

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

BETTE EAKIN, et al,)	
)	Civil Action No. 1:22-cv-00340-SPB
Plaintiffs,)	
)	
v.)	
)	
ADAMS COUNTY BOARD OF ELECTIONS,)	
et al,)	
)	
Defendants.)	

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANTS BEDFORD COUNTY,
CARBON COUNTY, CENTRE COUNTY, COLUMBIA COUNTY, DAUPHIN COUNTY,
JEFFERSON COUNTY, HUNTINGDON COUNTY, INDIANA COUNTY, LAWRENCE
COUNTY, LEBANON COUNTY, MONROE COUNTY, MONTOUR COUNTY,
NORTHUMBERLAND COUNTY, SNYDER COUNTY, VENANGO COUNTY, AND
YORK COUNTY BOARDS OF ELECTIONS TO PLAINTIFFS’ AMENDED
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

AND NOW, comes Defendants Bedford County, Carbon County, Centre County, Columbia County, Dauphin County, Huntingdon County, Indiana County, Jefferson County, Lawrence County, Lebanon County, Monroe County, Montour County, Northumberland County, Snyder County, Venango County, and York County Board of Elections (collectively “Defendant Counties”), by and through their undersigned counsel, Babst, Calland, Clements & Zomnir, P.C., and file the below Answer and Affirmative Defenses to Plaintiffs’ Amended Complaint for Declaratory and Injunctive Relief.

NATURE OF THE CASE

1. Paragraph 1 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 1 are denied.

2. Paragraph 2 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 2 are denied. The allegations in

Paragraph 2 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

3. It is admitted that Defendant Counties segregated and did not count ballots with a missing or incorrect date on the ballot envelope in the 2022 general election, in compliance with the explicit orders issued by the Supreme Court of Pennsylvania. After a reasonable investigation, Defendant Counties are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3. These allegations are therefore, denied.

4. Paragraph 4 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 4 are denied.

5. Paragraph 5 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 5 are denied.

6. Paragraph 6 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 6 are denied.

JURISDICTION AND VENUE

7. It is admitted that Plaintiffs bring this action. It is denied that Defendant Counties are liable or violated any law.

8. Paragraph 8 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 8 are denied.

9. It is admitted that Defendant Counties are government entities in Pennsylvania. The remaining allegations in Paragraph 9 contain legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 9 are denied.

10. Paragraph 10 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 10 are denied.

11. Paragraph 11 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 11 are denied.

PARTIES

12. After a reasonable investigation, Defendant Counties are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12. These allegations are, therefore, denied.

13. After a reasonable investigation, Defendant Counties are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 13. These allegations are, therefore, denied.

14. After a reasonable investigation, Defendant Counties are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14. These allegations are, therefore, denied.

15. After a reasonable investigation, Defendant Counties are without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15. These allegations are, therefore, denied.

16. It is admitted only that Defendants are the county boards of elections of the 67 counties of the Commonwealth of Pennsylvania. It is denied that Defendant Counties improperly enforced the Date Instruction. The remainder of Paragraph 16 contains legal conclusions to which no response is required. To the extent a response is required, those allegations in Paragraph 16 are denied.

STATEMENT OF FACTS AND LAW

17. Paragraph 17 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 17 are denied.

18. Paragraph 18 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 18 are denied.

19. Paragraph 19 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 19 are denied.

20. Paragraph 20 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 20 are denied. The allegations in Paragraph 20 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

21. Paragraph 21 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 21 are denied. The allegations in Paragraph 21 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

22. Paragraph 22 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 22 are denied. The allegations in Paragraph 22 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

23. Paragraph 23 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 23 are denied. The allegations in Paragraph 23 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

24. Paragraph 24 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 24 are denied. The allegations in

Paragraph 24 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

25. Paragraph 25 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 25 are denied. The allegations in Paragraph 25 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

26. Paragraph 26 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 26 are denied. The allegations in Paragraph 26 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

27. Paragraph 27 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 27 are denied. The allegations in Paragraph 27 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

28. Paragraph 28 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 28 are denied. The allegations in Paragraph 28 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

29. Paragraph 29 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 29 are denied. The allegations in Paragraph 29 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

30. Paragraph 30 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 30 are denied. The allegations in Paragraph 30 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

31. Paragraph 31 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 31 are denied. The allegations in Paragraph 31 also reference a written document that speaks for itself. Plaintiffs' characterizations thereof are denied.

CLAIMS 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. Paragraphs 1 through 31 of this Answer are incorporated by reference herein as though fully set forth at length.

33. Paragraph 33 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 33 are denied.

34. Paragraph 34 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 34 are denied.

35. Paragraph 35 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 35 are denied.

36. It is denied that Defendant Counties denied anyone the right to vote or acted improperly or in violation of the law in performing its election obligations and procedures. The

remainder of Paragraph 36 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 36 are denied.

37. Paragraph 37 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 37 are denied.

38. Paragraph 38 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 38 are denied.

39. Paragraph 39 contains legal conclusions, including the references to “legitimate purpose” and “not timely”, to which no response is required. To the extent a response is required, the allegations in Paragraph 39 are denied. Any implication that Defendant Counties deprived anyone the right to vote or acted improperly or in violation of the law in performing its election obligations and procedures is expressly denied.

40. It is denied that Defendant Counties deprived anyone the right to vote or acted improperly or in violation of the law in performing its election obligations and procedures. The remainder of Paragraph 40 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 40 are denied.

COUNT II

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

41. Paragraph 41 is an incorporation paragraph to which no response is required. Paragraphs 1 through 40 of this Answer are incorporated by reference herein as though fully set forth at length.

42. Paragraph 42 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 42 are denied.

43. Paragraph 43 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 43 are denied.

44. Paragraph 44 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 44 are denied.

45. Paragraph 45 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 45 are denied.

46. Paragraph 46 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 46 are denied.

47. Paragraph 47 contains legal conclusions, including the references to “unduly burdensome”, to which no response is required. To the extent a response is required, the allegations in Paragraph 47 are denied. It is further denied that Defendant Counties arbitrarily disenfranchised any voters or otherwise acted improperly or in violation of the law in performing its election obligations and procedures.

48. Paragraph 48 contains legal conclusions, including the references to “legitimate purpose” and “timely submitted”, to which no response is required. To the extent a response is required, the allegations in Paragraph 48 are denied. It is further denied that Defendant Counties arbitrarily disenfranchised any voters or otherwise acted improperly or in violation of the law in performing its election obligations and procedures.

49. It is denied that Defendant Counties arbitrarily rejected any votes or otherwise acted improperly or in violation of the law in performing its election obligations and procedures. The remainder of Paragraph 49 contains legal conclusions to which no response is required. To the extent a response is required, the allegations in Paragraph 49 are denied.

PRAYER FOR RELIEF

WHEREFORE, Defendants Bedford County, Carbon County, Centre County, Columbia County, Dauphin County, Huntingdon County, Indiana County, Jefferson County, Lawrence County, Lebanon County, Monroe County, Montour County, Northumberland County, Snyder County, Venango County and York County Board of Elections respectfully request that this Honorable Court enter judgment in their favor and against Plaintiffs.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiffs' claims against Defendant Counties fail to state a claim upon which relief may be granted.

SECOND DEFENSE

This Court lacks jurisdiction over the subject matter of some or all of Plaintiffs' claims.

THIRD DEFENSE

Plaintiffs lack standing to pursue some or all of the claims against Defendant Counties.

FOURTH DEFENSE

Plaintiffs have failed to set forth a claim for any federal constitutional violations against Defendant Counties.

FIFTH DEFENSE

Plaintiffs are not entitled to recovery of any attorney's fees from Defendant Counties.

SIXTH DEFENSE

Defendant Counties acted in accordance with the United States Constitution.

SEVENTH DEFENSE

Defendant Counties acted in accordance with explicit orders issued the by the Supreme Court of Pennsylvania at all relevant times.

EIGHTH DEFENSE

At all times, Plaintiffs were provided reasonable and appropriate treatment by Defendant Counties in accordance with the applicable state and federal laws, including but not limited to the United States Constitution, the Constitution of the Commonwealth of Pennsylvania, and the Pennsylvania Election Code.

Date: February 17, 2023

Respectfully submitted,

BABST, CALLAND, CLEMENTS
and ZOMNIR, P.C.

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Elections, Indiana County Board of
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Elections, Lawrence County Board of
Elections, Lebanon County Board of
Elections, Monroe County Board of
Elections, Montour County Board of
Elections, Northumberland County
Board of Elections, Snyder County
Board of Elections, Venango County
Board of Elections and York County
Board of Elections*

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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: February 17, 2023

/s/ Sean R. Keegan

Sean R. Keegan

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing has been electronically filed through the Court's ECF system which will send notification of same to all counsel of record.

/s/ Sean R. Keegan _____

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