

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

BETTY EAKIN, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	No. 1:22-cv-00340-SPB
	:	
ADAMS COUNTY BOARD OF ELECTIONS, <i>et al.</i> ,	:	
	:	
Defendants.	:	<b>ELECTRONICALLY FILED</b>

**ANSWER TO PLAINTIFFS’ AMENDED COMPLAINT**

Defendant Berks County Board of Elections (“Berks Board”), by its undersigned attorneys, answers Plaintiffs’ Amended Complaint filed February 9, 2023 (doc. 228), as follows:

1. Denied. Berks Board denies the allegations in Paragraph 1 of Plaintiffs’ Amended Complaint as conclusions of law. Berks Board respectfully refers the Court to the relevant provisions of the Civil Rights Act as the best evidence of its contents.

2. Denied. Berks Board denies the allegation in Paragraph 2 of Plaintiffs’ Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections. Berks Board respectfully refers the Court to the relevant provisions of the Pennsylvania Election Code and the Pennsylvania Supreme Court’s Order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], 284 A.3d 1189 (Mem.) (Pa. Nov. 1, 2022), as the best evidence of their contents.

3. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of Plaintiffs’ Amended Complaint regarding the counting of ballots cast in the 2022 election by other county boards of elections; thus, those allegations are deemed denied. As to the actions of Berks Board in counting absentee

and/or mail in ballots cast in the 2022 election, Berks Board denies that it identified or refused to count thousands of absentee and/or mail in ballots based on a missing or incorrect date on the elector's declaration on the outer return envelope. To the contrary, there were approximately 782 such ballots. Berks Board denies the remaining allegations in Paragraph 3 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board's actions regarding the counting of absentee and/or mail in ballots with missing or incorrect dates on the elector's declaration were based on the orders of the Pennsylvania Supreme Court interpreting the Pennsylvania Election Code on the counting of such ballots.

4. Denied. Berks Board denies the allegation in Paragraph 4 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, and Berks Board respectfully refers the Court to the relevant provisions of the Pennsylvania Election Code as the best evidence of its contents.

5. Denied. Berks Board denies the allegation in Paragraph 5 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, and Berks Board respectfully refers the Court to the relevant provisions of the Pennsylvania Election Code as the best evidence of its contents.

6. Denied. Berks Board denies the allegation in Paragraph 6 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, and Berks Board respectfully refers the Court to the relevant provisions of the Pennsylvania Election Code as the best evidence of its contents.

**RESPONSE TO ALLEGATIONS OF JURISDICTION AND VENUE**

7. Denied. Berks Board denies the allegation in Paragraph 7 of Plaintiffs' Amended Complaint as a conclusion of law.

8. Denied. Berks Board denies the allegation in Paragraph 8 of Plaintiffs' Amended Complaint as a conclusion of law.

9. Denied. Berks Board denies the allegation in Paragraph 9 of Plaintiffs' Amended Complaint as a conclusion of law.

10. Denied. Berks Board denies the allegations in Paragraph 10 of Plaintiffs' Amended Complaint as conclusions of law.

11. Denied. Berks Board denies the allegation in Paragraph 11 of Plaintiffs' Amended Complaint as a conclusion of law.

**RESPONSE TO ALLEGATIONS ABOUT THE PARTIES**

12. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of Plaintiffs' Amended Complaint regarding Plaintiff Bette Eakin; thus, those allegations are deemed denied.

13. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of Plaintiffs' Amended Complaint regarding Plaintiff DSCC; thus, those allegations are deemed denied.

14. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 14 of Plaintiffs' Amended Complaint regarding Plaintiff DCCC; thus, those allegations are deemed denied.

15. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 of Plaintiffs' Amended Complaint regarding Plaintiff AFT Pennsylvania; thus, those allegations are deemed denied.

16. Admitted in part, denied in part. In response to Paragraph 16 of Plaintiffs' Amended Complaint, Berks Board admits only the allegation that it was created pursuant to the Pennsylvania Election Code. Berks Board denies the remaining allegations in Paragraph 16 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, including Berks Board and the other county boards of elections, and Berks Board respectfully refers the Court to the Election Code as the best evidence of its contents.

**RESPONSE TO ALLEGATIONS OF FACTS AND LAW**

17. Denied. Berks Board denies the allegation in Paragraph 17 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, and Berks Board respectfully refers the Court to the relevant provisions of the Pennsylvania Election Code as the best evidence of its contents.

18. In response to Paragraph 18 of Plaintiffs' Amended Complaint, Berks Board admits only the allegations that Pennsylvania law for many years permitted electors who meet certain criteria to cast absentee ballots, and that new mail-in voting provisions were enacted into law in 2019. Berks Board denies the remaining allegations in Paragraph 18 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, and Berks Board respectfully refers the Court to the Election Code as the best evidence of its contents.

19. Denied. Berks Board denies the allegations in Paragraph 19 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets

forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, and Berks Board respectfully refers the Court to the Election Code as the best evidence of its contents.

20. Admitted in part, denied in part. Berks Board denies the allegations in the first sentence of Paragraph 20 of Plaintiffs' Amended Complaint as conclusions of law. The Pennsylvania Election Code is a statute that sets forth in writing the authority, rights, and obligations of participants in Pennsylvania elections, and Berks Board respectfully refers the Court to the Election Code as the best evidence of its contents. Berks Board also respectfully refers the Court to *In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. Nov. 23, 2020), as the best evidence of the factual findings and legal conclusions of the Court in that case. Berks Board admits in part and denies in part the allegation in the second sentence of Paragraph 20 of Plaintiffs' Amended Complaint. Berks Board admits only that Deputy Secretary for Elections and Commissions at the Pennsylvania Department of State, Jonathan Marks, testified at a hearing in the Commonwealth Court of Pennsylvania on July 28, 2022 before President Judge Cohn Jubelirer in the case of *Chapman v. Berks County Board of Elections*, No. 355 M.D. 2022. Berks Board denies Plaintiffs' characterization of Deputy Secretary Marks's hearing testimony, which testimony was without foundation, taken out of context, and incomplete. Among twenty-plus pages of direct examination testimony by Deputy Secretary Marks during the July 28, 2022 hearing, he was asked, "Are you aware of any purpose for which the counties use the date as written on the outer envelope?" He responded, "I cannot think of any administrative purpose." During his deposition in this case, Deputy Secretary Marks conceded that the disqualification of a ballot for failing to comply with the Date Instruction does not affect, one way or another, a voter's

qualification to vote in that election or subsequent elections. Therefore, the Date Instruction does not implicate the Materiality Provision of the Civil Rights Act.

21. Denied. Berks Board denies the allegations in Paragraph 21 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully refers the Court to *In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. Nov. 23, 2020), as the best evidence of the factual findings and legal conclusions of the Court in that case.

22. Denied. Berks Board denies the allegations in Paragraph 22 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully refers the Court to *In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. Nov. 23, 2020), as the best evidence of the factual findings and legal conclusions of the Court in that case.

23. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23 of Plaintiffs' Amended Complaint; thus, those allegations are deemed denied. Berks Board respectfully refers the Court to *In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. Nov. 23, 2020), as the best evidence of the factual findings and legal conclusions of the Court in that case.

24. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24 of Plaintiffs' Amended Complaint; thus, those allegations are deemed denied. Berks Board respectfully refers the Court to *In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. Nov. 23, 2020), as the best evidence of the factual findings and legal conclusions of the Court in that case.

25. Denied. Berks Board is without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 25 of Plaintiffs' Amended Complaint; thus, those allegations are deemed denied. Berks Board respectfully refers the Court to *In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058 (Pa. Nov. 23, 2020), as the best evidence of the factual findings and legal conclusions of the Court in that case.

26. Denied. Berks Board denies the allegations in Paragraph 26 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully refers the Court to *Migliori v. Cohen*, No. 22-1499, 36 F.4th 153 (3d Cir. May 27, 2022), as the best evidence of the factual findings and legal conclusions of the Court in that case.

27. Denied. Berks Board denies the allegations in Paragraph 27 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully refers the Court to *Ritter v. Migliori*, No. 21A772, 142 S. Ct. 1824 (Mem.) (U.S. Jun. 9, 2022) (Alito, J., dissenting), as the best evidence of the factual findings and legal conclusions of the Court in that case. Berks Board also respectfully refers the Court to *Migliori v. Cohen*, No. 22-1499, 36 F.4th 153 (3d Cir. May 27, 2022), as the best evidence of the factual findings and legal conclusions of the Court in that case.

28. Denied. Berks Board denies the allegations in Paragraph 28 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully refers the Court to the decision in *Chapman v. Berks Cnty. Bd. of Elections*, No. 355 M.D. 2022, 2022 WL 4100998 (Pa. Commw. Ct. Aug. 19, 2022), as the best evidence of the factual findings and legal conclusions of the Court in that case.

29. Denied. Berks Board denies the allegations in Paragraph 29 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully refers the Court to the

decision in *Chapman v. Berks Cnty. Bd. of Elections*, No. 355 M.D. 2022, 2022 WL 4100998 (Pa. Commw. Ct. Aug. 19, 2022) and *Migliori v. Cohen*, No. 22-1499, 36 F.4th 153 (3d Cir. May 27, 2022), as the best evidence of the factual findings and legal conclusions of the Courts in those cases. Berks Board also respectfully directs the Court to the petition filed in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], as the best evidence of petitioners' assertions in that case.

30. Denied. Berks Board denies the allegations in Paragraph 30 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully directs the Court to the Pennsylvania Supreme Court's Order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], 284 A.3d 1189 (Mem.) (Pa. Nov. 1, 2022), as the best evidence of the factual findings and legal conclusions of the Court in that case.

31. Denied. Berks Board denies the allegations in Paragraph 31 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board respectfully directs the Court to the Pennsylvania Supreme Court's November 5, 2023 supplemental order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], as the best evidence of its contents.

**RESPONSE TO PLAINTIFFS' CLAIMS FOR RELIEF**

**Count I: Alleged Violation of the Materiality Provision of the Civil Rights Act  
(52 U.S.C. § 10101(a)(2)(B), 42 U.S.C. § 1983)**

32. Paragraph 32 of Plaintiffs' Amended Complaint is an incorporation paragraph to which no response is necessary. To the extent a response is deemed to be required, Berks Board incorporates by reference its responses in Paragraphs 1 through 31 above as though set forth at length here.

33. Denied. Berks Board denies the allegations in Paragraph 33 of Plaintiffs' Amended Complaint as conclusions of law.

34. Denied. Berks Board denies the allegations in Paragraph 34 of Plaintiffs' Amended Complaint as conclusions of law.

35. Denied. Berks Board denies the allegations in Paragraph 35 of Plaintiffs' Amended Complaint as conclusions of law.

36. Denied. Berks Board denies the allegations in Paragraph 36 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board also denies the allegation in Paragraph 36 of Plaintiffs' Amended Complaint that enforcing the "Date Instruction," as defined in Plaintiffs' Amended Complaint—the Pennsylvania Election Code provisions requiring electors to "fill out, date and sign the declaration" on the outer return envelope, 25 P.S. §§ 3146.6(a), 3150.16(a)—constitutes denial of an individual's right to vote. To the contrary, enforcing the Date Instruction by not counting timely received absentee and mail-in ballots based solely on a missing or incorrect date on the elector's declaration on the outer return envelope does not constitute denial of any individual's right to vote. It is a failure by the elector to complete the elector's ballot in accordance with the requirements of the Pennsylvania Election Code, and the Pennsylvania Supreme Court's Order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], 284 A.3d 1189 (Mem.) (Pa. Nov. 1, 2022), requires that elector's ballot to be set aside and not included in the tabulation of votes for that election.

37. Denied. Berks Board denies the allegations in Paragraph 37 of Plaintiffs' Amended Complaint as conclusions of law.

38. Denied. Berks Board denies the allegations in Paragraph 38 of Plaintiffs' Amended Complaint as conclusions of law.

39. Denied. Berks Board denies the allegations in Paragraph 39 of Plaintiffs' Amended Complaint as conclusions of law.

40. Denied. Berks Board denies the allegations in Paragraph 40 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board also denies the allegation in Paragraph 40 of Plaintiffs' Amended Complaint that enforcing the "Date Instruction," as defined in Plaintiffs' Amended Complaint—the Pennsylvania Election Code provisions requiring electors to "fill out, date and sign the declaration" on the outer return envelope, 25 P.S. §§ 3146.6(a), 3150.16(a)—will deprive Pennsylvanians of the right to vote. To the contrary, enforcing the Date Instruction by not counting timely received absentee and mail-in ballots based solely on a missing or incorrect date on the elector's declaration on the outer return envelope does not constitute denial of any individual's right to vote. It is a failure by the elector to complete the elector's ballot in accordance with the requirements of the Pennsylvania Election Code, and the Pennsylvania Supreme Court's Order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], 284 A.3d 1189 (Mem.) (Pa. Nov. 1, 2022), requires that elector's ballot to be set aside and not included in the tabulation of votes for that election.

**Count II: Alleged Violation of the U.S. Constitution and 42 U.S.C. § 1983**

41. Paragraph 41 of Plaintiffs' Amended Complaint is an incorporation paragraph to which no response is necessary. To the extent a response is deemed to be required, Berks Board incorporates by reference its responses in Paragraphs 1 through 40 above as though set forth at length here.

42. Denied. Berks Board denies the allegation in Paragraph 42 of Plaintiffs' Amended Complaint as a conclusion of law.

43. Denied. Berks Board denies the allegations in Paragraph 43 of Plaintiffs' Amended Complaint as conclusions of law.

44. Denied. Berks Board denies the allegations in Paragraph 44 of Plaintiffs' Amended Complaint as conclusions of law.

45. Denied. Berks Board denies the allegations in Paragraph 43 of Plaintiffs' Amended Complaint as conclusions of law.

46. Denied. Berks Board denies the allegations in Paragraph 46 of Plaintiffs' Amended Complaint as conclusions of law.

47. Berks Board denies the allegations in Paragraph 47 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board also denies the allegation in Paragraph 47 of Plaintiffs' Amended Complaint that enforcing the "Date Instruction," as defined in Plaintiffs' Amended Complaint—the Pennsylvania Election Code provisions requiring electors to "fill out, date and sign the declaration" on the outer return envelope, 25 P.S. §§ 3146.6(a), 3150.16(a)—subjects voters to arbitrary disenfranchisement. To the contrary, enforcing the Date Instruction by not counting timely received absentee and mail-in ballots based solely on a missing or incorrect date on the elector's declaration on the outer return envelope does not constitute disenfranchisement of any individual voter. It is a failure by the elector to complete the elector's ballot in accordance with the requirements of the Pennsylvania Election Code, and the Pennsylvania Supreme Court's Order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], 284 A.3d 1189 (Mem.) (Pa. Nov. 1, 2022), requires that elector's ballot to be set aside and not included in the tabulation of votes for that election. Furthermore, voters and counties are not in the dark about whether a ballot should be counted.

48. Denied. Berks Board denies the allegations in Paragraph 48 of Plaintiffs' Amended Complaint as conclusions of law. Berks Board also denies the allegation in Paragraph 48 of Plaintiffs' Amended Complaint that enforcing the "Date Instruction," as defined in Plaintiffs' Amended Complaint—the Pennsylvania Election Code provisions requiring electors to "fill out, date and sign the declaration" on the outer return envelope, 25 P.S. §§

3146.6(a), 3150.16(a)—serves no legitimate purpose and is a trivial procedural formality that functions only to disenfranchise eligible voters. To the contrary, enforcing the Date Instruction by not counting timely received absentee and mail-in ballots based solely on a missing or incorrect date on the elector’s declaration on the outer return envelope does not constitute disenfranchisement of any individual voter. It is a failure by the elector to complete the elector’s ballot in accordance with the requirements of the Pennsylvania Election Code, and the Pennsylvania Supreme Court’s Order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], 284 A.3d 1189 (Mem.) (Pa. Nov. 1, 2022), requires that elector’s ballot to be set aside and not included in the tabulation of votes for that election.

49. Denied. Berks Board denies the allegations in Paragraph 49 of Plaintiffs’ Amended Complaint as conclusions of law. Berks Board also denies the allegation in Paragraph 49 of Plaintiffs’ Amended Complaint that enforcing the “Date Instruction,” as defined in Plaintiffs’ Amended Complaint—the Pennsylvania Election Code provisions requiring electors to “fill out, date and sign the declaration” on the outer return envelope, 25 P.S. §§ 3146.6(a), 3150.16(a)—imposes an unnecessary hurdle that results in arbitrary rejection of ballots. To the contrary, enforcing the Date Instruction by not counting timely received absentee and mail-in ballots based solely on a missing or incorrect date on the elector’s declaration on the outer return envelope does not constitute arbitrary rejection of any individual’s ballot. It is a failure by the elector to complete the elector’s ballot in accordance with the requirements of the Pennsylvania Election Code, and the Pennsylvania Supreme Court’s Order in *Ball v. Chapman*, No. 102 MM 2022 [J-85-2022], 284 A.3d 1189 (Mem.) (Pa. Nov. 1, 2022), requires that elector’s ballot to be set aside and not included in the tabulation of votes for that election.

**FIRST AFFIRMATIVE DEFENSE**

50. Plaintiffs' Amended Complaint fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

51. Plaintiffs' claims, including, without limitation, the claims for monetary relief, costs, and attorneys' fees, are barred or limited because Berks Board acted in good faith to comply with duly issued orders of the Pennsylvania Supreme Court interpreting the Pennsylvania Election Code, which Berks Board is legally bound to follow.

**THIRD AFFIRMATIVE DEFENSE**

52. Plaintiffs' claims are barred or limited because some or all of Plaintiffs lack standing to bring this action against Berks Board.

**FOURTH AFFIRMATIVE DEFENSE**

53. Plaintiffs' claims may be barred or limited by the doctrine of mootness.

**FIFTH AFFIRMATIVE DEFENSE**

54. Plaintiffs' claims may be barred or limited by the doctrine of laches.

**SIXTH AFFIRMATIVE DEFENSE**

55. Plaintiffs' claims may be barred or limited by Plaintiffs' failure to exhaust administrative remedies.

**SEVENTH AFFIRMATIVE DEFENSE**

56. Plaintiffs' claims may be barred or limited by the applicable statute of limitations.

**EIGHTH AFFIRMATIVE DEFENSE**

57. Plaintiffs' claims may be barred or limited by the doctrine of estoppel.

**NINTH AFFIRMATIVE DEFENSE**

58. Plaintiffs' claims may be barred or limited by the doctrine of waiver.

**TENTH AFFIRMATIVE DEFENSE**

59. Plaintiffs' claims may be barred or limited by the doctrine of unclean hands.

**ELEVENTH AFFIRMATIVE DEFENSE**

60. Plaintiffs' claims may be barred or limited by Plaintiffs' failure to join one or more indispensable parties.

**RESERVATION OF RIGHT TO ASSERT ADDITIONAL AFFIRMATIVE DEFENSES**

61. Berks Board expressly reserves the right to assert additional affirmative defenses that may become apparent during the pendency of this action.

**PRAYER FOR RELIEF**

**WHEREFORE**, based on all the foregoing, Defendant Berks County Board of Elections hereby demands judgment as follows:

(a) As to Plaintiffs' claims that the Pennsylvania Election Code, as interpreted by the Pennsylvania Supreme Court, violates (a) the Materiality Provision of the federal Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B) (Count I), and (b) the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983 (Count II), an Order dismissing with prejudice all of Plaintiffs' claims; and

(b) An Order granting all such other relief as may be warranted under the circumstances.

Respectfully submitted,

Dated: February 23, 2022

**SMITH BUKOWSKI, LLC**

By: /s/ Jeffrey D. Bukowski  
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*Attorneys for Berks County Board of Elections*

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FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BETTY EAKIN, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	CIVIL ACTION
	:	
v.	:	No. 1:22-cv-00340-SPB
	:	
ADAMS COUNTY BOARD OF ELECTIONS, <i>et al.</i> ,	:	
	:	<b>ELECTRONICALLY FILED</b>
Defendants.	:	

**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b) and LCvR 5.6, the undersigned hereby certifies that the foregoing document was electronically filed on the below date with the Court’s CM/ECF system, which transmitted a Notice of Electronic Filing of the filed document on counsel of record and/or each party in the case who is registered as a Filing User.

Dated: February 23, 2022

**SMITH BUKOWSKI, LLC**

By: /s/ Jeffrey D. Bukowski  
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