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Attorneys for Board of Elections

**NICHOLE MISSINO, LEAH HOOPES &
GREGORY STENSTROM**

v.

**DELAWARE COUNTY BOARD OF
ELECTIONS & DELAWARE COUNTY
BUREAU OF ELECTIONS**

: **COURT OF COMMON PLEAS,**
: **DELAWARE COUNTY**
:
: **ELECTION LAW**
:
: **NO: CV-2022-008091**
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**DELAWARE COUNTY BOARD OF ELECTIONS OPPOSITION TO MOTION FOR
RECONSIDERATION FILED BY PLAINTIFFS NICHOLE MISSINO, LEAH HOOPES,
& GREGORY STENSTROM**

The Delaware County Board of Elections and Delaware County Bureau of Elections (collectively, the “Board”), by and through their undersigned counsel, hereby submit their Opposition to the Motion for Reconsideration (“Motion”) filed by Plaintiffs Nichole Missino, Leah Hoopes and Gregory Stenstrom (collectively “Plaintiffs”).

1. Admitted in part, denied in part. It is admitted that the November 22, 2022 Order entered by Judge Dozor (the “Order”) said that Plaintiffs failed to establish any of the six elements required by Pennsylvania law to obtain a preliminary injunction. All other allegations are denied as mischaracterizations.

2. Admitted in part, denied in part. It is admitted that the Order states Plaintiffs mounted an unauthorized election challenge, and it is admitted that on November 21, 2022 the

Court held a nine-hour hearing on Plaintiffs' Motion for Preliminary Injunction. All other allegations are denied as unintelligible.

3. Denied as stated. The Board denies the allegations of this Paragraph and each sub-Paragraph as mischaracterizations. It is specifically denied that any Board employee testified that the Board or any of its employees violated the Pennsylvania Election Code. By way of further response, Plaintiffs have falsely characterized much of the testimony referenced in this Paragraph, which was recorded and is publicly available.

4. Admitted in part, denied in part. It is admitted that the Court found that Plaintiffs presented no evidence to support their claims. All other allegations are denied.

5. Denied. The Board denies the allegations of this Paragraph as mischaracterizations.

6. Denied. This allegation appears to be directed to the Court, rather than the Board, and as such no response is required.

7. This Paragraph contains Plaintiffs' request for relief to which no response is required.

Dated: December 15, 2022

Respectfully submitted,

/s/ J. Manly Parks

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CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Opposition to Motion for Reconsideration to be filed and served via this Court's e-filing system upon all counsel and pro se parties of record.

/s/ Nicholas M. Centrella, Jr.

Dated: December 15, 2022

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**DELAWARE COUNTY BOARD OF ELECTIONS MEMORANDUM OF LAW IN
OPPOSITION TO MOTION FOR RECONSIDERATION FILED BY PLAINTIFFS
NICHOLE MISSINO, LEAH HOOPES, & GREGORY STENSTROM**

The Delaware County Board of Elections and Delaware County Bureau of Elections (collectively, the “Board”), by and through their undersigned counsel, hereby submit their Memorandum of Law in Support of their Opposition to the Motion for Reconsideration (“Motion”) filed by Plaintiffs Nichole Missino, Leah Hoopes and Gregory Stenstrom (collectively “Plaintiffs”).

I. INTRODUCTION

The Motion does not even attempt to state a valid basis for reconsideration. Instead, the Motion merely rehashes the Plaintiffs’ arguments that have failed in three consecutive injunction hearings lasting a combined 14 hours. Plaintiffs provide no new evidence, nor point to any changes in law, to support reconsideration. Accordingly, the Motion should be denied.

II. LEGAL STANDARD

“A motion for reconsideration is addressed to the sound discretion of the trial court and may be filed within thirty days of the date of the order upon which reconsideration is sought.” *Moore v. Moore*, 535 Pa. 18, 25, 634 A.2d 163, 166 (Pa. 1993) (citing *Schoff v. Richter*, 386 Pa.Super. 289, 562 A.2d 912 (Pa. Super. 1989)). A motion for reconsideration should only be granted if the court either “(1) made a clear error of law or of fact resulting in manifest injustice, (2) newly discovered evidence has become available [since] the original motion was decided, or (3) there has been intervening change in controlling law.” *Bada v. Comcast Corp.*, No. 2479 EDA 2014, 2015 WL 6675399, at *10 (Pa. Super. Aug. 21, 2015) (citing *Joseph F. Cappelli & Sons, Inc. v. Keystone Custom Homes, Inc.*, 2003 PA Super 8, § 24, 815 A.2d 643, 648 (Pa. Super. 2003)).

III. ARGUMENT

Plaintiffs, unhappy with the three separate rulings in this case entered by two different judges, each holding that Plaintiffs are not entitled the relief they seek, now pursue reconsideration without an iota of factual or legal support.

As Plaintiffs acknowledge, the original order entered by Judge Dozor on November 22, 2022 followed nine total hours of evidentiary hearings on their Motion for Preliminary Injunction.¹ See Motion at ¶ 9. Plaintiffs presented testimony from multiple witnesses over the course of nearly seven of those nine hours and had the opportunity to cross-examine the Board’s witnesses. See *id.* at ¶ 3. At the conclusion of the presentation of that marathon hearing, the

¹ Plaintiffs never identify the actual order which they seek the Court to reconsider. The Board believes, based on certain facts averred in the Motion, that Plaintiffs challenge the November 22, 2022 order and responds accordingly.

Court held that there was no evidence to support Plaintiffs' claims (which, indeed, have no basis whatsoever in fact or law). *Id.* at ¶¶ 4, 5.

Plaintiffs fail to assert that there is any newly discovered evidence or intervening change in controlling law to justify reconsideration. Instead, Plaintiffs choose to misquote the evidence that was presented, misstate the law, and generally present an entirely false narrative of what actually occurred. For example, Plaintiffs have completely misrepresented the context of virtually every piece of evidence quoted in ¶ 3 of the Motion—a truly odd tactic, seeing as the Court was present for the hearing and will immediately recognize the attempted duplicity. Moreover, Plaintiffs fail to identify any manifest error of law or fact that requires reconsideration. Rather, Plaintiffs—to put it in the most generous light possible—merely put their own spin on testimony that has already been considered by the Court to argue that the Court's Order was incorrect.

There is no basis for reconsideration and this nakedly vexatious motion is a waste of the Court's time and the County's resources.

IV. CONCLUSION

Because Plaintiffs' Motion for Reconsideration has no basis in fact and does not meet the legal standard for reconsideration, the Board respectfully requests that this Court deny the Motion as well as all other relief sought by Plaintiffs.

Dated: December 15, 2022

Respectfully submitted,

/s/ J. Manly Parks
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