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**Motion for Admission Pro Hac Vice Pending*

*Attorneys for Proposed Intervenor-Defendant
Pennsylvania Alliance for Retired Americans*

**IN THE COURT OF COMMON PLEAS
OF LEHIGH COUNTY, PENNSYLVANIA**

CIVIL DIVISION

SEAN GILL, ROBERT SMITH, TIM RAMOS and
JACKIE RIVERA,

Plaintiffs,

v.

LEHIGH COUNTY BOARD OF ELECTIONS,
PHILLIPS ARMSTRONG, JENNIFER ALLEN,
DENNIS NEMES, TIMOTHY A. BENYO and
DIANE GORDIAN,

Defendants,

and

PENNSYLVANIA ALLIANCE FOR RETIRED
AMERICANS,

[Proposed] Intervenor-
Defendant.

No. 2022-c-1849

**PENNSYLVANIA ALLIANCE FOR RETIRED AMERICANS’
PROPOSED ANSWER AND NEW MATTER TO PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

Proposed Intervenor-Defendant Pennsylvania Alliance for Retired Americans (the “Alliance”) submits this answer to Plaintiffs’ motion for a preliminary injunction.¹

1. The Pennsylvania election code requires that mailed and absentee ballots must be returned either by mail or in person by the person to whom the ballot belongs.

Response: Paragraph 1 purports to characterize the Pennsylvania Election Code, which speaks for itself, and no response is required.

2. Regarding the return of a mailed ballot, 25 Pa. § 3150.16(a) states “[s]uch envelope shall then be securely sealed and the elector shall send same by mail, postage prepaid, except where franked, or deliver it in person to said county board of election.”

Response: Paragraph 2 purports to quote from the cited statute, which speaks for itself, and no response is required.

3. Mailed or absentee ballots returned by someone other than the voter are void, invalid, and should not be counted. *In re Canvass of Absentee Ballots of November 4, 2003 Gen. Election*, 577 Pa. 231, 843 A.2d 1223 (2004) (“[the] “in person” delivery requirement is mandatory, and that the absentee ballots of non-disabled persons who had their ballots delivered in contravention of this mandatory provision are void.”); *Donald J. Trump for President, Inc. v. Boockvar*, 2020 WL 5407748, at *9 (W.D. Pa. Sept. 8, 2020) (“everyone now agrees that the election code forbids third-party ballot delivery.”); *Pierce v. Allegheny Cty. Bd. of Elections*, 324

¹ The Alliance refers to the request for injunctive relief as a “Motion” because Plaintiffs have so styled it, though such requests are not properly raised by motion but instead by petition. *See* Pa. R. Civ. P. 208.1(b)(1)(iii).

F.Supp.2d 684, 691 (W.D. Pa. 2003) (entering preliminary injunction voiding and barring the counting of 937 absentee ballots delivered by third parties.)

Response: Paragraph 3 contains mere characterizations, legal contentions, and conclusions, to which no response is required.

4. The Lehigh County Board of Elections understands this well-settled rule:

“**Important Information for All Absentee/Mail-In Voters: With the exception of absentee voters who have a disability or who are overseas, **all Ballots must be delivered to the County Board of Elections either in person by the voter themselves or through the U.S. Postal Service. Ballots delivered by any other means for absentee/mail-in voters who don't have a disability will not be accepted by the County Board of Elections.** Absentee Ballots delivered for voters who do have a disability may be delivered by a third party who has written authorization from the disabled absentee. Absentee Ballots delivered for an absentee voter who is overseas on Election Day may be made by an overseas delivery service.”

Response: Paragraph 4 purports to quote from the Lehigh County website, which speaks for itself, and no response is required.

5. The Lehigh County Board of Elections authorizes the use of ballot drop boxes.

Response: The Alliance admits the allegations in Paragraph 5.

6. The Board of Elections has established five ballots drop box locations: (1) Whitehall Township Municipal Building, (2) Lehigh County Authority (LCA) lobby, (3) Fountain Hill Borough Building, (4) Lehigh County Government Center, and (5) Macungie Borough Building. <https://www.lehighcounty.org/Departments/Voter-Registration> (last visited August 3, 2022).

Response: The Alliance admits the allegations in Paragraph 6.

7. While all drop boxes will apparently be inside the buildings where they are located, defendants do not maintain measures to assure that a voter delivers only his or her own ballot.

Response: The Alliance admits that drop boxes will be inside the buildings where they are located but denies that Defendants do not maintain measures to assure that a voter delivers only his or her own ballot. Furthermore, under certain circumstances the Pennsylvania Election Code expressly authorizes a designated agent to deliver another person's ballot.

8. At least one location, the Lehigh County Government Center, is open 24 hours a day 7 days a week. *Id.*

Response: The Alliance admits that the drop box at the Lehigh County Government Center will be open 24 hours a day, seven days a week beginning October 24, 2022.

9. On January 20, 2022, the Lehigh County Republican Committee raised concerns that third parties were depositing (void) ballots in the County's drop boxes in previous elections and that it would likely occur again in upcoming elections.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 9.

10. Indeed, the party alleged that there were at least 300 more ballots deposited into the drop boxes than there were individuals that visited the drop boxes.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 10.

11. Based on those concerns, the Lehigh County District Attorney investigated whether votes delivered by third parties were being deposited into drop boxes in Lehigh County. A copy of the Lehigh County District Attorney's report is attached at Exhibit 1.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 11.

12. His office reviewed surveillance video of drop boxes from the 2021 general election. *Id.*, 4.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 12.

13. His conclusion was that invalid and void votes were deposited into the drop boxes. *Id.*

Response: Paragraph 13 purports to characterize the Lehigh County District Attorney's report, which speaks for itself, and no response is required.

14. A county detective was able to confirm 186 instances where more than one ballot was dropped by an individual. *Id.*

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 14.

15. His office also concluded that 3,695 ballots were placed into the drop boxes.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 15.

16. But the surveillance video showed only 2,756 persons dropping ballots into the boxes. *Id.*

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 16.

17. The report concludes "it is also abundantly clear that those provisions of the law [prohibiting ballot harvesting] are being breached by large numbers of voters." *Id.*, 6.

Response: The allegations in Paragraph 17 purport to quote from the Lehigh County District Attorney's report, which speaks for itself, and no response is required.

18. The Lehigh County Republican Committee demanded that the Lehigh County Board of Elections establish safeguards to prevent the third-party delivery of mailed ballots to drop boxes.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 18.

19. The Board of Elections officials refused.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 19.

20. However, the Lehigh County District Attorney announced he would position detective at the drop boxes and charge any person that violated the Election Code by delivering more than one ballot. Katherine Reinhard, Lehigh County DA to monitor ballot drop-off boxes for violators, Pennsylvania Capital Star, April 27, 2022, <https://www.penncapital-star.com/election-2022/lehigh-county-da-to-monitor-ballot-drop-off-boxes-for-violators/>

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 20.

21. In response to that plan, the Pennsylvania Secretary wrote to the District Attorney and expressed concern that the plan might violate the Pennsylvania Election Code and deter voters from delivering a ballot. See letter from Leigh Chapman to the Honorable James B. Martin, May 5, 2022, at Ex. 2.

Response: Paragraph 21 purports to characterize the cited letter, which speaks for itself, and no response is required.

22. The Secretary suggested the District Attorney's plans amounted to "voter intimidation," and requested that he "not station law enforcement outside of ballot drop boxes in Lehigh County." *Id.*

Response: Paragraph 22 purports to quote from the cited letter, which speaks for itself, and no response is required.

23. She concluded by urging the District Attorney to shift his focus to "voter education." *Id.*

Response: Paragraph 23 purports to quote from the cited letter, which speaks for itself, and no response is required.

24. Additionally, the American Civil Liberties Union sent a letter to the District Attorney. See letter from Marian K. Schneider to James D. Martin, May 5, 2022, at Ex. 3.

Response: The Alliance admits the allegations in Paragraph 24.

25. The ACLU stated that the District Attorney's plan "cross[es] the line into unlawful harassment and intimidation of voters, which is prohibited under both federal and Pennsylvania law." *Id.*

Response: Paragraph 25 purports to quote from the cited letter, which speaks for itself, and no response is required.

26. The ACLU described the District Attorney's plan as legally flawed and demanded he cease and desist implementation of the plan. *Id.*

Response: Paragraph 26 purports to characterize the cited letter, which speaks for itself, and no response is required.

27. Despite these demands, the District Attorney implemented his plan and it achieved its goal as there were no reported cases of third-party delivery of ballots.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 27.

28. Although both the Secretary and the ACLU hinted at litigation to stop the plan, no litigation ensued.

Response: The allegation that “the Secretary and the ACLU hinted at litigation” purports to characterize the Secretary’s and ACLU’s letters, which speak for themselves, and no response is required. The Alliance admits that neither the Secretary nor ACLU initiated litigation on this matter.

29. However, there is no assurance that the District Attorney will implement a similar plan for the general election.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 29.

30. Moreover, because the plan’s legality has been questioned, litigation may prevent a similar plan from being used for the general election.

Response: The Alliance is without sufficient information or knowledge with which to form an opinion about the allegations in Paragraph 30.

31. So, there is no assurance that the County’s drop boxes will be utilized in a manner that is permitted under the Election Code.

Response: The Alliance denies the allegations in Paragraph 31.

32. A special and preliminary injunction is necessary to prevent the Lehigh County Board of Elections from receiving void and invalid ballots that are delivered by third parties and then commingling those ballots with validly cast ballots.

Response: Paragraph 32 contains mere characterizations, legal contentions, and conclusions to which no response is required. The Alliance denies that Plaintiffs are entitled to an injunction.

33. The five elements for the issuance of a preliminary injunction are (1) the injunction is necessary to prevent immediate and irreparable harm, which cannot be compensated by damages; (2) greater injury would result by refusing it than by granting it; (3) an injunction will restore the parties to the status quo as it existed immediately before the alleged wrongful conduct; (4) the alleged wrong is manifest, and the injunction is reasonably suited to abate it; and (5) the plaintiff's right to relief is clear. *Kierski v. Twp. of Robinson*, 810 A.2d 196, 198 (Pa.Cmwlth. 2002).

Response: Paragraph 33 contains mere legal contentions to which no response is required.

34. Each of these five elements exists here.

Response: Paragraph 34 contains mere legal contentions to which no response is required. The Alliance denies that Plaintiffs are entitled to an injunction.

35. First, plaintiffs will suffer irreparable harm in that the void or invalid ballots will dilute their validly cast ballots – and the validly cast ballots of other voters – thereby impinging on their fundamental right to vote.

Response: Paragraph 35 contains mere characterizations, legal contentions, and conclusions to which no response is required. The Alliance denies that Plaintiffs will suffer irreparable harm, or any harm at all.

36. As in *Pierce v. Allegheny Cty. Bd. of Elections*, 324 F.Supp.2d 684, 691 (W.D. Pa. 2003), injunctive relief is necessary to preclude the commingling of ballots delivered by third parties and “if relief is not granted, the hand-delivered ballots would be rendered unidentifiable and any practical opportunity for the ballots to be challenged would be eliminated.”

Response: Paragraph 36 contains mere characterizations, legal contentions, and conclusions to which no response is required. The Alliance denies that injunctive relief is necessary.

37. Plaintiffs will also suffer irreparable harm because the Lehigh County Board of Elections will be conducting an election in contravention of the Pennsylvania election code. *Shaeffer v. City of Lancaster*, 754 A.2d 719, 723 (Pa. Cmwlth. 2000) (“Statutory violations are sufficiently injurious to constitute irreparable harm.”)

Response: Paragraph 37 contains mere characterizations, legal contentions, and conclusions to which no response is required. The Alliance denies that Plaintiffs will suffer irreparable harm, or any harm at all.

38. Second, greater injury will result if the injunction is not entered than if it is granted.

Response: The Alliance denies the allegations in Paragraph 38.

39. If the injunction is not entered plaintiffs’ fundamental right to vote will be lost because their votes will be cancelled by invalid votes delivered by third parties.

Response: The Alliance denies the allegations in Paragraph 39.

40. Conversely, there will be no harm to the Lehigh County Board of Elections.

Response: The Alliance denies the allegations in Paragraph 40.

41. The Board can continue to use drop boxes provide it institutes adequate procedures to assure that only the voter himself delivers an absentee or mailed ballot to the drop box, such as placing the drop boxes inside and open only during normal business hours where the delivery of the ballot can be verified.

Response: The Alliance denies that the Board may be required to institute different drop box procedures.

42. Third, the injunction will maintain the status quo because it will assure that the drop boxes do not receive invalid ballots.

Response: The Alliance denies the allegations in Paragraph 42.

43. Fourth, the requested injunction is limited to abate the harm.

Response: The Alliance denies the allegations in Paragraph 43.

44. Indeed, the preliminary injunction does not prohibit the use of ballot drop boxes it only requires that the Lehigh County Board of Elections use the drop boxes in a manner that assures that the ballot is delivered to the drop box only by the person to whom it belongs.

Response: The Alliance denies that Plaintiffs are entitled to the preliminary injunction described in Paragraph 44. Plaintiffs' allegations regarding the requested injunction contain mere characterizations, legal contentions, and conclusions, to which no response is required.

45. Fifth, plaintiffs' right to relief is clear. District Attorney Martin's investigation showed that invalid ballots were placed into the drop boxes during the 2021 general election and there is no reason to believe that third parties will not deliver ballots belonging to voters other than themselves in the November 8, 2022 general election and elections thereafter.

Response: The Alliance denies the allegations in Paragraph 45.

NEW MATTER

46. The Alliance refers to and incorporates its responses to the preceding paragraphs.

47. As set forth in the Alliance's Opposition to Plaintiffs' Emergency Petition for Special Injunction, which the Alliance refers to and incorporates by reference, Plaintiffs are unable to meet the six prerequisites of a preliminary injunction:

- 1) 'that the injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages';
- 2) 'that greater injury would result from refusing an injunction than from granting it, and, concomitantly, that issuance of an injunction will not substantially harm other interested parties in the

proceedings’; 3) ‘that a preliminary injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct’; 4) ‘that the activity it seeks to restrain is actionable, that its right to relief is clear, and that the wrong is manifest, or, in other words, must show that it is likely to prevail on the merits’; 5) ‘that the injunction it seeks is reasonably suited to abate the offending activity’; and, 6) ‘that a preliminary injunction will not adversely affect the public interest.’

Warehime v. Warehime, 580 Pa. 201, 209-10, 860 A.2d 41, 46-47 (2004) (quoting *Summit Towne Ctr. v. Shoe Show of Rocky Mount, Inc.*, 828 A.2d 995, 1002 (Pa. 2003)).

48. *First*, injunctive relief is not necessary to prevent immediate and irreparable harm because Plaintiffs have not demonstrated that they will suffer *any* harm. *See* Opp’n to Pls.’ Emergency Pet. for Special Inj. (“Opp’n”) at 4-8; *see also* *Borough of Emporium v. Keystone Airport Auth.*, 578 A.2d 56, 58 (Pa. Cmwlth. 1990) (identifying “immediate harm to the plaintiff” as an element that “must be met before an injunction can be issued”).

49. The two harms Plaintiffs allege—Defendants’ putative violation of a statutory duty and the potential “commingling” of their “valid ballots” with “void ballots” delivered by third parties—are speculative and therefore insufficient to support preliminary injunctive relief. *See* Opp’n at 4-8; *see also* *Kiddo v. Am. Fed’n of State, Cnty., & Mun. Emps.*, 239 A.3d 1141, 2020 WL 4431793, at *10 (Pa. Cmwlth. 2020) (“[C]laims that something **may** happen in the future if the injunctive relief is denied [are] speculative and insufficient to support the grant of a preliminary injunction.”) (emphasis in original).

50. To clear this bar, Plaintiffs needed to proffer “concrete evidence” that the alleged harms are imminent. *Greenmoor, Inc. v. Burchick Constr. Co., Inc.*, 908 A.2d 310, 314 (Pa. Super. 2006).

51. They have not done so.

52. Even accepting Plaintiffs' theory of harm for these purposes, Defendants have not violated any law by offering drop boxes.

53. To the contrary, the Election Code vests Defendants with broad powers to administer elections, *see* 25 P.S. § 2642; the Pennsylvania Supreme Court has confirmed that drop boxes are legal, *see Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 361 (Pa. 2020) (holding “the Election Code permits county boards of election to accept hand-delivered mail-in ballots at locations other than their office addresses including drop-boxes”); and the Department of State has provided guidance authorizing precisely the system that Defendants intend to pursue, *see* Pa. Dep't of State, *Pa. Absentee & Mail-in Ballot Return Guidance* at 3 (Aug. 19, 2020) (“Business hours for [drop box] sites do not have to be limited to weekdays or normal business hours. Counties are encouraged to offer business hours outside of these time frames, including weeknights or weekend hours to enable maximum flexibility and convenience to voters.”).²

54. *Second*, issuance of the injunction would cause far more harm than it would prevent. *See* Opp'n at 8-9.

55. In contrast to Plaintiffs' dubious prognostications, which may never come to pass, the harm of the requested injunction to other parties is virtually certain.

56. Judicial interference with the administration of a major election so close to election day threatens to disenfranchise voters (including members of the Alliance), forces Defendants to reallocate resources at the eleventh hour, and injects chaos into get-out-the-vote operations already underway. *See id.*

² Available at https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/PADOS_BallotReturn_Guidance_1.0.pdf (last accessed Sept. 27, 2022).

57. *Third*, the relief sought would not “restore” or “preserve” any status quo but instead would impose new responsibilities on Defendants and mandate a seemingly unprecedented change in drop box availability in Lehigh County. *See id.* at 9-10.

58. Because the purpose of a preliminary injunction is to *preserve* the status quo, Plaintiffs’ effort to impose a new policy regime should be rejected. *See Gwynedd Props., Inc. v. Lower Gwynedd Twp.*, 615 A.2d 836, 838 (Pa. Cmwlth. 1992) (“A preliminary injunction is a remedy designed to preserve the status quo until the litigation is decided on the merits.”).

59. *Fourth*, Plaintiffs are unlikely to prevail on the merits for a plethora of reasons.

60. As a threshold matter, “a controversy is worthy of judicial review only if the individual initiating the legal action has been ‘aggrieved.’” *Pittsburgh Palisades Park, LLC v. Commonwealth*, 888 A.2d 655, 659 (Pa. 2005).

61. Plaintiffs here are not “aggrieved” because they cannot “establish that [they] ha[ve] a substantial, direct, and immediate interest in the outcome of the litigation[.]” *Id.* at 660.

62. Plaintiffs’ alleged interests in preventing vote dilution are not “substantial” because they do not “surpass[] the common interest of all citizens in procuring obedience to the law.” *In re Hickson*, 821 A.2d 1238, 1243, 1245 (Pa. 2003) (plaintiff’s interest not substantial where he failed to establish “any peculiar, individualized interest in the outcome of the litigation that is greater than that of any other citizen”); *see also Pittsburgh Palisades Park, LLC*, 888 A.2d at 660 (plaintiffs lacked substantial interest where they failed to show “any peculiar, individualized interest” in the outcome of the lawsuit “greater than that of any other citizen”); *Allegheny Reprod. Health Ctr. v. Pa. Dep’t of Hum. Servs.*, 249 A.3d 598, 604 (Pa. Cmwlth. 2021) (“[I]t is not sufficient for the person claiming to be ‘aggrieved’ to assert the common interest of all citizens in procuring obedience to the law.”) (quoting *William Penn Parking Garage, Inc. v. City of*

Pittsburgh, 464 Pa. 168, 346 A.2d 269 (1975)); *Donald J. Trump for President, Inc. v. Boockvar* (“*DJT II*”), 493 F. Supp. 3d 331, 418 (W.D. Pa. 2020) (vote dilution claim based on “speculative, future possibility that election irregularities might occur” not cognizable).

63. Here, Plaintiffs’ generalized interest in a lawful election is indistinguishable from ordinary interests held by every other Pennsylvanian.

64. Plaintiffs’ alleged interests also are not direct and immediate.

65. “A direct interest requires a causal connection between the asserted violation and the harm complained of.” *Phantom Fireworks Showrooms, LLC v. Wolf*, 198 A.3d 1205, 1215 (Pa. Cmwlth. 2018).

66. “An interest is immediate when the causal connection is not remote or speculative.”

Id.

67. Here, Plaintiffs cannot plausibly demonstrate a nonspeculative causal connection between their alleged violation and alleged harm.

68. Plaintiffs assert merely that some unknown third parties *might* violate the law in the future by committing voter fraud at unmanned drop boxes, that the Board of Elections *might* count these “invalid” votes, and that this counting *might* have the effect of diluting Plaintiffs’ votes.

69. A federal court in Pennsylvania has previously rejected this very theory of harm, finding that plaintiffs who alleged “a risk of vote fraud by other voters” “absent implementation of the security measures that they seek [such as guards by drop boxes]” offered nothing more than “the possibility of future injury’ based on a series of speculative events.” *DJT II*, 493 F. Supp. 3d at 342, 377 (granting summary judgment for defendants) (quoting *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 414 (2013)). Because Plaintiffs’ alleged harms are not immediate and are purely speculative, Plaintiffs are not “aggrieved,” and this controversy is not “worthy of judicial review.”

Pittsburgh Palisades Park, LLC, 888 A.2d at 659; *see also* Opp'n at 4-8 (explaining Plaintiffs' asserted harms are speculative).

70. Plaintiffs also cannot succeed on the merits because they never identify the basis for any relief. *See* Opp'n at 10. It is Plaintiffs' burden to establish that "the activity [they] seek[] to restrain is actionable, that [their] right to relief is clear, and that the wrong is manifest." *Warehime*, 860 A.2d at 46-47.

71. Plaintiffs are unable to do so, as they neglect to identify any cause of action and do not identify any authority for private citizens to demand judicial remedies for technical noncompliance (let alone speculative future noncompliance) with the Election Code.

72. The best Plaintiffs offer is a vague gesture at their "fundamental right to vote." Mot. ¶¶ 35, 39.

73. But Plaintiffs offer no indication whether they intend to vindicate statutory or constitutional rights, or whether those rights arise under state or federal law.

74. Because the nature of the right will determine the legal test to be applied, Plaintiffs' failure to identify the source of their claim is fatal to their action. The Court cannot adjudicate a claim that has never been identified.

75. Even if the Court were to litigate Plaintiffs' case for them and assume they intend to assert individual constitutional rights, Plaintiffs would not be entitled to relief.

76. A federal court rejected nearly identical arguments just two years ago, determining that Pennsylvania voters lack a right to require all drop boxes to be monitored in person. *DJT II*, 493 F. Supp. 3d at 382. The court also recognized that county boards of elections have "important and precise interests in regulating elections" in the manner that they deem appropriate. *Id.* at 385.

77. *Fifth*, the relief that Plaintiffs seek is not “reasonably suited to abate the offending activity,” *Warehime*, 860 A.2d at 47, because they have failed to demonstrate *any* offending acts committed by the Board. *See* Opp’n at 11 (citing *Red Oak Water Transfer NE, LLC v. Countrywide Energy Servs., LLC*, No. GD 11-17598, 2012 WL 13118519, at *13 (Pa. Ct. Com. Pl. Civ. Div. July 20, 2012)).

78. Even if Plaintiffs could meet their evidentiary or legal burden on that front, the proposed relief is not the least restrictive means of ensuring that Defendants do not count any ballots unlawfully delivered by third parties. *Id.*

79. According to Plaintiffs’ own allegations, Defendants have published bolded guidance about third-party ballot delivery rules, and they provide video monitoring of drop boxes in use. *See* Mot. ¶¶ 4, 12.

80. *Finally*, the preliminary injunction sought is distinctly adverse to the public interest because it would wreak havoc on Defendants’ efforts to orderly administer an election already underway. *See, e.g., Pa. Democratic Party*, 238 A.3d at 370; *see also Donald J. Trump for President, Inc. v. Sec’y of Pa.*, 830 F. App’x 377, 391 (3d Cir. 2020) (“[T]he public interest strongly favors finality, counting every lawful voter's vote, and not disenfranchising millions of Pennsylvania voters who voted by mail”); *Green Party of Pa. v. Aichele*, 103 F. Supp. 3d 681, 693 (E.D. Pa. 2015) (noting Pennsylvania’s “interest in orderly elections that do not accidentally disenfranchise some portion of the electorate”).

CONCLUSION

This Court should deny Plaintiffs' Motion for a Preliminary Injunction.


Dated: September 27, 2022

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