

**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> ,	:	
	:	<b>ELECTRONICALLY FILED</b>
Defendants.	:	

**DEFENDANT BERKS COUNTY BOARD OF ELECTIONS’ RESPONSE IN  
OPPOSITION TO PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT AND  
CONCISE STATEMENT OF MATERIAL FACTS**

Defendant Berks County Board of Elections (“Berks Board”), by its undersigned attorneys, hereby responds in opposition to Plaintiffs’ motion for summary judgment (doc. 287) and concise statement of material facts (doc. 289). Berks Board incorporates by reference the memorandum of law in opposition to Plaintiffs’ motion for summary judgment filed by Lancaster Board of Elections (doc. 306). For all the reasons below and those stated in Lancaster Board’s memorandum in opposition, Plaintiffs’ motion for summary judgment should be denied in its entirety, and Berks County Board of Elections’ motion for summary judgment (by joinder with the Motion for Summary Judgment filed by Defendant Lancaster County Board of Elections, doc. 286) should be granted, and all of Plaintiffs’ claims against Berks Board should be dismissed with prejudice.

Berks Board’s responses to Plaintiffs’ concise statement of materials facts are set forth below, with the numbered paragraphs corresponding to and restating each of Plaintiffs’ concise statement of material facts (including footnotes), followed by Berks Board’s response.

1. Prior to 2020, voters in Pennsylvania were required to cast an in-person ballot on election day unless they met specific qualifications to submit an “absentee” ballot. 25 P.S. § 3146.1.

**RESPONSE:** Admitted.

2. In 2019, Pennsylvania enacted Act 77, an omnibus election bill that introduced significant amendments to Pennsylvania’s Election Code and created a new method of voting—“mail-in” ballots—which extended the option of voting by mail to all eligible citizens of the Commonwealth as an alternative to voting in person on election day. 25 P.S. 3150.11 *et seq.*

**RESPONSE:** Admitted.

3. Before submitting a completed mail-in or absentee ballot (collectively, “mail ballot”) to their county board of elections (“county board” or “BOE”), a voter must fill out the ballot, place the completed ballot in a secrecy envelope, and then place the secrecy envelope in an outer return envelope. 25 P.S. §§ 3146.6(a), 3150.16(a).

**RESPONSE:** Admitted.

4. The outer envelope of every mail ballot contains a voter declaration that Pennsylvania law instructs voters to “fill out, date and sign.” 25 P.S. §§ 3146.6(a), 3150.16(a) (the “Date Provision”).

**RESPONSE:** Admitted.

5. For a mail ballot to be considered timely received and eligible to be counted, it must reach the voter’s county board by 8:00 p.m. on election day. 25 P.S. §§ 3146.6(a), 3150.16(a).

**RESPONSE:** Admitted.

6. On November 1, 2022, the Supreme Court of Pennsylvania issued an order directing all county boards of elections to set aside and not count any mail-in or absentee ballot “contained in undated or incorrectly dated outer envelope[.]” *Ball v. Chapman*, 284 A.3d 1189, 1192 (Pa. 2022) (per curiam).

**RESPONSE:** Admitted.

7. On November 5, 2022, the Supreme Court of Pennsylvania issued a supplemental order stating that, for purposes of the 2022 general election only, the date on the outer envelope must be deemed incorrect if it (1) predated the earliest date state law permitted county boards to distribute mail ballots for that election, or (2) postdated election day. Ex. L. For purposes of future elections, the Supreme Court of Pennsylvania indicated in a subsequent opinion that the voter should enter the date they sign the declaration, but expressly left it to the discretion of each county board to decide how to evaluate whether that written date “is, in truth, the day upon which [the voter] completed the declaration.” *Ball v. Chapman*, 289 A.3d 1, 23 (Pa. 2023).

**RESPONSE:** Admitted.

8. In the 2022 general election, Pennsylvania’s county boards set aside any mail ballot that arrived in an outer envelope they regarded as undated or misdated. Ex. K (responses to Requests for Admission No. 5–8).

**RESPONSE:** Denied as stated. Berks Board disputes the language “regarded as undated or misdated.” Pennsylvania county boards of elections set aside mail ballots that arrived in an outer envelope on which the voter declaration did not include any date or was “incorrectly dated” in compliance with the November 1, 2022 and November 25, 2022 Pennsylvania Supreme Court orders in *Ball v. Chapman*.

9. In the 2022 general election, a total of 10,970 mail ballots were timely received but did not comply with the Date Provision. Ex. J (responses to Interrogatory 2).

**RESPONSE:** Berks Board admits the accuracy of the numbers of absentee and mail-in ballots that were timely received but were set aside for not complying with the Date Provision in Berks County in November 2022 as reported by Berks Board in its interrogatory responses. Berks Board is without knowledge about the precise numbers of absentee and mail-in ballots that were timely received but were set aside for not complying with the Date Provision in other counties in November 2022, but Berks Board does not dispute those numbers for purposes of Plaintiffs' motion for summary judgment. The precise numbers are not material to the claims or defenses in this action.

10. In the 2022 general election, 10,657 of the 10,970 undated or misdated mail ballots received by county boards had no other defect that would have prevented them from being counted. Ex. J (responses to Interrogatories 2 and 8).

**RESPONSE:** Berks Board admits the accuracy of the numbers of absentee and mail-in ballots that were undated or incorrectly dated in Berks County and that had no other defect in November 2022 as reported by Berks Board in its interrogatory responses. Berks Board is without knowledge about the precise numbers of absentee and mail-in ballots that undated or incorrectly dated and that had no other defect in other counties in November 2022, but Berks Board does not dispute those numbers for purposes of Plaintiffs' motion for summary judgment. The precise numbers are not material to the claims or defenses in this action.

11. In the 2022 general election, 45 of the 67 county boards provided no notice to voters that their mail ballots were set aside due to noncompliance with the Date Instruction. Ex. J (responses to Interrogatory 11).

**RESPONSE:** Admitted.

12. In the 2022 general election, 37 of the 67 county boards provided voters no opportunity to cure their mail ballot if it was rejected under the Date Provision. Ex. J (responses to Interrogatory 12).

**RESPONSE:** Admitted.

13. In the 2022 general election, the Berks County BOE rejected a timely-received mail ballot on which the voter wrote the date “11/3/2023,” but would have counted the ballot had the voter written “11/3/2022.” Ex. F (Kauffman Dep.) at 84:18–86:7.

**RESPONSE:** Admitted.

14. In the 2022 general election, the Berks County BOE rejected a timely-received mail ballot because the voter wrote their birthdate on the outer envelope, even though the county board’s stamp on the outer envelope indicated that it had timely received the mail ballot on October 17, 2022. *Id.* at 86:8–87:19.

**RESPONSE:** Admitted.

15. When evaluating the date written on a mail ballot’s outer envelope for correctness, the Berks County BOE accounts for the possibility that a voter may use either a Month/Day/Year format or a Day/Month/Year format, and will accept the ballot if the date is considered correct using either format. *Id.* at 51:13–53:5.

**RESPONSE:** Admitted.

16. In the 2022 general election, the Lancaster County BOE would have rejected a mail ballot contained in an envelope on which the voter had written a day and month but omitted the year, even if the day and month were in the acceptable time range set by the Supreme Court of Pennsylvania's November 5, 2022 order. Ex. G (Miller Dep.) at 55:19–56:6.

**RESPONSE:** Admitted.

17. In the 2022 general election, the Lancaster County BOE evaluated the date written on outer envelope assuming that the voter intended to use a Month/Day/Year format. *Id.* at 64:23– 65:25.

**RESPONSE:** Admitted.

18. In the 2022 general election, the Lancaster County BOE would have rejected any mail ballot if its outer envelope contained a date that was incorrect if read using a Month/Day/Year format, even if the date was correct if read using a Day/Month/Year format. *Id.*

**RESPONSE:** Admitted.

19. In the 2022 general election, the Lancaster County BOE would have rejected a mail ballot with a handwritten date that read “11/25/22” even if the county board's stamp on the outer envelope indicated it had received the mail ballot on a date that fell within the acceptable range set by the Supreme Court of Pennsylvania's November 5 order. *Id.* at 78:9–79:21.

**RESPONSE:** Admitted.

20. In the 2022 general election, the Lancaster County BOE would have rejected a mail ballot contained in an outer envelope on which the voter had written their birthdate, even if the county board's stamp on the outer envelope indicated it had received the mail ballot on a date that fell within the acceptable range set by the Supreme Court of Pennsylvania's November 5 order. *Id.* at 80:10–82:10.

**RESPONSE:** Admitted.

21. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot because its outer envelope had a handwritten date of “10/14/2023,” but would have counted that ballot if the last digit of that handwritten date was “2” instead of “3.” *Id.* at 76:13–77:22.

**RESPONSE:** Admitted.

22. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot because its outer envelope had a handwritten date of “10/23/2033,” but would have counted the ballot if the last two digits of that handwritten date were “22” instead of “33.” *Id.* at 84:17–85:21.

**RESPONSE:** Admitted.

23. In the 2022 general election, the Westmoreland County BOE rejected mail ballots with handwritten dates of “1/1/2022,” “8/17/2022,” “11/9/2022,” and “11/28/2022,” even though the county board's stamp on those envelopes indicated that they were each received on a date that fell within the acceptable range set by the Supreme Court of Pennsylvania's November 5 order. *Id.* at 74:9–79:9, 85:24–86:24.

**RESPONSE:** Admitted.

24. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot with a handwritten date reading “10/9/2021” despite admitting that it would be impossible

for someone to have filled the mail ballot on October 9, 2021, and despite the fact that the county board's stamp on the envelope indicated that it was timely received on October 13, 2022. *Id.* at 82:10–83:16.

**RESPONSE:** Admitted.

25. In the 2022 general election, the Westmoreland County BOE rejected any mail ballot if its outer envelope contained a date that was incorrect if read using a Month/Day/Year format, even if the date was correct when read as using a Day/Month/Year format. *Id.* at 81:3–82:7, 83:20–84:14.

**RESPONSE:** Admitted.

26. In the 2022 general election, the Westmoreland County BOE rejected a mail ballot contained in an outer envelope where the voter had written their birthdate. *Id.* at 87:3–24.

**RESPONSE:** Admitted.

27. In the 2022 general election, at least 17 counties rejected mail ballots contained in outer envelopes on which the voter wrote a date that was incorrect if read using a Month/Day/Year format (even if the date was correct if read using a Day/Month/Year format), while approximately 32 counties may have counted mail ballots in outer envelopes on which the written date was correct using a Month/Day/Year format *or* Day/Month/Year format. Ex. K (responses to Request for Admission No. 8).

**RESPONSE:** Berks Board is without knowledge about the number of counties that rejected mail ballots in outer envelopes on which the voter wrote a date that was incorrect if read using a Month/Day/Year format (even if the date was correct if read using a Day/Month/Year format) and the number of counties that counted mail ballots in outer envelopes on which the written date was correct using a Month/Day/Year format *or* Day/Month/Year format, but Berks Board does



not dispute those numbers for purposes of Plaintiffs' motion for summary judgment. The precise numbers are not material to the claims or defenses in this action.

28. Absent a change in the law or judicial intervention, all of Pennsylvania's county boards will not count mail ballots contained in envelopes that do not comply with the Date Provision. Ex. F (Kauffman Dep.) at 99:7–101:12; Ex. G (Miller Dep.) at 104:11–105:23, 111:16–112:9; Ex. H (McCloskey Dep.) at 88:13–89:6; Ex. K (responses to Request for Admission No. 5). **RESPONSE:** Admitted as to Berks County. Berks Board is without knowledge about how the other counties intend to proceed.

29. To be eligible to vote in Pennsylvania, a person must (1) be at least 18 years old, (2) have been a citizen for at least one month, (3) have lived in Pennsylvania and that election district for at least 30 days, and (4) not be imprisoned for a felony. 25 Pa. C.S. § 1301(a); 25 P.S. § 2811.

**RESPONSE:** Admitted

30. The only information that county boards use to determine a person's qualifications to vote is their age, citizenship status, length of residency in Pennsylvania and a given election district, and imprisonment status. Ex. E (Marks Dep.) at 102:5–9; Ex. F (Kauffman Dep.) at 33:20–34:8; Ex. G (Miller Dep.) at 36:17–38:3; Ex. H (McCloskey Dep.) at 31:17–32:16.

**RESPONSE:** Admitted

31. No county board uses the date written on a mail ballot's outer envelope to determine that person's qualifications to vote. Ex. K (responses to Request for Admission No. 1); Ex. E (Marks Dep.) at 98:9–102:15.

**RESPONSE:** Admitted

32. The date written on a mail ballot's outer envelope does not provide information relevant to the determination of a person's age, citizenship status, length of residency in Pennsylvania and their election district, or imprisonment status. Ex. J (responses to Interrogatory 14); Ex. E (Marks Dep.) 68:4–9; Ex. F (Kauffman Dep.) at 32:17–34:8; Ex. G (Miller Dep.) at 36:17–25, 37:1–6, 37:7–11, 37:12–15, 37:16–38:3; Ex. H (McCloskey Dep.) at 31:17–22, 32:23–33:2, 33:3–7, 33:8–11, 32:12–16.

**RESPONSE:** Admitted

33. Plaintiffs' expert, Dr. Daniel Hopkins, performed linear regression analyses to identify whether the Date Provision disproportionately impacted certain demographic groups of voters in the November 2022 election. Ex. I ¶¶ 21–22.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Plaintiffs' expert Dr. Daniel Hopkins attempted to perform linear regression analyses to attempt to determine whether the Date Provision disproportionately impacted certain demographic groups of voters in the November 2022 election. Berks Board disputes that Dr. Hopkins' conclusions are valid or relevant. It is not relevant whether the Date Provision had or has a disproportionate or disparate impact on certain demographic groups of voters. The Date Provision is applied neutrally across all demographic groups of voters and was adopted without any discriminatory intent. There is no evidence that an individual voter from any demographic group, based on that voter's membership in any given group, is less likely to be able to comply with the Date Provision.

34. Dr. Hopkins concluded that the Date Provision caused county boards of elections to reject mail ballots submitted by Black, Hispanic, and older voters, as well as voters with lower educational achievement at a disproportionately higher rate compared to other voters. *Id.* ¶¶ 10, 23.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins concluded the Date Provision caused county boards of elections to reject mail ballots submitted by Black, Hispanic, and older voters, as well as voters with lower educational achievement at a disproportionately higher rate compared to other voters. Berks Board disputes that Dr. Hopkins' conclusions are valid or relevant.

35. Dr. Hopkins found that voters in counties with a higher proportion of Black and Hispanic residents were more likely to submit mail ballots that failed to comply with the Date Instruction than counties with a lower proportion of voters from those demographic groups. *Id.* ¶¶ 30–34.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins found that voters in counties with a higher proportion of Black and Hispanic residents were more likely to submit mail ballots that failed to comply with the Date Instruction than counties with a lower proportion of voters from those demographic groups. Berks Board disputes that Dr. Hopkins' conclusions are valid or relevant.

36. When considering the share of a county's population that identifies as Hispanic, Dr. Hopkins's county-level regression resulted in a coefficient of 0.1383, meaning that a county with exclusively Hispanic residents would be expected to reject mail ballots under the Date Provision at a rate 13.8 percentage points higher than a county with no Hispanic residents. *Id.* ¶ 32; *id.* at Ex. 1.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins' county-level regression analysis for Hispanic voters resulted in a coefficient of 0.1383, which according to Dr. Hopkins means a county with exclusively Hispanic residents would be expected to reject mail ballots under the Date Provision at a rate 13.8 percentage points higher than a county with no Hispanic residents. Berks Board disputes that Dr. Hopkins' conclusions are valid or relevant.

37. When considering the share of a county's population that identifies as Black, Dr. Hopkins's county-level regression resulted in a coefficient of 0.1351, meaning that a county with exclusively Black residents would be expected to reject mail ballots under the Date Provision at a rate 13.5 percentage points higher than a county with no Black residents. *Id.* ¶ 33; *id.* at Ex. 1.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins' county-level regression analysis for Black voters resulted in a coefficient of 0.1351, which according to Dr. Hopkins means a county with exclusively Hispanic residents would be expected to reject mail ballots under the Date Provision at a rate 13.5 percentage points higher than a county with no Black residents. Berks Board disputes that Dr. Hopkins' conclusions are valid or relevant.

38. In a separate analysis, Dr. Hopkins used a representative sample of counties to analyze the demographic characteristics of the actual voters whose mail ballots were rejected in the November 2022 election. *Id.* ¶¶ 36–41.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins attempted to perform a separate analysis that attempted to use a representative sample of counties to analyze the demographic characteristics of the actual voters whose mail ballots were rejected

in the November 2022 election. Berks Board disputes that Dr. Hopkins' conclusions are valid or relevant.

39. In performing this individual-level analysis, Dr. Hopkins appended to each voter information about the block group in which they lived. Block groups are the smallest unit at which Census data is typically available publicly. *Id.* ¶ 36.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins appended to each voter included in his individual-level analysis information about the block group in which they lived, and that block groups are the smallest unit at which Census data is typically available publicly. Berks Board disputes that Dr. Hopkins' conclusions are valid or relevant.

40. The results of this individual-level analysis demonstrated “strong, statistically significant, and substantively meaningful relationships indicating that Hispanic, Black, and older voters are more likely to submit ballots that are rejected under the Date Provision.” *Id.* ¶¶ 42–44.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins contends that his individual-level analysis demonstrated “strong, statistically significant, and substantively meaningful relationships that purport to indicate that Hispanic, Black, and older voters are more likely to submit ballots that are rejected under the Date Provision.” Berks Board disputes that Dr. Hopkins' contentions are valid or relevant.

41. The results of Dr. Hopkins' individual-level analysis indicated that in the 2022 general election, a voter living in an all-Hispanic block group would have been twice as likely to have their ballot rejected under the Date Provision compared to a voter living in a block group containing no Hispanic residents. *Id.* ¶ 43.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins contends that his individual-level analysis indicated that in the 2022 general election, a voter living in an all-Hispanic block group would have been twice as likely to have their ballot rejected under the Date Provision than a voter living in a block group containing no Hispanic residents. Berks Board disputes that Dr. Hopkins' contentions are valid or relevant.

42. The results of Dr. Hopkins's individual-level analysis indicated that age was positively correlated with rejection, meaning that the older a voter was, the more likely they were to submit an undated or misdated ballot. *Id.* ¶ 45; *id.* at Ex. 2.

**RESPONSE:** Admitted in part, denied in part. Berks Board admits only that Dr. Hopkins contends that his individual-level analysis indicated that age was positively correlated with rejection, meaning that the older a voter was, the more likely they were to submit an undated or misdated ballot. Berks Board disputes that Dr. Hopkins' contentions are valid or relevant.

43. The sample counties' pattern of rejecting Hispanic, Black, and older voters' ballots at disproportionately higher rates remained the same even "when looking only at *undated* ballots" and also "when looking only at *misdated* ballots." *Id.* ¶¶ 49–57; *id.* at Exs. 3–4.

**RESPONSE:** Denied. Berks Board disputes this conclusion. Even if this averment were true, it is not relevant to the claims or defenses at issue.

44. There was also a significant relationship between mail ballot rejection pursuant to the Date Provision and educational achievement, indicating that voters lacking Bachelor's degrees were more likely to have their ballots rejected than those who have obtained Bachelor's degrees. *Id.* ¶ 47.

**RESPONSE:** Denied. Berks Board disputes this conclusion. Even if this averment were true, it is not relevant to the claims or defenses at issue.

45. There was also a significant negative relationship between a voter's successful use of mail voting in 2020 and the likelihood that their ballot would be rejected under the Date Provision, indicating that voters less familiar with the mail-voting process were more likely to make mistakes causing their mail ballot to be rejected than those with more experience. *Id.* ¶ 46.

**RESPONSE:** Denied. Berks Board disputes this conclusion. Even if this averment were true, it is not relevant to the claims or defenses at issue.

46. "Cost of voting" is a framework that political scientists have employed for decades to describe how procedural and administrative frictions in the voting process that increase the "cost" of voting lead to fewer citizens successfully navigating the voting process. *Id.* ¶ 12.

**RESPONSE:** Berks Board is without knowledge sufficient to admit or deny the averment in Paragraph 46 of Plaintiffs' concise statement of material facts about whether "cost of voting" is a framework that political scientists have used for decades to describe how procedural and administrative frictions in the voting process that increase the "cost" of voting lead to fewer citizens successfully navigating the voting process. To the extent this averment is accurate, Berks Board disputes that the "cost of voting" framework is relevant to the claims or defenses at issue in this action.

47. Even among those who cast a ballot in an election, procedural and administrative frictions that raise that cost of voting may prevent their ballot from being counted. *Id.* ¶ 13.

**RESPONSE:** Berks Board is without knowledge sufficient to admit or deny the averment in Paragraph 47 of Plaintiffs' concise statement of material facts about whether procedural and administrative frictions that allegedly raise the "cost" of voting may prevent those who cast a ballot in an election from having their ballot counted. To the extent this averment is accurate, Berks Board disputes that the "cost of voting" framework is relevant to the claims or defenses at

issue in this action. Even if it were, common sense dictates there is no material “cost” to voters writing the date they sign their voter declaration in the space provided near their signature.

48. Voters with fewer resources—including those with lower educational levels; less access to housing, transportation, childcare; less flexible jobs; less English-language fluency or experience reading technical language—are less able to overcome additional procedural frictions in the voting process. *Id.*

**RESPONSE:** Denied. Berks Board disputes this conclusion. Even if this averment were true, it is not relevant to the claims or defenses at issue.

49. Black, Hispanic, and older voters in Pennsylvania have, on average, lower levels of socioeconomic resources, including “educational attainment, income, economic security, English language proficiency and literacy, and health,” and they are less likely, on average, to overcome procedural and administrative frictions in the voting process. *Id.* ¶ 16.

**RESPONSE:** Denied. Berks Board disputes this conclusion. Even if this averment were true, it is not relevant to the claims or defenses at issue.

50. When a voter’s mail ballot is rejected because of noncompliance with the Date Provision, they must take additional actions to ensure that their ballot is ultimately counted. *Id.* ¶ 19.

**RESPONSE:** Denied. Berks Board disputes this conclusion. Even if this averment were true, it is not relevant to the claims or defenses at issue.

51. The additional actions voters must take to ensure their rejected mail ballot is counted increase the cost of voting. *Id.* ¶ 19.

**RESPONSE:** Denied. Berks Board disputes this conclusion. Even if this averment were true, it is not relevant to the claims or defenses at issue.



52. The Statewide Uniform Registry of Electors (“SURE”) system is the voter registration system in Pennsylvania used by all 67 county BOEs. Ex. G (Miller Dep.) at 114:11- 14.

**RESPONSE:** Admitted.

53. SURE allows counties to verify a voter’s identification during the mail ballot application process, maintain their official voter rolls, and record returned mail ballots. Ex. E (Marks Dep.) at 44:6–10, 45:8–15, 68:19–69:6.

**RESPONSE:** Admitted.

54. The county boards are statutorily required to record the date and time that they receive a mail ballot. *Id.* at 70:5–19; 25 P.S. § 1222(c)(19)–(20).

**RESPONSE:** Admitted.

55. Each county board has a mechanism in place to identify which ballots were timely received, and that mechanism does not rely on the date written by voters on the mail-ballot’s outer envelope. Ex. G (Miller Dep.) at 65:5–23.

**RESPONSE:** Admitted.

56. The outer envelope for every mail ballot sent to a voter in Pennsylvania has a unique barcode. *Id.* at 69:7–19.

**RESPONSE:** Admitted.

57. The Pennsylvania Department of State has instructed county boards to scan mail ballots into SURE as quickly as possible after they are received. Ex. E (Marks Dep.) at 82:20–83:17; Ex. E6.

**RESPONSE:** Admitted.

58. As instructed by the Pennsylvania Department of State, Ex. E6, many counties scan the barcode on the outer envelope of a completed mail ballot upon receipt, which creates a record in the SURE system of the date and time that the county board received the mail ballot, Ex. E (Marks Dep.) at 68:19–70:24, 116:12–119:8; Ex. F (Kauffman Dep.) at 55:25–56:22; Ex. G (Miller Dep.) at 114:11–24, 115:19–25; Ex. H (McCloskey Dep.) at 66:18–67:10.

**RESPONSE:** Admitted.

59. As instructed by the Pennsylvania Department of State, Ex. E6, many counties also physically stamp the outer envelope with the date and time upon receiving a completed mail ballot. Ex. F (Kauffman Dep.) at 37:2–6, 77:8–24, 79:22–80:8; Ex. G (Miller Dep.) at 61:19–25, 69:11–23, 72:2–6, 85:19–86:5, 115:19–25; Ex. H (McCloskey Dep.) at 74:16–75:3, 110:9–13; Ex. K14 (“All incoming ballots are date stamped.”); Ex. K45 (“The envelopes are stamped with the date received.”).

**RESPONSE:** Admitted.

60. The date on which the voter fills out the ballot or signs the declaration on the outer envelope has no bearing on whether it was timely received by the county. Ex. E (Marks Dep.) at 128:5–12.

**RESPONSE:** Admitted.

61. The Berks County BOE does not use the handwritten date on a mail ballot’s outer envelope to determine whether the ballot was timely received. Ex. F (Kauffman Dep.) at 76:25–77:24.

**RESPONSE:** Admitted.

62. The Lancaster County BOE does not use the handwritten date on a mail ballot's outer envelope to determine whether the ballot was timely received. Ex. G (Miller Dep.) at 85:17–86:5.

**RESPONSE:** Admitted.

63. The Westmoreland County BOE does not use the handwritten date on a mail ballot's outer envelope to determine whether the ballot was timely received. Ex. H (McCloskey Dep.) at 74:16–75:3.

**RESPONSE:** Admitted.

64. County boards can determine whether a mail ballot was timely received without ever looking at the date written on a mail ballot envelope. Ex. K (responses to Request for Admission No. 2).

**RESPONSE:** Admitted.

65. The fact that the outer envelope of a mail ballot has no written date is not a reason to suspect fraud. Ex. G (Miller Dep.) at 118:11–17.

**RESPONSE:** Admitted.

66. The fact that a voter wrote the wrong year on the outer envelope of a mail ballot is not a reason to suspect fraud. Ex. F (Kauffman Dep.) at 84:17–85:11; Ex. G (Miller Dep.) at 70:13–71:6; Ex. H (McCloskey Dep.) at 76:19–77:12.

**RESPONSE:** Admitted.

67. The fact that a voter wrote a date on the outer envelope of a mail ballot that precedes the first date they could have received the ballot is not a reason to suspect fraud. Ex. G (Miller Dep.) at 70:13–18, 82:11–15; Ex. H (McCloskey Dep.) at 87:3–19.

**RESPONSE:** Admitted.

68. The fact that a voter wrote a date on the outer envelope of a mail ballot that falls after the date of the election is not a reason to suspect fraud. Ex. F (Kauffman Dep.) at 78:15–79:15, 84:18–85:11; Ex. H (McCloskey Dep.) at 76:19–77:9.

**RESPONSE:** Admitted.

69. The date written on a mail-ballot's outer envelope provides no help to a county board in preventing that voter from also casting an in-person ballot on election day. Ex. G (Miller Dep.) at 116:2–118:2.

**RESPONSE:** Admitted.

70. If a voter submits a mail ballot and then later casts an in-person provisional ballot on election day, the mail ballot will be counted and the in-person ballot will not be counted. *Id.* at 116:2–14.

**RESPONSE:** Admitted.

71. If a voter submits a mail ballot and casts an in-person provisional ballot on election day, the date written on the mail-ballot's outer envelope provides no help to a county board in determining which ballot to count. *Id.* at 116:22–117:3.

**RESPONSE:** Admitted.

72. No county identified, raised, or was made aware of any credible concern regarding fraud with respect to the way that voters wrote (or failed to write) the date on the outer envelope of their mail ballots in the November 2022 election. Ex. J (responses to Interrogatory No. 10); Ex. G (Miller Dep.) at 82:11–24; Ex. H (McCloskey Dep.) at 88:4–12.

**RESPONSE:** Admitted.

73. While a voter was referred to the district attorney in Lancaster County for allegedly voting on behalf of her deceased mother, the mother's ballot would never have been counted in that election because the county had already removed her from the voter rolls after receiving information indicating she had passed away. Ex. G (Miller Dep.) at 87:18–94:15.

**RESPONSE:** Admitted.

74. County boards are provided notification of a voter's death by the Department of Health. Ex. F (Kauffman Dep.) at 35:23–36:3; Ex. G (Miller Dep.) at 101:24–102:5; 25 P.S. § 1505(a).

**RESPONSE:** Admitted.

75. County boards do not use the date written on the outer envelope of a mail ballot to determine whether the voter passed away before election day or whether to count a ballot from such a person. Ex. F (Kauffman Dep.) at 36:20–37:25; Ex. H (McCloskey Dep.) at 36:12–23.

**RESPONSE:** Admitted.

76. The date written on the outer envelope of a mail ballot provides no information regarding the date on which the voter filled out that ballot or the truthfulness of the voter's affirmation. Ex. E (Marks Dep.) at 127:3–18, 135:6–21, 156:11–22, 204:6–19; Ex. G (Miller Dep.) at 61:11–16, 79:3–21; Ex. H (McCloskey Dep.) at 66:9–15, 70:5–10.

**RESPONSE:** Admitted.

77. The Berks County BOE does not use the date written on a mail ballot's outer envelope for any purpose other than to determine compliance with the Date Provision. Ex. F (Kauffman Dep.) at 39:22–40:2.

**RESPONSE:** Admitted.

78. The Lancaster County BOE does not use the date written on a mail ballot's outer envelope for any purpose other than to determine compliance with the Date Provision. Ex. G (Miller Dep.) at 113:23–114:8.

**RESPONSE:** Admitted.

79. The Westmoreland County BOE does not use the date written on a mail ballot's outer envelope for any purpose other than to determine compliance with the Date Provision. Ex. H (McCloskey Dep.) at 37:8–38:2.

**RESPONSE:** Admitted.

80. Plaintiff Bette Eakin is a veteran and registered Democrat in Erie County. Ex. A (Eakin Decl.) ¶¶ 1–3.

**RESPONSE:** Berks Board is without knowledge about plaintiff Bette Eakin, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

81. In the 2022 general election, Ms. Eakin submitted a mail ballot to the Erie County Board of Elections before election day because of her medical condition, which required her to travel to Ohio to receive medical care through election day. *Id.* ¶ 4.

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the "League"), but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

82. At the time she submitted her mail ballot, Ms. Eakin was undergoing care for a condition that has made her legally blind, forcing her to travel to a county board of elections office where she could obtain assistance in completing her ballot. An election worker helped Ms. Eakin request and obtain her mail ballot, complete the mail ballot, place the mail ballot in the secrecy and outer envelopes, and complete the declaration on the outer envelope. *Id.* ¶ 5.

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

83. Days later, when Ms. Eakin was receiving her medical treatment in Ohio, she received an email stating that her mail ballot had been rejected because there was a defect on her balloting materials, which she later learned was due to a missing date on the outer envelope. *Id.* ¶ 6. She was told that she would have to fix this error if she wanted her ballot to be counted. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

84. Voting is incredibly important to Ms. Eakin, and the news that her mail ballot had been rejected caused her to suffer significant emotional distress. *Id.* ¶ 7. Ms. Eakin suffers from post-traumatic stress disorder and a nervous disorder, and when she received the notification of her ballot’s rejection, her anxiety skyrocketed. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

85. Ms. Eakin spent the rest of the day making phone calls to rectify the situation, and even missed scheduled medical care appointments to figure out how to ensure her ballot would be counted. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

86. Because Ms. Eakin was receiving medical treatment out of state, her husband had to immediately leave his hunting trip and drive two hours back to Erie so that he could help make sure Ms. Eakin’s ballot was counted. *Id.* ¶ 8.

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

87. Ms. Eakin’s husband had to first stop at her son’s residence and have her son assist him in printing a form that would authorize him to act as her designated agent. *Id.* ¶ 9.

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

88. Ms. Eakin’s husband then retrieved her ballot from where she submitted it, traveled to their local polling place, explained the situation, and submitted all materials at the last possible moment before the polling place closed. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.



89. Ms. Eakin is very concerned that the Date Provision will force her to go through a similar saga in future elections. *Id.* ¶ 10.

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

90. Because of her disability, Ms. Eakin must rely on the assistance of others to complete a mail ballot like she did in 2022. But given her condition and anxiety disorders, going to her polling place on election day is extremely difficult and presents a serious risk to her health. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff The League of Women Voters of Pennsylvania (the “League”), but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

91. Plaintiff DSCC is the Democratic Party’s national senatorial committee, as defined by 52 U.S.C. § 30101(14). Ex. B (DSCC Decl.) ¶ 2.

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

92. DSCC’s mission is to support the election of candidates of the Democratic Party across the country, including in Pennsylvania, to the U.S. Senate. *Id.* ¶ 3.

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

93. DSCC works to accomplish its mission by, among other things, mobilizing and persuading voters through grassroots mobilization of volunteers and field organizers to conduct get-out-the-vote activities such as door knocking, text messaging, and phone calling. *Id.* ¶ 4.

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

94. DSCC also runs paid television, digital, and radio advertisements, as well as mailings, in support of Democratic candidates throughout the country, including in Pennsylvania. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

95. While most of DSCC's voter programs are focused on persuading eligible citizens to vote, DSCC also runs programs specifically geared toward explaining the voting process and how an eligible voter can successfully cast their ballot and have it counted. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

96. DSCC also separately allocates substantial personnel time and money for "curing" activities in multiple states where it anticipates close senatorial races. *Id.* ¶ 5.

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

97. DSCC's curing activities involve tracking data from counties, contacting voters whose ballots have been rejected, and helping them perform whatever task is necessary to ensure their ballot is ultimately counted, which varies by county. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

98. Since DSCC invests in persuading and mobilizing voters across the country, investing additional funds or personnel in one state will necessarily divert those resources from other states and key races. *Id.* ¶ 4.

**RESPONSE:** Denied.

99. The Date Provision frustrates DSCC's mission because it erects an obstacle to ensuring all mail ballots cast by Pennsylvanians who support Democratic Senate candidates are actually counted and impairs those Democratic candidates' electoral prospects. *Id.* ¶ 6.

**RESPONSE:** Denied

100. In the 2022 general election, the Date Provision forced DSCC to divert substantial personnel time and money away from its advocacy and persuasion activities discussed above and instead towards explaining the Date Provision to voters and warning them of the consequences of failing to comply with the Date Provision. *Id.* ¶ 7.

**RESPONSE:** Denied

101. The Date Provision also forced DSCC to divert resources in 2022 away from helping voters in other states cure their rejected ballots and instead towards identifying voters in Pennsylvania whose ballots had been rejected because of the Date Provision and helping them take the steps necessary to ensure their ballots would be counted. *Id.*

**RESPONSE:** Denied

102. Absent the requested injunction, the Date Provision will continue to force DSCC to divert personnel time and money away from its advocacy and persuasion activities in Pennsylvania *and* in other states and *instead* towards educating voters in Pennsylvania about the Date Provision and the severe consequences of failing to correctly date the outer envelope of a mail ballot and towards researching how each county will go about determining whether the date

written on a mail-ballot envelope is “correct,” and their respective procedures for curing such ballots. *Id.* ¶ 8.

**RESPONSE:** Denied

103. The Date Provision will also continue to force DSCC in future elections to divert resources away from efforts to assist voters in other states in resolving issues with their rejected ballots and towards helping *voters* in Pennsylvania ensure their undated or misdated mail ballots are ultimately counted. *Id.* ¶ 9.

**RESPONSE:** Denied

104. Democratic voters provide financial support in the form of political contributions to DSCC and candidates supported by DSCC on a *regular* basis, and also help select DSCC’s leadership and ultimately determine DSCC’s strategic and political direction by electing candidates to the United States Senate. *Id.* ¶ 10.

**RESPONSE:** Berks Board is without knowledge about plaintiff DSCC, but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

105. In the 2022 general election, over 2.7 million Pennsylvanians cast a vote for the Democratic senatorial candidate. *Id.* ¶ 11.

**RESPONSE:** Berks Board is without knowledge about the number of Pennsylvania voters who cast a vote for the Democrat candidate for U.S. Senator in Pennsylvania, but Berks Board does not dispute this averment for purposes of Plaintiffs’ motion for summary judgment.

106. Plaintiff DCCC is the Democratic *Party’s* national congressional committee as defined by 52 U.S.C. § 30101(14). Ex. C (DCCC Decl.) ¶ 2.

**RESPONSE:** Berks Board is without knowledge about plaintiff DCCC, but Berks Board does not dispute these averments for purposes of Plaintiffs’ motion for summary judgment.

107. DCCC's mission is to support the election of candidates of the Democratic Party from across the country, including those running in *Pennsylvania's* congressional districts, to the U.S. House of Representatives. *Id.* ¶ 3.

**RESPONSE:** Berks Board is without knowledge about plaintiff DCCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

108. DCCC works to accomplish its mission by, among other things, running paid advertisements in support of Democratic candidates; engaging in grassroots mobilization of volunteers and field organizers to perform persuasion efforts such as door knocking, text messaging, and phone banking, all towards the goal of convincing voters to support Democratic candidates; running paid canvasses for its members' *campaigns* to boost voter turnout; and encouraging voters to exercise their right to vote, through paid television, social media, and radio advertisements, phone calls, and mailings for voter education, as well as paying for professionals to assist in the aforementioned get-out-the-vote efforts. *Id.* ¶ 4. DCCC also supports efforts of state parties throughout the country, including in Pennsylvania, to conduct these activities by providing money, staff and volunteer time, and ongoing coordination. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff DCCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

109. DCCC also allocates and devotes staff, volunteers, and funds to assist voters in curing absentee or mail ballots in states where it anticipates there will be close congressional races. *Id.* ¶ 5. Helping voters *cure* their ballots involves contacting voters whose ballots have been rejected and helping them perform whatever task is necessary to ensure that their ballot is ultimately counted. *Id.* These activities require DCCC to devote substantial personnel time and

money to track data from counties, contact voters, and assist them in completing the curing process established in each county. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff DCCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

110. The Date Provision frustrates DCCC's mission because it erects an obstacle to ensuring all ballots cast *by* Pennsylvanians who support Democratic congressional candidates are actually counted, which harms those Democratic candidates' electoral prospects. *Id.* ¶ 6.

**RESPONSE:** Denied

111. As a result of the Date Provision, DCCC will be forced to divert personnel time and money away from its *persuasion* and mobilization activities and instead towards educating voters about the Date Provision and the severe consequences of failing to correctly date the outer envelope of a mail ballot, as well as spending personnel time researching how each county will go about determining whether *the* date written on a mail-ballot envelope is "correct," and their respective procedures for curing such ballots. *Id.* ¶ 7.

**RESPONSE:** Denied

112. The Date Provision will also force DCCC to divert the resources it has allocated for ballot curing activities in *other* states towards races in Pennsylvania, which impairs DCCC's ability to help voters and support Democratic candidates in other states. *Id.* ¶ 8.

**RESPONSE:** Denied

113. DCCC also *represents* the interests of Democratic voters in Pennsylvania and considers those individuals to be DCCC's constituents. *Id.* ¶ 9. Democratic voters provide financial support in the form of political contributions to DCCC and candidates supported by DCCC on a regular basis, and also help select DCCC's leadership and ultimately determine DCCC's strategic

and political direction by electing candidates to the United States House of Representatives. *Id.* DCCC asserts its claims on behalf of itself and its constituents in Pennsylvania. *Id.*

**RESPONSE:** Berks Board is without knowledge about plaintiff DCCC, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

114. In the 2022 general *election*, more than 2.4 million Pennsylvanians cast a vote for the Democratic congressional candidate in their district. *Id.* ¶ 10.

**RESPONSE:** Berks Board is without knowledge about the number of Pennsylvania voters who cast a vote for the Democrat candidate for U.S. Representative in their district, but Berks Board does not dispute this averment for purposes of Plaintiffs' motion for summary judgment.

115. Plaintiff AFT Pennsylvania (the "Federation") is the Pennsylvania affiliate of the American Federation of Teachers and a union of professionals representing approximately 25,000 members in 55 local affiliates *across* Pennsylvania. Ex. D (AFT Decl.) ¶¶ 2–3.

**RESPONSE:** Berks Board is without knowledge about plaintiff AFT Pennsylvania (the "Federation"), but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

116. The Federation's members include public school educators and support staff, higher-education faculty and support staff, and other public employees such as social workers. *Id.* ¶ 3. These members attend meetings of, and pay dues to, their local AFT affiliates (who in turn contribute funds to the Federation as a whole), as well as elect delegates to a biannual statewide convention, which elects the Federation's leadership. *Id.* ¶ 4.

**RESPONSE:** Berks Board is without knowledge about plaintiff the Federation, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

117. The Federation advocates for sound, commonsense public education policies, including high academic and conduct standards for students and greater professionalism for teachers and school staff, as well as excellence in public service through cooperative problem-solving and workplace innovations. *Id.* ¶ 5.

**RESPONSE:** Berks Board is without knowledge about plaintiff the Federation, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

118. In furtherance of its mission, the Federation and its individual members devote significant resources towards advocating for education policies that improve the daily lives and livelihood of the Federation's members, and correlatively, to ensure that those members are able to access the franchise to support these policies at the ballot box. These resources take the form of direct contributions to candidates, running phone banks and canvassing, and sharing information with members about getting out the vote. *Id.* ¶¶ 6-7.

**RESPONSE:** Berks Board is without knowledge about plaintiff the Federation, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

119. Because Federation members typically have to work on election day, many turn to mail ballots to exercise their right to vote. *Id.* ¶ 8.

**RESPONSE:** Berks Board is without knowledge about plaintiff the Federation, but Berks Board does not dispute these averments for purposes of Plaintiffs' motion for summary judgment.

120. Any provision or policy requiring the rejection of valid mail ballots with missing or incorrect dates ("the Date Provision") threatens to disenfranchise members of the Federation who are unquestionably eligible to vote. *Id.*

**RESPONSE:** Denied. Berks Board disputes this conclusion.



121. At least one Federation member had his mail ballot rejected in 2022 because of the Date Provision. *Id.* ¶ 9.

**RESPONSE:** Berks Board is without knowledge about whether at least one Federation member had his mail ballot rejected in 2022 because of the date provision, but Berks Board does not dispute this averment for purposes of Plaintiffs' motion for summary judgment. The Federation member whose mail ballot was rejected in 2022 based on non-compliance with the Date Provision was a Philadelphia County voter, not a Berks County voter.

122. For the 2022 general election, the Date Provision forced the Federation to spend resources on digital communications such as email newsletters and online publications to educate its members about the need to correctly date the outer envelope of mail ballots, and also to spend staff and member time reaching out to help its members and other Pennsylvania voters cure their ballots after they were rejected because of the Date Provision. *Id.* ¶ 10.

**RESPONSE:** Denied. Berks Board disputes this conclusion.

123. The rejection of undated or misdated ballots frustrates the Federation's mission of electing candidates who support the policies for which the Federation advocates, and will force the Federation to divert staff and member time in future elections from its advocacy efforts toward educating its members and other voters specifically about the need to date their mail ballots and what to do if their ballot is rejected pursuant to the Date Provision. *Id.* ¶ 11. The Federation will also have to divert staff and member time helping voters whose mail ballots are rejected under the Date Provision ensure that their votes are ultimately counted. *Id.* And because the Federation has limited resources, the staff and member time spent on activities meant to mitigate the Date Provision's harms will necessarily divert resources away from the Federation's other core

activities, including canvassing and get-out-the-vote efforts such as phone banking, door knocking, and rallying at community events like roundtables and book giveaways. *Id.*

**RESPONSE:** Denied. Berks Board disputes this conclusion.

Respectfully submitted,

Dated: May 5, 2023

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

PENNSYLVANIA STATE	:	
CONFERENCE OF THE NAACP, <i>et al.</i> ,	:	
	:	CIVIL ACTION
Plaintiffs,	:	
	:	No. 1:22-cv-00339-SPB
v.	:	
	:	
LEIGH M. CHAPMAN, in her official	:	
capacity as Acting Secretary of the	:	
Commonwealth, <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: May 5, 2023

**SMITH BUKOWSKI, LLC**

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