

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

BETTE EAKIN, <i>et al.</i>)	Civil Action
)	
Plaintiffs,)	
)	No. 1-22-CV-340
v.)	
)	
ADAMS COUNTY BOARD OF)	
ELECTIONS, <i>et al.</i> ,)	Judge Susan Paradise Baxter
)	
Defendants.)	

**DEFENDANT CRAWFORD COUNTY BOARD OF ELECTIONS’
MOTION TO BE EXCUSED FROM ACTIVE PARTICIPATION**

Defendant Crawford County Board of Elections (“Movant”) 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, stating as follows:

1. Plaintiffs are challenging the Defendant county boards’ rejection of qualified voters’ mail-in and absentee ballots for the 2022 General Election and future elections that were or may be undated or incorrectly dated on the ballot envelope, pursuant to the Pennsylvania Supreme Court’s order¹ directing county boards to exclude those ballots from their certified results.

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

2. Movant does not intend to take a position on the merits of Plaintiffs' claim. Movant will not file any dispositive motions or offer exhibits or call witnesses at trial.

3. Movant will comply with all applicable court orders and judgments though excused from active participation in this litigation. Movant simply does not wish to assert and/or defend a particular position on the merits of this action. Instead, Movant wishes only to follow the law as set forth by the General Assembly and interpreted by the courts.

4. Movant does not wish to expend public resources responding to pleadings and filing briefs in this matter when its only interest in this litigation is simply to know the rules it must follow in conducting elections. Even without the active participation of Movant, this case will be fully developed and briefed by opposing parties interested in the outcome.

5. 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 not cause prejudice to other parties nor delay this matter in any way. In fact, granting the Movant's motion will help avoid the filing of unnecessary and repetitive answers, motions and briefs by the various county boards of election.

6. Movant does not seek to be excused from complying with discovery requests. Movant will continue to respond or object to discovery requests as allowed by the Federal Rules of Civil Procedure. Movant will also provide deposition and/or trial testimony if required in accordance with the Rules.

7. As referenced in a similar motion recently filed by Lycoming County's Board of Elections, the 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 counties of Hudspet and Culbertson, Texas in a legal challenge regarding provisions of Texas' Election Code.

8. Finally, Movant reserves the right to oppose any financial remedy sought by the Plaintiffs in this case given the fact that it is not actively opposing the relief sought by Plaintiff.

WHEREFORE, Movant Crawford 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.

Respectfully submitted,

By: */s/ Keith A. Button*

Keith A. Button, Esq.

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Attorney for Respondent

Crawford County Board of Elections

Date: January 9, 2023

CERTIFICATE OF CONCURRENCE

I hereby certify that I conferred with counsel for the Plaintiffs regarding the foregoing motion and was informed Plaintiffs concur in Defendant Crawford County Board of Elections' motion and do not oppose the relief requested.

By: /s/ Keith A. Button

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Attorney for Respondent

Crawford County Board of Elections

Date: January 9, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on this day, January 9, 2023, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system or by first-class mail, as indicated below:

Service on all parties by Electronic Filing System

Respectfully submitted,

By: /s/ Keith A. Button

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