

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

PENNSYLVANIA STATE CONFERENCE)	
OF THE NAACP, <i>et al.</i> ,)	
)	Civil Action No.: 1:22-cv-00339
Plaintiffs,)	
)	
v.)	Judge Susan P. Baxter
)	
LEIGH M. CHAPMAN, <i>et al.</i> ,)	
)	
Defendants.)	

**INTERVENOR-DEFENDANTS’ MOTION TO DISMISS PLAINTIFFS’ FIRST
AMENDED COMPLAINT**

Intervenor-Defendants support and seek to uphold free and fair elections on behalf of all Pennsylvanians. Intervenor-Defendants therefore respectfully move the Court to uphold the General Assembly’s duly enacted laws governing Pennsylvania’s elections and to dismiss Plaintiffs’ First Amended Complaint. Intervenor-Defendants submit the accompanying Memorandum of Law demonstrating that Plaintiffs’ First Amended Complaint “fail[s] to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). The General Assembly’s duly enacted date requirement for absentee and mail-in ballots does not implicate, let alone violate, either the federal materiality provision, 52 U.S.C. § 10101(a)(2)(B), or the Equal Protection Clause of the U.S. Constitution.¹

WHEREFORE, Intervenor-Defendants respectfully request that the Court GRANT this motion and DISMISS Plaintiffs’ First Amended Complaint.

¹ Intervenor-Defendants are the Republican Committees the Republican National Committee, National Republican Congressional Committee, and Republican Party of Pennsylvania.

Dated: January 17, 2023

Respectfully submitted,

/s/ Kathleen A. Gallagher

Kathleen A. Gallagher

PA I.D. #37950

Russell D. Giancola

PA. I.D. #200058

GALLAGHER GIANCOLA LLC

436 Seventh Avenue, 31st Floor

Pittsburgh, PA 15219

Phone: (412) 717-1900

kag@glawfirm.com

rdg@glawfirm.com

John M. Gore (*pro hac vice*)

E. Stewart Crosland

JONES DAY

51 Louisiana Avenue, N.W.

Washington, D.C. 20001

Phone: (202) 879-3939

jmgore@jonesday.com

msowardsnewton@jonesday.com

scrosland@jonesday.com

Thomas W. King, III

Thomas E. Breth

DILLON, McCANDLESS, KING,

COULTER & GRAHAM, LLP

128 W. Cunningham St.

Butler, PA 16001

Phone: (724) 283.2200

tking@dmkcg.com

tbreth@dmkcg.com

Counsel for Intervenor-Defendants