

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
ERIE DIVISION**

BETTE EAKIN, ET. AL.	:	
	:	
Plaintiffs,	:	Case No. 1:22-CV-340-SPB
	:	
v.	:	
	:	
ADAMS COUNTY BOARD OF ELECTIONS, ET. AL.	:	
	:	
Defendants.	:	
	:	

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**ANSWER TO COMPLAINT AND AFFIRMATIVE DEFENSES OF DEFENDANT  
LANCASTER COUNTY BOARD OF ELECTIONS**

Defendant, Lancaster County Board of Elections (“LCBOE”) files this Answer and Affirmative Defenses to Plaintiffs Complaint for Declaratory and Emergency Injunctive Relief. Any allegation in the Complaint not explicitly responded to in this Answer is hereby denied.

1. Denied.
2. Denied.
3. Denied. LCBOE is without knowledge or information sufficient to form a belief as to the truth of the matter averred.
4. Denied.
5. Denied.
6. Denied.
7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. Denied.

12. Denied. LCBOE is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

13. Denied. LCBOE is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

14. Denied. LCBOE is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

15. Denied. LCBOE is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

16. Denied. LCBOE is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

17. Admitted in part, denied in part. LCBOE admits only that it is a county board of election. LCBOE denies the remaining averments of this paragraph.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Denied.

- 24. Denied.
- 25. Denied.
- 26. Denied.
- 27. Denied.
- 28. Denied.
- 29. Denied.
- 30. Denied.
- 31. Denied.

**COUNT I**

32. LCBOE incorporates by reference our answers in the preceding paragraphs.

- 33. Denied.
- 34. Denied.
- 35. Denied.
- 36. Denied.
- 37. Denied.
- 38. Denied.
- 39. Denied.
- 40. Denied.

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## COUNT II

41. LCBOE incorporates by reference our answers in the preceding paragraphs.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

The Court lacks subject matter jurisdiction over this action.

#### **SECOND AFFIRMATIVE DEFENSE**

Plaintiffs lack standing.

#### **THIRD AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred by the applicable statutes of limitations.

#### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred by the equitable doctrines of laches, unclean hands, estoppel, and/or waiver.

#### **FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs' Complaint fails to set forth a claim upon which relief can be granted.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs' requested relief would run contrary to the separation of powers and usurp the General Assembly's authority.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are moot.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to join indispensable parties to this action.

**NINTH AFFIRMATIVE DEFENSE**

The Court lacks personal jurisdiction of defendant LCBOE.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred by the doctrine of res judicata and collateral estoppel.

**ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by the Eleventh Amendment to the United States Constitution.

**TWELFTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims should be dismissed under various abstention doctrines recognized by this Court.

**PRAYER FOR RELIEF**

WHEREFORE, the Lancaster County Board of Elections respectfully requests that the Court enter an order and judgment in its favor and against the Plaintiffs, dismissing all claims against the Lancaster County Board of Elections with prejudice,

granting it costs incurred, and such other and further relief as the Honorable Court deems necessary and appropriate.

Date: January 4, 2023

Respectfully submitted,

*/s/ Walter S. Zimolong III*  
Walter S. Zimolong III, Esq.  
[wally@zimolonglaw.com](mailto:wally@zimolonglaw.com)  
James J. Fitzpatrick, Esq.  
[james@zimolonglaw.com](mailto:james@zimolonglaw.com)  
P.O. Box 552  
Villanova, PA 19085  
(215) 665-0842  
*Attorneys for Defendant  
Lancaster County Board of  
Elections*

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Defendants.	:	
	:	

**DISCLOSURE STATEMENT**

Pursuant to LCvR. 7.1 of the Western District of Pennsylvania and to enable Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for Lancaster 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.

Date: January 4, 2023

Respectfully submitted,

*/s/ James J. Fitzpatrick*  
James J. Fitzpatrick, Esq.  
[james@zimolonglaw.com](mailto:james@zimolonglaw.com)  
Walter S. Zimolong III, Esq.  
[wally@zimolonglaw.com](mailto:wally@zimolonglaw.com)  
P.O. Box 552  
Villanova, PA 19085  
(215) 665-0842  
Attorneys for Defendant  
Lancaster County Board of  
Elections

### CERTIFICATE OF SERVICE

I hereby certify the foregoing 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, service has been made upon counsel of record via ECF.

Date: January 4, 2023

/s/ Walter S. Zimolong, Esquire

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