

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

BETTE EAKIN, et al.,

CIVIL DIVISION

Plaintiffs,

No. 1:22-CV-340

vs.

ADAMS COUNTY BOARD OF
ELECTIONS, et al.,

Defendants.

MOTION TO BE EXCUSED FROM ACTIVE PARTICIPATION

Defendant, Washington County Board of Elections (“Movant”), by and through its undersigned counsel, files the within Motion to be Excused from Active Participation and, in support thereof, avers as follows:

1. Plaintiffs have filed the underlying matter to 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 Order directing county boards of elections to refrain from counting such ballots. Plaintiffs also challenge such rejections in future elections.

2. Movant, Washington County Board of Elections, does not and will not take a position on the merits of Plaintiffs’ claims.

3. Movant does not intend to file dispositive motions, or to offer exhibits or call witnesses at trial.

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

5. Movant will comply with all Court orders and/or judgments applicable to it, though excused from active participation. However, the expenditure of public resources in a matter that

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

6. Indeed, Plaintiffs' Complaint is comprised of seventeen (17) pages, and preparation of an Answer by Movant, who is bound to follow whatever the law is determined to be, will consume substantial public resources.

7. As a result, Movant respectfully requests the Court 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.

8. Movant does not seek to be excused from its discovery obligations, and will continue to respond or object to discovery in accordance with the Federal Rules of Civil Procedure.

9. Movant will provide deposition and trial testimony if compelled to do so in accordance with the Federal Rules of Civil Procedure.

10. "A district court has inherent authority to manage its own docket 'so as to achieve the orderly and expeditious disposition of cases.'" *Edge Sys. LLC v. Aguila*, 708 Fed. App'x 998 (Fed. Cir. 2017) (quoting *Equity Lifestyle Props., Inc. v. Fla. Mowing & Landscaping Serv., Inc.*, 556 F.3d 1232, 1240 (11th Cir. 2009) (internal citations omitted).

11. In addition, "district courts enjoy broad discretion in deciding how best to manage the cases before them." *Edge Sys. LLC v. Aguila*, 708 Fed. App'x 998 (Fed. Cir. 2017) (quoting *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1366 (11th Cir. 1997).

12. This Court's broad discretion to manage its own docket includes the ability to grant Movant's request for relief that it be excused from active participation in this case.

13. Movant's request for 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. If anything, Movant's request will only help to simplify this matter moving forward.

14. In fact, Movant's requested relief is consistent with the position Movant has taken in similar cases filed in the state courts for the Commonwealth of Pennsylvania over the last year.

15. Movant's position, in both state court and federal court cases raising election law claims, is that it must abide by the law.

16. Movant has, and will continue, to follow the law in accordance with whatever this Court ultimately decides.

17. Counsel for the adverse parties that filed this case against Washington County Board of Elections has agreed to not oppose this Motion.

WHEREFORE, Defendant Washington County Board of Elections respectfully requests that this Honorable Court grant the within Motion to be Excused from Active Participation in Case No. 1:22-CV-340.

Dated: January 6, 2023

/s/ Jana Phillis Grimm
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CERTIFICATE OF SERVICE

This will certify that the attached *Motion to be Excused from Active Participation* has been electronically filed and served via the Court's CM/ECF system, in accordance with the Federal Rules of Civil Procedure.

/s/ Jana Phillis Grimm
Jana Phillis Grimm, Esq.

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