

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,  
PENNSYLVANIA

RICHARD HOUSER and CATHERINE  
BURNS,

Plaintiffs,

vs.

COUNTY OF LYCOMING, LYCOMING  
COUNTY BOARD OF ELECTIONS,  
LYCOMING COUNTY COMMISSIONER  
TONY MUSSARE, LYCOMING COUNTY  
COMMISSIONER SCOTT METZGER,  
LYCOMING COUNTY COMMISSIONER  
RICHARD MIRABITO and FORREST  
LEHMAN, DIRECTOR OF ELECTIONS.

Defendants.

No. CV 22-01,219

CIVIL ACTION - LAW

OPINION PURSUANT  
TO PA. R.A.P. 1925(a)

THOMAS D. HEAP  
PROTHONOTARY

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FILED  
LYCOMING COUNTY

**OPINION PURSUANT TO RULE PA. R.A.P. 1925(a)**

AND NOW, this 23<sup>rd</sup> day of August, 2023, the Court issues this Opinion pursuant to Rule 1925(a), Pennsylvania Rules of Appellate Procedure.<sup>1</sup> On July 26, 2023 Plaintiffs filed their Notice of Appeal to the Commonwealth Court from this Court's Order entered July 5, 2023. This Court issued an Order pursuant to Rule 1925(b), Pennsylvania Rules of Appellate Procedure,<sup>2</sup> on August 1, 2023, which it amended on August 3, 2023, and Plaintiffs filed their Concise Statement of Matters Complained of on Appeal on August 21, 2023. Plaintiffs raise four issues in their Statement:<sup>3</sup>

1. Whether the Plaintiffs' entire Complaint should have been dismissed when Plaintiffs properly plead a Complaint in Mandamus requesting relief under 25 P.S. § 2642(i).

<sup>1</sup> Pa. R.A.P. 1925(a): "... [U]pon receipt of the notice of appeal, the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall ... file of record at least a brief opinion of the reasons for the order...."

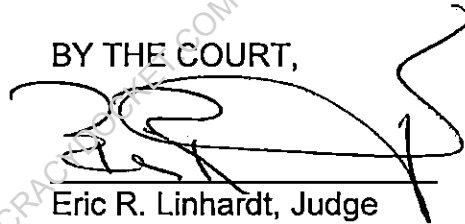
<sup>2</sup> Pa. R.A.P. 1925(b)(1): "If the judge entering the order giving rise to the notice of appeal ... desires clarification of the errors complained of on appeal, the judge may enter an order directing the appellant to file of record ... a concise statement of the errors complained of on appeal...."

<sup>3</sup> Pa. R.A.P. 1925(b)(4)(vii): "Issues not included in the [appellant's Concise] Statement [of Matters Complained of on Appeal] ... are waived."

2. Whether the Trial Court erred in dismissing the Plaintiffs' Complaint in its entirety.
3. Whether the Trial Court erred in dismissing Plaintiffs' Complaint based on a fallacy, *i.e.*, that Plaintiffs were challenging the election when in fact, Plaintiffs did not challenge the election in their pleading.
4. Whether the Trial Court erred by dismissing the Plaintiffs' Complaint in Mandamus in its entirety based upon the fact that Plaintiffs requested a forensic audit as part of the relief request.

The Court is satisfied that its Opinion and Order entered July 5, 2023 comprehensively addresses the issues raised by Petitioner.<sup>4</sup> Therefore, the Court relies upon its prior opinion. For the reasons explained therein, the Court believes it has properly decided the issues in this case.

BY THE COURT,



Eric R. Linhardt, Judge

ERL/bel

cc: Gregory A. Stapp, Esquire  
J. David Smith, Esquire  
J. Michael Wiley, Esquire  
Prothonotary

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<sup>4</sup> The Court notes, however, that it did not "dismiss[] Plaintiffs' Complaint based on a fallacy, *i.e.*, that Plaintiffs were challenging the election ..." in its July 5, 2023 Opinion and Order, as the Opinion itself makes clear.