCC's mission is to support the election of Democratic candidates from across the country, including in Pennsylvania, to the U.S. Senate. In recent cycles, DSCC has spent millions of dollars and invested significant staff and volunteer time to persuade and mobilize voters to support senatorial candidates who affiliate with the Democratic Party, and it will continue to do so in future elections, including in 2024 in support of the Democratic senatorial candidate in Pennsylvania. Furthermore, mail voting has been critical to DSCC's Pennsylvania strategy in each

senatorial election since no-excuse mail voting was introduced in 2019.

4. DSCC works to accomplish its mission by, among other things, mobilizing and persuading voters. It engages in grassroots mobilization of volunteers and field organizers to conduct get-out-the-vote activities such as door knocking, text messaging, and phone banking, and it also runs paid television, digital, and radio advertisements along with mailings in support of Democratic candidates throughout the country. While most of DSCC's voter programs are focused on persuading eligible citizens to vote, DSCC also runs programs specifically geared toward explaining the voting process and how an eligible voter can successfully cast their ballot and have it counted. Since DSCC operates across the country, investing additional funds or personnel in one state will necessarily divert those resources from other states and key races.

5. DSCC also separately allocates funds for "curing" activities in multiple states where it anticipates there will be close senatorial races. These efforts involve contacting voters whose ballots have been rejected and helping them perform whatever task is necessary to ensure that their ballot is ultimately counted, to the extent legally permissible. These activities require DSCC to devote substantial personnel time and DSCC money to track data from counties, contact voters, and assist them in completing the curing process which varies in each state and sometimes in states like Pennsylvania, in each county.

6. By requiring county boards of elections to reject undated and misdated mail ballots, enforcement of the Date Provision frustrates DSCC's mission because it erects an obstacle to ensuring all mail ballots cast by Pennsylvanians who support Democratic Senate candidates are actually counted and impairs those Democratic candidates' electoral prospects.

7. In the 2022 general election, the Date Provision forced DSCC to divert personnel time and money away from the advocacy and persuasion activities listed in Paragraph 4 and instead

towards explaining the Date Provision to voters and warning them of the consequences of failing to comply. DSCC also diverted resources from efforts to assist voters in curing their rejected ballots in other states towards identifying Pennsylvania voters whose ballots had been rejected because of the Date Provision and helping them take the steps necessary to ensure their vote would be counted, including by casting a replacement ballot.

8. Absent the requested injunction, the Date Provision will continue to force DSCC to divert personnel time and money away from the advocacy and persuasion activities listed in Paragraph 4 and instead towards educating voters in Pennsylvania about the Date Provision and the severe consequences of failing to correctly date the outer envelope of a mail ballot. DSCC will also be forced to spend personnel time researching how each county will go about determining whether the date written on a mail-ballot envelope is “correct,” and their respective procedures for curing such ballots. Because DSCC has finite resources, these activities necessitated by the Date Provision come at the cost of DSCC’s get-out-the-vote and voter persuasion activities (as discussed in Paragraph 4) in other states with competitive Senate races.

9. The Date Provision will also continue to force DSCC in future elections to divert resources from assisting voters in other states to cure their rejected ballots towards helping voters in Pennsylvania ensure their undated or misdated mail ballots are ultimately corrected and their vote is counted.

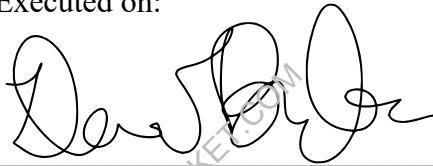
10. DSCC also represents the interests of Democratic voters in Pennsylvania and considers those individuals to be DSCC’s constituents. Democratic voters provide financial support in the form of political contributions to DSCC and candidates supported by DSCC on a regular basis, and also help select DSCC’s leadership and ultimately determine DSCC’s strategic and political direction by electing candidates to the United States Senate. DSCC asserts its claims

on behalf of itself and its constituents, which include registered voters in Pennsylvania.

11. In the 2022 general election, over 2.7 million voters in Pennsylvania cast a vote for the Democratic senatorial candidate. By requiring county boards to reject otherwise valid mail ballots, the Date Provision threatens to disenfranchise DSCC's constituents, which significantly impairs DSCC's mission to elect Democratic candidates to the U.S. Senate.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on:

A handwritten signature in black ink, appearing to read "Devan Barber", written over a horizontal line.

Devan Barber

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Exhibit C

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**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

Case No. 1:22-cv-00340-SPB

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

**DECLARATION OF ERIK RUSELOWSKI IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Erik Ruselowski, have personal knowledge of the facts contained in this affidavit and declare as follows:

1. I am the Chief Operating Officer of DCCC, and have held that position since the middle of the 2022 election cycle. In this role, I manage DCCC's day-to-day operations, including its use of paid staff and volunteer time as well as financial resources, and provide strategic advice. I previously served as DCCC's Deputy Chief Financial Officer, where I provided financial management advice, and have worked at DCCC for five election cycles.

2. DCCC is the Democratic Party's national congressional committee as defined by 52 U.S.C. § 30101(14).

3. DCCC's mission is to support the election of Democratic candidates from across the country, including those running in Pennsylvania's congressional districts, to the U.S. House of Representatives. In recent election cycles, DCCC has spent millions of dollars and invested significant staff and volunteer time to persuade and mobilize voters to support congressional candidates who affiliate with the Democratic Party, and it will continue to do so again in future

elections, including in 2024 in support of the 2024 Democratic congressional candidates in Pennsylvania.

4. Some of the ways in which DCCC works to accomplish its mission is by running paid advertisements in support of Democratic candidates, which includes paid television, social media, radio advertisements, and mailings; engaging in grassroots mobilization of volunteers and organizers on the ground to perform get-out-the-vote efforts such as text messaging, and phone banking; and running paid and volunteer programs where individuals knock on doors to boost voter turnout and encourage voters to exercise their right to vote. DCCC also supports efforts of state parties throughout the country, including in Pennsylvania, to conduct these activities by providing funding, staff and volunteer time, and ongoing coordination.

5. DCCC will also allocate and devote staff, volunteers, and funds to assist voters in curing absentee or mail ballots in states where it anticipates there will be close congressional races. Helping voters cure their ballots involves contacting voters whose ballots have been rejected and assisting them to understand and/or perform whatever task is necessary to ensure that their ballot is ultimately counted, to the extent legally permissible. These activities require DCCC to devote substantial personnel time and money to track data from counties, contact voters, and assist them in completing the curing process established in each county.

6. The Date Provision, which requires county boards of elections to reject undated and misdated mail ballots, frustrates DCCC's mission because it erects an obstacle to ensuring all ballots cast by Pennsylvanians who support Democratic House candidates are actually counted. That result harms those Democratic candidates' electoral prospects.

7. As a result of the Date Provision, DCCC will be forced to divert personnel time and DCCC money away from the activities listed in Paragraph 4 and instead towards educating voters

about the Date Provision and the severe consequences of failing to correctly date the outer envelope of a mail ballot. DCCC will also be forced to spend personnel time researching how county boards will go about determining whether the date written on a mail-ballot envelope is “correct” and gathering data on the voters impacted by a county board’s determination and the respective procedures for curing such ballots in each county where cure is an option. Because DCCC has finite resources, these activities necessitated by the Date Provision come at the cost of DCCC’s get-out-the-vote and voter persuasion activities (as discussed in Paragraph 4) in other states with competitive House races.

8. Separately, the Date Provision will force DCCC to divert the funds it would have otherwise allocated for ballot curing activities in other states, discussed in Paragraph 5, towards races in Pennsylvania. When DCCC reallocates resources to Pennsylvania to help voters cure their undated and misdated mail ballots, it impairs DCCC’s ability to help voters in other states.

9. DCCC also represents the interests of Democratic voters in Pennsylvania and considers those individuals to be DCCC’s constituents. Democratic voters provide financial support in the form of political contributions to DCCC and candidates supported by DCCC on a regular basis, and also help select DCCC’s leadership and ultimately determine DCCC’s strategic and political direction by electing candidates to the United States House of Representatives. DCCC asserts its claims on behalf of itself and its constituents in Pennsylvania.

10. In the 2022 general election, more than 2.4 million Pennsylvanians cast a vote for the Democratic congressional candidate in their district. Some of those voters saw their mail ballots rejected for failure to correctly date their ballot envelope. By requiring county boards to reject these otherwise valid mail ballots, the Date Provision threatens to disenfranchise DCCC’s constituents, which significantly impairs DCCC’s mission to elect Democratic candidates to the

U.S. House of Representatives.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 4/20/23



Erik Ruselowski

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Exhibit D

RETRIEVED FROM DEMOCRACYDOCKET.COM

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

**DECLARATION OF ARTHUR STEINBERG IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

I, Arthur Steinberg, have personal knowledge of the following facts and declare as follows:

1. I am the President of AFT Pennsylvania, and have held that position since 2019.
2. AFT Pennsylvania (the "Federation") is the Pennsylvania affiliate of the American Federation of Teachers and a union of professionals.
3. The Federation has approximately 25,000 members in 55 local affiliates across Pennsylvania. These members include public school educators and support staff, higher-education faculty and support staff, and other public employees such as social workers.
4. The Federation's members attend meetings of, and pay dues to, their local AFT affiliates, who in turn contribute funds to the Federation as a whole. The members also elect delegates to a biannual statewide convention, which elects AFT's leadership.
5. The Federation is a union of professionals with a mission to champion fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for its members' students, their families, and their communities. The Federation is committed to advancing these principles through community engagement, organizing, collective

bargaining and political activism, and especially through the work its members do. The Federation also advocates for sound, commonsense public education policies, including high academic and conduct standards for students and greater professionalism for teachers and school staff, as well as excellence in public service through cooperative problem-solving and workplace innovations.

6. In furtherance of its mission, the Federation and its individual members devote significant resources to advocating for education policies that improve the daily lives and livelihood of the Federation's members, as well as advocating for social justice and equality under the law. This takes the form of direct contributions to candidates, running phone banks and canvassing, communicating with members through weekly emails, sharing information electronically about elections and getting out the vote, and following up with members to remind them to submit their mail ballot.

7. Also in furtherance of its mission, the Federation works to ensure that its members are able to access the franchise to support these policies at the ballot box.

8. Because Federation members typically have to work on election day, many turn to mail ballots to exercise their right to vote. And any provision or policy requiring the rejection of valid mail ballots with missing or incorrect dates ("the Date Provision") threatens to disenfranchise members of the Federation who are unquestionably eligible to vote.

9. Indeed, this happened in the 2022 general election. To give one example, Federation member and Philadelphia County resident David Malone had his mail ballot set aside because the outer envelope was missing a date or had an incorrect date.

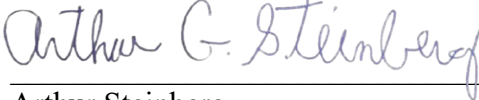
10. In light of the Pennsylvania Supreme Court's October 2022 decision ordering county boards to reject undated and misdated mail ballots, the Federation spent resources on digital communications such as email newsletters and online publications in advance of the 2022 general

election to educate its members about the need to correctly date the outer envelope of mail ballots. The Federation also reached out to inform and remind its members and other Pennsylvania voters how to submit their mail ballot and cure their mail ballots if it was rejected because of the Date Requirement.

11. By standing in the way of the Federation's members having their mail ballots counted, the Date Provision frustrates the Federation's mission of electing candidates who support the policies for which the Federation advocates. As a result, the Date Provision will require the Federation to spend staff and member time in future elections educating its members and other voters specifically about the need to date their mail ballots and what to do if their ballot is rejected pursuant to the Date Requirement. The Federation will also have to spend staff and member time and effort helping voters whose mail ballots are rejected under the Date Requirement ensure that their rejected ballots are ultimately counted. And because the Federation has limited resources, the staff and member time and effort spent on activities meant to mitigate the Date Provision's harms will necessarily divert resources away from the Federation's other core activities, including canvassing and get-out-the-vote efforts such as phone banking, door knocking, and rallying at community events like roundtables and book giveaways.

Under 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: April 21, 2023



Arthur Steinberg

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Exhibit E

RETRIEVED FROM DEMOCRACYDOCKET.COM

J. Marks

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

-----x
PENNSYLVANIA STATE CONFERENCE OF THE NAACP, et al.,

Plaintiffs,

Case No.

1:22-cv-00339-SPB

vs.

LEIGH M. CHAPMAN, In Her Official Capacity as Acting
Secretary of the Commonwealth, et al.,

Defendants.

- and -

EAKIN, et al.,

Plaintiffs,

Case No.

1:22-cv-00340

vs.

ADAMS COUNTY BOARD OF ELECTIONS, et al.,

Defendants.

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REMOTE VIDEOTAPED DEPOSITION OF

JONATHAN M. MARKS

Jefferson Hills, Pennsylvania

Tuesday, February 14, 2023

Reported by:

THOMAS A. FERNICOLA, RPR

JOB NO. 222618

1 J. Marks
2 registered voter within the County entitled
3 to receive a ballot.

4 Q So the voter returns this
5 application form.

6 Now, is the application form
7 standardized?

8 A It is, yes. The Department
9 issues a standardized form, both paper and
10 electronic.

11 I do believe third parties like
12 political parties and other -- you know,
13 other campaigns, can issue absentee or
14 mail-in ballot request forms as well, but
15 they have to conform with the statutory
16 requirements that are in our prescribed
17 form.

18 Q By "statutory requirements,"
19 you're talking about the types of
20 information that the voter must provide,
21 including the I.D.?

22 A Correct.

23 Q So an application comes in, and
24 it goes to the Department of State or the
25 County?

1 J. Marks

2 A It goes to the individual's
3 County Board of Elections.

4 Q What are the County Board's
5 obligations, if you know?

6 A Well, the County has to review
7 the application, verify that the
8 identification provided by the voter checks
9 out. And they do that systematically in
10 the SURE system.

11 And, upon approval, then the
12 County has to deliver a ballot along with
13 the necessary envelopes that the voter must
14 insert their ballot into after they're done
15 voting for return to the County Election
16 Office.

17 Q You used a phrase I want you to
18 unpack for me. Systematically through the
19 SURE system is how Counties verify, I
20 guess, voter eligibility.

21 Explain a little bit more what
22 that means.

23 A Well, so, obviously, the SURE
24 system, Statewide Uniform Registry of
25 Electors, houses all of the registered

1 J. Marks

2 voters within the County. So they have the
3 voters record that they can compare the
4 application to.

5 Q Wait, I'm sorry. What do you
6 mean have their record? What's in the
7 record that they're comparing?

8 A It would be the voter
9 registration records. So the County,
10 within the SURE system, maintain their
11 official voter rolls.

12 Each County maintains its
13 official voter rolls. The Counties then
14 use the SURE system to verify the
15 identification provided by the voter.

16 So if the voter provides their
17 driver's license number, the system will
18 actually send out a call to PennDOT's
19 database to verify that that driver's
20 license number matches the name provided by
21 the registered voter.

22 Likewise, the last four of SSN
23 goes -- it also goes through PennDOT.

24 They have an agreement with the
25 Social Security Administration, so the last

1 J. Marks

2 four of SSN can also be verified against
3 the Social Security Administration's
4 database.

5 Q What is SSN?

6 A Social Security number. Excuse
7 me.

8 Q So, I'm sorry --

9 A Sorry, we use lot of acronyms in
10 government, and I forget sometimes.

11 Q Not a problem.

12 And so the Counties take all
13 these steps to verify that the individual
14 applying for a mail-in ballot is, in fact,
15 an eligible voter; is that correct?

16 A That's correct.

17 Q I want to walk you through or
18 have you walk me through the return process
19 for a mail-in ballot.

20 I'm going to direct you to
21 Exhibit 2.

22 MR. WALCZAK: I'll try to put
23 that in the chat for folks following
24 along.

25 Kathy, did that come through?

1 J. Marks

2 How does the voter return a
3 mail-in ballot?

4 A So, as I said earlier, after the
5 voter votes the ballot, completes the
6 ballot, they fold it, insert the ballot
7 into the secrecy envelope.

8 They insert that then into the
9 declaration envelope and seal it, sign it,
10 and they return it to the Board of
11 Elections either through the mail, or if
12 the County has a drop box available, or
13 drop boxes available, they can drop it
14 there, or they can return it in person
15 directly to their County Board of
16 Elections.

17 Q When it arrives at the County
18 Board of Elections, are there any legal
19 obligations that the Board has with respect
20 to these mail-in ballot envelopes, if you
21 know?

22 MS. MULLEN: Objection.

23 A My understanding, the primary
24 legal obligation after they receive the
25 ballot is to keep that ballot secure after

1 J. Marks

2 they process it until Election Day, until
3 it can be canvassed or pre-canvassed,
4 excuse me.

5 Q Is there a requirement that they
6 date and time stamp the ballot when it
7 arrives or the declaration envelope when it
8 arrives?

9 A The Counties do have to determine
10 whether a ballot has been timely received.

11 So the Counties -- I believe most
12 Counties have some date stamp mechanism,
13 but I have seen Counties use slightly
14 different mechanisms.

15 One County, at least previously,
16 used a color coding system to determine or
17 to segregate ballots that were received by
18 the statutory deadline versus those that
19 were received after the statutory deadline.

20 But each County has some
21 mechanism in place to identify which
22 ballots were timely received and which ones
23 were not.

24 Q Is there a uniform deadline for
25 receipt of ballots?

1 J. Marks

2 A There is. There's a statutory
3 deadline of 8:00 p.m. on Election Day for
4 receipt of ballots.

5 Q So if a ballot is received at
6 7:59 on Election Day, is it timely?

7 A It is, yes.

8 Q If it's received at 8:01 or
9 after, is that timely?

10 A No.

11 Q What happens with untimely
12 ballots?

13 A Well, they're set aside and not
14 counted, but they remain in their -- you
15 know, unopened in their envelopes. They
16 are set aside by the Board of Elections.

17 And, ultimately, they're rejected
18 or canceled, because they were not timely
19 received.

20 Q So the critical date and time,
21 for purposes of submitting a valid mail-in
22 ballot, is 8:00 on the night of Election
23 Day; is that correct?

24 A That's correct.

25 Q So as long as the ballot is in

1 J. Marks

2 the hands of the County Board of Elections,
3 it's timely?

4 A Correct.

5 Q When do voters get their mail-in
6 ballots?

7 A Well, voters -- at the very
8 latest, if a voter has applied prior to
9 that time, at very latest, the voters will
10 get their ballots around two weeks prior to
11 Election Day. Counties have a deadline to
12 send ballots out.

13 In most cases, Counties begin
14 sending absentee and mail-in ballots as
15 soon as they have them printed, and they're
16 ready to go, which is, you know, typically
17 several weeks prior to Election Day.

18 Q So when the voter gets the
19 ballot, is that relevant at all to whether
20 or not the ballot is going to be timely?

21 A By "timely," you mean?

22 Q Receipt --

23 A -- whether it's going to be
24 timely received by the County Board of
25 Elections after the voter votes the ballot?

1 J. Marks

2 Q Yes.

3 A No.

4 Q Does the date that the voter
5 filled out the ballot and signs the
6 declaration envelope, is that at all
7 relevant to whether or not the ballot is
8 timely?

9 A No.

10 Q So the voter could fill out the
11 declaration, the ballot and declaration, as
12 soon as they get the ballot two or more
13 weeks before, or they could fill it out the
14 day before, or the day of Election Day, and
15 drop it off at the Board of Elections, as
16 long as it's there by 8:00 on Election
17 Night, it is timely received, correct?

18 A Correct.

19 Q Now, you talked about the SURE
20 database system before.

21 Is there any obligation by the
22 Counties to enter the return mail-in ballot
23 into the SURE system?

24 A The Counties do record returned
25 ballots in the SURE system. That's how

1 J. Marks

2 vote history is assigned.

3 So, you know, as a County
4 receives ballots, or at least shortly after
5 receiving ballots, the Counties will
6 record.

7 There is a barcode, a unique
8 barcode on each envelope that's returned to
9 the County that the County uses to scan.
10 And that unique barcode is attached to that
11 specific voter who requested the absentee
12 or mail-in ballots.

13 So, yes, the Counties record
14 those envelopes as returned in the
15 SURE system.

16 Q Does the SURE system assign a
17 time to when they're scanned?

18 A It does. So it defaults to the
19 current date and time, as I recall.

20 Now, the Counties do have the
21 ability to edit that, if necessary, in a
22 circumstance where the County is recording
23 it at some point after the voter actually
24 returned the ballot to the County.

25 Q So if all the staff are really

1 J. Marks

2 busy when the ballot comes in and couldn't
3 enter it right away, they can change that?

4 A Yes, that's my recollection, yes.

5 Q There is a statutory obligation
6 for the Counties to record when the ballot
7 comes in; is that correct?

8 A There is, yes.

9 Act 77 of 2019, you know, in
10 addition to what we talked about earlier,
11 also added a requirement that Counties
12 provide lists of individuals who requested
13 absentee and mail-in ballots.

14 And that list has to contain the
15 date the individual applied for the ballot,
16 the date the County sent the ballot to the
17 voter, the date that the ballot was
18 returned to the County. All of those
19 elements have to be provided in that list.

20 And I believe they have to
21 provide that within 48 hours of receiving a
22 request for production list from a
23 candidate or a political party or a
24 campaign.

25 Q Does entry by the County Board of

1 J. Marks

2 Elections of the return ballot into the
3 SURE system trigger any kind of notice to
4 the voter?

5 A It does. If the voter provided
6 an email address at the time they applied,
7 the voter will receive a notification via
8 email letting them know that the County has
9 received their absentee or mail-in ballot.

10 And it will also indicate the
11 disposition, generally, the disposition of
12 that ballot.

13 Q What do you mean by "disposition
14 of the ballot"?

15 A So if a County cancels a ballot
16 because there is a problem with the ballot,
17 either the voter did not include -- you
18 know, didn't insert it in a secrecy
19 envelope, for example, or the voter didn't
20 sign the declaration, and the County
21 records that disposition in SURE, the voter
22 would get a notification letting them know
23 that their ballot was received, but it was
24 canceled.

25 And it gives them kind of a

1 J. Marks

2 the voter provided an email address, the
3 voter would receive notification that the
4 ballot was received.

5 If the County cancels the ballot
6 because there's some issue with it, they
7 would receive notification of that as well.

8 So how the County records it in
9 the SURE system would be relevant, yes.

10 Q So can the County just record it
11 as ballot received at 7:00 p.m. on Election
12 Night, or do they have to say that it's
13 either accepted or declined?

14 A They could record it as received,
15 and then later make a determination that
16 the ballot should be declined. So it
17 somewhat depends on their own internal
18 process.

19 If they're not -- you know, if
20 they're simply, you know, doing intake and
21 not necessarily reviewing the ballots as
22 they come in, they're going to record them
23 as returned.

24 And then at some later point
25 during the pre-canvass, likely they will

1 J. Marks

2 make a determination that there's an issue
3 with the outer envelope. And they may at
4 that time change the disposition of the
5 ballot in the SURE system.

6 Q So that determination that a
7 ballot has a deficient declaration envelope
8 could come after 8:00 on Election Night?

9 A It could, yes.

10 Q In which case, the SURE system
11 itself could not trigger any kind of notice
12 to the voter that their ballot had been
13 declined?

14 A Well, the SURE system -- unless
15 I'm mistaken and something has changed
16 recently, the SURE system would still send
17 the notification to the voter irrespective
18 of when the County recorded that
19 disposition.

20 Our guidance to the Counties has
21 been consistently over the last couple of
22 years to record ballots in SURE as quickly
23 as possible after they're received.

24 Q I'm sorry. To try and clarify,
25 so when you say "enter," is that just the

1 J. Marks

2 scan of the barcode that's on the
3 declaration envelope, or is there something
4 more that needs to be done?

5 A You know, I do not work in SURE
6 myself, so, you know, my high-level
7 understanding is that you would also -- you
8 scan it, mark it as returned.

9 You also would, at some point,
10 identify the disposition of the ballot as
11 well. So if it were to be canceled, you
12 would have to update that record to
13 indicate why the ballot was canceled.

14 Q So the scanning indicates time of
15 return, and that determines whether it's
16 timely or not, correct?

17 A Correct.

18 Q And then the code would be
19 important to denote whether or not
20 facially, based on what you can tell from
21 the declaration envelope, the ballot
22 either -- the declaration envelope is
23 either compliant or it's not?

24 A Correct. And that may also be
25 used for some other reason. As I said, you

1 J. Marks

2 know, the secrecy envelope was not included
3 or the ballot was not included in the
4 secrecy envelope.

5 And that determination, you know,
6 those determinations may not be made until
7 during the pre-canvass or even the canvas
8 after 8:00 p.m. on Election Day depending
9 on when the ballot was returned.

10 Q Is there uniformity in the
11 Counties in how and when they enter those
12 determinations?

13 A There isn't. As I said, you
14 know, each County, based on their workflow,
15 based on their staffing level, it's going
16 to vary from one County to another.

17 Q So is it fair to say that some
18 Counties endeavor to alert voters of
19 deficient, facially deficient, ballots
20 prior to the return deadline?

21 A That's my understanding.

22 You know, I, obviously, cannot
23 speak for all 67 Counties on this issue,
24 but I am aware that some Counties record
25 those ballots, try to notify voters as soon

1 J. Marks

2 Q So now moving to the May 18,
3 2021, Primary.

4 So during that election, were
5 undated ballots counted?

6 A My recollection is that they
7 weren't with the exception of a handful of
8 Counties that, in spite of the Department's
9 guidance to the contrary, decided to count
10 them.

11 Q So, at some point, in late 2020,
12 early 2021, the Department put out guidance
13 about how to handle undated and misdated
14 mail-in ballots?

15 A Yes, I believe based on, you
16 mentioned, Justice Wecht's concurring and
17 dissenting opinion, I think it was our
18 interpretation as well that, moving forward
19 after the November 2020 Election, that the
20 expectation was that those ballots would
21 not be counted if they weren't dated.

22 Q And how about incorrectly dated?

23 A I'd have to review our guidance
24 as it existed at the time. I don't recall
25 when incorrectly dated -- you know, that is

1 J. Marks

2 a term that doesn't exist in the Election
3 Code. It doesn't have a definition.

4 Our Supreme Court last year
5 before the November election attempted to
6 provide some guidance, but I don't recall
7 if we directly addressed incorrectly dated,
8 but we certainly addressed undated ballots.

9 Q If I could ask you to take a look
10 at Exhibit 4 there.

11 (Marks' Exhibit 4, Marks' 6-1-21
12 Email, was marked for identification,
13 as of this date.)

14 BY MR. WALCZAK:

15 Q Do you recognize what's marked as
16 Marks' Exhibit 4?

17 A I do, yes.

18 Q What is it?

19 A This is an email that I sent out
20 to Counties in June of 2021 as a follow-up
21 from the May 18 Primary.

22 Q I'll represent to you that this
23 was taken from an exhibit in the Migliori
24 case, hence, the blue lettering at the top
25 and the exhibit sticker at the bottom.

1 J. Marks

2 Is it fair to say that the email
3 you sent did not bear either of those?

4 A Those indicia, no.

5 Q Now, I note at the top, it says
6 this is from Marks Jonathan to Marks
7 Jonathan.

8 Are you in the habit of just
9 sending emails to yourself, or does this go
10 a little bit broader?

11 A No, I have talked to myself on
12 occasion. But, no, we typically -- when we
13 blast an email out to Counties, we will
14 blind copy everyone so that we don't have a
15 big list of email addresses in the "to"
16 field.

17 So I'll send it to myself and
18 blind copy everyone else who receives it.
19 But this email did go out to all of our
20 Election Director contacts in the 67
21 Counties.

22 Q So this was not targeted just to
23 a select number of Counties, this went to
24 all Counties?

25 A Correct, yes.

1 J. Marks

2 Q And the subject line there says,
3 "DOS Email Reminder Regarding Requirement
4 to Sign and Date Declaration Envelopes."

5 Did I read that correctly?

6 A That's correct, yes.

7 Q So are you, in this email,
8 conveying your view, or are you
9 representing the Department of State?

10 A I'm representing the Department
11 of State's view.

12 Q Was this reviewed by lawyers at
13 the Department?

14 A It was, yes.

15 Q Why did you send this?

16 A Well, I think the first paragraph
17 in the email indicates the why.

18 You know, we had received
19 information, not only through news
20 articles, but also calls and questions that
21 some Counties were continuing to accept and
22 count ballots that did not contain both a
23 signature and a date. So it was sent as a
24 reminder to Counties what the current state
25 of the law was on the issue.

1 J. Marks

2 Q If you could go down to that
3 third paragraph in Exhibit 4?

4 A Yes.

5 Q Reminder of previous
6 clarification of 10/25/2020, it says:

7 "There is no basis to reject a
8 ballot for putting the wrong date on the
9 envelope."

10 Is that correct?

11 A Correct, yes.

12 Q So undated ballots should not be
13 counted, but if there is any date on the
14 ballot, then it should be counted.

15 Is that the Department's advice
16 here?

17 A Yes.

18 Q Then it says, "Nor is the date
19 written used to determine the eligibility
20 of the voter."

21 What does that mean?

22 A Well, I mean, it speaks for
23 itself. You know, it's the Department's
24 opinion that the date that the voter
25 inserts on that envelope, whether it's the

1 J. Marks

2 date they're assigning it or some other
3 date, has no bearing on the voter's
4 qualifications to vote.

5 Q Those qualifications are what?

6 A Well, they have to be, you know,
7 of age, a citizen, and a resident of the
8 Commonwealth for 30 days before an
9 election.

10 Those are the only ones that I'm
11 aware of.

12 Q And the date that the voter
13 writes on their verification envelope does
14 not bear on any of those qualifications?

15 A That's correct, yes.

16 Q Did this guidance carry through
17 the November 2021 General Election?

18 A I believe it did. As I recall
19 the timeline, we did not have a decision in
20 Migliori until after the November 2021
21 Election.

22 Q So the guidance from the
23 Department for the May Primary, or, yes,
24 May 2021 Primary, the November 2021
25 Election, and then the May 2022 Primary was

1 J. Marks

2 that undated ballots should not be counted,
3 but ballots bearing any date, even one that
4 appears to be incorrect, should be counted;
5 is that accurate?

6 A That is my recollection, yes.

7 Q And the May Primary in 2022 was
8 May 17; is that right?

9 A That sounds right, yes.

10 Q And then you referenced a minute
11 ago Migliori.

12 What is Migliori?

13 A Well, that was the case that
14 originated in Lehigh County in the, I
15 believe, Third Circuit Federal Court.

16 That decision, if I recall,
17 became very shortly after the May Primary
18 in 2022. It would sort of change the
19 landscape on the question of undated
20 ballots.

21 Q When you say, "change the
22 landscape," how did it do so?

23 A Well, the Federal Court -- you
24 know, I'll be succinct. I mean, the
25 Federal Court basically determined that

1 J. Marks

2 Q Was the purpose of this to
3 basically alert the Counties to what the
4 Department viewed as the impact or
5 requirements of the Ball decision?

6 A That's correct, yes.

7 Q So what this did was kind of
8 formally amend the Department's
9 September 26 guidance which we looked at as
10 Marks' Exhibit 5; is that right?

11 MS. MULLEN: Objection.

12 A Yes, that's correct.
13 The supplement is probably a word
14 I would -- we struck through the
15 no-longer-relevant portions, and then
16 supplemented the guidance with this.

17 Q Would you agree with me that the
18 biggest change Ball instituted was that now
19 incorrectly dated ballots, whatever that
20 means, could not be counted?

21 MS. MULLEN: Objection.

22 A Yes. Substantively, that was the
23 biggest change. Incorrectly dated ballots
24 could not be counted.

25 And, you know, prior to that, the

1 J. Marks

2 Department's guidance on that issue was
3 that if there's a date on the ballot, it
4 should be counted, even at the point in
5 time where we were telling Counties not to
6 count undated ballots.

7 Q So after Ball, the Department's
8 read of that decision was that neither
9 undated nor incorrectly dated ballots could
10 be counted; is that right?

11 A That's correct, yes.

12 Q Looking down on page 3 of
13 Exhibit 6, the first bullet point talks
14 about directing Counties to scan return
15 ballots into the SURE system immediately?

16 A Correct, yes.

17 Q And to date-stamp those; is that
18 correct?

19 A Yes.

20 Q Why did you include that in this?

21 A Well, we wanted to remind
22 Counties that they should have a mechanism
23 for determining which ballots were timely
24 received and on what date those ballots
25 were received.

1 J. Marks

2 Q So looking at the second and
3 third bullet points there, they essentially
4 ask the Counties to examine the declaration
5 envelopes for signature and date, and then
6 code them appropriately if they're missing
7 either of those; is that correct?

8 A That's correct, yes.

9 Q And why did the Department
10 include that?

11 A Well, we wanted -- for a couple
12 reasons, we wanted -- to the extent that
13 the voter provided an email address, we
14 wanted to make sure the voter was alerted
15 to the status of their ballot.

16 We also wanted to make sure that
17 Counties were putting -- were coding these
18 correctly so that we would have data on
19 which ballots were set aside, because there
20 was a problem with the declaration
21 envelope.

22 Q Do you know whether all the
23 Counties complied with that guidance?

24 A I don't. I can't say that every
25 County did everything that was outlined in

1 J. Marks

2 this guidance, including the, you know,
3 immediately recording ballots returned in
4 the SURE system.

5 Q Do you know that some Counties
6 did not immediately record some ballots
7 into the SURE system?

8 A My recollection is that that is
9 true, yes.

10 Q Are you aware that some Counties
11 may have recorded it but not have put in
12 the cancellation code?

13 A That's my recollection as well,
14 yes.

15 Q And do you recall how many
16 Counties did not follow that guidance?

17 A I don't recall the exact number
18 of Counties, and I don't know that we
19 necessarily surveyed the Counties on that
20 issue.

21 Q Based on what you do know, do you
22 believe that it was more than five Counties
23 that did not comply with that guidance?

24 A I believe that's true, yes.

25 Q Do you believe it was more than

1 J. Marks

2 ten?

3 A I believe there were probably
4 more than ten, that it was in the double
5 digits, based on what I know.

6 Again, I don't have any empirical
7 data to back that up, but, anecdotally,
8 yes.

9 Q Looking at the last bullet on
10 page 3 of Exhibit 6, is it fair to term
11 that as advice to provide notice and an
12 opportunity to cure for voters?

13 A Yes. We believe that if a voter
14 was returning their ballot by hand, and the
15 person who was receiving the ballot should
16 review it, and if they identified an error
17 on the outside of the envelope, that it was
18 appropriate to give that voter an
19 opportunity to fix that error before
20 submitting it to the County.

21 Q Do you know whether all Counties'
22 Board of Elections complied with that
23 guidance?

24 A I do not, no.

25 Q Do you know whether any Counties

1 J. Marks

2 did not comply with that guidance?

3 A I don't recall. I don't know
4 that -- if there are any Counties who did
5 not comply with that guidance on in-person,
6 you know, handing the ballot over the
7 counter, no, I don't know.

8 Q So that "notice and cure" applies
9 to people who were returning their ballots
10 in person, but there's also potentially
11 "notice and cure" to people who submitted
12 their ballots by mail or just dropped them
13 off in a drop box or delivered in some
14 fashion as well; is that right?

15 A That's correct, yes.

16 Q As I believe you said earlier,
17 it's your understanding of the law that
18 there's no prohibition on that, but there's
19 also no requirement of that on the Counties
20 to do that "notice and cure"; is that
21 correct?

22 A That's correct, yes.

23 Q Are you aware of some Counties
24 that did do some variation of "notice and
25 cure" opportunity in the November 8, 2022,

1 J. Marks

2 Q And this was issued on
3 November 5, 2022?

4 A That's correct, yes.

5 Q So that's before Election Day,
6 correct?

7 A It is, yes.

8 Q What's your understanding of the
9 purpose of this supplemental order?

10 A My understanding of the purpose
11 was to provide some standard, or some
12 guidance, if you will, on how a County
13 would go about determining whether a ballot
14 is incorrectly dated or not.

15 Q If I'm reading this correctly,
16 they set out a range of dates that if the
17 date that was written on the declaration
18 envelope fell between or fell in that
19 range, one range for absentee, one for
20 mail-in ballots, that the ballots should be
21 counted, correct?

22 A If the date inserted by the voter
23 fell within that range, the ballot should
24 be counted, is that your...

25 Q Yes.

1 J. Marks

2 A Yes, that's correct.

3 Q Is there any way for the County
4 Board of Elections to know whether the date
5 the voter has put on the declaration form
6 is, in fact, the date that they filled out
7 the ballot?

8 A No. Unless the voter is doing it
9 in person in front of the County Election
10 official, no, they would not.

11 Q But if it's being done at home or
12 away from an Elections Office, put in an
13 envelope and somehow delivered by mail or
14 dropped off, the County Election Board
15 can't know whether the date the voter has
16 marked is, in fact, the date that they
17 filled out the ballot, correct?

18 A Correct, yes.

19 Q For purposes of timeliness, as we
20 discussed earlier, the date that the voter
21 actually fills out the ballot is
22 irrelevant, correct?

23 A The date the voter fills out the
24 ballot, no.

25 Q So as long as it's received prior

1 J. Marks

2 to the deadline, 8:00 on Election Night,
3 the date the voter fills out the ballot is
4 irrelevant?

5 A Correct. The date the voter
6 fills out the ballot, the date the voter
7 signs the declaration envelope and returns
8 the ballot to the County is irrelevant.

9 What's relevant is the date that
10 it's received by the County in determining
11 whether the ballot should be counted or
12 not.

13 Q And if a voter is filling this
14 out in privacy, as they are supposed to do,
15 the ballots are secret, there's no way for
16 the Elections Board to know whether that
17 date is, in fact, representative of when
18 they filled out the ballot, or when they
19 signed the declaration, or when they, in
20 fact, put it in the mail, correct?

21 A Correct.

22 Q So this order applied to the
23 November 8 Election, correct?

24 A Correct, yes.

25 Q Has the Department of State given

1 J. Marks

2 any kind of guidance to the County Board of
3 Elections about how to handle,
4 quote/unquote, incorrect dates for the
5 May 2023 Primary?

6 A We have not. Our current
7 guidance on the issue will remain unchanged
8 barring, you know, another ruling by this
9 court or another court on the issue.

10 But we did provide a reminder to
11 the Counties who recently had special
12 elections that this was the current status
13 of our guidance on the issue of undated and
14 incorrectly dated ballots, meaning the
15 guidance that we issued shortly before the
16 November election in response to Ball v.
17 Chapman. So that's the current status quo
18 right now.

19 Q Does the Department have any
20 guidance on whether or not a date is
21 incorrect for the upcoming election?

22 A We do not.

23 Q Does the Department expect to put
24 out guidance for the upcoming election
25 around what is an incorrect date?

1 J. Marks

2 a hypothetical. I don't know whether it
3 actually happened or not.

4 But, yes, hypothetically if that
5 were the case with an individual voter,
6 under the Supreme Court's supplemental
7 order, that ballot would have been counted
8 irrespective of the fact that the voter did
9 not put the date on which they signed the
10 declaration on the declaration.

11 Q So to that extent, if a voter
12 simply made a mistake in the date, as long
13 as that date was within that range, it
14 would have counted?

15 A Correct.

16 Q And, you know, without a notary
17 requirement -- and I'm not certainly urging
18 the legislature to take that up, but some
19 states do have that, it's impossible to
20 tell whether or not that date accurately
21 reflects when the voter -- discussed
22 earlier, is that right?

23 MS. MULLEN: Vic, you broke up
24 there. Could you repeat your question?
25 The video froze.

1 J. Marks

2 MR. WALCZAK: It was brilliant.

3 I don't know that I can repeat it.

4 I'll do my best.

5 BY MR. WALCZAK:

6 Q So because there's no witness
7 requirement to that date, there's no way
8 that the Board of Elections can know
9 whether or not the voter inserted a date
10 that reflects the date on which they filled
11 out the ballot or mailed the declaration
12 envelope, correct?

13 A Correct. There would be no way
14 for the County to independently verify, if
15 that's what you're asking.

16 Q And, ultimately, the only date
17 that matters here is whether or not that
18 ballot is received by the statutory
19 deadline of 8:00 on Election Night,
20 correct?

21 A Correct.

22 Q And the County Board of
23 Elections, because they received that date,
24 are in the best position to determine that,
25 correct?

1 J. Marks

2 A Correct.

3 Q I want to talk about what other
4 possible uses the date on the declaration
5 envelope may serve in the election process.

6 So it's not relevant to whether
7 it's timely received, correct?

8 A Correct.

9 Q So correct me if I am wrong, one
10 of the eligibility requirements is that the
11 voter has to be 18, right?

12 A Correct, yes.

13 Q And the person's age would be
14 ascertained at the time of registration,
15 correct?

16 A That's correct, yes.

17 Q So if they submit an application,
18 and the application is returned to them,
19 they're 18 years old, correct?

20 A Correct, or they will at least be
21 18 years old by the date of the next
22 election.

23 Q Same for whether they have been a
24 citizen?

25 A Correct.

1 J. Marks

2 ballots?

3 A That's correct, yes.

4 MR. WALCZAK: I have no further
5 questions for Mr. Marks.

6 Jacob or Kathy, do you want to
7 let Mr. Baxenberg have a shot first?

8 MR. BOYER: Yes, why doesn't
9 Mr. Baxenberg go next. And then I may
10 have a small number of questions to
11 follow up. Then after he is done, if
12 there's other defendant Counties who
13 want to question, maybe they can go
14 after I have.

15 BY MR. BAXENBERG:

16 Q Good afternoon, Mr. Marks.

17 Justin Baxenberg here representing the
18 plaintiffs in the other lawsuit, the Eakin
19 lawsuit.

20 I just have maybe seven or eight
21 questions for you we can move through
22 pretty quick.

23 Other than the deadline for
24 receiving mail ballots, is there any
25 requirement that voters return mail ballot

1 J. Marks

2 within a certain period of time after they
3 have dated and signed the ballot?

4 A No.

5 Q So a voter could receive and
6 complete their mail ballot, and then wait a
7 few weeks before submitting it as long as
8 it's submitted it by the deadline, is that
9 correct?

10 A That's correct, yes.

11 Q And a voter could, at least
12 hypothetically, sign their ballot one day,
13 put it aside for a couple weeks, and then
14 realize, oh, I need to date it and sign it,
15 put that day's date, send in the ballot,
16 correct, and as long as it's received by
17 the deadline, it will be counted?

18 MR. WALCZAK: Objection.

19 A Yes, that's correct. I've done
20 that myself. I've completed the ballot and
21 waited a few days afterwards because I
22 needed a stamp.

23 Q It's one of those things that
24 people used to have.

25 A Yes. It's not something we keep

1 J. Marks

2 handy anymore.

3 Q Mail ballots are only sent to
4 voters who have timely completed and
5 submitted an application to vote by mail,
6 is that correct?

7 A That's correct, yes.

8 Q And mail ballots are specific to
9 each election?

10 A They are, yes, they are unique to
11 each election, yes.

12 Q Anyone who returns a mail ballot
13 for a particular election, therefore, must
14 have received that ballot at some point
15 after the ballots for that election were
16 distributed; is that correct?

17 A Correct.

18 Q And if a mail-in ballot is
19 returned with a signature, the ballot must
20 have been signed at some point between when
21 ballots were distributed and when the
22 ballot was returned; is that correct?

23 A Correct, yes.

24 Q If a mail-in ballot is received
25 after the return deadline but dated before

1 J. Marks

2 A Well, again, I think, you know,
3 the Board would make a determination when
4 examining.

5 But I think the assumption is
6 that the voter has signed the envelope
7 after having their I.D. verified receiving
8 the ballot.

9 I'm not sure I understand the
10 question, but I think the Board would be
11 able to look at the outer envelope to
12 determine whether the voter signed it or
13 not.

14 Q Well, my specific question was:
15 How would the Board know that it's the
16 voter him or herself that signed?

17 A I suppose if the Board noticed
18 the signature of another individual or an
19 individual with a different name, I think
20 that would indicate that perhaps there was
21 a mixup there.

22 And we've seen that occur where a
23 spouse signed. You know, they got it mixed
24 up, and they signed on behalf of their
25 spouse.

1 J. Marks

2 I'm not sure what your question
3 is. I mean, if you're asking me --

4 Q As I understand it --

5 A -- analysis, the answer is no.

6 Q But I'm trying to understand the
7 Department's position as to why the
8 declaration is relevant or important but
9 the date is not?

10 MS. MULLEN: Objection.

11 A Well, again, I think without a
12 signature, the person who is returning the
13 ballot is not affirming that they're
14 qualified to vote in the election. And I
15 think that's a relevant fact.

16 Whether they correctly dated that
17 affirmation or not, I don't believe, is
18 relevant in terms of the truthfulness of
19 the affirmation.

20 Q But to your point, there's no
21 basis for the -- you agree that the
22 Department can't set aside a ballot based
23 on signature analysis, correct?

24 A Correct. Yes, that's not a
25 requirement.

1 J. Marks

2 And if it were to be, it would
3 require a whole lot of training and
4 upgrading of our infrastructure.

5 Q So for this important purpose
6 that you stated of determining that they
7 are representing that it's their vote,
8 there's no way for the Board to determine
9 that it's the actual voter making that
10 determination?

11 MS. MULLEN: Objection.

12 A Absolutely determine, I suppose
13 you're correct.

14 MR. GIANCOLA: I'm going to go
15 over my notes, but I'm happy to pass to
16 the next attorney to keep things
17 moving.

18 Thanks for your time.

19 MS. MULLEN: Can we take just a
20 five-minute break?

21 Does anybody have an objection to
22 that?

23 MR. WALCZAK: Kathy, I would just
24 ask if Mr. Giancola has additional
25 questions, that he go ahead and ask

Exhibit E6

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Exhibit J

RETRIEVED FROM DEMOCRACYDOCKET.COM



**Guidance on Undated and Incorrectly Dated
Mail-in and Absentee Ballot Envelopes Based on
the Pennsylvania Supreme Court's Order in *Ball
v. Chapman*, issued November 1, 2022**

Date: November 3, 2022

Version: 1.0

Guidance on Undated and Incorrectly Dated Mail-in and Absentee Ballot Envelopes Based on the Pennsylvania Supreme Court's Order in *Ball v. Chapman*, issued November 1, 2022

On November 1, 2022, the Pennsylvania Supreme Court issued an Order regarding undated and incorrectly dated outer envelopes containing mail-in and absentee ballots. A copy of that Order is attached. This email follows an initial communication from Deputy Secretary Jonathan Marks on the evening of November 1, 2022 and provides additional guidance to counties regarding the Court's Order.

In light of the Court's Order, the Department's September 26, 2022 Guidance Concerning Examination of Absentee and Mail-In Return Envelopes ("Envelope Guidance") and Guidance Concerning Civilian Absentee and Mail-In Ballot Procedures as it relates to undated and incorrectly dated outer envelopes is modified as stated below and counties are directed as follows:

- Returned ballots should be scanned into the SURE system immediately upon receipt. County election offices should ensure that previously received mail-in and absentee ballots have been scanned into SURE.
 - As a reminder, election offices should date-stamp return envelopes for all mail-in and absentee ballots immediately upon receipt.
- Examine all mail-in and absentee ballots received to determine if the return envelopes for those ballots are signed and dated.
- For ballots which are administratively determined to be undated or incorrectly dated, code that ballot as CANC – NO SIGNATURE within the SURE system.
- Further, for those ballots that have been administratively determined to be undated or incorrectly dated, the ballots must be segregated from other ballots. Counties may prefer to keep segregated undated and incorrectly dated ballots organized by precinct, and alphabetically by last name within each precinct.
 - The department strongly recommends that counties also segregate into separate groups undated ballots versus incorrectly dated ballots.
- For voters returning their ballots in person to election offices, office personnel should remind voters to confirm that they signed and correctly dated their ballots, and to provide them an opportunity to do so prior to submission.

###

Version	Date	Description
1.0	11/3/22	Original issue

Exhibit F

RETRIEVED FROM DEMOCRACYDOCKET.COM

C. Kauffman

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

-----x
PENNSYLVANIA STATE CONFERENCE OF THE NAACP, et al.,

Plaintiffs,

Case No.

1:22-cv-00339-SPB

vs.

LEIGH M. CHAPMAN, In Her Official Capacity as Acting
Secretary of the Commonwealth, et al.,

Defendants.

- and -

EAKIN, et al.,

Plaintiffs,

Case No.

1:22-cv-00340

vs.

ADAMS COUNTY BOARD OF ELECTIONS, et al.,

Defendants.
-----x

REMOVED FROM DEMOCRACYDOCKET.COM

REMOTE VIDEOTAPED DEPOSITION OF

CODY L. KAUFFMAN

30(b)(6): Berks County Board of Elections
Jefferson Hills, Pennsylvania

February 17, 2023

Reported by:

THOMAS A. FERNICOLA, RPR

JOB NO. 222619

1 C. Kauffman

2 "You have never used or referred
3 to the date handwritten on the outer return
4 envelope containing a mail ballot of any
5 purpose related to determining or
6 confirming the mail ballot's voter's
7 eligibility, i.e., their age, citizenship,
8 County, and duration of residence, and
9 felony status."

10 Did I read that correctly?

11 A Yes.

12 Q I'll ask you to take another look
13 at the answer here. It's largely similar,
14 if not identical, to the one you just
15 reviewed; is that right?

16 A Yes, I would say that's fair.

17 Q Okay.

18 So I want to break this response
19 down into a couple of pieces.

20 First, I notice that the Berks
21 County Board stated that it, quote:

22 "Did not use the handwritten date
23 on the outer return envelope of an absentee
24 or mail-in ballot to determine or confirm
25 the following qualifications of the voter

1 C. Kauffman
2 to cast a ballot in that election, and that
3 includes the voter's age, citizenship,
4 County, duration of residence, or felony
5 status."

6 Did I read that part of the
7 response correctly?

8 A You did.

9 Q When Berks County is singling out
10 age, citizenship, County, duration of
11 residence, felony status, that's because
12 those are the qualifications that a County
13 has to verify under Pennsylvania law before
14 a voter can cast their ballot; is that
15 right?

16 A That's fair, yes.

17 Q Just to take a step back from
18 this response for a minute, at what stage
19 does the Berks Board determine those
20 qualifications to vote?

21 A To my knowledge, that would be --
22 those qualifications would be when the
23 elector would submit voter registration
24 information, voter registration
25 application.

1 C. Kauffman

2 Q Whenever a voter submits that
3 information for the registration or for
4 their application for a mail ballot, what
5 information does the Berks Board use to
6 determine whether a voter meets those
7 qualifications?

8 MR. BUKOWSKI: Objection.
9 Compound.

10 MS. KEENAN: I can break that up.
11 BY MS. KEENAN:

12 Q Whenever a voter submits their
13 registry information, what information does
14 the Berks Board use to determine whether
15 that voter is qualified?

16 A Well, they would view the
17 information that would be submitted on the
18 voter registry application.

19 Q Okay.

20 And so you would agree that Berks
21 County does not use the handwritten date on
22 the voter's ballot return envelope to
23 confirm any of those qualifications, right?

24 A Age, citizenship, County,
25 duration of residence, and felony status?

1 C. Kauffman

2 Q Yes, just those five?

3 A I would agree with that.

4 Q That's because the County has
5 other systems for confirming all of those
6 things relevant to voter's qualifications
7 that we just talked about, right?

8 A Correct.

9 Q That's why in that last
10 paragraph, Berks County explains the
11 handwritten date is not used to determine
12 voter's qualifications or eligibility to
13 vote in any election, right?

14 A Yes, as in the paragraph, yes.

15 MR. BUKOWSKI: Can I just ask
16 you -- someone is typing, maybe taking
17 notes, I don't believe it's you.

18 MS. KEENAN: I can hear it as
19 well.

20 MR. BUKOWSKI: Yes, it's somebody
21 else.

22 Whoever it is typing, it is a
23 little distracting. So if you can mute
24 your microphone, that would be great.

25 Apparently, it might be somebody

1 C. Kauffman

2 identified with a 412 area code.

3 Thank you.

4 MS. KEENAN: Sure.

5 BY MS. KEENAN:

6 Q Mr. Kauffman, does the Berks
7 County Board of Elections use the
8 handwritten date on that ballot return
9 envelope for any other purpose?

10 A Use the handwritten date on the
11 ballot return envelope for any other
12 purpose?

13 Well, they would use it to
14 confirm the ballot return envelope meets
15 the requirements of Pennsylvania law
16 Election Code.

17 I'm sure we will get into Ball v.
18 Chapman, you know, and before that, the In
19 Re: Canvas decision.

20 So they would use that date to
21 confirm that the ballot met the
22 requirements of Pennsylvania law.

23 Another instance I've seen that
24 date relied upon would be for voters --
25 deceased voters, so if we get, like,

1 C. Kauffman
2 notification from the Department of Health
3 that a voter is deceased.

4 I have had instances where the
5 elections department would bring instances
6 to me of, you know, just for an example,
7 say a voter passed away on October 1, but
8 that ballot was dated October 20, well,
9 that may be something that we would want to
10 look further into, i.e., is there any
11 impropriety there?

12 Do we need to take it to the
13 Board to discuss it in an Election Board
14 meeting, you know, to determine if there's
15 impropriety and/or if it's to be referred
16 to the District Attorney's Office.

17 So I would say, in instances like
18 that, we would use the date to, you know,
19 for those reasons.

20 Q So I want to start with the
21 deceased voters.

22 You would agree that if a person
23 is dead before Election Day, their vote
24 does not count, right?

25 A Yes.

1 C. Kauffman

2 Q And you agree that the County
3 actually provides a date stamp on every
4 ballot envelope that it receives to verify
5 when the County received the ballot, right?

6 A Yes, that's correct.

7 Q And so either that date stamp or
8 the day of the election was after you
9 learned the voter had passed, you would not
10 count that vote, right?

11 MR. BUKOWSKI: Objection.

12 A Can you repeat the question? I
13 just want to make sure I'm understanding it
14 correctly.

15 Q Sure.

16 So let's say the voter passes on
17 November 6, 2022, and the election was on
18 November 8; is that right?

19 A Yes, correct.

20 Q If you learned that the voter had
21 passed on November 6, then that vote would
22 not count regardless of what, if any, date
23 was written on the voter's return envelope,
24 right?

25 A Yes, that's fair, yes.

1 C. Kauffman

2 Q The next reason you gave was
3 verifying compliance with the Election
4 Code; is that right?

5 A Right. Well, yes, compliance
6 with the code, and then any interpreting
7 case law, yes.

8 Q Just to make sure I understand,
9 Berks County -- means that it uses the
10 dates to determine whether the voter
11 complied with the dating requirement,
12 right?

13 A Yes.

14 Q And that's the only way that
15 voter written date is relevant, right,
16 determine whether the voter complied with
17 the requirement to sign and date the
18 envelope?

19 MR. BUKOWSKI: Objection.

20 A In that instance when we're
21 looking at a ballot to determine if it
22 complied with the dating requirement, yes,
23 we're looking at the date to confirm that
24 it's in compliance with State law, yes, any
25 law, really.

1 C. Kauffman

2 Q So if the ballot doesn't include
3 a date, then it's not compliant with
4 Ball v. Chapman or the law, right?

5 A Correct. Well, with
6 Ball vs. Chapman, correct.

7 Q Then if the voter did provide a
8 date within the range, then it's a
9 compliant vote with Ball vs. Chapman,
10 right?

11 A Correct, yes. If it's a date
12 that falls within the ranges outlined in
13 Ball vs. Chapman, it's otherwise timely
14 received, then, yes.

15 Q So that's the end of the analysis
16 when the Berks Board is reviewing the date
17 on the envelope, right, for that
18 handwritten date?

19 A In determining if it's compliant
20 with legal requirements, yes, I think
21 that's fair.

22 Q So other than determining whether
23 the ballot is compliant with legal
24 requirements, is there any other reason why
25 the Berks Board uses that handwritten date?

1 C. Kauffman

2 A Currently, I can't think of any.

3 In the past, like in 2020, there
4 would have been the three-day extension
5 that was issued. But currently as it
6 stands, no, I can't think of any.

7 Q Right.

8 And what you're referring to back
9 in 2020 is that if there wasn't a clear
10 postmark, you could check that date to see
11 if there was proof the ballot was mailed
12 after the polls were closed on Election
13 Day; is that right?

14 A Right. Yes, if there wasn't a
15 clear postmark, I believe ballots would be
16 presumed timely unless a preponderance
17 demonstrated that it wasn't.

18 And I think in that instance, the
19 date, you know, would be very relevant to
20 that preponderance analysis.

21 But you're correct, that's what
22 I'm referring to.

23 Q That was for the November 2020
24 Election, right?

25 A That's correct, yes.

1 C. Kauffman

2 Q You would agree that the Berks
3 Board did not use the handwritten date for
4 that purpose in either the 2021 or the 2022
5 elections; is that right?

6 A Yes, that's correct.

7 Q Okay, so I want to return to that
8 response that I have shared on the screen.

9 In that response, Berks County
10 states that:

11 "The voters who returned ballots
12 without any date on the outer return
13 envelope, or dates that fell outside the
14 range defined by the Pennsylvania Supreme
15 Court's supplemental order, were not
16 prohibited from voting."

17 Do you see that? I'm
18 highlighting it here.

19 A Yes, I do.

20 Q I want to make sure I understand
21 what that means.

22 You agree that if a voter
23 returned a ballot without a handwritten
24 date on the outer return envelope, Berks
25 County did not count their ballot, right?

1 C. Kauffman
2 missing or incorrect date on the return
3 envelope for the November 2022 General
4 Election, right?

5 A That's correct, pursuant to the
6 litigation over the past summer in the
7 Commonwealth Court, yes.

8 MS. KEENAN: I'm going to share
9 on my screen Berks 5. I'm going to go
10 to page -- it's the Bates-stamped page
11 Berks 00017.

12 MR. BUKOWSKI: That was the
13 Exhibit Berks 5, correct?

14 MS. KEENAN: Exhibit Berks 5,
15 correct.

16 MR. BUKOWSKI: The stack of
17 minutes and agendas and all that stuff?

18 MS. KEENAN: Yes, that's right.

19 MR. BUKOWSKI: Okay.

20 BY MS. KEENAN:

21 Q On Berks page number
22 Bates-stamped Berks 17, you can see this is
23 the regular meeting minutes from the
24 October 20, 2022, meeting, right?

25 MR. BUKOWSKI: You're not sharing

1 C. Kauffman

2 yet. I can hand the --

3 MS. KEENAN: I'm sorry, I thought

4 I was.

5 MR. BUKOWSKI: I'm happy to hand

6 him a copy, too.

7 MS. KEENAN: Either or both is

8 fine with me, but I'll make sure I have

9 it on my screen just so everyone else

10 can see it as well.

11 MR. BUKOWSKI: It's there.

12 BY MS. KEENAN:

13 Q I'm going to scroll down to the
14 citizen comments section of this meeting,
15 which is down on page that's Bates-stamped
16 Berks 00019.

17 One of the citizens asked if the
18 Elections Office was checking dates on
19 ballots that may be flipped citing that
20 some people's country of origin may write a
21 date differently.

22 Do you remember that comment?

23 A I do, yes.

24 Q At that time, to your knowledge,
25 did the Berks Board already have a

1 C. Kauffman
2 mechanism in place to account for this
3 different dating convention that the
4 citizen mentioned?

5 A Our Office of Election Services
6 did have or developed a sort of internal
7 procedure that they would try to account
8 for that, because it was raised at this
9 meeting, and there was a brief discussion.

10 But our Office of Election
11 Services did and does try to account for
12 that, to the extent that they're able,
13 because we try to enfranchise to the best
14 of our ability.

15 Q Can you explain a little bit
16 about why the Berks Board's internal policy
17 is to try to account for these types of
18 dates where the month and the dates might
19 be flipped?

20 A Well, I think, again, I go back
21 to my previous answer, we really do try to
22 err on the side of enfranchisement, to the
23 best that we're able to.

24 Q Are you familiar with the sort of
25 dating convention that this citizen is

1 C. Kauffman

2 talking about, some people refer to it as
3 the European dating convention where the
4 day and the month are flipped?

5 A Yes, I'm familiar with that.

6 Q I'm going to stop sharing the
7 screen again.

8 You would agree that on
9 November 3, 2022, the Berks Board had a
10 discussion of the Supreme Court of
11 Pennsylvania's November 1 decision in
12 Ball vs. Chapman, right?

13 A Yes.

14 Q At that November 3 Board meeting,
15 the Board agreed to follow the Supreme
16 Court of Pennsylvania's order to segregate
17 ballots in three groups: Counted, not
18 dated, and misdated; is that right?

19 A That's correct.

20 Q And the Board agreed at that
21 meeting to provide two options to voters
22 who returned envelopes that were undated or
23 misdated. They could come into the office
24 and cure, or they could go to the polls and
25 vote by provisional ballot; is that right?

1 C. Kauffman

2 A Yes. Pursuant to the order that
3 was issued, that's correct, those are the
4 two options the Board presented.

5 Q Whenever the Berks Board was
6 thinking about how this change in
7 requirement might affect voters, did the
8 Berks Board take any steps to notify voters
9 about this change to the requirement?

10 A Yes. So, one, we discussed it at
11 a public Election Board meeting.

12 And I would say that was a
13 concern for the Board, because this was now
14 less than a week before the election, and,
15 you know, our intended handling had changed
16 based upon Ball vs. Chapman.

17 So the first thing we did, we
18 discussed it in a public meeting where the
19 Board decided on a direction and announced
20 their direction.

21 Shortly after that, a press
22 release was issued appraising -- trying to
23 apprise the voters of this issue, and
24 setting forth that they could either vote
25 provisional or come in and cure their

1 C. Kauffman

2 ballot.

3 So, yes, the Board did take steps
4 to try to publicize this issue to the best
5 of our ability.

6 Q I want to follow up with that
7 press release.

8 Where did Berks' Board publish
9 that press release?

10 A Well, it would have been sent out
11 by our Public Relations Officer at the
12 time. To my knowledge, she has like a
13 media contact list.

14 Candidly, I don't know all of
15 those contacts, but it is a standard
16 contact list.

17 And I do believe an article
18 following that was printed in the Reading
19 Eagle, which is the local newspaper in
20 Berks County, in the Reading region.

21 So, to my knowledge, that's where
22 the press release was sent out to.

23 I also believe it was posted on
24 the website of Election Services as well.

25 Q Then as far as notifying

1 C. Kauffman
2 individual voters who might have been
3 affected, I understand that the SURE
4 system -- the S-U-R-E system, for the court
5 reporter -- would send a notice to certain
6 affected voters; is that right?

7 A Yes.

8 So, as I understand it, and,
9 again, I don't work every day in the SURE
10 system.

11 But, generally, my rough
12 understanding of how that works is we were
13 planning to count those ballots.

14 We got -- you know, we were sued.
15 The Commonwealth Court issued the order.
16 We felt that was sufficient guidance for
17 November to move forward. So we were
18 planning to count those ballots.

19 As I understand it, as those
20 ballots would have processed and scanned
21 in, voters would have received some sort of
22 notification from SURE.

23 The issue, though, after
24 Ball vs. Chapman is that credit for those
25 ballots would have been entered in reverse.

1 C. Kauffman

2 And when that's done, I believe the voter
3 would then get some other notification.

4 So that was a big concern for the
5 Board, because, you know, voters may not
6 understand that's happening with the
7 ballot.

8 So they wanted to make sure that
9 in this circumstance, voters had an
10 understanding of the reasons that that was
11 happening.

12 Q So just to make sure I'm
13 understanding, are you saying the voter
14 could have received a notice that their
15 ballot would be counted, and then another
16 notice that their ballot would not be
17 counted?

18 Is that the concern that you had,
19 or was it slightly different than that?

20 A I think, yes, that would have
21 been the concern is, yes, conflicting
22 notice was, I think, the main concern at
23 the time.

24 But also the concern was, you
25 know, we had voted to count these ballots,

1 C. Kauffman

2 to the best of their ability, yes.

3 Q Okay.

4 So if somebody -- if a voter
5 wrote a date that preceded September 19,
6 2022, you would have set that ballot aside,
7 right?

8 A That preceded for a mail-in
9 ballot?

10 Q Yes.

11 So for a mail-in ballot, if the
12 voter handwrote the date in their voter
13 declaration form, and they wrote
14 September 18, 2022, Berks would have set
15 that ballot aside, right?

16 A Yes. I mean, that would have
17 been the hope, again, to the best of -- you
18 know, I should preface that by saying yes,
19 however, our registrars are down there
20 processing tens of thousands of these
21 ballots.

22 So, yes, to the best of their
23 ability at this point, I would say that it
24 was our intent to follow the
25 Ball vs. Chapman orders, yes.

1 C. Kauffman

2 Q And so just to make sure I'm
3 clarifying that in a way that you're
4 comfortable with, the Berks Board's policy
5 would have been not to count that ballot
6 leaving aside the administration by the
7 individual registrars?

8 A Yes, it would have been to follow
9 the Ball vs. Chapman orders.

10 Q If someone wrote September 20,
11 2022, on their return envelope for that
12 mail ballot, so that's inside the range,
13 would your policy as the Berks Board be to
14 open that envelope and canvas it?

15 A If it was otherwise timely
16 received, and it fell within the
17 Ball vs. Chapman parameters, and there were
18 no other issues with the ballot that would
19 preclude it from being pre-canvassed and/or
20 canvassed, then, yes, that ballot ideally
21 would have been processed accordingly.

22 Q I want to just make clear that
23 any of my questions in this section should
24 assume that everybody else is okay with the
25 ballot, that it's timely received, all of

1 C. Kauffman

2 the other information is there, just
3 focusing on the date for the purpose of
4 this section of questioning.

5 A Okay.

6 Q You would agree that Berks County
7 didn't start issuing mail ballot packets
8 until October 7, 2022, right?

9 A That's correct, yes.

10 (A Discussion was Held off the
11 Record.)

12 MR. BUKOWSKI: Someone is
13 speaking unmuted on maybe a background
14 phone call.

15 Hang on. Hopefully they can
16 mute, and you can either read back or
17 repeat the question.

18 MS. KEENAN: That wasn't coming
19 from your end?

20 MR. BUKOWSKI: No.

21 MS. KEENAN: Okay, I'll reask
22 that question.

23 BY MS. KEENAN:

24 Q So just statutorily speaking,
25 nobody voting by mail-in Berks County would

1 C. Kauffman

2 A I think that's fair to say, sure.

3 Q But you would have still set that
4 envelope aside, right?

5 A We would have -- I'm sorry, can
6 you repeat that?

7 Q Sure.

8 You would have still set an
9 envelope that said November 1, 2022, aside
10 and not counted that ballot based on Ball,
11 right?

12 MR. BUKOWSKI: Objection,
13 hypothetical.

14 You can answer.

15 A Is this a mail-in or an absentee
16 ballot?

17 Q A mail-in ballot.

18 A Yes, it wouldn't have fallen
19 within the date range, so, correct, yes.

20 Q Would you have handled it
21 differently if it had been an absentee
22 ballot?

23 A I believe the date range for
24 absentee ballots in the Ball order is a
25 little bit different.

1 C. Kauffman

2 Q Okay, that's fair, right? That's
3 because -- I can share my screen again if
4 it's helpful.

5 But that's because the range in
6 Exhibit Berks 9 for absentee ballots --
7 August 30 through November 8, right?

8 A And that's solely because, you
9 know, the Pennsylvania Supreme Court gave
10 us that directive.

11 Q Right. That makes sense.

12 I want to get into some of the
13 specific envelopes that were turned over to
14 us yesterday.

15 I'm going to share on my screen
16 Exhibit Berks 7. So I want to start with
17 this first page. It's Bates-stamped as
18 Berks 00046.

19 Can you see the voter declaration
20 on the screen in front of you?

21 A Yes.

22 Q I want to start by walking
23 through the different dates on this
24 envelope.

25 You can see the date stamped in

1 C. Kauffman

2 the top left corner that shows a date, and
3 a time, right?

4 A Yes.

5 Q It says October 13, 2022, at 6
2:20 p.m., right?

7 A Yes.

8 Q And it's the Berks Board that
9 adds these date stamps on the return
10 envelope, right?

11 A Correct. Those are employees of
12 Election Services without the date stamp
13 when they're processing those envelopes,
14 yes.

15 Q So that date stamp reflects the
16 date and the time in which the envelope was
17 processed by the Board of Elections, right?

18 A Yes.

19 Q So if the date stamp by the Berks
20 Board was before 8:00 p.m. on November 8,
21 2022, then the envelope was timely received
22 under the Election Code, right?

23 A Yes, if the date stamp was before
24 then, yes, that's -- yes.

25 Q So for this envelope that we're

1 C. Kauffman

2 looking at here the date stamp is
3 October 13, 2022, so we know this ballot
4 was timely received, right?

5 A Yes.

6 Q So you'd agree there's also a
7 handwritten date on the declaration on the
8 right side of the page we're looking at,
9 right?

10 A Yes.

11 Q And your understanding is that's
12 the date that the voter wrote on their
13 declaration?

14 A Yes.

15 Q Here that handwritten date says 16
11/12/21, right?

17 A '22.

18 Q Or '22, I'm sorry.

19 So 11/12/22, just for the record?

20 A Yes.

21 Q That doesn't indicate to you that
22 the voter actually signed the ballot on
23 November 12, 2022, does it?

24 A Well, it does say today's date,
25 but, presumably, if it was received on

1 C. Kauffman

2 October 13, I understand what you're trying
3 to say.

4 Q Right.

5 So if the Board received the
6 ballot on October 13, you know, the voter
7 didn't actually sign that envelope on
8 November 12, 2022, right?

9 A Generally, I think that's fair,
10 yes.

11 Q When you see that the voter wrote
12 11, and it says 12 for the month, that
13 doesn't indicate that the voter was engaged
14 in sort of any fraud, does it?

15 A No, not to my knowledge.

16 Q We can agree that if the person
17 had written 10/12/22 instead of 11/12/22,
18 then this envelope would have complied with
19 the dating rule, right?

20 A Correct, then it would have been
21 compliant with the law.

22 Q And based on the date stamp that
23 we see from the Berks Board, we can see
24 that the ballot was received by the Berks
25 Board just one day after 10/12/22, right?

1 C. Kauffman

2 A Yes, it was received -- well, it
3 was time stamped October 13.

4 Ideally, they're time stamped as
5 contemporaneously as possible and received,
6 of course, they get a lot of these things,
7 so I think it's fair to say that we
8 probably received that on October 30, yes.

9 Q Going forward, I'll use the word
10 "process" rather than "received," just to
11 be precise.

12 But based on the date that the
13 Board processed this ballot, would you
14 agree it seems possible here that the voter
15 had signed this envelope on 10/12/22 and
16 wrote the right day and year but the wrong
17 month?

18 MR. BUKOWSKI: Objection. Calls
19 for speculation.

20 A I'd be speculating. Certainly,
21 that's a possibility, but, you know, there
22 are a lot of possibilities so...

23 Q Berks County still set this vote
24 aside as incorrectly dated because the date
25 is outside the range set forth by the

1 C. Kauffman

2 Pennsylvania Supreme Court, right?

3 A Correct. The Pennsylvania
4 Supreme Court told us we couldn't count
5 that.

6 Q I want to go to another envelope,
7 same exhibit, but this time the page is
8 Bates-stamped Berks 00060.

9 Here, you can see that the Berks
10 Board date stamp says October 20, 2022,
11 right?

12 A Yes.

13 Q So we know the ballot was timely
14 received by the Board?

15 A That's fair, yes.

16 Q And you'd agree that the voter
17 handwritten date says 10/20/21, right?

18 A That's what it looks like, yes.

19 Q And, again, that doesn't indicate
20 to you that somebody actually voted this
21 ballot in 2021 and held onto their ballot
22 before they mailed it in 2022, right?

23 A Yes, that's fair.

24 Q You'd agree nobody has their
25 ballots or envelopes back in 2021, right?

1 C. Kauffman

2 A Yes, I was just wondering if it
3 was possibly, like, somehow somebody had a
4 ballot from an earlier election.

5 But, no, that's fair. I agree
6 with that.

7 Q Fair.

8 If you would change the year in
9 this handwritten date from '21 to '22, you
10 would agree that 10/20/22 would have been
11 an acceptable date to sign and submit a
12 ballot for the 2022 General Election,
13 right?

14 A Yes.

15 Q I'm sorry, I think sometimes the
16 recording --

17 A Yes, I would agree.

18 Q Thank you so much.

19 And if you would turn over to the
20 Board's date stamp, would you agree it's
21 actually the same date that I just read, it
22 would be 10/20/2022, right?

23 A Yes, that's what the date stamp
24 says.

25 Q But Berks County still set this

1 C. Kauffman

2 vote aside as incorrectly dated because
3 it's outside the range set forth by the
4 Pennsylvania Supreme Court, right?

5 A That's correct. The Pennsylvania
6 Supreme Court told us that we cannot count
7 that ballot.

8 Q I want to go to the ballot that
9 is Bates-stamped Berks00051 now.

10 So for this one, it looks like
11 the forged date stamp says November 4,
12 2022; is that right?

13 MR. BUKOWSKI: Which one are you
14 on? Let me just catch up to you.

15 MS. KEENAN: Sure. Sorry, it's
16 Berks 00051. Just let me know when you
17 have it.

18 MR. BUKOWSKI: Okay.

19 I think maybe you misstated the
20 date, but you're talking about the date
21 stamp?

22 MS. KEENAN: Yes. This one is
23 tricky because there's a couple of
24 different dates stamps, but the date
25 stamps on the Berks Board looks like

1 C. Kauffman

2 it's dated November 4, 2022.

3 BY MS. KEENAN:

4 Q Is that right?

5 A Yes, either -- I can't tell, one
6 way or the other. It either is November 4
7 or November 14.

8 Q Just for the record, we only
9 requested ballots that were timely received
10 were produced in this case. So I think
11 it's safe to say this one is November 4.

12 Are you comfortable with that
13 representation?

14 A For the purposes of these
15 questions, we can assume it's November 4,
16 2022.

17 Q Okay.

18 But, you would agree the voter's
19 handwritten date, in any event, says
20 11/3/2023, right?

21 A Yes.

22 Q You would agree that doesn't
23 indicate that somebody actually submitted
24 their ballot for the 2022 election in
25 November of 2023, does it?

1 C. Kauffman

2 A Yes, that's fair.

3 Q You'd agree that's not possible?

4 A Yes.

5 Q And you don't view the voter have
6 been written 2023 as an indicator of any
7 sort of attempt to commit fraud, right?

8 MR. BUKOWSKI: Objection. Lack
9 of foundation.

10 A Yes, I think that's a fair
11 statement.

12 Q Again, if you were to just change
13 the last digit of this handwritten date, we
14 would have 11/3/2022.

15 And that would be an acceptable
16 date to have submitted the ballot for the
17 2022 General Election, right?

18 A That's correct, because then the
19 date would be complying with Pennsylvania
20 law.

21 Q Right.

22 And I understand that Berks' date
23 stamp is a little tricky to read, but the
24 postal stamp is pretty clear here.

25 And you'd agree it actually says

1 C. Kauffman

2 November 3, 2022, that same date, right?

3 A Yes.

4 Q Berks still set this vote aside
5 as incorrectly dated because of the Supreme
6 Court's order in Ball vs. Chapman, right?

7 A Correct.

8 Q I'm going to move on to the
9 ballot that is Bates-stamped as
10 Berks 00066.

11 The Berks Board date stamp on
12 this envelope says October 17, 2022, right?

13 A I would agree, yes.

14 Q So this ballot was timely
15 received by the Board, right?

16 A Yes.

17 Q The voter's handwritten date on
18 this one includes the year 1939, right?

19 A Yes.

20 Q You would agree that doesn't
21 indicate to you that someone voted this
22 ballot in 1939, and then mailed the ballot
23 in 2022, right?

24 A Yes. Yes, sorry.

25 Q It seems possible that the voter

1 C. Kauffman

2 just wrote their birthday, doesn't it?

3 A It's possible, yes.

4 Q But Berks County still set this
5 vote aside as incorrectly dated because of
6 the order in Ball vs. Chapman, right?

7 A Right, because we were required
8 to pursuant to that order.

9 Q Right. And just to be clear,
10 when you say you were required to pursuant
11 to that auditory, you were just following
12 the specific date range instructed; you
13 weren't actually using this 1939 date to
14 determine when the voter filled out this
15 ballot, right?

16 A Correct. We were looking at the
17 date, the voter-supplied date on the outer
18 envelope, which is what the order is
19 concerned with.

20 Q The next one I want to look at is
21 Bates-stamped as Berks 00054.

22 So for this one, the Berks
23 Board's date stamp says October 17, 2022,
24 right?

25 A Yes.

1 C. Kauffman

2 Q So the ballot was timely received
3 by the Board?

4 A Yes.

5 Q The voter's handwritten date says 6
12/10/2022, right?

7 A It does, yes.

8 Q One way to read this date might
9 be December 10, 2022, right?

10 A That is correct, yes.

11 Q You'd agree that based on the
12 dating convention that we talked about
13 earlier, another way to read this date
14 might be October 12, 2022, right?

15 A Correct, yes.

16 Q And October 12, 2022, would be an
17 acceptable date within the range set
18 forward by the Ball vs. Chapman Court,
19 right?

20 A Yes.

21 Q So based on the European dating
22 convention that the Berks Board adopted, do
23 you agree this ballot should have been
24 counted, or do you see some other reason
25 why it may not have been?

1 C. Kauffman

2 If you're not familiar with it,
3 it's fine.

4 MS. KEENAN: I'm going to share
5 on my screen Exhibit Berks 7 now.

6 MR. BUKOWSKI: Which one is that?

7 MS. KEENAN: I'm sorry, I don't
8 mean 7. I think I mean -- give me one
9 second to figure out, Bates stamp 43,
10 yes, Berks 6.

11 This is the blank instructions
12 and envelopes provided to mail ballot
13 voters.

14 BY MS. KEENAN:

15 Q You can see, based on the date in
16 this top line, that these are the
17 instructions provided to mail ballot voters
18 in the 2022 General Election, right?

19 A Correct.

20 Q So for the 2022 election, those
21 instructions, particularly instruction
22 No. 3, told voters to sign and date the
23 pre-addressed return envelope, right?

24 A Right, sign and write today's
25 date on the pre-addressed return envelope.

1 C. Kauffman

2 Q After they told voters to sign
3 and write today's date, the instructions,
4 says your ballot will not count if it is
5 not signed and dated, right?

6 A Correct.

7 Q Does the Berks Board intend to
8 continue applying the envelope dating
9 requirement the same way it did in the 2022
10 General Election in future elections?

11 MR. BUKOWSKI: Objection.

12 A We have not discussed that yet
13 with the Board.

14 I imagine that that issue will be
15 addressed at a public Board meeting, but I
16 can't speculate as to what the Board
17 ultimately will or will not do.

18 Q I'm going to pull up the Exhibit
19 that's been marked Berks 3. It's the
20 responses to the request for admissions in
21 this case. I have a line highlighted.

22 This is the Request for Admission
23 No. 6, and the line I have highlighted is
24 that Berks Board currently intends to
25 continue to handle in future elections in

1 C. Kauffman

2 the absence of a further order from the
3 Court.

4 Has Berks changed that position
5 since the time of this RFA, or is that
6 still the current intent but it hasn't been
7 finally decided yet?

8 A Yes, I think that's fair to say.
9 You have to read it in tandem with the
10 final sentence there which says any final
11 decisions will be brought before the Board
12 in discussion and decision in a public
13 Election Board meeting.

14 Q Yes, so that was my next
15 question. I understand your Board is in
16 quite a bit of transition.

17 Do you have any sense of when
18 that final decision might be made for the
19 upcoming Primary election?

20 A I do not. No, I do not.

21 Q Do you know when your Board is
22 going to be finalized for the Primary
23 election this upcoming?

24 A So the Board is currently
25 scheduled to be reorganized, not next

1 C. Kauffman

2 Thursday, but the following Thursday.

3 Q And any decision that's made on
4 that will happen in a public meeting; is
5 that right?

6 A Regarding the counting of undated
7 or incorrectly dated ballots?

8 Q Yes.

9 A Yes, that will be discussed and
10 decided in a public meeting.

11 Q Okay, thank you for clarifying
12 that.

13 I now want to talk about how this
14 envelope dating requirement was
15 administered with respect to UOCAVA ballots
16 in Berks County.

17 So sometimes absentee ballots or
18 military overseas ballots -- you're
19 familiar with the differences in those
20 categories of ballots; is that right?

21 A Generally, yes.

22 Q In the responses to plaintiff's
23 written discovery, Berks County indicated
24 that it received 146 mail ballots from
25 UOCAVA voters.

1 C. Kauffman

2 Does that number sound right to
3 you?

4 A It does, yes.

5 Q In deciding whether to count
6 those ballots, did Berks County review the
7 outer return envelope that contained the
8 ballot?

9 A For military and overseas
10 ballots?

11 Q Yes.

12 A I believe that staff would have,
13 yes.

14 Q When election officials were
15 reviewing the outer return envelope for the
16 military overseas ballots, were they
17 reviewing the voter's handwritten date in
18 writing whether to count those ballots?

19 A I can't say for certain. I
20 didn't observe the process personally.

21 I assume they would have, but we
22 did not have any, to our knowledge,
23 misdated or undated military or civilian
24 overseas ballots for the 2022 General
25 Election.

Exhibit G

RETRIEVED FROM DEMOCRACYDOCKET.COM

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA 4

PENNSYLVANIA STATE CONFERENCE

OF THE NAACP, et al.,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as

Acting Secretary of the Commonwealth, et al.,

Defendants.

Case No. 1:22-cv-00339-SPB

-- and --

BETTY EAKIN, et al.

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, et al.

Defendants.

Case No. 1:22-cv-340

Remote Deposition of Crista Miller

Monday, February 13, 2023

11:00 a.m.

Recorded Stenographically by:
Jennifer Miller, RMR, CRR, CCR
Job No.:222617

1 C. Miller

2 my questioning.

3 MR. ZIMOLONG: Well, you have
4 misrepresented it, but I'll let you --
5 I'll let you continue.

6 MR. LONEY: Okay. So I'm going
7 to take the document production responses
8 off the screen and go back to the
9 interrogatory responses, which are Exhibit
10 Lancaster 3.

11 BY MR. LONEY:

12 Q. And I have jumped here, Ms. Miller,
13 to Interrogatory Number 14.

14 Do you see that on your -- on
15 your screen?

16 A. I do.

17 Q. And, again, if you feel the need to
18 flip through this and look at anything else to
19 contextualize your answer, let me know. But,
20 otherwise, I'm just going to ask about Question
21 Number 14 for a moment.

22 So plaintiffs' interrogatory
23 reads: "Do you contend that the handwritten
24 date is material in determining whether a
25 ballot" -- "a mail ballot voter is qualified to

1 C. Miller

2 vote in the election in which they have cast a
3 ballot?" If so, what is the basis for that
4 contention?"

5 Did I read that correctly?

6 A. You did.

7 Q. And can you take a moment to read
8 over the Lancaster board's response?

9 A. Yeah, I will.

10 Q. Let me know when you're finished
11 reading.

12 A. Okay.

13 Q. So the response that you just read,
14 you reviewed that and approved it before it was
15 served in this case, right?

16 A. Yes.

17 Q. And so you agree, in the first
18 instance, looking at the first line of the
19 response, that the dates written on envelopes
20 are not material to the question of whether a
21 person is qualified to vote?

22 The date written on the
23 envelope, for example, doesn't tell you whether
24 the person is over 18 years old, right?

25 A. Correct.

1 C. Miller

2 Q. And the date written on the envelope
3 doesn't tell you whether the voter is or has
4 been a U.S. citizen for at least a month,
5 right?

6 A. Correct.

7 Q. And the date written on the envelope
8 doesn't tell you whether the voter has resided
9 in Lancaster County for at least 30 days, does
10 it?

11 A. Correct.

12 Q. And it also doesn't tell you whether
13 the person voting is incarcerated on a felony
14 conviction, right?

15 A. Correct.

16 Q. For all of those other things I just
17 went through -- citizenship, age, residence in
18 the county, whether the person is
19 incarcerated -- the Lancaster board has other
20 methods of confirming all of those things that
21 are relevant to qualification, right? You
22 don't need the -- the -- the date on the
23 envelope?

24 MR. ZIMOLONG: Objection to
25 form.

1 C. Miller

2 You can answer.

3 THE WITNESS: That is correct.

4 BY MR. LONEY:

5 Q. But it's the Lancaster board's
6 position that -- and looking again at
7 Interrogatory Number 14 -- that the date is,
8 nevertheless, material in determining whether
9 the ballot was cast in compliance with the
10 election code; is that right?

11 A. That is correct.

12 Q. Okay. So can you help me understand
13 how that is?

14 Is it because the voter who
15 didn't write the correct date next to their
16 signature didn't comply with the election code
17 and its requirement to sign and date the outer
18 envelope?

19 A. Correct. The election code says that
20 it must be dated, and so we are looking to see
21 if there is a date or not to determine whether
22 we can open to count the ballot or not.

23 Q. Okay. So you've used the date or the
24 absence of a date to determine whether the
25 voter complied with the dating requirements.

1 C. Miller

2 Do I have that right?

3 A. Correct.

4 Q. And that's the only way a
5 voter-written date is relevant to whether the
6 vote is counted, right, to determine if the
7 voter complied with that requirement to date
8 and sign?

9 MR. ZIMOLONG: Objection to
10 form.

11 You can answer.

12 THE WITNESS: We use that date.
13 We follow the court order, if there is
14 one, for that election to give us the date
15 range and if there is a date there at all.

16 BY MR. LONEY:

17 Q. Right. If they don't include the
18 date, it's a noncompliant vote, based on the
19 most recent court order. And if they did
20 provide a date within a particular range, it's
21 a compliant vote.

22 Do I have that right?

23 A. That is correct.

24 Q. And that's -- that's the end of the
25 analysis of the date, from the Lancaster

1 C. Miller

2 Q. But if they wrote "September 20th,
3 2022," the envelope would not have been set
4 aside on the basis of the Ball order?

5 A. Correct.

6 Q. If somebody wrote a date after
7 November 8th, 2022, you also would have set
8 that aside pursuant to the court order?

9 A. Correct. Except for a military
10 ballot was a different deadline.

11 Q. And what was the military ballot
12 deadline?

13 A. The military -- sorry.

14 Military ballots are due back to
15 county boards of elections one week
16 postelection. So this past election would have
17 been November 15th.

18 Q. Okay. So if a military ballot voter
19 got their ballot back by November 15th but
20 wrote a date on the envelope that postdated
21 November 15th, that would have been set aside?

22 A. Yes, that would have been set aside.

23 Q. What about somebody who wrote
24 "October 2022" but didn't provide the exact
25 day?

1 C. Miller

2 A. I don't remember. I believe we would
3 have set those aside as it was not a full date.

4 Q. Okay. But the entire month of
5 October is within the range provided by the
6 Supreme Court, right?

7 A. Correct.

8 Q. But if they said "October 2022," you
9 still would have set that aside?

10 A. I don't remember that we had anything
11 like that to actually have looked at. Those
12 would have just been set aside to look at at
13 the canvassing, and then a decision would have
14 been made.

15 Q. Okay. And if we could look at the
16 copies of the mail ballot envelopes, we might
17 find some in there that say "October 2022"?

18 A. I don't know off the top of my head.

19 Q. What about if somebody wrote the
20 month and day that was between September 19th
21 and November 8th but didn't write a year?

22 So if somebody just wrote
23 "October 1st" with no year, would you have set
24 that aside?

25 A. Yes.

1 C. Miller

2 Q. Why? Didn't that person date the
3 envelope, and isn't October 1st in the range?

4 A. Again, that would have been set aside
5 to be looked at at the canvass as part of the
6 election.

7 I do not believe that we had any
8 like that, though. So I would be speculating
9 what we would have done.

10 Q. Okay. And all of the -- just so I'm
11 clear, all of the ballots at issue in this case
12 were submitted for the 2022 general election,
13 right?

14 A. Correct.

15 Q. And you know for sure that nobody
16 submitting any of these ballots filled them out
17 earlier in the year than September 26th because
18 that's when you first started issuing the
19 ballot packages, right?

20 A. Military ballots are different from
21 that. But all normal mail-in or absentee
22 ballots, that is correct.

23 Q. Will you agree with me that the date
24 line on the voter declaration on the return
25 envelope doesn't actually specify that the

1 C. Miller

2 voter has to write the year or, as you put it,
3 the full date?

4 MR. ZIMOLONG: Objection to
5 form. Calls for speculation.

6 THE WITNESS: I would need to
7 see one in front of me to look at how we
8 have it.

9 BY MR. LONEY:

10 Q. But sitting here right now, you don't
11 recall whether it says full date, month, day,
12 year?

13 A. I believe that it does, but I would
14 just need to see one to confirm that.

15 Q. Now, the November 5th supplemental
16 order of the Supreme Court said the envelopes
17 could be dated through November 8th, 2022.

18 Did the Lancaster board apply
19 that literally to mean, if somebody wrote
20 "November 8th, 2022," that was within the range
21 because it's through November 8th and that
22 ballot would be counted?

23 A. Yes.

24 Q. And we're only talking about
25 envelopes that were received by 8:00 p.m. on

1 C. Miller
2 else appeared to be in order, the Lancaster
3 board would have counted it, period, full stop,
4 right? There's no further evaluation as to
5 whether or not the person signed it on
6 November 8th?

7 MR. ZIMOLONG: Objection to
8 form.

9 THE WITNESS: As long as it was
10 received by 8:00 p.m. on Election Day.

11 BY MR. LONEY:

12 Q. And because that's what the Supreme
13 Court instructed, not because you're using the
14 voter-written date to make a determination as
15 to when the voter actually signed their
16 envelope, right?

17 A. Correct. We would not know that.

18 Q. Let's talk a bit about dates falling
19 after November 8th, and I'm going to limit
20 these questions to domestic mail-in ballots,
21 right. So leaving aside the military ballots
22 that might have come in by the 15th.

23 If you receive an envelope by
24 8:00 p.m. on Election Day, you know for a fact
25 that the voter didn't fill out their ballot

1 C. Miller

2 after November 8th, regardless of what they
3 wrote on the envelope, right?

4 A. Correct.

5 Q. But pursuant to the court order, you
6 still would have set aside any envelope where
7 the voter wrote a date that falls after
8 November 8th, 2022, even if it was received by
9 8:00 p.m. on Election Day, right?

10 A. Correct.

11 Q. And that's because you're
12 following -- strictly following the court
13 order, not because you're using the
14 voter-written date to determine when the voter
15 actually filled out the ballot, right?

16 A. Correct.

17 Q. What about envelopes received after
18 Election Day?

19 Leaving aside for a second the
20 date issue on what's written on the envelope,
21 what does the Lancaster board do with mail
22 ballots received after Election Day?

23 A. They are time-stamped in to show when
24 we received them, and then they are set aside
25 and not -- and not counted.

1 C. Miller

2 Q. And they're set aside and not counted
3 regardless of the date the voter writes on
4 them, right?

5 A. Correct.

6 Q. So if the voter doesn't get their
7 mail ballot to the board by 8:00p.m.
8 on Election Day, they couldn't possibly get
9 their late vote counted by backdating the
10 signature on the envelope, right?

11 A. Correct.

12 Q. So whether or not you receive a
13 ballot before 8:00 p.m. on Election Day has
14 nothing to do with whether the voter wrote
15 "November 8th, 2022," or some earlier date on
16 the envelope?

17 A. Correct.

18 Q. Now, going to the other end of the
19 timeline, envelopes dated before
20 September 19th, 2022. Again, I'll focus on
21 domestic mail ballots, leaving aside the
22 military ballots.

23 There is no way anybody in
24 Lancaster County could have actually filled out
25 the 2022 general election paperwork before

1 C. Miller

2 September 19th, right?

3 A. Correct.

4 Q. So even if somebody wrote "9/1/2022"
5 on their envelope, you knew for a fact they
6 could not have actually tried to vote using
7 this paperwork on 9/1/2022?

8 A. Correct.

9 Q. But you would have set aside that
10 envelope anyway because that's what the Supreme
11 Court instructed, right?

12 A. For mail ballots, yes. Absentees had
13 a different date range.

14 Q. Do you know what the date range was
15 for absentee?

16 A. August 30th through November 8th.

17 Q. And so I can put up the document
18 again, but I just read it. And good memory;
19 that's exactly what the document said in the
20 next part. It wasn't intended to be a memory
21 test.

22 But it said August 30th, 2022,
23 through November 8th, 2022, and did not set
24 forth a different deadline for military
25 ballots, right?

1 C. Miller

2 A. Military ballots are absentee
3 ballots.

4 Q. So the Pennsylvania Supreme Court
5 said on November 5th, 2022, that an incorrectly
6 dated outer envelope for absentee ballots would
7 be one with a date falling outside the range of
8 August 30th, 2022, through November 8th, 2022.

9 But you still would have counted
10 a military absentee ballot received and dated
11 up through November 15th?

12 A. Received by the 15th. It still would
13 have to be dated by the 8th.

14 Q. Understood.

15 So if you receive a military
16 absentee ballot on November 14th, that met the
17 submission deadline; but if the date the voter
18 wrote on that envelope was November 9th, you
19 would have set it aside pursuant to the court
20 order?

21 A. Correct.

22 Q. Got it.

23 Would the same thing be true of
24 people who might have flipped the day and the
25 month in their -- in how they write their date?

1 C. Miller

2 So, for example, some people who
3 wish to indicate November 4th might write
4 4/11 instead of 11/4?

5 MR. ZIMOLONG: Objection to
6 form.

7 You can answer.

8 BY MR. LONEY:

9 Q. Is that something you're aware of
10 people doing out in the world?

11 MR. ZIMOLONG: Calls for
12 speculation as to what people out in the
13 world do.

14 THE WITNESS: If somebody did,
15 we -- yes. I mean, I'm sure that
16 happened. But that would be seen as
17 month, date, year in our office.

18 BY MR. LONEY:

19 Q. So your office would not have done
20 anything to evaluate whether flipping the day
21 and the month in the order would have actually
22 cured a problem? You just did not count it if
23 it didn't hit the range, assuming everybody is
24 writing month then day then year?

25 A. Correct.

1 C. Miller

2 MR. LONEY: I think now would be
3 a good time to take five minutes before I
4 get into the next stretch.

5 Can we go off the record.

6 - - -

7 (Whereupon, a short recess was
8 taken.)

9 - - -

10 MR. LONEY: Ms. Miller, I'm
11 going to show the next exhibit and ask the
12 Court Reporter to mark Tab 7 as Exhibit
13 Lancaster 7.

14 - - -

15 (Whereupon, Exhibit 7 was marked
16 for identification.)

17 - - -

18 MR. LONEY: I'm sharing my
19 screen now.

20 BY MR. LONEY:

21 Q. Ms. Miller, do you see on the screen
22 a mail-in ballot envelope sample?

23 A. I do, yes.

24 MR. LONEY: Okay. And for the
25 record, I'll note that, in order to orient

1 C. Miller

2 my next line of questioning, I'm using a
3 couple of examples from Dauphin County's
4 production because we don't have any
5 produced by Lancaster County. And Dauphin
6 is a neighboring county to Lancaster that
7 redacted all of the personal identifying
8 information of any voter on any of these
9 envelopes.

10 I understand that the plaintiffs
11 in the 340 case have also received the
12 same production pursuant to protective
13 order.

14 BY MR. LONEY:

15 Q. So this Exhibit Number 7,
16 Lancaster 7, does this show the same
17 declaration form that voters in Lancaster
18 County would have gotten for the 2022 general
19 election?

20 A. I would need to see one of ours with
21 it to confirm, but it looks similar.

22 Q. You don't see anything on here
23 that -- other than the markings at the very
24 bottom for this case, you don't see anything on
25 here that would distinguish it, as you sit here

1 C. Miller

2 right now, from what Lancaster County voters
3 got?

4 A. Again, I would have to see ours
5 directly next to it in order to compare.

6 Q. Okay. Well, this exhibit shows a
7 date line. It says "today's date" and, in
8 parentheses, "required."

9 Do you see where I'm looking?

10 A. I do.

11 Q. And there's nothing there that
12 requires -- to our earlier conversation --
13 requires that month, day, and year be provided
14 in that order, is there?

15 MR. ZIMOLONG: Objection to
16 form.

17 You can answer.

18 THE WITNESS: Not for Dauphin
19 County. But, again, I would need to see
20 Lancaster's county next to it.

21 BY MR. LONEY:

22 Q. Do the counties have different forms
23 for these declarations and outer envelopes
24 within the Commonwealth of Pennsylvania?

25 A. Yes.

1 C. Miller

2 Q. Okay. So we would need to see one of
3 the Lancaster envelopes to know whether there's
4 a month, day, year requirement?

5 A. Correct.

6 Q. Also, in Exhibit Lancaster 7, there
7 is a date stamp -- date and time stamp near the
8 top. I've just highlighted it.

9 Do you see that?

10 A. Yes.

11 Q. Did the Lancaster board also apply a
12 date stamp to incoming mail ballot envelopes?

13 A. Yes.

14 Q. And the date stamp on the return
15 envelope stamped by the Lancaster board would
16 reflect the day the envelope was received by
17 the board, right?

18 A. Correct.

19 Q. So if the date stamp applied by the
20 Lancaster board was before 8:00 p.m. on 1/8/22,
21 that envelope was received in time under the
22 election code, right?

23 A. Correct.

24 Q. Now, looking specifically at the
25 document marked Lancaster 7, there's a

1 C. Miller

2 handwritten date on this envelope that reads
3 "11/7/2012."

4 Do you see that?

5 A. I do.

6 Q. Now, if this were received in
7 Lancaster County, it couldn't possibly be
8 somebody who actually tried to vote in 2012,
9 right?

10 A. Correct.

11 Q. And nobody -- none of us knew that
12 Dr. Oz was running for Senate in 2012.

13 So had you received an envelope
14 in Lancaster County where somebody, similarly,
15 wrote "2012" as the year instead of "2022,"
16 would that have indicated to you that the voter
17 was engaging in any sort of fraud?

18 A. Not fraud.

19 Q. But you would have set aside this
20 vote because it's incorrectly dated because it
21 falls outside the date range ordered by the
22 Supreme Court, right?

23 A. Correct.

24 Q. And that's because you were following
25 the Supreme Court's instructions, not because

1 C. Miller

2 you would look at this 2012 date to determine
3 when the voter actually filled out their
4 ballot, right?

5 A. We would have been following the
6 order from the Court.

7 Q. But you wouldn't have viewed this
8 2012 date as any indication that somebody was
9 attempting to mark their ballot outside of the
10 allowable date, right?

11 A. I'm not sure I completely understand
12 that question.

13 Q. I'll ask a different question.

14 Does it matter to the Lancaster
15 County board whether somebody was actually
16 marking their ballot within the date range if
17 they got the wrong date on the envelope?

18 MR. ZIMOLONG: Objection to
19 form.

20 To the extent you understand the
21 question.

22 THE WITNESS: Yeah, I -- can you
23 rephrase that.

24 BY MR. LONEY:

25 Q. Sure. If somebody -- strike that.

1 C. Miller

2 If the stamp on the envelope
3 indicates the mail ballot was received in time,
4 right -- so the stamp is on or before
5 November 8th, right?

6 A. Yes.

7 Q. And you know that nobody voted before
8 September 26th, 2022, because nobody could have
9 gotten the mail ballot forms before that,
10 right, in Lancaster County?

11 A. Correct.

12 Q. And so you know everybody who
13 submitted one of these envelopes between the
14 time you issued the mail ballot packages and
15 the November 8th stamp voted -- actually filled
16 out their envelope during that window, right?

17 MR. ZIMOLONG: Objection to
18 form. Calls for speculation.

19 THE WITNESS: One would have to
20 assume that.

21 BY MR. LONEY:

22 Q. I mean, there's no way they could
23 have voted before September 26th, right?

24 A. Correct.

25 Q. And there's no way they could have

1 C. Miller
2 voted after November 8th if you stamped the
3 envelope "received" on or before November 8th,
4 right?

5 A. Correct.

6 Q. So in those situations, does any of
7 that matter once you see that somebody
8 mistakenly put "2012" instead of "2022" on
9 their envelope?

10 A. For this election, it did not because
11 the Supreme Court order gave us date ranges to
12 use.

13 MR. LONEY: I'm going to ask the
14 Court Reporter to mark the next exhibit,
15 which is Tab 8, as Lancaster 8.

16 - - -

17 (Whereupon, Exhibit 8 was marked
18 for identification.)

19 - - -

20 MR. LONEY: Share that on my
21 screen.

22 BY MR. LONEY:

23 Q. This is another example from Dauphin
24 County.

25 Do you have another mail ballot

1 C. Miller

2 envelope sample up on your screen?

3 A. I do.

4 Q. And there's also a stamp on this
5 example near the top, similar to the date
6 stamps that the Lancaster board applied when it
7 received incoming mail ballots, right?

8 A. Correct.

9 Q. And there's also a handwritten date
10 on this envelope that reads "1/1/22," right?

11 A. Correct.

12 Q. And just like the last example, we
13 know nobody filled out a mail-in ballot for the
14 November '22 election as early as New Year's
15 Day 2022, right?

16 A. Correct.

17 Q. But if the person had just put an
18 extra 1 in front of the 1 that's currently
19 there for the month so that it would read
20 11/1/22 instead of 1/1/22, that would have been
21 in compliance with the dating rule, right?

22 A. If it said 11/1, yes.

23 Q. Right. So if the Lancaster board
24 didn't inquire as to whether that was a simple
25 mistake, that somebody wrote 1 instead of 11,

1 C. Miller

2 they would have set this aside based on what
3 appears on the face of the envelope, right?

4 MR. ZIMOLONG: Objection to
5 form.

6 You can answer.

7 THE WITNESS: Yes. We take the
8 date that is written by the voter.

9 BY MR. LONEY:

10 Q. And that's, again, because that's
11 what the Supreme Court instructed you to do,
12 not because you would look at a January date
13 and think that the person actually tried to
14 vote in January, right?

15 A. Correct.

16 MR. LONEY: I'm going to ask the
17 Court Reporter to mark the next one, which
18 is Tab 9, as Exhibit Lancaster 9.

19 - - -

20 (Whereupon, Exhibit 9 was marked
21 for identification.)

22 - - -

23 MR. LONEY: I'll share that up
24 on my screen now.

25

1 C. Miller

2 BY MR. LONEY:

3 Q. Do you have another mail ballot
4 envelope sample up on your screen?

5 A. I do.

6 Q. And, again, this envelope has a
7 handwritten date on it that reads "8/11/22,"
8 right?

9 A. Correct.

10 Q. Now, this could be an example, could
11 it not, of what we were talking about before?
12 If somebody switched month and day, they wrote
13 day/month, then they were actually writing
14 Election Day on this envelope, right?

15 MR. ZIMOLONG: Objection to
16 form. Calls for speculation.

17 THE WITNESS: It's not up to our
18 office to assume what someone is writing.
19 We can only look at exactly what's in
20 front of us and what is submitted.

21 BY MR. LONEY:

22 Q. But you did assume that everybody
23 wrote month/day/year, and that was their
24 intent, right?

25 A. Again, I would have to look at our

1 C. Miller

2 envelope to see if that is actually on our
3 envelope.

4 Q. And we would also have to look at
5 your envelopes to see if they are actually on
6 your envelope, right?

7 A. Correct.

8 Q. But in any event, if somebody wrote a
9 date that -- assuming it's month/day/year and
10 that didn't fall within the range ordered by
11 the Supreme Court, the Lancaster board didn't
12 inquire as to whether it could have been
13 someone intending to write day/month/year?

14 A. We did not.

15 Q. And this example up on the screen,
16 this is one that you would have set aside
17 without further inquiry, right?

18 A. Correct.

19 MR. LONEY: I'll ask the Court
20 Reporter to mark the next one, which is
21 Tab 11, as Exhibit Lancaster 10, if that
22 makes sense.

23 - - -

24 (Whereupon, Exhibit 10 was
25 marked for identification.)

1 C. Miller

2 - - -

3 MR. LONEY: And I'm sharing that
4 on the screen now.

5 BY MR. LONEY:

6 Q. Ms. Miller, do you see another sample
7 ballot envelope on your screen?

8 A. I do.

9 Q. And on this one, again, there's a
10 stamp near the top similar to the stamps that
11 the Lancaster board applied when it received
12 incoming mail ballots, right?

13 A. Yes.

14 Q. And that stamp is, in this example,
15 October 27th, 2022.

16 Do you see that?

17 A. I do.

18 Q. And there's also a handwritten date
19 on this envelope which reads "11/25/22," right?

20 A. Correct.

21 Q. Now, if you had received or seen an
22 envelope in Lancaster County dated
23 November 25th, 2022, would that have indicated
24 to you that somebody tried to vote after
25 Election Day?

1 C. Miller

2 A. No.

3 Q. And if you look at the comparison
4 between the date written and the date stamped,
5 if the person had put 10/25 instead of 11/25,
6 that would have been in compliance and signed
7 just two days before the board received it,
8 right?

9 A. Correct.

10 Q. But in Lancaster County's approach,
11 if you had seen this, you would set it aside
12 without further inquiry as to whether or not
13 the person intended to write "October" instead
14 of "November," right?

15 A. Correct.

16 Q. And, again, that's because that's
17 what the Supreme Court ordered and not because
18 you had any inclination that somebody mailed in
19 a ballot in October but actually filled it out
20 in November?

21 A. Correct.

22 MR. LONEY: I'm going to ask the
23 Court Reporter to mark as Exhibit
24 Lancaster 11 what we previously sent over
25 as Tab 12.

1 C. Miller

2 - - -

3 (Whereupon, Exhibit 11 was
4 marked for identification.)

5 - - -

6 BY MR. LONEY:

7 Q. Do you see another example mail
8 ballot envelope on your screen?

9 A. I do.

10 Q. So this document that's being marked
11 as Lancaster 11 actually has two dates written
12 on it. One reads "9/25/22." it looks like
13 somebody put an X through at least part of
14 that. And then there's another date written
15 below it that's "3/6/1944."

16 Do you see that?

17 A. I do.

18 Q. Now, did you -- do you remember, in
19 Lancaster County, receiving any mail ballot
20 envelopes and setting them aside that had dates
21 that were long in the past?

22 A. Yes.

23 Q. Did you look to see if any of those
24 ballots came from people who wrote their birth
25 dates on the envelopes instead of the day they

1 C. Miller

2 were voting?

3 A. We did not go back to look at that.

4 We took just what the date was written.

5 Q. So in this example, you would have

6 set it aside because the date that's not

7 crossed out is from 1944, which is obviously

8 outside of the date range ordered by the

9 Supreme Court, right?

10 A. I would be speculating on that,

11 without seeing this unredacted, to see what

12 else was on this envelope and why there were

13 two dates.

14 Q. Ah. So you're saying -- so there are

15 a couple of things redacted here, not just the

16 signature.

17 Are you saying that you might --

18 if somebody wrote some sort of explanation

19 underneath, that might have weighed into your

20 thinking?

21 A. Again, I would just need to see it

22 unredacted to know what we would have done.

23 Q. Now, if the Lancaster board had seen

24 an envelope or if you had seen an envelope

25 submitted with just "3/6/1944" in the date line

1 C. Miller

2 and nothing else other than the signature, you
3 would have set that aside, right?

4 A. Correct.

5 Q. And not because you thought somebody
6 had actually filled out a ballot in 1944 and
7 saved it until 2022, right? It's just because
8 you were following the Supreme Court's order
9 as -- as written, right?

10 A. Correct.

11 Q. Now, does this indicate to you, if
12 somebody wrote a date long in the past, that
13 the voter was engaging in any sort of voter
14 fraud?

15 A. No.

16 Q. And did the Lancaster board initiate
17 any investigations of any voters who wrote
18 dates from the 1900s on their outer envelopes
19 to see if they were committing voter fraud?

20 A. No.

21 Q. Did you refer anybody to the police
22 from the November 2022 general election for
23 putting dates long in the past in the 1900s?

24 A. No.

25 MR. LONEY: Is anybody else as

1 C. Miller

2 disturbed as I am by continuing to say
3 "the 1900s" like it's three centuries ago?

4 You don't have to answer that.

5 MR. ZIMOLONG: No. I think
6 maybe people just aren't as disturbed as
7 you by it.

8 MR. LONEY: I'm going to go back
9 for a moment to the requests for
10 admission, which I believe are Exhibit
11 Lancaster 2.

12 I'm putting that back up on the
13 screen.

14 BY MR. LONEY:

15 Q. So do you have the requests for
16 admissions back up on the screen?

17 A. Yes.

18 Q. I'm going to focus in on the second
19 request and denial here.

20 Plaintiffs asked for an
21 admission that the Lancaster board had never
22 referred to the date handwritten on a mail
23 ballot return envelope to establish whether
24 you, the Lancaster board, received the ballot
25 by the applicable deadline.

1 C. Miller

2 Do you see where I'm reading
3 from?

4 A. Yes.

5 Q. And then the Lancaster board
6 responded: "Denied to the extent that the
7 request is referring to the deadline referenced
8 in Section 3150.16(c)."

9 Do I have that right?

10 A. Yes, I see that.

11 Q. Now, do you happen to know whether
12 3150.16(c) is the provision requiring mail
13 ballots to be received at the county Board of
14 Elections by 8:00 p.m. on Election Day?

15 A. Without it in front of me, I would be
16 speculating on that. But I believe that it is.

17 Q. Okay. So if we -- and I will
18 represent, for the purpose of the next
19 question, that that was our intent in writing
20 this request, right.

21 The question is asking the
22 Lancaster board to admit that it has never
23 referred to the date handwritten on the mail
24 ballot envelope to establish whether the ballot
25 was received on Election Day or before.

1 C. Miller

2 So with that understanding, can
3 you help me understand why this statement is
4 denied?

5 MR. ZIMOLONG: Objection.

6 BY MR. LONEY:

7 Q. It doesn't sound like, from our prior
8 conversation -- like the Lancaster board
9 actually uses the date written to determine the
10 date received.

11 MR. ZIMOLONG: Objection to
12 form.

13 BY MR. LONEY:

14 Q. Is that right?

15 A. We don't use -- can you rephrase
16 that. I'm sorry.

17 Q. Sure. I'll just ask it separate from
18 the request for admission.

19 The Lancaster board doesn't
20 actually use the date written on the envelope
21 to establish when the ballot is received by the
22 board, does it?

23 A. No.

24 Q. I mean, it stamps the date received
25 on the envelope.

1 C. Miller

2 It doesn't adjust the date on
3 the stamp according to the date written by the
4 voter, right?

5 A. Correct.

6 Q. So if we had written this statement
7 more cleanly to say that -- to say exactly
8 that, that the Lancaster board does not use the
9 date written by the voter to determine whether
10 the envelope was received by Election Day, it
11 shouldn't be a denial, right? That should be
12 admitted?

13 MR. ZIMOLONG: Objection to
14 form.

15 You can answer.

16 THE WITNESS: I would be
17 speculating what the board would agree to
18 for that answer. But for my own self, I
19 would say correct.

20 BY MR. LONEY:

21 Q. So I asked a second ago about whether
22 anybody was referred to the police or
23 investigated for fraud.

24 Of the 232 voters whose mail
25 ballots were set aside in the 2022 general

1 C. Miller

2 election based on this envelope dating issue,
3 how many of those are being investigated for
4 voter fraud?

5 A. None.

6 Q. And are you aware of any other cases
7 involving alleged fraud in connection with this
8 mail ballot envelope-dating issue?

9 MR. ZIMOLONG: Objection to
10 form.

11 What do you mean "this mail
12 ballot dating envelope issue"?

13 BY MR. LONEY:

14 Q. Did you understand my question?

15 A. No.

16 Q. Okay. So I'll ask a different
17 question.

18 Are you aware of a Lancaster
19 County voter being referred to the police in
20 connection with the 2022 primary election --

21 A. Yes.

22 Q. -- for alleged voter fraud?

23 A. Yes.

24 Q. And you were the person who reported
25 this voter to the police, right?

1 C. Miller

2 A. Correct. To the district attorney.

3 Q. To the district attorney. Okay.

4 Now, that person was referred
5 for voting another person's ballot, right? It
6 was their mother's ballot?

7 A. Correct.

8 Q. And that person was caught because
9 their mother was deceased by Election Day,
10 right?

11 A. Their mother was deceased when we
12 received the ballot back.

13 Q. And did that -- those are mail ballot
14 envelopes, right -- or it was a mail ballot
15 envelope that purported to come from the
16 deceased person, right?

17 A. Correct.

18 Q. Did that mail ballot envelope have a
19 date on it under the signature?

20 A. It did.

21 Q. Was the date within the range that --
22 strike that.

23 Did it have a correct date on
24 it?

25 MR. ZIMOLONG: Objection to

1 C. Miller

2 form.

3 You can answer.

4 THE WITNESS: It had a date on
5 it. There was -- there was not a Supreme
6 Court order for the primary with the date
7 range.

8 BY MR. LONEY:

9 Q. Do you know whether it had a date
10 that was many years in the past, into the
11 1900s?

12 A. No. The date on it was August 26th,
13 2022.

14 Q. August 26th or April 26th?

15 A. Sorry. April 26th.

16 Q. Have you seen the police report from
17 that referral of -- well, strike that. I'll
18 ask this first.

19 The voter who was referred to
20 the DA's office is named Cheryl Mihaliak; is
21 that right?

22 A. Correct.

23 Q. And have you seen the police report
24 or the criminal complaint against Cheryl
25 Mihaliak before today?

1 C. Miller

2 A. Yes.

3 MR. LONEY: I'm going to ask the
4 Court Reporter to mark as Exhibit
5 Lancaster 12 the document that we
6 previously emailed over as Tab 13.

7 - - -

8 (Whereupon, Exhibit 12 was
9 marked for identification.)

10 - - -

11 MR. LONEY: I'll share my
12 screen.

13 BY MR. LONEY:

14 Q. Do you have the police criminal
15 complaint up on your screen?

16 A. I do.

17 Q. And is this -- I'm going to scroll
18 through it. Tell me to slow down if I need to.

19 My first question, as I scroll
20 through, is: Is the document on your screen,
21 Exhibit Lancaster 12, the criminal complaint
22 against Cheryl Mihaliak --

23 A. Yes.

24 Q. -- that we were just talking about?

25 A. Yes, it is.

1 C. Miller

2 Q. And on the affidavit of probable
3 cause -- do you see where I am?

4 A. Yep.

5 Q. It appears to be written by Detective
6 Larry Martin.

7 Do you know who Larry Martin is?

8 A. I do.

9 Q. And did you provide a report of what
10 you knew about Ms. Mihaliak and her alleged
11 voter fraud to Detective Martin?

12 A. I did.

13 Q. Okay. In the second paragraph, it
14 says the ballot for the Democrat primary was
15 received on April 28th, 2022, by your office,
16 right?

17 A. Correct.

18 Q. And the mother, Teresa Mihaliak, had
19 been deceased since April 14th, right?

20 A. Correct.

21 Q. Now, the criminal complaint here does
22 not indicate what date, if any, was written on
23 Ms. Mihaliak's mail-in vote, right?

24 A. It was dated April -- it says it. It
25 says it was dated April 26th, 2022.

1 C. Miller

2 Q. Ah. Thank you very much.

3 It also says that Teresa
4 Mihaliak was removed from the voter roles on
5 April 25th, 2022, right?

6 A. Correct.

7 Q. And that was before you received any
8 mail-in ballot for her?

9 A. Yes, the day before -- or three days
10 before.

11 Q. Got it.

12 So Lancaster -- the Lancaster
13 board has some mechanism for removing people
14 who die before Election Day from the voter
15 rolls, right?

16 A. Correct.

17 Q. And you would have done that in this
18 case for Teresa Mihaliak before any mail-in
19 ballot had been submitted on her behalf, right?

20 A. Correct.

21 Q. So as soon as you or the system saw
22 that Teresa Mihaliak had submitted a mail-in
23 vote after she had been removed from the voters
24 rolls because she had died, you knew that this
25 was an invalid vote, right?

1 C. Miller

2 A. Yes.

3 Q. You didn't need to look at the date
4 written on the envelope to determine that this
5 was an invalid vote?

6 A. We did.

7 Q. You did need to look at the envelope
8 to determine if this was an invalid vote?

9 A. Yes, because of when -- because of
10 how the dates lined up for all of it to have
11 happened.

12 She could have received -- she
13 did -- she would have received a ballot before
14 she died as well as the request. However, once
15 it was returned, she had already been deceased
16 for, I believe, almost two weeks.

17 Q. Right. And dying two weeks before
18 the ballot comes in makes the vote invalid as a
19 matter of course, right?

20 A. Oh, yes. It would have been
21 invalidated either way.

22 Q. Right. So regardless of the date
23 written on the envelope, that vote would not
24 have counted?

25 A. Correct.

1 C. Miller

2 Q. Because you had already caught that
3 Teresa Mihaliak had died and removed her from
4 the voter rolls before Election Day?

5 A. Yes.

6 Q. And I understand that the police are
7 interested in how the dates line up because
8 they're, presumably, going for a fraud case
9 against Cheryl Mihaliak.

10 But just focusing on whether
11 this was a valid vote, the date written on the
12 envelope didn't matter one way or the other?

13 A. Correct. When we received it back,
14 as we had already removed her, that ballot
15 would have been set to the side.

16 MR. LONEY: We can put this
17 aside for a second. I want to get back
18 for a moment to military and overseas
19 ballots.

20 And I'd like to go back to
21 Exhibit Lancaster 3, the interrogatory
22 responses.

23 If everybody would just bear
24 with me for a second while I'm chopping
25 things out of my outline to get us out of

1 C. Miller

2 here sooner.

3 BY MR. LONEY:

4 Q. Okay. So I'm sharing, again, Exhibit
5 Lancaster 3. And I've jumped to page 3, the
6 response to Interrogatory Number 1.

7 Do you see where I am?

8 A. I do.

9 Q. Actually, I'm going to ask to go off
10 the record for a few minutes.

11 - - -

12 (Whereupon, a short recess was
13 taken.)

14 - - -

15 BY MR. LONEY:

16 Q. Ms. Miller, we were talking right
17 before the break about Cheryl Mihaliak, if I
18 pronounced that correctly.

19 Are you aware of any other
20 Lancaster County voters being investigated for
21 voter fraud since your time working with the
22 Lancaster board?

23 A. I am not.

24 Q. Let me go back to sharing Exhibit
25 Lancaster 3. We were just about to talk about

1 C. Miller
2 mean both mail-in ballots and absentee
3 ballots -- does the board make a determination
4 of whether that person is eligible to
5 participate in the election?

6 A. I'm not sure I understand.

7 Q. Sure. So you said -- in response to
8 my question of after the person successfully
9 registers to vote, I asked you does the board
10 make any future determinations about that
11 person's eligibility to participate in
12 elections, and you said the board does roll
13 maintenance.

14 And so my question was: When a
15 person submits an application to vote by mail,
16 whether mail-in or absentee, does the board
17 make a determination again as to whether that
18 voter is eligible to vote?

19 A. Yes. The first thing we do is to
20 make sure that that person is actually a
21 registered voter first before we process any
22 mail ballot applications.

23 Q. Okay. And -- okay. That answered my
24 question. Thank you.

25 So does the Board of Elections

1 C. Miller

2 use the date that is written on the mail ballot
3 return envelope to determine that person's
4 eligibility to vote?

5 A. In a way, yes. Because sometimes,
6 when they come back, if it's a deceased voter,
7 then we have to remove it.

8 Q. Okay. And when is that person's
9 eligibility to vote determined?

10 Is it based on when they
11 submitted the ballot? Is it based on Election
12 Day?

13 What is the date by which you
14 determine that person's eligibility to vote in
15 a particular election?

16 A. We pull deceased voter ballots up
17 through Election Day.

18 Q. So if a person passes away before the
19 election, you say you pull the ballot.

20 What does that mean?

21 A. If we received their ballot -- their
22 voted ballot already, we would then pull that
23 from those received ballots and set aside.

24 Q. And how do you determine whether a
25 person has passed away?

1 C. Miller

2 A. We receive Department of Health
3 records, as all counties do. And we also use
4 local obituaries or if someone has a death
5 certificate that they have submitted to us.

6 Q. So if a person passes away before
7 Election Day and they -- and their ballot is
8 received for a particular election, that
9 person's ballot will not be counted?

10 A. Correct.

11 Q. And that is regardless of whether
12 there's a date on their return envelope,
13 whether the date is incorrect?

14 A. If there is not a date on the
15 envelope, we would have already pulled it for
16 it being no date. But, yes, otherwise, looking
17 at the date, yes, we still would pull it at
18 that point.

19 Q. So in response to Mr. Loney's
20 questions, you said that before the
21 Pennsylvania Supreme Court's order in November
22 of 2022 the Board of Elections was prepared to
23 count ballots regardless of whether they
24 contained a date on the envelope or whether
25 that date was correct; is that right?

1 C. Miller

2 A. Correct.

3 Q. Okay. Prior to that, has the Board
4 of Elections ever rejected a ballot solely
5 because it was contained in an envelope that
6 did not contain a date written on the envelope
7 or the date was incorrect?

8 A. Previous to that, yes. We did set
9 ballots aside that did not have a date, and we
10 did not count them.

11 Q. And can you give me the time periods
12 for that?

13 A. This fall would have been the first
14 election that we would have counted ballots
15 with no date.

16 All other elections before that,
17 we would have set those aside. But per court
18 orders that came out -- or court cases, I
19 should say, that had determinations and updated
20 guidance by the Department of State, we were
21 following that for the fall election only.

22 Q. Got it. Thank you.

23 Are you aware that the Supreme
24 Court of Pennsylvania issued its opinions in
25 that Ball case last week?

1 C. Miller

2 A. Yes.

3 Q. Okay. Are you familiar with those
4 opinions? Did you review them?

5 A. Very briefly. I wouldn't say I'm
6 super familiar with them.

7 Q. Has the board reviewed them?

8 A. I -- I know they have been sent them.
9 I can't speak to whether they have actually
10 reviewed them themselves or not.

11 Q. Okay. I'm going to now ask you
12 questions about what the board is intending to
13 do in future elections with respect to dates
14 written on the envelopes containing mail-in and
15 absentee ballots.

16 How is the Board of Elections
17 going to handle mail ballots contained in
18 envelopes in which there are no written dates
19 in future elections?

20 A. We have not spoken -- I've not spoken
21 with the Board of Elections to determine what
22 we will be doing going forward.

23 Q. You have not spoken to the Board of
24 Elections?

25 A. Since those orders have come out

1 C. Miller

2 for -- to determine what we're doing going
3 forward, we have not met to speak about that
4 yet.

5 Q. Okay. Are you aware that, in the
6 notice -- the deposition notice that we sent
7 for this deposition, Topic Number 3 was "the
8 criteria that the Lancaster Board of Elections
9 will use during future elections to determine
10 whether the date written on the mail ballot
11 return envelope is correct"?

12 A. I believe that's what that said, yes.

13 Q. So were you aware that this
14 deposition was supposed to cover what the Board
15 of Elections was planning to do in future
16 elections?

17 A. I do. But those court orders also
18 just came out, and we have not had a chance to
19 meet to go over that yet.

20 Q. When will that determination be made?

21 A. I don't know if we have a date that
22 we have set yet. I assume it would be sometime
23 in March, though, but I would be guessing.

24 Q. Okay. You answered some questions by
25 Mr. Loney about the format of the date that's

1 C. Miller

2 written on the mail ballot return envelope.

3 And you said that -- that you
4 rejected -- when I say "you," I mean the Board
5 of Elections -- you rejected -- you rejected
6 on -- ballots contained in envelopes where the
7 date was written in a format that suggested
8 that the -- let's say the date predated the
9 first date of the range set by the Pennsylvania
10 Supreme Court; is that right?

11 A. I believe.

12 Q. And you presumed that the format was
13 month, date, then year.

14 Did I hear that right?

15 A. I did. And, again, I would need to
16 see our ballot -- our ballot return envelope,
17 not Dauphin County's, because I believe that is
18 on our actual ballot return envelopes so people
19 have the right format.

20 Q. And can you tell me why you think
21 that?

22 A. I was -- I'm trying to remember
23 exactly what they look like, and I believe that
24 it is on there. But, again, without seeing it
25 in front of me, I cannot confirm that.

1 C. Miller

2 A. It's fine.

3 Q. Okay. Thanks.

4 I'm going to move down to page 9
5 of this document. And it looks like -- and
6 this is listed as Exhibit A to the responses to
7 the request for production.

8 I'm going to show you page 9,
9 which looks like half of a ballot envelope.

10 Does that look right?

11 A. Yes.

12 Q. Okay. And if -- you said before that
13 you recall that there might have been guidance
14 as to the format by which people should write
15 their date; is that right?

16 A. Correct.

17 Q. Would that have been -- so it looks
18 like, towards the bottom of this envelope, you
19 have the absentee -- it's cut off, so we can't
20 see everything that it says. But it appears to
21 be the absentee elector's declaration.

22 Where in this would the guidance
23 as to date, month, year have been or month,
24 date, year?

25 A. This -- these are used specifically

1 C. Miller

2 for military ballots, not all of our absentee
3 and regulatory mail-in ballots. So this one
4 does not appear that it has it, but it would be
5 next to the date.

6 Q. But before, when I asked you if there
7 was any reason why the board would have
8 different instructions as to the format of the
9 dates between absentee ballots, domestic mail
10 ballots, and military ballots, you could not
11 think of any; is that right?

12 A. No, I couldn't think of any.

13 MR. OSHER: Okay. I am going to
14 stop sharing my screen.

15 BY MR. OSHER:

16 Q. So going back to the assumption that
17 the date written on the envelope would be
18 month, date, year.

19 Why did you make that
20 assumption?

21 A. Again, without seeing our -- for
22 domestic mail-in absentee ballots, without
23 seeing that in front of me, I believe that it
24 is on there, which is why we use that.

25 Q. Any other reason?

1 C. Miller

2 A. No.

3 Q. Will the Board of Elections make that
4 assumption in future elections?

5 MR. ZIMOLONG: Objection to
6 form.

7 THE WITNESS: I can't speak to
8 what the Board of Elections will determine
9 without meeting with them first.

10 BY MR. OSHER:

11 Q. Does the Board of Elections provide
12 training to its workers about how to determine
13 whether the date written on a ballot is
14 correct?

15 A. We go over it with the staff, yes.
16 But I don't know that there's direct training
17 about dates specifically.

18 Q. Aside from your recollection that
19 there might have been guidance as to format of
20 the date that should be written on envelopes,
21 putting that aside, does the board provide
22 guidance to voters as to how they should format
23 the date written on the envelope?

24 A. I can't recall at the moment without
25 seeing something in front of me.

1 C. Miller

2 Q. You're not aware of any?

3 A. I can't recall. I don't -- I just
4 don't remember what's exactly in our
5 instructions.

6 Q. Okay. I think in response to
7 Mr. Loney's questions you said that the board
8 does not provide notice to voters if their
9 ballot is rejected because of a missing or
10 incorrect date.

11 Do I have that right?

12 A. Correct.

13 Q. To your knowledge, does the board
14 have any intention of providing such notice in
15 the future?

16 A. I can't speak to what the board will
17 decide going forward.

18 Q. Sure. But to your knowledge, you
19 don't know of any intent to do that in the
20 future?

21 A. I am not sure what they will do with
22 that going forward.

23 Q. Earlier, in response to Mr. Loney's
24 questions, you said that the board uses the
25 date written on the envelope to determine

1 C. Miller

2 whether the ballot is compliant with
3 election -- with the election code.

4 Do I have that right?

5 A. Correct.

6 Q. Does the board use the written date
7 on the envelope for any other purpose?

8 A. We do not.

9 Q. I have a few questions about the SURE
10 system.

11 So can you just explain what the
12 SURE system is?

13 A. It's the voter registration system
14 for Pennsylvania.

15 Q. Okay. And can you describe to me the
16 process by which the Board of Elections
17 interacts with the SURE system when a mail
18 ballot is returned to them?

19 A. So we have to -- all ballots have to
20 be scanned into the system to say that --
21 basically saying -- I was trying to think what
22 the exact wording is that it uses.

23 But it's basically saying that
24 we received that ballot. And then there are
25 rejection codes, should a rejection code be

1 C. Miller

2 needed.

3 Q. And what are those rejection codes
4 reflecting?

5 A. I don't, off the top of my head, know
6 all of them. But that could be no secrecy
7 envelope, no signature or date. Things to that
8 nature.

9 Q. Does the rejection code differentiate
10 between missing signature and missing date?

11 A. I don't believe that it did. I
12 believe that has been changed going forward,
13 though.

14 Q. Do you know when that change was
15 made?

16 A. I do not. Again, I don't remember if
17 it actually updated that or not yet. I just
18 know there was talk of it.

19 Q. So am I correct that, when the mail
20 ballot is received by the Board of Elections,
21 it is time-stamped, and then that time and date
22 is entered into the SURE system?

23 A. Yes. They are scanned into the SURE
24 system that day so that the voter knows that we
25 have received their ballot.

1 C. Miller

2 Q. What happens if the board receives a
3 mail ballot from the voter and then the voter
4 appears at a voting place and tries to vote in
5 person?

6 A. They would have to do a provisional
7 ballot.

8 Q. And if they submit a provisional
9 ballot and nothing else happens, what happens?

10 A. If we received their mail ballot,
11 their provisional ballot would not count.

12 Q. And is that because the mail ballot
13 was received first?

14 A. Correct.

15 Q. How does the election official at the
16 polling place know that the voter has submitted
17 their mail ballot?

18 A. It shows them in the poll book.

19 Q. And when it comes time to tabulate
20 the votes, how does the Board of Elections
21 know -- I'm sorry.

22 When it comes time to tabulate
23 the votes, the Board of Elections will always
24 know whether a mail ballot was submitted prior
25 to any provisional ballot submitted by the

1 C. Miller

2 voter; is that right?

3 A. Correct.

4 Q. What happens if a mail -- if a -- if
5 a voter requests a mail ballot, the board sends
6 it out, and the voter then appears at a polling
7 place and it does not appear that they have
8 returned their mail ballot?

9 A. If they bring back their ballot as
10 well as their return envelope, there is a form
11 that they have to fill out. They turn that in
12 to the judge of elections, and then they may
13 vote at the polls.

14 If they do not have those two
15 pieces, then they must vote provisionally.

16 Q. And if they submit a provisional
17 ballot and the mail ballot comes in after that
18 and it's before the deadline, the 8:00 p.m.
19 deadline of Election Day, what happens then?

20 A. I don't know if we've ever had a case
21 of that, so I can't speak to what would happen.

22 Q. But in all events here, the board
23 will know when the mail ballot is returned and
24 when the provisional ballot has been cast,
25 correct?

1 C. Miller

2 A. Correct.

3 Q. Aside from the incident that you
4 discussed with Mr. Loney regarding the 2022
5 primary, has the board identified any credible
6 fraud concerns relating to ballots,
7 specifically with respect to the date written
8 on their ballot, in any other instance besides
9 that one that you referred to?

10 A. No.

11 Q. If a mail envelope is missing a
12 written date, is that a reason to suspect voter
13 fraud?

14 MR. ZIMOLONG: Objection to the
15 form. Calls for speculation.

16 THE WITNESS: No, we would not
17 assume that.

18 MR. OSHER: All right. Can we
19 go off the record for about five minutes.
20 Let me just make sure that I don't have
21 any other questions.

22 - - -

23 (Whereupon, a short recess was
24 taken.)

25 - - -

1 C. Miller

2 BY MR. OSHER:

3 Q. Ms. Miller, does the Lancaster board
4 coordinate at all with the boards of other
5 counties to ensure uniformity in the way that
6 they interpret the election code?

7 MR. ZIMOLONG: Objection to the
8 form.

9 You can answer.

10 THE WITNESS: I would be
11 speculating if I said I knew if the board
12 members were reaching out directly to
13 other boards.

14 BY MR. OSHER:

15 Q. Is there any formal system for that
16 that you're aware of?

17 A. Not that I'm aware of.

18 Q. Are you aware of any communication
19 between the boards of elections regarding how
20 they will deem dates to be correct or
21 incorrect?

22 A. No. Again, I would be speculating as
23 to what they sent to other people or talks
24 amongst themselves.

25 Q. But you're not aware of any of that?

Exhibit H

RETRIEVED FROM DEMOCRACYDOCKET.COM

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 PENNSYLVANIA STATE)

4)
C

CONFERENCE OF THE NAACP,)
et al.,)

5)
Plaintiffs,)

6 vs.) Case No.
1:22-cv-340

7)
LEIGH M. CHAPMAN, in her)
8 official capacity as)
Acting Secretary of the)
9 Commonwealth, et al.,)

-----)
10 Defendants.)

11)
BETTY EAKIN, et al.,)

12)
Plaintiffs,)

13 vs.) Case No.
1:22-cv-339-

14) SBP

ADAMS COUNTY BOARD OF)
15 ELECTIONS, et al.,)

-----)
16 Defendants.)

17)
18)

19 REMOTE ZOOM VIDEOTAPED DEPOSITION OF

20 GREG MCCLOSKEY

21 Friday, February 17, 2023

22

23 Reported by:

24 Stacey L. Daywalt

25 JOB NO. 222666

1 M. McCloskey
2 here on Page 2 of what's marked as
3 Westmoreland 2 for a second.

4 A. Yes.

5 Q. Okay. Now plaintiffs' first request
6 for admission reads: "You never used or
7 referred to the date handwritten on the outer
8 return envelope containing a mail ballot for
9 any purpose related to determining or
10 confirming the mail ballot voter's eligibility,
11 i.e., their age, citizenship, county and
12 duration of residence and felony status."

13 Did I read that request for
14 admission correctly?

15 A. Yes.

16 Q. Okay. And then looking at the
17 answer that follows and looking at the second
18 sentence in particular, you responded that
19 Westmoreland, quote: "Admits that in the 2021
20 and 2022 elections it did not use the
21 handwritten date on the outer return envelope
22 of an absentee or mail-in ballot to determine
23 or confirm the following qualifications of the
24 voter to cast a ballot in those elections:
25 Age, citizenship, county, duration of residence

1 M. McCloskey

2 or felony status."

3 Did I read your response correctly?

4 A. Yes.

5 Q. So when in responding to RFA 1
6 Westmoreland County singles out or points out
7 age, citizenship, county, duration of residence
8 or felony status, is that because those are the
9 criteria that determine whether someone is
10 qualified to vote in Pennsylvania?

11 A. That is correct. That is some of
12 the requirements.

13 Q. Are there any other requirements to
14 be qualified to vote in Pennsylvania that you
15 can think of?

16 A. Not off the top of my head.

17 Q. All right. And just to make sure
18 the record is clear, do you agree that the date
19 that is handwritten on the mail ballot envelope
20 doesn't tell you whether a person is over
21 18 years old?

22 A. I do agree.

23 Q. Do you agree that that handwritten
24 date doesn't tell you whether a person has been
25 a US citizen for at least a month?

1 M. McCloskey

2 A. I agree.

3 Q. Do you agree that the date that a
4 voter handwrites on an envelope doesn't tell
5 you whether they've resided in the county for
6 at least 30 days?

7 A. I agree.

8 Q. Do you agree that the handwritten
9 date doesn't tell you whether the person is
10 incarcerated on a felony conviction?

11 A. I agree.

12 Q. And the county actually has other
13 methods of confirming all of those criteria
14 that are relevant to voter qualifications.
15 Right?

16 A. Correct.

17 Q. And that's why, in just looking at
18 the second paragraph of this answer that you
19 provided to RFA 1 and looking at the second
20 sentence, you then go on to say: "Westmoreland
21 did not use a date to determine or confirm a
22 voter's eligibility." Right?

23 A. Correct.

24 Q. So does Westmoreland County use that
25 handwritten date on the mail ballot return

1 M. McCloskey

2 envelope for any other purpose?

3 A. The only one I can think of would be
4 if a voter had passed away from the time that
5 they mailed their ballot back in prior to
6 election day.

7 Q. Can you describe -- has that ever
8 happened where a voter passed away and then you
9 looked at the date on the envelope of their
10 mail ballot, or is that sort of speculating
11 that maybe you might?

12 A. That did happen in the November '22
13 election.

14 Q. In Westmoreland County?

15 A. That is correct.

16 Q. Can you describe what happened.

17 A. Starting the pre-canvass process of
18 mailing an absentee ballot, we have about 16
19 individuals in that entire process. The first
20 two individuals at the start of the process
21 review our roster list of who applied for and
22 who we've received the absentee and mail-in
23 ballots from.

24 And one of the two people doing that
25 process had recognized the individual's name as

1 M. McCloskey
2 a friend that had passed away. And that
3 individual brought that ballot to my attention
4 and we set that ballot aside that day.

5 Q. Okay. And you set it aside because
6 if a person sends in a mail ballot but then
7 they die before election day, their vote isn't
8 supposed to count. Right?

9 A. I'm sorry. The air conditioning
10 just kicked on in this room and I could not
11 here you, Ari.

12 Q. You set that aside because if a
13 person sends in a mail ballot but then they die
14 before election day, their mail ballot is not
15 supposed to count under state law. Right?

16 A. Under state law it says if you have
17 the knowledge, you cannot count it.

18 That was set aside just for further
19 review. And so I went to the office to
20 determine that it was factual by looking up the
21 obituary.

22 And so the law pretty much says if
23 you have knowledge, you do not count that vote.
24 However, if you basically didn't have knowledge
25 or had been made aware, you wouldn't basically

1 M. McCloskey

2 be held accountable for processing that vote.

3 Q. All right. So if the county becomes
4 aware that someone dies and you have a mail
5 ballot from them, you don't count the mail
6 ballot. Right?

7 A. We did not in that instance.

8 Q. Well, you would never count the mail
9 ballot of a person who you know has passed away
10 before election day. Right?

11 A. If we verified it, correct.

12 Q. And you have a process to look
13 through the list of folks who have applied for
14 a mail ballot to check against a list of folks
15 who have died to try to ascertain whether or
16 not there are any folks who may have passed
17 away before election day?

18 A. The list -- the roster isn't used
19 strictly for that purpose, but it's a tool that
20 we could use, yes.

21 Q. Okay. So just to be clear, the rule
22 is you have to be alive on election day for
23 your vote to count. Right?

24 A. I'll say yes.

25 But I want to qualify back to what I

1 M. McCloskey

2 said. If a person had passed away and that
3 mail ballot was not brought to our attention,
4 we would not know if a person had passed away
5 whether a vote's counted or not. So in those
6 instances, it could still count.

7 Q. Setting aside instances where the
8 county doesn't know and assuming the county
9 knows who has passed away and who's still
10 alive, you have to be alive on election day for
11 your vote to count. Right?

12 A. Correct.

13 Q. And so if a person dies before
14 election day, they can't -- and you know about
15 it, you can't -- their mail ballot is not going
16 to be counted regardless of what date they
17 write on the envelope. Right?

18 A. Correct.

19 Q. So the date on the envelope doesn't
20 matter for purposes of ensuring that folks who
21 have died don't have their ballots counted.
22 Right?

23 A. Correct.

24 Q. And so setting aside this question
25 of voters who may have passed away, does the

1 M. McCloskey

2 Westmoreland County Board of Elections use that
3 handwritten date on the mail ballot return
4 envelope for any other purpose that you can
5 think of?

6 A. Just to comply with the election
7 code and the orders.

8 Q. And just to make sure I understand
9 that, what you're saying is Westmoreland County
10 uses the date on the envelope to determine
11 whether the voter complied with the requirement
12 to put the date on the envelope?

13 A. That's correct.

14 Q. Okay. If they include the date --
15 if they don't include the date, it's a
16 noncompliant vote. If they do provide the date
17 that's within the range, it's a compliant vote.

18 Is that basically it?

19 A. Correct.

20 Q. And so apart from determining
21 compliance with the date requirement itself,
22 does the Westmoreland County Board of Elections
23 use the handwritten date on the ballot return
24 envelope for any other purpose that you can
25 think of?

1 M. McCloskey

2 A. We do not.

3 Q. And while we're on the subject of
4 voter qualifications, how does a voter obtain a
5 mail ballot in Westmoreland County?

6 A. They complete an application to
7 request mail-in or absentee ballots or they can
8 also receive it annually through the permanent
9 voter notice program of -- the election bureau,
10 automatically at the beginning of each year,
11 send out an application and request if they
12 want to continue to receive mail-in and
13 absentee ballots for all elections in that
14 year.

15 Q. And when a voter applies to receive
16 a mail ballot through either one of those
17 mechanisms, the board is then required to
18 confirm their qualifications before their
19 application for a mail ballot is approved.
20 Right?

21 A. That's correct.

22 Q. And the board does confirm their
23 qualifications before issuing them a mail
24 ballot. Right?

25 A. We do.

1 M. McCloskey

2 Q. What does the board do to confirm a
3 voter's qualifications when they apply for a
4 mail ballot?

5 A. They verify the voter's name against
6 the voter's registration record, their birth
7 date, their Social Security and/or their
8 driver's license information, their citizenship
9 and how long they've been in the county.

10 Q. And only after you've confirmed all
11 of that information, confirmed and determined
12 their qualification to vote, only after that
13 will you issue them a mail ballot package.
14 Right?

15 A. Correct.

16 Q. So let's go back to RFA 1.

17 But I think we're still sharing that
18 screen. Right? Can you still see RFA No. 1
19 here on your screen?

20 A. Yes.

21 Q. Okay. And we're still on, for the
22 record, the document marked as Westmoreland 2.

23 So just looking at that second
24 paragraph here in the middle, you say, starting
25 with the word "voters": "Voters who returned

1 M. McCloskey
2 the envelope could be "through November 8th,
3 '22."

4 Do you apply that to mean that if
5 someone wrote November 8, 2022, that's included
6 within the range and you would open, canvass
7 and count that ballot?

8 A. As long as it was received prior to
9 8 p.m. on November 8th, yes.

10 Q. Understood.

11 So let's talk a bit about dates
12 falling -- and I can stop sharing the screen
13 now.

14 Let's talk about dates falling after
15 November 8th, 2022.

16 If you were to receive the envelope
17 by 8 p.m. on election day, you know for a fact
18 that the voter must have filled out the ballot
19 and the declaration sometime before 8 p.m. on
20 election day. Right?

21 A. Correct.

22 Q. So you know for a fact that the
23 voter didn't fill out their ballot -- didn't
24 fill out the form after November 8th no matter
25 what they wrote on the return envelope. Right?

1 M. McCloskey

2 A. Right.

3 Q. But you still would have set aside
4 any envelope where the voter wrote some date
5 that falls after November 8th even if you
6 received it before 8 p.m. on November 8th.
7 Right?

8 A. Correct.

9 Q. And that's because you were doing
10 what the Supreme Court instructed, not because
11 you were using the date that was written on
12 that return envelope to actually determine the
13 true date that a voter filled out the
14 declaration. Right?

15 A. Correct.

16 Q. And so now let's talk about a
17 different scenario.

18 What about envelopes that you
19 received after 8 p.m. on election day?

20 So leaving aside whatever date was
21 written on the envelope, what did you do with
22 mail ballot packages that you received after
23 8 p.m. on election day?

24 A. Those were put into the state SURE
25 system as received after the deadline.

1 M. McCloskey

2 Q. And you don't open those or count
3 those. Right?

4 A. We do not.

5 Q. Doesn't matter what date is
6 handwritten on the return envelope.

7 If it comes in after 8 p.m. on
8 election day, doesn't count, it's not timely.
9 Right?

10 A. Correct.

11 Q. So a voter can't get their untimely
12 submitted ballot counted if they write a date
13 that's before November 8th. Right?

14 A. Could you repeat that, Ari.

15 Q. Sure.

16 A voter can't somehow get their
17 ballot counted by writing a date that's before
18 November 8th if they submit their ballot after
19 8 p.m. on election day, can they?

20 A. Correct, they cannot.

21 Q. Because you don't use the
22 handwritten date on the outer return envelope
23 to determine if a ballot was timely received.
24 Right?

25 A. Correct.

1 M. McCloskey

2 Q. If it's received after 8 p.m. on
3 election day, it doesn't count no matter what
4 the handwritten date on that envelope said?

5 A. Correct, minus military ballots,
6 which come in -- have the ability to come in
7 postmarked on the 8th but we can still receive
8 them for a week after the election.

9 Q. And understanding that we're talking
10 about mail ballots at this point.

11 So let's talk about envelopes dated
12 before September 19 or whatever cutoff was
13 used.

14 And let me be clear.

15 So sitting here today, do you know
16 whether a cutoff of September 19 was employed
17 or a cutoff of September 30th was employed when
18 you were determining which ballots were going
19 to be set aside and dated incorrect?

20 A. September 19th was employed.

21 Q. Okay. So there's no way anyone in
22 Westmoreland County could have actually filled
23 out the 2022 general election mail ballot
24 package before September 19th. Right?

25 A. Correct, unless they saved one from

1 M. McCloskey

2 the primary and never voted in the primary.

3 Q. Well, that wouldn't be the 2022
4 general election mail ballot package, would it?

5 A. You're correct.

6 I apologize for skipping that part.

7 Q. No apology necessary.

8 And just to make it clear for the
9 record, it just wouldn't be possible for a
10 voter to fill out the 2022 general election
11 mail ballot package sometime before
12 September 19th because the board hadn't
13 distributed those yet. Right?

14 A. Correct.

15 Q. So if someone wrote, say,
16 September 1st on the declaration form on their
17 return envelope, you know for a fact they
18 didn't actually sign that form on
19 September 1st. Right?

20 A. That they didn't sign the envelope
21 on September 1st?

22 Q. Right, because they didn't have the
23 envelope on September 1st.

24 A. Oh, yes, correct.

25 Q. But you would have set the envelope

1 M. McCloskey

2 and the ballot aside and not counted it anyway.

3 Right?

4 A. Correct.

5 Q. And that's because that's what the
6 Supreme Court instructed, not because you were
7 using the date written on the envelope to
8 determine when the voter truly actually filled
9 out their ballot or the declaration. Right?

10 A. That's correct.

11 Q. Okay. Now, if a voter wrote 4/11/22
12 on their return envelope, would that have been
13 set aside?

14 A. Yes.

15 Q. Now, do you know that some people
16 are used to writing the date with the day first
17 and then the month and then the year when they
18 write dates?

19 A. I'm aware of that.

20 Q. So someone might write 4/11/22 when
21 they mean November 4th, 2022 under that
22 convention. Right?

23 A. Yes.

24 Q. And now turning to Westmoreland 2 --
25 and these are the RFA, the requests for

1 M. McCloskey
2 admission, responses. And I'm going to scroll
3 down to Page 5.

4 And this is the last RFA response.
5 And it deals with the American dating
6 convention of month, day and then year versus
7 other conventions.

8 And you say, in response to our
9 request for admission on that point: "Although
10 Westmoreland generally follows the American
11 dating convention, there was one incident in
12 the 2022 general election where the European
13 dating convention was accepted."

14 Did I read that right?

15 A. You did.

16 Q. Can you describe the instance that
17 you're referring to here.

18 A. So the ballots that were set aside
19 during the pre-canvass process and reviewed by
20 a two-member bipartisan team, that was one of
21 the last ballots that they reviewed.

22 And while looking at that, one of
23 them said, hey, that looks likes the European
24 dating model convention, and so they decided to
25 accept it.

1 M. McCloskey

2 Q. And was there any other process
3 after they -- after that group of two made the
4 decision, or their decision to count was the
5 decision and then the ballot was opened and
6 counted?

7 A. That was their decision and the
8 ballot was then opened and counted.

9 Q. And did you go back and look at the
10 other mail ballots that had been set aside
11 based on incorrect dates on the envelope to see
12 whether any of the others could have been
13 instances of using the European dating
14 convention?

15 A. I did not.

16 Q. Do you know if anyone did?

17 A. I do not know if anyone did.

18 Q. As far as you know -- would it be
19 safe to say as far as you know nobody went back
20 and did that?

21 A. As far as I know, nobody went back
22 and did that.

23 Q. Okay. All right.

24 I'm going to pull up -- I'm going to
25 share my screen. And I'm now sharing what's

1 M. McCloskey

2 been marked as Westmoreland 6.

3 (Westmoreland Exhibit 6, Redacted
4 mail ballot envelopes, W036-W131, marked for
5 identification.)

6 Q. And let's talk about some specific
7 examples.

8 Can you see the redacted mail ballot
9 envelope on your screen here?

10 A. I can.

11 Q. And did you review this set of mail
12 ballot envelopes that were produced in this
13 case redacted prior to their production?

14 A. I have seen all of those, yes.

15 Q. Okay. And just for the record, the
16 envelope copies in what's been designated
17 Westmoreland 6 are Bates stamped W36 to W131.

18 And they comprise that 48 envelopes,
19 ballots, that were deemed incorrectly dated.
20 Is that right?

21 A. Are you asking me, Ari?

22 Q. Yeah, I'm asking you if this is all
23 48 of the incorrectly dated envelopes.

24 A. Yes.

25 Q. Okay. So let's just look at the

1 M. McCloskey

2 first page here for a second. This is -- the
3 Bates number here is W36.

4 And this is the declaration form on
5 the outer envelopes that were sent as part of
6 the Westmoreland County mail ballot package for
7 the 2022 general election. Right?

8 A. Correct.

9 Q. Okay. It's on the back of the mail
10 ballot return envelope. Right?

11 A. Correct.

12 Q. And I see a date stamp here, and it
13 seems to say November 1, 2022, 11:26 a.m.

14 Does that look right to you?

15 A. It does.

16 Q. Okay. And before we get into
17 anything else on here, does the county date
18 stamp mail ballot envelopes when they arrive?

19 A. We do. We time stamp them.

20 Q. And the time stamps reflect the date
21 and time that a mail ballot package is received
22 by the board?

23 A. Correct.

24 Q. And that is what you look to to
25 determine whether a ballot is received by

1 M. McCloskey

2 8 p.m. on election day and is timely?

3 A. Correct.

4 Q. So looking at this envelope on
5 Page W36 in Westmoreland 6, this ballot was
6 timely received, November 1, 11:30 a.m. Right?

7 A. Correct.

8 Q. And there is a handwritten date on
9 the envelope.

10 And does that say 11/9/22 or
11 11/01/22?

12 I can zoom in a little.

13 A. I believe it says 11/9/2022.

14 Q. Okay. Now, this can't actually have
15 been signed on 11/9/22, right, because it was
16 in the Board of Elections' custody a week
17 earlier than that? Right?

18 A. Correct.

19 Q. But Westmoreland County set the vote
20 aside as incorrectly dated and didn't count
21 this voter's vote because it determined the
22 date written here falls outside the range
23 ordered by the Supreme Court. Right?

24 A. Correct.

25 Q. And if the voter had written -- if

1 M. McCloskey

2 that date did say 11/01 and not 11/9, this
3 ballot would have counted. Right?

4 A. Correct.

5 Q. Because that would have been in the
6 range in the Supreme Court's November 5th
7 supplemental order?

8 A. Correct.

9 Q. So I'm going to scroll down. Let me
10 know if the zooming is helpful or unhelpful.
11 I'm trying to be helpful here.

12 A. That's very helpful.

13 Q. We're on Page W38 now, still on
14 Westmoreland 6.

15 And again, this exhibit shows the
16 same declaration, same back of the return
17 envelope form. Right?

18 A. Yes.

19 Q. And here the handwritten date -- and
20 I'll zoom in again -- seems to say 10/14/2023.

21 This doesn't indicate to you that
22 somebody actually voted the ballot from a year
23 in the future. Right?

24 A. Correct.

25 Q. And if the voter had written 22

1 M. McCloskey

2 instead of 23, it would have been in compliance
3 with the date range in the Supreme Court's
4 order. Right?

5 A. Correct.

6 Q. Does this indicate to you that the
7 voter was engaged in some sort of fraud when
8 they wrote 23 instead of 22?

9 A. Does not.

10 Q. Seems like more of a paperwork
11 error. Right?

12 A. Correct.

13 Q. And Westmoreland County would have
14 set this aside because it falls outside the
15 range in that November 5th Supreme Court
16 supplemental order. Right?

17 A. Correct.

18 Q. Not because you think someone
19 actually tried to vote from the future but
20 because it's outside the range in the Supreme
21 Court's order. Right?

22 A. Correct.

23 Q. Okay. Zoom back out and scroll down
24 to W42. Still on Westmoreland 6.

25 Now, here the handwritten date on

1 M. McCloskey

2 the declaration form says 11/28/22.

3 Does that look right to you?

4 A. Yes.

5 Q. And I know it's -- I know it's
6 upside down, but bear with me.

7 It looks like the date stamp is
8 October 30th, 2022. Right?

9 A. Correct.

10 Q. Okay. Now, looking at that date
11 stamp, that doesn't indicate to you that
12 somebody actually filled out the declaration
13 weeks after election day and a month after they
14 submitted their mail ballot package to the
15 board. Right?

16 A. Correct.

17 Q. If this voter had written 10 instead
18 of 11, it would be in the compliance with the
19 date range in the Supreme Court's November 5th
20 supplemental order. Right?

21 A. Correct.

22 Q. And their ballot would have been
23 counted. Right?

24 A. Correct.

25 Q. And frankly, it would have made a

1 M. McCloskey

2 look right to you?

3 A. Yes.

4 Q. And looking over at the date stamp,
5 it's November 1, 2022?

6 A. Yes.

7 Q. And when you look at the handwritten
8 date here, that doesn't indicate to you that
9 somebody actually filled this out on New Year's
10 Day 2022. Right?

11 A. Correct.

12 Q. That would be impossible?

13 A. Correct.

14 Q. If they had just written 11 instead
15 of 1, this would be in compliance with the
16 dating rule. Right?

17 A. Correct.

18 Q. And make a lot more sense. Right?

19 A. Correct.

20 Q. But this was set aside and not
21 counted as being outside of the range in the
22 November 5th order of the Pennsylvania Supreme
23 Court?

24 A. Correct.

25 Q. Okay. And I'm just going to do one

1 M. McCloskey

2 more.

3 Looking now at 124, here we have a
4 handwritten date. It looks like it says
5 10/17/41.

6 Is that what it seems to say to you?

7 A. I agree, yes.

8 Q. Yeah.

9 Seems like that's somebody's
10 birthday. Right?

11 A. Correct.

12 Q. It doesn't indicate to you that
13 somebody actually filled this mail ballot
14 package out in 1941. Right?

15 A. Correct.

16 Q. Doesn't indicate to you that
17 somebody was trying to commit fraud or
18 anything, does it?

19 A. Does not.

20 Q. But this person's ballot was set
21 aside and not counted because it falls outside
22 the range in the Supreme Court's November 5th
23 supplemental order. Right?

24 A. Correct.

25 Q. All right. I'm going to stop

1 M. McCloskey

2 sharing my screen. I appreciate you bearing
3 with me to look at some of those examples.

4 Just very briefly, of the 95 voters
5 whose mail ballots were set aside in the '22
6 general election, are any of them being
7 investigated for any type of voter fraud?

8 A. Not to my knowledge.

9 Q. Are you aware of any cases involving
10 alleged fraud in connection with mail ballots
11 in Westmoreland County?

12 A. I am not aware of any.

13 Q. And a new set of questions now.

14 Absent some future decision by a
15 court or new legislation from the general
16 assembly, will Westmoreland County continue to
17 set aside and not count mail ballots where
18 voters mistakenly omit a handwritten date or
19 write a date that's deemed incorrect?

20 A. Westmoreland County will continue
21 whatever the current legislation is.

22 But we have a new Board of
23 Elections, as I explained earlier, so we've not
24 had that discussion to even contemplate that
25 scenario.

1 M. McCloskey

2 Q. Can you rule out the possibility
3 that Westmoreland County will apply the same
4 rule that it did for the 2022 general election
5 in future elections?

6 A. I personally can't rule that out.

7 Q. A slightly separate question: Does
8 Westmoreland County maintain a website listing
9 the total number of votes received by each
10 candidate on the ballot in the county in past
11 elections?

12 A. If you're talking about election
13 night results, yes.

14 Q. Okay. And does it -- do those
15 results sort of stay up somewhere on the
16 website or do they go away after a while?

17 A. Oh, the election -- they stay up for
18 a couple years.

19 But I just want to clarify. You're
20 talking about election results election night,
21 not mail-in ballots received. Correct?

22 Q. I guess I'm talking about the totals
23 after all the canvassing and everything is said
24 and done, including all the votes total and
25 cast and counted?

1 M. McCloskey

2 A. Yes, those results are on the county
3 website and they're on there for -- I believe
4 you can go the whole way back to 2014 at this
5 moment, maybe even further.

6 Q. Okay. And in addition to the
7 website, does the county maintain some type of
8 physical record, a book, listing the totals
9 received by each candidate on the ballot in the
10 county for past elections?

11 A. We do.

12 So we certify those each election,
13 and then they're retained for the period of
14 time in the retention -- state retention policy
15 for election documents.

16 Q. And if a court ordered Westmoreland
17 County to change the total listed on the
18 website, the vote totals received by candidates
19 on the website, can you think of any reason why
20 the county would lack the capability to do
21 that, to follow a court's order?

22 A. I personally can't.

23 I certainly would refer to my
24 solicitor.

25 Q. And if a court ordered Westmoreland

1 M. McCloskey
2 objection. It's calling for speculation at
3 this point based upon -- the question calls for
4 speculation.

5 Q. You can answer.

6 A. I can't tell you what the board
7 intends to do without them making that
8 decision.

9 Q. Okay. I'd like to look at
10 Exhibit 2. I think I might have it here.

11 I'm sorry. This is -- yeah. Let me
12 see if I can pull it up.

13 Okay. So you should be seeing the
14 responses to the requests for admission.

15 A. I see that.

16 Q. Okay. And this was previously
17 marked as Exhibit 2.

18 I'd like to focus on the answer here
19 to Request 2, which says: "You have never used
20 or referred to the date handwritten on the mail
21 ballot return envelope to establish whether you
22 received the ballot by the applicable
23 deadline."

24 Do you see that?

25 A. Yes.

1 M. McCloskey

2 Q. Okay. And then it says here:

3 "Westmoreland admits only that in the 2021 and
4 2022 elections Westmoreland did not use the
5 handwritten date on an outer envelope to
6 determine if a ballot was timely received."

7 Did I read that correctly?

8 A. Yes.

9 Q. How did the board determine if a
10 ballot was timely received in the 2021 and 2022
11 elections?

12 A. By the time stamp when the ballot
13 was received in the election bureau.

14 Q. Is that how the board will determine
15 whether a ballot, a mail ballot, is timely
16 received in future elections?

17 A. I can't tell you what the board
18 would decide. That doesn't make sense.

19 Q. So that would not be using the
20 handwritten date to determine if a ballot is
21 timely received. Correct?

22 A. I can't answer. That's in the
23 future.

24 Q. Has the handwritten date been used
25 to note in the poll book whether a person has

1 M. McCloskey

2 submitted a mail ballot?

3 A. Is the handwritten -- could you

4 repeat that, Dan. I'm sorry.

5 Q. Yeah.

6 Is the handwritten date on the outer

7 envelope of a mail ballot, is that used to note

8 in the poll book whether a person has submitted

9 a mail ballot?

10 A. Oh, it is not, no.

11 Q. Okay. So in other words, even if

12 there's no handwritten date on the mail ballot,

13 if the person does not write a date, the poll

14 worker would still know if a voter who comes in

15 to vote in person has already submitted a mail

16 ballot. Is that right?

17 A. That's correct, because the judges

18 of the election receive the list of all the

19 people that have received ballots through the

20 night before election, and that's the most up

21 to date report we can give the judges.

22 So they would know that they had

23 already been sent a mail-in ballot, but they

24 would not know if they had returned the mail-in

25 ballot at that point, because we don't

Exhibit I

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**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

EXPERT DECLARATION OF DANIEL HOPKINS

Pursuant to 28 U.S.C. § 1746, I, Daniel Hopkins, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and can testify to them in court.

2. I am over eighteen years of age and am otherwise competent to testify.

I. Qualifications

3. I am a tenured Professor of Political Science at the University of Pennsylvania. I received a Ph.D. in Government from Harvard University in 2007, where I had previously received an A.B. in Social Studies in 2000 *Magna Cum Laude*. I have taught undergraduate and Ph.D.-level courses on elections and statistical methods at Yale University, Harvard University, Georgetown University, and the University of Pennsylvania since receiving my Ph.D. I have published more than 50 peer-reviewed academic articles, and I have also published writings in *The Washington Post*, *FiveThirtyEight.com*, and other general-interest venues. According to Google Scholar, my research has been cited by other scholars over 10,000 times. My published peer-reviewed work includes analyses of voter mobilization by election officials and of “naked ballots” cast outside of secrecy envelopes in Philadelphia County, Pennsylvania. Another article I co-authored examines

shifting presidential voting patterns in Pennsylvania (alongside other states) between 2012 and 2016. Additionally, my research has examined the effects of ballots in non-English languages as well as changes in policies related to voter identification. I am the author of *The Increasingly United States: How and Why American Political Behavior Nationalized*, a 2018 book published by the University of Chicago Press which analyzes federal, state, and local election results.

4. At the University of Pennsylvania, my responsibilities include teaching applied statistics to Ph.D. students as well as data science and American elections to undergraduates. I also serve as an associate editor of *Political Analysis*, the leading journal of statistical methodology within the discipline of political science. I previously served as an associate editor for the journal *Political Behavior*. I served on the White House Social and Behavioral Sciences Team in 2015. I also co-founded the Philadelphia Behavioral Science Initiative and served as the President of the Political Psychology section of the American Political Science Association.

5. My CV is appended to the end of this report.

6. I am being paid at a rate of \$400 per hour for my work related to this case. In the previous four years I have not testified as an expert witness at a trial or by deposition.

II. Summary of Opinions

7. Counsel for the plaintiffs in this case asked me to analyze the impact on voters caused by Pennsylvania's requirement that county board of elections reject mailed ballots contained in an undated or misdated envelope, a policy I refer to as the "date requirement."

8. In this declaration, I reach two main conclusions about the effect of the date requirement.

9. First, by increasing the "cost" of casting a successfully recorded vote, the date requirement imposes burdens on Pennsylvanians' ability to exercise their right to vote. Those burdens are not felt uniformly, as voters with fewer resources are less likely to be able to overcome

them. Prior research consistently finds that individuals with more resources—whether those resources are financial, educational, experiential, linguistic, or with respect to time, health, social networks, or mobility—are better able to adjust to increases in the costs of voting. For different reasons Black, Hispanic, and older voters in Pennsylvania may have lower levels of these resources on average. As a result, we might expect these groups to be particularly susceptible to increased costs of voting such as those caused by the date requirement.

10. Second, a quantitative analysis of mail ballots submitted in the 2022 general election confirms that expectation: the date requirement leads county boards of elections to reject ballots submitted by Black, Hispanic, and older voters at disproportionately higher rates. Moreover, I find that voters with higher levels of educational achievement are less likely to have their mail ballot rejected under the date requirement than those with lower levels of educational achievement.

III. The Date Requirement’s Impact on the Cost of Voting

11. In recent decades, research across the social sciences has emphasized how subtle changes in the costs and frictions involved in undertaking certain activities can influence their completion (e.g. Thaler and Sunstein 2009, Benartzi et al. 2017), and there is extensive evidence that procedural frictions can have meaningful impacts on who is able to interact with government, access benefits, or participate in other rights and responsibilities as citizens (Herd and Moynihan 2019).

12. This research is also relevant in assessing the impact of election laws and administration. For more than 50 years, researchers have analyzed the decision to vote using a “cost of voting” framework which emphasizes that, as the cost of voting rises, fewer citizens will participate in elections (Riker and Ordeshook 1968). As compared to many other high-income democracies, the United States has lower levels of voter turnout, and political scientists have

concluded that one of the causes of such depressed turnout is the cost borne by individual citizens in navigating our electoral system (Rosenstone and Hansen 1993, Highton 2004).

13. Even for citizens who choose to vote in a given election, procedural frictions may prevent them from successfully casting a vote for the candidate or measure of their choice and having that vote counted. Examples of such frictions that voters may experience include long lines at their polling station, not possessing the required form of identification, unavailability of a ballot in the voter's spoken language, confusion over how to properly mark or complete the ballot, and changes in polling-place locations (Spencer and Markovits 2010, Brady and McNulty 2011, Hopkins 2011, Hopkins et al. 2017).

14. The severity of the impact a friction will have on a voter depends on the voter's circumstances. Voters with the fewest resources available to them are often the least equipped to overcome increases in the costs of voting (Verba, Brady, and Schlozman 1995). Voters with lower education levels, for example, are less likely to be able to withstand increased administrative burdens in casting a valid ballot. Similarly, those lacking homes, cars, childcare, time off from work, English-language fluency, experience reading technical language, or other resources may be less able to bear increased costs associated with certain changes in the procedures for registering to vote and/or casting a valid ballot. As a result, particular frictions can have a disproportionately adverse impact on certain demographic groups, causing them to alter their behavior.

15. Because mail voting involves fewer costs for many voters, the voters most susceptible to increases in costs of voting may be more likely to vote by mail. The availability of mail ballots reduces the costs of voting on average by providing opportunities to vote without needing to travel to a polling place at a specified time (or determine the location of one's polling

place and whether it has changed). As such, mail voting has been linked to detectable increases in voter turnout (Gerber et al. 2013, Thompson et al. 2020).

16. In Pennsylvania, Black, Hispanic, and older residents are among the groups at particular risk when the costs of voting increase, as these groups have lower levels of some resources (on average) including educational attainment, income, economic security, English language proficiency and literacy, and health (Jencks and Phillips 2011, Phelan and Link 2015, Chetty et al. 2020, Semega and Kollar 2022).

17. Studies of voting behavior suggest that Black, Hispanic, and older residents vote by mail at disproportionate rates. Brady and McNulty (2011) find that older voters are especially likely to respond to a polling place relocation by switching to mail voting. In the 2020 general election, a U.S. Census Bureau report found that those 65 years and older were especially likely to use non-traditional voting methods such as voting by mail, and that voters identifying as non-Hispanic Black, non-Hispanic Asian American, and Hispanic were all more likely to use non-traditional voting methods (like mail voting) than were non-Hispanic White voters (Scherer 2021).

18. To be sure, voting by mail involves administrative frictions to which certain voters may be especially susceptible (Stewart 2020). Mail voters must comply with instructions including the use of secrecy envelopes (Hopkins et al. 2022) and the proper completion of their ballot, and they usually do so without the presence of an election official who can answer questions. These frictions have disproportionate effects on certain demographic groups of voters. Generally, non-White voters are more likely to have their mail ballots rejected than White voters (Baringer et al. 2020, Hopkins et al. 2022, Shino et al. 2022). An analysis of Philadelphia voters in the 2020 election shows that older voters and voters from racial/ethnic minority backgrounds were more likely than other voters to have their mail ballot rejected because they failed to place it within a

secrecy envelope (Hopkins et al. 2022). Another study shows that first-time mail voters are more likely to have their ballots rejected as well (Cottrell et al. 2021).

19. Once a county board rejects a mail ballot due to noncompliance with the date requirement, they may offer the voter an opportunity to “cure” the ballot, or they may simply reject it outright, in which case the voter’s only recourse is to come to their polling place. This is a significant friction that increases the cost of voting for those who fail to properly date their mail ballot. That increased cost may be especially pronounced for voters who do not learn in a timely way that their ballot has been rejected or are unable to get to their polling station during voting hours on election day due to work commitments or mobility limitations (Haspel and Knotts 2005, Brady and McNulty 2011, Hopkins 2016).

20. In sum, the date requirement increases the cost of voting and imposes the heaviest burdens on individuals who are already highly vulnerable to cost increases and are less likely to overcome them. In Pennsylvania, Black, Hispanic, and older voters on average are less equipped to navigate such cost increases and added burdens compared to the rest of the voting population.

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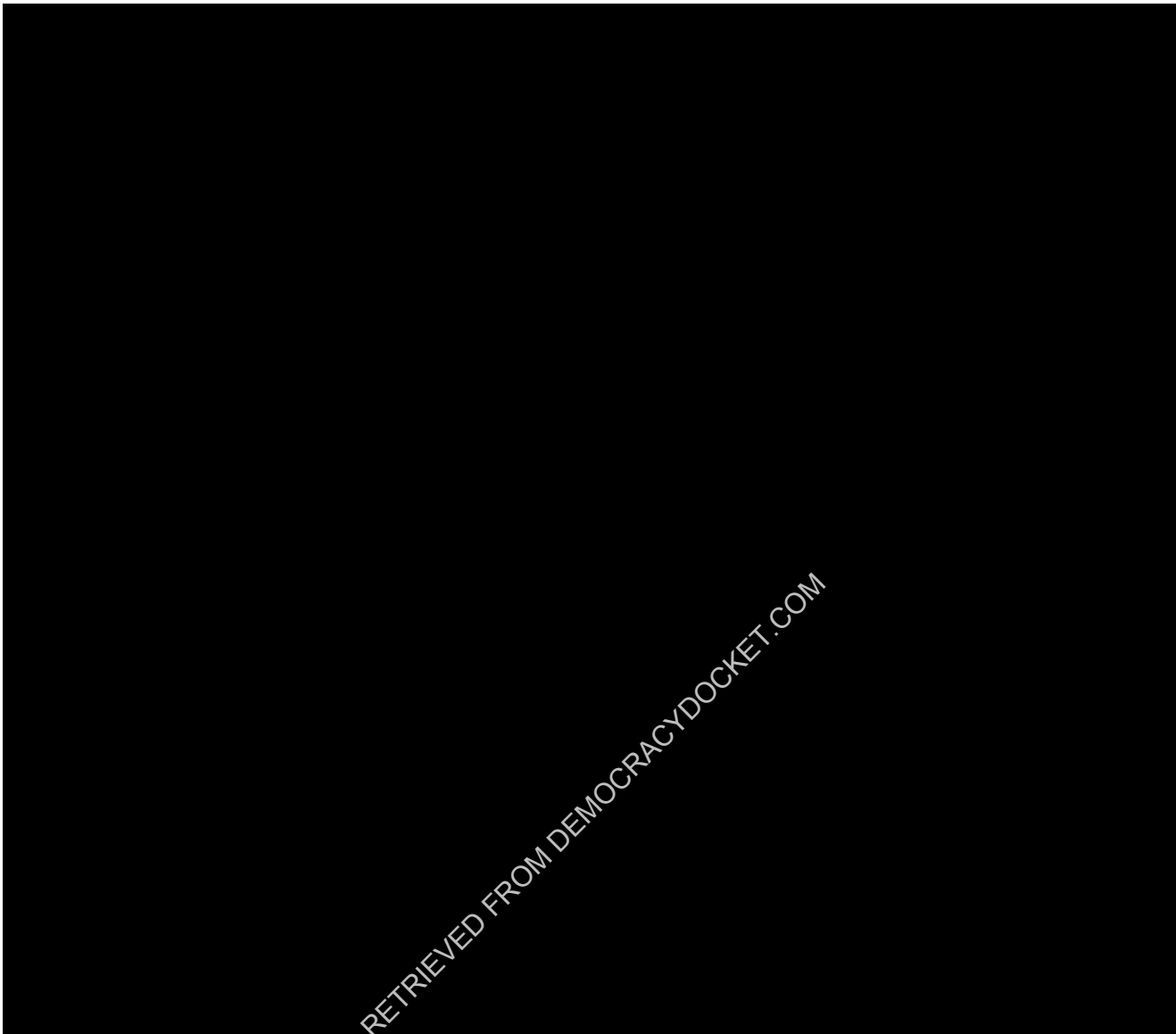
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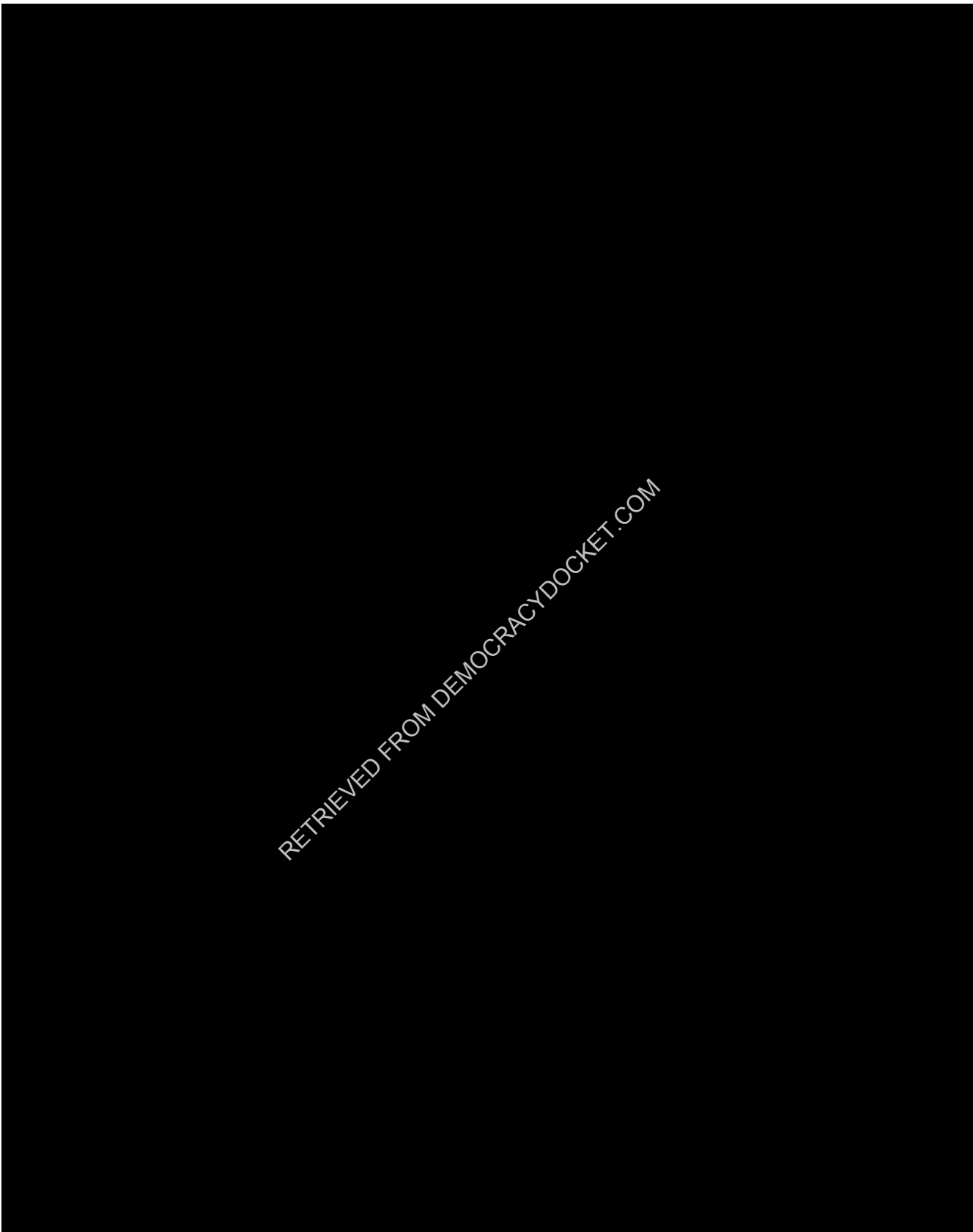
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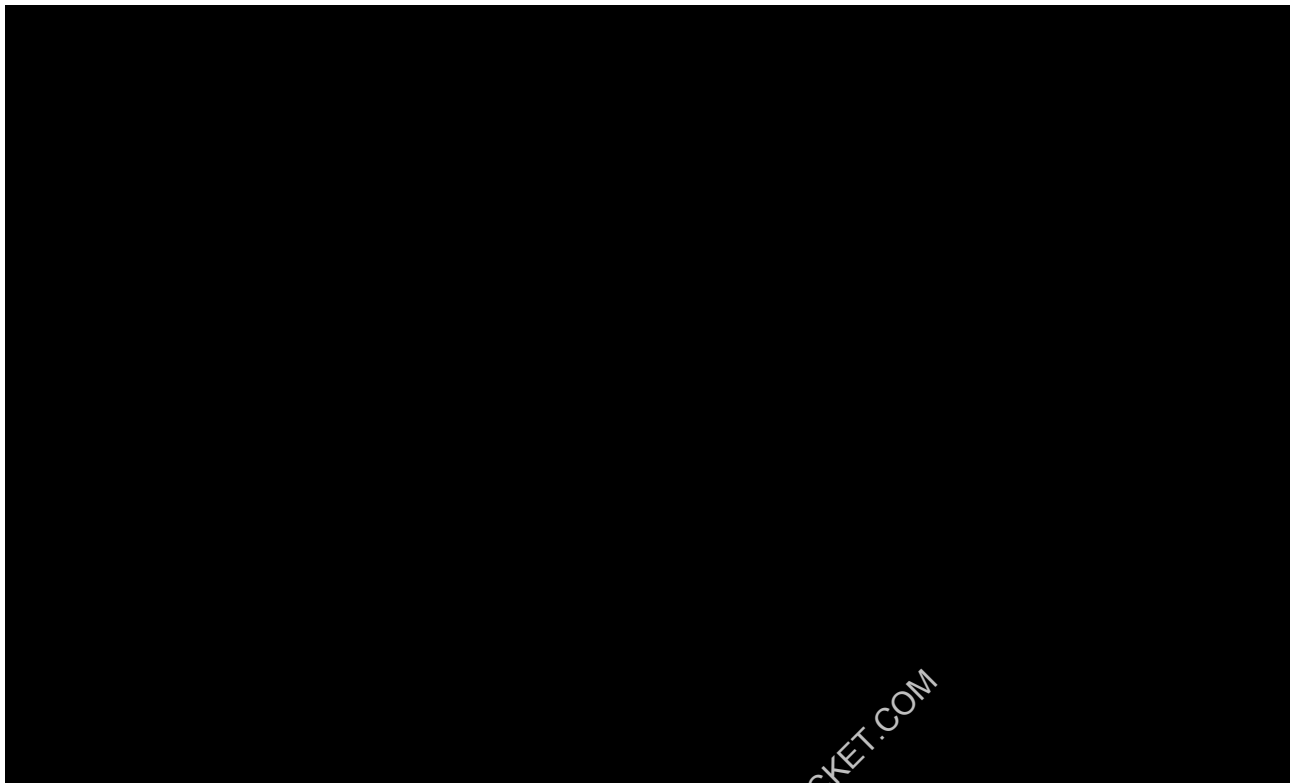
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I reserve the right to supplement this declaration in light of additional facts, testimony and/or materials that may come to light. I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "D. Hopkins", enclosed within a grey rectangular box.

Dated: March 29, 2023

Daniel Hopkins

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Daniel J. Hopkins

Curriculum Vitae

January 25th, 2023

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Education

Ph.D. in Government, Harvard University *November 2007*
Dissertation Committee: Robert D. Putnam (Chair), Gary King, Claudine Gay, and Andrea L. Campbell

B.A. IN SOCIAL STUDIES, MAGNA CUM LAUDE, HARVARD COLLEGE *JUNE 2000*

ACADEMIC EMPLOYMENT

Professor (with tenure), University of Pennsylvania *July 2018 – present*
Primary Appointment: Department of Political Science
Secondary Appointment: Annenberg School for Communication

Associate Professor (with tenure), University of Pennsylvania *July 2015 – June 2018*

Senior Fellow, Leonard Davis Institute of Health Economics *January 2016 - present*

Visiting Professor, University of Copenhagen *January 2016 - present*

Associate Professor (with tenure), Georgetown University *August 2013 – July 2015*

Fellow, U.S. Social and Behavioral Sciences Team *January 2015 – July 2015*

Assistant Professor, Georgetown University *August 2009 – July 2013*

Post-Doctoral Fellow and Lecturer, Harvard University *July 2008 – July 2009*

Post-Doctoral Fellow, Yale University *Sept. 2007 – June 2008*

ACADEMIC HONORS

- Visiting Scholar, Russell Sage Foundation (spring 2022)
- Best Paper with a Pre-registration Award, *Journal of Experimental Political Science* (joint with Cheryl Kaiser, Efrén O. Pérez, Sara Hagá, Corin Ramos, and Michael Zárate; 2021)
- American Political Science Association Citizenship and Migration Section Best Article Prize (joint with Gregory Huber and Seth J. Hill; 2020)
- Recipient of Pi Sigma Alpha's Henry Teune Award for advancing undergraduate education (2020)
- *Political Research Quarterly* Outstanding Reviewer Award (2019)
- Named Clarence Stone Scholar by the Urban Politics section of the American Political Science Association (2015)
- Awarded Society of Political Methodology's Miller Prize for the best work appearing in *Political Analysis* in the prior year with Jens Hainmueller and Teppei Yamamoto (2015)
- Emerging Scholar Award from the Elections, Public Opinion, and Voting Behavior Section of the American Political Science Association (2014)
- Awarded Editor's Choice paper by *Political Analysis* with Jens Hainmueller and Teppei Yamamoto (2014)
- Awarded Best Paper by the Elections, Public Opinion, and Voting Behavior Section of the American Political Science Association with Jens Hainmueller (2013)
- Winner with Jens Hainmueller and Teppei Yamamoto, Time-sharing Experiments in the Social Sciences Competition (2013)
- Winner, Time-sharing Experiments in the Social Sciences Competition (2011)
- Awarded Best Paper by the Political Organizations and Parties Section of the American Political Science Association with Lee Drutman (2011)
- Awarded Deil Wright Best Paper Award by the Federalism and Intergovernmental Relations Section of the American Political Science Association (2009)
- Awarded E.E. Schattschneider Award by the American Political Science Association for the best doctoral dissertation in the field of American Government (2008)
- Awarded Harvard University Graduate School of Arts and Sciences' Richard J. Herrnstein Prize for "best dissertation that exhibits excellent scholarship, originality, breadth of thought, and a commitment to intellectual independence" (2008)
- Awarded Harvard University's Charles Toppan Prize for best dissertation in political science (2008)
- Named Graduate Fellow, American Academy of Political and Social Science (2008)
- Winner with Van Tran and Abigail Williamson, Special Time-sharing Experiments in the Social Sciences Competition (2007)
- Received award for the best poster at the Summer Meeting of the Society for Political Methodology (2007)
- Winner with Gary King, Third Annual Time-sharing Experiments in the Social Sciences Competition (2005)
- Graduate Student Associate, Institute for Quantitative Social Science (2004-7)
- Awarded Fainsod Prize (2002)
- Awarded Hoopes Prize for senior thesis on the Spanish Civil War (2000)
- Inducted to Phi Beta Kappa as a junior (1999)
- Awarded Center for European Studies, Weatherhead Center for International Affairs Fellowships (1999)

PUBLISHED WORK: BOOKS

2. Daniel J. Hopkins. 2023. *Stable Condition: Elites' Limited Influence on Health Care Attitudes*. Forthcoming. New York, NY: Russell Sage Foundation.

1. Daniel J. Hopkins. 2018. *The Increasingly United States: How and Why American Political Behavior Nationalized*. Chicago, IL: University of Chicago Press.

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53. Daniel J. Hopkins, Eric Schickler, and David L. Azizi. 2022. "From Many Divides, One? The Polarization and Nationalization of American State Party Platforms, 1918-2017." *Studies in American Political Development*. 36(1):1-20.
52. Kirk Bansak, Jens Hainmueller, Daniel J. Hopkins, and Teppei Yamamoto. 2022. "Using Conjoint Experiments to Analyze Elections: The Essential Role of the Average Marginal Component Effect." *Political Analysis*.
51. Daniel J. Hopkins. 2022. "Stable Views in a Time of Tumult: Assessing Trends in American Public Opinion, 2007-2020." *British Journal of Political Science*.
50. Daniel J. Hopkins, Susanne Schwarz, and Anjali Chainani. 2022. "Officially Mobilizing: Repeated Reminders and Feedback from Local Officials Increase Turnout." *Journal of Politics*.
49. Daniel J. Hopkins and Hans Noel. 2022. "Trump and the Shifting Meaning of 'Conservative': Using Activists' Pairwise Comparisons to Measure Politicians' Perceived Ideologies." *American Political Science Review*. 116(3):1133-1140.
48. Daniel J. Hopkins, Marc Meredith, Anjali Chainani, and Nathaniel Olin. 2022. "Whose Vote Is Lost by Mail? Evidence from Philadelphia in the 2020 General Election." *Election Law Journal* 21(4):329-348.
47. David Yokum, Daniel J. Hopkins, Andrew Feher, Elana Safran, and Joshua Peck. 2022. "Effectiveness of Behaviorally Informed Letters on Health Insurance Marketplace Enrollment: A Randomized Clinical Trial." *JAMA Health Forum* 3(3):e220034.
46. Alexandra Golos, Daniel J. Hopkins, Syon P. Bhanot, and Alison M. Buttenheim. 2022. "Partisanship, Messaging, and the COVID-19 Vaccine: Evidence from Survey Experiments." *American Journal of Health Promotion*. 36(4):602-611.
45. Seth Hill, Daniel J. Hopkins and Gregory Huber. 2021. "Not by Turnout Alone: Measuring the Sources of Electoral Change, 2012-2016." *Science Advances* 17(7).
44. Daniel J. Hopkins, Marc Meredith, Anjali Chainani, Nathaniel Olin, and Tiffany Tse. 2021.

“Results from a 2020 field experiment encouraging voting by mail.” *Proceedings of the National Academy of Sciences* 118(4):1-3.

43. Will Hobbs and Daniel J. Hopkins. 2021. “Offsetting Policy Feedback Effects: Evidence from the Affordable Care Act.” *The Journal of Politics*. 83(4):1800-1817.

42. Kirk Bansak, Jens Hainmueller, Daniel J. Hopkins, and Teppei Yamamoto. 2021. “Beyond the Breaking Point? Survey Satisficing in Conjoint Experiments.” *Political Science Research and Methods*, 9(1):53-71.

41. Daniel J. Hopkins. 2021. “The Activation of Prejudice and Presidential Voting: Panel Evidence from the 2016 U.S. Election.” *Political Behavior*, 43:663-686.

40. Daniel J. Hopkins and Samantha Washington. 2020. “The Rise of Trump, the Fall of Prejudice? Tracking White Americans’ Racial Attitudes 2008-2018 via a Panel Survey.” *Public Opinion Quarterly*, 84(1):119-140.

39. Seth Hill, Daniel J. Hopkins and Gregory Huber. 2019. “Demographic Change, Threat, and Presidential Voting: Evidence from U.S. Electoral Precincts, 2012-2016.” *Proceedings of the National Academy of Sciences*. 116(50):25023-25028

38. Seth Goldman and Daniel J. Hopkins. 2019. “Past Place, Present Prejudice: The Impact of Adolescent Racial Content on White Racial Attitudes.” *Journal of Politics*, 82(2):529-542.

37. Daniel J. Hopkins, Cheryl Kaiser, Efrén O. Pérez, Sara Hagá, Corin Ramos, and Michael Zárate. 2019. “Does Perceiving Discrimination Influence Partisanship among U.S. Immigrant Minorities?” *Journal of Experimental Political Science*, 7(2):112-136.

36. Daniel J. Hopkins, John Sides, and Jack Citrin. 2019. “The Muted Consequences of Correct Information on Immigration.” *Journal of Politics*, 81(1):315-320.

35. Daniel J. Hopkins and Kalind Parish. 2019. “The Medicaid Expansion and Attitudes toward the Affordable Care Act.” *Public Opinion Quarterly*, 83(1):123-34.

34. Seth Goldman and Daniel J. Hopkins. 2019. “When Can Exemplars Shape White Racial Attitudes? Evidence from the 2012 U.S. Presidential Campaign.” *International Journal of Public Opinion Research*, 31(4):649-668.

33. Daniel J. Hopkins. 2018. “The Exaggerated Life of Death Panels: The Limits of Framing Effects in the 2009-2012 Health Care Debate.” *Political Behavior*, 40(3):681-709.

32. Daniel J. Hopkins and Lindsay Pettingill. 2018. “Retrospective Voting in Big-City U.S. Mayoral Elections.” *Political Science Research and Methods*, 6(4):697-714.

31. Bansak, Kirk, Jens Hainmueller, Daniel J. Hopkins, and Teppei Yamamoto. 2018. "The Number of Choice Tasks and Survey Satisficing in Conjoint Experiments." *Political Analysis*, 26(1):112-119.
30. Daniel J. Hopkins, Eunji Kim, and Soojong Kim. 2017. "Does newspaper coverage influence or reflect public perceptions of the economy?" *Research and Politics* (October-December):1-7.
29. Daniel J. Hopkins and Jonathan Mummolo. 2017. "Assessing the Breadth of Framing Effects." *Quarterly Journal of Political Science* 12(1):37-57.
28. Daniel J. Hopkins, Marc Meredith, Michael Morse, Sarah Smith, and Jesse Yonder. 2017. "Voting but for the Law: Evidence from Virginia on Photo Identification Requirements." *Journal of Empirical Legal Studies*, 14(1):79-128.
27. Daniel Preotiuc-Pietro, Ye Liu, Daniel J. Hopkins, and Lyle Ungar. 2017. "Beyond Binary Labels: Political Ideology Prediction of Twitter Users." *Proceedings of the 55th Annual Meeting of the Association for Computational Linguistics*. Vancouver, Canada, July 30th-August 4th: 729-740.
26. Bailey, Michael A., Daniel J. Hopkins, and Todd Rogers. 2016. "Unresponsive, Unpersuaded: The Unintended Consequences of Voter Persuasion Efforts." *Political Behavior*, 38(3):713-46.
25. Daniel J. Hopkins, Jonathan Mummolo, Victoria Esses, Cheryl Kaiser, Helen Marrow, and Monica McDermott. 2016. "Out of Context: The Unexpected Absence of Spatial Variation in U.S. Immigrants' Perceptions of Discrimination." *Politics, Groups, and Identities*, 4(3):363-392.
24. Jens Hainmueller and Daniel J. Hopkins. 2015. "The Hidden American Immigration Consensus: A Conjoint Analysis of Attitudes toward Immigrants." *American Journal of Political Science*, 59(3):529-548.
23. Daniel J. Hopkins. 2015. "The Upside of Accents: Language, Skin Tone, and Attitudes toward Immigration." *British Journal of Political Science*, 45(3):531-557.
22. Daniel J. Hopkins. 2014. "One Language, Two Effects: Partisanship and Responses to Spanish." *Political Communication*, 31(3):421-455.
21. Daniel J. Hopkins and Jonathan M. Ladd. 2014. "The Consequences of Broader Media Choice: Evidence from the Expansion of Fox News." *Quarterly Journal of Political Science*, 9(1):115-135.
20. Daniel J. Hopkins, Van C. Tran, and Abigail Fisher. 2014. "See No Spanish: Language, Local Context, and Attitudes toward Immigration." *Politics, Groups, and Identities*, 2(1):35-51.

19. Jens Hainmueller and Daniel J. Hopkins. 2014. "Public Attitudes toward Immigration." *Annual Review of Political Science*, 17:225-249.
18. Jens Hainmueller, Daniel J. Hopkins, and Teppei Yamamoto. 2014. "Causal Inference in Conjoint Analysis: Understanding Multi-Dimensional Choices via Stated Preference Experiments." *Political Analysis*, 22(1):1-30.
17. Lee Drutman and Daniel J. Hopkins. 2013. "The Inside View: Using the Enron Email Archive to Understand Corporate Political Attention." *Legislative Studies Quarterly*. 38(1):5-30.
16. Daniel J. Hopkins and Katherine T. McCabe. 2012. "After It's Too Late: Estimating the Policy Impacts of Black Mayoralities in U.S. Cities." *American Politics Research*. 40(4):665-700.
15. Daniel J. Hopkins. 2012. "Flooded Communities: Explaining Local Reactions to the Post-Katrina Migrants." *Political Research Quarterly*. 65(2):443-459.
14. Daniel J. Hopkins. 2012. "Perceptions of Economic Performance during Unequal Growth." *Public Opinion Quarterly*. 76(1):50-70.
13. Daniel J. Hopkins and Thad Williamson. 2012. "Inactive by Design: The Elements of Suburban Sprawl that Reduce Political Participation." *Political Behavior*. 34(1):79-101.
12. Daniel J. Hopkins. 2011. "Translating Into Votes: The Electoral Impacts of Spanish-Language Ballots." *American Journal of Political Science*. 55(4):814-830.
11. Daniel J. Hopkins. 2011. "National Debates, Local Responses: The Origins of Local Concern about Immigration in the U.K. and the U.S." *British Journal of Political Science*. 41(3):499-524.
10. Elisabeth R. Gerber and Daniel J. Hopkins. 2011. "When Mayors Matter: Estimating the Impact of Mayoral Partisanship on City Policy." *American Journal of Political Science*. 55(2):326-339.
9. Daniel J. Hopkins. 2011. "The Limited Local Impacts of Ethnic and Racial Diversity." *American Politics Research*. 39(2):344-379.
8. Daniel J. Hopkins. 2010. "Politicized Places: Explaining Where and When Immigrants Provoke Local Opposition." *American Political Science Review*. 104(1):40-60.
7. Daniel J. Hopkins and Gary King. 2010. "A Method of Automated Nonparametric Content Analysis for Social Science." *American Journal of Political Science*. 54(1):229-247.

6. Daniel J. Hopkins and Gary King. 2010. "Improving Anchoring Vignettes: Designing Surveys to Correct Interpersonal Incomparability." *Public Opinion Quarterly*. 74(2):201-222.
5. Daniel J. Hopkins. 2009. "No More Wilder Effect, Never a Whitman Effect: Why and When Polls Mislead about Black and Female Candidates." *Journal of Politics*. 71(3):769-781.
4. Daniel J. Hopkins. 2009. "The Diversity Discount: How Increasing Ethnic and Racial Diversity Dampens Support for Tax Increases." *Journal of Politics*. 71(1):160-177.
3. Daniel J. Hopkins. 2009. "Partisan Reinforcement and the Poor: The Impact of Context on Attitudes toward Poverty." *Social Science Quarterly*. 90(3):744-764.
2. Daniel J. Hopkins. 2009. "Racial Contexts' Enduring Influence on Attitudes toward Poverty." *Social Science Quarterly*. 90(3):770-776.
1. Simmons, Beth A. and Daniel J. Hopkins. 2005. "The Constraining Power of International Treaties: Theory and Methods." *American Political Science Review*. 99(4):623-631.

EDITED BOOKS

Daniel J. Hopkins and John Sides, editors. 2015. *Political Polarization in American Politics*. Bloomsbury Academic: New York, NY.

OTHER ACADEMIC WRITING

Kirk Bansak, Jens Hainmueller, Daniel J. Hopkins, and Teppei Yamamoto. 2021. "Conjoint Survey Experiments." In *Advances in Experimental Political Science*, James N. Druckman and Donald P. Green (eds.). Cambridge University Press: New York, NY.

Review of "*The Cities on the Hill*" by Thomas K. Ogorzalek. 2019. *Perspectives on Politics*.

SELECT PRESENTATIONS

- **APSA:** 2002, 2005-2010, 2012-2016, 2018-2019, 2022
- **MPSA:** 2004, 2005, 2007, 2009-2016, 2021-2022
- **NEPSA:** 2003, 2004
- **CELS:** 2009
- **PRIEC:** 2021
- **Summer Methods Meeting:** 2004-9 (invited poster presentations); 2011 (paper); 2012 (plenary session); 2013 (paper); 2015 (paper); 2017-2021 (paper); 2021 (paper); 2022 (discussant)
- **Text as Data Conference,** 2012 (paper); 2019 (paper), 2021 (poster), 2022 (poster)

- **Political Networks Conference:** 2009
- **International Society for Political Psychology:** 2021
- **Behavioral Seminar Series,** Geary Institute, University College Dublin, March 6th, 2007
- **Latino National Survey Junior Scholars Conference,** Cornell University, November 3rd, 2007
- **American Politics Seminar,** Yale University, February 27th, 2008
- **Columbia Quantitative Political Science Seminar,** March 27th, 2008
- **Works in Progress Seminar,** MIT Department of Political Science, September 26th, 2008
- **Race and the American Voter Conference,** Harris School, University of Chicago, December 11th, 2008
- **American Politics Seminar,** Dartmouth College, March 6th, 2009
- **Applied Statistics Seminar,** Harvard University, March 11th, 2009
- **American Politics Seminar,** Georgetown University, March 13th, 2009
- **American Politics Seminar,** Yale University, April 15th, 2009
- **Political Psychology and Behavior Workshop,** Harvard University, May 1st, 2009
- **American Politics Seminar,** University of Virginia, October 16th, 2009
- **American Politics Seminar,** George Washington University, February 19th, 2010
- **Triangle Political Methodology Seminar,** University of North Carolina, April 8th, 2010
- **Dreher Colloquium,** The Ohio State University, May 21st, 2010
- **Harvard-Manchester Social Change Workshop,** University of Manchester, June 14th, 2010
- **Ethnic Politics Workshop,** George Washington University, October 15th, 2010
- **Invited Presentation,** Center for AIDS Research, New York University, October 18th, 2010
- **American Politics Workshop,** University of Chicago, February 16th, 2011
- **Immigration Conference,** Quantitative Institute for Social and Policy Research, University of Kentucky, March 10th, 2011
- **American Politics Summer Conference,** Yale University, June 23rd, 2011
- **Department of Political Science Seminar,** Emory University, November 15th, 2011
- **DC Area American Politics Seminar,** George Washington University, January 9th, 2012
- **NYU CESS 5th Annual Experimental Political Science Conference,** New York University, March 3rd, 2012
- **American Politics and Political Institutions and Center for Comparative Immigration Studies Seminar,** University of California San Diego, May 23rd, 2012
- **Symposium the on Politics of Immigration, Ethnicity, and Race,** Yale University, October 12th, 2012
- **Latinos in the 2012 Election,** Princeton University, October 25th, 2012
- **American Politics Workshop,** Stanford University, January 9th, 2013
- **Immigrants, Citizens, and the Law,** Keynote Address, Brigham Young University, January 24th, 2013
- **Spatial Analysis Seminar,** University of Michigan, February 1st, 2013
- **Race, Ethnicity, and Immigration Colloquium,** UC Berkeley, March 8th, 2013
- **Computational Linguistics Colloquium,** University of Maryland, March 13th, 2013
- **Campaigns and Elections Seminar,** Temple University, April 22nd, 2013
- **New Immigrant Destinations Conference,** Trinity College, October 10th, 2013
- **Social Policy and Inequality Seminar,** Harvard University, November 18th, 2013
- **American Politics Seminar,** Dartmouth College, January 12th, 2014
- **American Politics Workshop,** University of North Carolina at Chapel Hill, January 24th, 2014
- **American Politics Seminar,** Duke University, April 11th, 2014
- **Center for the Study of Democratic Politics Seminar,** Princeton University, April 17th, 2014
- **Center for the Study of American Politics,** Yale University, October 1st, 2014
- **Class, Race, and Ethnicity Workshop,** Michigan State University, March 20th, 2015
- **Vanderbilt Department of Political Science,** Vanderbilt University, March 26th, 2015
- **Harvard Conference on Political Geography,** Harvard University, May 9th, 2015
- **International Methods Colloquium,** Society for Political Methodology, October 23rd, 2015
- **American Politics Workshop,** University of Chicago, December 2nd, 2015
- **Centre for the Study of Democratic Citizenship,** McGill University, January 29th, 2016
- **Computational Linguistics and Lunch,** University of Pennsylvania, March 17th, 2016
- **Political Science Speaker Series,** University of Southern California, April 22nd, 2016

- **Political Economy Seminar**, Graduate School of Business, Stanford University, April 25th, 2016
- **Invited Seminar**, Department of Political Science, University of Copenhagen, May 11th, 2016
- **Identity Politics Research Group Meeting**, Columbia University, May 26th, 2016
- **Comparative Approaches to Immigration, Ethnicity, and Integration**, Yale University, June 15th, 2016
- **Elihu Katz Colloquium**, Annenberg School for Communication, University of Pennsylvania, February 3rd, 2017
- **Center for Political Studies**, University of Michigan, March 8th, 2017
- **Rubin Lecture Series**, University of Michigan, March 9th, 2017
- **Kopf Conference on Diverse Perspectives toward Immigration and Racial/Ethnic Minorities**, Arizona State University, March 31st, 2017
- **Electoral Realignments in Advanced Democracies**, Princeton University, May 20th, 2017
- **Joint Statistical Meeting**, Late-breaking panel presentation, Baltimore, Maryland, July 31st, 2017
- **Center for the Study of Democratic Politics**, Princeton University, October 19th, 2017
- **Mershon Center's 2016 Election Conference**, The Ohio State University, November 3rd, 2017
- **Behavioral Insights from Text Conference**, Wharton School of the University of Pennsylvania, January 12th, 2018
- **Invited Seminar**, Department of Government, Cornell University, February 23rd, 2018
- **Invited Seminar**, Department of Political Science, George Washington University, March 9th, 2018
- **Public Policy Breakfast**, Washington University, March 20th, 2018
- **Invited Seminar**, Department of Politics, New York University, April 26th, 2018
- **Invited Seminar**, Media Lab, Massachusetts Institute of Technology, October 4th, 2018
- **Invited Seminar**, ETH-Zürich and the University of Zürich, December 13th, 2018
- **Invited Seminar**, American Politics Workshop, University of Wisconsin, April 1st, 2019
- **Invited Seminar**, Law, Economics, and Organization Workshop, Yale Law School, February 27th, 2020
- **Invited Seminar**, American and Comparative Political Behavior Workshop, Yale University, February 28th, 2020
- **Invited Seminar**, American and Comparative Politics Workshop, Texas A&M University, March 2nd, 2020
- **Invited Seminar**, Rutgers Computational Social Science Institute, June 18th, 2020
- **Invited Seminar**, Berkeley Demography Brownbag, October 14th, 2020
- **Invited Seminar**, Washington University American Politics Workshop, November 17th, 2020
- **Politics and Computational Social Science**, Northeastern University, August 11th, 2021
- **Virtual Intergroup Relations Workshop**, November 19th, 2022
- **Asian POLMETH**, January 6th, 2022
- **Monash-Warwick-Zurich Text-as-Data Workshop**, February 17th, 2022
- **Russell Sage Foundation**, March 2nd, 2022
- **Columbia University Methodology Colloquium**, April 22nd, 2022
- **POLMETH Europe**, June 11th, 2022
- **American Political Economy**, August 3rd, 2022
- **Invited Seminar**, American University, November 18th, 2022

GRANTS AND FELLOWSHIPS

- Co-PI, NSF award, "Robust Learning and Inference Protocols for Recuperating from Information Pollution. With Dan Goldwasser and Dan Roth, PIs (2022)
- Awarded support for participation in the Causal Inference for Social Impact Lab's Data Challenge (2022)
- Awarded Leonard Davis Institute for Health Economics COVID-19 Rapid Reward to study partisan polarization and public opinion on measures to address spread of coronavirus (2020)
- Awarded University of Pennsylvania School of Arts and Sciences "Making a Difference in Diverse Communities" grant to study voter turnout in Philadelphia (2018)

- Awarded Russell Sage Foundation grant to study attitudes toward the Affordable Care Act (2018)
- Awarded Russell Sage Foundation grant to study perceived discrimination and its political impacts among Asian Americans and Latinos (2016)
- Awarded Russell Sage Foundation grant to study attitudes toward the Affordable Care Act (2016)
- Senior Fellow, Leonard Davis Institute of Health Economics (2015-2016)
- Awarded Russell Sage Foundation grant to study perceptions of discrimination and the acquisition of partisanship among first-generation immigrants with Efrén Pérez and Cheryl Kaiser (2014)
- Awarded Georgetown University Grant-in-Aid to study the nationalization of American voting behavior (2013)
- Book Incubator Grant of the Department of Government, Georgetown University (2013)
- Senior personnel, Computing Research Infrastructure grant from the National Science Foundation to Georgetown University (2012)
- Awarded Georgetown University Grant-in-Aid to study attitudes toward political candidates (2012)
- Awarded Georgetown University Grant-in-Aid to study attitudes toward prospective immigrants (2011)
- Principal Investigator, Russell Sage Foundation Presidential Authority Award to study perceptions of discrimination among immigrants with co-Principal Investigators Victoria Esses, Cheryl Kaiser, Helen Marrow, and Monica McDermott (2011)
- Awarded Russell Sage Foundation Presidential Authority Award to study responses to foreign languages (2010)
- Awarded Georgetown University Summer Academic Grant (2010)
- Awarded Georgetown Center for New Designs in Learning and Scholarship Curriculum Improvement Grant (2009-10)
- Awarded Marguerite Ross Barnett Research Grant from American Political Science Association (2008)
- Awarded Center for American Political Studies Dissertation Fellowship (2005)
- Awarded Harvard Graduate Society Summer Pre-Dissertation Fellowship (2005)
- Awarded Doctoral Fellowship in Inequality and Social Policy (2004)

TEACHING

America and Russia, Archetypes of Democracy and Autocracy?

- Undergraduate first-year seminar
- Overall Rating from Students: 4.80 on a 1 to 5 scale Fall 2022 (U. of Pennsylvania)

Introduction to Data Science

- Undergraduate first-semester data science course in R
- Overall Rating from Students: 3.92 on a 1 to 5 scale Fall 2021 (U. of Pennsylvania)
- Overall Rating from Students: 4.14 on a 1 to 5 scale Fall 2019 (U. of Pennsylvania)
- Overall Rating from Students: 4.18 on a 1 to 5 scale Fall 2018 (U. of Pennsylvania)
- Overall Rating from Students: 4.49 on a 1 to 5 scale Fall 2017 (U. of Pennsylvania)

Analysis of Political Data II

- Undergraduate second-semester quantitative methods course
- Overall Rating from Students: 4.80 on a 1 to 5 scale Spring 2015 (Georgetown)

Quantitative Analysis II

- Graduate second-semester quantitative methods course
- Overall Rating from Students: 4.46 on a 1 to 5 scale Spring 2019 (U. of Pennsylvania)
- Overall Rating from Students: 4.29 on a 1 to 5 scale Spring 2017 (U. of Pennsylvania)
- Overall Rating from Students: 5.00 on a 1 to 5 scale Spring 2014 (Georgetown)
- Overall Rating from Students: 4.64 on a 1 to 5 scale Spring 2012 (Georgetown)

- Overall Rating from Students: 4.86 on a 1 to 5 scale Spring 2011 (Georgetown)
- Overall Rating from Students: 4.85 on a 1 to 5 scale Spring 2010 (Georgetown)

Quantitative Analysis III

- Graduate third-semester quantitative methods course
- Overall Rating from Students: 4.83 on a 1 to 5 scale Fall 2020 (U. of Pennsylvania)
- Overall Rating from Students: 4.65 on a 1 to 5 scale Spring 2018 (U. of Pennsylvania)
- Overall Rating from Students: 4.40 on a 1 to 5 scale Spring 2016 (U. of Pennsylvania)
- Overall Rating from Students: 5.00 on a 1 to 5 scale Fall 2014 (Georgetown)
- Overall Rating from Students: 5.00 on a 1 to 5 scale Fall 2013 (Georgetown)

Political Behavior

- Ph.D. seminar
- Overall Rating from Students: 5.00 on a 1 to 5 scale Spring 2014 (Georgetown)

The Changing American Electorate, 1960-2008

- Undergraduate lecture course
- Overall Rating from Students: 4.09 on a 1 to 5 scale Fall 2022 (U. of Pennsylvania)
- Overall Rating from Students: 4.28 on a 1 to 5 scale Spring 2017 (U. of Pennsylvania)
- Overall Rating from Students: 4.58 on a 1 to 5 scale Fall 2014 (Georgetown)
- Overall Rating from Students: 4.81 on a 1 to 5 scale Fall 2013 (Georgetown)
- Overall Rating from Students: 4.67 on a 1 to 5 scale Fall 2010 (Georgetown)
- Overall Rating from Students: 4.55 on a 1 to 5 scale Fall 2009 (Georgetown)
- Overall Rating from Students: 4.43 on a 1 to 5 scale Spring 2008 (Yale)

Contemporary American City

- Undergraduate seminar
- Overall Rating from Students: 4.53 on a 1 to 5 scale Fall 2017 (U. of Pennsylvania)
- Overall Rating from Students: 4.69 on a 1 to 5 scale Fall 2015 (U. of Pennsylvania)
- Overall Rating from Students: 4.70 on a 1 to 5 scale Spring 2012 (Georgetown)
- Graduate seminar
- Overall Rating from Students: 5.00 on a 1 to 5 scale Fall 2009 (Georgetown)
- Undergraduate seminar Spring 2009 (Harvard)

Race in American Politics

- Undergraduate seminar
- Overall Rating from Students: 4.92 on a 1 to 5 scale Spring 2011 (Georgetown)

Senior Thesis Writers' Workshop

- Undergraduate seminar
- Overall Rating from Students: 4.82 on a 1 to 5 scale Fall 2006 (Harvard)

Advanced Quantitative Methods

- Teaching assistant, graduate second-semester quantitative methods course
- Overall Rating from Students: 4.92 on a 1 to 5 scale Spring 2006 (Harvard)

American Public Opinion

- Teaching assistant, undergraduate lecture course
- Overall Rating from Students: 4.68 on a 1 to 5 scale Fall 2004 (Harvard)

MENTORSHIP

Ph.D. Dissertation Committees

- Evelyne Brie (chair), Breanna Gray (chair), Eunji Kim (co-chair), Hajer Al-Faham, Maxwell Allamong, Sabrina Arias, Hamutal Bernstein, Ryan Boeka, Vivienne Born, Rachel Blum, Kimberly Cardenas, Micah Jensen, Karin Kitchens, Justin Koch, Clara Lee, Amber Mackey, Angie Ocampo, Jacob Pearl, Lindsay Pettingill, Devlin Winkelstein

Post-doctoral Fellows

- M. Brielle Harbin

PATENTS

A System for Estimating a Distribution of Message Content Categories in Source Data

- U.S. Patent 8180717, issued May 15th, 2012
- Jointly held with Gary King and Ying Lu

SERVICE, UNIVERSITY OF PENNSYLVANIA

Member, School of Arts and Sciences Graduate Education Committee (2022)

Chair, Search Committee, Climate/environmental politics (2022)

Member, "Diversity, Equity, and Inclusion" Committee (2020-2022)

Member, "Diversity in Seminars" Committee (2018-2020)

Member, School of Arts and Sciences Phi Beta Kappa Award Committee (2019-2020)

Co-coordinator, Philadelphia Behavioral Science Initiative (January 2016 – present)

Co-Coordinator, Philadelphia Behavioral Science Initiative (January 2016 – present)

Member/Chair, Curriculum Committee, School of Arts and Sciences (Fall 2015-June 2018)

Member, Faculty Advisory Committee on Information Technology (January 2016 – present)

Coordinator, American Politics Workshop (2016-2018)

Coordinator, American Politics Working Group (2015-present)

OTHER ACADEMIC SERVICE

Associate Editor, *Journal of Experimental Political Science* (2023-present)

Associate Editor, *Political Analysis* (2018-present)

Associate Editor, *Political Behavior* (2018-2022)

Past President, Political Psychology Section of APSA (2020-2022)

President, Political Psychology Section of APSA (2018-2020)

President-Elect, Political Psychology Section of APSA (2016-2018)

Editorial Board, *State Politics and Policy Quarterly* (2011-2014)

Associate Editor, *R&P* (2013-2017)

Occasional Contributor, *The Monkey Cage Blog* (*Washington Post*); *FiveThirtyEight*

Undergraduate Chair, Political Science Department	<i>2018 – 2020</i>
Coordinator, Georgetown American Politics Seminar	<i>2012; 2014</i>
Member, MA Program Director Search Committee	<i>2014</i>
Coordinator, DC Area American Politics Workshop	<i>2011 – 2014</i>
Government Department Admissions Committee	<i>2014 – 2015</i>
Government Department Planning and Budget Committee	<i>2010 – 2012</i>
Tutor, Harvard College	<i>2004 – 2006</i>
Concentration Advisor, Government Department	<i>2004 – 2006</i>
Proctor, Harvard College	<i>2002 – 2004</i>

LANGUAGES

- Fluent in Spanish; Proficient in Russian

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit J

RETRIEVED FROM DEMOCRACYDOCKET.COM

Exhibit J1

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE OF THE
NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as
Acting Secretary of the Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT ADAMS COUNTY BOARD OF ELECTIONS RESPONSES TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION, WRITTEN
INTERROGATORIES, AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

AND NOW, comes the Defendant Adams County Board of Elections ("the County"), by and through its counsel, Molly R. Mudd, Esquire, and sets forth the within Responses and Objections to Plaintiff's First Set of Requests For Admission, Written Interrogatories, and Requests for Production of Documents (together, "Requests"):

GENERAL OBJECTIONS

The Defendant, Adams County Board of Elections, hereinafter "the County," sets forth the following general objections to the Requests:

1. The County objects to the extent that the Requests may require the County to obtain information or documents that are not in the possession, control, or custody of the County.
2. The County objects to the extent that the Requests are overly broad and/or

referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the “correct” date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

***RESPONSE:** Adams County did not receive any such ballots and therefore no admission is made.*

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

***RESPONSE:** In total, the County received 10,334 mail-in/absentee and military ballots. Of the total amount, 63 were military ballots.*

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

***RESPONSE:** The County received 4 signed and timely-received mail ballots that were*

segregated due to the lack of a handwritten date on the outer return envelope. The County received no “incorrectly” dated mail ballots. Though the County attempted to contact those 4 voters via telephone to “cure” their ballots, those attempts were unsuccessful.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

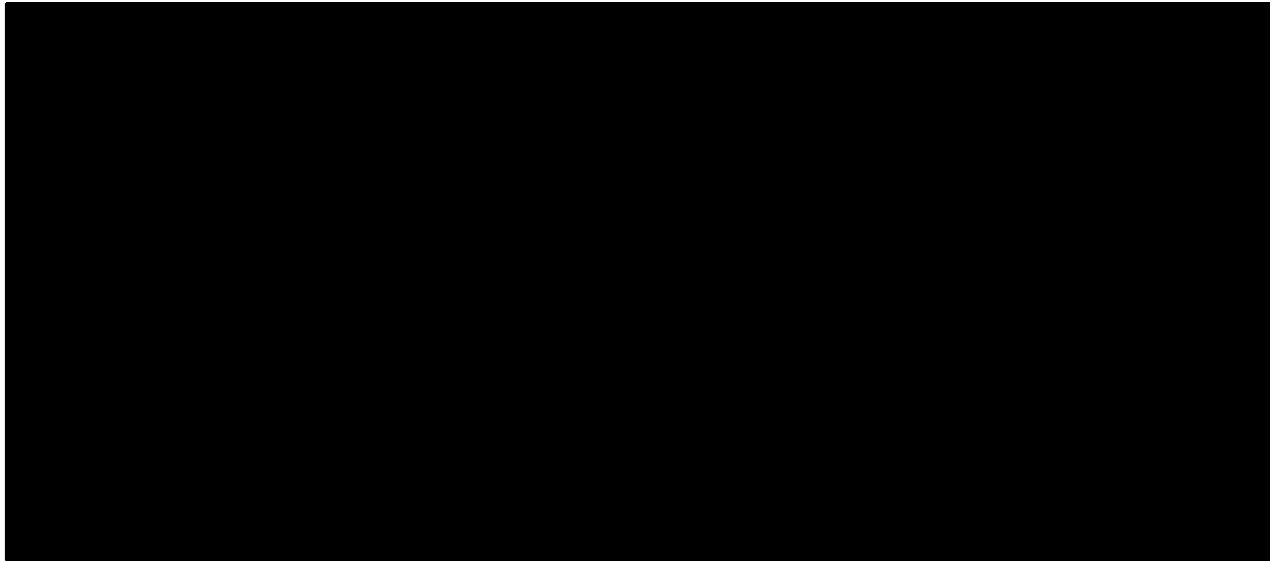
RESPONSE: *The Pennsylvania Supreme Court issued a clarifying order on November 8th, 2022, in Ball v. Chapman, supra, identifying a certain date range outside of which the counties were supposed to consider a date “incorrect” and not to be counted. However, the County did not receive any ballot envelopes with “incorrect” dates as identified by the Court.*

4. State the date on which you began sending the mail ballot packages to voters?

RESPONSE: *The County began sending the mail ballot packages to voters on September 28th, 2022.*

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

RESPONSE: *The County did not receive any such ballots.*



8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

RESPONSE: The segregated ballots described in Interrogatory 2 (and 7) had no other defects aside from the missing handwritten date on the outer return envelope.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

RESPONSE: The County did not determine that any of the voters who sent ballots described in Interrogatory 2 were ineligible to vote.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe

the nature of such fraud concerns.

RESPONSE: *The County did not identify or raise any credible fraud concerns regarding the voters who submitted the segregated ballots identified in Interrogatory 2.*

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

RESPONSE: *As noted in the County's response to Interrogatory 7, the County attempted to call each of the 4 affected voters using the phone numbers listed in the voter records. The County did not maintain a record of the time or date of those attempted calls. With regard to voters who were ultimately able to "cure" their undated ballots, the County's practice was to attempt to contact any voter who submitted a ballot envelope without a handwritten date prior to Election Day, inform them of the defect, and give them an opportunity to cure the defect.*

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

RESPONSE: *The County was not able to reach those 4 affected voters, and therefore could not offer them the opportunity to "correct" or "cure" their undated ballots. But, as*

noted above, the County's practice was to contact any voter who submitted a ballot envelope without a handwritten date prior to Election Day, inform them of the defect, and give them an opportunity to cure the defect.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

RESPONSE: *The County does not maintain a record of "cured" ballots, however, it is estimated that approximately 40 ballots did not include a handwritten date during the 2022 General Election.*

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

RESPONSE: *No.*

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

RESPONSE: *The County did not receive any military ballots without a handwritten date*

Exhibit J2

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
CIVIL DIVISION**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.***

Plaintiffs,

v.

LEIGH M. CHAPMAN, *et al.*

Defendants.

1:22-CV-00339-SPB

**RESPONSES OF DEFENDANT ALLEGHENY COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 36, Defendant Allegheny County Board of Elections (“Allegheny BOE”), by and through its attorneys, George Janocsko, Allegheny County Solicitor, and Allan J. Opsitnick and Lisa G. Michel, Assistant County Solicitors, files this Response to Plaintiffs’ First Set of Interrogatories, subject to Plaintiffs’ counsel’s clarification and amendment to the discovery stated in their January 4, 2023 1:25 P.M. email:

- In responding to the Requests for Admission, please read the questions to be limited temporarily to the 2021 and 2022 elections;
- The Request for Production and Interrogatories are all intended to relate to the 2022 General Election;
- and References to “orders of November 1 and 8, 2022” in Requests for Admissions 6 and 7 should read “orders of November 1 and 5, 2022.”

GENERAL OBJECTIONS

1. Allegheny BOE objects to the definitions and instructions set forth above to these Interrogatories to the extent that they impose any obligations greater than those imposed by the Federal Rules of Civil Procedure.

2. Allegheny BOE objects to any and all Interrogatories that seek any information protected by the attorney-client privilege, work product doctrine, joint defense or any other applicable privilege.

3. Allegheny BOE objects to these Interrogatories to the extent that they seek disclosure of information not in its possession, custody or control.

4. Allegheny BOE reserves the right to supplement, correct or revise any the responses and objections raised in the Interrogatories or assert additional objections in any subsequent supplemental response.

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Allegheny BOE received 161,575 mail ballots and 152 military ballots for the 2022 General Election.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: The total number of ballots that were set aside by the Allegheny BOE because the ballot either lacked a handwritten date on the outer return envelope or stated a date outside of the date ranges set forth by the Pennsylvania Supreme Court in its Orders of November 1 and 5, 2022 is approximately 1009. This total is exclusive of the any ballots

that were cured or corrected as such ballots were included in the canvass of the November 8, 2022 election and therefore were not set aside.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Allegheny BOE objects to the term “incorrect” as it is not defined in the discovery request. Without waiving such objection, Allegheny BOE responds that the Pennsylvania Supreme Court in its November 1, 2022 and November 5, 2022 orders mandated date ranges for absentee and mail-in ballots and proscribed the canvassing of ballots that either had no dates or set forth dates outside of those respective time periods. Allegheny BOE, via sworn personnel, reviewed the exterior ballot envelopes and, if there was no date, then the ballot was set aside. If the date written on the envelope was not within the mandated date range under the Pennsylvania Supreme Court’s orders, then the ballot was set aside.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: Absentee and overseas ballots were mailed out to voters commencing September 30, 2022. On October 1, 2022 the first set of mail-in ballots was mailed to voters.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: None.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Allegheny BOE again objects to the undefined term "incorrect date" as undefined. Without waiving that objection, Allegheny BOE responds as follows: Yes. The Elections Division made a good faith effort to review all the mail and absentee ballots that had been received by November 5, 2022 and to identify those ballots not conforming with the Pennsylvania Supreme Court's Orders of November 1 and 5, 2022. On November 6, 2022, Allegheny BOE published a list of the ballots that were either undated or did not show a date within the Pennsylvania Supreme Court's Order of November 5, 2022 mandating the date ranges for mail-in or absentee ballots. Individuals were provided notice that they could cure the defect by presenting themselves to the Office of the Elections Division at the County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219, by inserting a date in compliance with the Pennsylvania Supreme Court orders. The list was revised on November 7, 2022 to include additional ballots delivered to the Elections Division on that date. Individuals were permitted to cure the deficiency through 8:00 P.M. on November 8, 2022. For those ballots received on November 8, 2022 or

ballots that upon review at the time of canvass had no dates or dates outside of the November 5, 2022 dates ranges, there was no reasonable opportunity due to time and manpower constraints to provide notice to such voters.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Allegheny BOE incorporates its response to Interrogatory 11 as though set forth at length herein.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Allegheny BOE does not have a complete record of the number of persons who cured their ballots. As of close of its office (i.e. – The Allegheny County Elections Division) on the afternoon of November 7, 2022, Allegheny BOE tallied that 106 ballots were cured. The Elections Division did not record the number of mail ballot voters who cured their envelope date issues on November 8, 2022.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: No. Allegheny BOE does not contend that the handwritten date is material to whether a mail ballot voter is qualified to vote in the election for which they have cast a ballot.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: There were no military ballots returned to the Allegheny BOE that lacked a date or were dated outside of the range set forth in the Pennsylvania Supreme Court's Supplemental Order dated November 5, 2022. Therefore, no military ballots were set aside.

16. Identify, by name, birth date, address, party affiliation and any other demographic information available to you, the voters who timely submitted military overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

ANSWER: Not applicable. See response to Interrogatory 15 above.

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how many such military-overseas ballots had an additional defect,

Exhibit J3

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

PENNSYLVANIA STATE CONFERENCE	:	
OF THE NAACP, et al.,	:	Civil Action
	:	
Plaintiffs,	:	
	:	
v.	:	Case No. 1:22-CV-00339
	:	
LEIGH M. CHAPMAN, in her official capacity	:	
as Acting Secretary of the Commonwealth, et al.,	:	
	:	
Defendants	:	
	:	

**ANSWER TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES TO COUNTY
BOARD OF ELECTION DEFENDANTS**

Defendant, Armstrong County Board of Elections, (“ACBOE”) files this Answer to Plaintiffs’ First Set of Interrogatories directed to ACBOE.

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

RESPONSE: ACBOE received 3,787 mail ballots and 5 military-overseas ballots for the 2022 General Election.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect.

RESPONSE: ACBOE segregated 15 mail ballots for the 2022 General Election. If you allowed voters to correct or cure the envelope-date issue, specify whether your

response includes ballots that were ultimately corrected or cured. **RESPONSE: Not Applicable.**

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect”. **RESPONSE: ACBOE determination was based upon the guidelines set down by Jonathan Marks, Deputy Secretary for Elections and Commissions.**

4. State the date on which you began sending the mail ballot packages to voters. **RESPONSE: ACBOE began sending mail ballot packages to voters on October 10, 2022.**

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters. **RESPONSE: ACBOE did not open and/or count any segregated ballots.**

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters. **RESPONSE: ACBOE did not open and/or count any segregated ballots.**

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify

whether each voter was able to correct or cure the issue. **RESPONSE: Objection to this Interrogatory as it seeks confidential voter information regarding voter's identity. By way of further answer ACBOE did not permit voters to correct or cure any issue including the date issue. In addition, the following represent reasons said ballots were segregated:**

a. No Date – 13

b. Incorrect Date – 2

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? **RESPONSE: Yes.** If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s). **RESPONSE: Objection to this Interrogatory as it seeks confidential voter information regarding voter's identity. By way of further answer, the following represent additional reasons said ballots were segregated:**

a. No Signature or Date – 4

b. Incorrect Date – 1

c. Incorrect Signature and Date – 1

9. Did you determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? **RESPONSE: No.** If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility. **RESPONSE: Not Applicable.**

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns. **RESPONSE: ACBOE had no credible fraud concerns.**
11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? **RESPONSE: No.** If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope. **RESPONSE: Not Applicable.**
12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? **RESPONSE: No.** If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues. **RESPONSE: Not Applicable.**
13. If you provided notice and an opportunity to cure as described in Interrogatory 11 and 12, how many mail ballot voters cured their envelope date issues? **RESPONSE: Not applicable.**
14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot?
RESPONSE: ACBOE has no position. By order of Jonathan Marks, Deputy Secretary for Elections and Commissions, the ballots were segregated. If so, what is the basis for that contention? **RESPONSE: Not Applicable.**
15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be

Exhibit J4

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**RESPONSE OF BEAVER COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTY
BOARD OF ELECTION DEFENDANTS**

Pursuant to Fed. R. Civ. P. 26 and 33, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant respond to the following interrogatories within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The term "document," as used herein, means the original and all nonidentical copies of any handwritten, printed, typed, recorded, or graphic or photographic material of any kind and nature, including all drafts thereof and all mechanical or electronic sound recordings or transcripts thereof, however produced or reproduced, and including but not limited to accounting materials, accounts,

11. If You or any of Your agents at any time had possession or control of a document containing information responsive to these interrogatories and if such document has been lost, destroyed, purged or is not presently in Your possession or control or the possession or control of Your agent, then: (1) identify the document; (2) state the date of its loss, destruction, purge or separation from Your or Your agent's possession or control; (3) state the circumstances surrounding its loss, destruction, purge or separation from Your or Your agent's possession or control; and (4) state its present or last known location, including the name, address and telephone number of each person believed to have possession of such document.

12. The use of a verb in any tense shall be construed as the use of that verb in all other tenses. The use of the feminine, masculine, or neuter genders shall include all genders. The singular form of a word shall include the plural and vice versa.

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

RESPONSE: 15,172 mail ballots were returned in the 2022 General Election. Of those, 48 were military overseas ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or

segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

RESPONSE: 182 ballots were originally received that had a signature or date issue. Of those, 41 ballots were corrected or cured.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

RESPONSE: All ballots were reviewed once by full-time county elections staff, once by part-time county elections staff, and a third time by full-time county non-elections staff who were specifically utilized for pre-canvassing, under the supervision of the Director of Elections and Election Board members. The first review happened between the original order to segregate any “wrongly dated” or undated ballots and the order clarifying the definition of “wrongly dated”. The second two reviews happened after the clarifying order.

In the original review, we utilized a start date of when we had sent ballot packets out, and an end date of the day we were reviewing to set the first segregation. In the subsequent reviews, we directly followed the court’s

ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

RESPONSE: See Exhibit "A" attached.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

RESPONSE: Of voters whose ballots were segregated and were not eventually cured, 9 ballots had been missing their inner/secretary envelopes, and as such would not have been counted. One voter who had an error on their ballot also had a naked ballot (voter signed the ballot itself). The voter in question corrected the ballot envelope prior to our notice being published but the ballot was not counted as the error on the ballot was not determined until the pre-canvassing began. See Exhibit A for additional details.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

RESPONSE: No, we did not determine that any voters who sent timely mail ballots as described in Interrogatory 2 were not qualified, eligible voters. The applications for each had been processed through the state's identification verification system in SURE-VR and were verified.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

RESPONSE: No, we did not identify any credible fraud concerns, nor were any raised to us.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

RESPONSE: A list of voters who had missing or incorrect dates on the envelope was published to the county's internet website on Monday,

November 7th, and local media outlets as well as the county's political parties were made aware of the publication of said list. No voters received proactive individual calls from the Bureau of Elections.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

RESPONSE: Voters who became aware of a pending issue on the outer envelope of their timely returned ballot were able to come to the Bureau of Elections in person in order to correct any defects that were present on the outer envelope. Curing activities were limited to regular business hours, and only applied to errors on the outer envelopes.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

RESPONSE: 41 Voters cured their ballots.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

RESPONSE: The Bureau of Elections and Board of Elections takes no position on the materiality of handwritten dates as it relates to a voter's eligibility to cast a ballot by that method and believe this question needs to be answered by the Courts and/or lawmakers.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

RESPONSE: Not applicable. No timely-received military-overseas ballots were missing a date or signature or were dated incorrectly. As such, none were segregated.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

RESPONSE: Not applicable. See response to #15.

Exhibit J5

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

PENNSYLVANIA STATE	:	
CONFERENCE OF THE NAACP, <i>et al.</i> ,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	No. 1:22-cv-00339-SPB
v.	:	
	:	
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**RESPONSES OF DEFENDANT BERKS COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 33(b), defendant Berks County Board of Elections (“Berks Board”), by and through its attorneys, Smith Bukowski, LLC, responds to Plaintiffs’ First Set of Interrogatories as follows:

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Berks Board received a total of 28,829 mail ballots. Included in that number were 146 military-overseas ballots. Mail ballots net of military-overseas would be 28,683. These numbers do not include any mail ballots set aside because of missing and/or incorrect dates on their outer return envelopes.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Berks Board objects to the phrase “deemed to be incorrect.” Berks Board did not “deem” any dates to be incorrect. Rather, dated ballots were processed in accordance with the Pennsylvania Supreme Court’s November 5, 2022 supplemental Order in *Ball v. Chapman*. Berks Board’s records show that there was a total of 782 ballots set aside because of missing and/or incorrect dates on their outer return envelopes. This number does not include any ballots for which the voter appeared in person and timely corrected the date. Berks Board does not have information on the number of timely corrected ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Berks Board followed the Pennsylvania Supreme Court’s November 5, 2022 supplemental Order in *Ball v. Chapman*.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: Berks Board began sending mail ballot packages to voters October 7, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: Yes, in accordance with the Pennsylvania Supreme Court’s November 5, 2022 supplemental Order in *Ball v. Chapman*.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: Yes. Berks Board incorporates its response to Interrogatory 5 above as though set forth at length here.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: If a returned ballot was not in compliance with the requirements set forth in *Ball v. Chapman*, it was set aside, segregated, and preserved, as required by the Pennsylvania Supreme Court's Orders. It is possible some of those ballots could have had additional defects, such as being a naked ballot (missing the secrecy envelope) that would have precluded it from being counted, but Berks Board does know due to the segregation/preservation requirements within the Supreme Court's Orders.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: The term "qualified, eligible voters" is broad and vague; without further clarification, it is difficult to answer this Interrogatory with a simple "yes" or "no" response. If a returned ballot was not in compliance with the requirements set forth in *Ball v. Chapman*, it was set aside, segregated, and preserved, as required by the Pennsylvania Supreme Court's Orders. Berks Board did not undertake a subsequent review to determine voter eligibility/qualifications.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: The term "credible fraud concerns" is broad and vague; without further clarification, it is difficult to answer this Interrogatory with a simple "yes" or "no" response. If a returned ballot was not in compliance with the requirements set forth in *Ball v. Chapman*, it was set aside, segregated, and preserved, as required by the Pennsylvania Supreme Court's Orders. Berks Board did not undertake a subsequent review to determine if there were "credible fraud concerns," as Berks Board understands that term. Berks Board is not presently aware of any issues of potential fraud related to any of these ballots.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Berks Board does not have a “notice and cure” procedure; however, the Berks Board discussed this issue at a public meeting and issued a press release stating that voters would be permitted to come in and cure their ballots because the Orders in *Ball v. Chapman* were issued days before the 2022 General Election. Prior to that, Berks Board had planned to count undated and incorrectly dated ballots pursuant to the Commonwealth Court’s August 2022 Order in *Chapman v. Berks County*. As such, some voters (who may have previously returned undated/misdated ballots) received notice that their ballots were received (and would be counted), only to have that notice be reversed by the Supreme Court’s Orders in *Ball v. Chapman*. The Board felt this was a unique situation, was unfair to those voters, and therefore allowed voters the opportunity to correct the issue in this limited circumstance despite not otherwise having a formal “notice and cure” procedure.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Yes, voters were able to come into the Office of Election Services and review and cure their mail-in/absentee ballots.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail-ballot voters cured their envelope date issue?

ANSWER: Berks Board did not track that information, as cured ballots were then placed in the “general population” of ballots received that did not have deficiencies, and new ballots with a date deficiencies continued to be received. The undated and incorrectly dated ballot numbers fluctuated on a daily basis and were not otherwise tracked.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Under the Pennsylvania Supreme Court’s November 1, 2022 Order in *Ball v. Chapman* (102 MM 2022), Berks Board and the other county boards of elections were required to refrain from counting and including in the vote totals absentee or mail-in ballots with undated or incorrectly dated return envelopes. The Court’s November 5, 2022 supplemental Order further defined an “incorrectly dated ballot” as (1) mail-in ballot outer envelopes with dates that fall outside the range of September 19, 2022 through November 8, 2022, and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022 through November 8, 2022. Accordingly, in those instances, Berks Board did not use the date to determine or confirm a voter’s “eligibility” to the extent that term means qualification to vote or cast a ballot in that election; however, voters who returned ballots without any date on the outer return envelope, or dates that fell outside of the range defined by the Pennsylvania Supreme Court’s supplemental Order were not disqualified or prohibited from voting or “disenfranchised” as alleged in Plaintiffs’ Amended Complaint. Rather, their ballots were disqualified or not “eligible” to be counted, and thus were not counted, because the voter failed to cast their ballot in accordance with the mandatory voting requirements as interpreted by the Pennsylvania Supreme Court.

Accordingly, it is Berks Board’s contention that the Materiality Provision of the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B), is not implicated by the dating requirement because the dating of the outer return envelope is not used to determine voters’ qualifications or eligibility to vote in any election and thereby exclude or preclude a voter from voting in any election. To the contrary, voters who return ballots with an undated or incorrectly dated outer return envelope have exercised their right to vote; however, their ballots are disqualified for not complying with the requirements of the Pennsylvania Election Code as interpreted by the Pennsylvania Supreme Court in *Ball v. Chapman*.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelopes.

ANSWER: Berks Board believes it did not receive any military-overseas ballots that were not counted based on a missing and/or incorrect date on the elector’s declaration on the return envelope.

Exhibit J6

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

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**DEFENDANT BLAIR COUNTY BOARD OF ELECTIONS ANSWERS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTY BOARD
OF ELECTION DEFENDANTS**

Defendant, Blair County Board of Elections, by and through its Solicitor, Nathan W. Karn, Sr., Esq., hereby provides the following Answers to Plaintiff's First Set of Interrogatories.

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election

ANSWER: 9,022 mail ballots; 27 military-overseas ballots

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: 55 ballots

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."

ANSWER: See Answer to Request for Admission #8

November 1, 2022 Order.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: See Exhibit A to Interrogatories (to be provided upon execution by the Court of a Protective Order and only provided to those other parties other than Plaintiff who agree to be bound by it by executing Exhibit A to the Protective Order).

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: Since the outer envelope was not opened, we do not know if anything inside the outer envelope would cause the ballot not to be counted (i.e.,

lack of secrecy envelope). There was nothing with respect to the outer envelope other than the date that caused the ballot to not be counted.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: If a returned ballot was not in compliance with the requirements set forth in Ball v. Chapman, it was set aside, segregated, and preserved, as required by the Pennsylvania Supreme Court's Orders. The Blair County Board of Elections did not undertake a subsequent review to determine if there were "credible fraud concerns," as the Blair County Board of Elections understands that term nor was the Board made aware of any issues of potential fraud related to any of these ballots.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the

signed outer return envelope.

ANSWER: No.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Not applicable since no notice or opportunity to cure was provided.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Blair County does not contend that a handwritten date has anything to do with a voter's qualification to vote in the first instance. However, Blair County does contend that the handwritten date relates solely to the issue of whether the ballot was properly cast based solely upon the Pennsylvania Election Code. The question to be resolved is whether the lack of a date or the wrong date

should be the basis for disqualifying a ballot as improperly cast, an issue in which Blair County is neutral but does want resolved.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: With respect to military-overseas voters who requested that mail ballots be mailed to them, the outside of the return envelope contains the declaration with a place for the date, and there were not any that were not dated or were dated wrongly. With respect to military-overseas voters who requested their ballots be emailed, the declaration page with the place for the voter to date is inside the envelope used to mail the ballot to the County. The County opened those ballots as long as they were timely received according to the law; however, the County did not specifically review the enclosed declaration pages, and it is unknown whether any of those declarations were undated or were wrongly dated.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Exhibit J7

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

Case No. 1:22-cv-00339

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

**DEFENDANTS' ANSWER TO FIRST SET OF REQUESTS FOR
INTERROGATORIES**

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

2,787 Mail in Ballots

16 military-overseas ballots

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

One – Incorrect Date

Three – No Date and No Secrecy Envelope

Nineteen – No Date

Total Ballots: Twenty-Three

This does not include any corrected/cured ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

One – It used a European dating convention.

4. State the date on which you began sending the mail ballot packages to voters?

September 27, 2022

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

No, we did not receive any ballots in this date range.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

No, we did not receive any ballots in this date range.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

Three – No Date and No Secrecy Envelope

Nineteen – No Date

This does not include any corrected/cured ballots.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Three out of the Twenty-Three ballots also lacked a secrecy envelope causing them to be defective.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

No.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Only if the voter contacted us on their own.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

No. (however the Democrat Party Watchers reached out to Democratic voters to cure their ballots.)

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

Yes – The statute requires a correct date for the ballot to be counted; the County Election Board is following the statutory language regarding the validity of a mail-in ballot.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

No, the County did not receive any incorrectly dated military/overseas ballots.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Exhibit J8

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

PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as
Acting Secretary of the Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339-SPB

BUCKS COUNTY BOARD OF ELECTIONS' RESPONSES TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to you for the 2022 General Election.

RESPONSE: Upon reasonable investigation, unknown to the Bucks County Board of Elections ("BCBOE") at this time. By way of further response, BCBOE counted 87,321 mail-in ballots ("MIB") and absentee ballots ("AB") and 466 military-overseas ballots. However, these numbers do not include canceled MIB, AB, and military-overseas ballots that were returned. By way of additional response, BCBOE is only able to access the number of counted votes in the SURE system. The Department of State might be able to access the number of cancelled ballots in SURE.

2. State how many mail ballots you received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that you deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

RESPONSE: For MIB and AB, BCBOE received 357 ballots that were signed and timely received but, in accordance with the orders of the Pennsylvania Supreme Court, were set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed an incorrect date on the outer return envelope. This number does not include ballots that were corrected or cured.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect".

RESPONSE: BCBOE's determination was based upon the Supreme Court of Pennsylvania's ("SCOPA") order and supplemental order, guidelines provided by Johnathan Marks, Deputy Secretary for Elections and Commissions, and the advice of counsel. A poster was also created and displayed to aid election workers processing MIB/AB.

4. State the date on which you began sending the mail ballot packages to voters.

RESPONSE: September 22, 2022 is the earliest date that military/overseas ballots were sent. October 5, 2022 is the earliest date that MIB/AB were sent.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

RESPONSE: Upon reasonable investigation, unknown. In order for BCBOE to determine this information all mail ballots would have to be individually reviewed. By way of further response, the BCBOE complied with the SCOPA order and supplemental order.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

RESPONSE: See response to Interrogatory No. 5, which is incorporated fully herein.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots you set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that you deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if you allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

RESPONSE: A spreadsheet with responsive information will be produced following entry of a Protective Order by the Court, as agreed upon by the parties.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause you not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

RESPONSE: None. By way of a further answer, BCBOE did have 75 envelopes lacking both a date and signature. These ballots are not reflected in the response to Interrogatory No. 2.

9. Did you determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters

to be ineligible and identify, for each such voters, the basis for ineligibility.

RESPONSE: No.

10. State whether you or any of your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

RESPONSE: No.

11. Did you provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that you determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

RESPONSE: Yes, after issuance of the SCOPA order, BCBOE sent postcards out to voters whose outer return envelope was missing a date or had an incorrect date. Prior to and on Election Day, 8 voters arrived at the BCBOE to cure their MIB/AB. Once the ballots were remedied, voter's names were documented on a log of cured ballots and the ballots were properly secured in their precinct storage bin for canvassing.

12. Did you provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

RESPONSE: See response Interrogatory No. 11.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

RESPONSE: Eight voters cured their envelope date issue in person at the BCBOE and 4 voters cured by provisional ballot.

14. Do you contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

RESPONSE: No.

15. Did you count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that you deemed to be incorrect? If so, state how many such military-overseas ballots you counted. If not, state how many such military-overseas ballots you set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Exhibit J9

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

PENNSYLVANIA STATE
CONFERENCE OF THE NAACP, *et al.*,
Plaintiffs,

vs.

LEIGH M. CHAPMAN Acting Secretary
of the Commonwealth, *et al.*
Defendants.

CIVIL ACTION

Case No. 1:22-cv-00339-SPB

Type of Filing:

**RESPONSES OF DEFENDANT
BUTLER COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES**

Filed on behalf of:
BUTLER COUNTY

Counsel of Record:

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PA I.D. No. 71283

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

PENNSYLVANIA STATE	)	CIVIL ACTION
CONFERENCE OF THE NAACP, <i>et al.</i> ,)	
Plaintiffs,)	
vs.)	
)	
LEIGH M. CHAPMAN Acting Secretary	)	Case No. 1:22-cv-00339-SPB
of the Commonwealth, <i>et al.</i>)	
Defendants.)	

**RESPONSES OF DEFENDANT BUTLER COUNTY BOARD OF ELECTIONS
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 26 and 33, defendant Butler County Board of Elections ("Butler BOE"), by and through its attorney, H. William White, III, Solicitor for the County of Butler, answers Plaintiffs' First Set of Interrogatories as follows:

1. State how many mail ballots and how many military-overseas ballots voters returned to you for the 2022 General Election.

ANSWER: Eighteen Thousand Two Hundred Twelve (18,212).

2. State how many mail ballots you received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that you deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Sixty-Six (66).

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect".

ANSWER: None.

4. State the date on which you began sending the mail ballot packages to voters.

ANSWER: October 12, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: None.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: None.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots you set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that you deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if you allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: Responsive list attached. No date on envelope.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause you not to count them? If so, state how many such mail ballots had an additional

defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No.

9. Did you determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether you or any of your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No independent investigation was conducted; as such, the answer is no.

11. Did you provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that you determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: The Butler BOE did not directly contact any of the sixty-six (66) identified voters. It is presumed that each voter received email notification of the defect via SURE/DOS.

12. Did you provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?.

ANSWER: Not applicable.

14. Do you contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: The opinion of the Butler BOE is of no consequence. The law of this Commonwealth (as recently confirmed by the Pennsylvania Supreme Court) requires an outer envelope to have both a signature and a date.

15. Did you count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that you deemed to be incorrect? If so, state how many such military-overseas ballots you counted. If not, state how many such military-overseas ballots you set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: Not applicable.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that you deemed to be incorrect.

ANSWER: Not applicable.

Exhibit J10

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE OF :
THE NAACP, ET AL., :

Plaintiffs, :

vs. :

LEIGH M. CHAPMAN, IN HER OFFICIAL :
CAPACITY AS ACTING SECRETARY OF THE :
COMMONWEALTH, ET AL., :

Defendants. :

CASE NO. 1:22-cv-00339

RESPONSE TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTY BOARD OF ELECTION DEFENDANTS

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Cambria County received 9,848 mail and military-overseas ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Cambria County set aside 38 mail-in and absentee ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."

ANSWER: Not applicable, as Cambria County did not have any of the above.

4. State the date on which you began sending the mail ballot packages to voters.

ANSWER: October 6, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No.

7. Identify, by name, birthdate, address, party affiliation, and any other demographic information available to you, the voters whose timely-received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: Cambria County did not keep track of this.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many mail ballots had an additional defect, describe those defects, and identify the voters whose timely-received mail ballots had such additional defect(s).

ANSWER: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No.

11. Did You provide notice to voters whose timely-received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Yes. Voters were called on the telephone, and messages were left, when necessary.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Yes. Individuals were able to come to the Election Office with an I.D. and cure any date issues.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Cambria County did not keep track of this number.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: No.

15. Did You count timely-received military-overseas ballots in the 2022 General Election, if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: No such ballots existed in Cambria County.

16. Identify, by name, birthdate, address, party affiliation, and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

ANSWER: No such ballots existed in Cambria County.

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how many such military-overseas ballots had an additional defect, describe those defects, and identify the voters whose timely-received military-overseas ballots had such additional defect(s).

ANSWER: See answer to Interrogatory No. 15.

Exhibit J11

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE
CONFERENCE OF THE NAACP, *et al.*,
Plaintiffs,

v.

Case No. 1:22-cv-00339

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,
Defendants

DEFENDANT CAMERON COUNTY BOARD OF ELECTIONS
ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES
INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election. **ANSWER: The Cameron County Board of Elections received 410 mail ballots and 2 military-overseas ballots.**

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured. **ANSWER: The**

Cameron County Board of Elections received 5 mail ballots that were set aside and/or segregated because they lacked a handwritten date on the outer return envelope. No mail ballots were set aside and/or segregated because of a date on the outer return envelope deemed to be incorrect. No curative or corrective process was allowed/instituted regarding the envelope-date issue.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.” **ANSWER: See Answer to #2. above.**

4. State the date on which you began sending the mail ballot packages to voters? **ANSWER: The Cameron County Board of Elections sent all mail ballot packets to voters on October 12, 2022.**

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters. **ANSWER: No.**

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters. **ANSWER: No.**

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s). **ANSWER: No.**

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility. **ANSWER: No.**

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns. **ANSWER: No credible fraud concerns as to any individual mail ballot were identified or raised.**

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope. **ANSWER: No notifications were made to such voters.**

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues. **ANSWER: No mail voters described in #11. above were provided with an opportunity to correct or cure the identified issues with dating the outer return envelope.**

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue? **ANSWER: See Answers to #s 11. and 12 above.**

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention? **ANSWER: Yes. The Cameron County Board of Elections was duly ordered to segregate and not count such mail ballots per the Pennsylvania Supreme Court Orders of November 1st and 5th of 2022.**

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope. **ANSWER: No undated military-overseas ballots were received.**

Exhibit J12

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE OF THE
NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as
Acting Secretary of the Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**CHESTER COUNTY BOARD OF ELECTIONS RESPONSES TO PLAINTIFFS' FIRST
SET OF INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 33(b), the Chester County Board of Elections ("Chester County"), by and through its undersigned counsel, submits its Response to Plaintiffs' First Set of Interrogatories.¹

A. GENERAL OBJECTIONS

1. Chester County objects to Plaintiffs' interrogatories to the extent they purport to seek information or documents that are protected from disclosure by the attorney-client privilege. Inadvertent production of any such information or document shall not constitute a waiver of any privilege or any other grounds for objecting to discovery with respect to such information or document, nor shall such inadvertent disclosure or production waive the right of Chester County to object to the use of any such information or document in

¹ In an email dated January 4, 2023, Counsel for Plaintiffs, Stephen Loney, Esq., narrowed the scope of several Requests for Admissions as follows:

"The Requests for Production and Interrogatories are all intended to relate to the 2022 General Election..."

Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

Chester County counted 70,023 mail-in and absentee ballots (hereinafter referred to together as “mail ballots”). Chester County counted 638 military/overseas/federal absentee ballots (hereinafter referred to as “UMOVA ballots”).

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

Of the mail ballots that were timely received by Chester County, 19 mail ballots had no date and no signature, 48 mail ballots were missing a date entirely, and 68 mail ballots had an incorrect date as defined by the Pennsylvania Supreme Court’s supplemental order in *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022). These numbers do not include ballots that were ultimately corrected or cured.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing,

on which you began sending the mail ballot package to voters.

RESPONSE: Chester County incorporates the response to Interrogatory 5 as if stated fully herein.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

See Exhibit A to Interrogatories (to be provided upon execution by the Court of a Protective Order and only provided to those other parties other than Plaintiff who agree to be bound by it by executing Exhibit A to the Protective Order). The information contained within Exhibit A is the only requested demographic information readily available to Chester County. To acquire the additional requested demographic information, Chester County would be required to manually generate such information on a voter-by-voter basis by utilizing the statewide SURE system to research each voter individually.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional

defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

There is no such report that exists with this information. For Chester County to determine this information, all ballots would have to be reviewed again. Additionally, since the outer envelope was not opened, Chester County would be unable to ascertain whether any deficiencies exist inside the outer envelope that would cause the ballot not to be counted (i.e., lack of secrecy envelopes, identifying marks on secrecy envelopes, etc.) However, as stated in Interrogatory No. 2, there were 19 mail ballots pre-canvassed on Election Day missing both a date and a signature.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

Chester County did not determine that any voters described in Interrogatory No. 2 were not qualified, eligible voters.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

If a returned ballot was not in compliance with the requirements set forth in *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022), it was set aside, segregated, and preserved, as required by the Pennsylvania Supreme Court's Orders. Chester County did not undertake a subsequent review to determine if there were "credible fraud concerns," as Chester County understands that term, nor was Chester County made aware of any issues of potential fraud related to any of these ballots.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Furthermore, Chester County objects to the relevance of this Interrogatory. Notwithstanding the foregoing, Chester County responds as follows:

Chester County contacted voters whose mail ballots were received before Election Day and were set aside and/or segregated because the date on the return envelope was missing or showed a date outside of the date range ordered by the Pennsylvania Supreme Court's supplemental order in *Ball* by email and/or phone numbers obtained from their voter registration and mail ballot application records. Additionally, the information of voters whose mail ballots were identified as deficient on Election Day were

provided to the solicitor of the Republican Committee of Chester County and the solicitor of the Chester County Democratic Committee to afford them an opportunity to contact the affected voters and inform them that their mail ballots were deficient.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Furthermore, Chester County objects to the relevance of this Interrogatory. Notwithstanding the foregoing, Chester County responds as follows:

Chester County provided the voters described in Interrogatory No. 11 with the opportunity to come in-person to the office of Chester County Voter Services located at 601 Westtown Road, West Chester, Pennsylvania, to cure their ballots if Chester County received their mail ballot before Election Day and was able to contact the voters before Election Day. These voters were also informed that they had the option of voting provisionally at their polling place on Election Day. If the voter was contacted on Election Day, they were told they had the option of voting provisionally at their polling place.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Furthermore, Chester County objects to the relevance of this Interrogatory. Notwithstanding the foregoing, Chester

County responds as follows:

Chester County did not specifically track that information, as cured ballots were then placed in the “general population” of ballots received that did not have deficiencies, and new ballots with a date deficiency continued to be received. The undated and incorrectly dated ballot numbers fluctuated on a daily basis and were not otherwise tracked.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

Chester County’s position on this question is a matter of public record. See Brief of Respondents Allegheny, Bucks, Chester, Delaware, Montgomery, and Philadelphia Board of Elections at § III, filed on October 25, 2022 in *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022).

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

RESPONSE: Chester County incorporates by reference the above-stated General Objections, Preservations of Rights, and General Answer. Notwithstanding the foregoing, Chester County responds as follows:

Exhibit J13

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	Civil Action No. 1:22-CV-339-SPB
)	
LEIGH M. CHAPMAN, et al.)	
)	
Defendants,)	

**DEFENDANT, CLARION COUNTY’S ANSWERS AND OBJECTIONS TO
PLAINTIFFS’ INTERROGATORIES**

AND NOW comes Defendant, Clarion County Board of Elections, by and through its attorneys, Christopher P. Furman, Benjamin E. Orsatti, and Gabriel Fera, P.C., and hereby responds and objects as follows to Plaintiffs’ Interrogatories.

GENERAL OBJECTIONS

1. The following responses are based on discovery available as of the date hereof and are given without prejudice to Defendant's right to rely on subsequently discovered information.
2. Further discovery, independent investigation, or other analysis may lead to the discovery of additional information, which may require additions or changes to these responses.
3. Nothing herein is intended to be or should be construed as a waiver of the attorney-client privilege, the work product doctrine, or any other protection. Inadvertent production of such protected information is not intended to be and shall not operate as a waiver of the applicable privilege. Any information withheld on the basis of such privilege will be identified.
4. Unless otherwise indicated, Defendant will produce information relating only to matters occurring between January 1 and December 16, 2022 (Relevant Period).

SPECIFIC RESPONSES AND OBJECTIONS

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Twelve.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: There were 3 such segregated ballots with incorrect dates and 9 lacking a date completely.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Ballot envelopes lacking a date or bearing a date occurring prior to the mailing of ballots were deemed to be “incorrect”.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: October 4, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began

sending the mail ballot package to voters.

ANSWER: No.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: All demographic information is as set forth in Defendant's Response to Document Request No. 2. All such ballots had been set aside by reason of a missing or incorrect date on the envelope.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe

the nature of such fraud concerns.

ANSWER: No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: No.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: (Not applicable).

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Defendant has no opinion regarding “materiality”. Defendant segregated and did not count ballots with a missing or incorrect date on the ballot envelope in the 2022 midterm election, in compliance with the explicit orders issued by the Supreme Court of Pennsylvania. By way of further response, Defendant refers to the Answer to Interrogatory No. 3.

Exhibit J14

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT, CLEARFIELD COUNTY BOARD OF ELECTIONS, RESPONSE TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 26 and 33, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant respond to the following interrogatories within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The term "document," as used herein, means the original and all non-identical copies of any handwritten, printed, typed, recorded, or graphic or photographic material of any kind and nature, including all drafts thereof and all mechanical or electronic sound recordings or transcripts thereof, however produced or reproduced, and including but not limited to accounting materials, accounts,

11. If You or any of Your agents at any time had possession or control of a document containing information responsive to these interrogatories and if such document has been lost, destroyed, purged or is not presently in Your possession or control or the possession or control of Your agent, then: (1) identify the document; (2) state the date of its loss, destruction, purge or separation from Your or Your agent's possession or control; (3) state the circumstances surrounding its loss, destruction, purge or separation from Your or Your agent's possession or control; and (4) state its present or last known location, including the name, address and telephone number of each person believed to have possession of such document.

12. The use of a verb in any tense shall be construed as the use of that verb in all other tenses. The use of the feminine, masculine, or neuter genders shall include all genders. The singular form of a word shall include the plural and vice versa.

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: See Attached Exhibit "Clfd. 1"

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you

allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Answer: 12 ballots. Additional information to be supplemented upon protective order.

3. Identify and describe how you determined if a date on a mail ballot

outer return envelope was "incorrect."

Answer: Date missing, incomplete date, incorrect year, birth date, month before ballots were issued.

4. State the date on which you began sending the mail ballot packages to

voters?

Answer: Started issuing counter ballots on approximately September 26, 2022 and mail ballots October 3, 2022

5. State whether you opened and/or counted mail ballots where the

handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

Answer: Yes, counter ballots that were issued before we started to mail ballots.

6. State whether you opened and/or counted absentee ballots where the

handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

Answer: Yes, counter ballots that were issued before we started to mail ballots.

7. Identify, by name, birthdate, address, party affiliation and any other

demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

Answer: Specific information to be provided upon protective order being put into place.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Answer: No, only dates.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Answer: None

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

Answer: None

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Answer: Yes, via telephone or by USPS on the day they were received

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return

envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Answer: Yes, if the signature of the date was missing, incomplete, or incorrect we allowed the voter to cure the ballot.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Answer: Unknown, no record kept.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

Answer:

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Answer: None were received

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Answer: None

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count

Exhibit J15

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**RESPONSES OF CLINTON COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' INTERROGATORIES**

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

Answer: 2248 mail ballots were returned. 14 military-overseas ballots were returned.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you

allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Answer: 20 mail ballots were received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that was deemed to be incorrect. Clinton County did not provide an opportunity to cure.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

Answer: Three ballots were dated after November 8, 2022. Two ballots were dated with a date prior to the date ballots were mailed by the County.

4. State the date on which you began sending the mail ballot packages to voters?

Answer: September 30, 2022

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

Answer: There were no mail ballots where the handwritten date on the

including, but not limited to, “affidavits of voters and others” to inspection and copying by “any qualified elector of the county during ordinary business hours . . . in the presence of a member or authorized employe of the county board,” and “subject to proper regulation for the safekeeping of the records and documents.” Plaintiffs are not parties qualified to inspect or copy said records pursuant to section 2648 of the Elections Code. Absent an order by a Court having jurisdiction to permit access to these records by parties other than those identified in the statute and having authority to issue a protective Order which regulates the safekeeping of the records and documents from parties outside this litigation, the Clinton County Board of Elections is not at liberty to provide the information responsive to this request.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Answer: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how

you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Answer: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

Answer: No credible fraud concerns as to any individual mail ballot described in Interrogatory 2 were identified or raised.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Answer: No.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Answer: No.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Answer: Clinton County did not provide notice or an opportunity to cure.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

Answer: No.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Answer: There were no timely-received military-overseas ballots in Clinton County in the 2022 General Election where the voter failed to date their voter declaration or included a date that was deemed to be incorrect.

Exhibit J16

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

PENNSYLVANIA STATE	)	Civil Action
CONFERENCE OF THE NAACP, <i>et al.</i> ,)	
)	
Plaintiffs,)	
	)	No.: 1-22-CV-339-SPB
v.)	
)	
LEIGH M. CHAPMAN, in her official)	
capacity as Acting Secretary of the)	
Commonwealth, <i>et al.</i> ;)	
Defendants)	

**DEFENDANT CRAWFORD COUNTY BOARD OF ELECTIONS RESPONSES
TO PLAINTIFFS' FIRST SET OF WRITTEN INTERROGATORIES**

AND NOW, comes Defendant Crawford County Board of Elections, by and through its counsel, Keith A. Button, Esq., and sets forth the within Responses and Objections to the Plaintiffs' First Set of Written Interrogatories as follows:

GENERAL OBJECTIONS

Defendant Crawford County Board of Elections (hereinafter "Crawford County" or "the County") sets forth the following general objections to the First Set of Written Interrogatories:

1. The County objects to every interrogatory to the extent the information requested is neither relevant to the subject matter of this civil action nor reasonably calculated to lead to the discovery of admissible evidence.
2. The County objects to every interrogatory to the extent such interrogatory is overly broad or vague, and any attempt by the County to answer would be unduly burdensome, expensive, harassing and oppressive.

3. The County objects to every interrogatory to the extent that the burden of obtaining the requested information is substantially the same for Defendant as for Plaintiff, including without limitation information that is of public record, as such information is more readily available from the public source of that information than from Defendant.

4. The County objects to every interrogatory to the extent that it seeks information that is protected from discovery by virtue of the attorney-client privilege, work product doctrine, or that is otherwise immune or protected from disclosure.

5. Each of these General Objections are incorporated into the below answers. Nonetheless, the County may, where appropriate, state specific objections to the interrogatories. By setting forth such specific objections, the County does not limit or restrict these General Objections. To the extent that the County responds to the interrogatory to which it objects, such objections are not waived by the providing of information.

RESPONSES TO INTERROGATORIES

1. State below how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER:

Crawford County received 5,917 mail-in/absentee ballots and 22 military-overseas ballots for the 2022 General Election.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that

You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER:

Crawford County set aside 51 mail-in/absentee ballots that were undated or incorrectly dated. The total does not include voters who corrected or cured their ballots after being contacted by Voter Services.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."

ANSWER:

Crawford County determined the date on a mail-in/absentee ballot's outer return envelope was incorrect if: 1.) the year was not 2022; 2.) the date written was later than the date the ballot was received by the Board of Elections; 3.) if the post mark date on the ballot was earlier than the date written on the outer return envelope; or 4.) if the date written was earlier than the earliest date mail ballot packages were sent to voters by the Board of Elections.

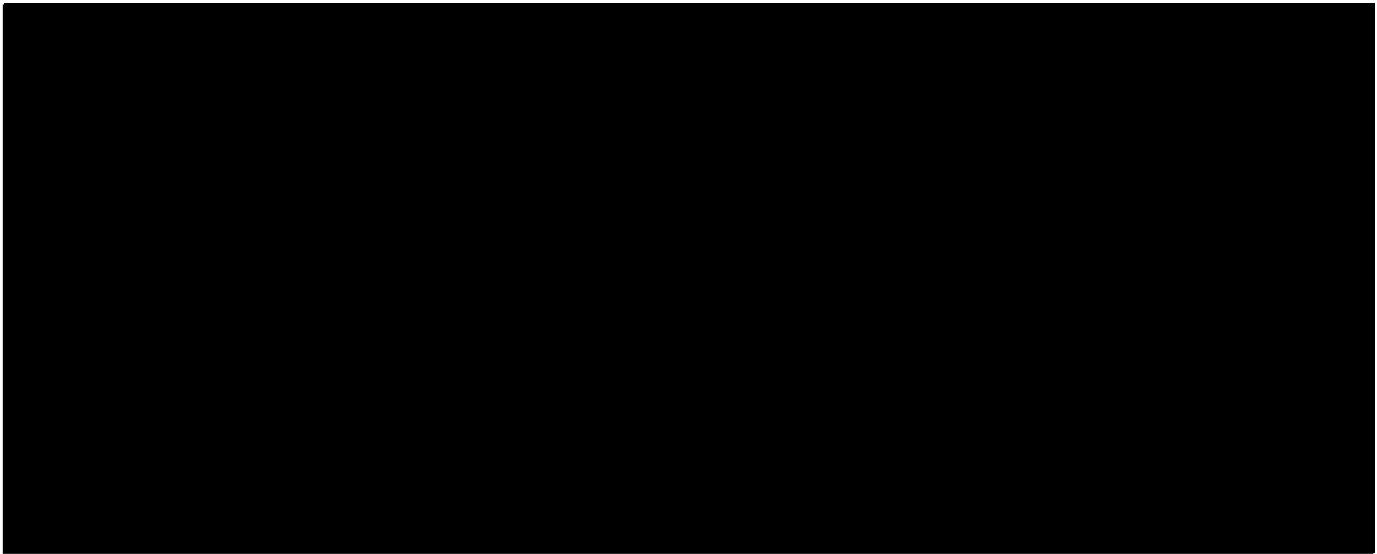
4. State the date on which you began sending the mail ballot packages to voters.

ANSWER:

Crawford County began sending mail ballot packages to voters on September 26, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER:



The above list only includes voters who did not cure or correct their ballots prior to Election Day at 8:00 p.m.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received ballots had such additional defects.

ANSWER:



9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER:

No. (N/A as to second part of question)

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER:

No credible fraud concerns were identified or raised.

11. Did you provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER:

Yes. Crawford County attempted to notify all such voters one time, by email or telephone, that they could go to the Voter Services office to cure or correct the outer return envelope up until 8:00 PM on Election Day. Voters were contacted immediately upon the noticing of the issue by Voter Service office staff.

12. Did you provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER:

Yes. Crawford County attempted to notify all such voters one time, by email or telephone, that they could go to the Voter Services office to cure or correct the outer return envelope date up until 8:00 PM on Election Day. If the date was left blank the voter was instructed to fill in the date he or she completed the ballot. If the date was incorrect, the voter was instructed to cross out the incorrect date, write the correct date, and write his or her initials next to the change.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER:

Crawford County did not maintain a record of the number of ballots that were cured or corrected by voters after receiving notification from the Voter Services office. The total number is believed to be approximately 50.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for your contention?

ANSWER:

Crawford County does not “contend” that the handwritten date on the outer envelope is material or immaterial. Crawford County’s responsibility is to count the votes in accordance with the Pennsylvania Election Code, guidance from the Department of State, and applicable rulings from Courts of jurisdiction.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly incorrect dates on the outer envelope.

ANSWER:

All the military-overseas ballots received by Crawford County were correctly dated.

Exhibit J17

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

PENNSYLVANIA STATE CONFERENCE OF THE
NAACP, LEAGUE OF WOMEN VOTERS OF
PENNSYLVANIA, PHILADELPHIANS ORGANIZED
TO WITNESS, EMPOWER AND REBUILD,
COMMON CAUSE PENNSYLVANIA, BLACK
POLITICAL EMPOWERMENT PROJECT, MAKE
THE ROAD PENNSYLVANIA, JEAN TERRIZZI,
BARRY M. SEASTEAD, MARJORIE BOYLE,
MARLENE G. GUTIERREZ, DEBORAH DIEHL,
AYNNE MARGARET PLEBAN POLINSKI, JOEL
BENCAN, and LAURENCE M. SMITH,

Civ. No. 22-339

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as Acting
Secretary of the Commonwealth, *et al.*,

Defendants.

**RESPONSES OF CUMBERLAND COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' INTERROGATORIES**

1. State how many mail ballots and how many military-overseas ballots
voters returned to You for the 2022 General Election.

Answer: 26,298 mail ballots were returned. 113 military-overseas
ballots were returned.

2. State how many mail ballots You received in connection with the 2022
General Election that were signed and timely received but set aside and/or
segregated because they lacked a handwritten date on the outer return envelope or
showed a date on the outer return envelope that You deemed to be incorrect. If You
allowed voters to correct or cure the envelope-date issue, specify whether your

response includes ballots that were ultimately corrected or cured.

Answer: 100. Cumberland County did not provide an opportunity to “correct or cure” mail ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

Answer: Bureau of Elections staff read the outer return envelopes.

4. State the date on which you began sending the mail ballot packages to voters.

Answer: October 3, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

Answer: n/a

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

Answer: n/a

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory,

this litigation.

Further, the Cumberland County Board of Elections objects to this Interrogatory as it seeks confidential voter information regarding a voter's identity that is not relevant to the claims or defenses at issue in this action. Even if relevant, the need to safeguard voters' personal identifying information outweighs any factors that would arguably weigh in favor of providing data that identifies a voter and permits plaintiffs to contact those voters directly.

By way of further answer, and as set forth hereinabove, Cumberland County did not permit voters to correct or cure mail ballots.

In addition, the following represent reasons said ballots were segregated (as directed by the Pennsylvania Department of State):

- a. No Date - 94
- b. Incorrect Date – 6

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Answer: n/a

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Answer: n/a and/or no

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

Answer: no

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Answer: no.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Answer: n/a

13. If you provided notice and an opportunity to cure as described in

Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Answer: n/a

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

Answer: The Cumberland County Board of Elections takes no position on this Interrogatory.

15. Did you count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Answer: n/a. The Cumberland County Board of Elections did not receive any military-overseas ballots as described in Interrogatory No. 15.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Answer: n/a

17. Did the military-overseas ballots described in Interrogatory 15 have

Exhibit J18

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

**PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.***

Plaintiffs,

v.

LEIGH M. CHAPMAN, *et al.*

Defendants.

Case No. 1:22-cv-00339-SPB

**ANSWER OF DELAWARE
COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS'
FIRST SET OF
INTERROGATORIES**

Defendant Delaware County Board of Elections (“Board”), by and through its undersigned counsel, hereby submits its Answers to the Interrogatories of Plaintiffs Pennsylvania State Conference of the NAACP (“NAACP”), League of Woman Voters of Pennsylvania (“League”), Philadelphians Organized to Witness, Empower, and Rebuild (“POWER”), Common Cause Pennsylvania (“CCP”), Black Political Empowerment Project (“BPEP”), and Make the Road Pennsylvania (“MRP”) (collectively, “Plaintiffs”) and states as follows:

GENERAL OBJECTIONS

1. The Board objects to all requests to the extent they would impose upon Board an unreasonable burden or would otherwise create burden, hardship or oppression beyond that authorized under the Federal Rules of Civil Procedure or seek discovery beyond that authorized under the Federal Rules of Civil Procedure or the stipulation entered into between the Board and the Plaintiffs in this matter.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, the Board set aside 49 ballots for lacking a handwritten date on the outer envelope and 65 ballots for having a date which was determined to be incorrect on the outer envelope. These numbers include ballots that were ultimately corrected or cured.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, the Board followed guidance issued by the Pennsylvania courts regarding the acceptable date range on an outer return envelope. The Board also considered whether a voter may have used a military/European style of date (i.e., day/month/year) or did not include the year but did include month and day, in which case those ballots were ultimately counted.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, the Board mailed military/overseas ballots 45 days prior to Election Day. The Board began mailing civilian mail-in and absentee ballots on the weekend of October 8, 2022.

ANSWER: The general objections are incorporated by reference. The Board objects to providing this information in a public document as such disclosure may violate state law and the protective order entered into in this case. Subject to, and without waiver of, the foregoing, the Board refers Plaintiffs to its document production, which contains information responsive to this Interrogatory.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: The general objections are incorporated by reference. The Board objects to the term “additional defect” as vague and undefined within the context of this Interrogatory. Subject to, and without waiver of, the foregoing, none.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: The general objections are incorporated by reference. The Board objects to this Interrogatory as vague and unclear. Subject to, and without waiver of, the foregoing, none.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: None.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, the Board did provide notice to such voters to the extent practicable. For voters whose e-mail addresses were provided on their application, an e-mail was sent. If an e-mail address was not provided, the Board sent a letter to the voter. For envelopes with errors that were not received until Election Day, the Board was unable to provide notice to those voters before the 8 p.m. close of polls because there simply was not time to be able to do so.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, voters were advised to go to the Voter Service Center at the Board's office to obtain a replacement ballot.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, the Board is unable to determine how many voters ultimately showed up at the Voter Service Center and cured their ballots.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, the Board does not contend the handwritten date on a mail ballot envelope is material. On the contrary, the Board has taken the position in prior litigation that the handwritten date on a mail ballot envelope is not material.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: The Board did not receive any improperly dated, or undated, military-overseas ballots in this election.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Exhibit J19

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE CONFERENCE :
OF THE NAACP, et al., :
Plaintiffs :

V. : **Case No. 1:22-cv-00339**

LEIGH M. CHAPMAN, in her official :
Capacity as Acting Secretary of the :
Commonwealth, et al., :
Defendants :

ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTY BOARD
OF ELECTION DEFENDANTS

Filed on behalf of

ELK COUNTY BOARD OF ELECTIONS

Defendant Elk County Board of Elections files the following Answers to Plaintiffs' First Set of Interrogatories to County Board of Election Defendants:

1. 2102 absentee/mail-in ballots and 19 military/overseas ballots.
2. Ten (10) ballots. This Defendant allowed voters to correct or cure incorrectly dated or signed ballots.
3. The dates were determined to be incorrect by physical observation. Nine (9) ballots contained no date and one ballot was dated "3-10-22".

4. September 16, 2022.
5. This Defendant did not open or count mail-in ballots that were so dated.
6. This Defendant opened and counted only military/overseas ballots that were so dated.
7. This Defendant objects to this Interrogatory for the reason that it requests the disclosure of documents containing confidential information regarding the identity of voters and for the reason that Plaintiffs are not entitled to, and this Defendant is prohibited from disclosing, this information pursuant to the prohibitions contained in Section 2648 of the Pennsylvania Election Code, 25 P.S. Section 2648.
8. Because of the Orders issued by the Pennsylvania Supreme Court, this Defendant did not open or count these mail ballots; and this Defendant therefore has no knowledge whether the ballots were otherwise defective.
9. None were determined to be ineligible to vote.
10. This Defendant received no complaints or evidence that any of the described ballots involved any credible fraud concerns.
11. When the ballots were received in the mail, the County Elections & Voter Registration Office called each individual voter to advise them of the error and explained to each of them the methods available to cure the error.
12. Each voter was verbally advised of the opportunity to cure the defective ballot either by personally appearing at the Elections & Voter Registration Office, with proper identification, to manually correct the error(s) or the voter could appear at the proper polling place on Election Day to file a provisional ballot.
13. Five (5) voters came to the Elections & Voter Registration Office to correct the error(s), and two (2) voters filed a provisional ballot on Election Day.
14. This Defendant objects to this Interrogatory as it calls for an opinion rather than a statement of fact. This Defendant followed the guidance of the Department of State and the relevant court orders.
15. This Defendant received no improperly dated military/overseas ballots for the November 2022 election.
16. This Defendant objects to this Interrogatory for the reason that it requests the disclosure of documents containing confidential information regarding the identity of voters and for the reason that Plaintiffs are not entitled to, and this Defendant is prohibited from

Exhibit J20

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT, ERIE COUNTY BOARD OF ELECTION'S ANSWERS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Defendant, Erie County Board of Elections, by and through their counsel,
Talarico & Associates, hereby Answer the First Set of Plaintiff's Interrogatories as
follows:

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The term "document," as used herein, means the original and all nonidentical copies of any handwritten, printed, typed, recorded, or graphic or photographic material of any kind and nature, including all drafts thereof and all mechanical or electronic sound recordings or transcripts thereof, however produced or reproduced, and including but not limited to accounting materials, accounts,

(b) 41 military-overseas ballots

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

(a) 51 incorrected dated – including cured ballots

(b) 168 undated – including cured ballots

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

Ballots dated prior to September 9, 2022 were determined to be incorrect

4. State the date on which you began sending the mail ballot packages to voters?

(a) October 6, 2022

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

(a) Yes

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

(a) Yes

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

See attached Exhibit "A"

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

(a) Yes, eight (8) undated ballots were also missing a signature

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

No, the office determined the qualifications of electors prior to sending mail-in or absentee ballots.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

(a) The Election Board approved a Notice to Cure on November 7, 2022. On the same day, the Board released a Notice to Cure to those electors whose undated or incorrectly dated ballots were set aside, by issuing a media release, by publication in the newspaper, on its website and on television. Further, office personnel actively contacted those electors whose ballots were

segregated and advised them of the opportunity to cure by either coming into the office or voting in person (provisionally) at the polls.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

See answer to 11 above.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

(a) 41 incorrectly dated ballots were cured.

(b) 72 undated ballots were cured.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

(a) No

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set

Exhibit J21

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

PENNSYLVANIA STATE CONFERENCE OF)	
THE NAACP, et al.,)	
)	
Plaintiffs,	)	Civil Action No. 1:22-cv-00339-SPB
v.)	
)	
LEIGH M. CHAPMAN, in her official capacity)	
as Acting Secretary of the Commonwealth, <i>et</i>)	
<i>al.</i> ,)	
Defendants.)	

**ANSWERS OF DEFENDANT FAYETTE COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS’ FIRST SET OF INTERROGATORIES TO COUNTY
BOARD OF ELECTION DEFENDANTS**

Pursuant to Pennsylvania Western District Local Rule LCvR 33(C), defendant Fayette County Board of Elections (“Fayette Board”), by and through its attorney, John M. Purcell, hereby answers Plaintiffs’ First Set of Interrogatories to County Board of Election Defendants as follows:

- a. The information supplied in these Answers is not based solely on the knowledge of the executing party, but includes the party's agents, representatives and attorneys unless privileged.
- b. The word usage and sentence structure is that of the attorney and does not purport to be the exact language of the executing party.

Interrogatory #1: State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

Answer to Interrogatory #1: For the 2022 General Election, 9,036 mail ballots and 33 military-overseas were returned to Fayette County.

Interrogatory #2: State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Answer to Interrogatory #2: Fayette County received 137 ballots that were segregated because they either lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that the county deemed to be incorrect. This response does include ballots that were ultimately corrected or cured.

Interrogatory #3: Identify and describe how you determined if a date in a mail ballot outer return envelope was “incorrect.”

Answer to Interrogatory #3: Fayette County deemed handwritten dates on ballot return envelopes to be “incorrect” if they fell into the following categories:

- a. Dated prior to the date county began mailing out ballots
- b. Dated after the postmark on the envelope

Interrogatory #4: State the date on which you began sending the mail ballot packages to voters?

Answer to Interrogatory #4: For the 2022 General Election, Fayette County began mailing ballots to voters on Tuesday, October 11, 2022.

Interrogatory #5: State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

Answer to Interrogatory #5: Fayette County followed the requirements of the Pennsylvania

Interrogatory #8: Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Answer to Interrogatory #8: Of the total number of voters in Interrogatory #2, eleven voters signed another voter's ballot return envelope. These voters are identified on the aforementioned Exhibit A.

Interrogatory #9: Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Answer to Interrogatory #9: No voters described in Interrogatory #2 were determined by Fayette County not to be qualified, eligible voters.

Interrogatory #10: State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

Answer to Interrogatory #10: No concerns of fraud related to mail ballots or any other issue were identified or raised in the 2022 General Election in Fayette County.

Interrogatory #11: Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Answer to Interrogatory #11: Voters whose timely received mail ballots were set aside and/or

segregated by Fayette County because the signed outer return envelope was missing a date or showed a date the county determined to be incorrect were notified of the issue by First Class U.S. Mail. In addition, voters who provided a telephone number and/or email address on their voter registration in the Pennsylvania SURE system were also notified by one or both of those methods.

Interrogatory #12: Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Answer to Interrogatory #12: Voters who received notice as described in Interrogatory #11 were instructed to come to the Fayette County Election Bureau office at 2 West Main Street in Uniontown, PA and correct the issue that caused their ballot to be segregated.

Interrogatory #13: If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Answer to Interrogatory #13: Ninety-three voters who received notice and an opportunity to cure described in Interrogatories 11 and 12 came to the Fayette County Election Bureau and cured their mail ballots.

Interrogatory #14: Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

Answer to Interrogatory #14: To the extent that this Interrogatory is asking for an opinion or contention that relates to fact or the application of law to fact, the Fayette County Election Bureau does not use handwritten dates on ballot envelopes to determine whether a mail ballot

voter is qualified to vote in the election in which they have cast a ballot. The basis for this contention is that the Election Bureau relies voter status in the Pennsylvania SURE system as evidence that a voter is duly registered and qualified to vote. In regard to timely receipt of ballots, the Fayette County Election Bureau notes when each ballot was mailed out and when each ballot is received back as evidenced by a time stamp on envelopes as they come in.

Interrogatory #15: Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Answer to Interrogatory #15: Fayette County did not timely receive any military-overseas ballots in the 2022 General Election on which the voter failed to date their voter declaration or included a date that the county deemed to be incorrect.

Interrogatory #16: Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Answer to Interrogatory #16: Fayette County did not timely receive any military-overseas ballots in the 2022 General Election on which the voter failed to date their voter declaration or included a date that the county deemed to be incorrect.

Interrogatory #17: Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how many such military-overseas ballots had an additional defect, describe those defects, and

Exhibit J22

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, et al.,**
Plaintiffs,

Case No. 1:22-cv-00339

v.

**LEIGH M. CHAPMAN, in her official
Capacity as Acting Secretary of the
Commonwealth, et al.,**
Defendants.

DEFENDANT, FOREST COUNTY'S RESPONSE TO PLAINTIFF'S
INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: 447 mail ballots and 0 military-overseas ballots

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: 38

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issues.

ANSWER: See attached printout

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: Two mail ballots were defective as they were signed by the incorrect person. Two spouses signed each other's mail ballots.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: No notice was provided. Two voters contacted the Forest County Board of Elections on their own to inquire as to their ballot being correctly dated.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Not applicable as the Forest County Board of Elections did not provide any notice. The two voters who independently contacted the Forest County Board of Elections were given the opportunity to cure their date issues.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: No notice was provided by the Forest County Board of Elections. Two voters independently contacted the Forest County Board of Elections, were given the opportunity to cure, and did cure the defect.

14. Do You contend that the handwritten date is material in determining whether a mail ballot is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: No, it is not material as to the qualifications of a voter to vote, but it is a material matter as to the counting of the vote.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: Forest County had no military-overseas ballots

Exhibit J23

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

Pennsylvania State Conference of the	:	
NAACP, et al.	:	
Plaintiffs	:	No. 1:22-cv-339
	:	
v.	:	
	:	
Leigh M. Chapman, et.al.	:	
Defendants	:	
	:	

**DEFENDANT, FRANKLIN COUNTY BOARD OF ELECTIONS’
ANSWERS TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**

Defendant, Franklin County Board of Elections, by and through their undersigned counsel, hereby answer Plaintiffs’ first set of Interrogatories as set forth below:

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Mail Ballots – 10,496; Military & Overseas Ballots - 68

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you

allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: 114.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Staff reviewed ballots and pulled and segregated ballots based on criteria issued by PA Supreme Court and guidance issued by the Department of State.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: October 3, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to their Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: See attached spreadsheet.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No Signature – 6; Naked & No Signature - 1. By way of further answer, see attached spreadsheet for voter information.

9. Did you determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No fraud concerns were raised.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Recorded this information in SURE which automatically generated an email notification to voters if their email address was provided on their application.

12. Did you provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: N/A

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: It is material if the current law states that the ballot cannot be counted if the voter declaration either does not have a date or has an incorrect date.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: N/A.

Exhibit J24

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

PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity
as Acting Secretary of the Commonwealth, *et*
al.,

Defendants.

Case No. 1:22-cv-00339-
SPB

DISCOVERY RESPONSES OF DEFENDANT FULTON COUNTY BOARD
OF ELECTIONS

Answers to Interrogatories:

1. 615 of which 6 were military overseas.
2. Five (5). Of these, One (1) was cured. One (1) went to the polls and voted a provisional ballot. Three (3) did nothing.
3. One was a date prior to the date we actually sent out the ballots. One had a correct date except they wrote the year as 2023 rather than 2022. Three were not dated at all.
4. 10/21/22
5. We did not.
6. We did not. There was only one of these ballots.
7. We called and emailed each of the five (5) affected people, and allowed them a chance to cure.
8. No.
9. They were all qualified voters.
10. No.

11. We tried to call and email the 5 affected voters. We also sent notice to the party chairs and asked them to also reach out to the affected voters.
12. Yes. Please see answers set forth above. We gave them until 8:00 p.m. on election night to correct the defect.
13. As set forth above, two (2) people cured and three (3) did not.
14. We followed the law and the guidance promulgated by the Secretary of the Commonwealth.
15. We had no incorrect military ballots.
16. N/A
17. N/A
18. N/A
19. N/A
20. N/A
21. N/A
22. N/A

Answers to requests for Admissions:

1. Denied. We only did so in this election based on the guidance of the Secretary of the Commonwealth.
2. Denied. This year we used that date based on the guidance of the Secretary of the Commonwealth.
3. N/A We had no such ballots.
4. N/A We had no such ballots.
5. Admitted.
6. Admitted.
7. Admitted.
8. Denied. We counted the date if they wrote it out using a European dating convention as well as an American dating convention.

Exhibit J25

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

PENNSYLVANIA STATE CONFERENCE OF )	)	Civil Action
THE NAACO, et al.,))	
	)	CASE 1:22-CV-00339
Plaintiffs,))	
v.))	
LEIGH M. CHAPMAN, in her official capacity))	
As Acting Secretary of the Commonwealth, et al.,))	
E))	
)	
Defendants.))	

**ANSWER TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES TO COUNTY
BOARD OF ELECTION DEFENDENTS**

Defendant, Greene County Board of Elections, (“GCBOE”) files this Answer to Plaintiffs’ First Set of Interrogatories directed to Greene County Board of Election.

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election. **RESPONSE: GCBOE received 2,384 mail ballots and 7 military-overseas ballots for the 2022 General Election.**

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. **RESPONSE: GCBOE segregated 11 mail ballots.** If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured. **RESPONSE: Not applicable.**

a. No Date – 10

b. Incorrect Date – 1

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? **RESPONSE: No.** If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s). **RESPONSE: None**

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? **RESPONSE: No.** If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility. **RESPONSE: Not applicable.**

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns. **RESPONSE: GCBOE had no credible fraud concerns.**

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? **RESPONSE: No.** If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope. **RESPONSE: Not applicable.**

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? **RESPONSE: No.** If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues. **RESPONSE: Not applicable.**

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issues? **RESPONSE: Not applicable.**

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot?

RESPONSE: GCBOE has no position. By order of Jonathan Marks Deputy Secretary for Elections and Commissions the ballots were segregated. If so, what is the basis for that contention? **RESPONSE: Not applicable.**

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? **RESPONSE: GCBOE received no ballots as described above.** If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope. **RESPONSE: Not applicable.**

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect. **RESPONSE: Not applicable.**

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? **RESPONSE: Not applicable.** If so, state how many such military-overseas ballots had an additional defect, describe those defects, and identify the voters whose timely received military-overseas ballots had such addition defect(s). **RESPONSE: Not applicable.**

Exhibit J26

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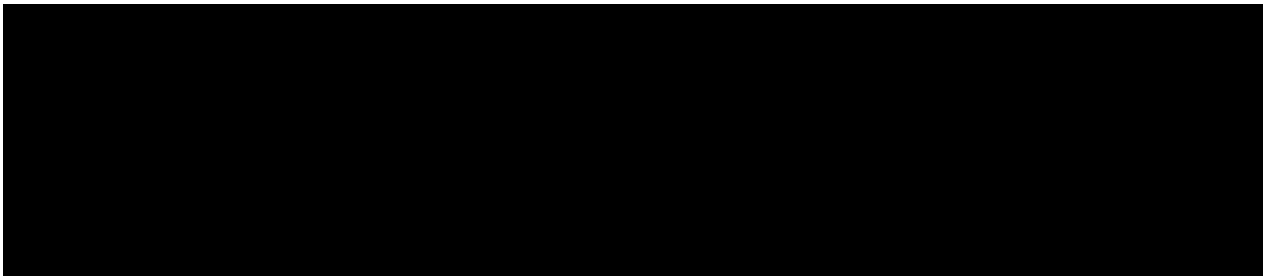
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE	:	
OF THE NAACP, et al.,	:	
Plaintiffs,	:	
v.	:	Case No. 1:22-cv-00339
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, et al.,	:	
Defendants.	:	

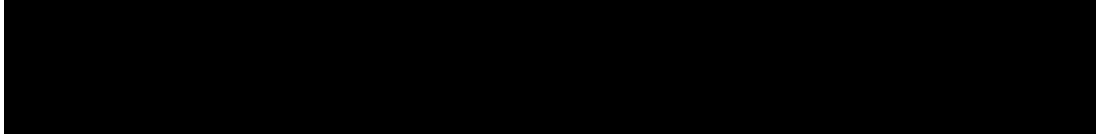
**JUNIATA COUNTY BOARD OF ELECTIONS
RESPONSE TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Defendant, Juniata County Board of Elections does hereby respond to Plaintiff's First Set of Interrogatories in like numbered paragraphs as follows:

1. Mail in 1244, military-overseas 7.
2. 5 total, 2 cured
3. Missing a date or had a date that was not within the acceptable time frame.
4. 9/27/2022
5. No.
6. No.



8. Yes. 2 missing date and signature.



9. No.

10. No.

11. No direct notice was provided by the Voter Registrar's office to any voter. Per the direction of the Pennsylvania Department of State, the rejection or cancellation was entered into the SURE system as canceled and if the voter had supplied an email address on their application, the SURE system automatically sent email notification to the email provided when their ballot was cancelled and the reason for the cancellation.

12. Yes, if the voter contacted the Election Office, they were informed they may correct the envelope but voter must come to the election office to do so by 8:00 PM, November 8, 2022.

13. Other than as provided for in answer to Interrogatory #11 aforesaid, neither Voter Registrar, Eva Weyrich, nor any one in or affiliated with her office provided any notice and/or opportunity to cure. Two (2) mail ballot voters cured their envelope issue.

14. Neither Voter Registrar nor the Juniata Count Board of Elections have made any contention regarding whether the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot.

15. No. Timely-received military-overseas ballots in the 2022 General Election which were not dated or did not include a date were not counted. Juniata county received one (1) such ballot and it was set aside.

17. Yes, the aforesaid timely-received military-overseas ballot, also had no signature.

18. No.

19. No.

20. Yes, if an email was supplied by the voter who submitted such military-overseas ballot, the voter was notified by email when their ballot was cancelled. See answer to Interrogatory #11 aforesaid.

21. Yes, the voter who submitted such military-overseas ballot was notified by email that a Federal Write-In Absentee Ballot "FWAB" could be mailed by voter but must be it must postmarked by November 8, 2022. The voter, who submitted such military-overseas ballot, was advised to submit a FWAB.

22. None.

Exhibit J27

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J. Alexander Marcinko
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Pittston, PA 18640
Ph: (570) 602-3560
Fax: (570) 602-3561

Attorney for Defendant
Lackawanna County Board of Elections

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

PENNSYLVANIA STATE CONFERENCE OF THE NAACP, LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, PHILADELPHIANS ORGANIZED TO WITNESS, EMPOWER AND REBUILD, COMMON CAUSE PENNSYLVANIA, BLACK POLITICAL EMPOWERMENT PROJECT, AND MAKE THE ROAD PENNSYLVANIA,	No. 1:22-CV-339
<p style="text-align: center;"><i>Plaintiffs,</i></p>	
<p style="text-align: center;">v.</p> LEIGH M. CHAPMAN, in her official capacity as ACTING Secretary of the Commonwealth, et al.,	

Defendants.

**DEFENDANT LACKAWANNA COUNTY BOARD OF ELECTIONS’
RESPONSE TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR
ADMISSION**

Defendant Lackawanna County Board of Elections, (the “Defendant”), by and through its undersigned counsel, hereby objects and responds to the first set of interrogatories propounded upon it by Plaintiffs, as follows:

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

Response:

In the 2022 General Election, 20,759 total mail ballots and military-overseas ballots

returned. Of those, 17,582 were mail in ballots, 3,042 were absentee ballots, 29 were military ballots, 34 were emergency ballots, 26 were civilian overseas ballots, 44 were bedridden veteran ballots and 2 were alternative ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Response:

Lackawanna County Board of Elections received 160 mail ballots that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that was deemed to be incorrect. This does not include ballots that were cured.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect".

Response:

If the handwritten date was a date prior to the initial date that the ballots were first mail mailed to voters or after November 8, 2022 or if the no date was written, the date was deemed "incorrect."

4. State the date on which you began sending the mail ballot packages to voters?

voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

Response:

Defendant Objects to this Interrogatory in that it is overly broad given that the subject matter of this litigation. In addition, Defendant objects to this Interrogatory as unduly burdensome upon the Defendant to produce. In addition, this Interrogatory seeks privileged information, including, but not limited to, information or documents constitutionally protected from disclosure by Article VII, Section 4 of the Constitution of Pennsylvania; the Board's duty to protect the constitutional privacy at issue in the materials and information sought in this interrogatory cannot be waived by the Board of Elections.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Response:

No, the 160 ballots referred to in Interrogatory #2 only had defects with the date. In addition to the ballots referred to in Interrogatory #2, there were 20 ballots that had defects to the date and lacked a signature on the envelope. Additionally, there were ballots that had correct dates but lacked signatures. And finally, there were 108 ballots that were not inside of the secrecy ballot.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Response:

No, those ballots were not otherwise examined for voter eligibility.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

Response:

No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Response:

No.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Response:

If a voter contacted the Lackawanna County Board of Elections regarding their uncounted ballot and that ballot was not counted due to the lack of a date, an incorrect date, the lack of a signature or any combination of those errors, that voter was given the opportunity to cure those errors by 08:00 PM EST on November 8, 2022.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Response:

Please see response to Interrogatory #11 above.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

Response:

Defendant Objects to this Interrogatory in that it is asking for Defendant's legal conclusion.

Without waiving available objections and, in fact, expressly reserving same, Defendant responds as follows: The Pennsylvania Supreme Court in Ball v. Chapman, 284 A.3d 1189, 1192 (Pa. 2022), reconsideration and reargument denied (Nov. 7, 2022)(emphasis in original), ordered that ballots containing errors on the handwritten date were not to be counted. Absent an order from a federal court to the contrary, the Lackawanna County Board of Elections follows the direction of the Pennsylvania Supreme Court.

Exhibit J28

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

PENNSYLVANIA STATE	:	
CONFERENCE OF THE NAACP,	:	
ET. AL.	:	Case No. 1:22-CV-339-SPB
	:	
Plaintiffs,	:	
	:	
v.	:	
LEIGH M CHAPMAN, ET. AL.	:	
	:	
Defendants.	:	
	:	

**ANSWERS AND OBJECTIONS OF DEFENDANT LANCASTER COUNTY
BOARD OF ELECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 26 and 33, defendant Lancaster County Board of Elections ("LCBOE") answers Plaintiffs' First Set of Interrogatories as follows:

General Objections to Interrogatories

1. LCBOE objects to these interrogatories to the extent they seek to require information other than that which may be obtained through reasonably diligent search of their records.
2. LCBOE objects to these Interrogatories to the extent they seek information protected by the attorney client privilege or work product doctrine.
3. LCBOE objects to these Interrogatories to the extent they seek information beyond the scope of discovery permissible under the Rules of Civil Procedure.

The right at any time to revise, correct, add to, supplement, clarify any of the responses to the individual interrogatives as follows:

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: 34,202 mail ballots and 188 military-overseas ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: LCBOE objects to this interrogatory on the basis that it is vague and ambiguous. The interrogatories do not define the phrase “timely received.” LCBOE assumes that the phrase “timely received” refers to the date referenced in 25 P.S. § 3150.16(c). Without waiving that objection, LCBOE segregated and/or set aside 232 mail ballots that it deemed were required to be set aside and segregated under the orders of the Supreme Court of Pennsylvania dated November 1 and November 5, 2022 respectively, and the guidance of the secretary of state.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: LCBOE objects to this interrogatory on the grounds that it is vague and ambiguous because the term “incorrect” is undefined. LCBOE segregated

ANSWER: LCBOE objects to this interrogatory on the basis it seeks confidential information that is not subject to disclosure, the disclosure of which could subject LCBOE to civil or criminal penalties or liability. Pursuant to the email of the Deputy Attorney General of Pennsylvania dated January 19, 2023, Article I Section 1 of the Pennsylvania Constitution protects against access to individuals' private information, which includes home addresses. *Pennsylvania State Educ. Ass'n v. Commonwealth Dep't of Cmty. & Econ. Dev.*, 148 A.3d 142, 157 (2016).

Moreover, the interrogatories do not define the phrase "timely received." LCBOE assumes that the phrase "timely received" refers to the date referenced in 25 P.S. § 3150.16(c). Moreover, LCBOE segregated and/or set aside mailed ballots it deemed were required to be set aside and/or segregated under the orders of the Supreme Court of Pennsylvania dated November 1 and 5, 2022, respectively, and the guidance of the Pennsylvania Department of Stated dated November 3, 2022.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: Yes, 51

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how

you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: None.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: No.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Not applicable.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: A handwritten date is not material in determining whether a mail ballot voter is qualified to vote. In determining whether a mail ballot voter is qualified to vote the LCBOE follows the Commonwealth of Pennsylvania's requirements which state a voter must be at least 18 years of age on the date of the election; must be a citizen of Pennsylvania for at least one month; must have lived in the relevant election district for at least 30 days; and must not be imprisoned for a felony. If a voter meets all of the aforementioned criteria, then the LCBOE determines that the voter is qualified to vote.

The handwritten date is material in determining whether the ballot was cast in compliance with the Election Code and is eligible to be counted. After mail ballots are received the LCBOE determines whether those qualified, eligible voters who returned their mail ballots in a timely manner complied with the Election Code in casting their ballot. All compliant ballots are counted. All noncompliant ballots are not counted.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly incorrect dates on the outer

Exhibit J29

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

Pennsylvania State Conference :

of the NAACP, *et alia*,

Plaintiffs

:

:

1:22-cv-00339

:

v.

:

:

Leigh M. Chapman, *et alia*,

Defendants

:

:

**RESPONSES OF DEFENDANT LEHIGH COUNTY BOARD OF ELECTIONS
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ML/AB: 35,425 & MIL/OV/CIV: 101

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

No date: 153; Incorrect date: 237; No date and no signature: 23. Lehigh did not track the number of ballots which were cured.

responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

See three attached lists for: voters with no date; voters with incorrect date; and voters with no date and no signature. The lists include name, year of birth, address and party registration for each voter. Lehigh has identified the information in these lists as confidential.

Lehigh did allow voters to cure date issues but did not track how many ballots were cured.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Yes. See list provided for #7 which identifies those voters with both unsigned and undated mail ballots. Because those mail ballots were not opened Lehigh is not aware if there were other defects, such as lack of security envelope.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe

how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Mail ballots were only sent to qualified, eligible voters. Those voters who died, moved and changed or cancelled their registration prior to 7:00 a.m. on election day but after receiving a mail ballot were no longer eligible.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Yes, for those voters who had provided contact information, either by phone or email. Lehigh did not keep a log of the date or time of the contacts or attempted contacts. Generally, the contact effort was made the day the ballot was received, if time permitted.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Yes, voters were provided an opportunity to cure date issues. Voters were given the option to come to the Voter Registration Office to cure or have the ballot mailed back to them to cure, and then either drop off or mail the cured ballot to the County.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Lehigh did not log or track these numbers.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

No.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-

Exhibit J30

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

Pennsylvania State Conference of
the NAACP, *et al.*,

v.

Leigh M. Chapman, *et al.*

:
:
:
:
:
:

Civil Action No. 1:22-cv-00339-SPB

**RESPONSE OF DEFENDANT LUZERNE COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

COMES NOW, Defendant Luzerne County Board of Elections, by and through its counsel, Joseph M. Cosgrove of Selingo Guagliardo, LLC and hereby answers Plaintiffs' First Set of Interrogatories as follows:

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

Response: 29,002

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect.

Response: 131

If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Response: No

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

Response: Identification of these mail in ballots was made through a manual process conducted by the Election Bureau's administrative team based initially on the date mail in ballot forms were sent by the Bureau (October 13, 2022). Per the guidance of the Department of State received on November 3, 2022, the dates outlined in that guidance were implemented.

4. State the date on which you began sending the mail ballot packages to voters?

Response: October 13, 2022

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

Response: Yes (Note: One ballot was dated September "31")

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

Response: Unknown

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer

return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect.

Objection: The first sentence of this request seeks personal information of voters which the present Defendant is not at liberty to provide.

s/ Joseph M. Cosgrove

In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

In response to the second sentence of this Interrogatory: Initially mail in ballots were deemed incorrectly dated if predated October 13, 2022. After receipt of the November 3, 2022 guidance of the Department of State, the dates outlined in that guidance were implemented. Regarding so-called "curing," the Board's policy was to notify the chairs of the major political parties if undated or incorrectly dated ballots were received. After receipt of the November 3, 2022 guidance from the Department of State, email notification through the SURE process was implemented, as best as can be determined. The Bureau can verify that 16 voters in this category went to the polls and voted provisionally. It is unknown how many (if any) came directly to the Bureau.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

Internally the Bureau of Elections does not track multiple defects on mail in ballots.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Same Response as #8

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

Response: None.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

See Response #7

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you

instructed notified voters to cure any missing or incorrect date issues.

See Response #7

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

See Response #7

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

The Board follows the law regarding mail in ballots. See Brief of Defendant Luzerne County Board of Elections filed in *Ball, et al., v. Chapman, et al.*, 102 MM 2022 (Pa. Supreme Court), (indicating that the Board would follow the reasoning outlined in *McCormick for U.S. Senate v. Chapman*, No. 286 M.D. 2022, 2022 WL 2900112 (Pa. Cmwlth. June 2, 2022) (to which the Board was a party), and *Migliori v. Cohen*, No. 22-1499 (3d Cir. May 27, 2022) unless otherwise directed by the Court). The Court in *McCormick* noted the Board's neutral position regarding the ballots in question, stating that the Board "requested that the Court provide clear direction and guidance as to what to do with these ballots." *McCormick* 2022 WL 2900112, at *5.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer

Exhibit J31

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE	:	Civil Action
CONFERENCE OF THE	:	
NAACP, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	Case No. <u>1:22-CV-00339-SPB</u>
	:	
vs.	:	
	:	
CHAPMAN, <i>et al.</i> ,	:	
	:	Judge Susan Paradise Baxter
Defendants.	:	

**DEFENDANT LYCOMING COUNTY BOARD OF ELECTIONS' OBJECTIONS AND
ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES
DIRECTED TO DEFENDANTS**

Defendant, Lycoming County Board of Elections, hereby objects and answers plaintiffs' first set of interrogatories as follows:

I. PRELIMINARY STATEMENT AND GENERAL OBJECTIONS.

The following objections are set forth here to avoid restating them in each response. Defendant reserves the right to rely upon any facts, documents or other evidence which may develop or come to its attention at a later time throughout the course of discovery. Responses to these interrogatories are based upon information known to defendant at this time. The responses herein are set forth without prejudice to the right of defendant to supplement responses if further information is discovered, and defendant reserves the right to supplement or amend responses at any time prior to trial in accordance with the Federal Rules of Civil Procedure.

1. Defendant objects to these interrogatories to the extent they: (a) are overly broad, vague, ambiguous, or seek to impose undue burden and expense; (b) seek information that is irrelevant and immaterial; (c) are not likely to lead to the discovery of admissible evidence; and (d) impose obligations upon the defendant beyond those contained in the Federal Rules of Civil Procedure.

2. Defendant objects to these interrogatories to the extent that they seek or can be construed to seek information subject to the attorney-client privilege, the work-product doctrine, or any other privilege or immunity. Defendant does not waive, intends to preserve, and is

ANSWERS TO INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: 6,474 mail ballots were received, consisting of the following categories: 6,357 mail ballots were timely received and counted; 36 mail ballots were set aside and not counted due to missing or incorrect date; 57 mail ballots were set aside and not counted due to other fatal defects; and 24 mail ballots were received untimely and not counted.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: 36 ballots were received.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: Pursuant to the Pennsylvania Supreme Court's orders, the county did not count absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to pre-date August 30, 2022, or to post-date November 8, 2022, and did not count mail-in ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to pre-date September 19, 2022, or to post-date November 8, 2022.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: Mail ballots returned with a missing or incorrect date within the meaning of the Pennsylvania Supreme Court's orders were marked as received in the Statewide Uniform Registry of Electors (SURE) with a status of Label Cancelled, which generated notification emails to affected voters who provided an email address with their mail ballot application. Where the voter's registration record included a phone number, a phone call was attempted.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: Affected voters who were able to appear in-person at the Office of Voter Services before 8:00pm on Election Day were permitted to correct a missing or incorrect date on their mail ballot envelopes. Additionally, six (6) affected voters cast provisional ballots at their polling places on Election Day and the provisional ballots were counted.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: Unknown. The requested information was not tracked prior to Election Day and is not possible to reconstruct. The spreadsheet provided in response to Interrogatory 7, which lists voters whose mail ballots were set aside due to missing or incorrect dates, was created during Election Day pre-canvassing and the post-election official canvass, and it reflects only the mail ballots that contained fatal defects as of 8:00pm on Election Day and were set aside. Six (6) affected voters cast provisional ballots at their polling places on Election Day, and the provisional ballots were counted.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: Objection. This interrogatory seeks to discover a legal conclusion

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: Subject to the foregoing statement and objections, defendant answers as follows: All military-overseas voters in Lycoming County were able to follow the printed instructions directing them to date their declarations and were able to record correct dates on their declarations. Consequently, no received military-overseas ballots fit the described fact pattern.

Exhibit J32

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

PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.*,
Plaintiffs

vs.

LEIGH CHAPMAN, Acting Secretary of the
Commonwealth, *et al.*
Defendants

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: NO: 1:22-CV-00339
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**DEFENDANT’S, McKEAN COUNTY BOARD OF ELECTIONS,
ANSWERS TO PLAINTIFF’S FIRST SET OF INTERROGATORIES
DIRECTED TO DEFENDANTS**

Defendant, McKean County Board of Elections, hereby Answers Plaintiff’s
first set of interrogatories as follows:

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots
voters returned to You for the 2022 General Election.

ANSWER: Defendant’s received 1,957 mail in ballots and five (5) military
overseas ballots for the 2022 General Election.

2. State how many mail ballots you received in connection with the 2022
General Election that were signed and timely received but set aside and/or
segregated because they lacked a handwritten date on the outer return

envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Defendants received 35 ballots which were signed and timely received but segregated. Defendants did not allow any voters to correct or cure ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Defendants followed the guidelines given by the Supreme Court in the supplemental order.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: Defendant’s began sending the mail ballot packages to voters through the United States Postal Service on September 30, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause you not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No

9. Did you determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No

10. State whether you or any of your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No

11. Did you provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that you determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Defendants did not provide notice to voters whose timely received mail ballots were set aside and/or segregated.

12. Did you provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: N/A

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: N/A

14. Do you contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Defendants do not contend the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election.

15. Did you count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a

Exhibit J33

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INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

**Answer: 2680 Mail-in Ballots Returned
8 Military-overseas Ballots Returned**

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Answer: On November 8, the Democrat Committee Chairman ask for a list of Democrat ballots which were segregated. List of 10 were emailed and none were corrected.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."

Answer: The dates were determined by physical observation. 13 ballots undated and no incorrect.

4. State the date on which you began sending the mail ballot packages to voters?

Answer: October 10, 2022

INTERROGATORIES (Continued)

Answer: This defendant objects to this interrogatory for the reason that it request the disclosure of documents containing confidential information regarding the identity of voters and for this reason Plaintiffs are not entitled to, and this defendant is prohibited from disclosing, this information pursuant to the prohibitions contained in Section 2648 of the Pennsylvania Election Code.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

**Answer: 7 Ballots received after deadline
5 Ballots missing inter envelope (yellow)
Pursuant to orders issued by Pennsylvania Supreme Court, this defendant did not open or count these ballots.**

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

Answer: None

INTERROGATORIES (Continued)

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

Answer: None

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Answer: On November 8, the Democrat Committee Chairman ask for a list of Democrat ballots which were segregated. List of 10 were emailed and none were corrected.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Answer: On November 8, the Democrat Committee Chairman ask for a list of Democrat ballots which were segregated. List of 10 were emailed and none were corrected.

INTERROGATORIES (Continued)

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Answer: None

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

Answer: No Position

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Answer: Mifflin County did not have any.

Exhibit J34

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF
PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**ANSWERS OF DEFENDANT MONTGOMERY COUNTY BOARD
OF ELECTIONS TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant Montgomery County Board of Elections (“Answering Defendant”), by and through its undersigned counsel, hereby objects to and answers, pursuant to Federal Rule of Civil Procedure 33, Plaintiffs’ interrogatories (the “Interrogatories”).

I. GENERAL OBJECTIONS

1. The Answering Defendant objects generally to the Interrogatories as invalid to the extent that they seek discovery of matters which fall within the attorney-client privilege, attorney work product privilege, accountant-privilege, and for any other applicable privilege.

2. The Answering Defendant objects generally to the Interrogatories as invalid to the extent that they do not generally exclude the mental impressions, conclusions and opinions of the Defendant’s lawyers, employees and agents respecting the value or merit of a claim or defense and respecting strategy or tactics.

be used as evidence except in the context in which the Answering Defendant understands the Interrogatories and the terms used therein.

3. These responses are not a representation or a concession as to the relevance and/or relationship of the information to this action.

III. SPECIFIC OBJECTIONS AND ANSWERS TO INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to you for the 2022 General Election.

ANSWER: 118,224 mail-in/absentee ballots and 914 military-overseas ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Montgomery County received 445 ballots that were segregated due to a missing or incorrect date. Montgomery County allowed ballot curing, but did not track the number of voters who cured such ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: A date on the return envelope was determined to be incorrect if it was directly in violation of the Court’s Order and did not otherwise qualify as being able to be included in the canvass by a decision of the County Board of Elections.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: October 6, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: Montgomery County opened and counted ballots within the date range outlined in the Court’s Order.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: Montgomery County opened and counted ballots within the date range outlined in the Court's Order.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

OBJECTION AND ANSWER: The Pennsylvania Constitution protects against access to individuals' private information. Noting that objection Montgomery County is providing the following information in response: Please refer to the attached spreadsheet containing the names, birth years, party affiliations, and reasons for segregation.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

OBJECTION AND ANSWER: Montgomery County objects because other defects that would cause a ballot not to be counted are not relevant to the litigation. Noting that objection the County offers the following in response: None of the ballots described in Interrogatory 2 had any other defects. In addition to the ballots described in Interrogatory 2, Montgomery County received one ballot envelope that was empty in addition to not having a date, 25 ballots that were not counted because there was no signature in addition to not having a date and 5 ballots that were not counted because voters failed to properly verify their identification in addition to not having a date.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: The only voters who timely returned ballots and were determined to not be eligible voters were those who became deceased after returning their mail ballot and prior to Election Day.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: There were no fraud concerns identified by Montgomery County.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Montgomery County provided notice to voters whose timely received mail ballots were set aside due to a missing or incorrect date. Voters were notified via e-mail and telephone depending on what information was available through the Statewide Uniform Registry of Electors (SURE). Voters were notified on a continuing basis up until the day before Election Day as the individual ballots were set aside.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Montgomery County notified voters and allowed them to come to our mail-in canvassing facility where they were able to correct or write a date if one was not originally provided.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Montgomery did not track these numbers.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

OBJECTION: Montgomery County objects to this interrogatory as it calls for a legal conclusion. Montgomery County further objects because the opinion of the County as to the materiality of the date provision is not relevant to the litigation. Montgomery County further objects to this interrogatory as it calls for privileged information within the attorney-client privilege.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Exhibit J35

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

DEFENDANT NORTHAMPTON COUNTY BOARD OF ELECTIONS
ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO
COUNTY BOARD OF ELECTION DEFENDANTS

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: 36,401 mail/absentee ballots which includes 91 UMOVA ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you

allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: 230 undated ballots and 50 “misdated” ballots. This does not include “corrected” or “cured” ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Answering Defendant relied on the November 1, 2022 Order of the Pennsylvania Supreme Court, e-mail communication from Deputy Secretary Jonathan Marks on November 1, 2022, and Department of State Guidance on Undated and Incorrect Dated Mail-in and Absentee Ballot Envelopes dated November 3, 2022.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: UMOVA ballots mailed October 3, 2022 and mail ballot packages after.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: Answering Defendant cannot state a specific example of a mail ballot with a handwritten date after September 19, 2022 but before date on

cure the date issue, but not all voters did cure the date issue.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: If a person was not a qualified and registered voter when applying for a mail-in/absentee ballot, that person would not receive a mail-in/absentee ballot. Answering Defendant did not make a finding as to the eligibility of a voter based on the handwritten date or lack thereof on the return envelope.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was

missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Yes. Up until November 4, 2022 voters who returned a mail-in/absentee ballot were sent a letter notifying them of the issue. The issue was also put into the SURE system and the voter would receive an e-mail if the voter provided an e-mail to SURE.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Yes. The voter would be permitted to correct the issue in the Election Office. It is possible that voters also could appear at their polling place and submit a provisional ballot if the ballot was set aside or segregated and not cured.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: 164 cured ballots.

14. Do You contend that the handwritten date is material in determining

whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Objection. Said interrogatory is confusing and calls for a legal opinion. Without waiving said objection, Answering Defendant followed applicable law and orders of the Pennsylvania Supreme Court.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: No UMOVA ballots were set aside or segregated for a date issue during the 2022 General Election.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

ANSWER: N/A.

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count

Exhibit J36

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

Pennsylvania State Conference of the	:	
NAACP, et al.	:	
Plaintiffs	:	No. 1:22-cv-339
	:	
v.	:	
	:	
Leigh M. Chapman, et.al.	:	
Defendants	:	
	:	

**DEFENDANT, PERRY COUNTY BOARD OF ELECTIONS’ ANSWERS
TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**

Defendant, Perry County Board of Elections, by and through their undersigned counsel, hereby answer Plaintiffs’ first set of Interrogatories as set forth below:

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Mail Ballots – 2,340; Military Ballots - 4

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you

allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: No date – 27; Wrong date - 8.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Based on the Department of State guidelines provided in Defendant’s Document Request responses.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: October 3, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: Not known.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: Not known.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to their Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: Scans are attached. Correcting was not allowed.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No.

9. Did you determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: No.

12. Did you provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: N/A

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: It is material if the current law states that the ballot cannot be counted if the voter declaration either does not have a date or has an incorrect date.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: Yes. They have no declaration.

Exhibit J37

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

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-339

**DEFENDANT PHILADELPHIA
COUNTY BOARD OF
ELECTIONS' RESPONSES AND
OBJECTIONS TO PLAINTIFFS'
FIRST SET OF
INTERROGATORIES TO
PHILADELPHIA COUNTY (NOS.
1–22)**

Pursuant to Fed. R. Civ. P. 26 and 33 and the applicable Local Rules of the United States District Court for the Western District of Pennsylvania, Defendant Philadelphia County Board of Elections (“Philadelphia County”) sets forth its responses and objections (the “Responses”) to Plaintiffs’ First Set of Interrogatories (Nos. 1–22) (the “Requests”) as follows:

PRELIMINARY STATEMENT

These Responses represent Philadelphia County’s good faith and reasonable effort to respond to the Requests based on information and documents available at this time. Philadelphia County is conducting a reasonable investigation into the existence and location of potentially responsive information. Philadelphia County’s investigation to date informs each of these Responses and Objections. Philadelphia County’s investigation of this matter is ongoing. Philadelphia County thus reserves the right to amend, supplement, correct, or clarify the responses in accordance with

RESPONSE TO INTERROGATORY NO. 1:

As of 8 p.m. on Election Day, voters returned 133,968 absentee and mail-in ballots to Philadelphia County. This number includes military-overseas ballots and ballots that Philadelphia County ultimately did not count due to a deficiency. Philadelphia County counted 127,934 absentee and mail-in ballots and 1,014 military-overseas ballots.

INTERROGATORY NO. 2:

State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

RESPONSE TO INTERROGATORY NO. 2:

Pursuant to the Pennsylvania Supreme Court's November 1st and November 5th 2022 orders, Philadelphia County set aside 2,617 mail-in and absentee ballots that were timely received in signed envelopes and which had a missing or "incorrect" handwritten date on the outer return envelope. None of the voters who submitted those ballots submitted replacement ballots, but 580 of those voters submitted provisional ballots.

INTERROGATORY NO. 3:

Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."

RESPONSE TO INTERROGATORY NO. 3:

Philadelphia County objects to this Request as irrelevant and not proportionate to the needs of this case.

address, and party affiliation, and whether each voter whose ballot was set aside cast a provisional ballot after receiving notice of a potential defect in their ballot during the 2022 election. Philadelphia County also objects to the undefined term “any other demographic information available to you” as vague, unduly burdensome, disproportionate, and overbroad.

Pursuant to these objections, for the ballots that were set aside, Philadelphia County will produce documents sufficient to identify the voter—including name, precinct, birthyear, and zip code—and whether the ballot was set aside because it lacked a handwritten date on the outer envelope or because it had an “incorrect” handwritten date on the outer envelope as defined by the Pennsylvania Supreme Court’s November 1st and 5th, 2022 orders.

INTERROGATORY NO. 8:

Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

RESPONSE TO INTERROGATORY NO. 8:

Consistent with the Election Code and Philadelphia County’s established practices, all mail ballot envelopes returned to the County are first scanned and sorted by mail sorting machines that detect whether the mail ballot envelope is missing a signature or a secrecy envelope. Consistent with the Election Code and the Pennsylvania Supreme Court’s November 1st and 5th, 2022 orders, Philadelphia County then conducted a manual review of the outer envelopes of all mail ballot envelopes not identified as missing a signature or secrecy envelope. To the best of

Philadelphia County's knowledge, based on its review process, all mail ballots identified in Interrogatory 2 do not have any other defect besides a missing or "incorrect" handwritten date on the outer return envelope.

INTERROGATORY NO. 9:

Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

RESPONSE TO INTERROGATORY NO. 9:

Philadelphia County did not determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters,

INTERROGATORY NO. 10:

State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

RESPONSE TO INTERROGATORY NO. 10:

Philadelphia County did not identify or raise any credible fraud concerns with respect to the ballots that were set aside pursuant to the Pennsylvania Supreme Court's November 1st and 5th, 2022 orders.

INTERROGATORY NO. 11:

Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

RESPONSE TO INTERROGATORY NO. 11:

Philadelphia County objects to this Request as irrelevant and not proportionate to the needs of this case.

Notwithstanding this objection, on November 5, 2022, Philadelphia County published online a list of mail-in and absentee voters whose ballot envelopes were administratively determined to lack a handwritten signature on the outer mailing envelope or who wrote a date on the outer mailing envelope that may be considered to be potentially incorrect under the Pennsylvania Supreme Court's November 1st and 5th, 2022 orders.

INTERROGATORY NO. 12:

Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

RESPONSE TO INTERROGATORY NO. 12:

Philadelphia County objects to this Request as irrelevant and not proportionate to the needs of this case.

Notwithstanding this objection, when publishing the list referred to in Response to Interrogatory 11, Philadelphia County encouraged the listed voters to request a replacement ballot at the County Board of Elections office in City Hall or, if they were unable to request a replacement ballot, to cast a provisional ballot.

INTERROGATORY NO. 13:

If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

RESPONSE TO INTERROGATORY NO. 13:

Philadelphia County objects to this Request as irrelevant and not proportionate to the needs of this case. Philadelphia County further objects to this

Request because it seeks information and data that would be disproportionately burdensome to produce or that Philadelphia County does not keep or maintain in the ordinary course—namely, whether each voter who was included in the list described in Interrogatory 11 cast a replacement ballot or a provisional ballot, and whether any voter who did cast a replacement or provisional ballot did so after receiving notice from Philadelphia County of a potential defect in their ballot.

Notwithstanding these objections, as stated in response to Interrogatory No. 2, pursuant to the Pennsylvania Supreme Court’s November 1st and 5th, 2022 orders, Philadelphia County set aside 2,617 timely received mail-in and absentee ballots that were timely received in signed envelopes and which had a missing or “incorrect” handwritten date on the outer return envelope. None of the voters who submitted those ballots submitted replacement ballots, but 580 of those voters submitted provisional ballots.

INTERROGATORY NO. 14:

Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

RESPONSE TO INTERROGATORY NO. 14:

Philadelphia County does not contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot.

INTERROGATORY NO. 15:

Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You

Exhibit J38

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Pennsylvania State Conference of the NAACP
v. Leigh M. Chapman, Secretary of the Commonwealth
Case No. 1:22-cv-00339

RE: Pike County, PA Response to Interrogatories and Request for Admissions

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election
29 Military and Civilian Overseas Ballots 7,199 Mail/Absentee Ballots
2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.
55 undated ballots. This number does not include cured ballots.
3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."
Pike County had no incorrectly dated ballots.
4. State the date on which you began sending the mail ballot packages to voters?
October 3, 2022
5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.
NA
6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.
NA
7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.
Will provide if Ordered by the Court.
8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).
No

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.
NA
10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.
NA
11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.
Voters were notified of the defect by an autogenerated response from the SURE System, if they elected to provide an email address on their application upon receipt of their returned ballot in the elections office. Pike County did not actively initiate contact with voters to cure a defective ballot.
12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.
Voters were permitted to come to the county elections office to cure a ballot. Voters who came into the office were permitted to add the date to their ballot return envelope. Voters were also permitted to cast a Provisional Ballot at the polls if their ballot was rejected.
13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?
Pike County did not track voters who came into the office to cure their ballot. 12 voters cast Provisional Ballots at the polls after being notified by the SURE System that their ballot had been rejected. Those 12 Provisional Ballots were counted.
14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?
Opinion, refrain.
15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.
NA
16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military- overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.
NA
17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how many such military-overseas ballots had an additional defect, describe those defects, and identify the voters whose timely received military- overseas ballots had such additional defect(s).
NA

Exhibit J39

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**POTTER COUNTY BOARD OF ELECTION'S RESPONSES TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTY
BOARD OF ELECTION DEFENDANTS**

Pursuant to Fed. R. Civ. P. 26 and 33, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant respond to the following interrogatories within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The term "document," as used herein, means the original and all non-identical copies of any handwritten, printed, typed, recorded, or graphic or photographic material of any kind and nature, including all drafts thereof and all mechanical or electronic sound recordings or transcripts thereof, however produced or reproduced, and including but not limited to accounting materials, accounts,

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

RESPONSE:

Defendant, Potter County Board of Elections, following the direction of the Pennsylvania Supreme Court and did not count 14 mail-in ballots on which voters failed to provide a date, one of which also did not include a signature. Further Defendant did not count 6 naked mail-in ballots from voters who failed to use the required secrecy envelope and did not count 1 mail-in ballot signed with an improperly signed name. Provisional ballots for 3 of the 20 voters described in this paragraph were received.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

RESPONSE:

By following the guidance of the Pennsylvania Supreme Court and Pennsylvania Department of State.

2. If so, describe the nature of such fraud concerns.

RESPONSE:

No credible fraud concerns were raised.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

RESPONSE:

A listing of voters whose ballots had not been counted was posted in the conference room and was available to watchers. Watchers and other interested parties were free to contact the voters of such uncounted ballots. The Potter County Board of Elections did not directly contact any such voters.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

RESPONSE:

See responses to Interrogatories 7 and 11 above.

13. If you provided notice and an opportunity to cure as described in

Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

RESPONSE:

See responses to Interrogatories 7 and 11 above.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

RESPONSE:

Yes, but only because of guidance from the Pennsylvania Supreme Court and Pennsylvania Department of State.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

RESPONSE: No military-overseas ballots were set aside, and all were counted.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You

Exhibit J40

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**THE UNITED STATE DISTRICT COURT OF
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE CONFERENCE	:	
OF THE NAACP, et al.,	:	
Plaintiffs	:	
v.	:	Case No. 1:22-cv-00339
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, et al.,	:	
Defendants	:	

**SCHUYLKILL COUNTY BOARD OF ELECTIONS RESPONSE TO PLAINTIFFS’
FIRST SET OF INTERROGATORIES**

Defendant, Schuylkill County Board of Elections does hereby respond to Plaintiff’s First Set of Interrogatories in like numbered paragraphs as follows:

- | | |
|--|------|
| 1. November 2022 General Election Mail Ballots returned | 8657 |
| a. Military Overseas returned | 25 |
| 2. Segregated Ballots with no signature | 59 |
| a. None - Corrected or Cured Ballots | None |
| 3. The return envelope had no markings in date area, wrong date and/or incomplete date. | |
| 4. Sent first mailing list to mailing contractor October 7, 2022, Mailed October 13. | |
| 5. None – no ballots opened prior to pre-canvassing 7:00 a.m. Nov. 8 election day | |
| 6. None – no ballots opened prior to pre-canvassing 7:00 a.m. Nov 8 election day | |
| 7. Screen Shot of list is attached | |
| 8. Voter submitted date of birth, wrong date, wrong year and or did not finish writing date. | |
| 9. None were unqualified voters | |
| 10. None – no fraud issues | |
| 11. None – Processed thru SURE system – State posted defective mailings | |
| 12. None – no communication to curing of ballots | |
| 13. None | |
| 14. Yes – The Pennsylvania Law governing Elections required both signature and date on return envelopes. | |
| 15. None - none received undated | |
| 16. None | |
| 17. None | |
| 18. None – all qualified voters | |

Exhibit J41

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
Capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT SOMERSET COUNTY BOARD OF ELECTIONS'
ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES
TO COUNTY BOARD OF ELECTION DEFENDANTS**

AND NOW, comes Defendant Somerset County Board of Elections ("Somerset County"), by and through its Solicitor, Michael P. Barbera, Esq., of the law firm of Barbera, Melvin & Svonavec, LLP, and hereby sets forth its Answers to Plaintiffs' First Set of Interrogatories to County Board of Election Defendants (the "Interrogatories" or each "Interrogatory") as follows:

CLARIFICATIONS

The herein Answers to Plaintiffs' Interrogatories are based upon the subsequent clarifications of Plaintiffs' counsel advanced by electronic correspondence of Stephen A. Loney, Jr., Esq. dated January 4, 2023 providing clarifications pertinent to Plaintiffs' Interrogatories as follows:

- ...The Requests for Production and Interrogatories are all intended to relate to the 2022 General Election...

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that, as of the date hereof, the Statewide Uniform Registry of Electors (“SURE”) System identifies that Somerset County received a total of 4,211 mail ballots; 47 of which were military and overseas ballots. Defendant Somerset County hereby further responds that the above-referenced ballots did not include any mail ballots that were segregated, preserved, and not counted because the outer return envelope was either undated or incorrectly dated.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that 63 mail ballots were segregated, preserved, and not counted because the outer return envelope was either undated or incorrectly dated. Defendant Somerset County hereby further responds that it did not implement a procedure to allow voters to correct or cure the envelope-date issue.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that it followed guidance issued by the Commonwealth of Pennsylvania, Department of State (“DOS”), and the Pennsylvania Supreme Court’s Order of November 1, 2022 and Supplemental Order of November 5, 2022.

Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: Defendant Somerset County hereby objects to this Interrogatory to the extent that it requests information protected from disclosure under Pennsylvania law, including, without limitation, the Pennsylvania Constitution, the Pennsylvania Election Code, and the case law decided thereunder. Defendant Somerset County hereby reserves the right to further respond to this Interrogatory upon the entry of an appropriate Protective Order or other Order of Court expressly directing the disclosure of the otherwise protected information.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that two (2) of the mail ballots identified in its answer to Interrogatory No. 2 also did not contain requisite signatures.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that none of the voters who returned the mail ballots identified in Interrogatory No. 2 were determined to be unqualified or ineligible to vote in Somerset County.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that neither it, nor its agents, identified or raised any credible fraud concerns specifically as to any individual mail ballot identified in Somerset County's answer to Interrogatory No. 2.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that it did not, itself, notify voters of any problems with their mail ballots. Defendant Somerset County hereby further responds by incorporating its answer to Interrogatory No. 2 herein by reference thereto. Defendant Somerset County further, yet, responds that its understanding is that, if a voter provided a valid e-mail address on the voter's mail ballot application, the voter would receive an e-mail generated by the SURE System after the mail ballot was received and recorded by Somerset County into the System.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory by incorporating its answer to Interrogatory No. 2 herein by reference thereto.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory by incorporating its answer to Interrogatory No. 2 herein by reference thereto.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory by incorporating herein by reference thereto its Answers to Plaintiff's First Set of Requests for Admission to County Board of Election Defendants served simultaneously herewith; specifically, its answers to Requests for Admission Nos. 1 and 3.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory that it did not receive any military or overseas ballots for which the outer return envelope was either undated or incorrectly dated.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

ANSWER: Defendant Somerset County hereby responds to the herein Interrogatory by incorporating its answer to Interrogatory No. 15 herein by reference thereto.

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how many such military-overseas ballots had an additional defect, describe those defects, and identify the voters whose timely received military- overseas ballots had such additional defect(s).

Exhibit J42

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JENNIFER SPAKO
Director of Elections

SULLIVAN COUNTY ELECTIONS BUREAU
245 MUNCY ST., P.O. Box 157
LAPORTE, PA 18626
PHONE 570-946-5201, OPT. 7 FAX 570-946-4421
JSPAKO@SULLIVANCOUNTYPA.GOV
WWW.SULLIVANCOUNTYPA.GOV

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

Total return of 505 mail ballots and 4 military-overseas ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Sullivan County received 4 mail ballots that were received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that I deemed to be incorrect. Sullivan County does not allow curing of ballots.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

Once a mail-in/absentee ballot is received in the office, it is immediately stamped with the current days date. Once stamped, I look to see if the outer return envelope has been signed and dated with a date between when the ballots were first mailed and the current date. If the date is in the correct timeframe, the envelope is scanned into the SURE system as received and secured until election night. If the ballot is marked with an incorrect date, it is secured and set aside separately until election night.

4. State the date on which you began sending the mail ballot packages to voters?

October 4, 2022



JENNIFER SPAKO
Director of Elections

SULLIVAN COUNTY ELECTIONS BUREAU
245 MUNCY ST., P.O. BOX 157
LAPORTE, PA 18626
PHONE 570-946-5201, OPT. 7 FAX 570-946-4421
JSPAOK@SULLIVANCOUNTYPA.GOV
WWW.SULLIVANCOUNTYPA.GOV

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

There were none.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

No, all mail ballots were cast by eligible electors of Sullivan County.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

There were no credible fraud concerns.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

Sullivan County did not provide notice.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

Sullivan County does not allow curing of ballots.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date

issue?

Sullivan County does not allow curing of ballots.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

I do not contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Sullivan County did not receive any military-overseas ballots that did not contain an incorrect date.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

All Sullivan County military-overseas ballots were received in a timely manner.

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how many such military-overseas ballots had an additional defect, describe those defects, and identify the voters whose timely received military-overseas ballots had such additional defect(s).

No Sullivan County military-overseas ballots had defects that would have been subject to not being counted.

18. Did You determine that any voters who sent timely military-overseas

Exhibit J43

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	Civil Action No. 1:22-CV-339-SPB
)	
LEIGH M. CHAPMAN, et al.)	
)	
Defendants,)	

**DEFENDANT, SUSQUEHANNA COUNTY’S ANSWERS AND OBJECTIONS TO
PLAINTIFFS’ INTERROGATORIES**

AND NOW comes Defendant, Susquehanna County Board of Elections, by and through its attorneys, Christopher P. Furman, Benjamin E. Orsatti, and Gabriel Fera, P.C., and hereby responds and objects as follows to Plaintiffs’ Interrogatories.

GENERAL OBJECTIONS

1. The following responses are based on discovery available as of the date hereof and are given without prejudice to Defendant's right to rely on subsequently discovered information.
2. Further discovery, independent investigation, or other analysis may lead to the discovery of additional information, which may require additions or changes to these responses.
3. Nothing herein is intended to be or should be construed as a waiver of the attorney-client privilege, the work product doctrine, or any other protection. Inadvertent production of such protected information is not intended to be and shall not operate as a waiver of the applicable privilege. Any information withheld on the basis of such privilege will be identified.
4. Unless otherwise indicated, Defendant will produce information relating only to matters occurring between January 1 and December 16, 2022 (Relevant Period).

SPECIFIC RESPONSES AND OBJECTIONS

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: 3,247 mail-in ballots and 16 military-overseas ballots had been returned.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: None.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: (Not applicable).

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: October 19, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No. No such ballots had been received.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No. No such ballots had been received.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: (Not applicable).

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: (Not applicable). By way of further response, the Board received 30 “naked” ballots (i.e., mailed outside the secrecy envelope).

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: (Not applicable).

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: (Not applicable).

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: (Not applicable).

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: (Not applicable).

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: (Not applicable).

Exhibit J44

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	Civil Action No. 1:22-CV-339-SPB
)	
LEIGH M. CHAPMAN, et al.)	
)	
Defendants,)	

**DEFENDANT, TIOGA COUNTY’S ANSWERS AND OBJECTIONS TO
PLAINTIFFS’ INTERROGATORIES**

AND NOW comes Defendant, Tioga County Board of Elections, by and through its attorneys, Christopher P. Furman, Benjamin E. Orsatti and Gabriel Fera, P.C., and hereby responds and objects as follows to Plaintiffs’ Interrogatories.

GENERAL OBJECTIONS

1. The following responses are based on discovery available as of the date hereof and are given without prejudice to Defendant's right to rely on subsequently discovered information.
2. Further discovery, independent investigation, or other analysis may lead to the discovery of additional information, which may require additions or changes to these responses.
3. Nothing herein is intended to be or should be construed as a waiver of the attorney-client privilege, the work product doctrine, or any other protection. Inadvertent production of such protected information is not intended to be and shall not operate as a waiver of the applicable privilege. Any information withheld on the basis of such privilege will be identified.
4. Unless otherwise indicated, Defendant will produce information relating only to matters occurring between January 1 and December 16, 2022 (Relevant Period).

SPECIFIC RESPONSES AND OBJECTIONS

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Out of 2,363 total ballots, 10 were returned.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: There were 4 such segregated ballots. None were ultimately corrected.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Ballot envelopes lacking a date or bearing a date occurring prior to the mailing of ballots were deemed to be “incorrect”.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER: September 21, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

ANSWER: No.

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

ANSWER: All demographic information is as set forth in Defendant's Response to Document Request No. 2. All such ballots had been set aside for lack of a date on the envelope.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: The first, second, and fourth voters set forth in Defendant's Response to Document Request No. 2 were telephoned, and the third was e-mailed.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: Yes, voters were offered an opportunity to appear at the Board of Elections office with legal identification.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: None.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Defendant has no opinion regarding "materiality". Defendant segregated and did not count ballots with a missing or incorrect date on the ballot envelope in the 2022 midterm election, in compliance with the explicit orders issued by the Supreme Court of Pennsylvania. By way of further response, Defendant refers to the Answer to Interrogatory No. 3.

Exhibit J45

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**ANSWERS FROM WARREN COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTY BOARD
OF ELECTION DEFENDANTS**

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

2,266 mail ballots and 8 military ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you

allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

18 total ballots were set aside and/or segregated on these bases. 10 were set aside for no date. 8 were set aside for an incorrect date.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

The Board determined whether the date listed was within the time frame recommended by the Department of State.

4. State the date on which you began sending the mail ballot packages to voters?

October 5, 2022.

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

No votes were received with a date applicable to this time frame.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

One ballot was received dated “9/8/2022” which was set aside.

7. Identify, by name, birthdate, address, party affiliation and any other

demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue. *See spreadsheets to be delivered with the response to Plaintiff's Request for Production of Documents.*

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

One ballot was set aside because there was also no signature.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in

Interrogatory 2. If so, describe the nature of such fraud concerns.

No.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

No notice was provided.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

No opportunity to correct or cure was provided.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Not applicable.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

No, but the act of dating is not an act of qualification, it is part of the act of voting.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

Not applicable, since none were received that were incorrectly dated or had no date.

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Not applicable.

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how many such military-overseas ballots had an additional defect, describe those defects, and identify the voters whose timely received military-overseas ballots had such additional defect(s).

Exhibit J46

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT WASHINGTON COUNTY BOARD OF ELECTIONS’
RESPONSES TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**

Defendant, Washington County Board of Elections (“Defendant”), by and through their undersigned counsel, Vorys, Sater, Seymour and Pease LLP, Jana Phillis Grimm, Esq., and Lauren L. Mathews, Esq., hereby submits the following Responses to Plaintiffs’ First Set of Interrogatories.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The term “document,” as used herein, means the original and all non-identical copies of any handwritten, printed, typed, recorded, or graphic or photographic material of any kind and nature, including all drafts thereof and all mechanical or electronic sound recordings or transcripts thereof, however produced

ANSWERS TO INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Defendant objects to Interrogatory No. 1 as being overly broad, impermissibly vague, and unduly burdensome. By way of further response, and without waiver of these objections, Defendant responds that it had 19,569 mail ballots and 51 of which were military-overseas ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Defendant objects to Interrogatory No. 2 as being overly broad, impermissibly vague, and unduly burdensome. By way of further response, and without waiver of these objections, Defendant responds that it had 66 ballots that were set aside and/or segregated. *See* WCBOE000001 – WCBOE000132.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: None.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Defendant objects to Interrogatory No. 11 as being overly broad, impermissibly vague, and unduly burdensome. By way of further response, and without waiver of these objections, Defendant responds that it did not send notice to voters but followed the Department of State Guidance dated November 3, 2022. *See* WCBOE000138 – WCBOE000139.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: This Interrogatory is not applicable to this Defendant.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: This Interrogatory is not applicable to this Defendant.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Defendant objects to Interrogatory No. 14 as it seeks a conclusion and opinion of law. By way of further response, and without waiver of these objections, Defendant responds that such a determination is up to the Court.

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Exhibit J47

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**PLAINTIFFS' FIRST SET OF INTERROGATORIES TO COUNTY
BOARD OF ELECTION DEFENDANTS**

Pursuant to Fed. R. Civ. P. 26 and 33, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant respond to the following interrogatories within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The term "document," as used herein, means the original and all non-identical copies of any handwritten, printed, typed, recorded, or graphic or photographic material of any kind and nature, including all drafts thereof and all mechanical or electronic sound recordings or transcripts thereof, however produced or reproduced, and including but not limited to accounting materials, accounts,

11. If You or any of Your agents at any time had possession or control of a document containing information responsive to these interrogatories and if such document has been lost, destroyed, purged or is not presently in Your possession or control or the possession or control of Your agent, then: (1) identify the document; (2) state the date of its loss, destruction, purge or separation from Your or Your agent's possession or control; (3) state the circumstances surrounding its loss, destruction, purge or separation from Your or Your agent's possession or control; and (4) state its present or last known location, including the name, address and telephone number of each person believed to have possession of such document.

12. The use of a verb in any tense shall be construed as the use of that verb in all other tenses. The use of the feminine, masculine, or neuter genders shall include all genders. The singular form of a word shall include the plural and vice versa.

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election. 4692

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you

allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured. 40 no date, 15 wrong date; 55 total.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.” County Board followed directives of PA DOS

4. State the date on which you began sending the mail ballot packages to voters? August 23, 2022

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters. N/A

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters. N/A

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue. See attached. Voters were allowed to cure, in person, with valid ID.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s). No

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility. No

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns. No

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope. No. We believe that the PA DOS sent email notice to these voters.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return

envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues. Yes. They were allowed to cure, in person, with valid ID.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue? Fewer than 10

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention? We followed the directives of the PA DOS

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope. None

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect. N/A

17. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count

Exhibit J48

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

DEFENDANT

**WESTMORELAND COUNTY BOARD OF ELECTIONS'
ANSWERS AND OBJECTIONS TO FIRST SET OF INTERROGATORIES TO COUNTY
BOARD OF ELECTION DEFENDANTS**

AND NOW, comes the Defendant, Westmoreland County Board of Elections (hereinafter "Westmoreland"), by and through its undersigned attorney and sets forth the within Answers and Objections to First Set of Interrogatories to County Board of Election Defendants, more particularly as follows:

General Objections

Westmoreland sets forth the following general objections to the First Set of Interrogatories:

1. Westmoreland objects to the extent that the Interrogatory requires Westmoreland to obtain information or documents that are not in the possession, control or custody of Westmoreland.
2. Westmoreland objects to the extent that the Interrogatory is overly broad and/or seeks information that is not relevant to the subject matter of this action or that is not reasonably calculated to lead to the discovery of admissible evidence or exceeds the scope of permissible discovery.

9. Westmoreland responds to the Interrogatories and/or Requests for Production subject to, and without intending to waive, and expressly reserving any objections as to competency, relevancy, materiality, privilege and admissibility of any information and documents.

Westmoreland incorporates each of the foregoing general objections into each of its Answers and Objections to the Interrogatories. Subject to the foregoing general objections, Westmoreland provides the following responses:

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Westmoreland received a total of 34,599 mail ballots and 109 military-overseas ballots.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Westmoreland objects to this interrogatory on the basis that it is vague and ambiguous. The interrogatory fails to define the phrase “timely received” or “deemed to be incorrect.” Without waiving the foregoing objections, Westmoreland’s records show that there were a total of 95 ballots set aside and segregated under the orders of the Supreme Court of Pennsylvania dated November 1 and November 5, 2022 due to missing or incorrect date on the outer return envelopes.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: Of the 95 segregated ballots, none of them had any additional defects.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: Westmoreland objects to this Interrogatory when the term “qualified, eligible voters” is broad and vague. By way of further response, and without waiving the objection, if a returned ballot was not in compliance with the Pennsylvania Election Code and the requirements set forth in *Ball v. Chapman*, it was set aside, segregated, and preserved, as required by the Pennsylvania Supreme Court’s Orders. Westmoreland did not undertake a subsequent review to determine voter eligibility/qualifications.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: Westmoreland objects to the term “credible fraud concerns” as being broad and vague. By way of further response and without waiving the foregoing objection, Westmoreland is not presently aware of any issues of potential fraud related to any of these ballots.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: No. Westmoreland did not implement a notice and cure procedure for the 2022 General Election.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No. Westmoreland did not implement a notice and cure procedure for the 2022 General Election.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Not applicable.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Westmoreland objects to this Interrogatory to the extent that it is seeking a response to a conclusion of law. Without waiving the foregoing objection, the Pennsylvania Election Code and the Supreme Court of Pennsylvania requires an outer envelope to have a date. The ballot cannot be counted if the voter declaration either does not have a date or has an incorrect date.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: Westmoreland did not receive any military-overseas ballots that were not counted based on a missing and/or incorrect date on the elector's declaration on the return envelope.

Exhibit J49

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

BETTY EAKIN, et al,)	
Plaintiffs,)	
)	
v.	)	Case No. 1:22-CV-340
)	
ADAMS COUNTY BOARD OF ELECTIONS,)	
Et al,)	

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

Total return of 2029
Military/Overseas returned 7

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Lacked hand written date – 17
Zero ballots were cured – We have at no time allowed any voter to cure.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

Order issued Supreme Court of PA Dated 11/1/2022 No. 102 MM 2022, supplement dated 11/5/2022 Mail in ballot envelopes Dated outside the date range of 9/19/2022 and 11/8/2022, and absentee ballots outer envelope with dates that fall outside the date range of 8/30/2022 through November 8, 2022.

4. State the date on which you began sending the mail ballot packages to voters?

First round of mail-in/absentee ballots were mailed September 19, 2022

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

Zero incorrectly dated ballots.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

Zero ballots returned with incorrect dates

7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.

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8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

One ballot envelope also lacked a signature

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

No. all mail in ballots were cast by eligible electors of Wyoming County.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

No credible fraud concerns

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

No, at no point has Wyoming County contacted any elector to provide notice that the mail ballot was set aside.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return 10 envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

No, at no time did Wyoming County allow for curing.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

Zero, no opportunity was provided to cure.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

I have no opinion

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

No military-overseas ballot was set aside for incorrect or missing date

16. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted militaryoverseasballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

Zero military/overseas ballots were set aside

17. Did the military-overseas ballots described in Interrogatory 15 have any

Exhibit J50

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

PENNSYLVANIA STATE CONFERENCE OF)	
THE NAACP, et al,	)	Civil Action No. 1:22-cv-00339-SPB
)	
Plaintiffs,)	
)	
v.)	
)	
CHAPMAN, et al,)	
)	
Defendants.)	

**DEFENDANTS BEDFORD COUNTY, CARBON COUNTY, CENTRE COUNTY,
COLUMBIA COUNTY, DAUPHIN COUNTY, JEFFERSON COUNTY,
HUNTINGDON COUNTY, INDIANA COUNTY, LAWRENCE COUNTY,
LEBANON COUNTY, MONROE COUNTY, MONTOUR COUNTY,
NORTHUMBERLAND COUNTY, SNYDER COUNTY, VENANGO COUNTY,
AND YORK COUNTY BOARDS OF ELECTIONS’ ANSWERS AND OBJECTIONS
TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES, REQUESTS FOR
ADMISSION, AND REQUESTS FOR PRODUCTION DIRECTED TO ALL
DEFENDANT COUNTY BOARDS OF ELECTIONS**

Defendants Bedford County, Carbon County, Centre County, Columbia County, Dauphin County, Huntingdon County, Indiana County, Jefferson County, Lawrence County, Lebanon County, Monroe County, Montour County, Northumberland County, Snyder County, Venango County, and York County Board of Elections (collectively “Defendant Counties”), by and through their undersigned counsel, Babst, Calland, Clements & Zomnir, P.C., and pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, hereby serve the following Answers and Objections to Plaintiffs’ First Set of Interrogatories, Requests for Admission, and Requests for Production Directed to All Defendant County Boards of Elections.

Dauphin	25,839	154	
Jefferson	2,278	12	
Huntingdon	2,452	8	
Indiana	5,910	8	
Lawrence	6,888	33	
Lebanon	10,771	64	
Monroe	15,651	56	
Montour			1,723
Northumberland	4,835	30	
Snyder	2,286	5	
Venango	3,027	35	
York	35,437	128	

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, and disproportionate to the needs of the case. Subject to and without waiving the foregoing objections, with respect to Counties with scanning equipment for which data could be immediately uploaded to the SURE system on Election

Day, electors may have been notified by email through the SURE system (if an email address was available for the elector). Those that received email notification of the cancelation of their ballot were permitted to vote provisionally at the polls.

All other Counties had manual review/inspection of ballots in pre-canvass, so ballots were set aside and addressed later, and no notice from the SURE system was generated or delivered on Election Day to voters who may have provided an email address to the SURE system.

Specific County numbers on rejected Mail-In/Absentee ballots are provided immediately below:

<u>County</u>	<u>Ballots Rejected Based on Date Issue</u>
Bedford	0
Carbon	27
Centre	115
Columbia	29
Dauphin	95
Jefferson	23
Huntingdon	34
Indiana	107
Lawrence	15
Lebanon	24
Monroe	462
Montour	8
Northumberland	14

Snyder	9
Venango	42
York	1,061

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

ANSWER: Defendant Counties object to this Interrogatory because the information sought is publicly available from the Counties, the Office of the Secretary, the Department, and/or other agencies or instrumentalities of the Commonwealth of Pennsylvania, and thus equally accessible to Plaintiffs.

Subject to and without waiving the foregoing objections, pursuant to the Pennsylvania Supreme Court’s Supplemental Order dated November 5, 2022, Defendant Counties considered mail-in ballots dated on or before September 18, 2022, and those dated on or after November 9, 2022, as incorrectly dated outer return envelopes and absentee ballots dated on or before August 29, 2022, and those dated on or after November 9, 2022, as incorrectly dated outer return envelopes.

4. State the date on which you began sending the mail ballot packages to voters?

ANSWER:

<u>County</u>	<u>Date Ballots Began Being Sent Out</u>
Bedford	October 7, 2022

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, and disproportionate to the needs of the case. Subject to and without waiving the foregoing objections, ballots were generally not further inspected for other defects. If a ballot was rejected for failure to meet dating requirements, it was segregated. If a ballot was rejected for another defect, such as lack of signature, it was not investigated further for handwritten dates.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: See Answer to Interrogatory 8. By way of additional answer, Defendant Counties did not provide mail ballots to unqualified, ineligible voters. All voters who received mail ballots were registered in the SURE system before a mail ballot could be requested. Some voters may have failed, when requesting a mail ballot, to provide sufficient or accurate information² to the SURE system and as a result were listed as “not verified.” Voters received a notification (either by email or mail) to contact the Elections Office to provide

² Generally speaking, if a voter applied for a mail ballot but didn't provide satisfactory identifying information like a driver's license or a social security number, or transposed a part of the same, the SURE system noticed that voter to contact the Elections Office to provide that detail to verify their application.

such verifying information. Even so, that voter was listed as “not verified” by SURE for the remainder of the voting season (in this case, 2022).

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, and disproportionate to the needs of the case. Defendant Counties also object to this Interrogatory because it requests information that is protected by the attorney-client privilege, work product privilege, joint defense or common interest privilege, and/or other applicable privileges or protections from disclosure.

Defendant Counties further object to this Document Interrogatory because the term “credible fraud concerns” is vague, imprecise, undefined, and subject to varying interpretations. Subject to and without waiving the foregoing objections, no credible fraud concerns were identified by Defendant Counties as to any individual ballots.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, and disproportionate to the needs of the case. Subject to and without waiving the foregoing objections, no notice procedures were implemented by County Defendants for the 2022 General Election regarding absentee or mail-in ballots beyond what is permitted by the Election Code.

To respond further, notice regarding segregation was not provided to voters, with the exception of Lawrence and Monroe Counties. Generally, as Mail-In or Absentee ballots were received, they were scanned into the SURE system and marked as received by the respective County. At Pre-Canvass, the ballots that were received undated or dated incorrectly pursuant to the Pennsylvania Supreme Court Orders of November 1 and November 5 were segregated as required by the Pennsylvania Supreme Court Orders. Those electors that have an email address in the SURE registry and whose ballots were segregated received notice by email when the ballot was cancelled in the SURE system which in some of the Answering Defendant Counties was the same day as Election Day but for most others, those cancellation entries were completed after Election Day.

No other notification of segregation or cancelation is provided to the elector, with the exception of in Lawrence and Monroe Counties. Those individuals whose ballots were canceled may have voted in person at their poll by provisional ballot and each Defendant County's Board of Elections could choose to count those provisional ballots at the time all

provisional ballots cast where canvassed. Lawrence and Monroe Counties called and/or emailed voters if upon receipt, it was identified that information was missing from the envelope.

12. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: See Answer to Interrogatory No. 11.

13. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, and disproportionate to the needs of the case. Defendant Counties also object to this Interrogatory because the term “opportunity to cure” is vague, imprecise, undefined, and subject to varying interpretations. Subject to and without waiving the foregoing objections, most Defendant Counties did not provide electors with notice and an opportunity to remedy the defect with their mail in ballot, with the exception of Lawrence and Monroe Counties. Monroe County cured 191 ballots based on an envelope date issue. Lawrence County does not have record of the exact number of ballots that were cured, however believes it was only a few.

14. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, vague, and disproportionate to the needs of the case. Defendant Counties also object to this Interrogatory because it requests information that is protected by the attorney-client privilege, work product privilege, joint defense or common interest privilege, and/or other applicable privileges or protections from disclosure. Subject to and without waiving the foregoing objections, Defendant Counties acted in accordance with all applicable state and federal laws, including but not limited to the United States Constitution, the Constitution of the Commonwealth of Pennsylvania, and the Pennsylvania Election Code and orders of the Pennsylvania Supreme Court.

15. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelope.

ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, vague, and disproportionate to the needs of the case. Military overseas ballots did not have a date on the outer return envelope. Subject to and without waiving the foregoing objections, Defendant Counties properly counted military and

Exhibit J51

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

PENNSYLVANIA STATE CONFERENCE OF)	
THE NAACP, et al,	)	Civil Action No. 1:22-cv-00339-SPB
)	
Plaintiffs,)	
)	
v.)	
)	
CHAPMAN, et al,)	
)	
Defendants.)	

**DEFENDANTS CENTRE COUNTY, MONTOUR COUNTY AND YORK COUNTY
BOARDS OF ELECTIONS’ SUPPLEMENTAL ANSWERS AND OBJECTIONS TO
PLAINTIFFS’ FIRST SET OF INTERROGATORIES DIRECTED TO
ALL DEFENDANT COUNTY BOARDS OF ELECTIONS**

Defendants Centre County, Montour County and York County Board of Elections (collectively “Defendant Counties”), by and through their undersigned counsel, Babst, Calland, Clements & Zomnir, P.C., and pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, hereby serve the following Supplemental Answers and Objections to Plaintiffs’ First Set of Interrogatories Directed to All Defendant County Boards of Elections. Defendant Counties specifically incorporate herein all General Objections from its January 25, 2023, Answers and Objections to Plaintiffs’ First Set of Interrogatories Directed to All Defendant County Boards of Elections.

SUPPLEMENTAL ANSWERS TO INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

SUPPLEMENTAL ANSWER: Defendant Counties object to this Interrogatory because the information sought is publicly available from the Counties, the Office of the Secretary of the

Commonwealth (the “Secretary”), the Pennsylvania Department of State (the “Department”), and/or other agencies or instrumentalities of the Commonwealth of Pennsylvania, and thus equally accessible to Plaintiffs. Subject to and without waiving the foregoing objections, for the responding counties herein, specific County numbers, as updated/revised, on returned ballots are provided immediately below:

<u>County</u>	<u>Mail Ballots</u>	<u>Military-Overseas Ballots</u>
Montour	1,718	3
York	37,296	185

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

SUPPLEMENTAL ANSWER: Defendant Counties object to this Interrogatory as overly broad, unduly burdensome, not narrowly tailored, and disproportionate to the needs of the case. Subject to and without waiving the foregoing objections, with respect to Counties with scanning equipment for which data could be immediately uploaded to the SURE system on Election Day, electors may have been notified by email through the SURE system (if an email address was available for the elector). Those that received email notification of the cancelation of their ballot were permitted to vote provisionally at the polls.

All other Counties had manual review/inspection of ballots in pre-canvass, so ballots were set aside and addressed later, and no notice from the SURE system was generated or

delivered on Election Day to voters who may have provided an email address to the SURE system.

For the responding counties herein, specific County numbers on rejected Mail-In/Absentee ballots are provided, as updated/revised, immediately below:

<u>County</u>	<u>Ballots Rejected Based on Date Issue</u>
Centre	116
York	1,354

Date: February 17, 2023

Respectfully submitted,

BABST, CALLAND, CLEMENTS
and ZOMNIR, P.C.

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*Counsel for Defendants Centre County
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of Elections and York County
Board of Elections*

Exhibit J52

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE :
OF THE NAACP, ET AL, :
Plaintiffs :

v. :

Case No. 1:22-cv-00339-SPB

LEIGH M. CHAPMAN, in her official :
capacity as Acting Secretary of the :
Commonwealth, et al, :
Defendants :

DEFENDANT MERCER COUNTY,
PENNSYLVANIA'S ANSWERS
TO PLAINTIFFS' FIRST SET OF
INTERROGATORIES TO
COUNTY BOARD OF ELECTION
DEFENDANTS

Filed on Behalf County of Mercer

Counsel of Record for this Party:

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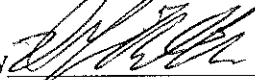
I certify that the within is a true and correct copy of the original document filed in this matter.

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WILLIAM J. MADDEN, P.C.

By 
William J. Madden, Attorney for
County of Mercer

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE :
OF THE NAACP, ET AL,

Plaintiffs :

v. :

Case No. 1:22-cv-00339-SPB

LEIGH M. CHAPMAN, in her official :
capacity as Acting Secretary of the :
Commonwealth, et al, :

Defendants :

DEFENDANT MERCER COUNTY, PENNSYLVANIA'S ANSWERS
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO
COUNTY BOARD OF ELECTION DEFENDANTS

AND NOW, comes the County of Mercer, through its counsel, and sets forth the following Answers to Plaintiffs' First Set of Interrogatories :

1. 8,220.

2. 63. Two notes

First: Mercer County did not allow for envelope correction or curing.
Second: In the case of Mercer County, for this question, the term "You" should be understood to mean one of 12 two-person bi-partisan boards who reviewed the envelopes prior to opening them.

3. The bi-partisan boards were given a copy of the November 5, 2022 **Supplemental Order** issued by the Pennsylvania Supreme Court in Ball, D., et al, Pets v. Chapman, L., et al. The Boards were told to follow the guidance contained in the **Supplemental Order**. Any date outside of the ranges provided in the Supreme Court order were deemed incorrectly dated. The Mercer County Board of Elections also reviewed these ballots.

4. Mercer County utilizes ElectionIQ as its mail vendor. They mailed ballots to voters for the 2022 General Election on or around October 7, 2022.

5. All Counties in the Commonwealth are required to open and/or count **MILITARY AND OVERSEAS (UOCAVA)** mail ballots dated after September 19, 2022, but before the date on which Mercer County began sending mail ballot packages to domestic civilian voters. Failure to do so would be a violation of Federal and State laws. We had no domestic civilian mail ballots that fall under this question.

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A PROFESSIONAL
CORPORATION
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SHARON, PENNSYLVANIA
16146

6. All Counties in the Commonwealth are required to open and/or count MILITARY AND OVERSEAS (UOCAVA) mail ballots dated September 19, 2022, but before the date on which Mercer County began sending mail ballot packages to domestic civilian voters. Failure to do so would be a violation of Federal and State laws. We had no domestic civilian mail ballots that fall under this question.

7. Mercer County did not compile ANY list of voters who had their ballots segregated. The County ONLY has an aggregate count of ballots that were segregated. Ballots that were segregated fell under the criteria provided by the Pennsylvania Supreme Court; they were either unsigned or the date fell outside the bounds established by the Court. Mercer County does not allow for mail envelope curing.

8. Mercer County received 12 mail ballots where the Declaration was unsigned. Any ballot that was both unsigned and missing a date were categorized as "Unsigned" since this is a fatal defect outside the scope of current litigation.

9. Mercer County does not send ballots to unqualified electors.

10. No.

11. Under 25 P.S. §3146.8(g)(1), Counties are not allowed to pre-canvass or canvass ballots prior to seven o'clock AM on Election Day and such a canvass must be done with authorized representatives notified and able to attend. 25 P.S. §3146.8(g)(3) states that declaration envelopes are to be examined during pre-canvass or canvass and 25 P.S. §3146.8(g)(3) states that "[n]o person observing, attending or participating in a pre-canvass meeting may disclose the results of any portion of any pre-canvass meeting prior to the close of the polls." Given these clear statutory limitations on contacting voters prior to 8 PM on Election Day, voters learned that their ballots were segregated when they were recorded in the SURE system as problematic.

12. No.

13. Not applicable.

14. Mercer County recognizes that (1) 25 P.S. §3146.6(a) states that "The elector shall then fill out, date and sign the declaration printed on such envelope." and (2) the Per Curiam order of the Supreme Court on October 21, 2022 affirmed that declarations must be signed. We take no position on the efficacy of these decisions.

15. This issue did not arise in 2022.

16. Not applicable.

17. Mercer County had one UOCAVA voter who did not place their ballot in a secrecy envelope.

Exhibit J53

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

PENNSYLVANIA STATE	:	
CONFERENCE OF THE NAACP, <i>et al.</i> ,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	No. 1:22-cv-00339-SPB
v.	:	
	:	
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, <i>et al.</i> ,	:	
	:	
Defendants	:	

**RESPONSES OF DEFENDANT UNION COUNTY BOARD OF ELECTIONS
TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 33(b), defendant Union County Board of Elections (“Union Board”), by and through its attorneys, Mc Nerney, Page, Vanderlin & Hall, responds to Plaintiffs’ First Set of Interrogatories as follows:

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Union Board received a total of 2,997 mail ballots. Included in that number were 41 military-overseas ballots. These numbers do not include any mail ballots set aside because of missing and/or incorrect dates on their outer return envelopes.

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope- date issue, specify whether your response includes ballots that were ultimately corrected or cured.

ANSWER: Union Board received 23 mail ballots that were received in connection with the 2022 General Election that were signed and timely received, but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that was deemed to be incurred, Union Board did not provide an opportunity to cure.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

boards of elections and Plaintiffs stating that it is the Department of State's position that, regardless of the entry of a protective order, county boards of elections must redact from any ballot return envelopes produced in response to Plaintiffs' document requests all voters' personal identifying information (including voters' names and addresses that may be printed on the envelopes or accessible through barcodes printed on the envelopes), citing *Pennsylvania State Educ. Ass'n v. Commonwealth Dep't of Cmty. & Econ. Dev.*, 148 A.3d 142, 157-158 (Pa. 2016), and *Easton Area Sch. Dist. v. Miller*, 232 A.3d 716, 733 (Pa. 2020). Extrapolating the Department's position regarding redaction of voters' personal identifying information on ballot return envelopes to Plaintiffs' request in Interrogatory 7 for voters' personal identifying information, Union Board believes that providing the requested voters' personal identifying information could violate not only 25 P.S. § 2648 but also the Department's (and Attorney General's) position and the legal authority that forms the basis of that position.

Accordingly, Union Board will not provide the requested voters' personal identifying information unless and until Union Board can be certain that providing the requested information will not put Union Board and its agents (including its counsel) in jeopardy of violating the law or facing charges that it and its agents violated the law.

8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).

ANSWER: No.

9. Did You determine that any voters who sent timely mail ballots described in Interrogatory 2 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

ANSWER: No.

10. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any individual mail ballot described in Interrogatory 2. If so, describe the nature of such fraud concerns.

ANSWER: No credible fraud concerns as to any individual mail ballot described in Interrogatory 2 were identified or raised.

11. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: No.

12. Did You provide notice to voters whose timely received mail ballots were set aside and/or segregated because the signed outer return envelope was missing a date or showed a date that You determined to be incorrect? If so, identify and describe how and when you notified voters of missing or incorrect dates on the signed outer return envelope.

ANSWER: No.

13. Did You provide mail ballot voters described in Interrogatory 11 with an opportunity to correct or cure the identified issues with dating the outer return envelope? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any missing or incorrect date issues.

ANSWER: No.

14. If you provided notice and an opportunity to cure as described in Interrogatories 11 and 12, how many mail ballot voters cured their envelope date issue?

ANSWER: Union Board did not provide notice or an opportunity to cure.

15. Do You contend that the handwritten date is material in determining whether a mail ballot voter is qualified to vote in the election in which they have cast a ballot? If so, what is the basis for that contention?

ANSWER: No.

16. Did You count timely-received military-overseas ballots in the 2022 General Election if the voter failed to date their voter declaration or included a date that You deemed to be incorrect? If so, state how many such military-overseas ballots You counted. If not, state how many such military-overseas ballots You set aside and/or segregated due to missing or purportedly-incorrect dates on the outer return envelopes.

ANSWER: Union Board believes it did not receive any military-overseas ballots that were not counted based on a missing and/or incorrect date on the elector's declaration on the return envelope.

17. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters who timely submitted military-overseas ballots but failed to date their voter declaration or included a date that You deemed to be incorrect.

ANSWER: Union Board incorporates by reference its objections to Interrogatory 7 as though set forth at length here. Subject to and without waiving those objections, Union Board does not have any responsive information requested in Interrogatory 16. See Union Board's response to Interrogatory 15, which is incorporated by reference as though set forth at length here.

18. Did the military-overseas ballots described in Interrogatory 15 have any other defects, besides a missing or incorrect date, that would cause You not to count them? If so, state how

Exhibit K

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Exhibit K1

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE OF THE
NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as
Acting Secretary of the Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT ADAMS COUNTY BOARD OF ELECTIONS RESPONSES TO
PLAINTIFF'S FIRST SET OF REQUESTS FOR ADMISSION, WRITTEN
INTERROGATORIES, AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

AND NOW, comes the Defendant Adams County Board of Elections (“the County”), by and through its counsel, Molly R. Mudd, Esquire, and sets forth the within Responses and Objections to Plaintiff’s First Set of Requests For Admission, Written Interrogatories, and Requests for Production of Documents (together, “Requests”):

GENERAL OBJECTIONS

The Defendant, Adams County Board of Elections, hereinafter “the County,” sets forth the following general objections to the Requests:

1. The County objects to the extent that the Requests may require the County to obtain information or documents that are not in the possession, control, or custody of the County.
2. The County objects to the extent that the Requests are overly broad and/or

seeks information that is not relevant to the subject matter of this action or that is not reasonably calculated to lead to the discovery of admissible evidence or exceeds the scope of permissible discovery.

3. The County objects to the extent that the Request seeks information that is protected from discovery by virtue of the attorney-client privilege, work product doctrine, or that is otherwise immune or protected from disclosure.
4. The County objects to the extent that the Requests may be unduly burdensome, oppressive, and will cause unnecessary expense.
5. The County objects to the extent that the Requests purports to seek information or documents that constitute or contain confidential information that is not typically disclosed to third parties and/or is governed by a confidentiality policy, clause, or agreement.
6. The County reserves the right to supplement or amend these responses or present additional facts or contentions at a later date if it learns of new information.
7. The County responds to the Requests subject to, and without intending to waive, and expressly reserving any objections as to competency, relevancy, materiality, privilege and admissibility of any information and documents.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer

return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE: *Admitted, pursuant to the order of the PA Supreme Court in Ball v. Chapman, 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022) (per curiam).*

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: *Adams County did not receive any such ballots and therefore no admission is made.*

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: *Adams County did not receive any such ballots and therefore no admission is made.*

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order

referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the “correct” date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

***RESPONSE:** Adams County did not receive any such ballots and therefore no admission is made.*

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

***RESPONSE:** In total, the County received 10,334 mail-in/absentee and military ballots. Of the total amount, 63 were military ballots.*

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

***RESPONSE:** The County received 4 signed and timely-received mail ballots that were*

Exhibit K2

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
CIVIL DIVISION**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.***

Plaintiffs,

v.

1:22-CV-00339-SPB

LEIGH M. CHAPMAN, *et al.*

Defendants.

**RESPONSES OF DEFENDANT ALLEGHENY COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Pursuant to Fed. R. Civ. P. 36, Defendant Allegheny County Board of Elections (“Allegheny BOE”), by and through its attorneys, George Janocsko, Allegheny County Solicitor, and Allan J. Opsitnick and Lisa G. Michel, Assistant County Solicitors, files this Response to Plaintiffs’ First Set of Requests for Admission, subject to Plaintiffs’ counsel’s clarification and amendment to the Requests for Admissions stated in their January 4, 2023 1:25 P.M. email:

- In responding to the Requests for Admission, please read the questions to be limited temporarily to the 2021 and 2022 elections;
- The Request for Production and Interrogatories are all intended to relate to the 2022 General Election;
- and References to “orders of November 1 and 8, 2022” in Requests for Admissions 6 and 7 should read “orders of November 1 and 5, 2022.”

GENERAL OBJECTIONS

1. Allegheny BOE objects to the requests for admission the definitions and instructions set forth therein, to the extent they impose any obligations greater than those imposed by the Federal Rules of Civil Procedure.
2. Allegheny BOE objects to requests for admission which seek any information protected by the attorney-client privilege, work product doctrine, joint defense or any other applicable privilege.
3. Allegheny BOE objects to these requests for admission to the extent they seek disclosure of information that is not in Defendant Counties' possession, custody or control.
4. Allegheny BOE reserves the right to supplement, correct or revise any the responses and objections herein or raise additional objections in any subsequent supplemental response.

Allegheny BOE responds to Plaintiffs' First Set of Requests for Admissions as follows:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Allegheny BOE is unable to truthfully admit or deny Request No. because the term "eligibility" is not defined in these Requests, the term is overly broad, ambiguous and capable of different interpretations. To the extent, the phrase "*i.e.* their age,

citizenship, county and duration of residence, and felony status” is intended to describe the universe of factors that are determinative of eligibility for the purpose of this Request, Allegheny BOE admits that in the 2021 and 2022 elections, it did not use the handwritten date on the outer return envelope of an absentee or mail-in ballot to determine or confirm the qualifications of the voter to cast a ballot in those elections and did not use it to confirm any voter’s age, citizenship, county, duration of residence, or felony status.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE: Allegheny BOE admits that in the 2021 and 2022 elections it did not use the handwritten date on an outer return envelope to determine if a mail ballot or absentee voter ballot was timely received by the applicable deadline. Ballots received by the applicable deadline were all ballots that were delivered by mail or in person at the Allegheny County Elections Office by 8:00 p.m. on Election Day for the 2022 General Election and for the 2022 primary and the 2021 primary and general elections, delivered by mail or in person at the Allegheny County Elections Office or at one of its staffed satellite offices. Any ballots received after that deadline were segregated.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter’s eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Allegheny BOE incorporates its responses to Requests No. 1 as though set forth at length here. The deadline for military-overseas ballots, however, differs in that such ballots must be received by 5:00 P.M. on the seventh day following the election in accordance with 25 Pa. C.S. §3511.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE: Allegheny BOE admits that for 2022 and 2021 the Allegheny BOE has not used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether it was received by the Defendant Allegheny BOE by the applicable deadline.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE: Allegheny BOE admits that, pursuant to the Pennsylvania Supreme Court's Orders in *Ball v. Chapman*, 102 MM 2022, it excluded from the tabulated results those timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration side of the outer return envelope in the 2022 General Election.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 should be November 5, 2022, Allegheny BOE admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope or that showed a date outside the date ranges set forth within the November 5, 2022 Order. The Allegheny BOE will not count those ballots and include them in the total for the 2022 General Election unless it is ordered to do so by a court of competent jurisdiction.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 was a typographical error as it relates to the Court's Order in

Chapman v. Ball, supra and instead should be November 5, 2022, Allegheny BOE admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration side of the outer return envelope or that showed a date outside the date ranges set forth within the November 5, 2022 Order. The Allegheny BOE will not count those ballots and include them in the total for the 2022 General Election unless it is ordered to do so.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

RESPONSE: Allegheny BOE objects to this Request as it seeks privileged attorney-client communication regarding the interpretation of the Supreme Court's Order referenced above. Without waiving such objection, the Request is denied. Allegheny BOE complied with the Pennsylvania Supreme Court's Order of November 5, 2022 and canvassed those ballots that set forth dates within the ranges mandated in that Order including ballots

with dates which may be considered to be the European convention described in this Request.

Respectfully submitted,

Date: January 25, 2023

By: *George M. Janocko*
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Allan J. Opsitnick (PA 28126)
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*Counsel for the Allegheny County Board of
Elections*

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Exhibit K3

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

PENNSYLVANIA STATE CONFERENCE	:	
OF THE NAACP, et al.,	:	Civil Action
	:	
Plaintiffs,	:	
	:	
v.	:	Case No. 1:22-CV-00339
	:	
LEIGH M. CHAPMAN, in her official capacity	:	
as Acting Secretary of the Commonwealth, et al.,	:	
	:	
Defendants	:	
	:	

**ANSWER TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR ADMISSION TO
COUNTY BOARD OF ELECTION DEFENDANTS**

Defendant, Armstrong County Board of Elections, (“ACBOE”) files this Response to Plaintiff’s First Set of Request for Admissions to ACBOE.

**DEFENDANT, ARMSTRONG COUNTY BOARD OF ELECTIONS, (“ACBOE”)
RESPONSE TO PLAINTIFF’S REQUEST FOR ADMISSION**

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE: ACBOE Admits.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE: ACBOE Admits.

3. You have never used or referred to the date handwritten on the outer return envelope or any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE: ACBOE Admits.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE: ACBOE Admits.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE: ACBOE Admits.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 5, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: ACBOE Admits.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 5, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope

appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

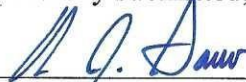
RESPONSE: ACBOE Admits.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Request 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on the mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

RESPONSE: ACBOE Admits.

Date: 1-24-2023

Respectfully submitted,



Andrew J. Sacco, Esq.
STEINER SACCO LAW
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Kittanning, PA 16201
Tel. 724-543-1469
Attorney for Defendant
Armstrong County Board of Elections

Exhibit K4

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**RESPONSES OF BEAVER COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION TO
COUNTY BOARD OF ELECTION DEFENDANTS**

Pursuant to Fed. R. Civ. P. 36, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant admit that the matters set forth below (the "Requests") are true within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The terms "related to," "relate to," "regarding," and "relating to," as used herein, mean mentioning, citing, quoting, regarding, involving, representing, constituting, discussing, reflecting, identifying, describing, referring to, containing,

the remainder.

7. If you object to any Request, you must set forth the reason for your objection.

8. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, these Requests are continuing in nature. If you learn that any response is incomplete or incorrect in any material respect, you shall supplement your responses so as to make them complete and correct.

9. Nothing herein shall constitute a waiver of Plaintiffs' right to serve additional requests for admission or other discovery permitted by the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admit

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE: Admit

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admit

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE: Admit

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE: Admit

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to

postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Admit

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Admit

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

RESPONSE: Admit

Exhibit K5

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

PENNSYLVANIA STATE	:	
CONFERENCE OF THE NAACP, <i>et al.</i> ,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	No. 1:22-cv-00339-SPB
v.	:	
	:	
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**RESPONSES OF DEFENDANT BERKS COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS’ FIRST SET OF REQUESTS FOR ADMISSION**

Pursuant to Fed. R. Civ. P. 36, defendant Berks County Board of Elections (“Berks Board”), by and through its attorneys, Smith Bukowski, LLC, answers Plaintiffs’ First Set of Requests for Admission (“RFAs”), as clarified by Plaintiffs’ counsel’s January 4, 2023 1:25 PM email stating:

- In responding to the Requests for Admission, please read the questions to be limited temporarily to the 2021 and 2022 elections;
- The Requests for Production and Interrogatories are all intended to relate to the 2022 General Election; and
- References to “orders of November 1 and 8, 2022” in Requests for Admission 6 and 7 should read “orders of November 1 and 5, 2022.”

Accordingly, Berks Board responds to Plaintiffs' First Set of RFAs as follows:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

ANSWER: Berks Board is unable to truthfully admit or deny Request No. 1 because the term "eligibility" is not defined and is overly broad and capable of different interpretations. As Berks Board understands the term "eligibility" as used herein, it admits that in the 2021 and 2022 elections, it did not use the handwritten date on the outer return envelope of an absentee or mail-in ballot to determine or confirm the following qualifications of the voter to cast a ballot in those elections: voter's age, citizenship, county, duration of residence, or felony status.

Under the Pennsylvania Supreme Court's November 1, 2022 Order in *Ball v. Chapman* (102 MM 2022), Berks Board and the other county boards of elections were required to refrain from counting and including in the vote totals absentee or mail-in ballots with undated or incorrectly dated return envelopes. The Court's November 5, 2022 supplemental Order further defined an "incorrectly dated ballot" as (1) mail-in ballot outer envelopes with dates that fall outside the range of September 19, 2022 through November 8, 2022, and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022 through November 8, 2022. Accordingly, in those instances, Berks Board did not use the date to determine or confirm a voter's "eligibility" to the extent that term means qualification to vote or cast a ballot in that election; however, voters who returned ballots without any date on the outer return envelope, or dates that fell outside of the range defined by the Pennsylvania Supreme Court's supplemental Order were not prohibited from voting or "disenfranchised" as alleged in Plaintiffs' Amended Complaint. Rather, their ballots were disqualified or not "eligible" to be counted, and thus were not counted, because the voter failed to cast their ballot in accordance with the mandatory voting requirements as interpreted by the Pennsylvania Supreme Court.

The above discussion demonstrates that the Materiality Provision of the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B), is not implicated by the dating requirement because the dating of the outer return envelope is not used to determine voters' qualifications or eligibility to vote in any election and thereby exclude or preclude a voter from voting in any election. To the contrary, voters who return ballots with an undated or incorrectly dated outer return envelope have exercised their right to vote; however, their ballots are disqualified for not complying with the requirements of the Pennsylvania Election Code as interpreted by the Pennsylvania Supreme Court in *Ball v. Chapman*.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Berks Board is unable to truthfully admit or deny Request No. 2 because the phrase “never used or referred to the date” is overly broad and capable of different interpretations. As Berks Board interprets the phrase, Berks Board admits only that in the 2021 and 2022 elections, Berks Board did not use the handwritten date on an outer return envelope to determine if a ballot (excluding military/civilian overseas ballots) was timely received. To be timely received, ballots must be either in the possession of the Berks County Elections Office or in a dropbox by 8:00 p.m. on Election Day. Any ballots received after that deadline are segregated. However, Berks Board cannot say that it “never” used the handwritten date to determine timely receipt by the appropriate deadline. In the November 2020 Election, Berks Board was permitted to count ballots received up to three days after Election Day, even if they did not have a clear postmark, as long as there was not proof the ballot was mailed after the polls closed on Election Day. Ballots without a clear postmark were presumed to be timely. See *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020).

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter’s eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

ANSWER: See Berks Board’s response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: See Berks Board’s response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Berks Board admits that, pursuant to the Pennsylvania Supreme Court’s Orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results votes on timely received absentee or mail-in ballots that did not have a handwritten date on the elector’s declaration on the outer return envelope, and that Berks Board currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 should be November 5, 2022, Berks Board admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope or that showed a date outside the parameters set forth within the *Ball v. Chapman* orders, and that Berks Board currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 should be November 5, 2022, Berks Board admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope or that showed a date outside the parameters set forth within the *Ball v. Chapman* orders, and that Berks Board currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Denied. Although Berks Board generally follows the American dating convention, the Berks County Election Services office has a system in place to account for the European dating convention as well.

Exhibit K6

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

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DEFENDANT BLAIR COUNTY BOARD OF ELECTIONS
ANSWERS TO PLAINTIFFS' FIRST SET OF REQUESTS
FOR ADMISSION TO COUNTY BOARD OF ELECTION
DEFENDANTS

Defendant, Blair County Board of Elections, by and through its Solicitor, Nathan W. Karn, Sr., Esq., hereby provides the following Answers to Plaintiff's Request for Admission as clarified by Plaintiffs' counsel's January 4, 2023 1:25 PM email stating:

-In responding to the Requests for Admission, please read the questions to be limited temporally to the 2021 and 2022 elections;

-The Requests for Production and Interrogatories are all intended to relate to the 2022 General Election; and

-References to "orders of November 1 and 8, 2022" in Requests for Admission 6 and 7 should read "orders of November 1 and 5, 2022."

ANSWERS TO REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admit so long as "eligibility" is limited to the examples provided. There is a difference between eligibility and whether a ballot is properly cast. For instance, if an elector who needs to utilize a provisional

ballot on election day because the voter obtained a mail-in ballot but did not vote such ballot and also failed to return the unvoted mail-in ballot to the polling place when the voter appeared does not comply with the requirement to execute the two (2) affidavits on the outer envelope, the provisional ballot will not be counted because the voter failed to cast a valid ballot under Pennsylvania statute and not because the voter is not eligible. The Court's consideration of the date on the declaration envelope does not relate to eligibility but rather whether the vote was properly cast.

Prior to the May 2022, primary, Blair County did not consider the date as part of its canvassing of whether mail ballots were validly cast. Based upon various litigation in the state and federal courts in the Commonwealth, Blair County segregated ballots with no dates as part of its canvassing of mail ballots in the May 2022 primary and thereafter complied with the Commonwealth Court's Opinion and Order of June 2, 2022 in the McCormick v. Chapman, et al. case. In the November 2022 general election, Blair County complied with the Pennsylvania Supreme Court's November 1, 2022, Order, as modified by its November 5, 2022 Order, in Ball v. Chapman, et al., with respect to segregating and not counting mail ballots with no dates or dated incorrectly as defined in the November 5, 2022 Order.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: With the exception of the November 2020 Election, in which Blair County was directed by the Pennsylvania Supreme Court (*Pennsylvania Democratic Party v. Boockvar*) to count ballots received up to three days after Election Day even if the envelopes did not have a clear postmark as long as there was not proof the ballot was mailed after the polls closed on Election Day and thus Blair County may have examined the dates on mail ballots as part of its canvassing of these “late ballots”, Blair County has previously only used the date of receipt at the Election Office as the date to establish that a ballot was timely received.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admit.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military- overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admit.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admit. By way of further response, until the issue of the handwritten date on mail ballots by the voter is resolved either by the courts or by new legislation, Blair County has no choice but to continue to segregate ballots that are undated or dated incorrectly.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post- date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admit.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admit.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Deny. We accepted the following date formats (or ones substantially similar to the date formats below as it is impossible to provide examples of every possible option a voter might choose):

11/4/2022

11/4/22

11-4-2022

11-4-22

11/04/2022	11/04/22	11-04-2022	11-04-22
2022/11/04		2022-11-04	
04.11.2022		4.11.2022	
04.11.22		4.11.22	
11/4		04-Nov-2022	
November 4, 2022		November 4, 22	
Nov 4, 2022		Nov 4, 22	

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Exhibit K7

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

Case No. 1:22-cv-00339

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

**DEFENDANTS' ANSWER TO FIRST SET OF REQUESTS FOR
ADMISSIONS**

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). **ADMITTED.**
2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline. **ADMITTED.**
3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). **ADMITTED.**
4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots to establish whether you received the ballot by the applicable deadline. **ADMITTED.**

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court. **ADMITTED.**

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court. **ADMITTED.**

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court. **ADMITTED.**

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022). **ADMITTED.**

Dated: January 25, 2023

Respectfully Submitted,

/s/Jonathan P. Foster Jr.
Jonathan P. Foster Jr., Esq.
COUNTY OF BRADFORD
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Exhibit K8

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

PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as
Acting Secretary of the Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339-SPB

**BUCKS COUNTY BOARD OF ELECTIONS' RESPONSES TO PLAINTIFFS' FIRST
SET OF REQUESTS FOR ADMISSIONS**

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot for any purpose related to determining or confirming a voter's eligibility (i.e. their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE: Denied. By way of further response, BCBOE does not use the date handwritten on the outer return envelopes to determine when ballots are received by BCBOE. However, BCBOE does use the handwritten date on the outer return envelope when reviewing military and overseas ballots to ensure the declaration was completed prior

to 11:59pm the day before the election pursuant to 25 Pa. C.S.A. §§ 3509, 3511.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and you will not count such ballots absent an order of the Court.

RESPONSE: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, you have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and you will not count such ballots absent an order of the Court.

RESPONSE: Admitted. BCBOE objects to this Request to the extent that it calls for attorney-client communications and/or attorney work product.

7. Pursuant to the Pennsylvania Supreme Court's Orders of November 1 and November 8, 2022, you have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to you to pre-date August 30, 2022, or to post-date November 8, 2022, and you will not count such ballots absent an order of the Court.

RESPONSE: Admitted. BCBOE objects to this Request to the extent that it calls for attorney-client communications and/or attorney work product.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, you determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g. MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/22 as the date on the mail ballot return envelope, you set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e. November 1, 2022).

RESPONSE: Denied. BCBOE used both American and European dating conventions in applying the orders of the Pennsylvania Supreme Court. BCBOE objects to this Request to the extent that it calls for attorney-client communications and/or attorney work product.

DATED: January 25, 2023

BUCKS COUNTY LAW DEPARTMENT

BY: /s/ Amy M. Fitzpatrick
Amy M. Fitzpatrick, Esquire
First Assistant County Solicitor
PA I.D. No. 324672
55 East Court Street, 5th floor
Doylestown, PA 18901

Exhibit K9

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

PENNSYLVANIA STATE
CONFERENCE OF THE
NAACP, *et al.*,

Plaintiffs,

vs.

LEIGH M. CHAPMAN Acting
Secretary of the Commonwealth,
et al.

Defendants.

CIVIL ACTION

Case No. 1:22-cv-00339-SPB

Type of Filing:

**RESPONSES OF DEFENDANT
BUTLER COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS'
FIRST SET OF REQUESTS
FOR ADMISSION**

Filed on behalf of:
BUTLER COUNTY

Counsel of Record:

H. William White, III
Butler County Solicitor
124 West Diamond Street
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Butler, PA 16003-1208
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PA I.D. No. 71283

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

PENNSYLVANIA STATE	)	CIVIL ACTION
CONFERENCE OF THE)	
NAACP, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	
	)	Case No. 1:22-cv-00339-SPB
LEIGH M. CHAPMAN Acting)	
Secretary of the Commonwealth, <i>et al.</i>)	
)	
Defendants.)	

**RESPONSES OF DEFENDANT BUTLER COUNTY BOARD OF ELECTIONS
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION**

Pursuant to Fed. R. Civ. P. 36, defendant Butler County Board of Elections ("Butler BOE"), by and through its attorney, H. William White, III, Solicitor for the County of Butler, answers Plaintiffs' First Set of Requests for Admission ("RFAs"), as clarified by Plaintiffs' counsel's January 4, 2023 1:25 PM email stating:

- In responding to the Requests for Admission, please read the questions to be limited temporally to the 2021 and 2022 elections;
- The Requests for Production and Interrogatories are all intended to relate to the 2022 General Election; and
- References to "orders of November 1 and 8, 2022" in Requests for Admission 6 and 7 should read "orders of November 1 and 5, 2022".

Accordingly, Butler BOE responds to Plaintiffs' First Set of RFAs as follows:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

ANSWER: Butler BOE is unable to truthfully admit or deny Request No. 1 because the term “eligibility” is not defined and is overly broad and capable of different interpretations. As Butler BOE understands the term “eligibility” as used herein, it admits that in the 2021 and 2022 elections, it did not use the handwritten date on the outer return envelope of an absentee or mail-in ballot to determine or confirm the following qualifications of the voter to cast a ballot in those elections: voter’s age, citizenship, county, duration of residence, or felony status.

Under the Pennsylvania Supreme Court’s November 1, 2022 Order in *Ball v. Chapman* (102 MM 2022), Butler BOE and the other county boards of elections were required to refrain from counting and including in the vote totals absentee or mail-in ballots with undated or incorrectly dated return envelopes. The Court’s November 5, 2022 supplemental Order further defined an “incorrectly dated ballot” as (1) mail-in ballot outer envelopes with dates that fall outside the range of September 19, 2022 through November 8, 2022, and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022 through November 8, 2022. Accordingly, in those instances, Butler BOE did not use the date to determine or confirm a voter’s “eligibility” to the extent that term means qualification to vote or cast a ballot in that election; however, voters who returned ballots without any date on the outer return envelope, or dates that fell outside of the range defined by the Pennsylvania Supreme Court’s supplemental Order were not prohibited from voting or “disenfranchised” as alleged in Plaintiffs’ Amended Complaint. Rather, their ballots were disqualified or not “eligible” to be counted, and thus were not counted, because the voter failed to cast their ballot in accordance with the mandatory voting requirements as interpreted by the Pennsylvania Supreme Court.

The above discussion demonstrates that the Materiality Provision of the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B), is not implicated by the dating requirement because the dating of the outer return envelope is not used to determine voters’ qualifications or eligibility to vote in any election and thereby exclude or preclude a voter from voting in any election. To the contrary, voters who return ballots with an undated or incorrectly dated outer return envelope have exercised their right to vote; however,

their ballots are disqualified for not complying with the requirements of the Pennsylvania Election Code as interpreted by the Pennsylvania Supreme Court in *Ball v. Chapman*.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Butler BOE is unable to truthfully admit or deny Request No. 2 because the phrase "never used or referred to the date" is overly broad and capable of different interpretations. As Butler BOE interprets the phrase, Butler BOE admits only that in the 2021 and 2022 elections, Butler BOE did not use the handwritten date on an outer return envelope to determine if a ballot (excluding military/civilian overseas ballots) was timely received. To be timely received, ballots must be either in the possession of the Butler County Elections Office or in a dropbox by 8:00 p.m. on Election Day. Any ballots received after that deadline are segregated. However, Butler BOE cannot say that it "never" used the handwritten date to determine timely receipt by the appropriate deadline. In the November 2020 Election, Butler BOE was permitted to count ballots received up to three days after Election Day, even if they did not have a clear postmark, as long as there was not proof the ballot was mailed after the polls closed on Election Day. Ballots without a clear postmark were presumed to be timely. See *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020).

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot for any purpose related to determining or confirming a voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

ANSWER: See Butler BOE's response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot to establish whether you received the ballot by the applicable deadline.

ANSWER: See Butler BOE's response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and you will not count such ballots absent an order of the Court. .

ANSWER: Butler BOE admits that, pursuant to the Pennsylvania Supreme Court's Orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results votes on timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope, and that Butler BOE currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, you have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to you to pre-date September 19, 2022, or to post-date November 8, 2022, and you will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 should be November 5, 2022, Butler BOE admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope or that showed a date outside the parameters set forth within the *Ball v. Chapman* orders, and that Butler BOE currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at

issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, you have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to you to pre-date August 30, 2022, or to post-date November 8, 2022, and you will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 should be November 5, 2022, Butler BOE admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope or that showed a date outside the parameters set forth within the *Ball v. Chapman* orders, and that Butler BOE currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, you determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, you set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month *i.e.*, November 1, 2022).

ANSWER: Denied. Although Butler BOE generally follows the American dating convention, the Butler County Bureau of Elections would endeavor to count a

ballot with an outside envelope that has utilized an alternative or "European dating" method.

Respectfully submitted,

By: 

H. William White, III
Butler County Solicitor
124 West Diamond Street
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Date: January 20, 2023

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Exhibit K10

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE OF	:	
THE NAACP, ET AL.,	:	
	:	
Plaintiffs,	:	
	:	CASE NO. 1:22-cv-00339
vs.	:	
	:	
LEIGH M. CHAPMAN, IN HER OFFICIAL	:	
CAPACITY AS ACTING SECRETARY OF THE	:	
COMMONWEALTH, ET AL.,	:	
	:	
Defendants.	:	

RESPONSE TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION TO COUNTY BOARD OF ELECTION DEFENDANTS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility, (i.e., their age, citizenship, county, and duration of residence and felony status).

ANSWER: No.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: No.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot for any purpose related to determining or confirming a voter's eligibility, (i.e., their age, citizenship, county, and duration of residence and felony status).

ANSWER: No.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot to establish whether you received the ballot by the applicable deadline.

ANSWER: No.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of Court.

ANSWER: Correct.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Correct.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

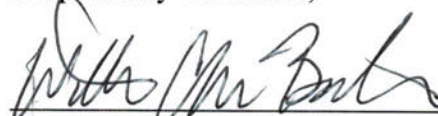
ANSWER: Correct.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year, (e.g., MM/DD/YYYY. Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, you set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month, (i.e., November 1, 2022).

ANSWER: Not applicable, as Cambria County received no ballots with incorrect dates.

Date: January 12, 2023

Respectfully submitted,



William Gleason Barbin, Esquire
Cambria County Solicitor
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Exhibit K11

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

Case No. 1:22-cv-00339

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

**DEFENDANT CAMERON COUNTY BOARD OF ELECTIONS
RESPONSE TO PLAINTIFFS' FIRST SET OF REQUESTS FOR
ADMISSION**

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). **ANSWER: Admitted.**

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline. **ANSWER: Admitted.**

3. You have never used or referred to the date handwritten on the outer

return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). **ANSWER: Admitted.**

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline. **ANSWER: Admitted.**

5. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 5, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post date November 8, 2022, and You will not count such ballots absent and order of the Court. **ANSWER: No such mail ballots were received in connection with the 2022 General Election.**

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 5, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of

the Court. **ANSWER: No such mail ballots were received in connection with the 2022 General Election.**

7. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022). **ANSWER: Denied. No such dated mail ballots were set aside in connection with the 2022 General Election.**

Dated: January 24, 2023

Respectfully submitted,



Edwin W. Tompkins III (PA 41273)
P.O. Box 31
Emporium, PA 15834
Tel: (814) 486-1532
ewtompkinslaw@gmail.com
*Counsel for the Cameron County
Board of Elections*

Exhibit K12

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

Pennsylvania State Conference of the
NAACP, *et al.*

Plaintiffs,

v.

Leigh M. Chapman, *et al.*

Defendants.

CIV. NO. 22-339-SPB

**CHESTER COUNTY BOARD OF ELECTIONS' RESPONSE TO PLAINTIFFS' FIRST
SET OF REQUESTS FOR ADMISSION**

Pursuant to Fed. R. Civ. P. 36(a)(4) the Chester County Board of Elections (“Chester County”), by and through its undersigned counsel, submits its Response to Plaintiffs’ First Set of Requests for Admission (“Requests”).¹

A. GENERAL OBJECTIONS

1. Chester County objects to the definition of the terms “You,” and “Your” as being overly broad and unduly burdensome to the extent it includes every former employee, agent, representative, and any other person(s) ever acting or purporting to act on behalf of Chester County. Chester County will answer these Requests based on information in its possession, custody, or control.

¹ In an email dated January 4, 2023, Counsel for Plaintiffs, Stephen Loney, Esq., narrowed the scope of several Requests for Admissions as follows:

- In responding to the Requests for Admission, please read the questions to be limited temporally to the 2021 and 2022 elections;
- ...
- References to “orders of November 1 and 8, 2022” in Requests for Admission 6 and 7 should read “orders of November 1 and 5, 2022.”

B. REQUESTS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE:

Denied as stated. Chester County objects to the use of the term "eligibility" as it is not a defined term in the Election Code.

Chester County admits only that it is not aware of a situation where it relied on the "date handwritten on the outer return envelope" to determine if the voter was a "qualified elector" or "qualified absentee elector" as defined by the Election Code.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE:

Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE:

Denied as stated. Chester County objects to the use of the term "eligibility" as it is not a defined term in the Election Code.

Chester County admits that it is not aware of any situation where it has “referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter’s” qualifications to vote as defined by the Election Code and the Uniform Military and Overseas Voters Act.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE:

Denied. While Chester County admits it is not aware of any situation where it has referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballot to determine the date Chester County physically came into possession of the ballot, Chester County does use the handwritten date when reviewing military and overseas ballots to assist in determining if the declaration was completed prior to deadline of 11:59 PM the day before the election pursuant to Sections 3509 and 3511 of the Uniform Military and Overseas Voters Act, 25 Pa.C.S.A. §§ 3509, 3511.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE:

Chester County admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, Chester County refrained "from counting mail-in ballots received for the November 8, 2022 general election that are contained in undated or incorrectly dated outer envelopes." See *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, at *1 (Pa. Nov. 1, 2022) (citing 25 P.S. § 3146.6(a) and § 3150.16(a)).

In addition, Chester County also followed the Pennsylvania Supreme Court's Supplemental Order that defined "incorrectly dated outer envelopes" as "(1) mail-in ballot outer envelopes with dates that fall outside the date range of September 19, 2022, through November 8, 2022; and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022, through November 8, 2022" when canvassing ballots. See *Ball v. Chapman*, no. 102 MM 2022, Supplemental Order (Pa. Nov. 5, 2022).

Chester County further admits that it will continue to follow the Pennsylvania Supreme Court's orders absent an order from the Court.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022,² You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

² See note 1.

RESPONSE:

Chester County admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, the Chester County refrained "from counting mail-in ballots received for the November 8, 2022 general election that are contained in undated or incorrectly dated outer envelopes." See *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, at *1 (Pa. Nov. 1, 2022) (citing 25 P.S. § 3146.6(a) and § 3150.16(a)).

In addition, Chester County also followed the Pennsylvania Supreme Court's Supplemental Order that defined "incorrectly dated outer envelopes" as "(1) mail-in ballot outer envelopes with dates that fall outside the date range of September 19, 2022, through November 8, 2022; and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022, through November 8, 2022" when canvassing ballots. See *Ball v. Chapman*, no. 102 MM 2022, Supplemental Order (Pa. Nov. 5, 2022).

Chester County further admits that it will continue to follow the Pennsylvania Supreme Court's orders absent an order from the Court.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE:

Chester County admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, the Chester County refrained "from counting mail-in ballots received for the November 8, 2022 general election that are contained in undated or incorrectly dated outer envelopes." See *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, at *1 (Pa. Nov. 1, 2022) (citing 25 P.S. § 3146.6(a) and § 3150.16(a)).

In addition, Chester County also followed the Pennsylvania Supreme Court's Supplemental Order that defined "incorrectly dated outer envelopes" as "(1) mail-in ballot outer envelopes with dates that fall outside the date range of September 19, 2022, through November 8, 2022; and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022, through November 8, 2022" when canvassing ballots. See *Ball v. Chapman*, no. 102 MM 2022, Supplemental Order (Pa. Nov. 5, 2022).

Chester County further admits that it will continue to follow the Pennsylvania Supreme Court's orders absent an order from the Court.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether

the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

RESPONSE:

Chester objects to this Request to the extent that it calls for information protected by the attorney client privilege.

Chester County admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, the Chester County refrained "from counting mail-in ballots received for the November 8, 2022 general election that are contained in undated or incorrectly dated outer envelopes." See *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, at *1 (Pa. Nov. 1, 2022) (citing 25 P.S. § 3146.6(a) and § 3150.16(a)).

In addition, Chester County also followed the Pennsylvania Supreme Court's Supplemental Order that defined "incorrectly dated outer envelopes" as "(1) mail-in ballot outer envelopes with dates that fall outside the date range of September 19, 2022, through November 8, 2022; and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022, through November 8, 2022" when canvassing ballots. See *Ball v. Chapman*, no. 102 MM 2022, Supplemental Order (Pa. Nov. 5, 2022).

Dated: January 25, 2023

Respectfully submitted,

Colleen M. Frens

Colleen M. Frens
PA 309604
Faith Mattox-Baldini
PA 323868

Exhibit K13

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	Civil Action No. 1:22-CV-339-SPB
)	
LEIGH M. CHAPMAN, et al.)	
)	
Defendants,)	

**DEFENDANT, CLARION COUNTY’S ANSWERS AND OBJECTIONS TO
PLAINTIFFS’ REQUESTS FOR ADMISSIONS**

AND NOW comes Defendant, Clarion County Board of Elections, by and through its attorneys, Christopher P. Furman, Benjamin E. Orsatti, and Gabriel Fera, P.C., and hereby responds and objects as follows to Plaintiffs’ Requests for Admissions.

GENERAL OBJECTIONS

1. The following responses are based on discovery available as of the date hereof and are given without prejudice to Defendant's right to rely on subsequently discovered information.
2. Further discovery, independent investigation, or other analysis may lead to the discovery of additional information, which may require additions or changes to these responses.
3. Nothing herein is intended to be or should be construed as a waiver of the attorney-client privilege, the work product doctrine, or any other protection. Inadvertent production of such protected information is not intended to be and shall not operate as a waiver of the applicable privilege. Any information withheld on the basis of such privilege will be identified.
4. Unless otherwise indicated, Defendant will produce information relating only to matters occurring between January 1 and December 16, 2022 (Relevant Period).

SPECIFIC RESPONSES AND OBJECTIONS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant admits the truth of the preceding statement.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Defendant admits the truth of the preceding statement.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant admits the truth of the preceding statement.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Defendant admits the truth of the preceding statement.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant admits the truth of the preceding statement with respect to the incorrect or undated ballots received in the 2022 election.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant admits the truth of the preceding statement with respect to the incorrect or undated ballots received in the 2022 election.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant admits the truth of the preceding statement.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Denied – the twelve ballots in question would not have met the date requirement in either case, viz: 08-08-1936, 10/7/2020, 10-18-23, (blank), (blank), (blank), (blank), (blank), (blank), (blank), (blank), (blank), (blank).

Exhibit K14

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT, CLEARFIELD COUNTY BOARD OF ELECTIONS, RESPONSE TO
PLAINTIFFS FIRST REQUEST FOR ADMISSIONS**

Pursuant to Fed. R. Civ. P. 36, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant admit that the matters set forth below (the "Requests") are true within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The terms "related to," "relate to," "regarding," and "relating to," as used herein, mean mentioning, citing, quoting, regarding, involving, representing, constituting, discussing, reflecting, identifying, describing, referring to, containing,

the remainder.

7. If you object to any Request, you must set forth the reason for your objection.

8. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, these Requests are continuing in nature. If you learn that any response is incomplete or incorrect in any material respect, you shall supplement your responses so as to make them complete and correct.

9. Nothing herein shall constitute a waiver of Plaintiffs' right to serve additional requests for admission or other discovery permitted by the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Answer: Admitted, the date or signature requirement pertains to whether the ballot counts and not eligibility to vote.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline

Answer: Admitted. All incoming ballots are date stamped.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-

overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

4. ^{Answer: Admitted.} You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

Answer: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Answer: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Answer: Admitted, ballots were not counted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date

on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

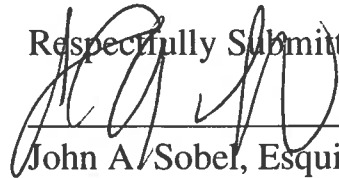
Answer: Admitted, ballots were not counted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/22 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Answer: Denied. Clearfield County Board of Elections counts ballots with military, American, European, or otherwise date determined to be correct.

Date: January 24, 2023

Respectfully Submitted,



John A. Sobel, Esquire

Attorney ID No. 31670

212 East Locust Street, Suite 112

Clearfield, PA 16830

Telephone: (814) 553-6228

jsobel@clearfieldco.org

Exhibit K15

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**RESPONSE OF CLINTON COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION**

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). ADMITTED

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline. ADMITTED

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-

overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). ADMITTED

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline. ADMITTED

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court. ADMITTED

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court. ADMITTED

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date

on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court. ADMITTED

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/1/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ADMITTED

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Larry E. Copliff
Attorney I.D. # 26075
Clinton County Solicitor
136 E. Water Street
Lock Haven, PA 17745
Telephone (570) 748-7771

Exhibit K16

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

PENNSYLVANIA STATE	)	Civil Action
CONFERENCE OF THE NAACP, <i>et al.</i> ,)	
)	
Plaintiffs,)	
	)	No.: 1-22-CV-339-SPB
v.)	
)	
LEIGH M. CHAPMAN, in her official)	
capacity as Acting Secretary of the)	
Commonwealth, <i>et al.</i> ,)	
Defendants)	

**DEFENDANT CRAWFORD COUNTY BOARD OF ELECTIONS RESPONSES
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS**

AND NOW, comes Defendant Crawford County Board of Elections, by and through its counsel, Keith A. Button, Esq., and sets forth the within Responses to Plaintiffs' First Set of Requests for Admissions, as follows:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (i.e. their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot for any purpose related to determining or confirming a voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot to establish whether you received the ballot by the applicable deadline.

RESPONSE: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Admitted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (*e.g.* MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (*i.e.* November 1, 2022).

RESPONSE: Denied. Crawford County considered the possibility that voters may use the European dating convention rather than the American dating convention when writing the date on the outer envelope, and any ambiguity was resolved in favor of counting the ballot.

Exhibit K17

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

PENNSYLVANIA STATE CONFERENCE OF THE
NAACP, LEAGUE OF WOMEN VOTERS OF
PENNSYLVANIA, PHILADELPHIANS ORGANIZED
TO WITNESS, EMPOWER AND REBUILD,
COMMON CAUSE PENNSYLVANIA, BLACK
POLITICAL EMPOWERMENT PROJECT, MAKE
THE ROAD PENNSYLVANIA, JEAN TERRIZZI,
BARRY M. SEASTEAD, MARJORIE BOYLE,
MARLENE G. GUTIERREZ, DEBORAH DIEHL,
AYNNE MARGARET PLEBAN POLINSKI, JOEL
BENCAN, and LAURENCE M. SMITH,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity as Acting
Secretary of the Commonwealth, *et al.*,

Defendants.

Civ. No. 22-339

**RESPONSES OF CUMBERLAND COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION**

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

Answer: Presuming that Plaintiffs utilize the word "eligibility" to refer to whether an individual is lawfully registered to vote, the Cumberland County Board of Elections (the Cumberland BOE) states that it never

used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (i.e., if the voter is properly registered to vote).

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

Answer: The Cumberland BOE admits that it never used the date handwritten on the mail ballot return envelope to determine if a mail ballot was received by the applicable deadline (presuming that the term "applicable deadline" means that the mail ballot was received at the Cumberland County Bureau of Elections by the date and time required by law to be canvassed).

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of resident, and felony status).

Answer: Presuming that Plaintiffs utilize the word "eligibility" to refer to whether an individual is lawfully registered to vote, the Cumberland BOE admits that it never used or referred to the date handwritten on the outer return envelope containing a military-overseas ballot for any purpose related to determining or confirming the military-overseas ballot voter's eligibility

(or, if the voter is lawfully registered to vote).

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot to establish whether you received the ballot by the applicable deadline.

Answer: The Cumberland BOE admits that it never used the date handwritten on the outer return envelope to establish if it received the ballot by the applicable deadline (presuming that the term “applicable deadline” means that the military-overseas ballot was received at the Cumberland County Bureau of Elections by the date and time required by law to be canvassed). The Cumberland BOE does not understand what is contemplated by the words “or on any other paperwork accompanying a returned military-overseas ballots [sic]” and is unable to admit or deny this statement.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Answer: Admitted.

6. Pursuant to the Pennsylvania Supreme Court’s orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General

Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Answer: The Cumberland BOE did not receive any mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope pre-dating September 19, 2022, or post-dating November 8, 2022. Thus, the Cumberland BOE is not able to admit or deny Request for Admission No. 6.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

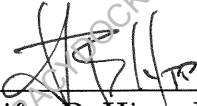
Answer: The Cumberland BOE did not receive any absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope pre-dating September 19, 2022, or post-dating November 8, 2022. Thus, the Cumberland BOE is not able to admit or deny Request for Admission No. 7.

8. In carrying out the instructions set forth in the Pennsylvania Supreme

Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Answer: Admitted in part; denied in part. The Cumberland BOE accepts both the American and European dating conventions.

Dated: January 25, 2022

By: 

Jennifer B. Hipp, Esquire
Pa. Attorney I.D. No. 86556
Assistant Solicitor, Cumberland County
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jbhipp@cumberlandcountypa.gov

Exhibit K18

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

**PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.***

Plaintiffs,

v.

LEIGH M. CHAPMAN, *et al.*

Defendants.

Case No. 1:22-cv-00339-SPB

**ANSWER OF DELAWARE
COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS'
FIRST REQUESTS FOR
ADMISSION**

Defendant Delaware County Board of Elections (“Board”), by and through its undersigned counsel, hereby submits its Answers to the Requests for Admission Plaintiffs Pennsylvania State Conference of the NAACP (“NAACP”), League of Woman Voters of Pennsylvania (“League”), Philadelphians Organized to Witness, Empower, and Rebuild (“POWER”), Common Cause Pennsylvania (“CCP”), Black Political Empowerment Project (“BPEP”), and Make the Road Pennsylvania (“MRP”) (collectively, “Plaintiffs”) and states as follows:

GENERAL OBJECTIONS

1. The Board objects to all requests to the extent they would impose upon Board an unreasonable burden or would otherwise create burden, hardship or oppression beyond that authorized under the Federal Rules of Civil Procedure or seek discovery beyond that authorized under the Federal Rules of Civil Procedure or the stipulation entered into between the Board and the Plaintiffs in this matter.

2. The Board objects to the definitions and instructions to the extent that they enlarge the obligations of the Board beyond those required under the Federal Rules of Civil Procedure and Local Rules of Court.

3. The Board objects to the definitions to the extent that they differ from the normal, customary, and commonly understood meanings of the defined terms.

4. The Board objects to the requests to the extent that they seek production of confidential and/or proprietary information or material the disclosure of which is prohibited under law or that is otherwise protected from disclosure under the law.

5. The Board objects to the requests to the extent that they seek the production of information protected by the attorney-client privilege or information constituting non-discoverable work product.

6. Responses to the following requests are made to the best of the Board's present knowledge, and are based on information currently known to the Board and are given without prejudice to Board's right to update, supplement, and/or clarify its responses, if necessary.

7. The Board's responses to each request are made subject to, and without in any way waiving or intending to waive, any objection as to competency, relevancy, materiality, privilege, or admissibility as evidence for any purpose, or any of the documents and things described herein.

ANSWERS TO REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military- overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post- date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, admitted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: The general objections are incorporated by reference. Subject to, and without waiver of, the foregoing, denied. By way of further response, the Board considered military/European dating conventions when evaluating the date on the outer return envelope.

Dated: January 25, 2023

Respectfully submitted,

/s/ J. Manly Parks

J. Manly Parks
Nicholas M. Centrella, Jr.
30 South 17th Street
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*Attorneys for
Delaware County Board of Elections*

Exhibit K19

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE CONFERENCE :
OF THE NAACP, et al., :
Plaintiffs :

V. : **Case No. 1:22-cv-00339**

LEIGH M. CHAPMAN, in her official :
Capacity as Acting Secretary of the :
Commonwealth, et al., :
Defendants :

ANSWERS TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS TO
COUNTY BOARD OF ELECTION DEFENDANTS

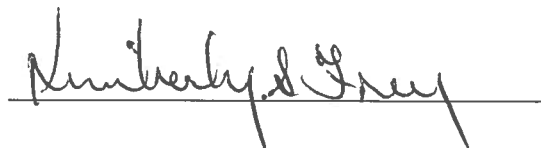
Filed on behalf of

ELK COUNTY BOARD OF ELECTIONS

Defendant, Elk County Board of Elections, files the following responses to the Plaintiffs' First Set of Requests for Admission to County Board of Election Defendants:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.

6. Admitted.
7. Admitted.
8. Admitted.



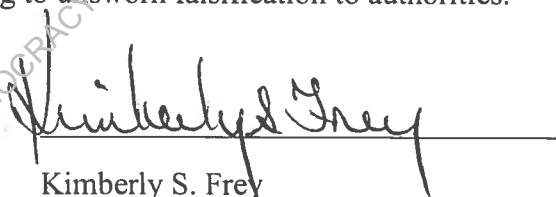
Kimberly S. Frey

Director of Elections & Voter Registration

County of Elk

VERIFICATION

I verify that the allegations contained in the foregoing Answers are true and correct, to the best of my knowledge, information and belief, and that this verification is given subject to the penalties contained in 18 Pa. C.S.A. 4904, relating to unsworn falsification to authorities.



Kimberly S. Frey

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Exhibit K20

RETRIEVED FROM DEMOCRACYDOCKET.COM

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSLVANIA STATE CONFERENCE :
OF THE NAACP, et al., :

Plaintiffs :

Case No. 1:22-cv-00339

v. :

Leigh M. Chapman, in her official :
capacity as Acting Secretary of the :
Commonwealth, et al. :

Defendants :

DEFENDANT, ERIE COUNTY BOARD OF ELECTIONS, RESPONSES
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR
ADMISSION

AND NOW, comes the Defendant, Erie County Board of Elections, by and through its
counsel, Thomas S. Talarico, and files the following Responses to Plaintiffs' Requests for
Admission (First Set):

1. You have never used or referred to the date handwritten on the outer return envelope
containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's
eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

Response: Admitted

2. You have never used or referred to the date handwritten on the mail ballot return
envelope to establish whether you received the ballot by the applicable deadline.

Response: Admitted

3. You have never used or referred to the date handwritten on the outer return envelope

or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

Response: Admitted

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

Response: Admitted

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and you will not count such ballots absent an order of the Court.

Response: Admitted

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, you have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to you to pre-date September 19, 2022, or to post-date November 8, 2022, and you will not count such ballots absent an order of the Court.

Response: Admitted

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, you have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to you to pre-date August 30, 2022, or to post-date November 8, 2022, and you will not count such ballots absent an order of the Court.

Response: Admitted

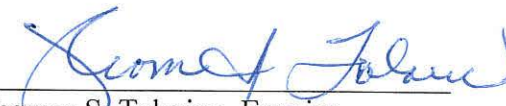
8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, you determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter write 1/11/2022 as the date on a mail ballot return envelope, you set aside that envelope without counting the ballot or endeavoring to determine whether date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Response: Admitted

Respectfully submitted,

TALARICO & ASSOCIATES

By


Thomas S. Talarico, Esquire
Attorney for Respondent,
Erie County Board of Elections
230 West Sixth Street, Suite 202
Erie, Pennsylvania 16507
(814) 459-4472
Supreme Court ID 36256
ttalarico@nwpalawyers.com

Date:

2/27/23

Exhibit K21

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ANSWER: Fayette Board is unable to truthfully admit or deny Request No. 1 because the term “eligibility” is not defined and is overly broad and capable of different interpretations. As Fayette Board understands the term “eligibility” as used herein, it admits that in the 2021 and 2022 elections, it did not use the handwritten date on the outer return envelope of an absentee or mail-in ballot to determine or confirm the following qualifications of the voter to cast a ballot in those elections: voter’s age, citizenship, county, duration of residence, or felony status.

Under the Pennsylvania Supreme Court’s November 1, 2022 Order in *Ball v. Chapman* (102 MM 2022), Fayette Board and the other county boards of elections were required to refrain from counting and including in the vote totals absentee or mail-in ballots with undated or incorrectly dated return envelopes. The Court’s November 5, 2022 supplemental Order further defined an “incorrectly dated ballot” as (1) mail-in ballot outer envelopes with dates that fall outside the range of September 19, 2022 through November 8, 2022, and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022 through November 8, 2022. Accordingly, in those instances, Fayette Board did not use the date to determine or confirm a voter’s “eligibility” to the extent that term means qualification to vote or cast a ballot in that election; however, voters who returned ballots without any date on the outer return envelope, or dates that fell outside of the range defined by the Pennsylvania Supreme Court’s supplemental Order were not prohibited from voting or “disenfranchised” as alleged in Plaintiffs’ Amended Complaint. Rather, their ballots were disqualified or not “eligible” to be counted, and thus were not counted, because the voter failed to cast their ballot in accordance with the mandatory voting requirements as interpreted by the Pennsylvania Supreme Court.

The above discussion demonstrates that the Materiality Provision of the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B), is not implicated by the dating requirement because the dating of the outer return envelope is not used to determine voters' qualifications or eligibility to vote in any election and thereby exclude or preclude a voter from voting in any election. To the contrary, voters who return ballots with an undated or incorrectly dated outer return envelope have exercised their right to vote; however, their ballots are disqualified for not complying with the requirements of the Pennsylvania Election Code as interpreted by the Pennsylvania Supreme Court in *Ball v. Chapman*.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Fayette Board is unable to truthfully admit or deny Request No. 2 because the phrase "never used or referred to the date" is overly broad and capable of different interpretations. As Fayette Board interprets the phrase, Fayette Board admits only that in the 2021 and 2022 elections, Fayette Board did not use the handwritten date on an outer return envelope to determine if a ballot (excluding military/civilian overseas ballots) was timely received. To be timely received, ballots must be in the possession of the Fayette County Elections Office by 8:00 p.m. on Election Day. Any ballots received after that deadline are segregated. However, Fayette Board cannot say that it "never" used the handwritten date to determine timely receipt by the appropriate deadline. In the November 2020 Election, Fayette Board was permitted to count ballots received up to three days after Election Day, even if they did not have a clear postmark, as long as there was not proof the ballot was mailed after the polls closed on Election Day. Ballots without a clear postmark were presumed to be timely. *See Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345 (Pa. 2020).

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

ANSWER: See Fayette Board's response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: See Fayette Board's response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Fayette Board admits that, pursuant to the Pennsylvania Supreme Court's Orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results votes on timely received absentee or mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope, and that Fayette Board currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8,

2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of Pennsylvania Supreme Court's orders of November 8, 2022 should read November 5, 2022, Fayette Board admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received mail-in ballots that did not have a handwritten date on the elector's declaration on the outer return envelope or that showed a date outside the parameters set forth within the *Ball v. Chapman* orders, and that Fayette Board currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of Pennsylvania Supreme Court's orders of November 8, 2022 should read November 5, 2022, Fayette Board admits that, pursuant to the Pennsylvania Supreme Court's orders in *Ball v.*

Chapman (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results timely received absentee ballots that did not have a handwritten date on the elector's declaration on the outer return envelope or that showed a date outside the parameters set forth within the *Ball v. Chapman* orders, and that Fayette Board currently intends to continue to handle those ballots the same way in future elections in the absence of a further order from the Court. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion and decision at a public Election Board meeting.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Denied. Fayette Board generally follows the American dating convention; however, the Fayette County Election Bureau is aware of the European dating convention and does accept ballots using the European dating convention as well.

Date: January 20, 2023

By: /s/ John M. Purcell
John M. Purcell,
Counsel for Defendant, Fayette County
PA ID NO. 41099
jackpurcell146@gmail.com
55 East Church Street

Exhibit K22

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, et al.,**
Plaintiffs,

Case No. 1:22-cv-00339

v.

**LEIGH M. CHAPMAN, in her official
Capacity as Acting Secretary of the
Commonwealth, et al.,**
Defendants.

DEFENDANT, FOREST COUNTY'S RESPONSE TO PLAINTIFFS
REQUESTS FOR ADMISSIONS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a return military-overseas ballots for any

purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope

appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Admitted.

Respectfully submitted,

Dated: February 24, 2023

/s/ Timothy R. Bevevino
Timothy R. Bevevino, Esquire
Supreme Court ID 61090
Swanson, Bevevino and Sharp, P.C.
311 Market Street
Warren, PA 16365
Tel: (814) 723-2080
trbevevino@sbslawoffice.net

Exhibit K23

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

Pennsylvania State Conference of the	:	
NAACP, et al.	:	
Plaintiffs	:	No. 1:22-cv-339
	:	
v.	:	
	:	
Leigh M. Chapman, et.al.	:	
Defendants	:	
	:	

**DEFENDANT, FRANKLIN COUNTY BOARD OF ELECTIONS’
ANSWERS TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR
ADMISSION**

Defendant, Franklin County Board of Elections, by and through their undersigned counsel, hereby answer Plaintiffs’ first set of Requests for Admissions as set forth below:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military – overseas ballots for any purpose related to determining or confirming a voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military – overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Admitted.

Respectfully submitted,

Lavery Law

By: /s Frank L. Lavery, Jr.

Frank J. Lavery, Jr., Esquire
225 Market Street, Suite 304
P.O. Box 1245

Harrisburg, PA 17108-1245
(717) 233-6633 (telephone)
(717) 233-7003 (facsimile)

Atty No. PA42370

flavery@laverylaw.com

Attys for Defendant Perry County and
Franklin County Boards of Elections,
only

DATE: 1/20/23

Exhibit K24

RETRIEVED FROM DEMOCRACYDOCKET.COM

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

PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official capacity
as Acting Secretary of the Commonwealth, *et*
al.,

Defendants.

Case No. 1:22-cv-00339-
SPB

DISCOVERY RESPONSES OF DEFENDANT FULTON COUNTY BOARD
OF ELECTIONS

Answers to Interrogatories:

1. 615 of which 6 were military overseas.
2. Five (5). Of these, One (1) was cured. One (1) went to the polls and voted a provisional ballot. Three (3) did nothing.
3. One was a date prior to the date we actually sent out the ballots. One had a correct date except they wrote the year as 2023 rather than 2022. Three were not dated at all.
4. 10/21/22
5. We did not.
6. We did not. There was only one of these ballots.
7. We called and emailed each of the five (5) affected people, and allowed them a chance to cure.
8. No.
9. They were all qualified voters.
10. No.

11. We tried to call and email the 5 affected voters. We also sent notice to the party chairs and asked them to also reach out to the affected voters.
12. Yes. Please see answers set forth above. We gave them until 8:00 p.m. on election night to correct the defect.
13. As set forth above, two (2) people cured and three (3) did not.
14. We followed the law and the guidance promulgated by the Secretary of the Commonwealth.
15. We had no incorrect military ballots.
16. N/A
17. N/A
18. N/A
19. N/A
20. N/A
21. N/A
22. N/A

Answers to requests for Admissions:

1. Denied. We only did so in this election based on the guidance of the Secretary of the Commonwealth.
2. Denied. This year we used that date based on the guidance of the Secretary of the Commonwealth.
3. N/A We had no such ballots.
4. N/A We had no such ballots.
5. Admitted.
6. Admitted.
7. Admitted.
8. Denied. We counted the date if they wrote it out using a European dating convention as well as an American dating convention.

Exhibit K25

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to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE: GCBOE Admits.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE: GCBOE Admits.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE: GCBOE Admits.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1, and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: GCBOE Admits.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not county such ballots absent an order of the Court.

RESPONSE: GCBOE Admits.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Request 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on the mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

RESPONSE: GCBOE Admits.

Date: January 12, 2023

Respectfully submitted,

A handwritten signature in blue ink that reads "RE Grimm". The signature is written in a cursive style with a horizontal line underneath the name.

Robert Eugene Grimm, Esq.
rgrimm@co.greene.pa.us
P. O. Box 430
Smithfield, PA 15478
(724) 569-2819
Attorneys for Defendant
Greene County Board of Elections

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Exhibit K26

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE	:	
OF THE NAACP, et al.,	:	
Plaintiffs,	:	
v.	:	Case No. 1:22-cv-00339
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, et al.,	:	
Defendants.	:	

JUNIATA COUNTY BOARD OF ELECTIONS
RESPONSE TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS

Defendant, Juniata County Board of Elections does hereby respond to Plaintiff's First Set of Requests for Admissions in like numbered paragraphs as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted. By way of further answer for clarification, Juniata County received no such identified ballots.
7. Admitted. By way of further answer for clarification, Juniata County received no such identified ballots.
8. Denied. Juniata County did not set aside any ballots for an envelope date being determine to be dated incorrectly.

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Exhibit K27

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Lawrence J. Moran, Jr.
J. Alexander Marcinko
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Attorney for Defendant
Lackawanna County Board of Elections

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

<p>PENNSYLVANIA STATE CONFERENCE OF THE NAACP, LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA, PHILADELPHIANS ORGANIZED TO WITNESS, EMPOWER AND REBUILD, COMMON CAUSE PENNSYLVANIA, BLACK POLITICAL EMPOWERMENT PROJECT, AND MAKE THE ROAD PENNSYLVANIA,</p>	<p>No. 1:22-CV-339</p>
<p><i>Plaintiffs,</i></p>	
<p>v.</p>	
<p>LEIGH M. CHAPMAN, in her official capacity as ACTING Secretary of the Commonwealth, et al.,</p>	<p>No. 1:22-CV-339</p>
<p><i>Defendants.</i></p>	

**DEFENDANT LACKAWANNA COUNTY BOARD OF ELECTIONS’
RESPONSE TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR
ADMISSION**

Now comes Defendant Lackawanna County Board of Elections, through undersigned counsel, with the following responses to Plaintiffs’ Requests for Admission served on or about December 14, 2022.

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

Response: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

Response: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

Response: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

Response: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Response: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

Response: Admitted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Response: Admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Response: Admitted.

Exhibit K28

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

PENNSYLVANIA STATE	:	
CONFERENCE OF THE NAACP, ET.	:	
AL.	:	Case No. 1:22-CV-339-SPB
Plaintiffs,	:	
	:	
v.	:	
LEIGH M CHAPMAN, ET. AL.	:	
Defendants.	:	

**ANSWERS OF DEFENDANT LANCASTER COUNTY BOARD OF ELECTIONS
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION**

Pursuant to Fed. R. Civ. P. 36, defendant Lancaster County Board of Elections ("LCBOE") answers Plaintiffs' First Set of Requests for Admission as follows:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Denied.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Denied to the extent that the request is referring to deadline referenced in 25 P.S. § 3150.16(c).

3. You have never used or referred to the date handwritten on the outer

return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Denied.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballot to establish whether you received the ballot by the applicable deadline.

ANSWER: Denied.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted as to the November 1, 2022 order. LCBOE is unable to admit or deny the request regarding the November 8, 2022 order because it is not aware of any order of the Pennsylvania Supreme Court entered on November 8, 2022.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court that applies to the LCBOE.

ANSWER: Admitted as to the November 1, 2022 order. LCBOE is unable to admit or deny the request regarding the November 8, 2022 order because it is not aware of any order of the Pennsylvania Supreme Court entered on November 8, 2022 that applies to the LCBOE.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Denied.

Exhibit K29

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

Pennsylvania State Conference :	:	
of the NAACP, <i>et alia</i>,	:	
Plaintiffs	:	1:22-cv-00339
	:	
v.	:	
	:	
Leigh M. Chapman, <i>et alia</i>,	:	
Defendants	:	

**RESPONSES OF DEFENDANT LEHIGH COUNTY BOARD OF ELECTIONS
TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR ADMISSION**

Now comes Defendant Lehigh County Board of Elections, through undersigned counsel, with the following responses to Plaintiffs’ Requests for Admission as clarified by the email from Plaintiffs’ counsel on January 4, 2023.

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Response: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

Response: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Response: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

Response: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Response: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to

postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

Response: Admitted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Response: Admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Response: Denied. Defendant Lehigh County Board of Elections did make efforts to determine if the date on the outer envelope was written using the

European dating convention in determining if the date was within the “correct” date range.

County of Lehigh
Department of Law
David M. Backenstoe, Esquire
Lehigh County Solicitor

Date: January 18, 2023

By: /s/ Catharine M. Roseberry
Catharine M. Roseberry, Esquire
Assistant Solicitor
PA Atty ID #40199
Lehigh County Government Center
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Allentown, PA 18101
610.782.3180
Counsel for the Lehigh County Board of
Elections

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

Pennsylvania State Conference of the NAACP, <i>et al.</i> ,	:	
	:	
	:	
v.	:	Civil Action No. 1:22-cv-00339-SPB
	:	
Leigh M. Chapman, <i>et al.</i>	:	

**RESPONSE OF DEFENDANT LUZERNE COUNTY BOARD OF
ELECTIONS TO PLAINTIFFS' FIRST SET OF
REQUESTS FOR ADMISSIONS**

COMES NOW, Defendant Luzerne County Board of Elections, by and through its counsel, Joseph M. Cosgrove of Selingo Guagliardo, LLC and hereby answers Plaintiffs' First Set of Interrogatories as follows:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

Response: Admitted

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

Response: Admitted

3. You have never used or referred to the date handwritten on the outer

return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

Response: Admitted

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

Response: Admitted

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Response: Admitted

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or

to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

Response: Admitted* (to best of our knowledge)

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Response: Admitted

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Response: Admitted

Exhibit K31

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE	:	Civil Action
CONFERENCE OF THE	:	
NAACP, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	Case No. <u>1:22-CV-00339-SPB</u>
	:	
vs.	:	
	:	
CHAPMAN, <i>et al.</i> ,	:	
	:	Judge Susan Paradise Baxter
Defendants.	:	

**DEFENDANT LYCOMING COUNTY BOARD OF ELECTIONS' ANSWERS TO
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS
DIRECTED TO DEFENDANTS**

Defendant, Lycoming County Board of Elections, hereby objects and answers plaintiffs' first requests for admission as follows:

I. PRELIMINARY STATEMENT.

1. Defendant's investigation and development of all facts and circumstances relating to this action is ongoing. These responses and objections are made without prejudice to, and are not a waiver of, defendant's right to rely on other facts or documents at trial.
2. By making the accompanying responses and objections to plaintiffs' request for admissions, defendant does not waive, and hereby expressly reserve its right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds, including, but not limited to, competency, relevancy, materiality, and privilege. Further, defendant makes the responses and objections herein without any way implying that it considers these requests or responses thereto to be relevant or material to the subject matter of this action.
3. Defendant expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

RESPONSES TO REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline

ANSWER: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purposes related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted with respect to mail-in ballots only, as defined and described in Section 3150.11 *et seq.* of the Pennsylvania Election Code. The Request employs the phrase "mail ballots" but the Plaintiffs' broad interpretation of the phrase in their Definitions (#6) is incompatible with the date range specified in the Interrogatory.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 20, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted with respect to absentee ballots only, including military-overseas ballots, as defined and described in Section 3146.1 *et seq.* of the Pennsylvania Election Code.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Denied. Dates recorded on mail ballot return envelopes that fell within the range of correct dates as defined and ordered by the Pennsylvania Supreme Court if construed using a European dating convention were accepted.

McCORMICK LAW FIRM

By: /s/ J. David Smith

J. David Smith,
PA I.D. No. 27813
Attorney for Defendant
Lycoming County Board of Elections

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(570) 326-5529 (fax)
dsmith@mcclaw.com

Exhibit K32

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

**PENNSYLVANIA STATE CONFERENCE OF
THE NAACP, *et al.*,**

Plaintiffs

vs.

**LEIGH CHAPMAN, Acting Secretary of the
Commonwealth, *et al.***

Defendants

:
:
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: NO: 1:22-CV-00339
:
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**DEFENDANT’S, MCKEAN COUNTY BOARD OF ELECTIONS,
ANSWERS TO PLAINTIFF’S FIRST SET OF REQUEST FOR ADMISSIONS
DIRECTED TO DEFENDANTS**

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military- overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1, & 8, 2022, you have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to you to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 & 8, 2022, you have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to you to pre-date August 30, 2022, or to post-date November 8, 2022, and you will not count such ballots absent an order of the Court.

ANSWER: Admitted

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, you determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month,

then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, you set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Admitted

COUNTY OF McKEAN

By: /s/Anthony V. Clarke
Anthony V. Clarke, Esquire
McKean County Solicitor
Supreme Court No.: 61687
500 West Main Street
Smethport, PA 16749
Telephone: (814) 331-6441
Attorney for Defendant,
McKean County Board of Elections
PACFile: theclarkefirm@yahoo.com
Communication: avclarke@mckeancountypa.org

Dated: February 1, 2023

Exhibit K33

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REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Answer: Admitted

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline

Answer: Admitted

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Answer: Admitted

REQUESTS FOR ADMISSION (continued)

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

Answer: Admitted

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Answer: Admitted

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

Answer: Admitted

REQUESTS FOR ADMISSION (continued)

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Answer: Admitted

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Answer: Admitted

Exhibit K34

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE OF THE
NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official capacity as
Acting Secretary of the Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**OBJECTIONS AND ANSWERS OF DEFENDANT MONTGOMERY COUNTY
BOARD OF ELECTIONS TO PLAINTIFFS' REQUESTS FOR ADMISSIONS**

Defendant Montgomery County Board of Elections (“Defendant”), by and through its undersigned counsel, hereby provides these objections and answers to the Requests for Admissions of Plaintiffs (“Plaintiff”), stating as follows:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

Answer: Admitted

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military- overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

OBJECTION AND ANSWER: Montgomery County objects to this interrogatory as it calls for privileged information within the attorney-client privilege. Montgomery County Admits that it followed the Orders of the Pennsylvania Supreme Court from November 1st, and 8th of 2022.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

OBJECTION AND ANSWER: Montgomery County objects to this interrogatory as it calls for privileged information within the attorney-client privilege. Montgomery County Admits that it followed the Orders of the Pennsylvania Supreme Court from November 1st, and 8th of 2022.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

OBJECTION AND ANSWER: Montgomery County objects to this interrogatory as it calls for privileged information within the attorney-client privilege. Montgomery County Admits that it followed the Orders of the Pennsylvania Supreme Court from November 1st, and 8th of 2022.

Respectfully submitted,
MONTGOMERY COUNTY SOLICITOR'S OFFICE

By: /s/ John A. Marlatt
John A. Marlatt, Esquire
Attorney I.D. No. 210141
One Montgomery Plaza, Suite 800
P.O. Box 311
Norristown, PA 19404-0311
610-278-3033

Attorney for Defendant,
Montgomery County Board of Elections

Dated: January 25, 2023

Exhibit K35

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

DEFENDANT NORTHAMPTON COUNTY BOARD OF ELECTIONS
ANSWERS TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION
TO COUNTY BOARD OF ELECTION DEFENDANTS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Answer: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

Answer: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Answer: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

Answer: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Answer: Admitted in part. It is admitted that Northampton County Board of Elections did not count mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope. Answering Defendant is unable to respond to the second portion of the

request as it is vague. Answering Defendant will not count mail ballots which are timely received and submitted in signed envelopes but without a written date on the outer return envelope based on current law, but Answering Defendant will comply with an order from a court of competent jurisdiction or a law passed by the Pennsylvania General Assembly which changes this requirement.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Answer: Admitted in part. It is admitted that Northampton County Board of Elections complied with the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, and it did not count mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but showed a date on the outer return envelope appearing to pre-date September 19, 2022, or to post-date November 8, 2022. Answering Defendant is unable to respond to the second portion of the request as it is vague. Answering Defendant will not count mail ballots which are timely received and submitted in signed

envelopes but without a written date on the outer return envelope based on current law, but Answering Defendant will comply with an order from a court of competent jurisdiction or a law passed by the Pennsylvania General Assembly which changes this requirement.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Answer: Admitted in part. It is admitted that Northampton County Board of Elections complied with the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, and it did not count absentee ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but showed a date on the outer return envelope appearing to pre-date August 30, 2022, or to post- date November 8, 2022. Answering Defendant is unable to respond to the second portion of the request as it is vague. Answering Defendant will not count mail ballots which are timely received and submitted in signed envelopes but without a written date on the outer return envelope based on current law,

but Answering Defendant will comply with an order from a court of competent jurisdiction or a law passed by the Pennsylvania General Assembly which changes this requirement.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Answer: Denied. Answering Defendant did count mail ballots if the date was clearly written using a European dating convention which fell within the date range referenced in the Pennsylvania Supreme Court's orders of November 1 and 8, 2022 (ex. 13/10/2022).

Dated: January 25, 2023

Respectfully Submitted:

/s/ Richard E. Santee

Richard E. Santee, Assistant Solicitor
PA Attorney I.D. 310004
County of Northampton
669 Washington Street
Easton, PA 18042
Phone: (610) 829-6350
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rsantee@northamptoncounty.org

Exhibit K36

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

Pennsylvania State Conference of the	:	
NAACP, et al.	:	
Plaintiffs	:	No. 1:22-cv-339
	:	
v.	:	
	:	
Leigh M. Chapman, et.al.	:	
Defendants	:	
	:	

**DEFENDANT, PERRY COUNTY BOARD OF ELECTIONS’ ANSWERS
TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR ADMISSION**

Defendant, Perry County Board of Elections, by and through their undersigned counsel, hereby answer Plaintiffs’ first set of Requests for Admissions as set forth below:

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military – overseas ballots for any purpose related to determining or confirming a voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military – overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Admitted.

Respectfully submitted,

Lavery Law

By: /s Frank L. Lavery, Jr.

Frank J. Lavery, Jr., Esquire
225 Market Street, Suite 304
P.O. Box 1245

Harrisburg, PA 17108-1245
(717) 233-6633 (telephone)
(717) 233-7003 (facsimile)

Atty No. PA42370

flavery@laverylaw.com

Attys for Defendant Perry County and
Franklin County Boards of Elections,
only

DATE: 1/20/23

Exhibit K37

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

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-339

**DEFENDANT PHILADELPHIA
COUNTY BOARD OF
ELECTIONS' RESPONSES AND
OBJECTIONS TO PLAINTIFFS'
FIRST SET OF REQUESTS FOR
ADMISSION TO
PHILADELPHIA COUNTY (NOS.
1-8)**

Pursuant to Fed. R. Civ. P. 26 and 36 and the applicable Local Rules of the United States District Court for the Western District of Pennsylvania, Defendant Philadelphia County Board of Elections (“Philadelphia County”) sets forth its responses and objections (the “Responses”) to Plaintiffs’ First Set of Requests for Admission (Nos. 1–8) (the “Requests”) as follows:

PRELIMINARY STATEMENT

These Responses represent Philadelphia County’s good faith and reasonable effort to respond to the Requests based on information and documents available at this time. Philadelphia County is conducting a reasonable investigation into the existence and location of potentially responsive information. Philadelphia County’s investigation to date informs each of these Responses and Objections. Philadelphia County’s investigation of this matter is ongoing. Philadelphia County thus reserves the right to amend, supplement, correct, or clarify the responses in accordance with

PHILADELPHIA COUNTY BOARD OF ELECTIONS’ RESPONSES AND OBJECTIONS TO PLAINTIFFS’
FIRST SET OF REQUESTS FOR ADMISSION TO PHILADELPHIA COUNTY (NOS. 1–8)

the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the Western District of Pennsylvania

GENERAL OBJECTIONS

1. Philadelphia County objects to any instruction to the extent that it seeks to impose a burden in excess of what it required under Rule 26 and 36 of the Federal Rules of Civil Procedure.

2. Pursuant to an agreement with Plaintiffs, Philadelphia County construes these Requests as temporally limited to the 2021 and 2022 elections.

3. Philadelphia County objects to the undefined term of “military-overseas ballots” as vague and ambiguous. For purposes of these Responses, Philadelphia County construes that term to mean all ballots returned under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) or The Uniform Military and Overseas Voter Act (UMOVA).

SPECIFIC RESPONSES AND OBJECTIONS

The following responses are subject to and without waiver of the above General Statement and Objections here. Any specific objections to a Request are made in addition to the General Statement and Objections, not as a replacement for such objections.

REQUEST FOR ADMISSION NO. 1:

You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE TO REQUEST FOR ADMISSION NO. 1:

Philadelphia County admits that during the 2021 and 2022 elections it did not use the date handwritten on the outer return envelope containing a mail ballot for purposes of determining the eligibility of the voter who submitted the mail ballot.

REQUEST FOR ADMISSION NO. 2:

You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline

RESPONSE TO REQUEST FOR ADMISSION NO. 2:

Philadelphia County admits that during the 2021 and 2022 elections it did not use the date handwritten on the mail ballot return envelope to establish whether the ballot was timely received.

REQUEST FOR ADMISSION NO. 3:

You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter's eligibility (i.e., their age, citizenship, county and duration of residence, and felony status).

RESPONSE TO REQUEST FOR ADMISSION NO. 3:

Philadelphia County objects to the undefined term of "any other paperwork" as vague and ambiguous. For purposes of these Responses, Philadelphia County construes that term to mean the "Absentee Voter Declaration/Affirmation" that voters who receive their ballots via email under UOCAVA or UMOVA must sign.

Philadelphia County admits that during the 2021 and 2022 elections it did not use the date handwritten on the outer return envelope or any other paperwork

accompanying a returned military overseas ballot for purposes of determining the eligibility of the voter who returned the military overseas ballot.

REQUEST FOR ADMISSION NO. 4:

You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE TO REQUEST FOR ADMISSION NO. 4:

Philadelphia denies this Request.

REQUEST FOR ADMISSION NO. 5:

You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE TO REQUEST FOR ADMISSION NO. 5:

Philadelphia County admits that it has complied with the Pennsylvania Supreme Court's orders from November 1 and November 5, 2022 regarding undated mail ballots by setting aside mail ballots that were timely received in signed envelopes and which lacked a handwritten date on the outer return envelope. Philadelphia County admits that it will comply with all applicable court orders concerning such ballots in the future.

REQUEST FOR ADMISSION NO. 6:

Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8,¹ 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return

¹ Plaintiffs have clarified that reference to an order of November 8 was in error and should properly read as November 5.

envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE TO REQUEST FOR ADMISSION NO. 6:

Philadelphia County admits that it has complied with the Pennsylvania Supreme Court's orders from November 1 and November 5, 2022 regarding "incorrectly" dated mail ballots by setting aside mail ballots that were timely received in signed envelopes and which included a handwritten date on the outer return envelope that fell outside the date range of September 19, 2022, through November 8, 2022. Philadelphia County admits that it will comply with all applicable final court orders concerning such ballots in the future.

REQUEST FOR ADMISSION NO. 7:

Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE TO REQUEST FOR ADMISSION NO. 7:

Philadelphia County denies this Request as stated. Philadelphia County admits that it has complied with the Pennsylvania Supreme Court's orders from November 1 and November 5, 2022 regarding "incorrectly" dated absentee ballots by setting aside absentee ballots that were timely received in signed envelopes and which included a handwritten date on the outer return envelope that fell outside the date range of September 19, 2022, through November 8, 2022. Philadelphia County admits that it will comply with all applicable final court orders concerning such ballots in the future.

REQUEST FOR ADMISSION NO. 8:

In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

RESPONSE TO REQUEST FOR ADMISSION NO. 8:

Philadelphia County denies this Request.

Dated: January 25, 2023

By: /s/ Ilana H. Eisenstein

DLA PIPER LLP (US)

Ilana H. Eisenstein (*pro hac vice*)

(Bar No. PA-94907)

Brian Benjet (*pro hac vice*)

(Bar No. PA-205392)

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1515 Arch Street, 15th floor

Philadelphia, PA 19102

*Attorneys for Defendant Philadelphia
County Board of Elections*

Exhibit K38

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Pennsylvania State Conference of the NAACP
v. Leigh M. Chapman, Secretary of the Commonwealth
Case No. 1:22-cv-00339

RE: Pike County, PA Response to Interrogatories and Request for Admissions

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election
29 Military and Civilian Overseas Ballots 7,199 Mail/Absentee Ballots
2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.
55 undated ballots. This number does not include cured ballots.
3. Identify and describe how you determined if a date on a mail ballot outer return envelope was "incorrect."
Pike County had no incorrectly dated ballots.
4. State the date on which you began sending the mail ballot packages to voters?
October 3, 2022
5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.
NA
6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.
NA
7. Identify, by name, birthdate, address, party affiliation and any other demographic information available to you, the voters whose timely received mail ballots You set aside and/or segregated because they were received in signed outer return envelopes that lacked a handwritten date or showed a date on the voter declaration that You deemed to be incorrect. In responding to this Interrogatory, state the specific reason why each such ballot was set aside and, if You allowed voters to correct or cure the date issue, specify whether each voter was able to correct or cure the issue.
Will provide if Ordered by the Court.
8. Did any mail ballots described in Interrogatory 2 have any other defects, besides a missing or incorrect handwritten date on the outer return envelope, that would cause You not to count them? If so, state how many such mail ballots had an additional defect, describe those defects, and identify the voters whose timely received mail ballots had such additional defect(s).
No

18. Did You determine that any voters who sent timely military-overseas ballots described in Interrogatory 15 were not qualified, eligible voters? If so, describe how you determined such voters to be ineligible and identify, for each such voter, the basis for ineligibility.

NA

19. State whether You or any of Your agents identified or raised any credible fraud concerns specifically as to any of the military-overseas ballots described in Interrogatory 15. If so, describe the nature of such fraud concerns.

NA

20. If You did not count the timely received military-overseas ballots described in Interrogatory 15, did you provide notice to the voters whose military- overseas ballots were set aside and/or segregated because the voter failed to date their voter declaration or included a date that You determined to be incorrect? If so, identify and describe how and when you notified those voters.

NA

21. If You did not count the timely received military-overseas ballots described in Interrogatory 15, did You provide the voters who submitted such military-overseas ballots with an opportunity to correct or cure the identified issues with the date? If so, identify and describe the cure methods offered and how you instructed notified voters to cure any date issues.

NA

22. If you provided notice and an opportunity to cure as described in Interrogatories 20 and 21, how many military-overseas voters cured their date issue?

NA

REQUESTS for ADMISSIONS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Affirm

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline

Affirm

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

Affirm

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military- overseas ballots to establish whether you received the ballot by the applicable deadline.

Affirm

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

Affirm

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Affirm

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

Affirm

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Pike County had no such ballots.

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Exhibit K39

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**POTTER COUNTY BOARD OF ELECTIONS ANSWERS TO
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION TO
COUNTY BOARD OF ELECTION DEFENDANTS**

Pursuant to Fed. R. Civ. P. 36, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant admit that the matters set forth below (the "Requests") are true within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The terms "related to," "relate to," "regarding," and "relating to," as used herein, mean mentioning, citing, quoting, regarding, involving, representing, constituting, discussing, reflecting, identifying, describing, referring to, containing,

the remainder.

7. If you object to any Request, you must set forth the reason for your objection.

8. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, these Requests are continuing in nature. If you learn that any response is incomplete or incorrect in any material respect, you shall supplement your responses so as to make them complete and correct.

9. Nothing herein shall constitute a waiver of Plaintiffs' right to serve additional requests for admission or other discovery permitted by the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: The request is objected to as being ambiguous because it is stated in the negative and because of the use of the word "handwritten" which is not understood in connection with ballots received which have a blank date (no handwritten date on them). As understood the request is ADMITTED as all ballots set aside by Defendant for date issues were ballots which had a blank date on the outer envelope.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: The request is objected to as being ambiguous because it is stated in the negative and because of the use of the word “handwritten” which is not understood in connection with ballots received which have a blank date (no handwritten date on them). As understood the request is ADMITTED as all ballots set aside by Defendant for date issues were ballots which had a blank date on the outer envelope.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: The request is objected to as being ambiguous because it is stated in the negative and because of the use of the word “handwritten” which is not understood in connection with ballots received which have a blank date (no handwritten date on them). As understood the request is ADMITTED as all ballots set aside by Defendant for date issues were ballots which had a blank date on the outer envelope.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: The request is objected to as being ambiguous because it is stated in the negative and because of the use of the word “handwritten” which is not understood in connection with ballots received which have a blank date (no handwritten date on them). As understood the request is ADMITTED as all ballots set aside by Defendant for date issues were ballots which had a blank date on the outer envelope.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: The request is objected to as being ambiguous because it is stated in the negative and because of the use of the word “handwritten” which is not understood in connection with ballots received which have a blank date (no handwritten date on them). As understood the request is ADMITTED as all ballots set aside by Defendant for date issues were ballots which had a blank date on the outer envelope.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: The request is objected to as being ambiguous because it is stated in the negative and because of the use of the words "showed a date on the outer return envelope" which is not understood in connection with ballots received which have a blank date (no handwritten date on them). As understood the request is DENIED as all ballots set aside by Defendant regarding date issues were ballots which had a blank date on the outer envelope.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: The request is objected to as being ambiguous because it is stated in the negative and because of the use of the words "showed a date on the outer return

envelope” which is not understood in connection with ballots received which have a blank date (no handwritten date on them). As understood the request is DENIED as all ballots set aside by Defendant regarding date issues were ballots which had a blank date on the outer envelope.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court’s order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the “correct” date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: The request is objected to as being ambiguous because the (i.e. November 1, 2022) stated in the request is believed to be an example of and American dating convention not a European convention. As understood the request is DENIED as all ballots set aside by Defendant regarding date issues were ballots which had a blank date on the outer envelope.

Exhibit K40

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**THE UNITED STATE DISTRICT COURT OF
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PENNSYLVANIA STATE CONFERENCE :
OF THE NAACP, et al., :
Plaintiffs :
v. : Case No. 1:22-cv-00339
LEIGH M. CHAPMAN, in her official :
capacity as Acting Secretary of the :
Commonwealth, et al., :
Defendants :

**SCHUYLKILL COUNTY BOARD OF ELECTIONS RESPONSE TO PLAINTIFFS'
FIRST REQUESTS FOR ADMISSIONS**

Defendant, Schuylkill County Board of Elections does hereby respond to Plaintiff's First Set of Requests for Production of Documents in like numbered paragraphs as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.

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Exhibit K41

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
Capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT SOMERSET COUNTY BOARD OF ELECTIONS'
ANSWERS TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION
TO COUNTY BOARD OF ELECTION DEFENDANTS**

AND NOW, comes Defendant Somerset County Board of Elections (“Somerset County”), by and through its Solicitor, Michael P. Barbera, Esq., of the law firm of Barbera, Melvin & Svonavec, LLP, and hereby sets forth its Answers to Plaintiffs’ First Set of Requests for Admission to County Board of Election Defendants (the “Requests for Admission” or each “Request for Admission”) as follows:

CLARIFICATIONS

The herein Answers to Plaintiffs’ Requests for Admission are based upon the subsequent clarifications of Plaintiffs’ counsel advanced by electronic correspondence of Stephen A. Loney, Jr., Esq. dated January 4, 2023 providing clarifications pertinent to Plaintiffs’ Requests for Admission as follows:

- In responding to the Requests for Admission, please read the questions to be limited temporally to the 2021 and 2022 elections;...
- ...References to “orders of November 1 and 8, 2022” in Requests for Admission

6 and 7 should read “orders of November 1 and 5, 2022.”

With respect to the first bullet point, in particular, it is hereby understood that such clarification is applicable only where an election year is not otherwise specified in each Request for Admission.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter’s eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted; provided, however, that, notwithstanding Plaintiffs' identification of a broader definition of the term "mail ballot(s)" contained in the Definitions prefacing Plaintiffs' Requests for Admission, Plaintiffs' reference to "mail ballots" in this particular Request for Admission is understood to only include mail-in ballots per the corresponding date range set forth in the Pennsylvania Supreme Court's November 5, 2022 Supplemental Order.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without

counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Admitted; provided, however, that Plaintiffs' references to "Requests 4 and 5" are understood to be errant and, instead, were intended to be references to Requests for Admission Nos. 6 and 7.

BARBERA, MELVIN & SVONAVEC, LLP

Date: January 25, 2023

By: /s/ Michael P. Barbera, Esq.

Michael P. Barbera, Esq.
Court Adm. Cert. No.: 312378

146 West Main Street
P.O. Box 775
Somerset, Pennsylvania 15501-0775
Tel: (814) 443-4681

Solicitor for Somerset County Board of Elections

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JENNIFER SPAKO
Director of Elections

SULLIVAN COUNTY ELECTIONS BUREAU
245 MUNCY ST., P.O. Box 157
LAPORTE, PA 18626
PHONE 570-946-5201, OPT. 7 FAX 570-946-4421
JSPAKO@SULLIVANCOUNTYPA.GOV
WWW.SULLIVANCOUNTYPA.GOV

REQUEST FOR ADMISSION

1. I have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose relating to determining or confirming the mail ballot voter's eligibility. (*i.e.*, their age, citizenship, county and duration of residence, and felony status).
2. I have never used or referred to the date handwritten on the mail ballot return envelope to establish whether I received the ballot by the applicable deadline.
3. I have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a return military overseas ballot for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).
4. I have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballot to establish whether I received the ballot by the applicable deadline.
5. I have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and I will not count such ballots absent an order of the Court.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, I have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to me to pre-date September 19, 2022, or to post-date November 8, 2022, and I will not count such ballots absent an order of the Court.
7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, I have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to me to pre-date August 30, 2022, or to post-date November 8, 2022, and I will not count such ballots absent an order of the Court.
8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, I determined whether the date written on the outer envelope was within "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, I set aside that envelope with counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the date before the month (i.e., November 1, 2022).

Exhibit K43

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	Civil Action No. 1:22-CV-339-SPB
)	
LEIGH M. CHAPMAN, et al.)	
)	
Defendants,)	

**DEFENDANT, SUSQUEHANNA COUNTY’S ANSWERS AND OBJECTIONS TO
PLAINTIFFS’ REQUESTS FOR ADMISSIONS**

AND NOW comes Defendant, Susquehanna County Board of Elections, by and through its attorneys, Christopher P. Furman, Benjamin E. Orsatti, and Gabriel Fera, P.C., and hereby responds and objects as follows to Plaintiffs’ Requests for Admissions.

GENERAL OBJECTIONS

1. The following responses are based on discovery available as of the date hereof and are given without prejudice to Defendant's right to rely on subsequently discovered information.
2. Further discovery, independent investigation, or other analysis may lead to the discovery of additional information, which may require additions or changes to these responses.
3. Nothing herein is intended to be or should be construed as a waiver of the attorney-client privilege, the work product doctrine, or any other protection. Inadvertent production of such protected information is not intended to be and shall not operate as a waiver of the applicable privilege. Any information withheld on the basis of such privilege will be identified.
4. Unless otherwise indicated, Defendant will produce information relating only to matters occurring between January 1 and December 16, 2022 (Relevant Period).

SPECIFIC RESPONSES AND OBJECTIONS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant admits the truth of the preceding statement.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Defendant admits the truth of the preceding statement.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant admits the truth of the preceding statement.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Defendant admits the truth of the preceding statement.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: (Not applicable).

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022,

You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant denies the first clause of the preceding statement insofar as no such ballots had been received, and offers no opinion as to future action contemplated by the second clause.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant denies the first clause of the preceding statement insofar as no such ballots had been received, and offers no opinion as to future action contemplated by the second clause.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Defendant denies the preceding statement.

Exhibit K44

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	Civil Action No. 1:22-CV-339-SPB
)	
LEIGH M. CHAPMAN, et al.)	
)	
Defendants,)	

**DEFENDANT, TIOGA COUNTY’S ANSWERS AND OBJECTIONS TO
PLAINTIFFS’ REQUESTS FOR ADMISSIONS**

AND NOW comes Defendant, Tioga County Board of Elections, by and through its attorneys, Christopher P. Furman, Benjamin E. Orsatti, and Gabriel Fera, P.C., and hereby responds and objects as follows to Plaintiffs’ Requests for Admissions.

GENERAL OBJECTIONS

1. The following responses are based on discovery available as of the date hereof and are given without prejudice to Defendant's right to rely on subsequently discovered information.
2. Further discovery, independent investigation, or other analysis may lead to the discovery of additional information, which may require additions or changes to these responses.
3. Nothing herein is intended to be or should be construed as a waiver of the attorney-client privilege, the work product doctrine, or any other protection. Inadvertent production of such protected information is not intended to be and shall not operate as a waiver of the applicable privilege. Any information withheld on the basis of such privilege will be identified.
4. Unless otherwise indicated, Defendant will produce information relating only to matters occurring between January 1 and December 16, 2022 (Relevant Period).

SPECIFIC RESPONSES AND OBJECTIONS

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant admits the truth of the preceding statement.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Defendant admits the truth of the preceding statement.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant admits the truth of the preceding statement.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: Defendant admits the truth of the preceding statement.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant admits the truth of the preceding statement with respect to the four undated ballots received.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant objects to the preceding request as it assumes events contrary to fact. Subject to this objection, no envelopes bearing dates were uncoun-

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Defendant objects to the preceding request as it assumes events contrary to fact. Subject to this objection, no envelopes bearing dates were uncoun-

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Defendant objects to the preceding request as it assumes events contrary to fact. Subject to this objection, no envelopes bearing dates were uncoun-

Exhibit K45

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,

Plaintiffs,

v.

LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,

Defendants.

Case No. 1:22-cv-00339

**ANSWERS FROM WARREN COUNTY BOARD OF ELECTIONS TO
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION TO COUNTY
BOARD OF ELECTION DEFENDANTS**

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). *Admitted.*

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline *Admitted. The envelopes are stamped with the date received.*

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-

overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). *Admitted.*

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline. *Admitted.*

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court. *Admitted.*

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court. *Admitted.*

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date

on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court. *Admitted.*

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022). *Denied, in that no outer envelopes were received that required a distinction between the American and European dating styles.*

Exhibit K46

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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**DEFENDANT WASHINGTON COUNTY BOARD OF ELECTIONS’
RESPONSES TO PLAINTIFFS’ FIRST SET OF REQUESTS FOR
ADMISSION**

Defendant, Washington County Board of Elections, by and through their undersigned counsel, Vorys, Sater, Seymour and Pease LLP, Jana Phillis Grimm, Esq., and Lauren L. Mathews, Esq., hereby submits the following Responses to Plaintiff’s First Set of Requests for Admission.

RESPONSES TO REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Defendant objects to this Request as it overly broad and not limited by any specific period of time. To the extent this Request is specific to the 2022 General Election, this Request is admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

RESPONSE: Defendant objects to this Request as it overly broad and not limited by any period of time. To the extent this Request is specific to the 2022 General Election, this Request is admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

RESPONSE: Defendant objects to this Request as it overly broad and not limited by any period of time. To the extent this Request is specific to the 2022 General Election, this Request is admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

RESPONSE: Defendant objects to this Request as it overly broad and not limited by any period of time. To the extent this Request is specific to the 2022 General Election, this Request admitted.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

RESPONSE: Admitted.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Upon reasonable review of information in Defendant's possession and control, Defendant is without sufficient knowledge and/or information to admit or deny this Request.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

RESPONSE: Upon reasonable review of information in Defendant's possession and control, Defendant is without sufficient knowledge and/or information to admit or deny this Request.

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8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

RESPONSE: Denied. By way of further response, military-overseas ballots that used the European dating convention of writing the day before the month were counted by Defendant.

Exhibit K47

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

**PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION TO
COUNTY BOARD OF ELECTION DEFENDANTS**

Pursuant to Fed. R. Civ. P. 36, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant admit that the matters set forth below (the "Requests") are true within thirty (30) days of service hereof.

DEFINITIONS

1. The present tense includes the past and future tenses.
2. The terms "related to," "relate to," "regarding," and "relating to," as used herein, mean mentioning, citing, quoting, regarding, involving, representing, constituting, discussing, reflecting, identifying, describing, referring to, containing,

the remainder.

7. If you object to any Request, you must set forth the reason for your objection.

8. Pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, these Requests are continuing in nature. If you learn that any response is incomplete or incorrect in any material respect, you shall supplement your responses so as to make them complete and correct.

9. Nothing herein shall constitute a waiver of Plaintiffs' right to serve additional requests for admission or other discovery permitted by the Federal Rules of Civil Procedure.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). Admitted

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline Admitted

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-

overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status). Admitted

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline. Admitted

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court. Admitted

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court. Admitted

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date

on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court. Admitted

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Admitted

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Exhibit K48

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

PENNSYLVANIA STATE	:	
CONFERENCE OF THE NAACP, <i>et al.</i> ,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	No. 1:22-cv-00339-SPB
v.	:	
	:	
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**RESPONSES AND OBJECTIONS OF DEFENDANT WESTMORELAND COUNTY
BOARD OF ELECTIONS
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION**

AND NOW, comes the Defendant, Westmoreland County Board of Elections (“Westmoreland”), by and through its undersigned attorney, and sets forth the following in response to Plaintiffs’ First Set of Requests for Admission, as clarified by Plaintiffs’ counsel’s January 4, 2023 1:25 PM email stating:

- In responding to the Requests for Admission, please read the questions to be limited temporally to the 2021 and 2022 elections;
- The Requests for Production and Interrogatories are all intended to relate to the 2022 General Election; and
- References to “orders of November 1 and 8, 2022” in Requests for Admission 6 and 7 should read “orders of November 1 and 5, 2022.”

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

ANSWER:

Westmoreland is unable to admit or deny Request No. 1 when the term "eligibility" is not defined and is overly broad and capable of different interpretations. To the extent that Westmoreland understands the term "eligibility" is limited to the examples provided, it admits that in the 2021 and 2022 elections, it did not use the handwritten date on the outer return envelope of an absentee or mail-in ballot to determine or confirm the following qualifications of the voter to cast a ballot in those elections: age, citizenship, county, duration of residence, or felony status.

By way of further response, in accordance with the Pennsylvania Supreme Court's November 1, 2022 Order in *Ball v. Chapman* (102 MM 2022), the county boards of elections, including Westmoreland, were to refrain from counting and including in the vote totals absentee or mail-in ballots with undated or incorrectly dated return envelopes. Accordingly, in those instances, Westmoreland did not use the date to determine or confirm a voter's "eligibility"; rather, voters who returned ballots without any date on the outer return envelope, or dates that fell outside of the range defined by the Pennsylvania Supreme Court's supplemental Order were not prohibited from voting. Instead, their ballots were not to be counted because the voter failed to cast their ballot in accordance with the mandatory requirements under the Pennsylvania Election Code and as interpreted by the Pennsylvania Supreme Court.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER:

Westmoreland is unable to admit or deny Request No. 2 because the phrases "never used or referred to the date" and "applicable deadline" are overly broad and capable of different interpretations. Subject to and without waiving the foregoing objection, Westmoreland admits only that in the 2021 and 2022 elections, Westmoreland did not use the handwritten date on an outer return envelope to determine if a ballot was timely received. By way of further response, Westmoreland cannot say that it "never" used the handwritten date to determine timely receipt by the appropriate deadline. In the November 2020 Election, Westmoreland was permitted to count ballots received up to three days after Election Day, and the handwritten date would have been taken into consideration in determining whether a ballot was received by the applicable deadline. *See Pennsylvania Democratic Party v. Boockvar*, 238 A.3d

345 (Pa. 2020).

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.* their age, citizenship, county and duration of residence, and felony status).

ANSWER: See Westmoreland's response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military-overseas ballots to establish whether you received the ballot by the applicable deadline.

ANSWER: See Westmoreland's response to Requests No. 1 and No. 2 above, which are incorporated by reference as though set forth at length here.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER:

Westmoreland admits that, pursuant to the Pennsylvania Election Code and the Pennsylvania Supreme Court's Orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results votes on timely received absentee or mail-in ballots that did not have a handwritten date on the outer return envelope. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion in the event of further orders of court or changes in the Pennsylvania Election Code by the General Assembly.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 should be November 5, 2022, Westmoreland admits that, pursuant to the Pennsylvania Election Code and the Pennsylvania Supreme Court's Orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results votes on timely received absentee or mail-in ballots that did not have a handwritten date on the outer return envelope or that showed a date outside the parameters set forth within the Orders. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion in the event of further orders of Court or changes in the Pennsylvania Election Code by the General Assembly.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Based on the clarification from Plaintiffs' counsel that the date of November 8, 2022 should be November 5, 2022, Westmoreland admits that, pursuant to the Pennsylvania Election Code and the Pennsylvania Supreme Court's Orders in *Ball v. Chapman* (102 MM 2022), in the 2022 General Election, it did not include in the tabulated results votes on timely received absentee or mail-in ballots that did not have a handwritten date on the outer return envelope or that showed a date outside the parameters set forth within the Orders. Any final decisions on the future handling of the ballots at issue in this litigation will be brought before the Election Board for discussion in the event of further orders of Court or changes in the Pennsylvania Election Code by the General Assembly.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: Denied. Although Westmoreland generally follows the American dating convention, there was one instance in the 2022 General Election where the European dating convention was accepted.

DATE: January 25, 2023

Respectfully submitted,

/s/ Melissa A. Guidy

Melissa A. Guidy, Esquire

Pa. I.D. #79223

Westmoreland County Solicitor's Office
2 North Main Street, Suite 103
Greensburg, PA 15601

(724) 830-3553

mguiddy@co.westmoreland.pa.us

Attorney for Defendant
Westmoreland County Board of Elections

Exhibit K49

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

BETTY EAKIN, et al,)	
Plaintiffs,)	
)	
v.	)	Case No. 1:22-CV-340
)	
ADAMS COUNTY BOARD OF ELECTIONS,)	
Et al,)	

INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

Total return of 2029
Military/Overseas returned 7

2. State how many mail ballots You received in connection with the 2022 General Election that were signed and timely received but set aside and/or segregated because they lacked a handwritten date on the outer return envelope or showed a date on the outer return envelope that You deemed to be incorrect. If you allowed voters to correct or cure the envelope-date issue, specify whether your response includes ballots that were ultimately corrected or cured.

Lacked hand written date – 17
Zero ballots were cured – We have at no time allowed any voter to cure.

3. Identify and describe how you determined if a date on a mail ballot outer return envelope was “incorrect.”

Order issued Supreme Court of PA Dated 11/1/2022 No. 102 MM 2022, supplement dated 11/5/2022 Mail in ballot envelopes Dated outside the date range of 9/19/2022 and 11/8/2022, and absentee ballots outer envelope with dates that fall outside the date range of 8/30/2022 through November 8, 2022.

4. State the date on which you began sending the mail ballot packages to voters?

First round of mail-in/absentee ballots were mailed September 19, 2022

5. State whether you opened and/or counted mail ballots where the handwritten date on the return envelope was after September 19, 2022, but before the date on which you began sending the mail ballot package to voters.

Zero incorrectly dated ballots.

6. State whether you opened and/or counted absentee ballots where the handwritten date on the return envelope was after August 30, 2022, but before the date on which you began sending the mail ballot package to voters.

Zero ballots returned with incorrect dates

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PENNSYLVANIA STATE CONFERENCE
OF THE NAACP, *et al.*,**

Plaintiffs,

v.

**LEIGH M. CHAPMAN, in her official
capacity as Acting Secretary of the
Commonwealth, *et al.*,**

Defendants.

Case No. 1:22-cv-00339

**PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION TO
COUNTY BOARD OF ELECTION DEFENDANTS**

Pursuant to Fed. R. Civ. P. 36, Plaintiffs, by and through their undersigned counsel, hereby request that each County Board of Election Defendant admit that the matters set forth below (the "Requests") are true within thirty (30) days of service hereof.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

I have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline

I have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

I have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots to establish whether you received the ballot by the applicable deadline.

I have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots to establish whether you received the ballot by the applicable deadline.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

I have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and I will not count such ballots absent an order of the Court.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and You will not count such ballots absent an order of the Court.

I have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to postdate November 8, 2022, and I will not count such ballots absent an order of the Court.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

I have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and I will not count such ballots absent an order of the Court.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's order referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022). I did not set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

Exhibit K50

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

PENNSYLVANIA STATE CONFERENCE OF)	
THE NAACP, et al,	)	Civil Action No. 1:22-cv-00339-SPB
)	
Plaintiffs,)	
)	
v.)	
)	
CHAPMAN, et al,)	
)	
Defendants.)	

**DEFENDANTS BEDFORD COUNTY, CARBON COUNTY, CENTRE COUNTY,
COLUMBIA COUNTY, DAUPHIN COUNTY, JEFFERSON COUNTY,
HUNTINGDON COUNTY, INDIANA COUNTY, LAWRENCE COUNTY,
LEBANON COUNTY, MONROE COUNTY, MONTOUR COUNTY,
NORTHUMBERLAND COUNTY, SNYDER COUNTY, VENANGO COUNTY,
AND YORK COUNTY BOARDS OF ELECTIONS’ ANSWERS AND OBJECTIONS
TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES, REQUESTS FOR
ADMISSION, AND REQUESTS FOR PRODUCTION DIRECTED TO ALL
DEFENDANT COUNTY BOARDS OF ELECTIONS**

Defendants Bedford County, Carbon County, Centre County, Columbia County, Dauphin County, Huntingdon County, Indiana County, Jefferson County, Lawrence County, Lebanon County, Monroe County, Montour County, Northumberland County, Snyder County, Venango County, and York County Board of Elections (collectively “Defendant Counties”), by and through their undersigned counsel, Babst, Calland, Clements & Zomnir, P.C., and pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, hereby serve the following Answers and Objections to Plaintiffs’ First Set of Interrogatories, Requests for Admission, and Requests for Production Directed to All Defendant County Boards of Elections.

8. These General Objections are incorporated by reference as if fully set forth in the response to each individual request for admission, interrogatory and document request below. Defendant Counties reserve the right to include additional objections as they become apparent.

REQUESTS FOR ADMISSION

1. You have never used or referred to the date handwritten on the outer return envelope containing a mail ballot for any purpose related to determining or confirming the mail ballot voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant Counties object that this Request is overly broad. Subject to and without waiving the foregoing objection, admitted.

2. You have never used or referred to the date handwritten on the mail ballot return envelope to establish whether you received the ballot by the applicable deadline.

ANSWER: Defendant Counties object that this Request is overly broad. Subject to and without waiving the foregoing objection, admitted.

3. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military overseas ballots for any purpose related to determining or confirming a voter's eligibility (*i.e.*, their age, citizenship, county and duration of residence, and felony status).

ANSWER: Defendant Counties object that this Request is overly broad. Subject to and without waiving the foregoing objection, admitted.

4. You have never used or referred to the date handwritten on the outer return envelope or on any other paperwork accompanying a returned military- overseas ballots to establish whether you received the ballot by the applicable deadline

ANSWER: Defendant Counties object that this Request is overly broad. Subject to and without waiving the foregoing objection, admitted as to handwritten dates on the outer return envelope. All military and overseas ballots are canvassed according to the postal date on the outer envelope. Military and overseas ballots must be postmarked by midnight of the day before the Election and are accepted for seven days following the Election.¹ All regulations for such ballots are governed by federal and state election laws.

¹ For the 2022 General Election military and overseas ballots had to postmarked by 11:59 on November 7, 2022, and received by the Elections office by close of business November 15, 2022.

5. You have not counted mail ballots in connection with the 2022 General Election that were timely received and submitted in signed envelopes but without a handwritten date on the outer return envelope, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted. Defendant Counties acted in accordance with all applicable state and federal laws, including but not limited to the United States Constitution, the Constitution of the Commonwealth of Pennsylvania, and the Pennsylvania Election Code and orders of the Pennsylvania Supreme Court.

6. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted mail ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date September 19, 2022, or to post- date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted, to the extent the references to the Pennsylvania Supreme Court's orders were intended to reference the November 1 and 5, 2022, orders of the Pennsylvania Supreme Court. Defendant Counties acted in accordance with all applicable state and federal laws, including but not limited to the United States Constitution, the Constitution of the Commonwealth of Pennsylvania, and the Pennsylvania Election Code and orders of the Pennsylvania Supreme Court.

7. Pursuant to the Pennsylvania Supreme Court's orders of November 1 and 8, 2022, You have not counted absentee ballots in connection with the 2022 General Election that were timely received in signed envelopes that showed a date on the outer return envelope appearing to You to pre-date August 30, 2022, or to post-date November 8, 2022, and You will not count such ballots absent an order of the Court.

ANSWER: Admitted to the extent the references to the Pennsylvania Supreme Court's orders were intended to reference the November 1 and 5, 2022, orders of the Pennsylvania Supreme Court. Defendant Counties acted in accordance with all applicable state and federal laws, including but not limited to the United States Constitution, the Constitution of the Commonwealth of Pennsylvania, and the Pennsylvania Election Code and orders of the Pennsylvania Supreme Court.

8. In carrying out the instructions set forth in the Pennsylvania Supreme Court's orders referenced in Requests 4 and 5, You determined whether the date written on the outer envelope was within the "correct" date range based on the American dating convention of writing the month, then day, then year (e.g., MM/DD/YYYY). Thus, for example, if a voter wrote 1/11/2022 as the date on a mail ballot return envelope, You set aside that envelope without counting the ballot or endeavoring to determine whether the date noted was written using a European dating convention of writing the day before the month (i.e., November 1, 2022).

ANSWER: It is admitted that generally, Defendant Counties used the American dating convention when evaluating date ranges written on the outer ballot envelope. The remainder

of Request 8, which makes incorrect references to other Requests herein and includes a hypothetical, is denied. To respond further, Defendant Counties carefully reviewed and considered ballot dates for acceptance/rejection, and that may have included those that used the European dating convention. Defendant County Boards of Election used discretion to permit counting of ballots that fit within the dating schedules of the Pennsylvania Supreme Court's orders including European and/or military dating conventions

ANSWERS TO INTERROGATORIES

1. State how many mail ballots and how many military-overseas ballots voters returned to You for the 2022 General Election.

ANSWER: Defendant Counties object to this Interrogatory because the information sought is publicly available from the Counties, the Office of the Secretary of the Commonwealth (the "Secretary"), the Pennsylvania Department of State (the "Department"), and/or other agencies or instrumentalities of the Commonwealth of Pennsylvania, and thus equally accessible to Plaintiffs. Subject to and without waiving the foregoing objections, Specific County numbers on returned ballots are provided immediately below:

<u>County</u>	<u>Mail Ballots</u>	<u>Military-Overseas Ballots</u>	<u>Only total given</u>
Bedford	2,868	6	
Carbon	4,823	14	
Centre	15,654	126	
Columbia	4,168	11	

Exhibit L

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**[J-85-2022]
IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

DAVID BALL, JAMES D. BEE, JESSE D. : No. 102 MM 2022
DANIEL, GWENDOLYN MAE DELUCA, :
ROSS M. FARBER, LYNN MARIE :
KALCEVIC, VALLERIE SICILIANO- :
BIANCANIELLO, S. MICHAEL STREIB, :
REPUBLICAN NATIONAL COMMITTEE, :
NATIONAL REPUBLICAN :
CONGRESSIONAL COMMITTEE, AND :
REPUBLICAN PARTY OF PENNSYLVANIA, :

Petitioners

v.

LEIGH M. CHAPMAN, IN HER OFFICIAL :
CAPACITY AS ACTING SECRETARY OF :
THE COMMONWEALTH, AND ALL 67 :
COUNTY BOARDS OF ELECTIONS, :

Respondents

SUPPLEMENTAL ORDER

PER CURIAM

AND NOW, this 5th day of November, 2022, the Court hereby supplements its per curiam order dated November 1, 2022, wherein we directed, in part, that “[t]he Pennsylvania county boards of elections are hereby ORDERED to refrain from counting any absentee and mail-in ballots received for the November 8, 2022 general election that are contained in undated *or incorrectly* dated outer envelopes.” (Emphasis added.) For purposes of the November 8, 2022 general election, “incorrectly dated outer envelopes” are as follows: (1) mail-in ballot outer envelopes with dates that fall outside the date range

of September 19, 2022, through November 8, 2022; and (2) absentee ballot outer envelopes with dates that fall outside the date range of August 30, 2022, through November 8, 2022. See 25 P.S. §§ 3150.12a, 3150.15, 3146.2a(a), 3146.5(a).

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Exhibit M

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Vote In Person By Mail Ballot Before Election Day

If you are a registered Pennsylvania voter, you have the convenient option of applying for a mail ballot in person at their county board of elections office, then completing the ballot while there. In one visit, voters can apply for and cast their mail ballot.

As soon as ballots are ready, you can request, receive, vote and cast your mail-in or absentee ballot all in one visit to your [county election board](/Resources/Pages/Contact-Your-Election-Officials.a)^{spx} or other designated location.

With this option, there is no need for mail at all, and you can cast your vote at your convenience.

What do I need to bring with me?

You will need your PennDOT ID number or the last 4 digits of your Social Security number. Please refer to the

[list of ID requirements for mail-in or absentee ballots](#)

[\(/Voting-in-PA/Pages/Mail-and-Absentee-Ballot.aspx#id-mail\)](/Voting-in-PA/Pages/Mail-and-Absentee-Ballot.aspx#id-mail)

for more information.

How do I vote in person by mail ballot?

First, check your county's website or call your county to see if ballots are finalized and available. If ballots are available, you can go to your county election board or other designated location in person and apply for a mail-in or absentee ballot. The county will process your application while you wait and, if you are eligible, they will give you your ballot.

Step 1:

Submit a completed mail-in or absentee ballot application at your county election board or other designated location.

Step 2:

Patiently wait for your application to be verified and processed (this may take a few minutes).

Step 3:

Receive your ballot and mark your ballot.

Step 4:

Seal your ballot in the white inner secrecy envelope that indicates "official elections ballot", making sure not to make any marks on the envelope. **Your ballot must be enclosed and sealed in the white inner secrecy envelope or it will not be counted.**

Step 5:

Seal the inner secrecy envelope inside the pre-addressed outer return envelope where you must sign. **Seal your ballot in both envelopes, or it will not be counted.**

Step 6:

Complete, sign, and date the voter's declaration on the outside of the outer return envelope.

If you do not sign and date the outer return envelope, your ballot will not be counted.

Step 7:

Hand in your ballot.

Remember: If you return your voted mail-in or absentee ballot, then you cannot vote at your polling place on Election Day.

Where do I vote in person by mail ballot?

You can vote in person by mail ballot at your county election board or other officially designated location. **You may drop off your mail ballot in person until 8 p.m. on Election Day, so long as you have applied for it before the deadline. The deadline to apply for a ballot in-person for the 2023 Primary Election is 5 p.m., May 9, 2023.**

Check your county's website for information

(/Resources/Pages/Contact-Your-Election-Officials.aspx)

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

BETTE EAKIN, *et al.*,

Plaintiffs,

v.

ADAMS COUNTY BOARD OF ELECTIONS, *et al.*,

Defendants.

Case No. 1:22-cv-00340-SPB

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

Plaintiffs have filed a Motion for Summary Judgment. Having considered the Motion, the Court determines that:

1. The Date Provision, as it appears in 25 P.S. § 3146.6(a) and 25 P.S. § 3150.16(a), and any other provision that requires counties to reject ballots contained in envelopes that do not contain a correct date, violates Section 101 of the Civil Rights Act of 1964.
2. The Date Provision violates the First and Fourteenth Amendments to the U.S. Constitution.

Therefore, it is hereby ORDERED that the Motion is GRANTED. Consequently, Defendants—along with their respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them—are permanently enjoined from rejecting or refusing to count absentee or mail-in ballots for failure to comply with the Date Provision.

IT IS SO ORDERED.

DATED: _____

SUSAN PARADISE BAXTER
United States District Judge