

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

DELAWARE

County

For Prothonotary Use Only:

Docket No:

CV-20-7523

FILED
2020 DEC 22 PM 1:52

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☐ Complaint ☐ Writ of Summons ☒ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

Delaware County Republican Executive Committee

Lead Defendant's Name:

Delaware County Board of Elections

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☒ within arbitration limits
(check one) ☐ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Deborah Silver, Esq.

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute:
Discrimination
☐ Employment Dispute: Other

☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin
☒ Other:
Election Law Matter

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

- (i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.
- (ii) actions for support, Rules 1910.1 et seq.
- (iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.
- (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
- (v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.
- (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA

COVER SHEET - NOTICE OF FILING OF MOTION OR PETITION UNDER
LOCAL RULES OF CIVIL PROCEDURE

CASE CAPTION:

Delaware County Republican Executive Com.

CIVIL CASE NO. CV-2020-007523

VS. Delaware County Board of Elections

NATURE OF MATTER FILED: (please check one)

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Petition Pursuant to Rule 206.1 | <input type="checkbox"/> Response to Petition | <input type="checkbox"/> Motion for Judgment on the Pleadings Pursuant to Rule 1034(a) |
| <input type="checkbox"/> Motion Pursuant to Rule 208.1 | <input type="checkbox"/> Response to Motion | <input type="checkbox"/> Summary Judgment Pursuant to Rule 1035.2 |
| <input type="checkbox"/> Family Law Petition/Motion Pursuant to Rule 206.8 | | |

**FILING PARTY IS RESPONSIBLE FOR SERVICE OF THE RULE RETURNABLE
DATE OR HEARING DATE UPON ALL PARTIES**

A motion or petition was filed in the above captioned matter on the ____ day of _____, which:

☐ Requires you, Respondent, to file an Answer within twenty (20) days of the above date to this notice, or risk the entry of an Order in favor of the Petitioner. Answers must be filed and time stamped by the Office of Judicial Support by 4:30 PM on the following date _____.

☐ Requires all parties, to appear at a hearing/conference on the ____ day of _____, at ____ in Courtroom ____, Delaware County Courthouse, Media, Pennsylvania. At this hearing/conference you must be prepared to present all testimony and/or argument, and must ensure that your witnesses will be present.

☐ Was timely answered, thus requiring the scheduling of the following hearing in the above captioned matter on: _____ at 10:00 AM in Courtroom ____.

At this hearing, all parties must be prepared to present all testimony and/or argument and **must ensure that their witnesses will be present.**

☐ Qualifies as an Uncontested Motion or Petition, and as such requires neither an answer from the Respondent nor the scheduling of a hearing in this matter.

☒ Has been assigned to Judge John P. Capuzzi, Sr.

FOR OFFICE USE ONLY

Mailing date: _____

Processed by: _____

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

V.

BOARD OF ELECTIONS

: ELECTION LAW

: NO.: CV-2020-007523

: EMERGENCY PETITION FOR
: SANCTIONS FOR CONTEMPT
: AND FOR VIOLATING
: ELECTION CODE
:

Praecipe for Entry of Appearance

To the Prothonotary:

Please enter my appearance on behalf of Prospective Intervening Petitioners
Dasha Pruett, Gregory Stenstrom and Leah Hoopes.

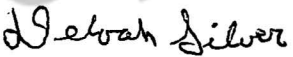
Papers may be served at the address set forth below.

Attorney Deborah Silver, ID # 45521

Law Office of Deborah Silver
54 Shadeland Avenue
Drexel Hill, PA. 19026

(610) 284-4247

Date: December 22, 2020



Signature: Deborah Silver, Esq.

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

V.

BOARD OF ELECTIONS

:
: ELECTION LAW
:
: NO.: CV-2020-007523
:
:
: EMERGENCY PETITION FOR
: SANCTIONS FOR CONTEMPT
: AND FOR VIOLATING
: ELECTION CODE
:

[Proposed] ORDER

AND NOW, this ____ day of December, 2020, upon consideration of the Emergency
Petition for Sanctions Against the Board of Elections for Contempt for Disobeying Judge
Capuzzi's November 4, 2020 Order, and for Violating the Election Code Provisions Related to
Observers, of Intervening Petitioners Dasha Pruett, Gregory Stenstrom and Leah Hoopes, and
any response thereto by the Board of Elections, it is hereby ORDERED AND DECREED that
said Petition for Sanctions is **GRANTED**.

____ A Declaration is Issued holding the Board of Elections in Contempt for disobeying
paragraphs 1, 2 and 3 of Judge Capuzzi's Order issued 11/4/2020, permitting observers to be
present at all hours during the resolution process of ballots, permitting observers to be present to
observe the sorting machine at all hours when ballots are sorted, and permitting observers to be
present in a ballot room to observe the room for at least 5 minutes every 2 hours. The Board of
Elections violated and disobeyed all three of the above-referenced paragraphs in Judge Capuzzi's
11/4/2020 Order, and there is no valid excuse or reason for doing so.

____ A Declaration is Issued holding the Board of Elections is guilty of a misdemeanor,
and in violation of the provisions of the Election Code permitting observers to be present when

mail-in and absentee ballots are opened and counted (Section 3146.8), and the Board of Elections is Ordered to pay a \$1,000.00 sanction ____ to the Intervening Petitioner Dasha Pruett, whose election was adversely affected by same, _____ to this Court, and _____ the members of the Board of Elections are sentenced to 1 year in prison, which sanctions are set forth in Section 1806 of Pennsylvania's Election Code as penalties for refusing to permit watchers to be present during the computation and canvassing of returns of any election, and for refusing to permit observers and watchers to be present when envelopes containing official absentee and mail-in ballots are opened, counted and recorded.

____ An Order that the Board of Elections forthwith provide Pruett, Stenstrom and Hoopes with (1) the original USB V-cards that were inserted into computers that tabulated the votes, (2) the chain of custody documents signed by the election judges, and (3) the outer envelopes, in order that an independent forensic audit can be obtained by the Prospective Intervening Petitioners;

____ An Order that the Board of Elections forthwith provide Pruett, Stenstrom and Hoopes with the computer event logs that disclose when the USB V-cards were inserted into computers used to tabulate the votes;

____ An order, declaration and/or injunction enjoining the "winning" U.S. House of Representative candidate that ran against Candidate Dasha Pruett from exercising official authority during the pendency of this action until an independent forensic audit is completed, or until a hearing is held on this Petition, where testimony from witnesses are presented;

____ An Order that the Board of Elections pay Intervening Petitioners' attorneys' fees in the amount of \$_____, and costs in the amount of \$_____.

BY THE COURT: _____, J.

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY,
PENNSYLVANIA**

CIVIL DIVISION – LAW

Deborah Silver, Esq.
Attorney I.D. # 45521
54 Shadeland Avenue
Drexel Hill, PA. 19026
(610) 284-4247

Attorney for Prospective Intervening Petitioners
U.S. House of Representatives Candidate Dasha Pruett, and
Duly Appointed Observers Gregory Stenstrom and Leah Hoopes

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

V.

BOARD OF ELECTIONS

:
: ELECTION LAW
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: NO.: CV-2020-007523
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:

**EMERGENCY PETITION AGAINST BOARD OF ELECTIONS
FOR SANCTIONS FOR CONTEMPT FOR VIOLATING
JUDGE CAPUZZI'S 11/4/2020 ORDER, AND FOR VIOLATING
ELECTION CODE PROVISIONS ALLOWING OBSERVERS**

Prospective Intervening Petitioners Dasha Pruett, Gregory Stenstrom and Leah Hoopes hereby petition this Honorable Court on an Emergency Basis to issue an Order declaring Delaware County Board of Elections to be in contempt for failing to comply with the November 4, 2020 Order issued by Honorable Judge John Capuzzi, related to observers, and for sanctions for that contempt, and sanctions for violating the Election Code provisions allowing observers.

In support of this Petition, Prospective Intervening Petitioners aver as follows:

1. A true and correct copy of this Order is attached hereto as **Exhibit 1**.

2. Judge John Capuzzi granted the request of Delaware County Republican Executive Committee (“DCREC”), for an Order directing Delaware County Board of Electors (“BOE”) to grant access to and permit DCREC’s observers to be present in all areas of the BOE offices where pre-canvassing, sorting, opening, counting and recording of absentee and mail-in ballots was occurring or taking place for the returns of the November 3, 2020 General Election.
3. The following paragraphs of Judge Capuzzi's Order were disobeyed:
 - “1. Four Observers in total (2 observers from the Republican Party, or affiliated candidates, and 2 observers from the Democratic Party, or affiliated candidates) are permitted to observe the resolution area at all hours while ballots are being resolved;
 2. Two observers (1 representing the Republican Party, or affiliated candidates, and 1 representing the Democratic Party, or affiliated candidates) are permitted to observe the sorting machine area at all times while the machine is in use. However all observers shall stand back while the machine is in use due to safety concerns;
 3. At two-hour intervals in total (1 representing the Republican Party, or affiliated candidates, and 1 representing the Democratic Party, or affiliated candidates) are permitted to enter the ballot room, to examine the room; however are not permitted to examine the physical ballots contained within the room, individually. They must be escorted by a member of the Election Board Staff with the time not to exceed five minutes each visit;”
4. The BOE only allowed observers in the rear room where mail-in and absentee ballots were being resolved for 5 minutes every two hours in violation of paragraph 1 of Judge Capuzzi’s Order which permits observers to be present at all hours when ballots are resolved.
5. The BOE did not allow observers to enter a rear locked room where ballots were stored for at least 5 minutes every 2 hours, only allowing observer Gregory Stenstrom to enter that room twice, at 1:30 p.m. and 3:30 p.m., where he observed what appeared to be tens of thousands of unopened ballots.
6. The BOE did not give meaningful access to observe/view the area where the sorting machine was in use. Instead, duly appointed observers were confined to a “pen” 25

feet away from the sorting machine, preventing the observers from having a clear and unobstructed view of the sorting machine while in operation sorting ballots.

7. Besides violating the first 3 paragraphs of Judge Capuzzi's Order, the BOE also violated the Election Code provisions which permit observers and watchers duly appointed by political candidates to be present when absentee and mail-in ballots are opened, and while those ballots are counted and recorded.
8. Partisan observers are permitted to be present when absentee and mail-in ballot envelopes are opened, and when the ballots are counted and recorded (25 P.S. § 3146.8).
9. Pennsylvania Statutes Title 25 P.S. Elections & Electoral Districts § 3146.8, Canvassing of official absentee ballots, states:

“(b) Watchers shall be permitted to be present when the envelope's containing official absentee ballots are opened and when such ballots are counted and recorded.”
10. Partisan observers may be present at the tabulation or canvassing of unofficial and official returns, and any recount or recanvass (25 P.S. § 2650).
11. Partisan observers may observe at polling locations and may stay until the time that the counting of votes is complete (25 P.S. § 2687).
12. The BOE violated the Election Code provisions allowing observers, and violated Judge Capuzzi's Order permitting “observers to observe the resolution area at all hours while ballots are being resolved.”
13. According to Prospective Intervening Petitioners Gregory Stenstrom and Leah Hoopes, who were both duly appointed observers, resolution of mail-in and absentee ballots took place in an unlocked back room.

14. The BOE did not allow observers to observe this resolution process at all hours. To the contrary, the BOE restricted access by only allowing two observers in the back room for 5 minutes every two hours.
15. Furthermore, Judge Capuzzi issued his order at or around 9:30 p.m. on Wednesday, November 4, 2020. Stenstrom and Hoopes arrived on Thursday morning, November 5, 2020, at or around 8:30 a.m., and they sought entrance to the back room.
16. The BOE did not allow any observers to enter the back room until 11:00 a.m.
17. The distance the observers were allowed to be in the back room when they were finally allowed to enter, behind a roped off area, was too far away from where the resolution process was taking place to see the ballots or the envelopes.
18. Prospective Intervening Petitioners are filing a contemporaneous Emergency Petition to Intervene. A true and correct copy of the Emergency Petition to Intervene is attached hereto as **Exhibit 2**.
19. Prospective Intervening Petitioner Dasha Pruett ("Pruett") is a candidate for the U.S. House of Representatives for the 5th Congressional District. She resides at 1122 Childs Avenue, Drexel Hill, PA. 19026.
20. Pruett is an intended beneficiary of the Order issued by Judge Capuzzi on November 4, 2020 because the observers ensure that candidates such as Pruett obtain a fair and transparent election in their run for public office.
21. Prospective Intervening Petitioner Gregory Stenstrom ("Stenstrom") is an observer appointed by Candidate Thomas Killion, who ran for re-election to the Pennsylvania State Senate. A true and correct copy of the Watcher's Certificate evidencing Stenstrom's appointment as an observer, which was approved by the County Board of Elections, is attached to his verification at the end of this Emergency Petition. Mr. Stenstrom resides at 1541 Farmers Lane, Glenn Mills, PA. 19342.

22. Prospective Intervening Petitioner Leah Hoopes (“Hoopes”) is a duly appointed observer appointed by Candidate Craig Williams, who successfully ran to Represent District 160 in the Pennsylvania House of Representatives. Ms. Hoopes resides at 241 Sulky Way, Chadds Ford, PA. 19317.
23. Each of the Prospective Intervening Petitioners are “qualified electors” as that term is defined in Pennsylvania’s Election Code. Hence, they all have standing to challenge the election results in Delaware County.
24. Both Stenstrom and Hoopes are intended beneficiaries of the Order issued by Judge Capuzzi on November 4, 2020 because they are duly appointed observers which Judge Capuzzi ordered must be permitted to observe (a) the resolution area at all hours while ballots were being resolved, (b) the sorting machine area at all times while the machine is in use, and (c) the ballot room.
25. This Petition for Contempt, and Sanctions for Contempt and for the BOE’s violation of the Election Code provisions permitting observers, is filed on an Emergency Basis because there is little time remaining before the “winning” candidate that ran against Pruett takes the oath of office and is sworn in. One of the requested items in the prayer for relief is an Order prohibiting Pruett’s opponent from taking any official action until such time as Judge Capuzzi rules on the instant petition.
26. Prospective Intervening Petitioners respectfully request any relief that this Court deems appropriate, including but not limited to an independent forensic audit of (a) the original USB V-Cards that were inserted into computers used for tabulating the votes, (b) the chain of custody documents signed by the election judges and (c) an independent forensic audit and count of the outer envelopes.

27. Further, Prospective Intervening Petitioners request an Order that the BOE provide them with the computer event logs which disclose when the USB V-Cards were inserted into computers used for tabulating the votes.
28. At the time that Stenstrom left the Wharf Office of the BOE in Chester, PA., where the opening and counting of mail-in and absentee ballots were taking place, at or around 2:30 a.m. on Election Day, November 3, 2020, President Trump, and Pruett, were winning their elections.
29. Counting of mail-in and absentee ballots must have continued unobserved by any duly appointed observers throughout the night on Election Day, because the next morning Biden and the opponent of Pruett were winning.
30. On information and belief, the votes of people that voted at the polls in person were counted first in Delaware County, Pennsylvania. President Trump and Pruett were winning based on those in-person ballots which we cast in Delaware County at or around 2:30 a.m. on Election Day, when Stenstrom left the Wharf warehouse.
31. The absentee and mail-in ballots cast by voters were delivered to the offices of the BOE at the Wharf Office Building in Chester, Delaware County.
32. Beginning at 7:00 a.m. on November 3, 2020, the BOE began to “pre-canvass” (inspect for defects, compare voter name to signed name) the absentee and mail-in ballots in accordance with 15 P.S. § 3146.8 of the Election Code.
33. At the close of the polls at 8:00 p.m., the BOE began to “canvass” (sort, open, count and record) absentee and mail-in ballots. See § 3146.8.
34. The pre-canvass and canvass of the absentee and mail-in ballots occurs at the BOE’s Wharf Offices located on one floor of the building, and consists of various rooms. One wall bisects the office to create an open front area (the “front”), and a rear area that consists of various offices and work stations (the “rear”).

35. These factual statements are contained in the Verified Emergency Petition filed by Attorney John McBlain on November 4, 2020. Attorney McBlain, himself, signed the verification, because he went to the Wharf Offices of the BOE on multiple occasions when he was attempting to get the BOE to allow observers entrance in the rear area where absentee and mail-in ballots were being resolved.
36. Observers appointed by the DCREC and various candidates arrived at the Wharf Offices of the BOE after the polls closed on November 3, 2020, to be present and observe the opening, counting and recording of the absentee and mail-in ballots, as allowed by 25 P.S. § 3146.8(b), and to observe the pre-canvas of any ballots as allowed by 25 P.S. § 3146.8(g)(1.1).
37. The BOE confined observers to a “pen” – a roped off area at the entrance of the front, and refused to permit observers to inspect/view the pre-canvass and canvass of ballots taking place in the rear.
38. The observers pleaded with employees of the BOE to be allowed in the rear to observe the pre-canvass and canvass activities in both the front and the rear throughout the evening hours of November 3, 2020, and into the morning hours of November 4, 2020, to no avail.
39. The solicitor to the BOE was present in the Wharf Offices of the BOE during this time but refused to discuss the issue of access, transparency and fairness and, instead, retreated to the rear, out of sight.
40. When observers arrived at the Wharf Offices of the BOE at 9:30 a.m. on November 4, 2020 for inspection/view of the pre-canvass and canvass activities the BOE’s employees continued to refuse entry to the rear, where absentee and mail-in ballots were being opened, sorted and counted.

41. During all this time pre-canvass and canvassing activities continued to occur, without any observers present, in violation of the Election Code which allows observers to be present during these activities. See 25 P.S. §§ 3146.9, 2648 and 3150.17, which provide that the ballots and envelopes for such ballots are public records which must be held open for inspection in accordance with the rules established by the Election Code.
42. See 25 P.S. § 3152, which provides that the general returns from the various election precincts which have been returned unsealed shall be open to public inspection at the office of the county board as soon as they are received from the judges of election.
43. The refusal of any member of the county board of elections to permit an observer or their attorney to observe the canvassing of returns is guilty of a misdemeanor upon such conviction. See 25 P.S. § 3506. Prospective Intervening Petitioners respectfully request that this Court issue an Order declaring that the BOE is guilty of a misdemeanor, and in the Court's discretion, to award a financial sanction against the BOE not to exceed \$1,000 and/or a prison sentence not to exceed 1 year, as proscribed by Section 1806 of the Election Code.
44. The BOE kept observers away from the rear where mail-in and absentee ballots were being resolved for all of Election Day, November 3, 2020, and for mostly all of November 4, 2020 as well.
45. It is during this extended time period that most of the mail-in and absentee ballots were resolved, without any observers present to view the resolution process.
46. It is during this extended time period, in the absence of any statutorily permitted observers, that a fraud was perpetrated resulting in a rigged election which deprives candidate Dasha Pruett of her right to a fair and transparent election.

47. The Pennsylvania Election Code requires that observers be allowed to be present during the pre-canvassing and canvassing of votes, in order for the election process to be fair and transparent.
48. The BOE's restricting the observers for the candidates and their attorneys to a "pen" in the front, and completely prohibiting them from observing whatever the BOE is doing in the rear with the pre-canvass and canvass activities violates the statutory requirements and the spirit of the various Election Code sections cited above.
49. Not being allowed access to the rear where mail-in and absentee ballots are being resolved precludes the observers from observing even basic matters such as the number of ballots already canvassed, the number of ballots yet to be canvassed, the number of ballots to be set aside as defective, and how the BOE makes any determination about what votes will or will not be counted for this most important election.
50. The BOE applied these Draconian restrictive rules not only to the pre-canvass and canvass process, but also to the computation of returns and the provisional ballots that were thereafter counted.
51. In violation of Judge Capuzzi's Order issued at 9:30 p.m. on November 4, 2020, which provides in paragraph 1 that observers are allowed to be present at all hours when ballots are being resolved, the BOE only allowed access for 5 minutes every 2 hours to the rear room where mail-in and absentee ballots were being resolved, and 20-25 feet away from the resolution process, where the observers were deprived of a clear unobstructed view of the envelopes and the ballots.
52. The BOE violated paragraph 3 of Judge Capuzzi's Order by not allowing the observers to enter and observe the ballot rooms where ballots were being stored for up to 5 minutes every 2 hours, only allowing Stenstrom to enter the rear locked ballot

storage room twice, at 1:30 p.m. and 3:30 p.m., where he observed what appeared to him to be tens of thousands of unopened ballots. It appeared to Stenstrom that the number of unopened mail-in ballots increased by 20,000, from upwards of 50,000 at 1:30 p.m. to upwards of 70,000 at 3:30 p.m., with no explanation.

53. Other observers were also allowed to observe the rear locked ballot storage room, but the BOE did not begin allowing anyone to enter the ballot room until 1:30 p.m. when Judge Capuzzi issued his Order at 9:30 p.m., the night before.

54. The BOE stopped letting observers in the ballot room after 7:30 p.m., even though the observers still desired entrance. Stenstrom left the Wharf Office at 10:00 p.m. when the BOE stopped allowing observers to inspect/view the ballot room on the evening of Thursday, November 5, 2020.

55. The reason Judge Capuzzi may have ordered observers to be permitted access to a ballot room for at least 5 minutes every 2 hours is to prevent anyone from swapping out legal ballots for fake ones, or to make sure that the universe of ballots does not suddenly dramatically increase without any valid explanation. Without observers in the ballot room with some limited degree of regularity, even for 5 minutes or less, this fraud could occur.

56. A shocking number of mail-in ballots have inexplicably appeared in counties since the November 4 ballot reports. For instance, in Delaware County, the county's Wednesday, November 4 report indicated that Delaware County reported it has received about 113,000 mail-in ballots and counted approximately 93,000 voted ballots. On the next day, November 5, the Secretary of the Commonwealth's 4:30 report reflected that Delaware County had received about 114,000 ballots. Several hours later, the Delaware County solicitor reported to an observer that the County had received about 126,000 mail-in ballots and counted about 122,000.

57. As of Sunday, November 8, 2020, the Department of State's website reflects that the County has counted about 127,000 mail-in ballots. Intervening Prospective Petitioners have received no explanation for where the additional 14,000 voted ballots came from, when they arrived, or why they are included in the current count.
58. In Delaware County, an observer in the county office where mail-in ballots were counted was told by the Delaware County Solicitor that ballots received on November 4, 2020, were not separated from ballots received on Election Day, and the County refused to answer any additional questions.
59. The Honorable Justice Samuel Alito, Associate Justice of the U.S. Supreme Court, had issued an Order that any mail-in and absentee votes that arrived after 8:00 p.m. on Election Day, November 3, 2020, were to be segregated from the votes that were made in person and those that were mail-in and absentee votes that arrived by Election Day.
60. The BOE violated Justice Alito's Order, causing a spoliation of evidence and making it impossible to determine when those late arriving mail-in and absentee ballots were sent, and whether there were any other irregularities appearing on those late arriving votes.
61. According to Ms. Hoopes, in the back room to the right, was a table in which pre-sorting of mail-in and absentee ballots was occurring. When she was finally allowed to enter the back room for 5 minutes on November 5, 2020, she saw that there were stacks of ballots in envelopes.
62. The BOE has no excuse for limiting the observers in the rear where mail-in and absentee ballots were being resolved to a 5-minute period every 2 hours, where the first paragraph of Judge Capuzzi's Order states that the observers are permitted to have access to the resolution of ballots at all hours of the resolution process.

63. Limiting access to only 5 minutes does not make any sense given that the purpose of observers is to help ensure that procedures are properly followed which can increase public confidence in well-run elections.
64. The BOE has no excuse for preventing the observers from being present when the envelopes containing official absentee ballots are opened and when such ballots are counted and recorded, as allowed by the Pennsylvania Election Code. See 25 P.S. § 3146.8.
65. When Stenstrom and Hoopes attempted to gain entrance to the rear room where absentee and mail-in ballots were being resolved when they arrived at or around 8:30 a.m. on the morning of November 5, 2020, the sheriff barred their entry in defiance of Judge Capuzzi's Order.
66. At or around 9:30 a.m. on November 5, 2020, Stenstrom contacted Judge Capuzzi's chambers and explained to his secretary that the elections officials were not complying with his Order. She suggested that Stenstrom consult with an attorney, and that she could not discuss the matter further with him.
67. At or around 1:00 p.m., Stenstrom called Judge Capuzzi's chambers multiple times requesting that Judge Capuzzi call the Sheriff and Solicitor to enforce his Order. The judge's law clerk told Stenstrom to "seek counsel," and hung up on him.
68. At or around 1:20 p.m. Stenstrom returned upstairs and again demand access to a locked back room where he suspected ballots were being stored. The Deputy Sheriff told Stenstrom that the Solicitor will let him in the back room for 5 minutes at 1:30 p.m. Stenstrom returned again at 3:30 p.m. and was allowed reentry for the last time.
69. At or around 11:00 a.m. on Thursday, November 5, 2020, when Stenstrom returned to the main room, he saw that some areas had been cordoned off. Attorney John McBlain unexpectedly came out from the back room and stated he had conferred with

Solicitor Manley Parks and they had mutually agreed to bringing ballots in question out from the sequestered room to the main room so that the poll watchers would not have to go into the back room where mail-in and absentee ballots were being resolved.

70. Attorney McBlain told Stenstrom that the elections officials were going to bring 4,500 of the 6,000 total ballots in the back room out to the main room, and leave the remaining 1,500 spoiled ballots in the “spoilage room.”
71. Stenstrom asked Attorney McBlain multiple times whether the “universe” of remaining ballots in the back room that remained to be processed was, in fact, 6,000, and further asked Attorney McBlain multiple times whether he had personally seen those ballots in the back rooms and storage rooms, and he re-affirmed this multiple times to Stenstrom.
72. GOP observers later reported to Stenstrom that there appeared to be additional paper ballots in excess of the 6,000 “universe” that Attorney McBlain has assured Stenstrom of, coming into the office administration area. As stated above, Stenstrom and other observers that entered the back locked ballot storage room saw what appeared to be upwards of 50,000 unopened mail-in ballots at 1:30 p.m., only 2 and a half hours after McBlain told Stenstrom that there were only 6,000 remaining ballots left to be counted.
73. According to Ms. Leah Hoopes, she and other observers were kept in a roped off area with chairs, but they could not observe from that area the resolution process because they were 10 feet from the closest table, 20 feet from the scanning area and 25 feet from tables that were partitioned off behind plexiglass where votes were being processed. The observers were not allowed close enough to have a clear and unobstructed view.

86. Without observers, watchers and representatives, the integrity of the vote in elections is threatened and the constitutional right to free and fair public elections under the United States Constitution is denied.
87. Sadly, Stenstrom reported: “As a result of the election officials’ acts, I was unable to fulfill my responsibilities or exercise my rights as an official observer. I was continuously harassed, threatened, denied access to the room and the ballots, and the election officials were openly hostile and refused to answer questions, repeatedly defied a court order to provide access, and obstructed my ability to observe the count in a way that would enable me to identify irregularities, which is the primary purpose of the observer role.”
88. Observers and watchers serve as an important check to ensure transparency and guard against inconsistencies and other wrongdoing by election officials.
89. In no case should election officials hinder legitimate observation, ‘muzzle’ observers, or prevent them from reporting or releasing information that has been obtained through their observations.
90. Failing to uphold and ensure the adherence to even basic transparency measures or safeguards against the casting of illegal or unreliable ballots creates an obvious opportunity for ineligible voters to cast ballots, results in fraud, and undermines the public’s confidence in the integrity of elections — all of which violate the fundamental right to vote, the guarantee of equal protection, and the right to participate in free, fair, and transparent elections as guaranteed by the United States Constitution.
91. If a State fails to follow even basic integrity and transparency measures — especially its own — it violates the right to free, fair, and transparent public elections because its

elections are no longer meaningfully public and the State has functionally denied its voters a fair election.

92. The actions of the BOE, and its failure to comply with Judge Capuzzi's Order and with the Election Code sections allowing observers, has deprived candidate Dasha Pruett of her right to a transparent and fair election to the public office she seeks to hold, as a member of the United States House of Representatives for the 5th Congressional District.
93. "[P]ublic confidence in the integrity of the electoral process has independent significance, because it encourages citizen participation in the democratic process." *Crawford v. Marion County Election Board*, 553 US 181, 195-196 (2008) (plurality op. of Stevens, J.).
94. In every instance where an absentee or mail-in ballot is opened and canvassed by a county election board, poll watchers and canvass representatives are legally permitted to be present. See Election Code Section 1308(b), 25 P.S. § 3146.8(b) ("Watchers shall be permitted to be present when the envelopes containing official absentee ballots and mail-in ballots are opened and when such ballots are counted and recorded."); see also 25 P.S. § 3146.8(g)(1.1) and (g)(2).
95. When the BOE representatives did not comply with Judge Capuzzi's Order that the observers be allowed in the back room, where votes were being canvassed and processed they also violated the Election Code which allows watchers to be present when envelopes containing absentee and mail-in ballots are opened, counted and recorded.
96. Observers, poll watchers and canvass representatives serve the important purpose of assuring voters, candidates, political parties, and political bodies, who may question the fairness of the election process, that the same is conducted in compliance with the

law, and is done in a correct manner which protects the integrity and validity of the vote and ensures that all elections are free, open, fair, and honest.

97. The BOE representatives did not allow observers to be present when the required declarations on envelopes containing official absentee and mail-in ballots were reviewed for sufficiency, when the ballot envelopes were opened, and when such ballots were counted and recorded.
98. Instead, observers were kept by security personnel from the rear room, and were confined to a small cordoned off area too far from the area where the review, opening, and counting were taking place. Consequently, it was physically impossible to view the envelopes or ballots.
99. Because of the BOE's spoliation of evidence, it is not now possible to ascertain what ballots were cast legally from those that were cast illegally. Prospective Intervening Petitioners suspect that the BOE did not safeguard and retain the original USB V-Cards that were inserted into computers that were used to tabulate the votes, and that they did not safeguard and retain the computer event logs that disclose when the USB V-cards were inserted into those computers.
100. Prospective Intervening Petitioners suspect that the BOE did not safeguard and retain the chain of custody documents signed by the election judges, or the envelopes that would enable an independent forensic audit to be carried out to determine whether the number of envelopes matches the number of ballots that were tabulated.
101. While a spoliation inference may not normally arise in an Election case, this 2020 general election is anything but ordinary, since an unprecedented large number of mail-in and absentee ballots were cast.

102. The illegalities and irregularities occurred because the BOE representatives prevented the observers from entering the rear where those mail-in and absentee ballots were being resolved.
103. If the BOE disposed of or failed to retain items that would enable an independent forensic audit to take place, even fraud may be inferred as a spoliation inference.
104. Prospective Intervening Petitioners respectfully request discovery to enable them to conduct an independent forensic audit. If spoliation by the BOE prevents such an audit, this Court may decide to impose a spoliation inference that includes fraud.
105. The rigged election occurred during the multiple full days when the BOE prevented any observers from entering the rear room where mail-in and absentee ballots were being resolved.
106. By the time that the BOE finally allowed observers in that rear room for only 5 minutes every 2 hours, it was too little, too late, with no meaningful opportunity to ensure that a fair and transparent election has taken place.
107. Particularly during the Pandemic, when this election is extraordinary because of the historic large numbers of mail-in and absentee ballots that were cast is it necessary for this Court, for Judge Capuzzi, to Order extraordinary relief.
108. Candidate Dasha Pruett has been deprived of a fair and transparent election, period. How will she ever know whether she lost in a fair election, or whether she is a victim of a rigged election.
109. Invalid or fraudulent votes “debase” and “dilute” the weight of each validly cast vote. *Anderson v. United States*, 417 U.S. 211, 227 (1974).
110. The right to an honest count is a right possessed by each voting elector, and to the extent that the importance of his vote is nullified, wholly or in part, he has been injured in the free exercise of a right or privilege secured to him by the laws and

Constitution of the United States. *Anderson*, 417 U.S. at 226 (quoting *Prichard v. United States*, 181 F.2d 326, 331 (6th Cir.), *aff'd* due to absence of quorum, 339 U.S. 974 (1950)).

111. Separate from the Equal Protection Clause, the Fourteenth Amendment's due process clause protects the fundamental right to vote against "the disenfranchisement of a state electorate." *Duncan v. Poythress*, 657 F.2d 691, 702 (5th Cir. 1981).
112. Practices that promote the casting of illegal or unreliable ballots, or fail to contain basic minimum guarantees against such conduct, can violate the Fourteenth Amendment by leading to the dilution of validly cast ballots.
113. The BOE was acting under color of State law when it prevented the duly appointed observers from performing their duties as allowed under the Election Code and in accordance with the terms of Judge Capuzzi's Order.
114. "When an election process 'reaches the point of patent and fundamental unfairness,' there is a due process violation." *Florida State Conference of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1183-84 (11th Cir. 2008) (quoting *Roe v. Alabama*, 43 F.3d 574, 580 (11th Cir.1995) (citing *Curry v. Baker*, 802 F.2d 1302, 1315 (11th Cir.1986)). See *Marks v. Stinson*, 19 F.3d 873, 889 (3d Cir. 1994) (enjoining winning state senate candidate from exercising official authority where absentee ballots were obtained and cast illegally).
115. In statewide and federal elections conducted in the Commonwealth of Pennsylvania, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including the candidate Dasha Pruett, have a vested interest in observers being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and that it is free, fair, and transparent.

116. Rather than heeding these mandates and duties, the BOE arbitrarily and capriciously denied the observers meaningful access to observe and monitor the electoral process by not allowing observers to see and review all envelopes containing official absentee and mail-in ballots either at the time or before they were opened and/or when such ballots were counted and recorded.
117. The BOE created a system whereby it was physically impossible for the political candidates' and political parties' observers to view the ballots and verify that illegally cast ballots were not opened and counted.
118. Put simply, there is substantial reason to doubt the voting results. Our future depends on fair elections, and a rigged fraudulent one cannot be allowed to stand. A dark cloud hangs over the 2020 election.
119. Lawful elections are at the heart of our constitutional democracy. The public, and indeed the candidates themselves, have a compelling interest in ensuring that the selection of a candidate is legitimate.
120. The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights.
121. Without observers and watchers, the integrity of the vote in elections is threatened and the constitutional right to free, fair and transparent public elections under the United States Constitution is denied.
122. Candidate Dasha Pruett is not seeking relief by participating in this Petition to change the election results, although if this Court could provide that relief she would appreciate it.
123. Rather, Candidate Dasha Pruett is seeking other remedies to protect the integrity of this 2020 general election. Unless integrity is sought, we will not have any.

WHEREFORE, Prospective Intervening Petitioners Dasha Pruett, Gregory Stenstrom and Leah Hoopes respectfully request an emergency Order allowing them to intervene in the instant action. Relief is sought on an emergency basis because the days are few before the “winning” candidate that ran against Dasha Pruett is sworn in, and takes office.

Accordingly, Prospective Intervening Petitioners request an emergency fact hearing where they will put on their witnesses at that hearing.

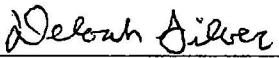
Prospective Intervening Petitioners respectfully request any relief that this Court deems appropriate, including but not limited to the following relief and/or sanctions against the Board of Elections:

- i. An emergency fact hearing on this Petition, where witnesses testify;
- ii. A Declaration holding the Board of Elections to be in contempt for its non-compliance with Judge John Capuzzi's order with respect to observers;
- iii. A Declaration that the Board of Elections is guilty of a misdemeanor in accordance with Section 1806 of the Election Code;
- iv. A Declaration that the Board of Elections must pay a fine of \$1,000.00, or its members undergo an imprisonment of 1 year, or both, in the discretion of the Court, in accordance with Section 1806 of the Election Code;
- v. An order, declaration and/or injunction enjoining the “winning” U.S. House of Representative candidate that ran against Candidate Dasha Pruett from exercising official authority during the pendency of this action until an independent forensic audit is completed;
- vi. An order that the Board of Elections forthwith provide Pruett, Stenstrom and Hoopes with (1) the original USB V-cards that were inserted into computers that tabulated the votes, (2) the chain of custody documents signed by the election judges, and (3) the outer envelopes, in order that an independent forensic audit can be obtained by the Prospective Intervening Petitioners;
- vii. An order that the Board of Elections forthwith provide Pruett, Stenstrom and Hoopes with the computer event logs that disclose when the USB V-cards were inserted into computers used to tabulate the votes;

- viii. Prospective Intervening Petitioners' reasonable costs and expenses of this action, including attorneys' fees and costs;
and
- ix. All other further relief to which Prospective Intervening Petitioners might be entitled.

Date: December 22, 2020

Respectfully submitted,



Deborah Silver, Esq. (PA. # 45521)
54 Shadeland Avenue
Drexel Hill, PA. 19026

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIACIVIL DIVISION

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

ELECTION LAW
NO:

323 West Front Street
Media PA, 19063

V.

DELAWARE COUNTY
BOARD OF ELECTIONS
201 West Front Street
Media, PA 19063

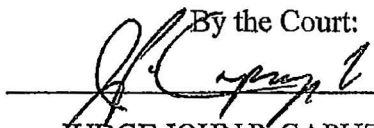
ORDER

AND NOW, to wit, this 14th day of November 2020, upon consideration of Petitioner's Emergency Petition or Relief Seeking Order Granting Access to Canvassing of Official Absentee Ballots and Mail-In Ballots, and the hearing held on November 4, 2020 wherein argument was heard from both Parties, it is hereby **ORDERED** and **DECREED** as follows:

1. Four Observers in total (2 observers from the Republican Party, or affiliated candidates, and 2 observers from the Democratic Party, or affiliated candidates,) are permitted to observe the resolution area at all hours while ballots are being resolved;
2. Two observers (1 representing the Republican Party, or affiliated candidates, and 1 representing the Democratic Party, or affiliated candidates,) are permitted to observe the sorting machine area at all times while the machine is in use. However, all observers shall stand back while the machine is in use due to safety concerns.
3. At two-hour intervals, two observers in total (1 representing the Republican Party, or affiliated candidates, and 1 representing the Democratic party, or affiliated candidates) are permitted to enter the ballot room, to examine the room; however, are not permitted to examine the physical ballots contained within the room, individually. They must be escorted by a member of the Election Board Staff with the time not to exceed five minutes each visit.

4. Any observer may not interference with the process, nor may any observer object to individual ballots.

By the Court:


JUDGE JOHN P. CAPUZZI, SR.

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IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY,
PENNSYLVANIA

CIVIL DIVISION – LAW

Deborah Silver, Esq.
Attorney I.D. # 45521
54 Shadeland Avneue
Drexel Hill, PA. 19026
(610) 284-4247

Attorney for Prospective Intervening Petitioners
U.S. House of Representatives Candidate Dasha Pruett, and
Duly Appointed Observers Gregory Stenstrom and Leah Hoopes

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

V.

BOARD OF ELECTIONS

: ELECTION LAW

: NO.: CV-2020-007523

: EMERGENCY PETITION
: TO INTERVENE
:

**EMERGENCY PETITION TO INTERVENE OF
CANDIDATE FOR POLITICAL OFFICE DASHA PRUETT, AND
OBSERVERS GREGORY STENSTROM & LEAH HOOPES**

Prospective Intervening Petitioners, candidate for political office Dasha Pruett, and
observers Gregory Stenstrom and Leah Hoopes, file this Emergency Petition to Intervene as
parties in this litigation pursuant to Pennsylvania Rules of Civil Procedure 2327 and 2328, and
aver in support thereof as follows:

PROCEDURAL AND FACTUAL BACKGROUND

1. On November 4, 2020, Delaware County Republican Executive Committee
("DCREC") filed an Emergency Petition seeking an Order granting access to
canvassing of official absentee and mail-in ballots, to grant access to and permit

DCREC's watchers and attorneys to be present in all areas of the offices of the Board of Elections ("BOE") where pre-canvassing, sorting, opening, counting and recording of absentee and mail-in ballots is occurring and taking place for the returns of the November 3, 2020 General Election.

2. The Honorable Judge John Capuzzi granted this Petition, stating in relevant part as follows:

"1. Four Observers in total (2 observers from the Republican Party, or affiliated candidates, and 2 observers from the Democratic Party, or affiliated candidates) are permitted to observe the resolution area at all hours while ballots are being resolved;

2. Two observers (1 representing the Republican Party, or affiliated candidates, and 1 representing the Democratic Party, or affiliated candidates) are permitted to observe the sorting machine area at all times while the machine is in use. However all observers shall stand back while the machine is in use due to safety concerns;

3. At two-hour intervals in total (1 representing the Republican Party, or affiliated candidates, and 1 representing the Democratic Party, or affiliated candidates) are permitted to enter the ballot room, to examine the room; however are not permitted to examine the physical ballots contained within the room, individually. They must be escorted by a member of the Election Board Staff with the time not to exceed five minutes each visit;"

PROPOSED INTERVENORS

3. Dasha Pruett ("Pruett") is clearly an intended beneficiary of the Order issued by Judge Capuzzi on November 4, 2020 because the duly appointed observers ensure that she obtains a fair and transparent election in her run for public office.
4. Pruett resides at 1122 Childs Avenue, Drexel Hill, PA. 19026.
5. Gregory Stenstrom ("Stenstrom") is a duly appointed observer appointed by Candidate Thomas Killion, a former Pennsylvania State Senator for District 9. Stenstrom resides at 1541 Farmers Lane, Glenn Mills, PA. 19342.

6. Leah Hoopes (“Hoopes”) is a duly appointed observer appointed by Pennsylvania House of Representatives Candidate Craig Williams, who serves District 160. Ms. Hoopes resides at 41 Sulky Way, Chadds Ford, PA. 19317.
7. Both Stenstrom and Hoopes are intended beneficiaries of the Order issued by Judge Capuzzi on November 4, 2020, because they are duly appointed observers which Judge Capuzzi ordered must be permitted to observe (a) the resolution area at all hours while ballots are being resolved, (b) the sorting machine at all times while the machine is in use, and (c) the ballot room.
8. Unless Stenstrom and Hoopes can bring their concerns and questions to the attention of the BOE’s staff and representatives if they observe any irregularities or illegalities they cannot perform the functions that their position as observers are required to perform to ensure the integrity, transparency and fairness of the 2020 General Election.
9. It should not have been necessary in the first place for the Delaware County Republican Executive Committee (“DCREC”) to seek an Emergency Order from Judge Capuzzi as to observers being permitted to inspect/view the area where mail-in and absentee ballots were being resolved, as the Election Code allows representatives for both political parties to serve as observers.
10. In addition to watchers, the Election Code permits “representatives” of candidates and political parties to be involved in the pre-canvassing and canvassing of absentee and mail-in ballots. See 25 P.S. § 3146.8(g)(1.1) & (2).

11. Watchers are authorized under Election Code Section 1308(b), 25 P.S. § 3146.8(b), to be present when the envelopes containing absentee and mail-in ballots are opened, counted, and recorded. 25 P.S. § 3146.8(b).
12. As it exists today, Election Code Section 417, codified at 25 P.S. § 2687, creates the position of watcher and entrusts to each candidate for nomination or election at any election, and each political party and each political body which has nominated candidates for such elections, the power to appoint watchers to serve in each election district in the Commonwealth. See 25 P.S. § 2687(a).
13. As long as Pennsylvania has had an Election Code, it has had watchers. In 1937, the Pennsylvania General Assembly included the concept of “watchers” in the then-newly enacted Pennsylvania Election Code, a statutory scheme addressing the administration of elections in the Commonwealth. See 25 P.S. §§ 2600, et. seq.
14. Put simply, there is substantial reason to doubt the voting results. Our future depends on fair elections, and a rigged fraudulent one cannot be allowed to stand.
15. A dark cloud hangs over the 2020 election.
16. Lawful elections are at the heart of our constitutional democracy. The public, and indeed the candidates themselves, have a compelling interest in ensuring that the selection of a candidate is legitimate.
17. The equal enforcement of election laws is necessary to preserve our most basic and fundamental rights.
18. The BOE was acting under color of State law when it prevented the duly appointed observers from performing their duties as allowed under the Election Code and in accordance with the terms of Judge Capuzzi’s Order.

19. The BOE kept the poll watchers and observers in a small cordoned off area too far away to see, too far away from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place. Consequently, the BOE created a system whereby it was physically impossible for the candidates' and political parties' duly appointed observers to view the ballots and verify that illegally cast ballots were not opened and counted.
20. In statewide and federal elections conducted in the Commonwealth of Pennsylvania, including without limitation the November 3, 2020 General Election, all candidates, political parties, and voters, including Intervening Candidate Dasha Pruett, have a vested interest in the poll watchers and observers being present and having meaningful access to observe and monitor the electoral process to ensure that it is properly administered in every election district and that it is free, fair, and transparent.
21. Rather than heeding these mandates and duties, the BOE arbitrarily and capriciously denied the duly appointed observers meaningful access to observe and monitor the electoral process by not allowing them to visibly see and review all envelopes containing official absentee and mail-in ballots either at the time or before they were opened and/or when such ballots were counted and recorded.
22. The observers were repeatedly denied access to back rooms where the absentee and mail-in ballots were canvassed and resolved. The BOE kept the observers in a small cordoned off area too far away to see, too far away from the areas where the inspection, opening, and counting of absentee and mail-in ballots were taking place.

23. Consequently, the BOE created a system whereby it was physically impossible for the political candidates' and political parties' observers to view the ballots and verify that illegally cast ballots were not opened and counted.
24. The BOE disobeyed the Order issued by Judge John Capuzzi that should not have been necessary in the first place.
25. Stenstrom reports that representatives of the BOE prevented observers from entering back rooms where absentee and mail-in ballots were being canvassed, resolved, opened, sorted and counted. The BOE allowed counting to continue all night long on November 3, 2020, without any access granted to observers that were present and requesting entrance to said back rooms.
26. Even after Judge Capuzzi issued his Order at or around 9:30 p.m. on November 4, 2020, there were repeated instances over a long period of time on November 5, 2020 where observers were still denied entrance, and none of the observers were allowed close enough to see anything meaningful.
27. Hoopes reports that they set up 2 chairs for them, but 20-25 feet from the ballots, too far for them to observe anything. She further reports that she and the other observers were kept inside a roped off area 20 feet from the sorting machine, and they were unable to observe from such a great distance.
28. Hoopes and other observers were kept in a roped off area with chairs, but they could not observe from that area the resolution process because they were 10 feet from the closest table, 20 feet from the scanning area and 25 feet from tables that were partitioned off behind plexiglass where votes were being processed.

29. Judge Capuzzi's Order states that observers are permitted to be present wherever ballots are resolved at all hours when the ballots are resolved. Yet the BOE, in violation of the first paragraph of Judge Capuzzi's Order, only allowed observers to enter the back room where mail-in and absentee ballots were being resolved for 5 minutes every two hours, and too far from the ballot resolution process to have a meaningful opportunity to investigate/view the resolution process.
30. The canvassing and resolution process of the absentee and mail-in ballots went on all through the night and the observers were granted very minimal access even after Judge Cappuzi's Order was issued.
31. A fair, honest and transparent vote count is a cornerstone of democratic elections. This requires that votes be counted, tabulated and consolidated in the presence of the representatives of parties and candidates and election observers, and that the entire process by which a winner is determined is fully and completely open to public scrutiny.
32. There were plenty of questionable things witnessed by the poll watchers, and the representatives of the BOE were hostile and refused to answer questions or to respond to protests when for example chain of custody concerns were raised.
33. Sadly, Stenstrom reported: "As a result of the election officials' acts, I was unable to fulfill my responsibilities or exercise my rights as an official observer. I was continuously harassed, threatened, denied access to the room and the ballots, and the election officials were openly hostile and refused to answer questions, repeatedly defied a court order to provide access, and obstructed my ability to observe the count

in a way that would enable me to identify irregularities, which is the primary purpose of the observer role.”

34. Stenstrom reports that he saw Jim Savage, the Delaware County voting machine warehouse supervisor plugging USB drives into vote tallying computers. The bag containing those drives was not sealed or secured, and the voting machine cartridges were not present with the drives. Mr. Savage had no paper tapes or ballots at that time.
35. Stenstrom reports: “I immediately objected and challenged the uploading of votes from the unsecured drives,” reporting what he saw to Deputy Sheriff Mike Donahue. Donahue retrieved Ms. Hagan, who told Stenstrom that he could only observe the process but could not make any comments or ask any questions while Mr. Savage was directly in front of them loading USB sticks, and the display monitors above the computers reflected that they were being updated.
36. Stenstrom responded that he was observing a person plug USB sticks into the computer without any apparent chain of custody and without any oversight. No one stopped the upload, and Mr. Savage was permitted to continue this process and he was then allowed to walk out without any interference or examination by anyone.
37. Stenstrom returned at 8:30 a.m. on November 5, 2020, with Ms. Hoopes. The sheriff again barred entry in defiance of the court order.
38. At or around 9:30 a.m. on November 5, 2020, Stenstrom contacted Judge Capuzzi’s chambers and explained to his secretary that the elections officials were not complying with his Order. She suggested that Stenstrom consult with an attorney, and that she could not discuss the matter further with him.

39. At or around 1:00 p.m, Stenstrom called Judge Capuzzi's chambers multiple times requesting that Judge Capuzzi call the Sheriff and Solicitor to enforce his Order. The judge's law clerk told Stenstrom to "seek counsel," and hung up on him.
40. Attorney McBlain did not return until approximately 5:30 p.m. on 11/4/20, to again try to get the observers into the back office and rear locked storage room. Paragraph 3 of Judge Capuzzi's Order permitted observers to be present to investigate/view the ballot room (storage room where ballots are kept) for at least 5 minutes every 2 hours. The BOE violated paragraph 3 of Judge Capuzzi's Order because observers were not allowed to enter the ballot room until 1:30 p.m. on Thursday, November 5, 2020, where Judge Capuzzi issued his Order at 9:30 p.m. the night before, on November 4, 2020.
41. Furthermore, Stenstrom was only allowed to enter the ballot room at 1:30 p.m. and 3:30 p.m., observing what appeared to be an increase in the amount of unopened mail-in ballots approaching 50,000 at 1:30 p.m., to approaching 70,000 at 3:30 p.m., with no explanation for the additional 20,000 ballots over a period of 2 hours.
42. The BOE stopped allowing observers into the ballot room after 7:30 p.m. Stenstrom left the Wharf Office at 10:00 p.m. when he saw that the BOE was no longer allowing observers to enter and inspect/view the ballot room where tens of thousands of unopened mail-in ballots were stored.
43. There is a direct connection between the disobeying of Judge Capuzzi's Order and the fraudulent, irregular and illegal shenanigans that transpired which were enabled to be carried out without the observers present to inspect/view the resolution of absentee and mail-in ballots.

44. A shocking number of mail-in ballots have inexplicably appeared in counties since the November 4 ballot reports. For instance, in Delaware County, the county's Wednesday, November 4 report indicated that Delaware County reported it has received about 113,000 mail-in ballots and counted approximately 93,000 voted ballots.
45. On the next day, November 5, the Secretary of the Commonwealth's 4:30 report reflected that Delaware County had received about 114,000 ballots. Several hours later, the Delaware County solicitor reported to an observer that the County had received about 126,000 mail-in ballots and counted about 122,000.
46. As of Sunday, November 8, 2020, the Department of State's website reflects that the County has counted about 127,000 mail-in ballots. Petitioner has received no explanation for where the additional 14,000 voted ballots came from, when they arrived, or why they are included in the current count.
47. In Delaware County, an observer in the county office where mail-in ballots were counted was told by the Delaware County Solicitor that ballots received on November 4, 2020, were not separated from ballots received on Election Day, and the County refused to answer any additional questions.
48. Failing to uphold and ensure the adherence to even basic transparency measures or safeguards against the casting of illegal or unreliable ballots creates an obvious opportunity for ineligible voters to cast ballots, results in fraud, and undermines the public's confidence in the integrity of elections — all of which violate the fundamental right to vote, the guarantee of equal protection, and the right to

participate in free, fair, and transparent elections as guaranteed by the United States Constitution.

49. If a State fails to follow even basic integrity and transparency measures — especially its own — it violates the right to free, fair, and transparent public elections because its elections are no longer meaningfully public and the State has functionally denied its voters a fair election.
50. The actions of the BOE and their failure to comply with Judge Capuzzi's Order has Candidate Dasha Pruett, of her right to a transparent and fair election to the public offices that she seeks to hold, as a member of the United States House of Representatives for the 5th Congressional District.
51. Because of the BOE's spoliation of evidence, it is not now possible to ascertain what ballots were cast legally from those that were cast illegally. The illegalities occurred because the BOE representatives kept observers from inspecting/viewing the resolution of mail-in and absentee ballots in direction violation of Judge Capuzzi's November 4, 2020 Order.
52. Candidate Dasha Pruett will be never know whether she lost her bid to public office in a fair election, or whether she is the victim of a rigged and stolen election.
53. Invalid or fraudulent votes "debase" and "dilute" the weight of each validly cast vote. *Anderson v. United States*, 417 U.S. 211, 227 (1974).
54. Prospective Intervening Petitioners respectfully request any relief that this Court deems appropriate, including but not limited to an independent forensic audit of (a) the original USB V-Cards that were inserted into computers used for tabulating the

- votes, (b) the chain of custody documents signed by the election judges and (c) an independent forensic audit and count of the outer envelopes.
55. Further, Prospective Intervening Petitioners request an Order that the BOE provide them with the computer event logs which disclose when the USB V-Cards were inserted into computers used for tabulating the votes.
56. At least, after an independent forensic audit, the evidence can be evaluated to determine whether there was fraud in this election.
57. Prospective Intervening Petitioners suspect that the BOE did not safeguard and retain the original USB V-Cards that were inserted into computers that were used to tabulate the votes, and that they did not safeguard and retain the computer event logs that disclose when the USB V-cards were inserted into those computers.
58. Prospective Intervening Petitioners suspect that the BOE did not safeguard and retain the chain of custody documents signed by the election judges, or the envelopes that would enable an independent forensic audit to be carried out to determine whether the number of envelopes matches the number of ballots that were tabulated.
59. While a spoliation inference may not normally arise in an Election case, this 2020 general election is anything but ordinary, since an unprecedented large number of mail-in and absentee ballots were cast.
60. The illegalities and irregularities occurred because the BOE representatives prevented the observers from entering the rear where those mail-in and absentee ballots were being resolved.
61. If the BOE disposed of or failed to retain items that would enable an independent forensic audit to take place, even fraud may be inferred as a spoliation inference.

62. Prospective Intervening Petitioners respectfully request discovery to enable them to conduct an independent forensic audit. If spoliation by the BOE prevents such an audit, this Court may decide to impose a spoliation inference that includes fraud.

63. The rigged election occurred during the multiple full days when the BOE prevented any observers from entering the rear room where mail-in and absentee ballots were being resolved.

64. By the time that the BOE finally allowed observers in that rear room for only 5 minutes every 2 hours, it was too little, too late, with no meaningful opportunity to ensure that a fair and transparent election has taken place.

BASIS FOR PROPOSED INTERVENTION

65. Pursuant to Pennsylvania Rule of Civil Procedure 2327, this Court may permit a party to intervene “at any time during the pendency of an action” if “the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action.” Pa.R.C.P. 2327(4).

66. All of the Prospective Intervening Petitioners have legally enforceable interests in the enforcement of Judge Capuzzi’s Order, and in this Court awarding sanctions against the BOE for disobeying this Order.

67. Judge Capuzzi’s Order has the intended benefit of ensuring a fair and transparent election for Candidate Dasha Pruett, and of Gregory Stenstrom and Leah Hoopes to fulfill their function as duly appointed observers to insure same.

THERE EXISTS NO BASIS ON WHICH TO DENY THIS PETITION FOR INTERVENTION

68. The interests of the Prospective Intervening Petitioners are not adequately represented in this proceeding. Pa.R.C.P. 2329(2).

69. The Delaware County Republican Executive Committee (“DCREC”) does not represent the interests of the political candidates or the observers seeking to intervene in this action.
70. The DCREC has not sought any sanctions for the BOE’s disobedience of Judge Capuzzi’s Order. The effect on Candidate Dasha Pruett is clear, as she has been deprived of a fair and transparent election, and the observers have valuable testimony which proves through their personal observations that the BOE failed to comply with Judge Capuzzi’s Order.
71. Without the Intervenor’s involvement in this action the BOE will get off without any punishment for its willful failure to comply with Judge Capuzzi’s Order.
72. That will send a message that will only encourage election fraud to continue occurring in future elections.
73. A criminal has no incentive to obey the law if he is never punished for violating it. Election fraud is a crime.
74. Not allowing duly appointed observers to investigate/view the resolution process at all stages where votes are resolved makes it possible for election fraud to flourish, particularly where there is an unprecedented number of absentee and mail-in ballots as occurred in the 2020 General Election.

CONCLUSION

WHEREFORE, Prospective Intervening Petitioners Dasha Pruett, Gregory Stenstrom and Leah Hoopes respectfully request that this Honorable Court grant their Petition to Intervene in the above-captioned proceeding.

Date: December 22, 2020

Respectfully submitted,

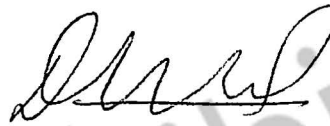
Deborah Silver

Deborah Silver, Esq. (PA. # 45521)
54 Shadeland Avenue
Drexel Hill, PA. 19026

VERIFICATION

I verify that the facts in the foregoing Petition to Intervene are true and correct to the best of my own personal knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated: December 16, 2020



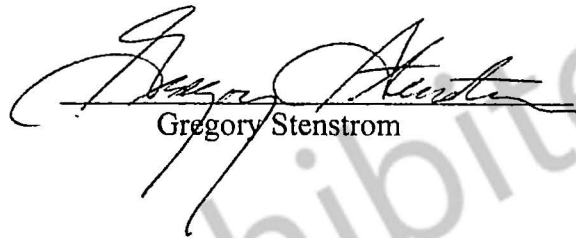
Dasha Pruett

Copying Prohibited

VERIFICATION

I verify that the facts in the foregoing Petition to Intervene are true and correct to the best of my own personal knowledge, information, and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated: December 18, 2020



Gregory Stenstrom

Copying Prohibited

VERIFICATION

I verify that the facts in the foregoing Petition to Intervene are true and correct to the best of my own personal knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.

Dated: December 15, 2020



Leah Hoopes

Copying Prohibited

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

V.

BOARD OF ELECTIONS

:
: ELECTION LAW
:
: NO.: CV-2020-007523
:
:
: EMERGENCY PETITION
: TO INTERVENE
:

[Proposed] ORDER

AND NOW, this ____ day of December, 2020, upon consideration of the Emergency
Petition to Intervene of Prospective Intervening Petitioners Dasha Pruett, Gregory Stenstrom and
Leah Hoopes, and any response thereto by the Board of Elections, it is hereby ORDERED AND
DECREED that said Petition to Intervene is **GRANTED**.

BY THE COURT: _____, J.

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

V.

BOARD OF ELECTIONS

: ELECTION LAW

: NO.: CV-2020-007523

: EMERGENCY PETITION FOR
: SANCTIONS FOR CONTEMPT
: AND FOR VIOLATING
: ELECTION CODE
:

CERTIFICATE OF SERVICE

I, Deborah Silver, Esq., hereby certify that I have on the date below served a true and correct copy of the foregoing (1) Emergency Petition for Sanctions for Contempt and for Violating the Election Code, and (2) Emergency Petition to Intervene, to the parties stated below:

By hand delivery to the office below:

Delaware County Solicitor William F. Martin for the Board of Elections
Government Center, 2nd Floor
201 W. Front Street
Media, PA 19063

And

Electronically to:

Attorney John McBlain, for the Delaware County Republican Executive Committee
Swartz, Campbell, LLC
115 North Jackson Street
Media, PA. 19063

Respectfully submitted,

Deborah Silver

Deborah Silver, Esq.
Attorney for Prospective Intervening Petitioners

Dated: December 22, 2020

DELAWARE COUNTY REPUBLICAN :
EXECUTIVE COMMITTEE :

v. :

DELAWARE COUNTY :
BOARD OF ELECTION :

COURT OF COMMON PLEAS
DELAWARE COUNTY
PENNSYLVANIA
CIVIL ACTION

ELECTION LAW
No.: CV-2020-007523

VERIFICATION OF PETITIONER

I am a Petitioner on the Petition for Order Holding Delaware County Board of Elections in Contempt of an Order of this Court, Per Hon. Judge John P. Capuzzi, Sr. Dated November 4, 2020,

Dasha Pruett, having an address at 1122 Chible Ave, and I am:
Drexel Hill, PA 19026

☐ A qualified elector in Delaware County Pennsylvania.

☒ A candidate for Office in the Delaware County for the November 3, 2020 election.

☐ A duly designated Watcher for Candidate _____.

On November 3, 2020 I was present at the _____ located at _____.

I was present there from _____ to _____, and from _____, to _____.

I have read the Order of the Honorable Judge John P. Capuzzi, Sr., dated November 4, 2020. I personally observed the following violation(s) of the Order:

☐ The County Board of Elections, deliberately prohibited 2 observers from the Republican Party, or affiliated candidates, from meaningfully observing the resolution area at all hours while ballots were being resolved.


☐ The County Board of Elections, deliberately prohibited one observer representing the

Republican Party to meaningfully observe the sorting machine area at all times while the machine was in use.

_____ The County Board of Elections, deliberately prohibited an observer from the Republican Party, to enter the ballot room and to examine the room at two-hour intervals.

_____ The County Board of Elections, deliberately prohibited a representative of Republican candidate for office _____ to enter the ballot room and to examine the room at two-hour intervals.

I hereby state that I am a Petitioner on this Petition and verify that the statements made therein are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements made herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsifications to authorities.


Dasha Pruett
12/16/2020

DELAWARE COUNTY REPUBLICAN	:	COURT OF COMMON PLEAS
EXECUTIVE COMMITTEE	:	DELAWARE COUNTY
	:	PENNSYLVANIA
v.	:	CIVIL ACTION
	:	
DELAWARE COUNTY	:	ELECTION LAW
BOARD OF ELECTION	:	No.: CV-2020-007523

VERIFICATION OF PETITIONER

I am a Petitioner on the Petition for Order Holding Delaware County Board of Elections in Contempt of an Order of this Court, Per Hon. Judge John P. Capuzzi, Sr. Dated November 4, 2020, Gregory Stenstrom, having an address at 1541 Farmers Lane, Glen Mills, PA 19342 and I am:

☐ A qualified elector in Delaware County Pennsylvania.

☐ A candidate for Office in the Delaware County for the November 3, 2020 election.

☒ A duly designated Watcher for Candidate Tom Killion.

On November 3rd from 1800-0230, Nov 4th from 0930-2030, and 5th, 2020 from 0830 to 2200, I was present at the Delaware County, PA Election Ballot and Vote Counting Center located at the City of Chester, Seaport, Ave.

I have read the Order of the Honorable Judge John P. Capuzzi, Sr., dated November 4, 2020. I personally observed the following violation(s) of the Order:

☒ The County Board of Elections, deliberately prohibited 2 observers from the Republican Party, or affiliated candidates, from meaningfully observing the resolution area at all hours while ballots were being resolved.

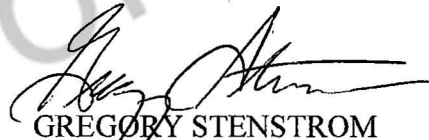
☒ The County Board of Elections, deliberately prohibited one observer representing the

Republican Party to meaningfully observe the sorting machine area at all times while the machine was in use.

 X The County Board of Elections, deliberately prohibited an observer from the Republican Party, to enter the ballot room and to examine the room at two-hour intervals.

 X The County Board of Elections, deliberately prohibited a representative of Republican candidate for office Tom Killion, and President Donald Trump, to enter the ballot room and to examine the room at two-hour intervals.

I hereby state that I am a Petitioner on this Petition and verify that the statements made therein are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements made herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsifications to authorities.


GREGORY STENSTROM
18 DEC 2020



Commonwealth of Pennsylvania

County of Delaware

Watcher's Certificate

This will Certify that **Gregory Stenstrom** residing at 1541 Farmers Lane has been regularly appointed as a WATCHER for the Election District of **EDGMONT TOWNSHIP 2nd Precinct** by **Thomas H. KILLION**, Candidate for the office of Senator in the General Assembly 9th District to serve at the General Election, 3rd day of November, 2020.

Witness our hands and official seal, the 5th day of October, 2020.

Laureen T. Hagan
Chief Clerk

Gerald Lawrence
Ashley Lunkenheimer

James J. Byrne, Jr.

County Board of Elections

NOTE - 25 PS 2687

"Each candidate for nomination or election at any election shall be entitled to appoint 2 watchers for each election district in which such candidate is voted for." Furthermore, "only one watcher for each candidate at primaries, or for each party or political body at general, municipal or special elections, shall be present in the polling place at any one time..."

DELAWARE COUNTY REPUBLICAN	:	COURT OF COMMON PLEAS
EXECUTIVE COMMITTEE	:	DELAWARE COUNTY
	:	PENNSYLVANIA
v.	:	CIVIL ACTION
	:	
DELAWARE COUNTY	:	ELECTION LAW
BOARD OF ELECTION	:	No.: CV-2020-007523

VERIFICATION OF PETITIONER

I am a Petitioner on the Petition for Order Holding Delaware County Board of Elections in Contempt of an Order of this Court, Per Hon. Judge John P. Capuzzi, Sr. Dated November 4, 2020, Leah M. Hoopes, having an address at 241 Sulky Way, Chadds Ford, PA 19317 and I am:

- ☐ A qualified elector in Delaware County Pennsylvania.
- ☐ A candidate for Office in the Delaware County for the November 3, 2020 election.
- ☒ A duly designated Watcher for Candidate Craig Williams.

On November 4th from 0900-2030, and 5th, 2020 from 0830 to 2200, I was present at the Delaware County, PA Election Ballot and Vote Counting Center located at the City of Chester, Seaport, Ave.

I have read the Order of the Honorable Judge John P. Capuzzi, Sr., dated November 4, 2020. I personally observed the following violation(s) of the Order:

- ☒ The County Board of Elections, deliberately prohibited 2 observers from the Republican Party, or affiliated candidates, from meaningfully observing the resolution area at all hours while ballots were being resolved.
- ☒ The County Board of Elections, deliberately prohibited one observer representing the

Republican Party to meaningfully observe the sorting machine area at all times while the machine was in use.

 X The County Board of Elections, deliberately prohibited an observer from the Republican Party, to enter the ballot room and to examine the room at two-hour intervals.

 X The County Board of Elections, deliberately prohibited a representative of Republican candidate for office Craig Williams, and President Donald Trump, to enter the ballot room and to examine the room at two-hour intervals.

I hereby state that I am a Petitioner on this Petition and verify that the statements made therein are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements made herein are made subject to the penalties of 18 Pa.C.S. Section 4904 relating to unsworn falsifications to authorities.


LEAH M. HOOPES
18 DEC 2020

DELAWARE COUNTY REPUBLICAN
EXECUTIVE COMMITTEE

V.

BOARD OF ELECTIONS

ELECTION LAW

NO.: CV-2020-007523

EMERGENCY PETITION FOR
SANCTIONS FOR CONTEMPT
AND FOR VIOLATING
ELECTION CODE

CERTIFICATE OF SERVICE

I, Deborah Silver, Esq., hereby certify that I have on the date below served a true and correct copy of the foregoing (1) Emergency Petition for Sanctions for Contempt and for Violating the Election Code, and (2) Emergency Petition to Intervene, to the parties stated below:

By hand delivery to the office below:

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201 W. Front Street
Media, PA 19063

And

Electronically to:

Attorney John McBlain, for the Delaware County Republican Executive Committee
Swartz, Campbell, LLC
115 North Jackson Street
Media, PA. 19063

Respectfully submitted,

Deborah Silver
Deborah Silver, Esq.
Attorney for Prospective Intervening Petitioners

Dated: December 22, 2020