

Lawrence J. Moran, Jr.
JOYCE, CARMODY & MORAN, P.C.
9 N. Main Street, Suite 4
Pittston, PA 18640
Ph: (570) 602-3560
Fax: (570) 602-3561

Attorney for Defendant
Lackawanna County Board of Elections

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

BETTE EAKIN, INES MASSELLA, FETTERMAN FOR PA, DSCC, and DCCC, <i>Plaintiffs,</i> v. ADAMS COUNTY BOARD OF ELECTIONS, et al., <i>Defendants,</i>	No. 1:22-CV-340
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**DEFENDANT LACKAWANNA COUNTY BOARD OF ELECTIONS’
ANSWER TO THE COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

NOW COMES, Defendant Lackawanna County Board of Elections (“Lackawanna County”), by and through its undersigned counsel and hereby answers the complaint for declaratory and injunctive relief of Plaintiffs as follows:

NATURE OF THE CASE

1. The allegations of Paragraph 1 are legal conclusions and characterizations of federal law to which no response is required.

2. The allegations of Paragraph 2 are legal conclusions and characterizations of federal law to which no response is required. By way of further response, the allegations of Paragraph 2 refer to a written order from the

Pennsylvania Supreme Court that speaks for itself, all characterizations of it are denied.

3. Admitted in part and Denied in part. To the extent that the allegations are directed to the actions of Lackawanna County, Lackawanna County admits that it has followed all requirements as directed by the Pennsylvania Supreme Court, any further characterizations of Lackawanna County's actions are denied. Lackawanna County is without sufficient information to admit or deny the allegations of Paragraph 3 as they pertain to other county boards of elections.

4. The allegations of Paragraph 4 are legal conclusions and characterizations of law to which no response is required.

5. The allegations of Paragraph 5 are legal conclusions and characterizations of law to which no response is required.

6. The allegations of Paragraph 6 are legal conclusions and characterizations of law to which no response is required.

JURISDICTION AND VENUE

7. The allegations of Paragraph 7 are legal conclusions and characterizations of law to which no response is required. To the extent a response is required, the allegations of Paragraph 7 are denied.

8. The allegations of Paragraph 8 are legal conclusions and characterizations of law to which no response is required. To the extent a response

is required, Lackawanna County admits that this Court has subject matter jurisdiction over this action.

9. The allegations of Paragraph 9 are legal conclusions and characterizations of law to which no response is required. To the extent a response is required, Lackawanna County admits that this Court has personal jurisdiction over Lackawanna County.

10. The allegations of Paragraph 10 are legal conclusions and characterizations of law to which no response is required. To the extent a response is required, Lackawanna County admits that this District is a proper venue.

11. The allegations of Paragraph 11 are legal conclusions and characterizations of law to which no response is required.

PARTIES

12. Denied as stated. Lackawanna County is without sufficient knowledge or information to admit or deny the allegations of Paragraph 12.

13. Denied as stated. Lackawanna County is without sufficient knowledge or information to admit or deny the allegations of Paragraph 13.

14. Admitted.

15. Admitted in part and Denied in part. It is admitted that Plaintiff DSCC is the Democratic Party's national senatorial committee. The Board is without

sufficient knowledge concerning the remaining allegations set forth in Paragraph 15 and they are Denied as stated.

16. Admitted in part and Denied in part. It is admitted that Plaintiff DCCC is the Democratic Party's national congressional committee. Lackawanna County is without sufficient knowledge concerning the remaining allegations set forth in Paragraph 16 and they are Denied as stated.

17. Admitted in part and Denied in part. Lackawanna County admits that it is a county board of elections with jurisdiction over the conduct of primaries and elections in its respective county. Lackawanna County further admits that it accepts applications for mail ballots, mails the mail ballots to the voters and receives the mail ballots that the voters return. Lackawanna County further admits that it is charged combining the count of mail ballot votes with in-person votes, tabulating the results and sending a certificate showing the total votes to Pennsylvania's Secretary of the Commonwealth. Any characterizations by Plaintiffs are denied. Lackawanna County neither admits nor denies allegations directed toward the other defendants.

STATEMENT OF FACTS AND LAW

18. The allegations of Paragraph 18 are legal conclusions and characterizations of law to which no response is required.

19. The allegations of Paragraph 19 are legal conclusions and characterizations of law to which no response is required.

20. The allegations of Paragraph 20 are legal conclusions and characterizations of law to which no response is required.

21. The allegations of Paragraph 21 are legal conclusions and characterizations of law to which no response is required. By way of further response, the decision of the Supreme Court of Pennsylvania in *In re Canvass of Absentee and Mail-In Ballots of November 3, 2020 General Election*, 241 A.3d 1058, 1062 (Pa. 2020) speaks for itself and any characterization of that decision otherwise is Denied.

22. The allegations of Paragraph 22 are legal conclusions and characterizations of law to which no response is required. By way of further response, the decision of the Supreme Court of Pennsylvania in *In re Canvass of Absentee and Mail-In Ballots of November 3, 2020 General Election*, 241 A.3d 1058, 1062 (Pa. 2020) speaks for itself and any characterization of that decision otherwise is Denied.

23. The allegations of Paragraph 23 are legal conclusions and characterizations of law to which no response is required. By way of further response, the dissenting opinion in *In re Canvass of Absentee and Mail-In Ballots*

of November 3, 2020 General Election, 241 A.3d 1058, 1062 (Pa. 2020) speaks for itself and any characterization of that opinion otherwise is Denied.

24. The allegations of Paragraph 24 are legal conclusions and characterizations of law to which no response is required. By way of further response, the concurring opinion in *In re Canvass of Absentee and Mail-In Ballots of November 3, 2020 General Election*, 241 A.3d 1058, 1062 (Pa. 2020) speaks for itself and any characterization of that opinion otherwise is Denied.

25. The allegations of Paragraph 25 are legal conclusions and characterizations of law to which no response is required. By way of further response, the concurring opinion in *In re Canvass of Absentee and Mail-In Ballots of November 3, 2020 General Election*, 241 A.3d 1058, 1062 (Pa. 2020) speaks for itself and any characterization of that opinion otherwise is Denied.

26. The allegations of Paragraph 26 are legal conclusions and characterizations of law to which no response is required.

27. The allegations of Paragraph 27 are legal conclusions and characterizations of law to which no response is required.

28. The allegations of Paragraph 28 are legal conclusions and characterizations of law to which no response is required.

29. Denied as stated. Lackawanna County without sufficient knowledge concerning the allegations set forth in Paragraph 29.

30. Denied as stated. To the extent the allegations in Paragraph 30 refer to the decision of the Supreme Court of Pennsylvania in *Ball v. Chapman*, No. 102 MM 2022 (Pa. Nov. 1, 2022), the decision speaks for itself and any characterization of that decision otherwise is Denied. By way of further answer, Lackawanna County has complied with any and all requirements as directed by the Supreme Court of Pennsylvania.

31. Denied as stated. To the extent the allegations in Paragraph 31 refer to the decision of the Supreme Court of Pennsylvania in *Ball v. Chapman*, No. 102 MM 2022 (Pa. Nov. 1, 2022), the decision speaks for itself and any characterization of that decision otherwise is Denied. By way of further answer, Lackawanna County has complied with any and all requirements as directed by the Supreme Court of Pennsylvania.

CLAIM FOR RELIEF

COUNT I

**52 U.S.C. § 10101; 42 U.S.C. § 1983
VIOLATION OF SECTION 101 OF THE CIVIL RIGHTS ACT OF 1964**

32. Paragraph 32 is an incorporation paragraph to which no response is required.

33. The allegations of Paragraph 33 are legal conclusions and characterizations of law to which no response is required. By way of further

response, the allegations of Paragraph 33 refer to a federal statute that speaks for itself, and all characterizations of it are Denied.

34. The allegations of Paragraph 34 are legal conclusions and characterizations of law to which no response is required. By way of further response, the allegations of Paragraph 34 refer to a federal statute that speaks for itself, and all characterizations of it are Denied.

35. The allegations of Paragraph 35 are legal conclusions and characterizations of law to which no response is required.

36. The allegations of Paragraph 36 are legal conclusions and characterizations of law to which no response is required.

37. The allegations of Paragraph 37 are legal conclusions and characterizations of law to which no response is required.

38. The allegations of Paragraph 38 are legal conclusions and characterizations of law to which no response is required.

39. The allegations of Paragraph 39 are legal conclusions and characterizations of law to which no response is required.

40. The allegations of Paragraph 40 are legal conclusions and characterizations of law to which no response is required.

COUNT II

**U.S. CONST. AMENDS. I, XIV; 42 USC § 1983
VIOLATION OF THE FIRST AND FOURTEENTH AMENDMENTS**

41. Paragraph 41 is an incorporation paragraph to which no response is required.

42. The allegations of Paragraph 42 are legal conclusions and characterizations of law to which no response is required.

43. The allegations of Paragraph 43 are legal conclusions and characterizations of law to which no response is required.

44. The allegations of Paragraph 44 are legal conclusions and characterizations of law to which no response is required. By way of further response, the allegations of Paragraph 44 refer to a writing that speaks for itself, and all characterizations of it are Denied.

45. The allegations of Paragraph 45 are legal conclusions and characterizations of law to which no response is required. By way of further response, the allegations of Paragraph 45 refer to a writing that speaks for itself, and all characterizations of it are Denied.

46. The allegations of Paragraph 46 are legal conclusions and characterizations of law to which no response is required.

47. The allegations of Paragraph 47 are legal conclusions and characterizations of law to which no response 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 this paragraph may be deemed to contain factual allegations, they are denied.

Respectfully submitted,

s/ Lawrence J. Moran, Jr.

Lawrence J. Moran, Jr., ID No. 316253

JOYCE, CARMODY & MORAN, P.C.

9 N. Main Street, Suite 4

Pittston, PA 18640

Phone: 570-602-3560

Fax: 570-602-3561

E-mail: ljm@joycecarmody.com
<mailto:jam@joycecarmody.com>

Attorney for Defendant

Lackawanna County Board of Elections

DATED: January 10, 2023

Lawrence J. Moran, Jr.
JOYCE, CARMODY & MORAN, P.C.
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CERTIFICATE OF SERVICE

I, Lawrence J. Moran, Jr., certify that on this date I caused a true and correct copy of the foregoing answer to be served by ECF upon all counsel of record.

s/ Lawrence J. Moran, Jr.

Lawrence J. Moran, Jr.

DATED: January 10, 2023