

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

REPUBLICAN NATIONAL	:	
COMMITTEE,	:	
<i>et. al.</i> ,	:	No. 447 MD 2022
	:	
Petitioners,	:	
	:	
v.	:	
	:	
LEIGH M. CHAPMAN, <i>et al.</i> ,	:	
	:	
Respondents.	:	

ORDER

AND NOW, this _____ day of _____, 2022, having considered Petitioners' Application for Preliminary Injunction and all answers submitted in opposition thereto, and in consideration of all evidence presented at the hearing held on Wednesday September 28, 2022, at 10:00 p.m., it is hereby ORDERED, ADJUDGED and DECREED that Petitioners' Application for Preliminary Injunction is DENIED.

BY THE COURT:

_____ J.

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REPUBLICAN NATIONAL	:	
COMMITTEE,	:	
<i>et. al.</i> ,	:	No. 447 MD 2022
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Petitioners,	:	
	:	
v.	:	
	:	
LEIGH M. CHAPMAN, <i>et al.</i> ,	:	
	:	
Respondents.	:	

**JOINT ANSWER OF RESPONDENTS BEDFORD COUNTY, CENTRE
COUNTY, COLUMBIA COUNTY, DAUPHIN COUNTY, FAYETTE
COUNTY, JEFFERSON COUNTY, HUNTINGDON COUNTY, INDIANA
COUNTY, LAWRENCE COUNTY, LEBANON COUNTY,
NORTHUMBERLAND COUNTY, VENANGO COUNTY AND YORK
COUNTY BOARDS OF ELECTIONS IN OPPOSITION TO
PETITIONERS' APPLICATION FOR PRELIMINARY INJUNCTION**

Respondents Bedford County Board of Elections, Centre County Board of Elections, Columbia County Board of Elections, Dauphin County Board of Elections, Fayette County Board of Elections, Jefferson County Board of Elections, Huntingdon County Board of Elections, Indiana County Board of Elections, Lawrence County Board of Elections, Lebanon County Board of Elections, Northumberland County Board of Elections, Venango County Board of Elections and York County Board of Elections, (collectively "Respondent Counties") by and through their undersigned counsel, Babst, Calland, Clements & Zomnir, P.C., file this Answer in Opposition to Petitioners' Application for Preliminary Injunction.

INTRODUCTION

A preliminary injunction is “somewhat like a judgment and execution before trial.” *Herman v. Dixon*, 141 A.2d 57, 577 (Pa. 1958). It is a “harsh remedy” that should only issue where “there is urgent necessity to avoid injury which cannot be compensated for by damages.” *Maritrans GP Inc. v. Pepper, Hamilton & Scheetz*, 602 A.2d 1277, 1282-83, 1286 (Pa. 1992) (citation and quotation marks omitted). In order to obtain preliminary injunctive relief, the party seeking the injunction must show that: (1) 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; (2) the injunction is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by damages; (3) greater injury would result from refusing an injunction than from granting it and, concomitantly, that the issuance of an injunction will not substantially harm other interested parties in the proceedings; (4) the requested injunction will properly restore the parties to their status as it existed immediately prior to the alleged wrongful conduct; (5) the sought-after injunction is reasonably suited to abate the offending activity; and (6) a preliminary injunction will not adversely affect the public interest. *See, e.g., Summit Towne Ctr., Inc. v. Shoe Show of Rocky Mount., Inc.*, 828 A.2d 995, 1001 (Pa. 2003).

The burden of proof with respect to these six elements falls squarely upon the party seeking injunctive relief. *See, e.g., Warehime v. Warehime*, 860 A.2d 41, 47 (Pa. 2004). “For a preliminary injunction to issue, ***every one of these prerequisites must be established.***” *Allegheny County v. Commonwealth*, 544 A.2d 1305, 1307 (Pa. 1988) (emphasis added).

Here, Petitioners cannot satisfy the rigorous standard for injunctive relief with respect to the Respondent Counties because Respondent Counties have not implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. Therefore, the blanket, statewide injunction sought by Petitioners based on hypothetical conduct is improper and must be denied.

RESPONSE

1. Admitted in part; denied in part. It is admitted that Petitioners filed a Petition for Review on or about September 1, 2022. The allegations contained in Paragraph 1 of the Application reference a written document that speaks for itself, and Petitioners’ characterizations thereof are specifically denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or

information to form a belief as to the truth of the allegations contained in Paragraph

1. The remaining allegations contained in Paragraph 1 are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

2. Denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2 of the Application. The remaining allegations contained in Paragraph 2 are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

3. Denied. The allegations contained in Paragraph 3 of the Application are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

4. Denied. The allegations contained in Paragraph 4 of the Application are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

5. Admitted in part; denied in part. It is admitted upon information and belief that the General Assembly passed House Bill 1300, Printers No. 1869, (“HB 1300”) on June 25, 2021, and Governor Wolf vetoed the bill on June 30, 2021. The

remaining allegations contained in Paragraph 5 of the Application reference a written document that speaks for itself, and Petitioners' characterizations thereof are specifically denied.

6. Denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 6 of the Application. The remaining allegations contained in Paragraph 6 are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

7. Denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 7 of the Application. The remaining allegations contained in Paragraph 7 are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

8. Denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 8 of the Application. The remaining allegations contained in Paragraph 8 are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

9. Denied. The allegations contained in Paragraph 9 of the Application reference the Petition, a written document that speaks for itself, and Petitioners' characterizations thereof are specifically denied. To the extent the allegations in Paragraph 9 and the Petition contain legal conclusions, no response to the same are required, and therefore, are deemed specifically denied.

10. Denied. The allegations contained in Paragraph 10 of the Application are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

11. Denied. The allegations contained in Paragraph 11 of the Application are legal conclusions to which no response is required, and therefore, are deemed specifically denied.

12. Denied. The allegations contained in Paragraph 12 of the Application are legal conclusions to which no response is required, and therefore, are deemed specifically denied. By way of further response, Respondent Counties incorporate by reference the “Introduction” section above.

13. Denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 13 of the Application. The remaining allegations contained in Paragraph 13 are legal conclusions to which no response is required, and therefore, are deemed specifically denied. By way of further response, Respondent Counties incorporate by reference the “Introduction” section above.

14. Denied. The allegations contained in Paragraph 14 of the Application are legal conclusions to which no response is required, and therefore, are deemed specifically denied. By way of further response, Respondent Counties incorporate by reference the “Introduction” section above.

15. Denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not

been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 15 of the Application. The remaining allegations contained in Paragraph 15 are legal conclusions to which no response is required, and therefore, are deemed specifically denied. By way of further response, Respondent Counties incorporate by reference the “Introduction” section above.

16. Denied. The allegations contained in Paragraph 16 of the Application are legal conclusions to which no response is required, and therefore, are deemed specifically denied. By way of further response, Respondent Counties incorporate by reference the “Introduction” section above.

17. Denied. It is specifically denied that Respondent Counties have implemented cure procedures for the general 2022 election regarding absentee or mail-in ballots beyond curing for ballots for which proof of identification has not been received or could not be verified. After reasonable investigation, Respondent Counties are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 17 of the Application. The remaining allegations contained in Paragraph 17 are legal conclusions to which no response is required, and therefore, are deemed specifically denied. By way of further response, Respondent Counties incorporate by reference the “Introduction” section above.

WHEREFORE, Respondents Bedford County Board of Elections, Centre County Board of Elections, Columbia County Board of Elections, Dauphin County Board of Elections, Fayette County Board of Elections, Jefferson County Board of Elections, Huntingdon County Board of Elections, Indiana County Board of Elections, Lawrence County Board of Elections, Lebanon County Board of Elections, Northumberland County Board of Elections, Venango County Board of Elections and York County Board of Elections respectfully request that this Honorable Court deny Petitioners' Application for Preliminary Injunction and enter the form of Order submitted herewith.

Respectfully submitted,

BABST, CALLAND, CLEMENTS
and ZOMNIR, P.C.

/s/ Elizabeth A. Dupuis

Elizabeth A. Dupuis, Esquire

PA I.D. No. 80149

Casey Alan Coyle, Esquire

PA I.D. No. 307712

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PA I.D. No. 328008

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*Counsel for Respondent Bedford
County, Centre County, Columbia
County, Dauphin County, Fayette*

*County, Jefferson County, Huntingdon
County, Indiana County, Lawrence
County, Lebanon County,
Northumberland County, Venango
County and York County Boards of
Elections*

Dated: September 16, 2022

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VERIFICATION

I, Debra K. Brown, Election Director, Bedford County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.



Name

Chief Clerk/Director of Elections

Title

Bedford

County

9-16-2022
Date

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VERIFICATION

I, Beth Lechman, Election Director, Centre County verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

9/14/22
Date

Beth Lechman
Beth Lechman, Election Director

Centre
County

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VERIFICATION

I, Matthew Repasky, Election Director, Columbia County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Matthew Repasky
Name

Elections Director
Title

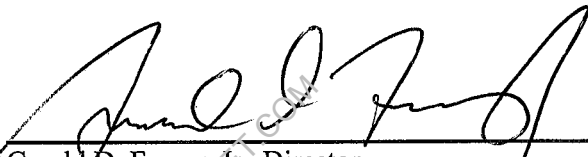
Columbia County
County

9-16-2022
Date

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VERIFICATION

I, Gerald D. Feaser, Jr., Election Director, Dauphin County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.



Gerald D. Feaser, Jr., Director
Dauphin County Bureau of Registrations and Elections

Date: September 15, 2022

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VERIFICATION

I, Marybeth Kuznik, Election Director, Fayette County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.



Name

Director of Elections and Voter Registration
Title

Fayette
County

September 16, 2022
Date

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VERIFICATION

I, Heather Feilman Election Director, Huntingdon County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Heather Feilman
Name

Chief Clerk / Election Director
Title

Huntingdon County
County

9/15/22
Date

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VERIFICATION

I, Robin Margai, Election Director, Indiana County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

9-16-22
Date

Robin Margai
Name
Chief Clerk
Title
Indiana
County

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VERIFICATION

I, Karen Lupone, Election Director, Jefferson County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Karen Lupone
Name

Name _____

Chief Clerk/Director of Elections

Title

Jefferson

County

09/15/2022
Date

Name
Chief Clerk/Director
Title
Jefferson
County

VERIFICATION

I, TIM GERMANI, Election Director, LAWRENCE County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

TIM GERMANI
Name

ELECTION DIRECTOR
Title

LAWRENCE
County

9/15/2022
Date

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VERIFICATION

I, Lindsay Phillips, Election Director, Northumberland County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

Lindsay Phillips
Name

Chief Registrar
Title

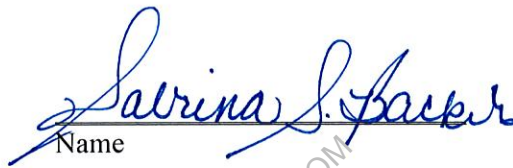
Northumberland
County

9/16/2022
Date

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VERIFICATION

I, Sabrina S Backer, Election Director, Venango County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.


Name

Director of Elections
Title

Venango
County


9/16/2022
Date

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VERIFICATION

I, Bryan M. Sheaffer, Deputy Director for Elections and Voter Registration for York County, verify that the information contained in the foregoing Answer to Petitioners' Application for Preliminary Injunction is true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

9/15/22
Date


Bryan M. Sheaffer, Deputy Director of Elections and
Voter Registration County of York

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: September 16, 2022

/s/ *Elizabeth A. Dupuis*

Elizabeth A. Dupuis, Esquire

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