

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA – CIVIL ACTION – LAW

MICHELLE M. SCHELLBERG, *et al.*, :

Appellants, :

v. :

CENTRE COUNTY BOARD OF
ELECTIONS, :

Appellee. :

Docket No. 2024-CV-1220-CI

TYPE OF CASE:

Civil Action

TYPE OF PLEADING:

Brief in Support of Motion to Quash
Appeal as Untimely and Request for
Cancellation/Conversion of Hearing

FILED ON BEHALF OF:

Centre County Board of Elections

COUNSEL OF RECORD FOR THIS
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Appellants, :
: v. :
CENTRE COUNTY BOARD OF :
ELECTIONS, :
Appellee. :

**BRIEF IN SUPPORT OF MOTION TO QUASH APPEAL AS UNTIMELY
AND REQUEST FOR CANCELLATION OR CONVERSION
OF MAY 16, 2024 HEARING**

Appellee Centre County Board of Elections (the “Board”), by and through its attorneys, Babst, Calland, Clements, and Zomnir, P.C., submits the following Brief in Support of Motion to Quash Appeal as Untimely and Request for Cancellation or Conversion of May 16, 2024 Hearing (“Motion” or “Mot.”) in response to the “Appeal from the April 23, 2024 Primary Election as May Be Confirmed by the Centre County Elections on May 7, 2024” (“Appeal”) filed by Appellant Michelle M. Schellberg (“Schellberg”) and numerous other Centre County registered voters (collectively, “Appellants”) on May 7, 2024.¹

¹ The Board respectfully reserves the right to submit additional merits briefing if the Court disagrees with the assertions in this submission.

I. INTRODUCTION

Appellants challenge the Board's April 25, 2024 decision to accept 95 mail-in ballots ("Mail-In Ballots") during its canvassing of votes for the April 23, 2024 General Primary Election. (Appeal.) They allege that the Board's decision violated the outer-envelope date requirement provided in 25 P.S. § 3146.6(a). But the Appeal suffers from several deficiencies, one of which is jurisdictional. Specifically, to appeal the Board's decision "regarding the computation or canvassing of the returns of any primary or election," Appellants were required to file their Appeal with this Court within two days of the Board's decision—by April 27, 2024,² at the latest. *See* 25 P.S. § 3157(a). Appellants did not file their Appeal until May 7, 2024, making it untimely, *id.*, and jurisdictionally deficient, *see In re Contest of Nov. 7, 2023 Election of Towamencin Twp.*, No. 1482 C.D. 2023, 2024 WL 1515769, at *8 (Pa. Commw. Ct. Apr. 8, 2024)³ ("*In re Contest of Nov. 7, 2023 Election*").

Appellants also attempt to bootstrap to their 25 P.S. § 3157(a) Appeal a

² April 27, 2024, fell on a Saturday. Although the general time computation rules that apply to timeframes in Pennsylvania statutes "exclude[] Saturdays from time computations," the "Election Code does not." *In re Nomination Papers of Lahr*, 842 A.2d 327, 331 (Pa. 2004) (distinguishing 1 Pa. C.S. § 1908 from 25 P.S. § 2603). Thus, April 27, 2024, was the last day on which Appellants could have filed a timely appeal of the Board's decision to accept the Mail-In Ballots under 25 P.S. § 3157.

³ *In re Contest of Nov. 7, 2023 Election* involved, in part, a motion to quash an appeal as untimely on the same ground advanced in this submission. *See* 2024 WL 1515769, at *2. The Commonwealth Court affirmed the Court of Common Pleas' grant of the motion.

sweeping request for prospective relief—namely, an order directing the Board to reject all future mail-in ballots to the extent those ballots are submitted in outer envelopes that, while dated, do not comply with Appellants’ reading of 25 P.S. § 3146.6(a) (requiring mail-in voters to “date . . . the declaration printed on [the outer return] envelope[s]”). Appellants cite no statutory basis for asserting their entitlement to this relief, and even if they did, their interest as registered Centre County electors is insufficient to confer standing upon them to assert it.

Given that the Appeal is untimely and therefore jurisdictionally deficient, that Appellants’ prospective relief is not cognizable under 25 P.S. § 3157(a), and that Appellants, in any event, lack standing to seek such relief, the Board urges the Court to quash the Appeal as untimely, dismiss it with prejudice, and cancel the hearing currently scheduled for May 16, 2024. Alternatively, the Board requests that the Court convert the May 16, 2024 hearing to an oral argument on the Board’s Motion to Quash Appeal as Untimely and defer ruling on that Motion in the interim.

II. STATEMENT OF THE CASE

In April 2024, in connection with the April 23, 2024 General Primary Election, the Board’s staff canvassed and flagged 93 Mail-In Ballots for further review because, although dated pursuant to 25 P.S. § 3146.6(a), 57 were missing the last two digits of the year (“24”), 23 reflected the wrong date, and 13 were missing either the day or the month of the date. (Appeal ¶ 10; *id.*, Ex. 1.) The Board’s staff

flagged two more Mail-In Ballots, bringing the total to 95, but ultimately concluded that those two “[s]hould have been counted” and were inadvertently flagged. (Appeal, Ex. 1; *see* Mot. ¶ 3.)

At an April 25, 2024 public meeting at which it canvassed ballots, the Board voted unanimously to accept the 95 Mail-In Ballots, and its decision was memorialized in the meeting’s minutes. (Appeal ¶¶ 3–4; Board of Elections Minutes of 4/25/24 public meeting (“4/25/24 Minutes”), *see* Mot., Ex. A at VII(A)(4).) Appellants did not object to the Board’s decision (Appeal *passim*; 4/25/24 Minutes, Ex. A hereto), but at a subsequent Board meeting held on April 30, 2024, Appellant Schellberg and Appellants’ counsel, Louis T. Glantz, Esquire (“Attorney Glantz”), appeared and offered public comments. (Appeal ¶ 11 & Ex. 2; Board of Elections Minutes of 4/30/24 public meeting (“4/30/24 Minutes”), *see* Mot., Ex. B at III.) Attorney Glantz, for his comments, “advised [the Board] in person” of Appellants’ present contention that the Board should not have accepted the Mail-In Ballots due to date-related deficiencies on the outer return envelopes. (Appeal ¶¶ 10–11.)

Attorney Glantz also submitted a one-page, memorandum-styled document to the Board (“Glantz Memorandum”). (Appeal ¶ 11 & Ex. 2.) The Glantz Memorandum concluded that “[a]bsentee ballots which are undated incorrectly dated, or unsigned, are invalid under Pennsylvania law which has been affirmed by the Pennsylvania Supreme Court and the Federal Third Circuit.” (Appeal, Ex. 2.)

The “Federal Third Circuit” opinion to which the Glantz Memorandum referred is *Pennsylvania State Conf. of NAACP Branches v. Sec’y Commonwealth of Pennsylvania*, 97 F.4th 120 (3d Cir. 2024), which was not final at the time because the Third Circuit did not issue its Mandate until over a week later, on May 8, 2024. See Mandate, *Pennsylvania State Conf. of NAACP Branches v. Sec’y Commonwealth of Pennsylvania*, No. 23-3166 (3d Cir. May 8, 2024), ECF No. 266; Fed. R. App. P. 41(b)–(c); *Mary Ann Pensiero, Inc. v. Lingle*, 847 F.2d 90, 97–98 (3d Cir. 1988) (“An appellate court’s decision is not final until its mandate issues.”); Fed. R. App. P. 41(c) advisory committee’s note to 1998 amendment (“A court of appeals’ judgment or order is not final until issuance of the mandate[.]”).

Also at the April 30, 2024 meeting, the Chair of the Board announced the unofficial results for the General Primary Election, and the Board voted unanimously to pre-certify the unofficial results to the Department of State. (4/30/24 Minutes at VII(A)(C).) Appellants did not object to pre-certification. (See Appeal *passim*; 4/30/24 Minutes.) Nor did Appellants file a petition for recount or recanvass. (See Appeal *passim*; 4/30/24 Minutes.)

One week later, on May 7, 2024, the Board was scheduled to certify the results of the April 23, 2024 General Primary Election. (Board of Elections Agenda of 5/7/24 public meeting, see Mot. at VII(A).) But Appellants filed their Appeal that same day, seeking an order directing that: (1) that the “2024 election results not be

certified”; and (2) that, in “all future elections[,] [the Board] [] reject all mail-in ballots not in compliance with Pennsylvania law specifically 3156 P.S. §3146(a) [*sic*]” (Appeal at 3 (Wherefore Clause).) Out of an abundance of caution, the Board then temporarily postponed certifying the General Primary Election results, although the Board maintains that postponement is unnecessary given the jurisdictional deficiencies in the Appeal and the lack of merit therein.

One day after Appellants filed their Appeal, this Court scheduled a May 16, 2024 hearing. (Docket; 5/8/24 Order Scheduling Hr’g.) Then, on May 9, 2024, Attorney Glantz, on behalf of Appellant Schellberg, filed a Request for Subpoena seeking issuance of a subpoena directing a yet-to-be-disclosed witness to attend and testify at the May 16, 2024 hearing. (Docket; 5/9/24 Request for Subpoena.)

III. QUESTIONS PRESENTED

- A. Whether the Court should quash the Appeal as untimely and dismiss it with prejudice because Appellants failed to file the Appeal within two days of the Board’s April 25, 2024 decision to accept the Mail-In Ballots, Appellants’ prospective relief is not available under 25 P.S. § 3157(a), and Appellants, in any event, lack standing to assert the prospective relief?**

Short Answer: Yes

- B. Whether the Court should cancel the May 16, 2024 hearing on the Appeal for lack of jurisdiction over Appellants’ untimely Appeal or, alternatively, convert the hearing to an oral argument on this Motion?**

Short Answer: Yes

IV. MOTION TO QUASH APPEAL AS UNTIMELY

Appellants do not identify the statutory mechanism by which they seek to challenge the 95 Mail-In ballots. (*See Appeal passim*). But by challenging the Board’s decision “regarding the computation or canvassing of . . . a[] primary,” *see* 25 P.S. § 3157(a), they necessarily invoke Section 1407(a) of the Pennsylvania Election Code, 25 P.S. § 3157(a), which reads, in relevant part:

Any person aggrieved by any order or decision of any county board regarding the computation or canvassing of the returns of any primary or election . . . *may appeal therefrom within two days after such order or decision shall have been made, whether then reduced to writing or not*, to the [court of common pleas of the proper county], setting forth why he feels that an injustice has been done, and praying for such order as will give him relief.

25 P.S. § 3157(a) (emphasis added).⁴

The two-day deadline for filing an appeal under 25 P.S. § 3157(a) is a jurisdictional requirement. *See In re Contest of Nov. 7, 2023 Election*, 2024 WL 1515769, at *8 n.9 (“Because we conclude the [p]etition was not timely filed and there was no jurisdiction, we do not address mootness or the underlying merits of [a]ppellants’ [p]etition.”); *id.* at 8 (first citing *In re James*, 944 A.2d 69, 73 (Pa.

⁴ Not implicated in this Appeal, 25 P.S. § 3157(a) also permits appeals of orders or decisions of county board of elections “regarding any recount or recanvass thereof under [25 P.S. §§ 1701–03]” and further provides that, “if a recount or recanvass is made under 1404(g), the appeal must be made to the Commonwealth Court.” *Id.* Appellants did not seek (nor did the Board conduct) a recount or recanvass in connection with the Mail-In Ballots.

2008); then citing *Pa. Dental Ass'n v. Com. Ins. Dep't*, 516 A.2d 647, 654 (Pa. 1986) (“Periods of time set for filing appeals are jurisdictional.”); then citing *In re Granting Malt Beverage Licenses in Greene Twp., Franklin Cnty.*, 1 A.2d 670, 671 (Pa. 1938) (“The jurisdiction of the courts in election contests is not of common law origin but is founded entirely upon statute, and therefore it cannot be extended beyond the limits defined by Acts of Assembly.”); and then citing *Appeal of Orsatti*, 598 A.2d 1341, 1342 (Pa. Commw. Ct. 1991) (“[T]he timeliness of an appeal goes to the jurisdiction of the Court and may not be extended absent fraud or a breakdown in the court’s operation due to a default of its officers.”)).

The Board publicly announced its decision to accept the Mail-In Ballots on April 25, 2024, and memorialized that decision in writing. (*See* 4/25/24 Minutes.) Appellants “had two days from . . . the date the Board publicly announced its decision[] [to accept the 95 Mail-In Ballots] to file their [Appeal],” *i.e.*, until April 27, 2024, at the latest. *See In re Contest of Nov. 7, 2023 Election*, 2024 WL 1515769, at *4; *see also id.* at *5–7. But Appellants did not file their Appeal until May 7, 2024, ten days too late (*see Appeal*), rendering it untimely as a matter of law and depriving the Court of jurisdiction to entertain it on the merits.

In re Contest of Nov. 7, 2023 Election is analogous. In that case, which involved a “close race for the office of Township Supervisor,” the Montgomery County Board of Elections (“MC BOE”) “issued a [November 22, 2023] public

statement postponing its certification” in order “to canvass six mail-in and absentee ballots it had previously determined to be defective and void for lack of a date or an incorrect date.” *Id.* at *1–2. Twelve days later, on December 4, 2023, a group of individuals filed an appeal challenging the MC BOE’s decision to canvass the ballots. *Id.* at *2. One of the candidates then intervened and moved to quash the appeal, arguing that it was untimely filed after the two-day period in 25 P.S. § 3157(a) had expired. *Id.*

The Court of Common Pleas held—and the Commonwealth Court agreed—that the appeal was untimely because it was not filed “within the two-day period” in 25 P.S. § 3157(a). *Id.* at *3. The Commonwealth Court held that the two-day period began to run when the MC BOE issued its November 22, 2023 public statement that it would “canvass all 349 disputed mail-in ballots it had received throughout the [c]ounty, including the 6 at issue in th[e] race” *Id.* at *4–5. The MC BOE’s decision at the November 22, 2023 public meeting was a “decision of [the B]oard” for purposes of commencing the two-day appeal period under . . . 25 P.S. § 3157(a).” *Id.* at *5 (alteration in original). The Commonwealth Court further held that, even assuming the date of “actual recanvassing” started the two-day appeal period, the appellants still failed to file an appeal within two days of that date. *Id.*

The reasoning of *In re Contest of Nov. 7, 2023 Election* applies with equal force here. On April 25, 2024, the Board publicly announced its decision to accept

and canvass the Mail-In Ballots. Any appeal from the Board's decision was therefore due no later than April 27, 2024. Even assuming the Board's April 30, 2024 pre-certification somehow started the two-day period, the Appeal would still be untimely, as it was not filed until one week later, on May 7, 2024. And *In re Contest of Nov. 7, 2023 Election* forecloses any argument by Appellants that the two-day period began to run at some later date. Moreover, although courts have at least considered the availability of *nunc pro tunc* relief as an exception to § 3157's two-day filing requirement, Appellants are not entitled to such relief, which "is more strictly applied in election cases." See *In re Contest of Nov. 7, 2023 Election*, 2024 WL 1515769, at *4. This is so because "Appellants knew or should have known about the Board's decision[] with which they disagree[] [ten days] before they filed the[ir] [Appeal]," *i.e.*, when the Board publicly announced its decision to canvass and accept the Mail-In Ballots. *Id.* at *4. At a very minimum, Appellant Schellberg and Attorney Glantz had actual knowledge of the Board's decision to accept the Mail-In Ballots no later than April 30, 2024,⁵ when they appeared and made public comments before the Board. (Appeal ¶ 11; 4/30/24 Minutes.) Accordingly, the Appeal is untimely and cannot be resurrected through a request for *nunc pro tunc* relief.

⁵ Even if Appellants were to argue that April 30, 2024, was the date on which the two-day filing requirement began to run, their Appeal was due no later than Thursday, May 2, 2024, and their May 7, 2024, appeal would still be untimely.

But Appellants do not stop at their challenge to the Mail-In Ballots. They go further and ask the Court to order the Board to comply with 25 P.S. § 3157 in all future elections in a manner consistent with Appellants' reading of what the statute requires.⁶ (Appeal at 3 (Wherefore Clause).) Because their challenges to the Mail-In Ballots are necessarily grounded in 25 P.S. § 3157, which does not contemplate the sort of bootstrapping of prospective relief upon which Appellants now insist, Appellants' sweeping claim to such relief is a misguided attempt to obtain the unobtainable.

In any event, Appellants lack standing to seek the prospective relief asserted in the Appeal. The principles of standing under Pennsylvania law, and in the election context specifically, are well-settled:

Pennsylvania standing doctrine stems from the principle that judicial intervention is appropriate only where the underlying controversy is real and concrete, rather than abstract, and its touchstone is protect[ing] against improper plaintiffs. To support standing, a plaintiff's interest in the outcome of a given suit must be substantial, direct, and immediate. An interest is substantial when it surpasses the interest of all citizens in procuring obedience to the law; it is direct when the asserted violation shares a causal connection with the alleged harm; and it is immediate when the causal connection with the alleged harm is neither remote nor speculative.

Ball v. Chapman, 289 A.3d 1, 18–19 (Pa. 2023) (alteration in original) (footnotes and internal quotation marks omitted). To demonstrate that they have standing,

⁶ The Board maintains that it has and always will comply with Pennsylvania law and rejects any assertion by Appellants that it has ever done or will ever do otherwise.

Appellants must show that their “concern in the outcome” of their Appeal “surpass[es] the common interest of all citizens in procuring obedience to the law.” *See Bonner v. Chapman*, 298 A.3d 153, 162 (Pa. Commw. Ct. 2023) (internal quotation marks omitted) (quoting *Markham v. Wolf*, 136 A.3d 134, 140 (Pa. 2016)).

In the context of this Appeal, Appellants clearly assert claims solely in their capacity of Centre County citizens and voters (*see* Mot. ¶ 25 (citing Appeal ¶¶ 1–2 & Ex. 3)), which means that their concern in the outcome of their challenges does not surpass the interest of the public at large. Rather, their interest is the same “interest of all citizens in procuring obedience to the law.” *See Bonner*, 298 A.3d at 162; *see also, e.g., Ball*, 289 A.3d at 20 (holding that voters lacked standing to challenge 25 P.S. § 3146.6(a) where they failed to establish that the statute diluted their votes). For that reason alone, even assuming Appellants identified a procedural mechanism for challenging the Board’s future adherence to Pennsylvania law, Appellants’ lack standing to seek the prospective relief asserted in the Appeal.

V. REQUEST FOR CANCELLATION OR CONVERSION OF THE MAY 16, 2024 HEARING

In light of the above, the Board requests that the Court cancel the May 16, 2024 hearing. The two-day filing requirement in 25 P.S. § 3157 is jurisdictional, *see In re Contest of Nov. 7, 2023 Election*, 2024 WL 1515769, at *8, and Appellants clearly failed to comply with it. The Board respectfully submits that the Court lacks the jurisdiction to conduct a hearing on the merits of the Appeal. *See id.* at *2 (noting

that the appellants filed an appeal of the county board of elections' decision on December 4, 2023, an intervenor filed a "Demurrer and Application to Quash [the appeal as untimely]" on December 5, 2023, and the court of common pleas granted the application on December 7, 2023, apparently without first holding a hearing). Further, Appellants can adduce no testimony or evidence at a hearing that would render their Appeal timely, and even if they could seek prospective relief under 25 P.S. § 3157(a), they lack standing to do so.

If the Court is not inclined to cancel the May 16, 2024 hearing and summarily dismiss this Appeal, the Board respectfully requests that the Court convert the hearing to an oral argument on the Board's Motion to Quash Appeal as Untimely.

VI. CONCLUSION

For the foregoing reasons, Appellee Centre County Board of Elections respectfully requests that the Court grant its Motion to Quash Appeal as Untimely, dismiss this Appeal with prejudice, and cancel the hearing scheduled for May 16, 2024. Alternatively, Appellee Centre County Board of Elections respectfully requests the Court convert the May 16, 2024 hearing to an oral argument on the Motion to Quash Appeal as Untimely.

Respectfully submitted,

By: /s/ Elizabeth A. Dupuis

Elizabeth A. Dupuis, Esquire

PA I.D. No. 80149

Michael Libuser, Esquire

PA I.D. No. 332676

*Attorneys for the Centre County Board of
Elections*

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CERTIFICATE OF COMPLIANCE

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

By: /s/ Elizabeth A. Dupuis
Elizabeth A. Dupuis, Esquire
*Attorney for the Centre County Board of
Elections*

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CENTRE COUNTY BOARD OF : :
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: :
Appellee. :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Brief in Support of Motion to Quash Appeal as Untimely and Request for Cancellation or Conversion of May 16, 2024 Hearing was served on the 13th day of May 2024, via First Class U.S. Mail and E-Mail upon the following:

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

By: /s/ Elizabeth A. Dupuis
Elizabeth A. Dupuis, Esquire

Date: May 13, 2024

cc: Centre County

IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
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MOTION TO QUASH APPEAL AS UNTIMELY AND REQUEST FOR CANCELLATION OR CONVERSION OF MAY 16, 2024, HEARING

Appellee Centre County Board of Elections (the “Board”), by and through its attorneys, Babst, Calland, Clements, and Zomnir, P.C., submits the following Motion to Quash Appeal as Untimely and Request for Cancellation or Conversion of May 16, 2024, Hearing in response to the “Appeal from the April 23, 2024 Primary Election as May Be Confirmed by the Centre County Elections on May 7, 2024” (“Appeal”) filed by Appellant Michelle M. Schellberg (“Schellberg”) and numerous other Centre County registered voters (collectively, “Appellants”) on May 7, 2024,¹ averring as follows:

¹ The Board respectfully reserves the right to submit additional merits briefing if the Court disagrees with the assertions in this submission.

BACKGROUND

1. On April 25, 2024, when canvassing ballots in connection with the April 23, 2024 General Primary Election, the Board voted unanimously to accept 95 mail-in ballots (“Mail-In Ballots”) that Appellants challenge as noncompliant with 25 P.S. § 3146.6(a) (requiring mail-in voters to “date and sign the declaration printed on [the outer return] envelope[s]”). (Appeal ¶¶ 3–5; *see* Board of Elections Minutes of 4/25/24 public meeting (“4/25/24 Minutes”), a true and correct copy of which is attached as “**Exhibit A**” hereto, at VII(A)(4) (“[T]he Board voted unanimously to accept all 95 ballots.”).)

2. The Board memorialized its decision in writing. (*See* 4/25/24 Minutes, Ex. A hereto, at VII(4).)

3. Before accepting and canvassing the Mail-In Ballots, the Board’s staff flagged 93 of them for further review because, although dated pursuant to 25 P.S. § 3146.6(a), 57 were missing the last two digits of the year (“24”),² 23 reflected the wrong date, and 13 were missing either the day or the month of the date. (Appeal ¶ 10; *id.*, Ex. 1.)

4. The Board’s staff also flagged two more Mail-In Ballots, bringing the total to 95, but concluded that those two “[s]hould have been counted” and were

² For the Court’s reference, and for context to show that the year is partially pre-populated (as to the first two digits “20”) on the outer envelope, attached as “**Exhibit F**” hereto is a copy of a blank outer envelope.

inadvertently flagged. (Appeal, Ex. 1.)³

5. Appellants did not object to the Board’s April 25, 2024 decision to accept the Mail-In Ballots. (*See* Appeal *passim*; 4/25/24 Minutes, Ex. A hereto.)

6. Five days later, on April 30, 2024, Appellant Schellberg and Appellants’ counsel, Louis T. Glantz, Esquire (“Attorney Glantz”), appeared and made comments during the public comment portion of the meeting of the Board. (Appeal ¶ 11 & Ex. 2; *see* Board of Elections Minutes of 4/30/24 public meeting (“4/30/24 Minutes”), a true and correct copy of which is attached as “**Exhibit B**” hereto, at III.)

7. In his public comments, Attorney Glantz “advised [the Board] in person” of Appellants’ contention that the Board should have rejected the Mail-In Ballots due to date-related deficiencies on their outer return envelopes. (Appeal ¶¶ 10–11.)

8. Attorney Glantz also submitted a one-page, memorandum-styled document to the Board (“Glantz Memorandum”). (Appeal ¶ 11 & Ex. 2.)

9. The Glantz Memorandum stated that “[a]bsentee ballots which are undated incorrectly dated, or unsigned, are invalid under Pennsylvania law which

³ The fact of the inadvertent flagging is not included in the Appeal and is provided solely for context here. Even assuming these two Mail-In Ballots raised the potential for flagging due to dating issues (and they did not), the Appeal is untimely, as discussed below.

has been affirmed by the Pennsylvania Supreme Court and the Federal Third Circuit.” (Appeal, Ex. 2; *id.* ¶ 11.)

10. The “Federal Third Circuit” opinion to which the Glantz Memorandum refers is the Third Circuit Court of Appeals’ decision in *Pennsylvania State Conf. of NAACP Branches v. Sec’y Commonwealth of Pennsylvania*, 97 F.4th 120 (3d Cir. 2024), which was not final at that time because the Third Circuit did not issue its Mandate until over a week later, on May 8, 2024. *See* Mandate, *Pennsylvania State Conf. of NAACP Branches v. Sec’y Commonwealth of Pennsylvania*, No. 23-3166 (3d Cir. May 8, 2024), ECF No. 266.

11. Also at the April 30, 2024 Board meeting, the Chair of the Board announced the unofficial results for the General Primary Election, and the Board voted unanimously to pre-certify the unofficial results to the Department of State. (4/30/24 Minutes at VII(A)(C).)

12. Appellants did not object to the Board’s pre-certification of the unofficial General Primary Election results. (*See* Appeal *passim*; 4/30/24 Minutes.)

13. Nor did Appellants file a petition for recount or recanvass. (*See* Appeal; 4/30/24 Minutes.)

14. One week later, on May 7, 2024, the Board was scheduled to certify the results of the April 23, 2024 General Primary Election. (*See* Board of Elections Agenda of 5/7/24 public meeting, a true and correct copy of which is attached as

“**Exhibit C**” hereto, at VII(A).)

15. But on the same date, Appellants commenced this action, seeking an order directing: (1) that the “2024 election results not be certified”; and (2) that, in “all future elections[,] [the Board] [] reject all mail-in ballots not in compliance with Pennsylvania law specifically 3156 P.S. §3146(a) [*sic*]” (Appeal at 3 (Wherefore Clause).)

16. In light of the Appeal, and out of an abundance of caution, the Board temporarily postponed certifying the General Primary Election results, although the Board maintains that postponement is unnecessary given the untimely and jurisdictionally deficient Appeal.

17. The day after Appellants filed their Appeal, this Court scheduled a May 16, 2024 hearing on the Appeal. (Docket; 5/8/24 Order Scheduling Hr’g.)

18. Then, on May 9, 2024, Attorney Glantz, on behalf of Appellant Schellberg, filed a Request for Subpoena seeking issuance of a subpoena directing a yet-to-be-disclosed witness to attend and testify at the May 16, 2024 hearing. (Docket; 5/9/24 Req. for Subpoena.)

MOTION TO QUASH APPEAL AS UNTIMELY

19. While Appellants do not identify the statutory mechanism by which they seek to challenge the 95 Mail-In ballots (*see* Appeal *passim*), because they challenge the Board’s decision “regarding the computation or canvassing of the

returns” of the General Primary Election, they necessarily invoke Section 1407 of the Pennsylvania Election Code, 25 P.S. § 3157(a), which provides:

Any person aggrieved by any order or decision of any county board regarding the computation or canvassing of the returns of any primary or election . . . *may appeal therefrom within two days after such order or decision shall have been made, whether then reduced to writing or not*, to the [court of common pleas of the proper county], setting forth why he feels that an injustice has been done, and praying for such order as will give him relief.

25 P.S. § 3157(a) (emphasis added).

20. Pursuant to the plain text of 25 P.S. § 3157(a), when the Board publicly announced its decision to accept the Mail-In Ballots on April 25, 2024, it triggered the two-day filing deadline in 25 P.S. § 3157(a). *See In re Contest of Nov. 7, 2023 Election of Towamencin Twp.*, No. 1482 C.D. 2023, 2024 WL 1515769, at *5–6 (Pa. Commw. Ct. Apr. 8, 2024) (panel opinion authored by Cohn Jubelirer, P.J.) (“*In re Contest of Nov. 7, 2023 Election*”).

21. Accordingly, Appellants had until April 27, 2024,⁴ at the very latest, to appeal the Board’s decision to this Court pursuant to 25 P.S. § 3157(a). *See* 25 P.S. § 3157(a); *see also In re Contest of Nov. 7, 2023 Election*, 2024 WL 1515769, at *6.

⁴ April 27, 2024, fell on a Saturday. Although the general time computation rules that apply to timeframes in Pennsylvania statutes “exclude[] Saturdays from time computations,” the “Election Code does not.” *In re Nomination Papers of Lahr*, 842 A.2d 327, 331 (Pa. 2004) (distinguishing 1 Pa. C.S. § 1908 from 25 P.S. § 2603). Thus, April 27, 2024, was the last day on which Appellants could have filed a timely appeal of the Board’s decision to accept the Mail-In Ballots under 25 P.S. § 3157.

22. But Appellants did not file their Appeal until May 7, 2024, ten days too late, rendering it untimely as a matter of law. (Appeal.)

23. Even if Appellants argue that they should be entitled to *nunc pro tunc* relief, “which is more strictly applied in election cases,” that argument would be unavailing “because Appellants knew . . . about the Board’s decision[] with which they disagree[] [no later than one week, *i.e.*, April 30, 2024,] before they filed the[ir] [Appeal].” See *In re Contest of Nov. 7, 2023 Election*, 2024 WL 1515769, at *4.

24. While Appellants also seek sweeping prospective relief in the form of an order directing the Board to reject—in all future elections—mail-in ballots that do not comply with 25 P.S. § 3146.6(a) as Appellants’ read the statute (Appeal at 3 (Wherefore Clause)), that challenge is not authorized under 25 P.S. § 3157(a).

25. Further, to the extent Appellants seek this prospective relief based on their general interest as qualified and registered Centre County voters (Appeal ¶¶ 1–2 & Ex. 3), they lack standing to do so.

26. Specifically, Appellant Schellberg brings this Appeal as a “Centre County registered voter” and “qualified elector in Centre County” (Appeal ¶ 1), and the other Appellants qualified as electors in Centre County” (*id.* ¶ 2; *see also id.*, Ex. 3 (“[T]he following join in this [Appeal] all being qualified registered voters in Centre County.”)).

27. Accordingly, Appellants’ interest in the outcome of their challenge is

nothing more or less than the same interest of “all citizens in procuring obedience to the law.” See *Ball v. Chapman*, 289 A.3d 1, 19 (Pa. 2023) (quoting *Commonwealth, Office of Governor v. Donahue*, 98 A.3d 1223, 1229 (Pa. 2014)).

WHEREFORE, the Board respectfully requests that this Court grant its Motion to Quash Appeal as Untimely, dismiss the Appeal, cancel the May 16, 2024 hearing, *see infra*, and enter the form of Order submitted herewith.⁵

**REQUEST FOR CANCELLATION OR CONVERSION OF THE
MAY 16, 2024 HEARING**

28. Based upon the foregoing, the Board respectfully submits that the Court’s May 16, 2024 hearing should be cancelled.

29. The Board makes this request because the two-day window to file an appeal under 25 P.S. § 3157 is jurisdictional, *see In re Contest of Nov. 7, 2023 Election*, 2024 WL 1515769, at *8 (collecting cases) & n.9, and because Appellants lack standing as to the prospective relief they seek.

30. Further, Appellants can adduce no testimony or evidence at a hearing that would render their Appeal timely or provide them with standing to request an order directing the Board to comply with Pennsylvania law in future elections.

31. If the Court is not inclined to cancel the hearing and summarily dismiss this Appeal, the Board respectfully requests that the Court convert the May 16, 2024

⁵ See “**Exhibit D**” attached hereto (proposed Order).

hearing to an oral argument on the Board's Motion to Quash Appeal as Untimely.

WHEREFORE, the Board respectfully requests that this Court grant its Request for Cancellation or Conversion of May 16, 2024 Hearing to the extent of either dismissing the Appeal and cancelling the May 16, 2024 hearing (pursuant to the form of Order attached as Exhibit D hereto) or converting the hearing to an oral argument on the Motion to Quash Appeal as Untimely.⁶

Respectfully submitted,

By: /s/ Elizabeth A. Dupuis

Elizabeth A. Dupuis, Esquire

PA UD. No. 80149

Michael Libuser, Esquire

PA I.D. No. 332676

*Attorneys for the Centre County Board of
Elections*

⁶ See "**Exhibit E**" attached hereto (proposed Scheduling Order).

EXHIBIT A

Minutes of Centre County Board of
Elections 4.25.24 Public Hearing

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BOARD OF ELECTIONS MINUTES

Thursday, April 25, 2024 at 2:00 P.M.

Willowbank Office Building

420 Holmes Street, Room 146

Bellefonte, PA 16823

Register online to receive a notification when meeting agendas are posted.

I. CALL TO ORDER

The public meeting of the Centre County Board of Elections was convened at 2:02 PM by the Chair of the Board Commissioner Amber Concepcion.

In attendance were Commissioner Amber Concepcion, Commissioner Mark Higgins, Commissioner Steven Dershem, Director of Elections Beth Lechman, Solicitor Betsy Dupuis, Jodi Nedd, Sharon Johnson, LaTisha Stefanko, Tina Konrath and Executive Office Supervisor Erin Good.

II. PLEDGE OF ALLEGIANCE

III. PUBLIC COMMENT

There were no comments received from the public.

IV. ADDITIONS TO THE AGENDA

There were no additions to the agenda.

V. MINUTES

VI. OLD BUSINESS

VII. GENERAL PRIMARY

A. Adjudication of Civilian Absentee ballots and Mail-In ballots

1. The Board reviewed 23 ballots that the outer envelope contains a ballot not contained in an inner envelope (a.k.a. "naked" ballot.)

Action: *On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to reject 22 ballots and accept 1 ballot.*

2. The Board reviewed 17 ballots that the outer envelope has no voter signature.

Action: *On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to reject all 17 ballots.*

3. The Board reviewed 4 ballots that the outer envelope was flagged for signature issue.

Action: *On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to accept all 4 ballots.*

4. The Board reviewed 95 ballots that the outer envelope has date issues - incorrect date, birth date, not within date range.

Action: *On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to accept all 95 ballots.*

BOARD OF ELECTIONS MINUTES
THURSDAY, April 25, 2024
PAGE 2

5. The Board reviewed 7 ballots that had other issues.

Action: On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to accept 6 ballots and reject 1 ballot.

6. The Board reviewed 2 ballots that the voters' ID is needed.

Beth Lechman stated these 2 ballots are first-time voters, so they need to present their ID. The deadline to present the ID is Monday, April 29, 2024 by 5:00 PM. If the voters do not present their ID before the deadline, their ballots will be rejected.

B. Canvass and tabulate In-Person Election Day ballots

- Board will perform review of (a) Numbered List of Voters, (b) general returns of results cast, (c) Election Day results tapes, and (d) Election Night Reports for each Precinct

Precinct	Total Votes Cast	Spoiled	Provisional
1	123	0	0
2	181	4	0
3	95	3	1
4	162	4	0
5	180	4	0
6	204	1	0
7	106	0	0
8	140	3	0
9	116	1	0
10	119	0	0
11	84	1	0
12	90	0	0
13	81	2	0
14	98	0	0
15	44	1	0
16	188	2	0
17	121	3	0
18	44	1	0
19	172	4	0

BOARD OF ELECTIONS MINUTES
THURSDAY, April 25, 2024
PAGE 3

20	155	1	0
21	198	3	1
22	59	3	0
23	146	0	1
24	140	5	0
26	61	0	0
29	42	0	3
30	25	0	0
31	160	6	0
32	158	3	1
34	38	2 & 1 line issue	0
35	46	0	0
36	303	4	1
37	283	4	0
38	197	2; 1 line issue	0
39	240	3	1
40	74	0	0
41	380	9	1
42	311	8	0
43	321	4	0
44	100	0	0
45	15	0	0
46	56	0	0
47	264	5	0
48	147	7	0
49	187	8	2; 4 spoiled Provisionals
50	116	1 line issue	0
51	275	10	0
52	327	4	0

BOARD OF ELECTIONS MINUTES
THURSDAY, April 25, 2024
PAGE 4

53	297	5	1
54	149	2;2 line issues	0
55	172	1	1
56	383	12	0
57	430	7	0
58	150	2	0
59	214	0	0
60	224	5	0
61	144	1; 1 line issue	0
62	100	2	1
63	50	0	0
64	251	2	0
65	362	7	0
66	164	6	1
67	147	5	1
68	348	7; 2 line issues	1
69	153	0	0
70	206	2; 1 line issue	0
71	315	5	2
72	259	2	0
73	83	4	0
74	30	0	0
75	96	0	0
76	159	2	0
77	94	0	0
78	265	1	0
79	185	7	1
80	116	2	0
81	140	2	0
82	244	2	1

BOARD OF ELECTIONS MINUTES
THURSDAY, April 25, 2024
PAGE 5

83	249	1	0
84	389	6	0
85	147	2	0
86	275	5	0
87	185	1	0
88	191	5	0
89	193	2	0
90	267	2	0
91	137	0	0

Action: *On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to add the recognition of the 50-year voter certificate to the agenda tomorrow, April 26, 2024 to recognize the voter.*

C. Adjudicate, tabulate, and canvass provisional ballots

Provisional Ballots – 2024 General Primary by Precinct:

(All precincts not listed were verified to have zero provisional ballots.)

Precinct	Full Count	Partial Count	Rejected
3	1	0	0
21	0	0	1-registered in another county
23	1	0	0
29	2	0	0
32	1	0	0
34	0	0	1-incorrect political party
36	1	0	0
39	1	0	0
41	1	0	0
42	2	0	0
43	4	0	0

BOARD OF ELECTIONS MINUTES
THURSDAY, April 25, 2024
PAGE 6

49	2	0	0
50	1	0	0
53	1	0	0
55	1	0	0
56	1	0	0
62	1	0	0
66	1	0	0
67	1	0	0
68	0	0	2-incorrect political party
71	2	0	0
79	1	0	0
82	1	0	0
88	1	0	0

A total of 28 provisional ballots were counted and 4 ballots were rejected.

D. Canvass and tabulate Military/Civilian Overseas ballots

The Board reviewed 27 military/civilian overseas ballots. The Board recreated 25 ballots by hand and 2 ballots were rejected. The 25 ballots were scanned through a DS200 and counted.

The Board selected Precincts 39, 42, 49 and 60 to perform the 2% audit tomorrow, April 26, 2024.

Action: *On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to recess the meeting at 5:01 PM.*

Action: *On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to come out of recess and reconvene the meeting on Friday, April 26, 2024 at 10:02 AM.*

In attendance were Commissioner Amber Concepcion, Commissioner Mark Higgins, Commissioner Steven Dershem, Director of Elections Beth Lechman, Solicitor Betsy Dupuis, District Attorney Bernie Cantorna, Dave Lomison, Sharon Johnson, Jodi Nedd, LaTisha Stefanko and Executive Office Supervisor Erin Good.

Guests present included Bill Irvin, Beth Irvin, Mary Dupuis, Cathy Dupuis and Diane Gregg.

BOARD OF ELECTIONS MINUTES
THURSDAY, April 25, 2024
PAGE 7

E. 50-year voter recognition certificate

Mary Dupuis was honored by the Board for 50 consecutive years of voting at every November Election and was presented a signed certificate from Governor Shapiro and Secretary of the Commonwealth Al Schmidt. The Board congratulated Mary for voting for 50 consecutive years.

F. 2% Statistical Audit of In-Person Election Day ballots

The Board selected Precincts 39, 42, 49 and 60 to perform the 2% audit. A test deck of ballots was run through the DS950 and the Board compared the results to the test zero report and all numbers matched.

Precinct 39 ballots were run through the DS950 machine. The results from the DS950 were compared to the in-person election day totals and precinct 39 totals matched.

A test deck of ballots was run through the DS450 machine and the Board compared the results to the test zero report and all numbers matched. Precinct 42 ballots were run through the DS450 machine and the totals matched to the in-person election day totals.

Precinct 49 ballots were run through the DS450 machine and the totals matched the in-person election day totals.

Precinct 60 ballots were run through the DS450 machine and the totals matched the in-person election day totals.

**Election Board/Official Count Board/Provisional Ballot Board Meeting
Schedule (This schedule is tentative, and adjustments may need to be made):**

Friday, April 26, 2024 – 10:00 AM

- Canvass and tabulate mail-in Election Day ballots
- Adjudication of Civilian Absentee ballots and Mail-In ballots
- Adjudicate, tabulate, and canvass provisional ballots
- 2% Statistical Audit of In-Person Election Day ballots
- Canvass and tabulate Military/Civilian Overseas ballots

Monday, April 29, 2024 – 10:00 AM (if needed)

- Canvass and tabulate mail-in Election Day ballots
- Adjudication of Civilian Absentee ballots and Mail-In ballots
- Adjudicate, tabulate, and canvass provisional ballots
- 2% Statistical Audit of In-Person Election Day ballots
- Canvass and tabulate Military/Civilian Overseas ballots

BOARD OF ELECTIONS MINUTES
THURSDAY, April 25, 2024
PAGE 8

Tuesday, April 30, 2024 – 4:00 PM

- Certify Unofficial Results

Tuesday, May 7, 2024 – 3:00 PM

- Certify Official Results

- VIII. ELECTION ANNOUNCEMENTS
IX. EXECUTIVE SESSION REPORT
X. QUESTIONS FROM THE PRESS
XI. ADJOURN

On a motion by Commissioner Dershem seconded by Commissioner Higgins, the Board voted unanimously to adjourn the meeting at 11:49 AM.

Respectfully submitted,
Erin Good
Executive Office Supervisor

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EXHIBIT B

Minutes of Centre County Board of
Elections 4.30.24 Public Hearing

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BOARD OF ELECTIONS MINUTES

Tuesday, April 30, 2024 at 4:00 P.M.

Willowbank Office Building

420 Holmes Street, Room 146

Bellefonte, PA 16823

[Register](#) online to receive a notification when meeting agendas are posted.

I. CALL TO ORDER

The public meeting of the Centre County Board of Elections was convened at 4:01 PM by the Chair of the Board Commissioner Amber Concepcion.

In attendance were Commissioner Amber Concepcion, Commissioner Mark Higgins, Commissioner Steven Dershem, Administrator John Franek Jr., Director of Elections Beth Lechman, Solicitor Betsy Dupuis, Jodi Nedd, LaTisha Stefanko, Sharon Johnson and Executive Office Supervisor Erin Good.

Guests present included Michelle Schellberg, Louis Glantz and Margie Swoboda.

II. PLEDGE OF ALLEGIANCE

III. PUBLIC COMMENT

Michelle Schellberg of Halfmoon Township gave public comment on an Election Day compliant.

Louis Glantz gave public comment on issues with mail-in ballots for the General Primary Election.

IV. ADDITIONS TO THE AGENDA

There were no additions to the agenda.

V. MINUTES

The Board will consider approving the minutes from the April 23, 2024 Board of Elections meeting.

Action: On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously approve to the minutes from April 23, 2024 meeting.

VI. OLD BUSINESS

VII. GENERAL PRIMARY

A. Canvass Overseas/Military Ballots (if any)

Beth Lechman stated the Elections Office received four additional overseas/military ballots. The Board recreated the four ballots and scanned them in the DS200 machine, and they were counted.

BOARD OF ELECTIONS MINUTES

TUESDAY, April 30, 2024

PAGE 2

B. Canvass additional Mail-In/Provisional Ballots where proof of identification was received

Beth Lechman stated the two first time voters who needed to present their ID before the deadline of Monday, April 29, 2024 by 5:00 PM did not present them to the Election Office. Therefore, both mail-in ballots were rejected.

C. Pre-Certify Unofficial Results

Chair of the Elections Board, Commissioner Amber Concepcion announced the unofficial results for the General Primary.

Beth Lechman went over the Precincts that needed to be further investigated and verified the Precinct numbers that were flagged at a previous Election meeting and found the following:

Precinct 2, the Express vote test ballot should not have been added to the total ballots.

Precinct 39, there was one provisional republican ballot that was added to the total which increased it by one.

Precinct 42 and 49, there were calculation of republican ballots issues.

Precinct 60, there was a calculation error.

Precinct 68, one person was not entered in the number list of voter's books.

Precinct 70, two people were not entered in the number list of voter's books.

Precinct 72, line number 98 in the number list of voter's books was voided and was never issued a second ballot.

Action: On a motion by Commissioner Dershem, seconded by Commissioner Higgins, the Board voted unanimously to pre-certify the unofficial results for the April 23, 2024 General Primary to the Department of State.

VIII. ELECTION ANNOUNCEMENTS

- The next scheduled Board of Elections meeting is Monday, May 6, 2024 at 3:00 P.M. at the Willowbank Building Room 146 if we are selected for the risk limiting audit.

IV. EXECUTIVE SESSION REPORT

V. QUESTIONS FROM THE PRESS

VI. ADJOURN

On a motion by Commissioner Dershem seconded by Commissioner Higgins, the Board voted unanimously to adjourn the meeting at 4:39 PM.

Respectfully submitted,
Erin Good
Executive Office Supervisor

EXHIBIT C

Agenda of Centre County Board of
Elections 5.7.24 Public Hearing

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BOARD OF ELECTIONS AGENDA

Tuesday, May 7, 2024 at 3:00 P.M.

Willowbank Office Building

420 Holmes Street, Room 146

Bellefonte, PA 16823

[Register online to receive a notification when meeting agendas are posted.](#)

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. PUBLIC COMMENT

In accordance with the Sunshine Act, attendees will be given the opportunity to comment on matters of concern, official action, or deliberation before the Board of Elections. For items not on the agenda, the Board of Elections will accept public comment at the beginning of each meeting. For items that are on the agenda, the Board will accept public comment prior to each official action. Persons desiring to comment should raise their hand to be recognized by the Chair. Anyone addressing the Board will be given a five-minute time period in which to do so.

IV. ADDITIONS TO THE AGENDA

In accordance with ACT 65 of 2021, no discussion or action will be allowed for any item not included on the published agenda unless the item is one of an emergency nature or is de minimus in scope and does not require funding authorization and/or a contract or agreement. A majority vote of the Board is required to add an item to the agenda. All provisions of Act 65 regarding requirements for updating a published agenda after the meeting are in effect.

V. MINUTES

The Board will consider approving the minutes from the April 25, 2024 and April 30, 2024 Board of Elections meetings.

Action: *APPROVE the minutes from April 25 and April 30, 2024 meetings.*

VI. OLD BUSINESS

VII. GENERAL PRIMARY

A. Certify the April 23, 2024 General Primary Results

Action: *CERTIFY the results for the April 23, 2024 General Primary.*

VIII. ELECTION ANNOUNCEMENTS

IX. EXECUTIVE SESSION REPORT

X. QUESTIONS FROM THE PRESS

XI. ADJOURN

EXHIBIT D

Proposed Order

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IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA
CIVIL ACTION – LAW

MICHELLE M. SCHELLBERG, *et al.*, :
: Appellants, : Docket No. 2024-CV-1220-CI
: v. :
CENTRE COUNTY BOARD OF :
ELECTIONS, :
Appellee. :

ORDER

AND NOW, on this ____ day of _____, 2024, upon review of Appellee Centre County Board of Elections’ **Motion** to Quash Appeal as Untimely and Request for Cancellation or Conversion of May 16, 2024 Hearing (“Motion”), it is hereby **ORDERED** that the Motion is **GRANTED**, the “Appeal from the April 23, 2024 Primary Election as May Be Confirmed by the Centre County Elections on May 7, 2024” filed by Appellant Michelle M. Schellberg and numerous other Appellants on May 7, 2024, is **QUASHED AND DISMISSED**, and the hearing scheduled for May 16, 2024, is **CANCELLED**.

BY THE COURT:

J.

EXHIBIT E

Proposed Scheduling Order
(Alternative to Exhibit D)

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IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA
CIVIL ACTION – LAW

MICHELLE M. SCHELLBERG, *et al.*, :
: Appellants, : Docket No. 2024-CV-1220-CI
: v. :
: CENTRE COUNTY BOARD OF :
ELECTIONS, :
: Appellee. :

SCHEDULING ORDER

AND NOW, on this ____ day of _____, 2024, upon review of Appellee Centre County Board of Elections' (the "Board") Motion to Quash Appeal as Untimely and Request for Cancellation or Conversion of May 16, 2024 Hearing ("Motion"), it is hereby **ORDERED** that the Motion is **GRANTED IN PART AND DEFERRED IN PART** to the extent that the hearing currently scheduled for May 16, 2024, on the "Appeal from the April 23, 2024 Primary Election as May Be Confirmed by the Centre County Elections on May 7, 2024" filed by Appellant Michelle M. Schellberg and numerous other Appellants on May 7, 2024, is **CONVERTED** to an oral argument on the Motion.

BY THE COURT:

J.

EXHIBIT F
Sample Outer Envelope

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Before returning your ballot!

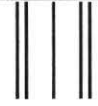
DID YOU....

- SEAL** your ballot inside the yellow envelope that says "Official Election Ballot" and place the yellow envelope inside this envelope with the purple strip?
- SIGN & DATE** the voter's declaration in your **OWN** handwriting?

IF your ballot is not inside the yellow envelope PLEASE contact 814-355-6703 to be corrected.

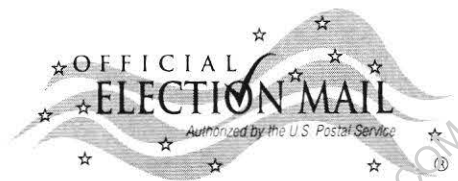
**Official
Ballot
Return
Envelope**

CENTRE COUNTY ELECTIONS
WILLOWBANK BUILDING
420 HOLMES STREET
BELLEFONTE PA 16823-1401



First-Class
Postage
Required

Your ballot must be received by 8 p.m. on election day at Centre County Election Office



CENTRE COUNTY ELECTIONS
WILLOWBANK BUILDING
420 HOLMES STREET
BELLEFONTE PA 16823-1401

Voter's declaration

I am qualified to vote the enclosed ballot and I have not already voted in this election.

If I am unable to sign without help because I have an illness or physical disability, I have made my mark or somebody has helped me make my mark.

If you DO NOT follow the instructions your ballot may not be counted! Contact Centre County Election Office for assistance.

For your witness only

If you have an illness or physical disability that prevents you from signing, have your witness complete this section.

Witness, sign here

Witness address

Street _____

City _____ Zip _____

Sign and date



Sign or mark here (REQUIRED)				
X				
Today's date here (REQUIRED)				
		2	0	
<small>Month</small>	<small>Day</small>	<small>Year</small>		

Clear Area

CERTIFICATE OF COMPLIANCE

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

By: /s/ Elizabeth A. Dupuis
Elizabeth A. Dupuis, Esquire
*Attorney for the Centre County Board of
Elections*

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IN THE COURT OF COMMON PLEAS OF CENTRE COUNTY,
PENNSYLVANIA – CIVIL ACTION – LAW

MICHELLE M. SCHELLBERG, *et al.*, :
: Appellants, : Docket No. 2024-CV-1220-CI
: v. :
: CENTRE COUNTY BOARD OF :
: ELECTIONS, :
: Appellee. :

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Quash Appeal as Untimely and Request for Cancellation or Conversion of May 16, 2024 Hearing was served on the 13th day of May 2024, via First Class U.S. Mail and E-Mail upon the following:

Louis T. Glantz, Esquire
GLANTZ, JOHNSON & ASSOCIATES
1901 E. College Avenue
State College, PA 16801
louis.glantz@gmail.com

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

By: /s/ Elizabeth A. Dupuis
Elizabeth A. Dupuis, Esquire

Date: May 13, 2024

cc: Centre County