

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

PENNSYLVANIA STATE
CONFERENCE OF THE NAACP, *et al.*,

Plaintiffs,

v.

AL SCHMIDT, in his official capacity as
Secretary of the Commonwealth, *et al.*,

Defendants

and

REPUBLICAN NATIONAL
COMMITTEE, *et al.*,

Intervenor-Defendants

Case No. 1:22-cv-00339-SPB

**SUPPLEMENTAL MEMORANDUM IN FURTHER SUPPORT OF
PLAINTIFFS' MOTION FOR A RULE 54(B) JUDGMENT**

On April 14, 2025, Plaintiffs filed a Motion for a Rule 54(b) Judgment as to their constitutional claim under the Supreme Court's *Anderson-Burdick* line of cases. *See* ECF Nos. 475, 476. This Court's March 31 ruling on a materially identical claim in a companion case, *Eakin v. Adams County Board of Elections*, No. 22 Civ. 340, was based on the same summary judgment record developed in this case and compels the same result on Plaintiffs' pending motion for summary judgment. Accordingly, and because the RNC Intervenor-Defendants had already noticed an appeal in *Eakin*, Plaintiffs sought a Rule 54(b) judgment in this "so that [their] claims may be resolved in a single appeal with the companion case in which this

Court recently granted summary judgment on the same claims.” Mot. for Rule 54(b) Judgment, ECF No. 475.

When contacted, RNC Intervenors indicated that they would oppose the Motion for a Rule 54(b) Judgment, and Plaintiffs noted this in their submission. MIL in Supp. of Mot. for Rule 54(b) Judgment at 2, ECF No. 476. Pursuant to this Court’s published Practices and Procedures, any opposition to Plaintiffs’ Motion was due to be filed within 10 days, or on April 24, 2025.¹ As no party filed an opposition before the deadline, the Court should grant Plaintiffs’ Motion for a Rule 54(b) Judgment as unopposed.

Notably, while Plaintiffs’ Rule 54(b) Motion was pending, RNC Intervenors sought and obtained an order expediting the briefing in *Eakin* before the Third Circuit Court of Appeals. Dkt No. 38, No. 25-1644 (3d Cir.). Appellants’ briefs are due to be filed by noon on May 6, and Appellees’ briefs are due by noon on June 4, 2025. Immediately granting the unopposed Rule 54(b) Motion would streamline the proceedings, clarifying the status of the *Anderson-Burdick* claim in this case so that any appeal may be resolved in tandem with the appeal in the *Eakin* case while potentially eliminating the need for separate intervention proceedings in the Court of Appeals. Otherwise, and in the interest of time, Plaintiffs intend to file a motion to intervene in the pending Third Circuit proceedings in *Eakin* so that they may protect their interests and be heard alongside the *Eakin* parties.

¹ See Practices and Procedures of District Judge Susan Paradise Baxter at ¶ II.A.3, available at https://www.pawd.uscourts.gov/sites/pawd/files/Baxter_PP_2019.pdf.

Dated: April 25, 2025

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Respectfully submitted,

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Marlene G. Gutierrez, Aynne Margaret
Pleban Polinski, Joel Bencan, and
Laurence M. Smith*²

² Individual Plaintiff Laurence Smith passed away in February. A formal notice of death and motion either for substitution or for withdrawal as to Mr. Smith is forthcoming. Because multiple other Plaintiffs have claims against Montgomery County, nothing about Mr. Smith's passing affects the susceptibility of any defendant to the judgment sought. In any case, and for the avoidance of doubt, Plaintiffs' motion is conditional as to Mr. Smith on the grant of any forthcoming motion to substitute a representative for Mr. Smith.

CERTIFICATE OF SERVICE

I hereby certify that, on the date set forth below, I caused a true and correct copy of the foregoing Supplemental Memorandum in Support of Plaintiffs' Motion for a Rule 54(b) Judgment to be served via the Court's electronic filing system upon all counsel of record.

Dated: April 25, 2025

/s/Stephen Loney