

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA

PENNSYLVANIA STATE CONFERENCE OF	:	
THE NAACP <i>et al.</i>	:	
	:	
Plaintiffs,	:	
	:	
	:	Civil Action No. 1:22-cv-00339-SPB
vs.	:	
	:	
	:	
LEIGH M. CHAPMAN, <i>et al.</i>	:	
	:	
Defendants.	:	

**DEFENDANT ADAMS COUNTY BOARD OF ELECTIONS’ ANSWER TO  
PLAINTIFF’S AMENDED COMPLAINT**

Defendant Adams County Board of Elections (hereafter “Defendant” or “Adams County”), by and through its counsel, Solicitor Molly R. Mudd, hereby answers the Amended Complaint filed November 30<sup>th</sup>, 2022, of Plaintiffs (“Plaintiffs”) as follows:

**INTRODUCTION**

1. Admitted based on information or belief.
2. Paragraph 2 states conclusions of law to which no responsive pleading is required.
3. Paragraph 3 states conclusions of law to which no responsive pleading is required.
4. Denied. Defendant is without sufficient knowledge to form a belief about the impact of the “envelope-date rule” on Plaintiffs’ operations, and Paragraph 4 also contains conclusions of law to which no responsive pleading is required.
5. Paragraph 5 states conclusions of law to which no responsive pleading is required.

6. Paragraph 6 states conclusions of law to which no responsive pleading is required.

### **JURISDICTION AND VENUE**

7. Denied in part; admitted in part. Paragraph 7 contains conclusions of law to which no response is required. Defendant admits, however, that this Court has jurisdiction over the subject matter of this Complaint.
8. Admitted.
9. Admitted.
10. Defendant is without sufficient knowledge to form a belief about where a substantial part of the events that give rise to Plaintiffs' claims occurred or will occur, especially regarding the conduct of other county boards of elections and therefore they are deemed denied.

### **PARTIES**

11. Admitted upon information and belief.
12. Admitted upon information and belief.
13. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
14. Admitted upon information and belief.
15. Admitted upon information and belief.
16. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
17. Admitted upon information and belief.
18. Admitted upon information and belief.

19. Admitted upon information and belief.
20. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
21. Admitted upon information and belief.
22. Admitted upon information and belief.
23. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
24. Admitted upon information and belief.
25. Admitted upon information and belief.
26. Admitted upon information and belief.
27. Admitted upon information and belief.
28. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
29. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
30. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
31. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
32. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.
33. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.

34. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.

35. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.

36. Defendant is without sufficient knowledge to form a belief about the impact of the failure to count certain ballots on the conduct of Plaintiffs and is therefore deemed denied.

37. Admitted.

38. Admitted.

## FACTS

### A. Pennsylvania's Mail Ballot Rules

39. Admitted.

40. Admitted.

41. Admitted.

42. Admitted.

43. Admitted.

44. Admitted.

45. Admitted.

### B. Litigation Over the Envelope-Date Requirement

46. Admitted in part. Admitted to the extent that the issue concerns whether an undated or "incorrectly" dated ballot envelope will invalidate an otherwise sufficient, timely ballot. Whether the date is "superfluous," as Plaintiff's characterize it, is a conclusion of law to which no responsive pleading is required.

47. Admitted.

**i. *In re Canvass***

48. Admitted.

49. Paragraph 49 states conclusions of law to which no responsive pleading is required.

**ii. *Migliori***

50. Admitted.

51. Defendant is without sufficient knowledge to form a belief about Lehigh County's election results, and Paragraph 51 is therefore denied.

52. Defendant is without sufficient knowledge to form a belief about Lehigh County's election results, and Paragraph 52 is therefore denied.

53. Defendant is without sufficient knowledge to form a belief about Lehigh County's election results, and Paragraph 53 is therefore denied.

54. Admitted in part; denied in part. Defendant is without sufficient knowledge to form a belief about Lehigh County's election results and is therefore deemed denied, but acknowledges the ruling in *Ritter v. Lehigh Cnty. Bd. Of Elections*, No. 1322 C.D. 2021, 272 A.3d 989 (Tbl.), 2022 WL 16577.

55. Admitted.

56. Admitted.

57. Admitted.

**iii. *McCormick and Berks County***

58. Admitted.

59. Admitted.

**iv. *Ball v. Chapman***

60. Admitted.

61. Admitted.

62. Admitted.

63. Admitted in part; denied in part. Defendant admits that Secretary Chapman did issue guidance concerning how to register undated ballots in the SURE system. However, Defendant did not code undated ballots as suggested by the Secretary.

64. Admitted.

### **C. Pennsylvania's 2022 Election**

65. Admitted upon information and belief.

66. Defendant is without sufficient knowledge to form a belief about other Defendants' segregation practices or election results, and is therefore deemed denied.

67. Defendant is without sufficient knowledge to form a belief about other Defendants' segregation practices or election results, and is therefore deemed denied.

68. Defendant is without sufficient knowledge to form a belief about other Defendants' election practices or results, and is therefore deemed denied.

69. Defendant is without sufficient knowledge to form a belief about certain Plaintiffs' ability to vote on Election Day in person, and is therefore deemed denied.

70. Paragraph 70 states conclusions of law to which no responsive pleading is required.

71. Defendant is without sufficient knowledge to form a belief about the impact of the "envelope-date rule" on future efforts to vote, and is therefore deemed denied.

72. Defendant is without sufficient knowledge to form a belief about certain impacted voters in Philadelphia, and is therefore deemed denied.

73. Paragraph 73 states conclusions of law to which no responsive pleading is required.

74. Paragraph 74 states conclusions of law to which no responsive pleading is required.

### CLAIM FOR RELIEF

#### **Count I: Rejection of Ballots for Immaterial Paperwork Errors or Omissions in Violation of the Materiality Provision of the Civil Rights Act (52 U.S.C. 10101(a)(2)(B), 42 U.S.C. 1983)**

75. Admitted.

76. Paragraph 76 states conclusions of law to which no responsive pleading is required.

77. Paragraph 77 states conclusions of law to which no responsive pleading is required.

78. Paragraph 78 states conclusions of law to which no responsive pleading is required.

79. Paragraph 79 states conclusions of law to which no responsive pleading is required.

80. Paragraph 80 states conclusions of law to which no responsive pleading is required.

However, it is noted that Defendant argued the same before the PA Supreme Court in *Ball v. Chapman*, 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022) (per curiam).

81. Paragraph 81 states conclusions of law to which no responsive pleading is required.

However, it is noted that Defendant argued the same before the PA Supreme Court in *Ball v. Chapman*, 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022) (per curiam).

82. Paragraph 82 states conclusions of law to which no responsive pleading is required.

However, it is noted that Defendant argued the same before the PA Supreme Court in *Ball v. Chapman*, 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022) (per curiam).

#### **Count II: Rejection of Certain ballots for Immaterial Paperwork Errors or Omissions in Violation of the Fourteenth Amendment of the United States Constitution (42 U.S.C. 1983)**

83. Admitted.

84. Admitted.

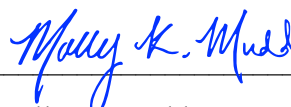
85. Paragraph 85 states conclusions of law to which no responsive pleading is required.

86. Denied to the extent that Plaintiff characterizes the belief that undated/misdated ballots should be invalidated as “Defendants’.” As Plaintiffs previously note, Defendants were specifically ordered by the PA Supreme Court *Ball v. Chapman*, 102 MM 2022, 2022 WL 16569702 (Pa. Nov. 1, 2022) (per curiam) that undated/misdated ballots were not to be counted. This order of court does not necessarily reflect the opinion of Defendant, which made similar arguments as Plaintiff before the PA Supreme Court in *Ball*.
87. Paragraph 87 states conclusions of law to which no responsive pleading is required.
88. Paragraph 88 states conclusions of law to which no responsive pleading is required.

### PRAYER FOR RELIEF

The remainder of Plaintiffs’ Complaint contains Plaintiffs’ prayers for relief and contains conclusions of law to which no response is required. To the extent that these paragraphs may be deemed to contain factual allegations, they are denied.

Respectfully submitted,



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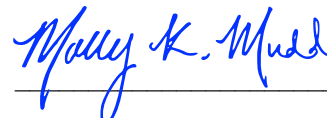
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DISCLOSURE STATEMENT

Pursuant to LCvR. 7.1 of the Western District of Pennsylvania and to enable judges to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for the Adams County Board of Elections, in the above captioned action, certifies that there are no parents, subsidiaries, and/or affiliates of said party that have issued shares or debt securities to the public.

January 4, 2023



Molly R. Mudd, Esq.

**CERTIFICATE OF SERVICE**

I, Molly R. Mudd, hereby certify that the foregoing Answer has been filed electronically and is available for viewing and downloading from the Electronic Case Filing System of the United States District Court for the Western District of Pennsylvania. I further hereby certify that, in accordance with Fed.R.Civ.P. 5, services has been made upon counsel of record via ECF NextGen.

January 4, 2023



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Molly R. Mudd, Esq.

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