

**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.

Civil Action No. 1:22-CV-340

**DEFENDANT BLAIR COUNTY BOARD OF ELECTIONS' MOTION TO BE EXCUSED
FROM ACTIVE PARTICIPATION**

Defendant, Blair County Board of Elections, respectfully moves the Court to be excused from active participation in Case No. 1:22-CV-340, including any obligation to file responsive pleadings and to attend hearings, conferences, and trial.

1. Plaintiffs challenge the rejection of qualified voters' mail-in and absentee ballots for the 2022 General Election that were undated or incorrectly dated on the ballot envelope, pursuant to the Pennsylvania Supreme Court order¹ directing county boards of elections to refrain from counting such ballots. Movant Blair County Board of Elections will not take a position on the merits of the Plaintiffs' claim. The Movant does not intend, for example, to file dispositive motions or to offer exhibits or call witnesses at trial.

2. The Movant was notified that it was named as defendant to assure the efficacy of any injunctive relief the Court might grant.

3. The Movant will comply with all court orders and judgments applicable to it, though excused from active participation. However, the expenditure of public resources in a

¹ *Ball v. Chapman*, No. 102 MM 2022, 2022 WL 16569702, at *1 (Pa. Nov. 1, 2022) (per curiam).

matter that the Movant does not intend to actively defend is unnecessary, and its mandatory participation only encumbers the efficient management of this litigation.

4. For example, the complaint filed by Plaintiffs comprises 17 pages. The preparation of an answer alone by a defendant that is bound to follow whatever the law is determined to be will consume significant resources.

5. The Movant therefore respectfully requests the Court to excuse it from active participation in Case No. 1:22-CV-340, including any obligation to file responsive pleadings and to attend hearings, conferences, and trial. The requested relief will neither cause prejudice to other parties nor deny the Court the benefit of a full, adversarial presentation of the merits of this dispute.

6. The Movant does not seek to be excused from its discovery obligations. Though excused from active participation, the Movant will continue to respond or object to discovery requests as the Federal Rules of Civil Procedure require. Likewise, the Movant will provide deposition and trial testimony if compelled in accordance with the Rules.

7. District courts “enjoy broad discretion in deciding how best to manage the cases before them.” *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1366 (11th Cir. 1997). Under this discretion, disinterested defendants have been excused by district courts from active participation in litigation. *See, e.g., The Belt Ry. Co. of Chi. v. Weglarz Hotel III, LLC*, No. 1:18-cv-07361 (N.D. Ill. Mar. 12, 2019); *Patch of Land Lending, LLC v. Realty Capital Ventures, LLC*, No. 9:17-cv-80450-KAM (S.D. Fla. Oct. 12, 2017). In the case of *LA Union Del Pueblo Entero, et al. v. Gregory W. Abbot, et al.* (Lead Case No. 5:21-CV-00844-XR; Consolidated Case No. 1:21-CV-00786-XR), the United States District Court for the Western District of Texas, San Antonio Division, entered an Order dated April 11, 2022, granting similar relief as

sought in this motion in response to a motion filed by the sought by the Counties of Hudspeth and Culberson, Texas in a Texas Election Code legal challenge case.

8. Importantly, the Movant reserves the right to oppose any financial remedy against the Movant in light of the fact it is agreeing not to actively oppose the relief sought by the Plaintiff.

WHEREFORE, Defendant Blair County Board of Elections respectfully moves the Court to be excused from active participation in Case No. 1:22-CV-340, including any obligation to file responsive pleadings and to attend hearings, conferences, and trial.

Counsel for the adverse parties that filed this case against Blair County Board of Elections agreed not to oppose the motion.

Respectfully submitted,

COUNTY OF BLAIR

/s/ Nathan W. Karn

Nathan W. Karn

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Counsel for Defendant,
Blair County Board of Elections

CERTIFICATE OF CONFERENCE

I hereby certify that on December 16, 2022, I conferred with counsel for Plaintiffs about the foregoing motion. Plaintiff do not oppose the relief requested.

/s/ Nathan W. Karn

Nathan W. Karn

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to be Excused from Active Participation was filed electronically and served via the Court's CM/ECF system, pursuant to the Federal Rules of Civil Procedure.

/s/ Nathan W. Karn

Nathan W. Karn

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