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August 2, 2022

Via PacFile

Michael F. Krimmel
Prothonotary
Pennsylvania Judicial Center
601 Commonwealth Avenue
Suite 2100
Harrisburg, PA 17106

Re: *Chapman et al. v. Berks County Board of Elections et al.*, No. 355 MD
2022

Dear Mr. Krimmel:

We represent Petitioners, Acting Secretary of the Commonwealth Leigh M. Chapman and the Pennsylvania Department of State, in the above-captioned matter.

Following the July 28, 2022, hearing, Counsel for Respondent Fayette County notified Petitioners' counsel that Butler County, which is not a party to this action, may not have included in the certified returns it submitted to the Department the vote totals from timely received undated absentee and mail-in ballots. The Department subsequently investigated the matter and determined that Butler County had not included undated ballots in the certified returns it submitted, but that it was inadvertently not identified as one of the counties that had failed to do so. As a result, Petitioners were not aware of this fact at the time of the July 28 hearing.

Petitioners therefore wish to correct the record, including Mr. Marks' testimony and written and oral statements from counsel, by notifying the Court that, in addition to the three Respondent counties, the Department has determined that Butler County did not include undated ballots in the certified returns it submitted to the Acting Secretary. The Department has reviewed its records with respect to the remaining counties, and it is not aware of any other county that did not include

undated ballots in the certified returns submitted to the Acting Secretary. Petitioners are reviewing their options in light of this information, and may take further action shortly with respect to Butler County if necessary.

We kindly ask that you provide a copy of this letter to President Judge Cohn Jubelirer.

Respectfully submitted,

/s/ Michael J. Fischer

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