

**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.	:	
	:	

**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
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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.

Respectfully submitted,

Date: January 4, 2023

/s/ James J. Fitzpatrick
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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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