

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

**BLACK POLITICAL EMPOWERMENT  
PROJECT, et al.,**

**Petitioners,**

**v.**

**AL SCHMIDT, et al.,**

**Respondents,**

**v.**

**DEMOCRATIC NATIONAL  
COMMITTEE, et al.,**

**Intervenor-Petitioners,**

**v.**

**REPUBLICAN NATIONAL  
COMMITTEE, et al.,**

**Intervenor-Respondents.**

**No. 283 MD 2024  
Original Jurisdiction**

**[PROPOSED] ORDER**

AND NOW, this \_\_\_\_ day of September, 2024, upon consideration of  
Petitioners' Application for Leave to File an Amended Petition for Review, it is  
hereby **ORDERED** that Petitioners' Application is **GRANTED**, and IT IS  
FURTHER **ORDERED** that:

- A. The County Boards of Elections for Adams, Armstrong, Beaver, Bedford, Berks, Blair, Bradford, Bucks, Butler, Cambria, Cameron, Carbon, Centre, Chester, Clarion, Clearfield, Clinton, Columbia, Crawford, Cumberland, Dauphin, Delaware, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lancaster, Lawrence, Lebanon, Lehigh, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren County, Washington, Wayne, Westmoreland, Wyoming, and York Counties are hereby joined as Respondents pursuant to Pa.R.Civ.P. 1032;
- B. Within **24 hours** of the docketing of this Order:
- 1) Petitioners shall electronically file an Amended Petition for Review, in the form of the proposed Amended Petition attached as Exhibit A to Petitioners' September 18, 2024 Application for Leave;
  - 2) Petitioners shall serve the above-named County Boards of Elections with copies of this Order and the Amended Petition for Review via electronic mail to each County Board's solicitor and/or United States Postal Service overnight delivery to each county's elections office; and

3) Any party who previously filed an Application for Summary Relief in this matter may renew such Application and serve copies of their previous applications with all previous briefing on all Respondents via electronic mail. All arguments previously made as to claims against the Allegheny County Board of Elections and Philadelphia County Board of Elections are deemed to apply to all Respondent County Board of Elections;

- C. The above-named County Boards shall have until **September \_\_, 2024**, to file any responses or oppositions to the Amended Petition for Review and/or renewed Applications for Summary Relief. Any Respondent who does not respond by this date shall be deemed not to take a position on Petitioners' claims or requested relief and to agree to abide by the outcome of this litigation; and
- D. Petitioners and Respondents shall have **2 days** from the filing of any responses or oppositions filed by any of the above-named County Boards to submit replies. Petitioners and Respondents are directed not to supplement or amend their prior arguments except to the extent necessary to reply to arguments raised in newly-filed responses or oppositions; if no newly-added County Board files an opposition, any Applications for

Summary Relief that are renewed per paragraph B.2 of this Order shall be submitted on the briefs previously submitted by the parties.

BY THE COURT

---



**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

**BLACK POLITICAL EMPOWERMENT  
PROJECT, et al.,**

**Petitioners,**

**v.**

**AL SCHMIDT, et al.,**

**Respondents,**

**v.**

**DEMOCRATIC NATIONAL  
COMMITTEE, et al.,**

**Intervenor-Petitioners,**

**v.**

**REPUBLICAN NATIONAL  
COMMITTEE, et al.,**

**Intervenor-Respondents.**

**No. 283 MD 2024  
Original Jurisdiction**

**PETITIONERS' APPLICATION FOR LEAVE TO FILE AN  
AMENDED PETITION FOR REVIEW**

Pursuant to Rules 1032 and 1033(a) of the Pennsylvania Rules of Civil Procedure and the September 13, 2024 Order of the Pennsylvania Supreme Court, Petitioners, through their counsel, hereby move for leave to file an Amended Petition for Review, in the form attached as Exhibit A hereto, solely to join additional respondents deemed by the Supreme Court to be indispensable to the resolution of

Petitioners' claims.<sup>1</sup> A document comparison showing the differences between the proposed Amended Petition and the original Petition is attached hereto as Exhibit B. In support of this Application, Petitioners state the following:

1. Petitioners, nonpartisan organizations dedicated to promoting American democracy and the participation of Pennsylvania voters in our shared civic enterprise, initiated this case with a Petition for Review on May 28, 2024, claiming, *inter alia*, that enforcement of the Election Code's envelope-dating provisions to disqualify timely-received absentee and mail-in ballots violates the Free and Equal Elections Clause of the Pennsylvania Constitution, Pa. Const. art. I, § 5.<sup>2</sup>

2. The Petition for Relief named as Respondents Al Schmidt, in his official capacity as Secretary of the Commonwealth, and the Boards of Elections of Allegheny and Philadelphia Counties.

3. The Court subsequently granted two applications to intervene: (a) the Democratic National Committee and Pennsylvania Democratic Party ("Democratic Intervenors") joined the case as Intervenor-Petitioners, and (b) the Republican National Committee and Republican Party of Pennsylvania ("Republican

<sup>1</sup> The only changes in the proposed Amended Petition, beyond those necessary to join 65 County Board of Elections Respondents, are updates to the form of existing citations that have been updated since the filing of the original Petition.

<sup>2</sup> For brevity, this Application will hereinafter use the term "mail-in ballots" to refer to both absentee ballots, *see* 25 Pa. Stat. and Cons. Stat. § 3146.6, and mail-in ballots, *see id.* § 3150.16.

Intervenors”) joined as Intervenor-Respondents.

4. As the facts necessary to decide Petitioners’ claims are well-known to the parties and beyond legitimate dispute after years of litigation—including uncontested findings by federal courts following fulsome discovery from all counties regarding election officials’ enforcement and application of the envelope-dating provisions to disenfranchise voters—the parties agreed at a June 10, 2024 status conference that there were “no outstanding questions of fact,” and this Court ordered the parties to proceed to applications for summary relief.<sup>3</sup>

5. On June 24, 2024, Petitioners and Republican Intervenors filed cross-applications for summary relief. Petitioners and Republican Intervenors filed oppositions to their respective applications for summary relief on July 8, 2024. An *en banc* panel of this Court held oral argument on the cross-applications for summary relief on August 1, 2024.

6. In their summary relief arguments, Republican Intervenors argued for dismissal of this action on the theory that Petitioners did not join all 67 Pennsylvania County Boards of Elections.

7. On August 30, 2024, this Court granted summary relief on Petitioners’ constitutional claims. *Black Political Empowerment Project v. Schmidt* (“B-PEP”),

<sup>3</sup> All Parties, including Intervenors, confirmed during a June 10, 2024 status conference with this Court that the material facts set forth in Petitioners’ Petition for Review and Application are undisputed at this point. As reflected in the Court’s June 10, 2024 Order issued immediately after that status conference, “all parties agreed that there are no outstanding questions of fact....”

2024 WL 4002321 (Pa. Cmwlth. Aug. 30, 2024). In addition to their agreement with Petitioners’ arguments on the merits, the *en banc* panel majority rejected the Republican Intervenors’ procedural arguments, including their position that 65 unnamed County Boards of Elections were indispensable parties. *Id.*, \*22-23.

8. Republican Intervenors appealed that decision to the Pennsylvania Supreme Court on September 2, 2024. Pursuant to the Supreme Court’s August 27, 2024 Judicial Administration Order, Republican Intervenors filed their Appellants’ Brief on September 3, and Petitioners filed their Appellees’ Brief on September 4, 2024.

9. On September 13, 2024, the Pennsylvania Supreme Court issued an Order vacating this Court’s August 30, 2024 order based on the “failure to name the county boards of elections of all 67 counties.” The Supreme Court did not address the merits of Petitioners’ claims or reverse this Court’s reasoning on the merits, but rather vacated the result solely on this procedural ground.

10. The Supreme Court noted that the joinder of the Secretary as a party “did not suffice” to overcome the jurisdictional issue caused by the non-joinder of the remaining counties, but did not dismiss the case or direct this Court to dismiss.<sup>4</sup>

<sup>4</sup> As the *en banc* panel majority previously ruled, the Secretary’s status as an indispensable party to this action is a valid basis for jurisdiction in this Court. *B-PEP*, 2024 WL 4002321, \*18-21. The Supreme Court did not reverse this aspect of this Court’s ruling; rather, the issue divesting this Court of jurisdiction was non-joinder of other indispensable parties. Thus, for the reasons set forth previously by this Court, *id.*, and in Petitioners’ July 8, 2024 Opposition Brief (at 41-49), this Court may continue to exercise original jurisdiction with the additional indispensable parties joined pursuant to Pa.R.C.P. 1032(b).

If the Supreme Court had indeed resolved that the Commonwealth had no jurisdiction to adjudicate this case due to the absence of viable claims against the Secretary, the Court would have directed dismissal and would have had no reason to include any reference to the unnamed counties as indispensable parties.

11. The jurisdictional defect identified in the Supreme Court’s September 13 Order may accordingly be corrected by joining the 65 County Boards of Elections that were not originally named in the complaint.

12. Directing joinder of 65 County Boards of Elections is consistent with Rule 1032, which provides that, where “there has been a failure to join an indispensable party, the court shall order that the action be transferred to a court of the Commonwealth which has jurisdiction or *that the indispensable party be joined....*” Pa.R.C.P. 1032(b) (emphasis added). “Rule 1032 provides that joinder of the indispensable party is the default remedy, and that dismissal is appropriate only if the party cannot be joined.” *Towamencin Sumneytown Pike, LLC v. Philadelphia Suburban Dev. Corp.*, 283 A.3d 394 (Pa. Super. Ct. 2022)

13. Petitioners, therefore, seek leave to amend their pleading only to the extent necessary to comply with the Supreme Court’s Order by joining the indispensable parties pursuant to Rule 1032(b), so that this important matter may be swiftly resolved on the merits.

14. Applications to amend the initial pleading are governed by Rule 1033,

which provides that “[a] party, either by filed consent of the adverse party or by leave of court, may at any time change the form of action, add a person as a party, correct the name of a party, or otherwise amend the pleading.” Pa.R.Civ.P. 1033(a). The “right to amend pleadings is within the sound discretion of the trial court and should be liberally granted.” *Ash v. Cont’l Ins. Co.*, 932 A.2d 877, 879 (Pa. 2007)).

15. This Court should grant the proposed amendment consistent with these authorities and the directive of the Supreme Court regarding how to perfect this critically important case for a merits ruling prior to the fast-approaching General Election on November 5, 2024.

16. The burdens imposed by the proposed amendment are minimal. As shown in the proposed amendment attached hereto as Exhibit A and the document comparison at Exhibit B, Petitioners do not seek to add any claims or substantive arguments to those already fully presented to this Court. The proposed amendment would not require any new responses or motion practice from any of the originally-named Respondents. And Petitioners propose an expedited schedule that would require nothing of any newly-joined County Respondent who does not wish to participate substantively in this litigation.<sup>5</sup>

<sup>5</sup> There is good reason to think that this category will include nearly all of the 65 Counties proposed to be joined. None of the newly-joined County Boards saw fit to seek intervention in this case in the 3 months since it was filed. And in the *NAACP* federal statutory case in which all 67 County Boards of Elections were named as defendants, the vast majority of County Boards either expressly agreed not to contest the requested relief or did not substantively respond to the litigation beyond their compliance with discovery requests. *NAACP I*, W.D. Pa. No. 1:22-cv-00339, ECF Nos. 157

17. Moreover, the facts needed to resolve this litigation, which are already incorporated in this case, are well-known to all 67 County Boards of Elections. The record here is the same record these County Boards helped develop through their participation in the extensive discovery process conducted in *Pa. State Conf. of NAACP v. Schmidt* (“*NAACP I*”), 703 F. Supp. 3d 632 (W.D. Pa. 2023), *rev’d on other grounds*, 97 F.4th 120 (3d Cir. 2024). Accordingly, this case can proceed expeditiously to resolution of legal issues on cross-applications for summary relief.

18. Petitioners request that this Honorable Court, therefore, set an expedited schedule for renewal of cross-applications for summary relief and receipt of any opposition briefs that newly-joined County Boards may file.

**WHEREFORE**, for all the foregoing reasons, Petitioners respectfully request that this Honorable Court grant their Application for Leave to File an Amended Petition for Review joining the County Boards of Elections for Adams, Armstrong, Beaver, Bedford, Berks, Blair, Bradford, Bucks, Butler, Cambria, Cameron, Carbon, Centre, Chester, Clarion, Clearfield, Clinton, Columbia, Crawford, Cumberland, Dauphin, Delaware, Elk, Erie, Fayette, Forest, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lancaster,

(Order approving stipulation with 33 boards), 192 (Order approving stipulation with 8 additional boards), 243 (stipulation with 22 additional county boards); 445 (stipulation with Westmoreland County Board). Here, Petitioners propose that the few County Boards who may be interested in responding to Petitioners’ claims be permitted to do so on an expedited deadline, and that those who decline to respond by that time be excused from active participation in the suit.

Lawrence, Lebanon, Lehigh, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren County, Washington, Wayne, Westmoreland, Wyoming, and York Counties as Respondents in this action, and enter an order in the form attached hereto setting the following schedule:

- Petitioners shall file and serve their Amended Petition for Review within 24 hours<sup>6</sup>;
- Any party who wishes to renew their Application for Summary Relief may do so within 24 hours and serve copies of all briefing on those motions electronically<sup>7</sup>;
- Any newly-joined Respondent who wishes to respond to the Petition and/or renewed Applications for Summary Relief may do so on a date to be selected by the Court, not to exceed 3 days from the parties' deadlines to serve amended pleadings; and
- The parties shall have an additional 2 days from any newly-filed

<sup>6</sup> For the sake of expediency, Petitioners seek permission to serve the Amended Petition for Review on newly-joined Respondents via electronic mail and U.S. Postal Service overnight delivery. Petitioners' counsel has reliable contact information to quickly effectuate service on these public entities through their participation in the *NAACP* litigation.

<sup>7</sup> Petitioners seek permission for the parties to serve via email the voluminous summary relief briefs on the newly-joined Respondents so that they can avoid the burden of printing and shipping 65 packages containing hundreds of pages of briefing.



responses or oppositions to submit replies, supplementing their prior arguments only to the extent necessary to reply to arguments raised in newly-filed responses or oppositions by newly-joined Respondents.

Dated: September 18, 2024

Respectfully submitted,

Witold J. Walczak (No. 62976)  
Stephen Loney (No. 202535)  
Marian K. Schneider (No. 50337)  
Kate I. Steiker-Ginzberg (No. 332236)  
AMERICAN CIVIL LIBERTIES  
UNION OF PENNSYLVANIA  
P.O. Box 60173  
Philadelphia, PA 19102  
(215) 592-1513  
[vwalczak@aclupa.org](mailto:vwalczak@aclupa.org)  
[sloney@aclupa.org](mailto:sloney@aclupa.org)  
[mschneider@aclupa.org](mailto:mschneider@aclupa.org)  
[ksteiker-ginzberg@aclupa.org](mailto:ksteiker-ginzberg@aclupa.org)

Sophia Lin Lakin (*pro hac vice*)  
Ari J. Savitzky (*pro hac vice*)  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
125 Broad Street, 18th Floor  
New York, NY 10004  
Tel.: (212) 549-2500  
[slakin@aclu.org](mailto:slakin@aclu.org)  
[asavitzky@aclu.org](mailto:asavitzky@aclu.org)

/s/ Stephen Loney

Mary M. McKenzie (No. 47434)  
Benjamin Geffen (No. 310134)  
PUBLIC INTEREST LAW CENTER  
1500 JFK Blvd., Suite 802  
Philadelphia, PA 19102  
(267) 546-1313  
[mmckenzie@pubintl.org](mailto:mmckenzie@pubintl.org)  
[bgeffen@pubintl.org](mailto:bgeffen@pubintl.org)

John A. Freedman (*pro hac vice*)  
James F. Speyer (*pro hac vice*)  
David B. Bergman (*pro hac vice*)  
ARNOLD & PORTER KAYE  
SCHOLER LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001  
(202) 942-5000  
[john.freedman@arnoldporter.com](mailto:john.freedman@arnoldporter.com)  
[james.speyer@arnoldporter.com](mailto:james.speyer@arnoldporter.com)  
[david.bergman@arnoldporter.com](mailto:david.bergman@arnoldporter.com)

## **CERTIFICATE OF COMPLIANCE**

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

/s/ Stephen Loney

# **Exhibit A**

## **NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within \_\_\_\_\_ days, or within the time set by order of the court, after this amended petition for review and notice are served, by entering a written appearance personally or by attorney and filling in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claims or relief requested by the plaintiff. You may lose money or property or other rights important to you. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Dauphin County Bar Association  
Lawyer Referral Service  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**BLACK POLITICAL EMPOWERMENT  
PROJECT, POWER INTERFAITH, MAKE THE  
ROAD PENNSYLVANIA, ONEPA ACTIVISTS  
UNITED, NEW PA PROJECT EDUCATION  
FUND, CASA SAN JOSÉ, PITTSBURGH UNITED,  
LEAGUE OF WOMEN VOTERS OF  
PENNSYLVANIA, AND COMMON CAUSE  
PENNSYLVANIA,**

**Petitioners,**

**v.**

**AL SCHMIDT, in his official capacity as Secretary  
of the Commonwealth, AND 67 COUNTY BOARDS  
OF ELECTIONS,  
(See back cover for list of County Respondents)**

**Respondents.**

**No. 283 M.D. 2024**

**Original  
Jurisdiction**

**NOTICE TO PLEAD**

**To the Respondents:** You are hereby notified to file a written response to the Petitioners' enclosed Amended Petition for Review within \_\_\_\_\_ days from service hereof, or such other time as the Court prescribes, or judgment may be entered again you.

Dated: September \_\_\_, 2024

Respectfully submitted,

/s/ Stephen Loney

Stephen Loney (No. 202535)

P.O. Box 60173

Philadelphia, PA 19102

[sloney@aclupa.org](mailto:sloney@aclupa.org)

Adams County Board of Elections; Allegheny County Board of Elections; Armstrong County Board of Elections; Beaver County Board of Elections; Bedford County Board of Elections; Berks County Board of Elections; Blair County Board of Elections; Bradford County Board of Elections; Bucks County Board of Elections; Butler County Board of Elections; Cambria County Board of Elections; Cameron County Board of Elections; Carbon County Board of Elections; Centre County Board of Elections; Chester County Board of Elections; Clarion County Board of Elections; Clearfield County Board of Elections; Clinton County Board of Elections; Columbia County Board of Elections; Crawford County Board of Elections; Cumberland County Board of Elections; Dauphin County Board of Elections; Delaware County Board of Elections; Elk County Board of Elections; Erie County Board of Elections; Fayette County Board of Elections; Forest County Board of Elections; Franklin County Board of Elections; Fulton County Board of Elections; Greene County Board of Elections; Huntingdon County Board of Elections; Indiana County Board of Elections; Jefferson County Board of Elections; Juniata County Board of Elections; Lackawanna County Board of Elections; Lancaster County Board of Elections; Lawrence County Board of Elections; Lebanon County Board of Elections; Lehigh County Board of Elections; Luzerne County Board of Elections; Lycoming County Board of Elections; McKean County Board of Elections; Mercer County Board of Elections; Mifflin County Board of Elections; Monroe County Board of Elections; Montgomery County Board of Elections; Montour County Board of Elections; Northampton County Board of Elections; Northumberland County Board of Elections; Perry County Board of Elections; Philadelphia County Board of Elections; Pike County Board of Elections; Potter County Board of Elections; Schuylkill County Board of Elections; Snyder County Board of Elections; Somerset County Board of Elections; Sullivan County Board of Elections; Susquehanna County Board of Elections; Tioga County Board of Elections; Union County Board of Elections; Venango County Board of Elections; Warren County Board of Elections; Washington County Board of Elections; Wayne County Board of Elections; Westmoreland County Board of Elections; Wyoming County Board of Elections; and York County Board of Elections,

*Respondents.*

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

**BLACK POLITICAL EMPOWERMENT  
PROJECT, POWER INTERFAITH, MAKE THE  
ROAD PENNSYLVANIA, ONEPA ACTIVISTS  
UNITED, NEW PA PROJECT EDUCATION  
FUND, CASA SAN JOSÉ, PITTSBURGH UNITED,  
LEAGUE OF WOMEN VOTERS OF  
PENNSYLVANIA, AND COMMON CAUSE  
PENNSYLVANIA,**

**Petitioners,**

**v.**

**AL SCHMIDT, in his official capacity as Secretary  
of the Commonwealth, AND 67 COUNTY BOARDS  
OF ELECTIONS,  
(See back cover for list of County Respondents)**

**Respondents.**

**No. 283 M.D. 2024**

**Original  
Jurisdiction**

**AMENDED PETITION FOR REVIEW  
ADDRESSED TO THE COURT'S ORIGINAL JURISDICTION**

Adams County Board of Elections; Allegheny County Board of Elections; Armstrong County Board of Elections; Beaver County Board of Elections; Bedford County Board of Elections; Berks County Board of Elections; Blair County Board of Elections; Bradford County Board of Elections; Bucks County Board of Elections; Butler County Board of Elections; Cambria County Board of Elections; Cameron County Board of Elections; Carbon County Board of Elections; Centre County Board of Elections; Chester County Board of Elections; Clarion County Board of Elections; Clearfield County Board of Elections; Clinton County Board of Elections; Columbia County Board of Elections; Crawford County Board of Elections; Cumberland County Board of Elections; Dauphin County Board of Elections; Delaware County Board of Elections; Elk County Board of Elections; Erie County Board of Elections; Fayette County Board of Elections; Forest County Board of Elections; Franklin County Board of Elections; Fulton County Board of Elections; Greene County Board of Elections; Huntingdon County Board of Elections; Indiana County Board of Elections; Jefferson County Board of Elections; Juniata County Board of Elections; Lackawanna County Board of Elections; Lancaster County Board of Elections; Lawrence County Board of Elections; Lebanon County Board of Elections; Lehigh County Board of Elections; Luzerne County Board of Elections; Lycoming County Board of Elections; McKean County Board of Elections; Mercer County Board of Elections; Mifflin County Board of Elections; Monroe County Board of Elections; Montgomery County Board of Elections; Montour County Board of Elections; Northampton County Board of Elections; Northumberland County Board of Elections; Perry County Board of Elections; Philadelphia County Board of Elections; Pike County Board of Elections; Potter County Board of Elections; Schuylkill County Board of Elections; Snyder County Board of Elections; Somerset County Board of Elections; Sullivan County Board of Elections; Susquehanna County Board of Elections; Tioga County Board of Elections; Union County Board of Elections; Venango County Board of Elections; Warren County Board of Elections; Washington County Board of Elections; Wayne County Board of Elections; Westmoreland County Board of Elections; Wyoming County Board of Elections; and York County Board of Elections,

*Respondents.*



## **I. SUMMARY OF THE LAWSUIT**

1. Pennsylvania election officials, including Secretary of the Commonwealth Al Schmidt (“Secretary Respondent”) and officials at all 67 County Boards of Elections (“County Respondents”) have arbitrarily disqualified thousands of plainly eligible voters’ timely-submitted mail-in ballots in every primary and general election since 2020 merely because the voters neglected to write a date, or wrote an “incorrect” date, on the ballot-return envelope. Such conduct violates the Pennsylvania Constitution’s Free and Equal Elections Clause, Pa. Const. art. I, § 5.

2. Petitioners, nonpartisan organizations dedicated to promoting American democracy and the participation of Pennsylvania voters in our shared civic enterprise, bring this Amended Petition for Review to ensure that their members, the people they serve, and other qualified Pennsylvania voters do not again lose their constitutional right to vote based on a meaningless requirement.

3. The refusal to count timely mail ballots submitted by otherwise eligible voters because of an inconsequential paperwork error violates the fundamental right to vote recognized in the Free and Equal Elections Clause, which provides that “no power, civil or military, shall at any time interfere to prevent the free exercise of the right to suffrage.” Pa. Const. art. 1, § 5. *See Ball v. Chapman*, 289 A.3d 1, 27 n.156 (Pa. 2023) (plurality opinion) (acknowledging that

the “failure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause, and our attendant jurisprudence that ambiguities are resolved in a way that will enfranchise, rather than disenfranchise, the electors of this Commonwealth”).

4. Enforcement of the dating provision disenfranchised at least 10,000 voters in the 2022 general election and thousands more<sup>1</sup> voters in the 2024 Presidential primary whose ballots were timely received by election day. These include individuals like Allegheny County voters Joanne Sowell and Otis Keasley, Philadelphia County voters Bruce Wiley and Eugene Ivory, and other impacted individuals from across the Commonwealth like Stephen Arbour (Montgomery County), Kenneth Hickman (York County), Janet Novick (Bucks County), Joe Sommar (Chester County), Phyllis Sprague (Bucks County), Mary Stout (Berks

---

<sup>1</sup> Petitioners note that the precise number of votes impacted by this issue in the 2024 primary election is currently unknown, as several counties still have not entered all ballot cancellations in the SURE system. It is already clear, however, that the meaningless envelope dating provision again impacted several thousand Pennsylvania voters even in this low-turnout election. In any event, recent history has proven that not counting even a relatively small number of mail ballots based on this provision can be outcome determinative in close races. *See, e.g.*, Katherine Reinhard and Robert Orenstein, “Cohen wins Lehigh County judicial election by 5 votes,” *Pennsylvania Capital-Star* (June 17, 2022) (noting impact on municipal election results after counting 257 mail ballots received in undated envelopes following *Migliori v. v. Cohen*, 36 F.4th 153, 162-64 (3d Cir. 2022), *vacated as moot*, 2022 WL 6571686 (U.S. Oct. 11, 2022)); Dan Sokil, “Towamencin supervisors race tied after Montgomery County election update,” *The Reporter Online* (Nov. 27, 2023) (noting impact on Towamencin Township supervisor results after counting 6 impacted mail ballots following *NAACP, et al. v. Schmidt, of NAACP v. Schmidt*, 703 F. Supp. 3d 632 (W.D. Pa. 2023), *rev’d* 97 F.4th 120 (2024)); Borys Krawczeniuk, “Court says six mail-in ballots in state 117th House District race should count,” *WVIA News* (May 8, 2024) (noting potential impact on outcome of state house race if six outstanding mail ballots are counted in Luzerne County).

County), and Lorine Walker (Dauphin County), whose timely ballots, as described herein, were rejected for arbitrary and trivial reasons.

5. Absent declaratory and injunctive relief by this Court enjoining enforcement of the date requirement, Petitioners, their members and thousands of qualified Pennsylvania voters will suffer the irreparable harm of having their timely-submitted mail-in ballots rejected in this year's general election and at every election thereafter.

6. As multiple courts have found in recent prior lawsuits, the voter-written date is meaningless, necessary neither to establish voter eligibility or timely ballot receipt. While the date requirement has nevertheless survived previous court challenges, none of the lawsuits thus far have tested the date requirement under the Pennsylvania Constitution's Free and Equal Elections Clause, Pa. Const. art. I, § 5. Until now.

## **II. JURISDICTION**

7. This Court has original jurisdiction over this Amended Petition for Review pursuant to 42 Pa.C.S. § 761(a)(1).

## **III. PARTIES**

8. Black Political Empowerment Project ("B-PEP") is a non-profit, non-partisan organization that has worked since 1986 to ensure that the Pittsburgh African-American community votes in every election. B-PEP's and its supporters

throughout the Pittsburgh Region, including in Allegheny County, work with community organizations to empower Black and brown communities, including by promoting voting rights and get-out-the vote efforts.

9. During every election cycle, B-PEP's work includes voter registration drives, get-out-the-vote activities, education and outreach about the voting process, and election-protection work. B-PEP focuses these activities in predominantly Black neighborhoods in Allegheny County, with some efforts in Westmoreland and Washington Counties.

10. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects B-PEP's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. Respondent Allegheny County Board of Elections' failure to count such ballots will also obligate B-PEP to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. In connection with the 2024 general election, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters B-PEP will have to divert its resources towards educating voters about the risk of disenfranchisement due to the envelope dating requirement and about any available cure processes. B-PEP

will also divert resources toward continued advocacy for new processes to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake, as it has in other prior election cycles since at least 2022.

b. In connection with the November 2022 election, for example, B-PEP conducted outreach to members and constituent communities in Allegheny County about the importance of voting in person or by mail. When it was announced that county boards of elections would not count timely-submitted mail ballots based solely on missing or supposedly incorrect dates on return envelopes, B-PEP redirected its limited resources, including staff and volunteer time, to efforts to inform voters of this change and educate them as to how to avoid disenfranchisement.

c. In the days leading up to the election in November 2022, B-PEP's staff and volunteers also expended time and money developing, printing and distributing hundreds of flyers and other educational materials to dozens of churches for the purpose of informing prospective voters of the envelope dating issues generated by prior court decisions.

d. B-PEP's time and resources dedicated by B-PEP staff and volunteers would otherwise have been available for the organization's other

“get out the vote” efforts and other initiatives serving BPEP’s mission, including its Greater Pittsburgh Coalition Against Violence.

e. Leading up to the November 2024 General Election and other future elections, B-PEP plans similarly to divert its staff and volunteer resources from voter engagement and community initiatives toward preventing the disenfranchisement of voters who have already submitted their ballots.

11. POWER Interfaith (“POWER”) is a Pennsylvania non-profit organization of more than 100 congregations of various faith traditions, cultures and neighborhoods committed to civic engagement and organizing communities so that the voices of all faiths, races and income levels are counted and have a say in government.

12. During every election cycle, POWER’s civic engagement efforts include voter education programs, voter registration drives, and “Souls to the Polls” efforts<sup>2</sup> within Philadelphia County to encourage congregants to vote. In the weeks leading up to the November 2022 election, for example POWER launched a

---

<sup>2</sup>“Souls to the Polls” refers to the efforts of Black church leaders to encourage their congregants to vote *See, e.g.* Daniels, III, D. “The Black Church has been getting “souls to the polls” for more than 60 years,” *The Conversation*, Oct. 30, 2020, <https://theconversation.com/the-black-church-has-been-getting-souls-to-the-polls-for-more-than-60-years-145996>

bus tour focused on engaging Philadelphia County voters who were not already participating in the political process.

13. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects POWER's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. County Respondents' failure to count such ballots will also compel POWER to continue diverting resources in this and future elections from its other voter education and mobilization efforts towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, POWER will reassign volunteers and staff from its other voter education and mobilization efforts towards contacting and educating voters who had already submitted their mail ballots about how to fix problems with the mail ballot envelope date and avoid having their vote set aside, as it has in prior election cycles since at least 2022.

b. In one prior example, when Philadelphia published a list of over 3,000 voters who were at risk of having their November 2022 general election ballots thrown out over technical errors, including a missing or incorrect date on the return envelope, POWER's members and volunteers made more than 1,200 manual calls and sent more than 2,900 texts to the voters whose names appeared on Philadelphia's at-risk list to provide them with information to help them cure their ballot or vote provisionally. POWER also stationed volunteers at City Hall to ensure voters returning their mail ballots to that location had correctly dated their return envelopes.

c. The time and attention that POWER devoted to ensuring voters who had already submitted their mail ballots would have their votes counted would otherwise have been used to engage and educate people who had not already attempted to vote.

d. Leading up to the 2024 General Election and other future elections, POWER plans to similarly divert its member and volunteer resources from their intended mission—engaging, educating, and mobilizing new voters—toward addressing the risk that voters who have already submitted their mail ballots may have their ballot set aside due to an error or omission of the handwritten date on the mail ballot return envelope.



14. Make the Road Pennsylvania (“Make the Road PA”) is a not-for-profit, member-led organization formed in 2014 that builds the power of the working class in Latino and other communities to achieve dignity and justice through organizing, policy innovation, and education services. Make the Road PA’s more than 10,000 members are primarily working-class residents of Pennsylvania, many in underserved communities. Many members of Make the Road PA are registered voters in Pennsylvania.

15. Make the Road PA’s work includes voter protection, voter advocacy and voter education on, for example, how to register to vote, how to apply for mail-in/absentee ballots, how to return mail-in/absentee ballots, and where to vote. Its get-out-the-vote efforts have included knocking on doors and speaking directly with eligible voters in historically underserved communities of color, especially in Berks, Bucks, Lehigh, Northampton and Philadelphia Counties.

16. Many members of Make the Road PA are registered voters in Pennsylvania and are at risk of disenfranchisement if Respondents fail to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope. Because Make the Road PA’s efforts are focused on communities where some voters are not native English speakers, the risk that some voters may make a minor paperwork mistake in filling out various forms related to mail or absentee ballot voting is heightened.

17. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Make the Road PA's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. County Respondents' failure to count such ballots will also compel Make the Road PA to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. In connection with the 2024 general election, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Make the Road PA will have to divert its resources towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake, as it has in prior election cycles since at least 2022.

b. During the 2024 election cycle, Make the Road PA will reassign volunteers and staff from its other voter education and mobilization efforts, redirecting its limited resources to efforts to inform voters of the risk of disenfranchisement from the envelope dating rule and to educate them as to how to avoid disenfranchisement.

c. Similarly, in connection with the 2022 General Election, Make the Road PA contacted thousands of Pennsylvania voters, including Berks, Bucks, Lehigh, Northampton and Philadelphia County voters, to provide them with information to help them cure their ballot or vote provisionally to prevent the counties' actions from disenfranchising them.

d. Leading up to the November 2024 General Election and other future elections, Make the Road PA plans to similarly divert its staff and volunteer resources from voter engagement and community initiatives toward preventing the disenfranchisement of voters who have already submitted their ballots.

e. But for application of the rule at issue in this case, such time and resources dedicated by Make the Road PA staff and volunteers would have been available for the organization's other "get out the vote" efforts and other initiatives serving Make the Road PA's mission, including its Immigrant Rights, Education Justice, Housing Justice, Climate Justice and Worker Rights initiative.

18. OnePA Activists United (d/b/a "One PA For All") is a community organizing and voter engagement group that fights for racial, economic and environmental justice. It builds multiracial, working-class progressive power in Pennsylvania with a deep focus on Black liberation, with offices in Pittsburgh and

Philadelphia, and does voter engagement work in Philadelphia, Allegheny, Delaware, and Dauphin Counties.

19. One PA For All's mission and program include a variety of voting- and election-related activities, including boosting voter registration and turnout within Black communities in Pennsylvania and educating and mobilizing community members for active participation in democratic processes, including city council, school board, zoning hearings, and PA General Assembly meetings. In connection with every election cycle, One PA For All runs an ambitious and comprehensive strategy to engage marginalized communities through door-to-door canvassing, phone calls, relational organizing, text messaging, digital ads, and earned media, with a goal to increase civic participation. In 2024, One PA plans to register more than 35,000 voters and make more than 2.14 million contacts with voters. In just the last two years, One PA has registered 28,000 voters in working class Black communities in Philadelphia, Delaware, and Allegheny Counties.

20. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects One PA For All's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also compel One PA For All to

continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. Since Respondents began strictly enforcing the envelope date requirement to disenfranchise people, One PA For All has helped 1000+ voters correct mistakes on their mail ballot envelopes. In one striking instance in 2022, One PA For canvassers knocked on door of Ms. Phyllis, a voter in her 70s, after learning that her mail-in ballot was in danger of not being counted because she had forgotten to write the date on the return envelope. Canvassers took her to her polling place and helped her obtain a provisional ballot, ensuring that her vote would count. Such a monumental effort requiring the resources of One PA For All and its staff and volunteers would not have been necessary if not for the decision to set aside mail ballots submitted without a voter written date on the return envelope.

b. One PA For All has, in past election cycles, expended scarce resources to help voters, like Ms. Phyllis, correct errors on mail ballot envelopes. This work is labor intensive and prevents its staff and volunteers from carrying out other aspects of its civic engagement work. In addition to contacting voters through the telephone or text message, One PA For All also sends staff and volunteers to the voters' homes and provides rides to the polling location for those voters who need a ride.

c. If the envelope dating requirement remains in place to disenfranchise mail-ballot voters who do not handwrite a date on the return envelope, or who write an “incorrect” date, One PA For All will continue its work instructing voters on how to correctly fill out a mail ballot return envelope. This work includes: distribution of a digital video via social media channels walking voters through how to properly vote by mail; organizing staff and volunteers to perform a “ballot chase” program that involves calling voters who have not turned in their mail ballots; and deploying staff and volunteers to mount a “ballot envelope curing” program that includes getting a copy of the list of voters in Allegheny and Philadelphia counties, contacting those voters and helping them correct the error on the envelope or helping them cast a provisional ballot in person.

d. In connection with the 2024 general election, One PA For All plans to deploy a five-person staff for the purpose of contacting voters who have made a mistake on their mail ballot envelope.

e. But for application of the rule at issue in this case, resources and staff deployed to reach out to voters with mistakes on their envelopes could be spent doing other work to advance One PA For All’s mission, such as knocking on additional doors, covering more territory in canvassing voters, calling or texting newly-registered voters, and recruiting and training

more volunteers. One PA For All is also diverting resources away from broader civic engagement and voter education program, which includes producing and distributing content publication on social media channels and coordinating messaging with micro influencers who have followings on Instagram and TikTok. If One PA For All did not have to expend resources on creating content about mail ballot envelope dating mistakes, it could focus educational materials more on voter registration, reach out to more first-time voters to encourage them to vote in the first place, and produce more communications focused on participation in the election in general. One PA For All would also have more resources to dedicate to its other civic engagement efforts, including its efforts to unite the community against exploitative corporate landlords, labor law violators, and health-threatening industrial polluters, and to transform the media narrative around community needs, enabling residents to share their stories for non-partisan direct action and civic engagement.

21. New PA Project Education Fund (“NPPEF”) is a nonpartisan, nonprofit organization based in Pennsylvania. NPPEF and its affiliated organization have offices in West Chester, Norristown, Harrisburg, and Pittsburgh. NPPEF is led by community leaders across the Commonwealth dedicated to centering underrepresented and underserved communities to embrace their power.

NPPEF works to ensure full participation in the democratic process through civic education and year-round engagement by centering Black, Indigenous, and other people of color, immigrant communities and the youth.

22. In connection with every election cycle, NPPEF conducts civic engagement and voter education in Philadelphia, Chester, Delaware, Montgomery, Bucks, Monroe, Lehigh, Northampton, Dauphin, Cumberland, Lebanon, York, Allegheny and Berks Counties. In 2024, NPPEF seeks to expand its operations into Erie, Beaver, Lawrence, Centre and Lackawanna counties. In the past two years, NPPEF and its affiliated organization registered nearly 40,000 Pennsylvanians to vote in Pennsylvania. More than 70% of those NPPEF registered to vote in 2024 are under the age of 36 and 68% of the newly registered, who self-identified, belong to a community of color. NPPEF’s voter registration, voter education and mobilization programs include repeat phone and email outreach to voters, door knocking, canvassing, mailings, preparing and distributing voter information guides, creating digital media, radio ads and emailed newsletters, and reaching out to voters on social media platforms. NPPEF also engages in “Community Conversations,” whereby staff travels the Commonwealth attending events and setting up informational tables to engage voters and potential voters and we provide nonpartisan information on how to register to vote, how to vote by mail and instructions for properly completing the vote by mail return envelope.



23. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects NPPEF's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also compel NPPEF to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, NPPEF will have to divert volunteers and staff from its other voter education and mobilization efforts to help ensure people are not disenfranchised by the envelope date requirement. Working in coalition with partner organizations, NPPEF expends resources towards ensuring that registered voters are notified of any mistakes on the mail ballot envelope, such as missing and incorrect dates, and provide information on how to make sure their vote counts. NPPEF will continue and expand this program for the general election in 2024. Because of the confusion around proper dates on mail ballot envelopes, in 2024, NPPEF anticipates adding information on the consequences of failing to handwrite the date or writing

the wrong date on the mail ballot envelope into its revised voter information guide tri-fold pamphlet.

b. Given the number of voters NPPEF aims to contact in 2024, any time spent discussing with voters the consequences of failing to date their mail ballot envelopes means staff and volunteers have that much less time to discuss other issues, and register additional Pennsylvanians to vote. NPPEF staff and volunteers are also forced to spend time and resources addressing inconsistent communication around correctly completing and returning vote by mail ballots and the resulting misinformation and voter fatigue around mail-in voting. NPPEF has thus had to spend additional resources to more thoroughly training staff, producing additional content and literature, more often than planned or budgeted, and redirecting staff capacity away from the organization's primary focus of registering Pennsylvanians to vote.

c. If NPPEF staff and volunteers did not need to spend time and resources educating voters about the dangers of being disenfranchised due to the envelope dating requirement, they would have more opportunities to discuss other issues with their centered communities instead of spending precious resources instructing them on how to properly date the mail ballot envelope. The more time and resources NPPEF is forced to spend providing

civic education around mail voting, the less time and resources it has to meet its organizational goals, and the expectations of its funders and donors.

24. Casa San José is a nonpartisan, nonprofit organization based in Pittsburgh, Pennsylvania, employing a staff of 24 and supported by three members of the order of the Sisters of St. Joseph and more than 100 volunteers. Casa San José connects, supports, and advocates with and for the Latino community toward a Pittsburgh region that celebrates Latino culture, welcomes immigrants, and embraces inclusion, dignity, and respect. In addition to voter engagement for the Latino community, Casa San José provides a variety of resources including weekly clinics, food pantries, summer camps, community meetings, and Know Your Rights sessions, among other services.

25. In connection with every election cycle, Casa San José does voter outreach in Allegheny, Beaver, Butler, Erie, Indiana, Lawrence, Washington, and Westmoreland counties. Casa San José engages the rapidly growing Latino community through phone calls, relational organizing, text messaging, and digital ads with a goal to increase the civic participation of the Latino communities. In 2022, for example, Casa San José conducted three phone call campaigns and three text campaigns, in addition to holding civic engagement events and distributing voter education information through social media sites, including Spanish videos with information on the importance of voting and the impact on local communities.

26. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Casa San José's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. County Respondents' failure to count such ballots will also compel Casa San José to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Casa San José will have to divert volunteers and staff from its other voter education and mobilization efforts to help ensure people are not disenfranchised by the envelope date requirement. As in past elections since at least 2022, Casa San José will need to spend time making thousands of "ballot chasing" calls and text messages educating voters on the danger of being disenfranchised based on envelope dating issues.

b. In the 2022 election, phone calls and texts that included information on envelope dating issues were completed by a Community Policy Organizer and six volunteers.

c. Contacting voters and spending time and effort on the correct way to fill out the mail ballot envelope is time consuming and requires Casa

San José to carefully train callers and volunteers to make sure they emphasize the need for the date and the consequences for omitting it.

d. But for application of the rule at issue in this case, resources and staff deployed to reach out to voters who thought they already voted properly could be used for a multitude of other activities core to Casa San José's mission, including but not limited to: creating educational material to help voters understand the importance of elections; engaging with more voters through phone calls and text messages; additional canvassing in predominantly Latino neighborhoods; and registering more voters, especially first time voters.

e. If the mail ballot dating rule continues to be enforced in a way that disenfranchises voters in future elections, Casa San José will have to continue diverting its time and resources away from these activities and toward addressing mail ballot envelope dating issues with voters who thought they already voted properly, as it did in 2022, in connection with the November 2024 general election.

27. Pittsburgh United is a nonpartisan organization that strives to advance social and economic justice in the Pittsburgh region. It is a membership and coalition organization employing 31 staff members in six offices, one each in Pittsburgh, Ambridge, Meadville, Erie, Greensburg and State College.

28. Among its other community-based initiatives, Pittsburgh United staff and volunteers work to increase civic engagement in the communities it serves, including through work to increase voter turnout and expand access to mail voting in Black, low-income, and white working class communities across its six chapters in Allegheny, Beaver, Erie, Crawford, Centre, and Westmoreland Counties.

29. In connection with each election cycle, Pittsburgh United engages with voters in a variety of ways, including door-to-door canvassing, phone, text and digital outreach. Over the past four years, Pittsburgh United has made hundreds of thousands of phone calls and knocked on hundreds of thousands of doors. Its staff and volunteers provide nonpartisan information on the election process, and how elections directly impact the issues that matter most to the organization and its members, such as jobs, housing, racial justice, and climate equity. Pittsburgh United uses a variety of methods to reach voters and distribute information via social media platforms many times using content created by its coalition partners.

30. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Pittsburgh United's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. County Respondents' failure to count such ballots will also compel Pittsburgh United to

continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Pittsburgh United will have to divert volunteers and staff from its other voter education and mobilization efforts to help ensure people are not disenfranchised by the envelope date requirement.

b. In their direct voter outreach, Pittsburgh United staff and volunteers will have to continue spending time with voters explaining the numerous steps required to accurately complete a mail ballot, including the date field, and talking to voters who have had their ballot fail to be counted. They will also have to continue devoting significant resources to calling voters whose mail ballots were rejected because of a handwritten date error on the outer envelope and advising them to contact their county or go to their local polling place and cast a provisional ballot on election day.

c. Pittsburgh United has extremely limited resources to reach people who are typically left out of the process of voting. The time necessary to explain the steps of correctly filling out a mail ballot, including the dating requirement, slows down its staff because they have to take more

time in each conversation with a voter, ultimately reducing the number of voters Pittsburgh United can reach leading up to the 2024 election.

d. But for application of the rule at issue in this case, the additional resources and staff spent with voters who thought they already voted properly could be used both for more voter outreach and for a multitude of other activities core to Pittsburgh United's mission, including but not limited to its "Clean Rivers Campaign," its "Our Water Campaign," its worker campaigns, and its affordable housing campaigns.

31. The League of Women Voters of Pennsylvania ("the League") is a non-partisan statewide non-profit formed in 1920. The League and its members are dedicated to helping the people of Pennsylvania exercise their right to vote, as protected by the law. The League encourages informed and active participation in government, works to increase understanding of major public policy issues, and seeks to influence public policy through education and advocacy. The League is a predominantly volunteer organization and has 30 member chapters and one Inter-League Organization operating in 28 counties around the Commonwealth. The League has nearly 2,500 individual members who are registered voters and regularly vote in state and federal elections using, among other methods, absentee and mail ballots.



32. The League's mission is to empower voters and defend democracy, which includes voter registration, education, and get-out-the-vote drives. During every election cycle, the League conducts voter-registration drives, staffs nonpartisan voter-registration tables, educates incarcerated and formerly incarcerated individuals about their voting rights, and works with local high schools and universities to register young voters. The League maintains voter information resources on its website in English and Spanish. It also maintains an online database called VOTE411, a nonpartisan and free digital voter resource with information available in both English and Spanish, including registration information, voter guides, mail-in ballot information, candidate information, polling rules and locations.

33. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects the League's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also force the League to continue diverting resources in this and future elections from its other voter education and mobilization efforts towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters

who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, the League will have to divert volunteers and staff from its other voter education and engagements efforts to help ensure people are not disenfranchised by the envelope date requirement, as it has in prior election cycles since at least 2022.

b. In 2022, for example, the League had to reassign its members' and volunteers' time and efforts from its core activities towards contacting and educating voters who had already submitted their mail ballots about how to fix problems with the mail ballot envelope date and avoid having their ballot set aside. Following the Pennsylvania Supreme Court's decision in *Ball v. Chapman, et al.*, 284 A.3d 1189 (Pa. 2022) just before Election Day and after many LWVPA members and others served by LWVPA's mission had already submitted mail ballots, the League was forced to redirect its limited resources, including staff and volunteer time, to efforts to inform voters of this change and educate them about how to avoid disenfranchisement. League staff members and volunteers spent time contacting voters directly through any means possible, including via email,

in person, and through social media, to alert them that their ballot would not be counted because of the missing or incorrect date and provided steps that voters could take to rectify the error. The League also enlisted staff members and volunteers from its local chapters and coordinated the chapters' efforts to broadcast the potential to cure ballots on social media channels, sharing available information including, when possible, direct links to undated ballot lists. The League developed and issued a statement about the Pennsylvania court's ruling, and the League's members spent time creating content for its websites, posting information on social media, and attending Board of Elections meetings urging counties to provide notice and cure opportunities for mail-ballot voters.

c. Similar work continued into the 2024 primary election season and in preparation for the 2024 general election season. For example, as a direct result of the uncertainty around the mail ballot envelope dating requirement, the League developed and hosts a webinar—"Ballot Box Basics"—to educate voters about the steps to successfully vote by mail. The League has had to spend resources developing this series to inform voters of the required steps—especially the date requirement—to ensure a ballot does not get rejected for a dating error. League staff also publish written materials to educate voters on how to avoid a ballot being rejected, including through

social media posts, emails, and postcards and flyers about the intricacies of voting by mail and the importance of the date requirement to have one's ballot counted. And League staff do media appearances to educate voters about the date requirement and the potential for disenfranchisement if a voter makes minor mistakes when completing a mail-in ballot. Local League chapters also dedicate time and resources to informing voters about the date requirement during the dozens of voter registration and education events they host across the Commonwealth.

d. If the LWVPA didn't have to devote the time, staff, and financial resources to educating voters about the logistics of completing a mail ballot, the importance of properly filling in the date, and checking to ensure that ballots are ultimately counted, it could instead focus on other important forms of voter engagement and participation, including: helping individuals make a personalized plan to vote and developing creative solutions to eliminate voters' personal obstacles to voting; conducting more outreach and voter registration efforts with new voters, younger voters, and voters from marginalized communities; educating more voters about substantive issues that affect their lives and communities, and generally directing resources toward making Pennsylvanians more efficacious and informed voters.

e. The envelope dating requirement further hinders the League's mission by generating confusion around mail-in ballots and mistrust around the electoral process, which in turn decreases voter participation. Any aspect of the voting process that makes it harder for voters to successfully cast a ballot and have it counted—such as not counting ballots over a dating error—harms the League's efforts to increase voter participation and confidence in the electoral process. Absent the relief requested in this case, the League will continue in the 2024 General Election and other future elections to divert staff, member and volunteer resources from their core activities toward addressing the risk that voters who have already submitted their mail ballots may have their ballot set aside due to an error or omission of the handwritten date on the mail ballot return envelope.

34. Common Cause Pennsylvania (“Common Cause PA”) is a non-profit, non-partisan organization, and a chapter of the national Common Cause organization. Common Cause PA is a non-partisan good government organization with approximately 36,000 members and supporters who live in all 67 counties of Pennsylvania.

35. One of Common Cause PA's core functions is to increase the level of voter registration and voter participation in Pennsylvania elections, especially in communities that are historically underserved and whose populations have a low

propensity for voting. In preparation for every major state-wide election, Common Cause PA mobilizes hundreds of volunteers to help fellow Pennsylvanians navigate the voting process and cast their votes without obstruction, confusion, or intimidation. As part of these efforts, Common Cause PA is a leader of the nonpartisan Election Protection volunteer program in Pennsylvania, which works to ensure voters have access to the ballot box, to provide voters with necessary and accurate information about voting and answer their questions, to quickly identify and correct any problems at polling places, and to gather information to identify potential barriers to voting.

36. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Common Cause PA's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also force Common Cause PA to continue diverting resources in this and future elections from its other voter education and mobilization efforts towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Common Cause PA will have to divert volunteers and staff from its other voter education and engagements efforts to help ensure people are not disenfranchised by the envelope date requirement, as it has in prior election cycles since at least 2022.

b. During the 2022 election, for example, Common Cause PA had to reassign its volunteers' time and efforts from Common Cause PA's other efforts toward contacting and educating voters who had already submitted their mail ballots about how to fix problems with the mail ballot envelope date and avoid having their vote set aside. When Respondent Schmidt's predecessor announced that ballot envelopes with an incorrect or missing date would be segregated and not counted, Common Cause PA ensured that accurate information was available for Pennsylvania voters. Additionally, Common Cause PA issued the press advisories, held press briefings and issued press statements with the goal of alerting as many voters as possible to the Commonwealth's requirements.

c. Heading into the 2024 General Election and other future elections, Common Cause PA will continue to divert its volunteer resources from its intended mission—educating and mobilizing voters—toward

addressing the risk that voters who have already submitted their mail ballots may have their ballot set aside due to an error or omission of the handwritten date on the mail ballot return envelope.

d. If Common Cause PA did not have to devote time, staff, and financial resources to educating voters about the *logistics* of completing a mail ballot, the importance of properly filling in the date, and checking to ensure that ballots are ultimately counted, it could instead focus on other important forms of voter engagement and participation, including informing additional eligible citizens about how to register to vote, working to debunk election-related misinformation, and conducting additional voter education efforts.

37. Respondent Al Schmidt is the Secretary of the Commonwealth. The Pennsylvania Election Code confers authority upon the Secretary to implement absentee and mail voting procedures throughout the Commonwealth.

38. Specifically, the absentee and mail-in ballots must be in a form as provided by statute which form “shall be determined and prescribed by the secretary of the commonwealth.” 25 P.S. § 3146.3(b) (absentee ballots); *id.* § 3150.13(b) (mail-in ballots).

39. Similarly, the Election Code mandates that the form of the declaration printed on absentee and mail ballot envelopes, which includes a place for voters to



insert the date, must be “as prescribed” by the secretary of the commonwealth. 25 P.S. § 3146.4 (absentee ballots); *id.* § 3150.14 (mail-in ballots).

40. In accordance with its specific statutory authority, before the 2024 primary election, Respondent Schmidt redesigned the mail ballot return envelope. Among other things, he included a field that pre-populated “20” at the beginning of the year on the outer return envelope. *Shapiro Administration Introduces Redesigned Mail Ballot Materials To Give Votes Clearer Instructions, Decrease Number Of Rejected Ballots, And Ensure Every Legal Vote Is Counted*, Pennsylvania Pressroom, Nov. 29, 2023, <https://www.media.pa.gov/pages/state-details.aspx?newsid=584>. Nevertheless, voters across the Commonwealth continued to make inconsequential envelope dating mistakes even on the DOS redesigned envelope. See Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, Votebeat Pennsylvania, Apr. 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>; <https://ny1.com/nyc/all-boroughs/politics/2024/04/24/pennsylvania-voters-ballot-envelopes>.

41. In Respondent Schmidt’s official capacity, he has the duty “[t]o receive from county boards of elections the returns of primaries and elections, to canvass and compute the votes cast for candidates and upon questions as required by the provisions of this act; to proclaim the results of such primaries and

elections, and to issue certificates of election to the successful candidates at such elections. . . .” 25 P.S. § 2621(f).

42. Respondent Schmidt and his predecessors have issued guidance to county boards of elections that timely-submitted mail-in ballots with a missing or incorrect date on the return envelope must be segregated and excluded from tabulation. Specifically, on November 3, 2022, the Secretary issued guidance instructing counties that “ballots which are administratively determined to be undated or incorrectly dated” should be coded as “CANC – NO SIGNATURE within the SURE system” (*i.e.*, should be canceled and not accepted) and “segregated from other ballots.” *Guidance on Undated and Incorrectly Dated Mail-in and Absentee Ballot Envelopes Based on the Pennsylvania Supreme Court’s Order in Ball v. Chapman*, at 1, Pa. Dep’t of State, Nov. 3, 2022 (Archived), <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/archived/2022-11-03-Guidance-UndatedBallot.pdf>. On April 3, 2023, Respondent Schmidt issued guidance stating, in relevant part, “A ballot-return envelope with a declaration that is not signed *or dated* is not sufficient and must be set aside, declared void, and may not be counted”; and any declarations “that contain a date deemed by the county board of elections to be incorrect should be set aside and segregated.” *Guidance Concerning Civilian Absentee And Mail-In*

*Ballot Procedures*, at 6, Pa. Dep’t of State, Updated Apr. 3, 2023,  
<https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2023-04-03-Examination-Absentee-Mail-In-Ballot-Return-Envelopes-4.0.pdf>

43. Following the Third Circuit’s decision in *NAACP v. Schmidt*, the Department of State continued to instruct counties not to count ballots arriving in undated or incorrectly-date declaration envelopes. For instance, in an April 19, 2024 email, Deputy Secretary Jonathan Marks provided “the Department’s view” that certain handwritten dates that can “reasonably be interpreted” as the date in which the voter completed the declaration—such as omitting “24” in the year field—“should not be rejected.”<sup>3</sup> However, the Department did otherwise not modify its previous guidance that envelopes that lack a date or have an otherwise “incorrect” date should not be counted.

44. The 67 County Boards of Elections are responsible for administering elections in their respective counties. Section 301 of the Election Code, 25 P.S. § 2641. County Boards are also charged with ensuring elections are “honestly, efficiently, and uniformly conducted.” 25 P.S. § 2642(g). As relevant to absentee ballots, County Boards are responsible for:

---

<sup>3</sup> A true and correct copy of the April 19, 2024 DOS email to county election officials is attached hereto as Exhibit 13.

- a. reviewing and processing applications for absentee and mail ballots. 25 P.S. § 3146.2b, 3150.12b;
- b. confirming an absentee applicant’s qualifications by verifying their proof of identification and comparing the information on the application with information contained in the voter’s record. 25 P.S. §§ 3146.2b, 3150.12b; *see also id.* § 3146.8(g)(4).
- c. sending a mail-ballot package that contains a ballot, a “secrecy envelope” marked with the words “Official Election Ballot,” and the pre-addressed outer return envelope, on which a voter declaration form is printed (the “Return Envelope”). *Id.* §§ 3146.6(a), 3150.16(a).
- d. maintaining poll books that track which voters have requested mail ballots and which have returned them. *Id.* §§ 3146.6(b)(3), 3150.16(b)(3).
- e. Upon return of an absentee ballot, stamping the Return Envelope with the date of receipt to confirm its timeliness. *See Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2–3, Pa. Dep’t of State, (Sept. 11, 2020), <https://campaignlegal.org/sites/default/files/2020-09/Examination%20of%20Absentee%20and%20Mail-In%20Ballot%20Return%20Envelopes.pdf>

f. Logging returned absentee ballots in the Department of State's Statewide Uniform Registry of Electors ("SURE") system, the voter registration system. *See* Pa. Dep't of State, *Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2–3, Pa. Dep't of State, (Sept. 11, 2020), <https://campaignlegal.org/sites/default/files/2020-09/Examination%20of%20Absentee%20and%20Mail-In%20Ballot%20Return%20Envelopes.pdf>

g. Keeping returned absentee ballots in sealed or locked containers until they are canvassed by the County Board. 25 P.S. § 3146.8(a)

h. Pre-canvassing and canvassing absentee ballots, including examining the voter declaration. 25 P.S. § 3146.8(g).

i. Conducting a formal hearing to hear challenges as to all challenged absentee ballot applications and challenged absentee ballots. 25 P.S. § 3146.8(g)(5).

#### **IV. FACTS**

##### **Pennsylvania's Mail Ballot Rules**

45. Pennsylvania has long provided absentee ballot options for voters who cannot attend a polling place on Election Day. *See* 25 P.S. § 3146.1–3146.9. In 2019, Pennsylvania enacted new mail-in voting provisions, extending the vote-by-

mail option to *all* registered, eligible voters. Act of Oct 31, 2019, P.L. 552, No. 77, § 8.

46. A voter seeking to vote by mail must complete an application and send it to their county board of elections that includes their name, address, and proof of identification. 25 P.S. §§ 3146.2, 3150.12. Such proof of identification must include, a Pennsylvania driver's license number, or non-driver identification number, if the voter has one. If the voter does not have a PennDOT-issued identification, they must provide the last four digits of the voter's social security number. 25 P.S. § 2602(z.5)(3). As part of the application process, voters provide all the information necessary for county boards of elections to verify that they are qualified to vote in Pennsylvania, namely, that they are at least 18 years old, have been a U.S. citizen for at least one month, have resided in the election district for at least 30 days, and are not currently incarcerated on a felony conviction. *See* 25 Pa.C.S. § 1301.

47. After the application is submitted, the county board of elections confirms applicants' qualifications by verifying their proof of identification and comparing the information on the application with information contained in a voter's record. 25 P.S. §§ 3146.2b, 3150.12b; *see also id.* § 3146.8(g)(4).<sup>4</sup> The

---

<sup>4</sup> *See also* Pa. Dep't of State, *Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2 (Sept. 11, 2020), <https://campaignlegal.org/sites/default/files/2020->

county board's determinations on that score are conclusive as to voter eligibility unless challenged prior to Election Day. *Id.*

48. Once the county board verifies the voter's identity and eligibility, it sends a mail-ballot package that contains a ballot, a "secrecy envelope" marked with the words "Official Election Ballot," and the pre-addressed outer return envelope, on which a voter declaration form is printed (the "Return Envelope"). *Id.* §§ 3146.6(a), 3150.16(a). Poll books kept by the county show which voters have requested mail ballots and which have returned them. *Id.* §§ 3146.6(b)(3), 3150.16(b)(3).

49. At "any time" after receiving their mail-ballot package, the voter marks their ballot, puts it inside the secrecy envelope, and places the secrecy envelope in the Return Envelope. 25 P.S. §§ 3146.6(a), 3150.16(a). The voter delivers the ballot, in the requisite envelopes, by mail or in person, or by other designated method, to their county board of elections.

50. The Election Code provides that the voter "shall...fill out, date and sign the declaration" printed on the outer envelope used to return their mail ballots. *See* 25 P.S. §§ 3146.6(a), 3150.16(a).

51. However, the date written on the envelope is not used to establish whether the mail ballot was submitted on time. Indeed, lawsuits in both state and federal court have conclusively demonstrated that the date is meaningless, necessary neither to establish voter eligibility nor timely ballot receipt. *See, e.g., NAACP*, 97 F.4th 120, 129 (3d Cir. 2024) (“Nor is [the handwritten date] used to determine the ballot’s timeliness because a ballot is timely if received before 8:00 p.m. on Election Day, and counties’ timestamping and scanning procedures serve to verify that. Indeed, not one county board used the date on the return envelope to determine whether a ballot was timely received in the November 2022 elections.”). *See also Pennsylvania State Conf. of NAACP v. Schmidt*, 703 F. Supp. 3d 632, 679 (W.D. Pa. 2023) (Baxter, J.) (“Whether a mail ballot is timely, and therefore counted, is not determined by the date indicated by the voter on the outer return envelope, but instead by the time stamp and the SURE system scan indicating the date of its receipt by the county board”).

52. A mail ballot is timely so long as the county board of elections receives it by 8 p.m. on Election Day. *Id.* §§ 3146.6(c), 3150.16(c). Upon receipt of a mail ballot, county boards of elections stamp the Return Envelope with the date of receipt to confirm its timeliness and log it in the Department of State’s



Statewide Uniform Registry of Electors (“SURE”) system, the voter registration system used to generate poll books.<sup>5</sup>

53. A voter whose mail ballot was timely received could have signed the voter declaration form *only* in between the date their county board sent the mail-ballot packages and the Election-Day deadline. Ballots received by county boards *after* 8 p.m. on Election Day are not counted regardless of the handwritten envelope date. *See NAACP*, 703 F. Supp. 3d at 679 (“Irrespective of any date written on the outer Return Envelope’s voter declaration, if a county board received and date-stamped a . . . mail ballot before 8:00 p.m. on Election Day, the ballot was deemed timely received . . . [I]f the county board received a mail ballot after 8:00 p.m. on Election Day, the ballot was not timely and was not counted, despite the date placed on the Return Envelope”), *rev’d on other grounds*, *NAACP*, 97 F.4th 120 (3d Cir. 2024).

54. Timely absentee and mail-in ballots are then verified consistent with procedures set forth in § 3146.8(g)(3). Any ballot that has been so verified by the county board of elections and has not been challenged is counted and included with the election results. *Id.* § 3146.8(d), (g)(4).

---

<sup>5</sup> *See, e.g., Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2–3, Pa. Dep’t of State, (Sept. 11, 2020).

55. Pennsylvania’s adoption of mail voting has been a boon for voter participation in the Commonwealth. For example, in 2020, 2.7 million Pennsylvanians voted by absentee or mail ballot.<sup>6</sup>

56. In the 2024 primary election, approximately 714,315 Pennsylvania voters returned mail ballots.<sup>7</sup>

57. But the enforcement of the dating provision again resulted in the arbitrary and baseless rejection of thousands timely ballots.

58. On information and belief, in the 2024 Presidential primary election, several thousand timely absentee and mail-in ballots were rejected because of the envelope dating provision.

59. This is not new. In the 2022 election, over 10,000 timely absentee and mail-in ballots were rejected because of the dating provision. In the 2023 municipal elections, nearly 7,000 eligible Pennsylvania voters’ absentee and mail

---

<sup>6</sup> *Report on the 2020 General Election* at 9, Pa. Dep’t of State, (May 14, 2021), <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/reports/2020-General-Election-Report.pdf>. For ease of reference, the term “mail ballots” is used herein to encompass both absentee and mail ballots. The relevant rules governing the treatment of absentee and mail ballots are identical.

<sup>7</sup> The number of returned ballots is alleged based on data provided by the Pennsylvania Department of State. Turnout in the 2024 primary has not been fully reported, but approximately 1.9 million voters voted based on the number of votes cast in the statewide U.S. Senate race *See* 2024 Presidential Primary (Unofficial Returns) Statewide, Apr. 23, 2024, accessed May 17, 2024 <https://www.electionreturns.pa.gov/>

ballots were initially<sup>8</sup> rejected due to application of the envelope dating provision. *See* Ex. 1 (5/27/24 Decl. of A. Shapell (“Shapell Decl.”)) at ¶ 12(a).

### **Previous Litigation over the Envelope-Date Requirement**

60. Despite the date requirement’s complete irrelevance to the electoral process and its devastating impact on the fundamental right to vote, it has withstood prior court challenges based on state-law statutory-interpretation principles and the Materiality Provision of the Civil Rights Act. Specifically, between 2020 and 2022, several courts addressed statutory construction of the Election Code concerning the envelope-dating provision -- reaching different conclusions. *Compare In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058, 1062 (Pa. 2020), *cert. denied*, 141 S. Ct. 1451 (2021) (concluding they would be counted for 2020 election only but not in future) *with Ritter v. Lehigh Cnty. Bd. of Elections*, 272 A.3d 989 (Pa. Commw. Ct. Jan. 3, 2022), *appeal denied*, 271 A.3d 1285 (Pa. 2022) (ruling statute required undated envelopes should not be counted). Additional courts considered whether the dating provision violated the Materiality Clause of the Civil Rights Act, also reaching different conclusions. *Compare Migliori v. Cohen*, 36 F.4th 153, 162-64

---

<sup>8</sup> County boards ultimately counted many of the votes that were initially set aside in the 2023 General Election, following the U.S. District Court’s November 2023 determination in *NAACP, et al. v. Schmidt*, 703 F. Supp. 3d, that the envelope dating provision violates the federal Materiality Provision. That decision was later reversed on the merits by the Third Circuit in 2024, after several counties had already counted initially rejected ballots from the 2023 election.

(3d Cir.), *vacated as moot*, 143 S. Ct. 297 (2022) (concluding immaterial) and *NAACP v. Schmidt*, 703 F. Supp. 3d 632 (W.D. Pa. 2023) (same) and *Chapman v. Berks Cnty. Bd. of Elections*, No. 355 M.D. 2022, 2022 WL 4100998, at \*12–\*29 (Pa. Commw. Ct. Aug. 19, 2022) (same) and *McCormick for U.S. Senate v. Chapman*, No. 286 M.D. 2022, 2022 WL 2900112, at \*9–\*15 (Pa. Commw. Ct. June 2, 2022) (same) *with Ball v. Chapman*, 289 A.3d 1, 33-34 (Pa. 2023) (deadlocking 3-to-3 as to materiality) *with NAACP v. Schmidt*, 97 F.4th 120 (3rd Cir. 2024) (concluding material).

61. However, no court has decided whether applying this provision to disenfranchise voters violates their fundamental right to vote under the Pennsylvania Constitution’s Free and Equal Elections Clause. Pa. Const. art. I, § 5.

62. In a previous case concerning the Materiality Clause, three of the six Pennsylvania Supreme Court justices in *Ball v. Chapman* expressly acknowledged that, even if the federal Materiality Provision does not require canvassing of mail ballots received in undated envelopes:

**[F]ailure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause**, and our attendant jurisprudence that ambiguities are resolved in a way that will enfranchise, rather than disenfranchise, the electors of this Commonwealth.

*Ball*, 289 A.3d at 27 n.156 (emphasis added) (citing Pa. Const. art. I, § 5; *Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 361 (Pa. 2020)), *cert. denied*, 141 S. Ct. 732 (2021).

63. Meanwhile, evidence adduced in prior litigation over the envelope dating provision reflects that enforcement of this provision has been arbitrary and has disenfranchised a significant number of Pennsylvania voters. For example, the evidence in the *Ritter* litigation found that of the 257 timely-received mail ballots based on mail-ballot voters' inadvertent failure to handwrite a date on the Return Envelope, three-quarters of the affected voters were over 65 years old, and fifteen of them were older than 90.<sup>9</sup>

64. Similarly, evidence in the *NAACP v. Schmidt* case indicated that over 10,000 ballots had been rejected in the 2022 general election alone based on the envelope dating requirement, and that the requirement was inconsistently and arbitrarily enforced. The plaintiffs obtained discovery from all 67 counties and found dramatic inconsistencies in how voters had been treated. *See NAACP*, 703 F. Supp. 3d at 680 (Baxter, J.) (“[T]he record is replete with evidence that the county boards’ application of the *Ball* order in the November 2022 general election created inconsistencies across the Commonwealth in the way ‘correctly dated’ and

---

<sup>9</sup> These and other facts relating to the 2021 Lehigh County election are drawn from the Joint App’x in *Migliori v. Cohen*, No. 22-1499 (3d Cir.), Dkt.33-2.

‘incorrectly dated’ ballots were rejected or counted by different counties.”). For example:

- a. Many county boards refused to count ballots where the envelope date was correct but missing one term, such as “Oct. 25” with no year provided, even though they only could have been signed during 2022. *Id.* at 681 (“[A]cross the Commonwealth other timely-received ballots were set aside because the voter declaration omitted the year; omitted the month; omitted the day”). But others counted such ballots. *Id.* at 681, n. 43-45.
- b. Some county boards set aside ballots where the voter put the date elsewhere on the envelope, or included “a cross-out to correct an erroneous date.” *Id.* at 681.
- c. County boards took varying approaches to dates that appeared to use the international format (*i.e.*, day/month/year), with some counties basing the date range “strictly on the American dating convention” and others “try[ing] to account for both the American and European dating conventions. . . .” *Id.* See also *id.* at 681-82 (“Ballots were set aside for having incorrect dates which, if construed using the European dating convention, would have been within the *Ball* date range”) (footnote omitted).

d. Many county boards counted ballots with necessarily “incorrect” envelope dates—*e.g.*, the handwritten date was before the county sent out the mail-ballot package, or after the elections board received it back from the voter—because the date written nevertheless fell within the date range that the Pennsylvania Supreme Court identified in its supplemental order in *Ball*. *Id.* at 680 (“The record reveals that some counties precisely followed the *Ball* date range even where the date on the return envelope was an impossibility because it predated the county’s mailing of ballot packages to voters”).

e. At least one county board counted a ballot marked September 31—a date that does not exist. *Id.* at 681, n. 45.

f. County boards also took inconsistent approaches to voters who mistakenly wrote their birthdates on the date line, with most refusing to do so. *Id.* at 681.

65. In addition, “[s]imple voter error and partial omissions related to the date declaration also resulted in rejection of mail ballots that were timely received. . . .” *Id.* For instance:

a. More than 1,000 *timely-received* ballots were set aside and not counted because of “an obvious error by the voter in relation to the date,” such as writing a month prior to September or a month after November 8. *Id.*

The *NAACP* district court found that this “shows the irrelevance of any date written by the voter on the outer envelope.” *Id.*

b. On information and belief, counties also refused to count an hundreds of timely-received ballots with obviously unintentional slips of the pen, such as a voter writing a year prior to the election (e.g. “2021”) or a year in the future (e.g. “2023”). Yet the *NAACP* district court agreed that it was a “factual impossibility” for a voter to have signed the mail-ballot envelope any year before the election. *Id.* In other instances of rejected ballots, voters made simple typos such as “2033” or “2202” instead of “2022.”

c. On information and belief, county boards attempting to apply the directive to set aside envelopes bearing “incorrect” dates ultimately failed to count many ballots where it turned out the voter had actually written a correct date.

66. Moreover, in *NAACP v. Schmidt* the district court confirmed that the handwritten-date requirement serves absolutely no purpose and concluded in granting the plaintiffs’ motion for summary judgment that it was beyond dispute that the Date Requirement was “wholly irrelevant” in determining when the voter filled out the ballot or whether the ballot was timely received by 8:00 p.m. on Election Day. *See NAACP*, 703 F. Supp. 3d at 678 (Baxter, J.). Further, the



evidence at the district court “show[ed], and the parties either agree . . . or admit . . .” that county boards did not use the date “*for any purpose* related to determining a voter’s age, citizenship, county or duration of residence, felony status, or timeliness of receipt.” *Id.* at 668, 676. In fact, the undisputed record before the district court revealed that the 10,000-plus mail ballots that were not counted in the November 2022 elections were all timely submitted by otherwise qualified voters and the *only* basis for rejecting those votes was the failure to write a date or writing a date that was deemed “incorrect.”

67. These findings were confirmed on appeal. *NAACP*, 97 F.4th at 125 (“The date requirement, it turns out, serves little apparent purpose”); *id.* at 127 (“[I]t may surprise, the date on the declaration plays no role in determining a ballot’s timeliness”); *id.* at 131 (The Materiality Provision does not “preempt state requirements . . . regardless what (if any) purpose those rules serve”); *id.* at 139-40 (Shwartz, J., dissenting) (In the November 2022 election, “10,000 timely-received ballots were not counted because they did not comply” with the Date Requirement “even though the date on the envelope is not used to (1) evaluate a voter’s statutory qualifications to vote, (2) determine the ballot’s timeliness, or (3) confirm that the voter did not die before Election Day or to otherwise detect fraud”).

## **The 2024 Primary Election**

68. Throughout all of the foregoing cases, Respondent Schmidt and his predecessors had consistently taken the position that eligible voters who timely submit mail ballots should have their ballots counted regardless of the envelope-dating rule. *See, e.g., Ball*, 289 A.3d at 16 (“the Acting Secretary argues that none of the proffered justifications for the date requirement withstand scrutiny, and that if the Court finds any ambiguity in the Election Code, such ambiguity should be resolved in favor of the exercise of the franchise”) (footnote omitted).

69. Following the Third Circuit’s decision in *NAACP v. Schmidt*, however, the Department of State’s instruction to counties – i.e., that they segregate and not count ballots that were received in envelopes that lacked the date or had a handwritten date that was deemed “incorrect” – remained in place. *See* Ex. 13 (April 19, 2024 email from Deputy Secretary Jonathan Marks, instructing counties not to reject ballots where the handwritten date can “reasonably be interpreted” as the date the voter signed the declaration, but not otherwise modifying its prior guidance that ballots arriving in undated or incorrectly dated envelopes must be set aside and not counted).

70. On information and belief, Pennsylvania county boards of elections had recorded their receipt of 714,315 mail ballots in the Department of State’s

Statewide Uniform Registry of Electors (“SURE”) system for the 2024 Primary Election. That number represents more than 37% of all ballots cast in the primary.

71. Pursuant to Respondent Schmidt’s guidance, no county boards of elections canvassed any mail ballot received in an outer return envelope that is missing a voter-written date or has a date that the county board deemed “incorrect.”

72. As a result, thousands of mail-ballot envelopes have been set aside and segregated—and the ballots contained therein were not counted—pursuant to Respondent’s guidance because they were received in return envelopes with missing or incorrect handwritten dates next to the voters’ signatures.

73. On information and belief, more than 4,000 such ballots were marked as canceled in the SURE system for 2024 primary election due to a missing or incorrect handwritten date. *See* Ex. 1 (Shapell Decl.) at ¶ 12(b).

74. Voters across the Commonwealth continued to make envelope dating mistakes even on the DOS redesigned envelopes in 2024. *See*

<https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>; <https://ny1.com/nyc/all-boroughs/politics/2024/04/24/pennsylvania-voters-ballot-envelopes>

75. Even in a low-turnout election, application of the envelope dating rule resulted in rejection of thousands of timely submitted mail and absentee ballots submitted by eligible Pennsylvania voters.

76. As noted above, thousands of voters were impacted by the date requirement in the 2024 primary – this impacted eligible Pennsylvania voters of all walks of life and across the political spectrum who were disenfranchised by this rule in the 2024 primary election. These are some of the impacted individuals:

a. Allegheny County voter Otis Keasley, a 73-year-old Vietnam veteran who rarely misses an opportunity to vote. Mr. Keasley timely applied for and received a mail ballot package from Respondent Allegheny County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and mailed it to the elections office rather than dropping it off in person because he was dealing with a family health issue. Respondent Allegheny County Board of Elections timely received Mr. Keasley's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Keasley's timely mail ballot submission, and he believed he had done everything correctly. Mr. Keasley did not learn until after the date

of the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 2 (Keasley Decl.).

b. Allegheny County voter Joanne Sowell, a 76-year-old Pittsburgh resident who rarely misses an opportunity to vote. Ms. Sowell timely applied for and received a mail ballot package from Respondent Allegheny County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and returned it to the elections office early because she had travel plans on the day of the 2024 primary, believing she had done everything correctly. Respondent Allegheny County Board of Elections timely received Ms. Sowell's mail ballot well in advance of 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Sowell's timely mail ballot submission. Ms. Sowell was boarding a flight when she saw an email notifying her that her ballot would not be counted because of the date issue, and she was unable to correct the purported issue with her ballot submission as she did not return home until after April 23. Ms. Sowell's primary vote was not counted. *See* Ex. 3 (Sowell Decl.).

c. Philadelphia voter Eugene Ivory, a 74-year-old retired Philadelphia educator who has been voting regularly for more than 50 years.

Mr. Ivory timely applied for and received a mail ballot package from Respondent Philadelphia County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and returned the ballot package at a dropbox located at the Eastwick Library on or about April, 22, 2024. Respondent Philadelphia County Board of Elections timely received Mr. Ivory's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Ivory's timely mail ballot submission, and he believed he had done everything correctly. Mr. Ivory received a notice on the date of the primary election that his ballot may not be counted due to an incorrect date on the envelope, but he was unable to correct the error or cast a provisional ballot in person that day due to a family emergency. Respondent Philadelphia County Board of Elections did not count Mr. Ivory's primary vote. *See* Ex. 4 (Ivory Decl.).

d. Philadelphia voter Bruce Wiley, a 71-year-old home-bound voter who voted by mail for the first time in the 2024 primary due to health limitations that prevent him from leaving the home except for doctor appointments. Mr. Wiley timely applied for and received a mail ballot package from Respondent Philadelphia County Board of Elections, marked

his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and mailed it to the elections office in advance of primary day. Respondent Philadelphia County Board of Elections timely received Mr. Wiley's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Wiley's timely mail ballot submission, and he believed he had done everything correctly. Mr. Wiley did not learn until after the date of the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 5 (Wiley Decl.).

e. Montgomery County Stephen Arbour, a Chief Technology Officer who has dutifully voted in every election since becoming a naturalized U.S. citizen in 2010. Mr. Arbour timely applied for and received a mail ballot package from Respondent Montgomery County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and returned it prior to the primary election day. Respondent Montgomery County Board of Elections timely received Mr. Arbour's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr.

Arbour's timely mail ballot submission, and he believed he had done everything correctly. Mr. Arbour received an email notification on April 22, 2024, that his ballot may not count due to a mistake in the date on the declaration form but could not go in person to cure the error or cast a provisional ballot on election day due to work and family commitments. His primary vote was not counted. *See* Ex. 6 (Arbour Decl.).

f. York County voter Kenneth Hickman, an 89-year-old retired mechanical engineer who has been voting since 1973. Mr. Hickman timely applied for and received a mail ballot package from Respondent York County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and mailed it to the elections office within a week or two of receiving it. Respondent York County Board of Elections timely received Mr. Hickman's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Hickman's timely mail ballot submission, and he believed he had done everything correctly. Mr. Hickman did not learn until after the date of the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 7 (Hickman Decl.).



g. Bucks County voter Janet Novick, an 80-year-old retired high school English teacher with mobility issues who has voted regularly since registering in 1979. Ms. Novick timely applied for and received a mail ballot package from Respondent Bucks County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and mailed it to the elections office in advance of the primary election date. Respondent Bucks County Board of Elections timely received Ms. Novick's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Ms. Novick's timely mail ballot submission, and she believed she had done everything correctly. Ms. Novick and her husband received voicemails indicating that their mail ballots would not be counted due envelope dating errors. When they returned the call, the elections office informed Ms. Novick that she had written her birthdate in the date line next to "2024," which Ms. Novick attributes to "a momentary lapse when I was completing the outer envelope." The elections office also informed Ms. Novick that the only way to correct these errors would be to go in person to the office in Doylestown. The Novicks could not appear in person due to their mobility issues, and their primary votes were not counted. *See* Ex. 8 (Novick Decl.).

h. Chester County voter Joseph Sommar, a 71-year-old retired electrician and union representative who has voted in nearly every Pennsylvania election since the 1980s. Mr. Sommar timely applied for and received a mail ballot package from Respondent Chester County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and returned it to the elections office in advance of the primary election date. Respondent Chester County Board of Elections timely received Mr. Sommar's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Sommar's timely mail ballot submission, and he believed he had done everything correctly. Mr. Sommar was surprised and frustrated to receive a notice on or about April 19 that his vote may not count due to an envelope dating error. Mr. Sommar's 2024 primary vote was not counted. *See* Ex. 9 (Sommar Decl.).

i. Bucks County voter Phyllis Sprague, an 80-year-old regular voter who has never missed a presidential election in over 50 years. Ms. Sprague timely applied for and received a mail ballot package from Respondent Bucks County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer

return envelope. She then signed the envelope and returned it to the elections office prior to a cervical spine surgery she had scheduled for April 18<sup>th</sup>.

Respondent Bucks County Board of Elections timely received Ms.

Sprague's mail ballot prior to 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Sprague's timely mail ballot submission, and she believed he had done everything correctly. After Ms. Sprague was discharged from the hospital following her surgery, she received an email notice that her ballot may not count due to an envelope dating issue. Not wanting to miss the opportunity to vote, Ms. Sprague got ready to go to her polling place to cast a provisional ballot on Election Day but had a fall and injured herself before she had the chance to do so. Ms. Sprague's 2024 primary vote was not counted. *See* Ex. 10 (Sprague Decl.).

j. Berks County voter Mary Stout, a 77-year old retired nurse who started voting by mail a few years ago after getting back surgery. Ms. Stout timely applied for and received a mail ballot package from Respondent Berks County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and returned it to the elections office about two weeks before the primary election date. Respondent Berks County Board of

Elections timely received Ms. Stout's mail ballot prior to 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Stout's timely mail ballot, and she believed she had done everything correctly. Ms. Stout received a notice about a week before the primary that her ballot would not count because of a missing date on the envelope, but she was unable to go in person to fix it because of her mobility issues. Ms. Stout's 2024 primary vote was not counted. *See* Ex. 11 (Stout Decl.).

k. Dauphin County voter Lorine Walker, a 74-year-old retired school librarian who started voting by mail in 2020 during the pandemic and can no longer drive because of mobility issues. Ms. Walker timely applied for and received a mail ballot package from Respondent Dauphin County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and mailed it to the elections office a few weeks ahead of the 2024 primary election date. Respondent Dauphin County Board of Elections timely received Ms. Walker's mail ballot prior to 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Walker's timely mail ballot submission, and she believed she had done everything correctly. Ms. Walker did not

learn until after the date of the primary that there was a problem with her mail ballot submission, and her primary vote was not counted. *See* Ex. 12 (Walker Decl.).

77. These and many other Pennsylvania voters will continue to lose their right to vote unless this Court declares application of the date requirement unconstitutional and enjoins the continued rejection of timely submitted ballots from eligible voters simply because they omitted a meaningless date, or wrote the wrong date, on the Return Envelope. In a high-turnout election, where Petitioners anticipate based on recent history that more than 37% of votes are cast by mail ballot, even a 1% error rate will result in the rejection of tens of thousands of mail ballots.

78. Impacted voters are disproportionately senior citizens, many of whom have voted dutifully for decades. They hail from throughout the Commonwealth and include voters registered Republican, Democrat and independent. These are all duly registered, eligible Pennsylvania voters who filled out their mail ballots, returned them on time, and signed the declaration on the Return Envelope, but simply made a mistake on the Return Envelope by omitting a handwritten date or writing an incorrect date. The challenged envelope-date rule ensnares even voters who reasonably believed they were complying with all of the proper requirements to cast their ballot.

79. Absent court intervention, the County Respondents will continue to follow Respondent Schmidt’s guidance, setting aside mail ballot envelopes with missing or incorrect voter-written dates in the November 2024 General Election and subsequent elections.

80. The Pennsylvania Constitution requires that ballots with missing or incorrect dates be counted. The disenfranchisement of the affected voters in this and future elections constitutes irreparable harm for which there is no adequate remedy at law and for which this Court’s intervention is required.

## **V. CLAIMS**

### **COUNT I (Violation of Pennsylvania’s Free and Equal Elections Clause, Pa. Const. art. I, § 5)**

81. Petitioners hereby incorporate and adopt each and every allegation set forth in the foregoing paragraphs of the Amended Petition for Review.

82. Pennsylvania citizens enjoy a fundamental right to vote, as recognized by the command of the Pennsylvania Constitution’s Free and Equal Elections Clause: “no power, civil or military, shall at any time interfere to prevent the free exercise of the right to suffrage.” Pa. Const. art. 1, § 5.

83. Pursuant to that mandate, the Pennsylvania Supreme Court has consistently held that election law must be applied in a way so as to enfranchise, rather than disenfranchise. *See, e.g., Boockvar*, 238 A.3d at 361; *see also, e.g.,*

*Shambach v. Bickhart*, 845 A.2d 793, 798-99 (Pa. 2004) (“we have held that ballots containing mere minor irregularities should only be stricken for compelling reasons”) (citations omitted); *Petition of Cioppa*, 626 A.2d 146, 148 (Pa. 1993) (noting the “longstanding and overriding policy in this Commonwealth to protect the elective franchise”) (citations omitted); *In re Luzerne Cnty. Return Bd.*, 290 A.2d 108, 109 (Pa. 1972) (citing *Appeal of James*, 105 A.2d 64 (Pa. 1954) (“[T]he power to throw out a ballot for minor irregularities should be sparingly used . . . In construing election laws . . . [o]ur goal must be to enfranchise and not to disenfranchise.”); *cf. Ball*, 289 A.3d at 27 n.156.

84. Respondents’ application of the Election Code’s envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters based solely on the inadvertent failure to add a meaningless, superfluous handwritten date next to their signature on the mail ballot Return Envelope is an unconstitutional interference with the exercise of the right to suffrage in violation of the Free and Equal Elections Clause.

85. Continued application of this requirement will result in the disenfranchisement of eligible Pennsylvania voters who submit timely mail ballots in the 2024 General Election and all future elections, unless and until enjoined by this Court.

**COUNT II**  
**(Violation of Pennsylvania’s Free and Equal Elections Clause,**  
**Pa. Const. art. I, § 5))**

86. Petitioners hereby incorporate and adopt each and every allegation set forth in the foregoing paragraphs of the Amended Petition for Review.

87. Under Pennsylvania’s canon of constitutional avoidance, a statute must be given a construction that is consistent with the Pennsylvania Constitution. *See, e.g., Atlantic-Inland, Inc. v. Board of Supervisors of West Goshen Township*, 410 A.2d 380, 382 (Pa. Commw. Ct. 1980) (courts have an “obligation to adopt a reasonable construction which will save the constitutionality of the ordinance”) (citation omitted).

88. Moreover, Pennsylvania courts have consistently held that provisions of the Election Code must be interpreted “in order to favor the right to vote,” interpreting the statute so as “to enfranchise and not to disenfranchise.” *In re Luzerne Cnty. Return Bd.*, 290 A.2d 108, 109 (Pa. 1972) (citing *Appeal of James*, 105 A.2d 64 (Pa. 1954)); *see also, e.g., Ball v. Chapman*, 289 A.3d 1, 27 n.156 (2022) (plurality opinion) (citing Pa. Const. art. I, § 5; *Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 361 (Pa. 2020)) (“failure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause, and our attendant jurisprudence that ambiguities are resolved in a way that will enfranchise, rather than disenfranchise”); *Shambach v.*



*Bickhart*, 845 A.2d 793, 798-99 (Pa. 2004) (“To that end, we have held that ballots containing mere minor irregularities should only be stricken for compelling reasons.”) (citations omitted).

89. Since the Pennsylvania Supreme Court’s decision in *Ball v. Chapman* in 2022, Respondent Schmidt, Respondent Counties, and federal courts in the Western District of Pennsylvania and the Third Circuit have all confirmed beyond a shadow of a doubt that the envelope dating provision serves no purpose whatsoever, and it has been applied to disenfranchise thousands of eligible Pennsylvania voters in each and every primary and general election since 2022.

90. Since the Pennsylvania Supreme Court’s decision in *Ball v. Chapman* in 2022, the record in the other court cases establishes that the envelope dating rule has been inconsistently and arbitrarily enforced.

91. Accordingly, Petitioners claim in the alternative that, because Respondents’ application of the Election Code’s meaningless envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), imposing a mandatory requirement to disenfranchise eligible mail and absentee voters, triggers a violation of voters’ fundamental constitutional right to vote, the statutory envelope dating requirement must be reinterpreted and applied as a “directory” provision such that Respondents cannot use noncompliance with this entirely meaningless provision as a basis to disenfranchise eligible voters to submit timely absentee and mail ballots. *Cf. In re*

*Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (plurality opinion).

### **PRAYER FOR RELIEF**

92. Petitioners have no adequate remedy at law to redress the wrongs suffered as set forth in this petition. Petitioners have suffered and will continue to suffer irreparable harm as a result of the unlawful acts, omissions, policies, and practices of Respondent, as alleged herein, unless this Court grants the relief requested.

**WHEREFORE**, Petitioners respectfully request that this Honorable Court enter judgment in their favor and against Respondents Al Schmidt, in his official capacity as Secretary of Commonwealth, and the 67 County Boards of Elections and:

- a. Declare pursuant to Pennsylvania’s Declaratory Judgments Act, 42 Pa.C.S. § 7531. et seq., that enforcement of the Election Code’s envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters, based solely on the absence of a handwritten date on the mail ballot return envelope is unconstitutional under the Free and Equal Elections Clause, Pa. Const. art. I, § 5;

- b. Declare pursuant to Pennsylvania’s Declaratory Judgments Act, 42 Pa.C.S. § 7531. et seq., that enforcement of the Election Code’s envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters, based solely on the determination that the voter wrote an incorrect date on the mail ballot return envelope is unconstitutional under the Free and Equal Elections Clause, Pa. Const. art. I, § 5;
- c. Preliminarily and permanently enjoin further enforcement of the Election Code’s envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters, based either on (i) the absence of a handwritten date on the mail ballot return envelope or (ii) the determination that the voter-written date is “incorrect”;
- d. Award Petitioners costs; and
- e. Provide such other and further relief as this Honorable Court deems just and appropriate.

Dated: September \_\_\_, 2024

Respectfully submitted,

John A. Freedman (*pro hac vice*)  
James F. Speyer (*pro hac vice*)  
David B. Bergman (*pro hac vice*)  
Erica E. McCabe\*  
ARNOLD & PORTER KAYE SCHOLER  
LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001  
(202) 942-5000  
[john.freedman@arnoldporter.com](mailto:john.freedman@arnoldporter.com)  
[james.speyer.arnoldporter.com](mailto:james.speyer.arnoldporter.com)  
[david.bergman@arnoldporter.com](mailto:david.bergman@arnoldporter.com)  
[erica.mccabe@arnoldporter.com](mailto:erica.mccabe@arnoldporter.com)

Sophia Lin Lakin (*pro hac vice*)  
Ari J. Savitzky (*pro hac vice*)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
125 Broad Street, 18<sup>th</sup> Floor  
New York, NY 10004  
Tel.: (212) 549-2500  
[slakin@aclu.org](mailto:slakin@aclu.org)  
[asavitzky@aclu.org](mailto:asavitzky@aclu.org)

\* *Pro hac vice* application to be filed

/s/ Stephen Loney  
Benjamin Geffen (No. 310134)  
Mary M. McKenzie (No. 47434)  
PUBLIC INTEREST LAW CENTER  
1500 JFK Blvd., Suite 802  
Philadelphia, PA 19102  
(267) 546-1313  
[mmckenzie@pubintl.org](mailto:mmckenzie@pubintl.org)  
[bgeffen@pubintl.org](mailto:bgeffen@pubintl.org)

Witold J. Walczak (No. 62976)  
Stephen Loney (No. 202535)  
Marian K. Schneider (No. 50337)  
Kate I. Steiker-Ginzberg (No. 332236)  
AMERICAN CIVIL LIBERTIES  
UNION OF PENNSYLVANIA  
P.O. Box 60173  
Philadelphia, PA 19102  
(215) 592-1513  
[sloney@aclupa.org](mailto:sloney@aclupa.org)  
[mschneider@aclupa.org](mailto:mschneider@aclupa.org)  
[ksteiker-ginzberg@aclupa.org](mailto:ksteiker-ginzberg@aclupa.org)

*Counsel for Petitioners*

## **CERTIFICATE OF COMPLIANCE**

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

/s/ Stephen Loney

# EXHIBIT

1

**DECLARATION OF ARIEL SHAPELL  
IN SUPPORT OF PETITIONERS' PETITION FOR REVIEW**

1. I, Ariel Shapell, am an attorney at the American Civil Liberties Union of Pennsylvania ("ACLU-PA") and have a background in data analytics.

2. I received a B.S.B.A. with majors in mathematics and finance from Washington University in St. Louis in 2011 and a J.D. from the University of Pennsylvania Carey Law School in 2021.

3. In 2014 and 2015, I served as the Director of Business Intelligence at Beatport LLC, a digital music and entertainment company, where I was responsible for organizing, analyzing, and reporting the company's business data. In my role, I performed data analyses and visualizations and developed systems to extract, transform, and load data. I also supervised a team of three data scientists and analysts.

4. From 2015 until 2018, I served as the lead product manager at Postlight LLC, a technology consultancy. At Postlight LLC, I oversaw data analytics and digital product development projects for large entertainment, finance, and cultural institutions.

5. From 2019 through the present, I have worked as a volunteer, intern, and now legal fellow at the ACLU-PA. During my time with the ACLU-PA, I have conducted numerous analyses of large data sets for both litigation and advocacy.

6. During my time with the ACLU-PA, I have conducted numerous analyses of large data sets for both litigation and advocacy.

7. I have been asked by the ACLU-PA, Arnold & Porter Kaye Scholer LLP, and the Public Interest Law Center (collectively, “Petitioners’ Counsel” or “Counsel”) to apply my training and expertise to assess the number of mail-ballots that were coded as canceled or pending because the voter neglected to write the date on the outer envelope or because the voter wrote a date that was deemed “incorrect.”

8. I have been informed and understand that on August 21, 2023, ACLU-PA attorney Kate Steiker-Ginzberg received access from the Pennsylvania Department of State to the “Pennsylvania Statewide Mail-Ballot File,” which contains point-in-time public information about each mail-ballot application and mail-ballot recorded in Pennsylvania’s Statewide Uniform Registry of Electors (“SURE”) system.

9. Attorney Steiker-Ginzberg made two versions of the Pennsylvania Statewide Mail-Ballot File available to me: (1) a version of the file generated on November 17, 2023 based on Department of State data from the SURE system corresponding to mail-ballots submitted in the November 2023 municipal election, under the file name VR\_SWMailBallot\_External 20231117.TXT; and (2) a version of the file generated on May 14, 2024 based on Department of State data from the SURE system corresponding to mail-ballots received in the April 2024 Pennsylvania



presidential primary election, under the file name VR\_SWMailBallot\_External 20240514.TXT.

10. For the May 14, 2024 SURE file, I identified mail ballots that were coded as canceled or pending because the voter neglected to write the date on the outer envelope by selecting the rows in the files where the “Ballot status reason” field was set to “CANC - NO DATE” or “PEND – NO DATE.” For the November 17, 2023 SURE file, I identified mail ballots that were coded as canceled because the voter neglected to write the date on the outer envelope by selecting the rows in the files where the “Ballot status reason” field was set to “CANC - NO DATE.” No “PEND – NO DATE” “Ballot status reason” values were present in the November 17, 2023 SURE file.

11. Similarly, for the May 14, 2024 SURE file, I identified mail ballots that were coded as canceled or pending because the voter wrote a date that was deemed “incorrect” by selecting the rows in the files where the “Ballot status reason” field was set to “CANC - INCORRECT DATE” or “PEND – INCORRECT DATE”. For the November 17, 2023 SURE file, I identified mail ballots that were coded as canceled because the voter wrote a date that was deemed “incorrect” by selecting the rows in the files where the “Ballot status reason” field was set to “CANC - INCORRECT DATE.” No “PEND – INCORRECT DATE” “Ballot status reason” values were present in the November 17, 2023 SURE file.

12. Based on the methodology described above, I determined that:

- a. As of November 17, 2023, **6,804 mail-ballots** submitted in the November 2023 municipal election had been coded in the SURE file as canceled because the voter neglected to write the date on the outer envelope or because the voter wrote a date that was deemed “incorrect.” Of that total, 4,849 ballots were coded as canceled because the voter neglected to write the date on the outer envelope, and 1,955 were coded as canceled because the voter wrote a date that was deemed “incorrect.”
- b. As of May 14, 2024, **4,421 mail-ballots** submitted in the April 2024 Pennsylvania presidential primary election had been coded in the SURE file as canceled or pending because the voter neglected to write the date on the outer envelope or because the voter wrote a date that was deemed “incorrect.” Of that total, 1,216 ballots were coded as canceled or pending because the voter neglected to write the date on the outer envelope, and 3,205 were coded as canceled or pending because the voter wrote a date that was deemed “incorrect.”

13. My conclusions, and the bases for my conclusion, are presented in this declaration. My work on these matters is ongoing, and I may make necessary

revisions or additions to the conclusions in this declaration should new information become available or to respond to any opinions and analyses proffered by Respondents. I am prepared to testify on the conclusions in this declaration, as well as to provide any additional relevant background. I reserve the right to prepare additional exhibits to support any testimony.

The statements made in this Declaration are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in blue ink, appearing to read "Ariel Shapell", is positioned above a horizontal line.

Ariel Shapell

5/27/2024

# EXHIBIT

2

## **DECLARATION OF OTIS KEASLEY**

I, Otis Keasley, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am 73 years old and am otherwise competent to testify.

3. I am a resident of Pittsburgh, Pennsylvania, located in Allegheny County. I have lived in Pittsburgh for nearly my entire adult life.

4. I am a veteran of the United States Marine Corps. It was my honor to serve in Vietnam 1969-1970.

5. I am a registered voter in Allegheny County. I have been a registered voter since I got out of the service.

6. I vote regularly. It is rare for me to miss a primary or general election. I try to vote in every single one.

7. Voting is important to because I truly believe in democracy. I believe in fair play and in the majority having its way.

8. As I have become older, I have been glad to have the opportunity to vote by mail. I usually vote by mail instead of voting at my polling place.

9. Ahead of the April 23, 2024 primary election, I applied for and received a mail ballot from Allegheny County.

10. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I also signed the envelope. I thought I had done everything correctly.

11. I returned my ballot by putting it in the mailbox, well in advance of April 23. I usually take it to the county office in person, but I was dealing with a family member's health situation and it was important for me to be around the house. I decided just to mail it instead of taking it personally to the county.

12. I did not learn until after the election that my ballot was rejected because I had written the incorrect date.

13. I am very upset that my ballot will not count. I mailed my ballot in on time, so I do not understand why a date on the envelope was a reason to reject it.

14. It bothers me when people say they are not planning to vote because "my vote doesn't count." Every qualified voter should participate in our democracy, and everyone's vote should be tabulated. If you do not vote, you are wasting your privilege of living in a free democracy.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 23 of May, 2024 in Pittsburgh, Pennsylvania.

  
Otis Keasley

# EXHIBIT

3

## DECLARATION OF JOANNE SOWELL

I, Joanne Sowell, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.
2. I am 76 years old and am otherwise competent to testify.
3. I am a resident of Pittsburgh, Pennsylvania, located in Allegheny County. I have lived in Allegheny County for nearly my entire life.
4. I am presently retired. During my career, I worked as a seamstress, first for a company that made slip covers and upholstery, and later for a company that made bumper pads for the trucking industry.
5. I am a registered voter in Allegheny County, and have been for more than 30 years.
6. I vote regularly. It is rare for me to miss an election.
7. Voting is important to because I wanted to have my view and perspective included. If you don't make an effort to vote, you can't say anything about the politicians in office.
8. I started voting by mail in 2020, when Pennsylvania first began allowing people to vote by mail even if they would not qualify for an absentee ballot.
9. Ahead of the April 23, 2024 primary election, I applied for and received a mail ballot from Allegheny County.
10. After I received my ballot, I marked it, inserted it into the secrecy



envelope and the outer return envelope. I also signed the envelope. I thought I had done everything correctly.

11. I returned my ballot early because we were preparing to travel on a cruise, and I wanted to get my ballot in before we left.

12. On April 13, 2024, I received an email informing me that my mail ballot would not count because I wrote an incorrect date. The email said that they were sending the ballot back to me if I wanted to fix the mistake. A true and correct copy of the email dated April 13 is attached hereto as Exhibit A.

13. I did not see this email until the next day, April 14, at which time I was already boarding a flight to New York. I was on my way to travel on a cruise. I boarded the cruise on April 15, and did not return to Allegheny County until April 26, three days after the primary election.

14. Because of my travel, it was not possible for me to cure the date problem on my mail ballot, nor could I go to my polling place on April 23, nor could I timely receive and send voting materials by mail while traveling on a cruise ship. When I returned from my trip, the returned ballot was waiting at my house, but it was too late to fix it.

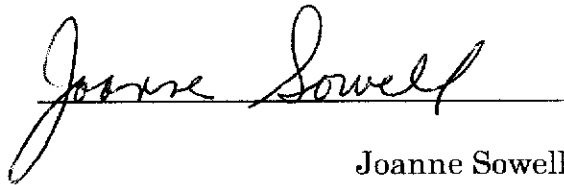
15. I am very upset that my ballot will not count because nobody's ballot should get rejected for a trivial paperwork mistake. When I received the email, it really bothered me for a few days because the date shouldn't matter; it's what's inside the ballot that counts.

16. I was so disappointed to learn that my ballot wouldn't be counted in

this election. I believe that it's important to vote and have a voice in selecting the politicians.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 23 of May, 2024 in Pittsburgh, Pennsylvania.

A handwritten signature in cursive script, reading "Joanne Sowell", is written over a horizontal line. The signature is fluid and stylized, with the first letters of the first and last names being capitalized and prominent.

Joanne Sowell

EXHIBIT

A

## Your Ballot Status Has Changed – Check for Updates

RA-voterregstatcert@state.pa.us <RA-voterregstatcert@state.pa.us>

Sat 4/13/2024 12:46 PM

To:HOTGRANNYJ@MSN.COM <HOTGRANNYJ@MSN.COM>

Dear JOANNE M SOWELL,

After your ballot was received by ALLEGHENY County, it received a new status.

The county has noticed that the date written on your ballot return envelope is incorrect. This means your ballot may not be counted. Your county offers you the opportunity to fix your ballot return envelope, and you should go to <https://www.vote.pa.gov/Voting-in-PA/Pages/Return-Ballot.aspx> to get more information.

If you cannot fix your ballot return envelope in time, you can go to your polling place on election day and cast a provisional ballot.

You can get more information on your ballot's new status by going to <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx>.

If you have questions or need more information after checking your ballot's status, please contact ALLEGHENY County at (412) 350-4500.

Para leer esta información en español, vaya a

<https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx> .

要閱讀此資訊的中文版，請造訪 <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx>。

Thank you.

\*\*\*\*Please do not reply to this email.\*\*\*\*

# EXHIBIT

4

## **DECLARATION OF EUGENE IVORY**

I, Eugene Ivory, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.
2. I am 74 years old and am otherwise competent to testify.
3. I am a resident of Philadelphia, Pennsylvania. I have lived in Philadelphia for 57 years. I am now retired, but was an educator for many years.
4. I am a registered voter in Philadelphia. I have been a registered voter in Pennsylvania since the early 1970s.
5. I vote regularly and have voted in every election, from local to presidential, for as long as I can remember.
6. Voting is important because it ensures that we are working to make a better country. Voting protects my rights and the rights of others and serves as an accountability measure for our elected officials.
7. I started voting by mail out of convenience four years ago. Ahead of the 2024 primary election, I applied for and received a mail ballot from the Philadelphia elections office.
8. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I also signed the envelope. On April 22, I returned my ballot by mail via the Official Mail-In Dropbox located at the Eastwick Library on Island Ave.

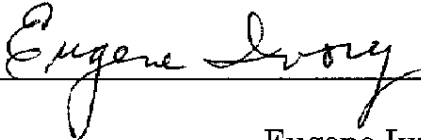
9. On Election Day, I received notice that my ballot had been received, but may not be counted due to an incorrect date on my envelope. The notice informed me that I could vote via a provisional ballot at my in-person polling location. My wife, who also voted by mail, received the same notice. At the time of notice, we were experiencing a family emergency and did not have the time nor capacity to vote via a provisional ballot. so neither of us were able to go to our polling place on primary day..

10. I am disappointed that my ballot did not count because I fully intended to participate in the primary. I had many personal matters occurring around that time and still set aside time to cast my mail ballot, only for it not to count due to a meaningless error.

11. I believe that these ballots should count because every eligible voter who completes a mail ballot and returns it on time should have their vote counted. Whether or not a ballot should be counted should not come down to a small detail like dating the envelope.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this <sup>th</sup>~~24~~ of May, 2024 in Philadelphia, Pennsylvania.

  
Eugene Ivory

# EXHIBIT

5



## DECLARATION OF BRUCE WILEY

I, Bruce Wiley, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.
2. I am 71 years old and am otherwise competent to testify.
3. I am a resident of Philadelphia, Pennsylvania. I have lived in Philadelphia for eight years.
4. I am now retired, but was a trailer truck driver for many years.
5. I am a registered voter in Philadelphia. I have been a registered voter in Pennsylvania since 2016. I vote regularly and have voted in every presidential election.
6. Due to my health, I started voting by mail in the 2024 Primary Election. I previously only voted in-person to ensure there were no errors with counting my ballot. However, my health now limits me to the constraints of my home. I rarely leave the house, except for doctors' visits. Thus, it was necessary to vote by mail.
7. I voted by mail this year. Ahead of the 2024 primary election, I applied for and received a mail ballot from the Philadelphia elections office.
8. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I also signed the envelope. I posted the ballot from my personal mailbox. I thought I had done everything correctly.

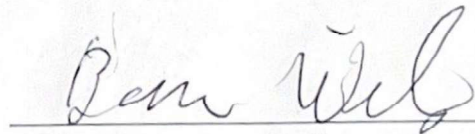
9. I was informed on May 21, 2024 that my ballot was not counted in the primary election because I forgot to write the date on the outer envelope. A person from the ACLU of Pennsylvania contacted me and informed me about this date issue. I do not regularly check my email and was unaware that I should monitor my email for updates regarding my mail ballot. Regardless, due to my health, it would not have been possible for me to correct the error on my ballot in person.

10. I am very upset that my ballot will not count because I am very passionate about Presidential elections.

11. This process lowered my confidence in voting by mail procedures because these ballots should be counted and not thrown out due to a meaningless error. I believe the state should be targeting fraudulent election practices, instead of invalidating ballots from eligible voters.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this \_\_\_\_ of May, 2024 in Philadelphia, Pennsylvania.

A handwritten signature in dark ink, appearing to read "Bruce Wiley", is written over a horizontal line.

Bruce Wiley

# EXHIBIT

6

## **DECLARATION OF STEPHEN ARBOUR**

I, Stephen Arbour, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am 51 years old and am otherwise competent to testify.

3. I am a resident of Elkins Park, Pennsylvania, located in Montgomery County. I have lived in Montgomery County since 2006.

4. I am the Chief Technology Officer for a company that creates software for the wealth management industry. Our software helps keep markets honest by ensuring that our clients are in compliance with regulations.

5. I am naturalized United States citizen. I was born in Ecuador to a Canadian father and Salvadoran mother, and moved to the United States at eight years old.

6. When I received my citizenship in 2010, I immediately registered to vote in Montgomery County. I have voted in every primary and general election since becoming a citizen.

7. Voting is very important to me. For most of my adult life, I did not have the rights of citizenship. I have children in the United States, and I need to be able to participate in developing the best community possible for them.

8. I started voting by mail during the COVID pandemic in 2020 to avoid being around large groups of people. I continued voting by mail in the years since because I found this to be a very convenient system for our busy

family and complicated schedules.

9. I voted by mail this year. Ahead of the 2024 primary election, I applied for and received a mail ballot from Montgomery County.

10. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I signed the outer envelope. I thought I had done everything correctly.

11. I returned my mail ballot to Montgomery County before Election Day. On Monday, April 22, 2024, I received an email saying that I had made a mistake when completing the date on the declaration form. A true and correct copy of the email dated April 22 is attached hereto as Exhibit A.

12. When I received the email right before Election Day, I had meetings scheduled all day and did not have time to get to Norristown by 4:00pm to fix the mistake. On Election Day, I was unable to cast a provisional ballot due to my busy work and family schedule.

13. I am very frustrated that my ballot will not be counted over this date issue. I do not know the point of the date other than to catch people making minor mistakes and to disqualify ballots. The post office and the county put a date on it, so whether the voter has dated it seems superfluous.

14. I am very upset that my ballot will not count. Voting gives me a voice that I did not otherwise have in this country for most of my adult life. I believe that voting is a responsibility of every American citizen.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 22 of May, 2024 in Elkins Park, Pennsylvania.

A handwritten signature in black ink, appearing to read 'S. Arbour', is written over a horizontal line.

Stephen Arbour

EXHIBIT

A



# FW: Important Message Regarding Your Ballot - Incomplete Declaration

1 message

Montco Votes <MontcoVotes@montgomerycountypa.gov>

Mon, Apr 22, 2024 at 10:51 AM

Dear Montgomery County Voter,

We have received your ballot for the 2024 Primary election. However, our sorting machine has indicated that the Voter Declaration field included an invalid date (not between the date range of 4/5/2024 to 4/23/2024) on your return envelope has not been fully completed. The Montgomery County Voter Services office is open on the dates and times below for voters that wish to cancel the pending ballot, and receive a new ballot. The outer return envelope must be signed and dated. Without the completed Voter Declaration ballots may not be counted.

To correct this issue, you can:

1. Physically come into One Montgomery Plaza, located at 425 Swede Street in Norristown, to cancel your current ballot and request a replacement.

Our office is open Monday through Friday from 8AM until 4:30PM. We are located at **425 Swede St (Suite 602), Norristown PA 19401. Ballot replacement can either be done in-person at One Montgomery Plaza or by mail.**

**The last day to cure your ballot in-person is Monday, April 22<sup>nd</sup>, 2024.**

You may still vote at your polling location by casting a provisional ballot. To find your polling location, please visit: <https://www.pavoterservices.pa.gov/Pages/PollingPlaceInfo.aspx>

Respectfully,  
Voter Services Team  
Montgomery County Voter Services  
425 Swede St Ste 602  
Norristown, PA 19401-3447  
Phone: 610-278-3280 Opt. #2  
[www.montcopa.org/VoteByMail](http://www.montcopa.org/VoteByMail)

**Sarah Piening**  
Senior Mail-In Balloting Clerk  
Voters Services

P: (610) 278-3433  
X: 3433

This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, forwarding, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.



# EXHIBIT

*7*

## **DECLARATION OF KENNETH HICKMAN**

I, KENNETH HICKMAN, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration, and this is what I would testify to if called as a witness in Court.
2. I am 89 years old and am otherwise competent to testify.
3. I am a resident of York, located in York County, Pennsylvania. I have lived in York County since 1973.
4. I am a retired mechanical engineer, but I continue to work part-time as a mechanical engineer for a building technologies company.
5. I am a registered voter in York County. I have been a registered voter in Pennsylvania since 1973.
6. I vote regularly in primary and national elections.
7. Voting is important to me because I believe it is a person's civic duty, and it is the only opportunity you have to change government representatives.
8. I started voting by mail as soon as it was allowed in 2020.
9. I voted by mail this year. Ahead of the 2024 primary election, I applied for and received a mail ballot from York.
10. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I also signed the envelope. I thought I had done everything correctly.
11. I returned my ballot to the post office within a week or two of receiving it, well in advance of election day.

12. I did not receive any notice or a confirmation of receiving my ballot.

13. I found out that my vote was not counted when a person from the ACLU of Pennsylvania called me and told me my ballot was not counted because of an incorrect date.

14. I am surprised and upset that my ballot will not count. My vote should be counted if at all possible. If the counties do not use the date for any purpose, I believe it is unreasonable to not count my vote because of this issue.

15. I believe that voting is important because it is my chance to change who is in government.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 27<sup>th</sup> of May, 2024 in York, Pennsylvania.

Kenneth Hickman

Kenneth Hickman

# EXHIBIT

8

## **DECLARATION OF JANET NOVICK**

I, Janet Novick, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am 80 years old and am otherwise competent to testify.

3. I am a resident of Washington Crossing, located in Bucks County, Pennsylvania. My family moved from New Jersey to Pennsylvania in 1979, and we have lived in Bucks County ever since.

4. I am presently retired. During my career, I was a schoolteacher and mostly taught high school English. My husband was a professor at The College of New Jersey. For many decades, my husband and I owned a small antiquarian bookshop in Lambertville, New Jersey. We decided to close the shop in 2013 due to health issues.

5. I have been a registered voter in Pennsylvania since moving to Bucks County in 1979.

6. I vote regularly. We take voting very seriously and always put lots of time and care into deciding who we are going to select. We vote in nearly every primary and general election, including in local elections.

7. I started voting by mail during the pandemic. I never had an issue regarding my mail-in ballot until this primary election.

8. My husband and I vote by mail because of the convenience and security it provides, given our health and mobility issues. I have spinal pain

and severe arthritis. I can still drive locally, but we typically stay close to home. My husband does not drive anymore. He has been diagnosed with neuropathy and typically gets around with a cane or walker.

9. I voted by mail this year. Ahead of the 2024 primary election, I applied for and received a mail-in ballot from Bucks County.

10. After I received my ballot, I marked it, inserted it into the secrecy envelope, and the outer return envelope. I also signed the envelope. I thought I had done everything correctly.

11. A short time later, I received a voicemail and an email from Bucks County letting me know that I had made an error when completing my ballot and that my ballot would not be counted if I did not correct it. My husband, Barry, was also informed that he had made a mistake and his ballot would not be counted. It turns out that both of us had written an “incorrect” date on the outer return envelope.

12. I was very surprised when I received this email because we are always very careful when completing our mail-in ballot. I called the election office and asked what my mistake had been. I was told that I wrote my birthday next to “2024.” I was dumbfounded when I heard this, and thought it must be have been a momentary lapse when I was completing the outer envelope. I asked the election worker if it was possible to fix it over the phone, and she said the only way to correct the ballot was to come in person to Doylestown and complete another ballot, or to cast a provisional ballot on Election Day. I

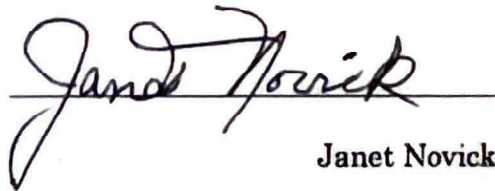
explained that I was the only driver in our household, and that I would be physically unable to drive 45 minutes each way to Doylestown due to my health constraints.

13. When we learned that our ballots would not be counted, we felt terrible. I never imagined I would have made a mistake that could result in my ballot not being counted. Everyone has a momentary lapse and makes a mistake, and this should not disqualify my right to vote.

14. I consider voting to be a right and a privilege. It is my civic duty to vote and make my voice heard, and it is very unfair that my vote and my husband's vote will not be counted in this election.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 26 of May, 2024 in Washington Crossing, Pennsylvania.

  
Janet Novick

# EXHIBIT

9



## **DECLARATION OF JOSEPH M. SOMMAR**

I, Joseph Sommar, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am 71 years old and am otherwise competent to testify.

3. I am a resident of Glenmoore, Pennsylvania, located in Chester County.

4. I grew up in Philadelphia. After attending university and working in Arizona, I decided to move back to Pennsylvania because my parents were getting older and have been living in Chester County since the 1980s. I am the proud father of two children – one is a public school teacher and the other is an army officer.

5. I am presently retired. Early in my career, I worked as a computer service technician. Later, I became an electrician and was a member of the IBEW local. At one time I was the union representative for the Chester County branch of the AFL-CIO.

6. I have been a registered voter in Chester County since moving back to Pennsylvania. I vote in nearly every primary and general election. I may have missed one or two, but can't remember the last time I missed an election.

7. When I was a young person, I was a conservative Republican voter. I am now a registered Democrat, after being exposed to many different perspectives while working in the union.

8. Voting is very important to me and I believe that it's everyone's duty to vote. In my opinion, if you don't vote, you have no right to complain about our politicians. I also believe that the more people vote, the better government we will have and the more active role that people will take in our society.

9. I started voting by mail during the COVID pandemic. I prefer to vote by mail because of the convenience and privacy. I don't like people trying to tell me who to vote for outside of the polling place.

10. I voted by mail this year. A few weeks before the April 2024 primary election, I received a mail-in ballot from Chester County.

11. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I signed the declaration on the outer envelope. I thought I had done everything correctly.

12. In prior elections when I voted by mail, I never made a mistake that disqualified my ballot. I was just going through the motions quickly and didn't take as much care as I should have when completing the mail-in ballot.

13. After I returned my ballot, I received an email on April 19, informing me that there was an error with my mail-in ballot and that it might not be counted if I didn't take additional steps to rectify it. I learned later that I had forgotten to include a date on the outer envelope. A true and correct copy of the email dated April 19 is attached hereto as Exhibit A.

14. When I learned that my ballot would not be counted because I forgot the date, I was very annoyed. I felt stupid for making this mistake, but also

angry that it would disqualify my vote.

15. I am ashamed to say that I didn't follow up on the County's instructions to fix my ballot. At the time I was frustrated and didn't think the situation was fair.

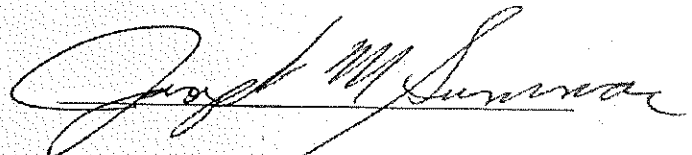
16. I believe that my vote should count. I am a citizen of this country who wants to participate in electing our government representatives.

17. I believe that everyone should vote because the more people who participate, then better candidates are more likely to get elected.

18. I don't believe that the date serves any purpose. The county knows that my ballot was received on time, and I don't know why the date is necessary. It seems like an arbitrary thing, just another step to allow people to mess up and have their votes not counted. I believe our election turnout is so low because people don't think that their vote will make a difference. If everyone's vote were counted and people thought their voices would be heard, more people would participate in the process and we would have a stronger democracy.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 22<sup>nd</sup> of May, 2024 in Glenmoore, Pennsylvania.

A handwritten signature in cursive script, appearing to read "Joseph M. Sommar", written over a horizontal line.

Joseph M. Sommar

EXHIBIT

A

## Your Ballot Status Has Changed – Check for Updates

---

From: RA-voterregstatcert@state.pa.us (ra-voterregstatcert@state.pa.us)

To: joe.sommar@yahoo.com

Date: Friday, April 19, 2024 at 01:00 PM EDT

---

Dear JOSEPH M SOMMAR,

After your ballot was received by CHESTER County, it received a new status.

The county has noticed an error with your ballot envelopes, which means your ballot may not be counted. If you cannot fix the errors in time, you can go to your polling place on election day and cast a provisional ballot.

You can get more information on your ballot's new status by going to <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx>.

If you have questions or need more information after checking your ballot's status, please contact CHESTER County at (610) 344-6410.

Para leer esta información en español, vaya a <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx> .  
要閱讀此資訊的中文版，請造訪 <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx>。

Thank you.

\*\*\*\*Please do not reply to this email.\*\*\*\*

# EXHIBIT

10

## DECLARATION OF PHYLLIS SPRAGUE

I, Phyllis Sprague hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am 80 years old and am otherwise competent to testify.

3. I am a resident of Chalfont, located in Bucks County, Pennsylvania.

I have lived in Bucks County for 48 years.

4. I am currently retired. Previously, I worked as an administrative assistant in the aerospace industry at GE Aerospace and Lockheed Martin.

5. I am a registered voter in Bucks County. I have been a registered voter in Pennsylvania since becoming eligible to vote.

6. I vote regularly. I have never missed a presidential election since I moved to Pennsylvania.

7. Voting is important to me because it is my right as a citizen to participate in democracy. My mother was a lifelong voter advocate. During my childhood in Virginia, I witnessed how she paid poll taxes in order to vote. She helped others to register to vote and instilled in her children the importance of voting.

8. I started voting by mail in the last few years. A few months before the election, I decided to vote by mail-in ballot.

9. I voted by mail this year. Before the 2024 primary election, I applied for and received a mail ballot from Bucks County.

10. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I also signed the envelope. I thought I had done everything correctly.

11. I returned my ballot at the post office a week before my surgery scheduled for April 18, 2024.

12. A few days before Election Day, I received an e-mail and letter notification that my ballot would not be counted due to an incorrect date. I was instructed to go to the county office or local polling place on Election Day and vote with a provisional ballot. I chose to go to the polling place because no one was available to drive me to the county office.

13. I was unable to vote with a provisional ballot at a polling place on Election Day because I experienced an accident while recovering from my cervical spine surgery. On April 19, 2024, I was discharged from the hospital following surgery. On April 23, 2024, while I was preparing to walk to the polling place, I fell down, injuring myself. My husband and granddaughter cautioned me from going to the polling station due to my pain from the recent surgery. Had I been given a safer option to vote with a provisional ballot, I would have voted.

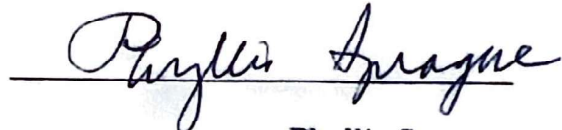
14. I am very upset that my ballot will not count because I was unable to go to the polling place due to my injury and illness.

15. I believe that voting is important because it is an opportunity to allow your voice to be heard. I hope my vote is counted in the next election.



I understand that false statements herein are subject to the penalties of 18  
Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 26th of May, 2024 in Chalfont, Pennsylvania.

  
Phyllis Sprague

# EXHIBIT

11

## **DECLARATION OF MARY STOUT**

I, Mary Stout hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am 77 years old and am otherwise competent to testify.

3. I currently live in Douglassville, PA, located in Berks County, Pennsylvania. I have lived in Berks County for 10 years.

4. I am a retired nurse.

5. I am a registered voter in Berks County. I have lived in Pennsylvania for my entire life, and have been a registered voter in Pennsylvania since I first became eligible to vote.

6. I vote regularly. I have voted in nearly every primary and general election since I was 21 years old.

7. Voting is important to me because my parents raised me with the belief that we have an obligation to vote in every election. Both my father and my husband were veterans who were on 100% disability. I believe that our right to vote is important and that we therefore have an obligation to exercise the right to vote.

8. I started voting by mail two or three years ago. I got back surgery around that time and as a result I have a hard time moving around and need to use a walker. Because of this, I can't wait in line to vote. Voting by mail-in ballot makes things much easier for me, and I've never had a problem with voting by mail in past elections.

9. I voted by mail this year. Before the 2024 primary election, I applied for and received a mail ballot from Berks County.

10. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I also signed the envelope. I thought I had done everything correctly.

11. I returned my ballot about two weeks before the April 2024 election. I posted my ballot from the mailbox at my residence.

12. Approximately a week before the election, Berks County sent me a notice by mail that my ballot would not be counted because it was missing a date on the envelope. The notice informed me I would have to go in-person to Reading in order to have my vote counted.

13. I was unable to go to Reading because of my mobility issues. As a result, my vote was not counted in the recent primary election.

14. I am very upset that my ballot will not count because I take my obligation to vote very seriously. I don't think that my vote should be discounted simply because I didn't include the date on the envelope when everything else about my ballot was correct.

15. I have been voting in Pennsylvania for almost my entire life and believe that voting is important because voting is both a right and an obligation.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 26 of May, 2024 in Douglassville, Pennsylvania.

Mary Stout

Mary Stout

# EXHIBIT

12

## **DECLARATION OF LORINE WALKER**

I, Lorine Walker hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am 74 years old and am otherwise competent to testify.

3. I am a resident of Harrisburg, located in Dauphin County, Pennsylvania. I have lived in Dauphin County for 58 years.

4. I am currently retired. I was a school librarian and media specialist before retirement.

5. I am a registered voter in Dauphin County. I have been a registered voter in Pennsylvania since I first became eligible to vote.

6. I vote regularly. I vote in most primary and general elections ever since I became eligible to vote.

7. Voting is important to me because people died so I could have the right to vote. I am doing what everyone should be able to do, and I am exercising my rights when I vote. I believe voting is important for the democratic process and I want to cast my vote for who I want to be in office.

8. I started voting by mail in 2020 during the pandemic because it was more convenient. I used to drive myself to vote, but I cannot drive anymore because of pain in my leg. After I stopped driving, my neighbor used to take me to vote, but now they vote by mail as well. Voting by mail is my best option to make my voice heard.

9. I voted by mail this year. Before the 2024 primary election, I applied for and received a mail ballot from Dauphin County.

10. After I received my ballot, I marked it, inserted it into the secrecy envelope and the outer return envelope. I also signed the envelope. I tried to be careful because of concerns on the news about voting by mail during the last election. I thought I had done everything correctly.

11. I returned my ballot by mail a few weeks ahead of the 2024 primary election date.

12. On April 18, 2024, I received an email notice that my mail ballot had been “received by Dauphin County.” I did not receive any other notice, calls, or emails from Dauphin County that there was an issue with my mail ballot or that my ballot would not be counted. A true and correct copy of the email dated April 18 is attached hereto as Exhibit A.

13. If I had received notice that there was an issue with my mail ballot, I would have fixed it prior to Election. I had enough time to correct any issue or mistake with my mail ballot because it was received by the county almost a week before Election Day.

14. I am very upset that my ballot will not count because voting is important to me, and I have voted since I was able to cast a ballot. I am an eligible voter and took the time to apply for and complete a mail ballot, so to learn that my ballot was not counted is very frustrating.

15. I believe that voting is important because voting matters in a



democratic process. I believe it is important for people to choose who they think should be in office even if there are disagreements. It matters and affects our democratic process if votes are not counted.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 24<sup>th</sup> of May, 2024 in Harrisburg, Pennsylvania.

A handwritten signature in cursive script, reading "Lorine Walker", written over a horizontal line.

Lorine Walker

EXHIBIT

A

ra-voterregstatcert@state.pa.us

4/18/2024 1:13 PM

## Your Ballot Has Been Received

To lwalkerje2300@comcast.net

Dear LORINE C WALKER,

Your ballot has been received by DAUPHIN County as of April 18, 2024. If your county election office identifies an issue with your ballot envelopes that prevents the ballot from being counted, you may receive another notification. Otherwise, you will not receive any further updates on the status of your ballot from this email address and you are no longer permitted to vote at your polling place location.

Please note, if DAUPHIN County observes an issue with your ballot envelopes, you may receive another email from this account with additional information. To get more information on your ballot's status, you can look it up at <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx>.

If you have questions about your ballot, please contact DAUPHIN County at (717) 780-6360.

Para leer esta información en español, vaya a <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx>.

要閱讀此資訊的中文版，請造訪 <https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx>。

Thank you.

\*\*\*\*Please do not reply to this email.\*\*\*\*

# EXHIBIT

13

## Marybeth Kuznik

---

**From:** ST, Elections <RA-Elections@pa.gov>  
**Sent:** Friday, April 19, 2024 12:23 PM  
**Cc:** Marks, Jonathan  
**Subject:** DOS Email: Department Response to Inquiries on Ballot Envelope Dates

### CAUTION

This message originated from an external source. Verify the legitimacy before clicking links or opening attachments.

Sent on behalf of Deputy Secretary Marks

Dear County Election Official:

The Department has received questions from several county boards of elections about the handwritten date on the redesigned mail ballot return. Specifically, counties have asked whether they should consider certain handwritten dates to be “incorrect” under the Supreme Court’s decision in *Ball v. Chapman*.<sup>[1]</sup>

It is the Department’s view that, if the date written on the ballot can reasonably be interpreted to be “the day upon which [the voter] completed the declaration,”<sup>[2]</sup> the ballot should not be rejected as having an “incorrect” date or being “undated.”

Therefore, the following would not justify rejecting a ballot as having an “incorrect” date or being “undated”:

- If the voter entered the month and day but did not write “24” in the year field.
- Use of the European dating convention (D/M/Y)
- Use of slashes in empty boxes (for example, “/4-17-2024” or “4/-17-2024”)

This list is not intended to be exhaustive, but is based on examples provided by county boards of elections.

As always, you should consult your solicitor on these matters.

<sup>[1]</sup> 289 A.3d 1 (Pa. 2023).

<sup>[2]</sup> *Ball*, 289 A.3d at 23.

**Rachel R. Hadrick** (*she/her/hers*)

Chief of Elections Administration

PA Department of State

401 North Street | 210 North Office Building

Harrisburg, PA 17120

Phone (desk): 717.409.3242 | Fax: 717.787.1734

[www.dos.pa.gov](http://www.dos.pa.gov)

[f PA Department of State](#) | [t @PAStateDept](#)

# EXHIBIT

14

**Declaration of Tim Stevens on behalf of  
The Black Political Empowerment Project (B-PEP)**

I, Tim Stevens, hereby declare as follows:

1. I am over the age of eighteen and otherwise competent to testify.
2. I am the Chairman & CEO of The Black Political Empowerment Project (“B-PEP”).
3. B-PEP is a non-profit, non-partisan organization that has worked since 1986 to ensure that the Pittsburgh African-American community votes in every election. B-PEP and its supporters throughout the Pittsburgh Region work with community organizations to empower Black and brown communities, including by promoting voting rights and get-out-the vote efforts.
4. During every election cycle, B-PEP’s work includes voter registration drives, get-out-the-vote activities, education and outreach about the voting process, and election-protection work. B-PEP focuses these activities in predominantly Black neighborhoods in Allegheny County, with some efforts in Westmoreland and Washington Counties.
5. Respondent Schmidt’s direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects B-PEP and its members and interferes with the organization’s ability to carry out its mission of increasing voter turnout and participation.

6. The failure to count mail ballots without dates or with “incorrect” dates will force B-PEP to divert resources in the upcoming November 2024 election from its other voter education and mobilization efforts, as well as other critical work unrelated to elections. Instead, B-PEP will be required to educate voters about any available cure processes, advocate to develop new processes to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake, and assist voters with curing of submitted mail ballots determined to be defective.

7. For the November 2022 election, B-PEP was forced to engage in activities similar to what we expect will be required for the November 2024 election.

8. For the November 2022 election, B-PEP conducted outreach to members and constituent communities about the importance of voting in person or by mail. When it was announced that county boards of elections would not count timely-submitted mail ballots based solely on missing or supposedly incorrect dates on return envelopes, B-PEP redirected its limited resources, including staff and volunteer time, to efforts to inform voters of this change and educate them as to how to avoid disenfranchisement.

9. In the days leading up to the election in November 2022, B-PEP’s staff and volunteers also expended time and money developing, printing and



distributing hundreds of flyers and other educational materials to dozens of churches for the purpose of informing prospective voters of the envelope dating issues generated by prior court decisions.

10. Time and resources dedicated by B-PEP staff and volunteers would otherwise have been available for the organization's other "get out the vote" efforts and other initiatives serving B-PEP's mission, including its Greater Pittsburgh Coalition Against Violence and Corporate Equity & Inclusion Roundtable.

11. B-PEP anticipates that, leading up to the November 2024 General Election and other future elections, it will similarly need to divert its staff and volunteer resources from voter engagement and community initiatives toward preventing the disenfranchisement of voters who have already submitted their ballots.

***I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.***

Executed this 14 of May, 2024, in Pittsburgh, Pennsylvania.

A handwritten signature in black ink, appearing to read 'Tim Stevens', is written over a horizontal line.

Tim Stevens, Chairman & CEO, The Black Political Empowerment Project (B-PEP)

# EXHIBIT

15

## **Declaration of Dwayne Royster on behalf of POWER Interfaith**

I, Dwayne Royster, hereby declare as follows:

1. I am over the age of eighteen and otherwise competent to testify.
2. I am the Executive Director of POWER Interfaith (“POWER”).
3. POWER is a non-profit, non-partisan organization of more than 100 congregations of various faith traditions, cultures and neighborhoods in and around Philadelphia committed to civic engagement and organizing communities so that the voices of all faiths, races and income levels are counted and have a say in government.
4. During every election cycle, POWER’s civic engagement efforts include voter education programs and voter registration drives within Philadelphia County. These efforts include “Souls to the Polls” initiatives during which Black church leaders encourage their congregants to vote. *See, e.g.* Daniels, III, D. “The Black Church has been getting “souls to the polls” for more than 60 years, ” *The Conversation*, Oct. 30, 2020, available at <https://theconversation.com/the-black-church-has-been-getting-souls-to-the-polls-for-more-than-60-years-145996>. In connection with the November 2022 election, for example, POWER launched a bus tour focused on engaging Philadelphia County voters who were not already participating in the political process.

5. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects POWER and its members and interferes with the organization's ability to carry out its mission of increasing voter turnout and participation.

6. The failure to count mail ballots received in envelopes without dates, or with "incorrect" dates, will force POWER to divert resources in the upcoming November 2024 election from its other voter education and mobilization efforts, as it did in past elections. When the Philadelphia County Board of Elections published a list of over 3,000 voters who were at risk of having their November 2022 general election ballots thrown out over such technical errors, including a missing or incorrect date on the return envelope, POWER's members and volunteers made more than 1,200 manual calls and sent more than 2,900 texts to the voters whose names appeared on Philadelphia's at-risk list to provide them with information to help them cure their ballot or vote provisionally. POWER also stationed volunteers at City Hall to ensure voters returning their mail ballots to that location had correctly dated their return envelopes. POWER will again reassign volunteers and staff from its other voter education and mobilization efforts towards contacting and educating voters in connection with the 2024 General Election if

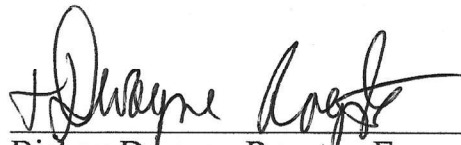
the Philadelphia County Board of Elections is again unable or unwilling to open and count ballots received in undated and/or "incorrectly" dated return envelopes.

7. The time and attention that POWER devoted to ensuring voters who had already submitted their mail ballots would have their votes counted would otherwise have been used to engage and educate people who had not already attempted to vote.

8. POWER anticipates that, leading up to the November 2024 General Election and other future elections, it will similarly need to divert its staff and volunteer resources from voter engagement and community initiatives toward preventing the disenfranchisement of voters who have already submitted their ballots.

*I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.*

Executed this 28 of May, 2024, in Philadelphia, Pennsylvania.

A handwritten signature in black ink, appearing to read "Bishop Dwayne Royster", written over a horizontal line.

Bishop Dwayne Royster, Executive Director  
POWER Interfaith

# EXHIBIT

16

## **DECLARATION OF DIANA ROBINSON**

I, Diana Robinson, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I am a resident of and registered voter in Philadelphia County, Pennsylvania.
4. I am the Co-Deputy Director of Make the Road Pennsylvania. I have held this position since January 1, 2024.
5. Make the Road Pennsylvania (“Make the Road PA”) is a not-for-profit, member-led organization formed in 2014 that builds the power of the working-class in Latino and other communities to achieve dignity and justice through organizing, policy innovation, and education services. Make the Road PA’s approximately 13,000 members are primarily working-class residents of Pennsylvania, many in underserved communities.
6. Many members of Make the Road PA are registered voters in Pennsylvania and are at risk of disenfranchisement if Respondents fail to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope.
7. Make the Road PA’s work includes voter protection, voter advocacy and voter education on, for example, how to register to vote, how to apply for mail-in/absentee ballots, how to return mail-in/absentee ballots, and where to vote. Make the Road PA has run active programs to register voters in historically

underserved communities of color, especially in Berks, Bucks, Lehigh, Luzerne, Northampton, and Philadelphia Counties.

8. Respondents' failure to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope will disenfranchise potentially thousands of voters, thus directly affecting Make the Road PA's members and interfering with Make the Road PA's ability to carry out its mission of increasing voter turnout and participation.
9. Because Make the Road PA's efforts are focused on communities where some voters are not native English speakers, the risk that some voters may make a minor paperwork mistake in filling out various forms related to mail or absentee ballot voting is heightened.
10. For example, if a voter followed the date sequencing convention used by many other countries, they may have transposed the day before the month in dating their outer return envelope—and, on information and belief, that would constitute an "incorrect" date under Respondents' standards.
11. Respondents' failure to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope in recent and future elections also has forced and will force Make the Road PA to divert resources from its existing efforts toward focusing voters on trivial, technical mail ballot rules and toward investigating and educating voters about any available cure processes that might be available for the thousands who will invariably be disenfranchised by a paperwork mistake under Respondents'

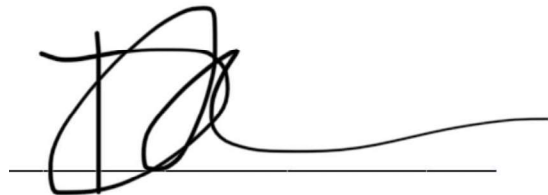


current policy. For example, Make the Road's staff and volunteers had to direct time and resources in the critical time before Election Day in 2022 to contacting voters about the date provision and contacting county election officials to address the need to inform non-English speakers of any problems with the dating of their mail ballot envelopes. If the envelope dating rule remains in place, Make the Road PA anticipates needing to engage in similar efforts during the 2024 general election.

12. If Make the Road PA did not have to devote the time, staff, and financial resources to educating voters about this issue, it could instead focus on other important forms of voter engagement and participation, including its Immigrant Rights, Education Justice, Housing Justice, Climate Justice and Worker Rights initiative.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 25th day of May, 2024 in Philadelphia County, Pennsylvania.

A handwritten signature in black ink, appearing to read 'Diana Robinson', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

Diana Robinson

# EXHIBIT

17

## **DECLARATION OF STEVE PAUL**

1. I have personal knowledge of the matters in this declaration, and this is what I would testify to if called as a witness in Court.

2. I am over eighteen years of age and am otherwise competent to testify.

3. I am a resident of and registered voter in Philadelphia, Pennsylvania.

4. I am the Executive Director of One PA Activists United (d/b/a One PA For All). One PA For All is a nonpartisan, nonprofit 501 (c)(3) organization based in Pennsylvania.

5. One PA For All is a community organizing and voter engagement group that fights for racial, economic and environmental justice. We build multiracial, working-class progressive power in Pennsylvania with a deep focus on Black liberation. At One PA For All, we are on a mission to empower Black and working class communities through voter education, and leadership development.

6. One PA For All has offices in Pittsburgh and Philadelphia, and does voter engagement work in Philadelphia, Allegheny, Delaware, and Dauphin Counties.

7. One PA For All's mission and program include a variety of activities, such as:

- a. Boosting voter registration and turnout within Black communities in Pennsylvania;
- b. Educating and mobilizing community members for active participation in democratic processes, including city council, school board, zoning hearings, and PA General Assembly meetings;
- c. Uniting the community against exploitative corporate landlords, labor law violators, and health-threatening industrial polluters;

- d. Transforming the media narrative around community needs, enabling residents to share their stories for non-partisan direct action and civic engagement.

8. One PA For All runs an ambitious and comprehensive strategy to engage marginalized communities through door-to-door canvassing, phone calls, relational organizing, text messaging, digital ads, and earned media, with a goal to increase civic participation in 2024.

9. In 2024, One PA plans to register more than 35,000 voters and make more than 2.14 million contacts with voters:

10. In just the last two years, One PA has registered 28,000 voters in working class Black communities in Philadelphia, Delaware, and Allegheny Counties. One PA has also had tens of thousands of conversations with voters about switching to Vote by Mail (VBM) and helped 1000+ voters correct mistakes on their mail ballot envelopes.

11. One of our most empowering moments of 2022 concerned Ms. Phyllis, a woman in her 70s who has voted every year since she was 18. Our canvassers knocked on Ms. Phyllis' door after we learned that her mail-in ballot was in danger of not being counted because she had forgotten to write the date on the return envelope. Our rapid response team jumped into action: our canvasser explained the situation to Ms. Phyllis, took her to her polling place, and helped her obtain a provisional ballot, ensuring that her vote would count. While these are the moments that count most—helping a respected elder exercise her right to choose her elected representatives—such a monumental effort would not have been necessary if not for the decision to set aside mail ballots submitted without a voter written date on the return envelope.

12. One PA For All has, in past election cycles, expended scarce resources to help voters, like Ms. Phyllis, correct an error on a mail ballot envelope. This work is labor intensive and prevents our staff and volunteers from carrying out other aspects of our civic engagement work.

13. One PA For All plans to continue its work instructing voters on how to correctly fill out a mail ballot return envelope. This work includes:

- a. Digital video that we will distribute via social media channels walking voters through how to properly vote by mail;
- b. Organizing staff and volunteers to perform a “ballot chase” program that involves calling voters who have not turned in their mail ballots;
- c. Deploying staff and volunteers to mount a “ballot envelope curing” program that includes getting a copy of the list of voters in Allegheny and Philadelphia counties, contacting those voters and helping them correct the error on the envelope or helping them cast a provisional ballot in person.

14. The effort to contact voters who have made a mistake on their mail ballot envelopes, include date errors, is labor intensive. In addition to contacting voters through the telephone or text message, One PA For All also sends staff and volunteers to the voters’ homes and provides rides to the polling location for those voters who need a ride.

15. For 2024, One PA For All plans to deploy a five-person staff for the purpose of contacting voters who have made a mistake on their mail ballot envelope.

16. Counties’ rejection of mail ballots with a missing or incorrect date on the return envelope harms One PA For All because the staff engaged in reaching out to

voters with mistakes on their envelopes could be doing other work to advance our mission, such as knocking on additional doors, covering more territory in canvassing voters, calling or texting newly-registered voters.

17. Instead of expending resources on voters who thought they already voted, our staff could be engaged in calling people who have not yet returned their mail ballot or encouraging those voters to vote in person.

18. One PA For All's broader civic engagement and voter education program includes:

- a. Canvassing in neighborhoods;
- b. Text messaging and calls;
- c. Producing and distributing content in-house for publication on social media channels;
- d. Coordinating messaging with micro influencers who have followings on Instagram and TikTok. Target micro-influencers have between 5,000 and 10,000 people and One PA For All helps them craft messages aligned with our mission.

19. For the general election in 2024, we plan to create various media pieces on mistakes on mail ballot envelopes and distribute them via social media.

20. If we did not have to expend so many resources on creating content for mail ballot envelope mistakes, we could focus our educational materials on voter registration, we could reach out to more first-time voters to encourage them to vote in the first place, and we could focus our communications more on participation in the election in general.

21. Our staff who is engaged in reaching out to voters with mistakes on the date field of the mail ballot envelopes could instead be doing more volunteer recruitment and development and training of volunteers.

22. Spending scarce resources on the date requirement education harms our efforts to focus on racial equity in voting and to increase participation in the election by chronically excluded populations.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 27 of May, 2024 in Philadelphia, Pennsylvania.



---

Steve Paul, Executive Director  
One PA For All

# EXHIBIT

18



## **DECLARATION OF KADIDA KENNER**

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am over eighteen years of age and am otherwise competent to testify.

3. I am a resident of and registered voter in Chester County, Pennsylvania.

4. I am the founding Chief Executive Officer of New PA Project Education Fund (“NPPEF”). NPPEF is a nonpartisan, nonprofit 501 (c)(3) organization based in Pennsylvania. NPPEF and its affiliated organization have offices in West Chester, Norristown, Harrisburg, Pittsburgh and will be opening an office in the city of Chester, this year.

5. NPPEF is led by community leaders across the Commonwealth dedicated to centering underrepresented and underserved communities to embrace their power. NPPEF ensures full participation in the democratic process through civic education and year-round engagement by centering Black, Indigenous, and other people of color, immigrant communities and the youth - with intention - as they are the least represented and most impacted by decisions our government is making.

6. NPPEF conducts civic engagement and voter education in Philadelphia, Chester, Delaware, Montgomery, Bucks, Monroe, Lehigh, Northampton, Dauphin, Cumberland, Lebanon, York, Allegheny and Berks County.

In 2024, NPPEF will expand its operations into Erie, Beaver, Lawrence, Centre and Lackawanna counties.

7. NPPEF has registered our fellow Pennsylvanians in urban, suburban, exurban and rural PA. In the past two years, NPPEF and its affiliated organization registered nearly 40,000 Pennsylvanians to vote in Pennsylvania. More than 70% of those we've registered to vote in 2024 are under the age of 36 and 68% of the newly registered, who self-identified, belong to a community of color. Our efforts are nonpartisan and 28% of the voters we have registered have chosen not to affiliate with any major political party.

8. NPPEF's voter registration, voter education and mobilization programs combine traditional and digital methods to reach voters. Core components of our program include:

- a. Engaging voters multiple times in their communities to share information and to register unregistered voters
- b. Canvassing or door knocking in our centered neighborhoods
- c. Sending "social pressure" mailings to targeted voters
- d. Preparing and distributing voter information guides in the form of tri-fold pamphlets that include detailed information about how to cast a ballot.
- e. creating digital media, radio ads and emailed newsletters for voters to register, become more civically engaged and vote.

- f. reaching out to voters on social media platforms such as Facebook, X, and Instagram to provide civic education and voter information.

9. Another integral part of our program is called “Community Conversations.” As the name suggests, our staff travels the Commonwealth attending events and setting up informational tables. During these events, we are able to engage voters in conversations about what issues are most important to them and what change they would like to see. At all of these kinds of events, we provide nonpartisan information on how to register to vote, how to vote by mail and instructions for properly completing the vote by mail return envelope.

10. Since the Pennsylvania Department of State added a check box on the voter registration form, we have routinely helped voters request a mail ballot at the time of registration by checking the box on the voter registration form - especially on college campuses, and within the counties where these newer forms are available for use

11. Although we have our own materials that instruct voters on how to fill out mail ballot envelopes, we also share with voters instructions from the Pennsylvania Department of State about mail voting procedures.

12. Once we have registered a voter, our program requires our team to contact that voter multiple times by telephone. On the second of at least three phone calls, our team asks whether the voter received a registration card and also provides information on voting by mail or in person.

13. On the third call, our callers help voters understand how to vote, how to request vote by mail ballot, how to properly fill it out and return it or direct voters to their proper polling location

14. Our voter registration and outreach programs are labor intensive. We we spend portions of our time debunking false narratives around mail voting, and persuading voters that their mail ballot will be counted.

15. Because we are a partner organization with the Pennsylvania Voice 501(c)(3) civic engagement table, we share the database of voters we have collected with other table partners, including information on voters we have registered and those who have requested a mail ballot. Using the fruits of our labor, other table partners are also able to work towards ensuring that registered voters are notified of any mistakes on the mail ballot envelope, such as missing and incorrect dates, and provide information on how to make sure their vote counts.

16. We will continue and expand our program for the general election in 2024. Using all of the methods of voter outreach described above, our goal is to register approximately 60,000 voters in Pennsylvania and provide them with trusted and accurate information about the mechanics of voting.

17. Because of the confusion around proper dates on ballots, in 2024, we will be adding information on the consequences of failing to handwrite the date or writing the wrong date on the mail ballot envelope into our revised voter information guide tri-fold pamphlet.

18. Given the number of voters we aim to contact in 2024, any time we have to spend discussing with voters the consequences of failing to date their mail ballot envelopes means we have that much less time to discuss other issues, and register additional Pennsylvanians to vote. If we did not need to educate voters about the date requirement on mail ballot envelopes, we would have more opportunities to discuss other issues with our centered communities instead of spending precious resources instructing them on how to properly fill out the mail ballot envelope.

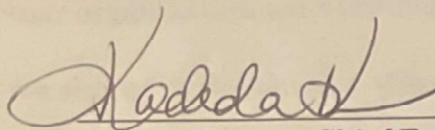
19. In our experience with engaging Pennsylvania's electorate, the confusion around mail voting has increased voter apathy and fatigue, and casts doubts about the accuracy of our free and fair elections. The ever-changing and inconsistent communication around correctly completing and returning vote by mail ballots tends to result in an electorate that is often misinformed and susceptible to misinformation. As a statewide organization that centers particular counties in our work, it is still paramount that we are able to share accurate information with Pennsylvanians in all 67 counties, so clarity and finality in the law will ensure more uniformity among counties.

20. The inconsistencies and confusion require our organization to spend additional resources to more thoroughly train our staff, produce additional content and literature, more often than planned or budgeted, and requires more staff capacity away from our primary focus of registering Pennsylvanians to vote. The more time and resources our organization is forced to spend providing civic

education around mail voting, the less time and resources our organization has to meet our organizational goals, and the expectations of our funders and donors.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this \_\_\_\_ of May 2024 in Chester County, Pennsylvania.

A handwritten signature in dark ink, appearing to read 'Kadida Kenner', written over a horizontal line.

Kadida Kenner, Chief Executive Officer  
New PA Project Education Fund

# EXHIBIT

19

## **DECLARATION OF MONICA RUIZ, MSW**

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am over eighteen years of age and am otherwise competent to testify.

3. I am a resident of and registered voter in Allegheny County, Pennsylvania.

4. I am the Executive Director of Casa San José, a nonpartisan, nonprofit 501(c)(3) organization based in Pittsburgh, Pennsylvania. Casa San José employs a staff of 24, is supported by three members of the order of the Sisters of St. Joseph and more than 100 volunteers.

5. Casa San José, connects, supports, and advocates with and for the Latino community. We envision a Pittsburgh region that celebrates Latino culture, welcomes immigrants, and embraces inclusion, dignity, and respect.

6. Casa San José, serves as a base of support for the Latino community where we provide a variety of resources including weekly clinics, food pantries, summer camps, community meetings, Know Your Rights sessions, among other services.

7. Casa San José's mission and programs include a variety of activities such as:

- a. Social services and resource mapping
- b. Mental health and medical service coordination



- c. Youth programming in schools and community centers
- d. Voter engagement for the Latino community
- e. Community meetings

8. Casa San José is located in Pittsburgh, Pennsylvania, and connects with voters in Allegheny, Beaver, Butler, Erie, Indiana, Lawrence, Washington, and Westmoreland counties. Casa San Jose plans to engage the rapidly growing Latino community through phone calls, relational organizing, text messaging, and digital ads with a goal to increase the civic participation of the Latino communities in 2024.

9. In 2022, Casa San José, conducted three phone call campaigns and three text campaigns. The phone calls and texts were completed by our Community Policy Organizer and six volunteers from either Casa San Jose or the Hispanic Federation. Casa San José's staff and volunteers are bilingual so that they can carry out their mission for voters who speak either English or Spanish.

10. The first campaign of the 22,841 phone call attempts was conducted to explain voting by mail. In our vote by mail campaign, we would ensure that voters knew they had the option to vote by mail and if they did not, we would help them over the phone to fill out the application to vote by mail.

11. The second of the 22,841 phone call attempts consisted of calls in regard to ballot chasing. In our ballot chase campaign, we would call voters who had applied for their mail in ballot. We would inquire whether they had received their ballot or not. If they had not received their ballot, we provided them with resources

to help ascertain its location. If they had received their mail in ballot at the time of the phone call, we would help guide them through the steps to fill it out correctly and seal it in the secrecy envelope before returning it.

12. Also in 2022, Casa San José sent nearly 15,000 texts regarding voting by mail. In our vote by mail text campaign, we would ensure that voters knew of the option to vote by mail and if they did not, we would help them by text to fill out the application to vote by mail.

13. Similar to our phone campaign, we also sent nearly 15,000 texts to voters to check to see if they had applied for a vote by mail ballot, if they had received the ballot, and if so, we would guide them through the steps to properly return the voted ballot by inserting it in the secrecy envelope, and then inserting it into the outer return envelope, and instructing them on how to correctly fill out the declaration on the mail ballot return envelope, especially inserting the date in the proper area.

14. In 2024, Casa San José, plans to engage 9,500 registered voters in Allegheny and surrounding counties to assist them in finding their appropriate polling places, send voter ballot guides, and educate them on how to vote by mail, and help Latino voters navigate voting at the polls.

15. Our plans for 2024 mirror our efforts during the 2020 presidential election cycle. In September and October 2020, Casa San José printed and mailed 13,772 postcards to households throughout southwestern PA providing information on: registering to vote, voting registration deadlines, and voting by mail. Casa San

José targeted areas with known Latinx populations to encourage participation in the 2020 Election.

16. Casa San José provided voter education information through our social media sites, including Spanish videos with information on the importance of voting and the impact on local communities, published photos of events, and pushed information reminding people to register to vote and to vote by mail. Casa San Jose also published voter information banner ads in ***Presente*** Magazine, a Spanish language Latinx magazine with distribution in Pittsburgh and surrounding areas. Casa's Communications Specialist spent 150 hours working on developing and managing voter engagement content.

17. Contacting voters and spending time and effort on the correct way to fill out the mail ballot envelope is time consuming and requires us to carefully train our callers to make sure they emphasize the need for the date and the consequences for omitting it.

18. Instead of spending labor and resources on voters who thought they already voted properly, our staff could be using their capacity for a multitude of activities including but not limited to:

- a. Create educational material to help voters understand the importance of elections;
- b. Engage with more voters through phone calls and text messages;
- c. Canvass in predominantly Latino neighborhoods;

d. Register voters, especially first time voters;

19. If the mail ballot dating rule continues to be enforced in a way that disenfranchises voters in future elections, Casa San José will have to continue diverting its time and resources away from these activities and toward addressing mail ballot envelope dating issues with voters who thought they already voted properly, as we did in 2022, in connection with the November 2024 general election.

The statements made in this Declaration are true and correct to the best of my 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.

Executed this 27th of May 2024 in Allegheny County, Pennsylvania.



---

Monica Ruiz, Executive Director  
Casa San José

# EXHIBIT

20

## **DECLARATION OF ALEX WALLACH HANSON**

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.

2. I am over eighteen years of age and am otherwise competent to testify.

3. I am a resident of and registered voter in Allegheny County, Pennsylvania.

4. I am the Executive Director of Pittsburgh United, a nonpartisan, nonprofit 501 (c)(3) organization based in Pittsburgh, Pennsylvania.

5. Pittsburgh United strives to advance social and economic justice in the Pittsburgh region by working to ensure that working families and low and moderate-income communities share in the prosperity that is generated by economic growth and development. We promote strategies that will build healthy and sustainable communities, raise standards for low wage workers, and forge a fair economy for all. We use innovative community organizing, research, advocacy and communications methods to win policy and organizing campaigns.

6. Pittsburgh United is a membership and coalition organization with 31 staff members. We have six offices, one each in Pittsburgh, Ambridge, Meadville, Erie, Greensburg and State College. Over the last 15 years, Pittsburgh United - a coalition of community, faith, environment, and labor - has become one of the most effective forces for poor and working people in the region, winning over \$1.2 billion in economic and community benefits. Together, coalition members are working to create a more just and equitable Western Pennsylvania.

7. Pittsburgh United’s work has always been defined by the intersection of economic development and community benefit. Our public policy advocacy has strived to create a community where all workers are able to care for themselves and raise their families, sharing in the prosperity generated by economic growth and development. Our campaigns include:

- a. “Clean Rivers Campaign” to establish an environmentally sustainable plan to remedy the region’s sewer problem;
- b. “Our Water Campaign” focusing on access to safe, affordable, public water in Pittsburgh;
- c. Worker campaigns advocating for paid sick days, higher wages, union representation, better unemployment benefits and safer working conditions;
- d. Affordable housing campaigns that advocate for residents to benefit from increased investment in communities. Recent wins include, among others, better protections for renters, passage of the Housing Opportunity Fund, and increases in funding for Whole Home Repairs;

8. Pittsburgh United staff and volunteers work to increase civic engagement in the communities we serve. We seek to increase voter turnout and expand access to mail voting in Black, low-income, and white working class communities across our six chapters in Allegheny, Beaver, Erie, Crawford, Centre,

and Westmoreland Counties, while strengthening our relationships in our communities.

9. We engage with voters in a variety of ways, including door to door canvassing, phone, text, and digital outreach, and other community outreach methods. We provide nonpartisan information on the election process, and how elections directly impact the issues that matter to us most, such as jobs, housing, racial justice, and climate equity. We use a variety of methods to reach voters and distribute information via social media platforms many times using content created by our coalition partners.

10. Our team has made hundreds of thousands of calls to voters over the past four years to help voters apply to vote by mail and encourage them to return their mail ballots. We have also knocked on hundreds of thousands of doors, talking to voters about the issues that matter most to people in their communities. Across both of these forms of voter contact, we have had to spend time with voters explaining the numerous steps required to accurately complete a mail ballot, including the date field, and talked to voters who have had their ballot fail to be counted.

11. Our staff has devoted significant resources to calling voters whose mail ballots were rejected because of an error on the outer envelope and advising them to contact their county or go to their local polling place and cast a provisional ballot on election day.



12. In 2024, we expect to expand our programs as described above and launch a Rural Civic Engagement Voting Program. In this effort, we will build on our deep relationships in small cities and towns across Western Pennsylvania to ensure that all communities of color and working class communities are engaged in the process of voting.

13. There are over a dozen small cities and towns with concentrations of people of color, making up tens of thousands of people, that live about a half an hour outside of Pittsburgh. These communities are often left out of public policy conversations because they live in majority white counties.

14. Pittsburgh United will run a comprehensive program with our members to do relational outreach, community events, and canvassing to ensure people of color in these communities have access to mail voting, including “over the counter” mail voting at the county election office, and election day voting to give them every chance to participate in the election.

15. Our voter education and outreach in these rural communities will include specific information on the proper way to fill out a mail ballot envelope including the date, and the consequences for not following the instructions.

16. Pittsburgh United has extremely limited resources to reach people who are typically left out of the process of voting. The time necessary to explain the steps of correctly filling out a mail ballot, including the dating requirement, slows our staff down because they have to take more time in each conversation with a voter.

17. The reality of the time involved in our contacts requires that we choose between either 1) engaging fewer people in the process of voting; or 2) spending more organizational resources explaining the process. Pittsburgh United does not have the resources available to reach as many voters as we could if we did not have to spend the time explaining the dating process to voters.

The statements made in this Declaration are true and correct to the best of my 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.

Executed this 27th of May 2024 in Allegheny County, Pennsylvania.

A handwritten signature in black ink, appearing to read 'Alex Wallach Hanson', written over a horizontal line.

Alex Wallach Hanson, Executive Director  
Pittsburgh United

# EXHIBIT

21

## DECLARATION OF AMY WIDESTROM

I, Amy Widestrom, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I am a resident of and registered voter in Montgomery County, Pennsylvania.
4. I am the Executive Director of the League of Women Voters of Pennsylvania (“the League” or “LWVPA”). I have held this position since January 2024.
5. The League is a nonpartisan statewide non-profit organization that was formed in 1920 (incorporated in 1923). The League and its members are dedicated to helping the people of Pennsylvania exercise their right to vote, as protected by the law. The League encourages informed and active participation in government, works to increase understanding of major public policy issues, and seeks to influence public policy through education and advocacy. The League is a predominantly volunteer organization and has 30 member chapters and one Inter-League Organization operating in 28 counties around the Commonwealth. LWVPA has nearly 2,500 individual members who are registered voters and regularly vote in state and federal elections using, among other methods, absentee and mail ballots.
6. The League’s mission is to empower voters and defend democracy, which includes voter registration, education, and get-out-the-vote drives. During

every election cycle, the League conducts voter-registration drives, staffs nonpartisan voter-registration tables, educates incarcerated and formerly incarcerated individuals about their voting rights, and works with local high schools and universities to register young voters. It also maintains an online database called VOTE411, a nonpartisan and free digital voter resource with information available in both English and Spanish, including registration information, voter guides, mail-in ballot information, candidate information, polling rules and locations.

7. Following the Pennsylvania Supreme Court's November 1, 2022 decision in *Ball v. Chapman, et al.*, No. 102 MM 2022, county boards of elections segregated and did not count mail ballots that arrived in envelopes missing the voter-written date or showing a date that was deemed "incorrect." This abrupt change in voting rules just before Election Day, after many LWVPA members and others served by LWVPA's mission had already submitted mail ballots, caused LWVPA to redirect its limited resources, including staff and volunteer time, to efforts to inform voters of this change and educate them about how to avoid disenfranchisement. For instance:

- a. League staff members and volunteers spent time contacting voters directly through any means possible, including via email, in person, and through social media, to alert them that their ballot would not be counted because of the missing or incorrect date and provided steps that voters could take to rectify the error.

- b. The League also enlisted staff members and volunteers from its local chapters and coordinated the chapters' efforts to broadcast the potential to cure ballots on social media channels, sharing available information including, when possible, direct links to undated ballot lists. The League developed and issued a statement about the Pennsylvania court's ruling.
  - c. The League's members spent time creating content for its websites, posting information on social media, and attending Board of Elections meetings urging counties to provide notice and cure opportunities for mail-ballot voters.
- 8. The date requirement continues to frustrate LWVPA's ability to fulfill its mission of increasing voter participation and engagement in the electoral process. League staff and volunteers have devoted significant time and resources to educating voters about the intricacies of the mail-ballot process, with particular emphasis on the date requirement. This work has been underway since 2022 and has continued with the 2024 primary election season and in preparation for the 2024 general election season. For example:
  - a. As a direct result of the uncertainty around mail ballots, LWVPA developed and hosts a webinar—"Ballot Box Basics"—to educate voters about the steps to successfully vote by mail. LWVPA has had to spend resources developing this series to inform voters of the required steps—especially the date requirement—to ensure a ballot does not get

rejected for a dating error. Most recently, LWVPA presented this webinar on March 28 and April 16, 2024.

- b. League staff publish written materials to educate voters on how to avoid a ballot being rejected, including through social media posts, emails, and postcards and flyers about the intricacies of voting by mail and the importance of the date requirement to have one's ballot counted.
  - c. League staff do media appearances to educate voters about the date requirement and the potential for disenfranchisement if a voter makes minor mistakes when completing a mail-in ballot. For instance, in late February 2024, ahead of the most recent primary election, I was invited to do a radio interview about the redesigned ballot envelope, in which I spent significant airtime reminding voters how to correctly date the outer envelope declaration.
  - d. The local League chapters host dozens of voter registration and education events across the Commonwealth in every election cycle, during which energy is devoted to informing voters about administrative details of completing a mail ballot, especially the date requirement.
9. If the LWVPA didn't have to devote the time, staff, and financial resources to educating voters about the *logistics* of completing a mail ballot, the importance of properly filling in the date, and checking to ensure that ballots



are ultimately counted, it could instead focus on other important forms of voter engagement and participation, including:

- a. Helping individuals make a personalized plan to vote and developing creative solutions to eliminate voters' personal obstacles to voting;
- b. Outreach and voter registration efforts with new voters, younger voters, and voters from marginalized communities;
- c. Educating voters about substantive issues that affect their lives and communities, and generally directing resources toward making Pennsylvanians more efficacious and informed voters; and

10. The date requirement further hinders LWVPA's mission by generating confusion around mail-in ballots and mistrust around the electoral process, which in turn decreases voter participation. Any aspect of the voting process that makes it harder for voters to successfully cast a ballot and have it counted—such as not counting ballots over a dating error—harms the League's efforts to increase voter participation and confidence in the electoral process.

11. The League has already diverted numerous resources toward responding to the date requirement. Absent the relief requested in this case, LWVPA will again need to divert resources for the November 2024 election toward similar voter education and outreach efforts so that voters will not be disenfranchised due to mail ballot envelope dating problems. For instance:

- a. The newly hired Voter Services Coordinator will need to focus on issues such as mail-ballot “curing” and providing detailed educational materials on the mechanics of voting, rather than exploring innovative voter engagement strategies and developing new partnerships to increase voter participation.
  - b. League staff will continue to expend financial resources and personnel to create educational publicity materials, participate at local meetings to advocate for “cure” procedures, and do media appearances to educate voters about the date requirement.
  - c. LWVPA has issued and plans to continue issuing statements, social media posts and other communications about the correct way to submit a mail-in ballot.
12. In the April 2024 primary election, the League identified at least one member in Lancaster County whose ballot was rejected because of the date requirement.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S.  
§ 4904 relating to unsworn falsification to authorities.

Executed this 24th day of May, 2024 in Montgomery County, Pennsylvania.

A handwritten signature in blue ink, consisting of a large, stylized 'A' followed by a horizontal line that curves slightly upwards at the end.

---

Amy Widestrom

# EXHIBIT

22

## DECLARATION OF PHILIP HENSLEY-ROBIN

I, Philip Hensley-Robin, hereby declare as follows:

1. I have personal knowledge of the matters in this declaration and this is what I would testify to if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I am a resident of and registered voter in Philadelphia County, Pennsylvania.
4. I am the Executive Director of Common Cause Pennsylvania. I have held this position since October, 2023.
5. Common Cause Pennsylvania is a non-profit political advocacy organization and a chapter of the national Common Cause organization. Common Cause Pennsylvania (hereinafter "Common Cause") has approximately 36,000 members and supporters in Pennsylvania. These members live in all 67 counties of Pennsylvania, and many members are registered voters in Pennsylvania who are at risk of disenfranchisement if Respondents fail to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope.
6. Common Cause seeks to increase the level of voter registration and voter participation in Pennsylvania elections, especially in communities that are historically underserved and whose populations have a low propensity for voting. Many of these communities are communities of color.

7. In preparation for each major statewide election, Common Cause mobilizes hundreds of volunteers to help fellow Pennsylvanians navigate the voting process and cast their votes without obstruction, confusion, or intimidation.
8. As part of these efforts, Common Cause is a leader of the nonpartisan Election Protection volunteer program in Pennsylvania, which works to ensure voters have access to the ballot box, to provide voters with necessary voting information and answer their questions, to quickly identify and correct any problems at polling places, and to gather information to identify potential barriers to voting.
9. Because of Respondents' refusal to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope, in recent and future elections Common Cause was required and will be required to divert resources from its existing efforts toward educating voters about the drastic consequences of failing to comply with a trivial paperwork requirement that was previously understood (including by numerous federal judges) to be superfluous, and about any available processes in each county for curing mail-in ballots or casting provisional ballots to prevent the disenfranchisement of its members and other Pennsylvania voters.
10. For example, during the 2022 election, Common Cause had to reassign its volunteers' time and efforts from Common Cause's other efforts toward contacting and educating voters who had already submitted their mail ballots about how to fix problems with the mail ballot envelope date and avoid

having their vote set aside. And when the Department of State announced that ballot envelopes with an incorrect or missing date would be segregated and not counted, Common Cause redirected resources to ensuring that accurate information was available for voters, including those in Allegheny and Philadelphia Counties. Additionally, Common Cause issued press advisories, held press briefings, and issued press statements with the goal of alerting as many voters as possible to the Commonwealth's requirements. If the envelope dating rule remains in place, Common Cause anticipates engaging in similar efforts during the 2024 general election.

11. If Common Cause did not have to devote the time, staff, and financial resources to educating voters about the *logistics* of completing a mail ballot, the importance of properly filling in the date, and checking to ensure that ballots are ultimately counted, it could instead focus on other important forms of voter engagement and participation, including informing eligible citizens about how to register to vote, debunking election-related misinformation, and conducting additional voter education efforts targeted towards communities that face particular challenges in exercising their right to vote, including voters with limited English language proficiency, voters with disabilities, and voters in pretrial detention or on probation.

I understand that false statements herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Executed this 24<sup>th</sup> of May, 2024 in Philadelphia County, Pennsylvania.

  
Philip Hensley-Robin



# **Exhibit B**

## **NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within \_\_\_\_\_ days, or within the time set by order of the court, after this amended petition for review and notice are served, by entering a written appearance personally or by attorney and filling in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claims or relief requested by the plaintiff. You may lose money or property or other rights important to you. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Dauphin County Bar Association  
Lawyer Referral Service  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

BLACK POLITICAL EMPOWERMENT  
PROJECT, POWER INTERFAITH, MAKE THE  
ROAD PENNSYLVANIA, ONEPA ACTIVISTS  
UNITED, NEW PA PROJECT EDUCATION  
FUND, CASA SAN JOSÉ, PITTSBURGH UNITED,  
LEAGUE OF WOMEN VOTERS OF  
PENNSYLVANIA, AND COMMON CAUSE  
PENNSYLVANIA,

Petitioners,

v.

AL SCHMIDT, in his official capacity as Secretary  
of the Commonwealth, AND 67 COUNTY BOARDS  
OF ELECTIONS,  
(See back cover for list of County Respondents)

Respondents.

No. 283 M.D. 2024

Original  
Jurisdiction

NOTICE TO PLEAD

To ~~Al Schmidt, in his official capacity as Secretary of the Commonwealth,~~  
~~and each of the 67 County Board of Elections~~ the Respondents Philadelphia  
County Board of Elections, and the Allegheny County Board of Elections: You  
are hereby notified to file a written response to the Petitioners' enclosed Amended  
Petition for Review within twenty thirty (30) days from service hereof,  
or such other time as the Court prescribes, or judgment may be entered against st you.

Dated: September \_\_, 2024 Respectfully submitted,

/s/ Stephen Loney

Stephen Loney (No. 202535)

P.O. Box 60173

Philadelphia, PA 19102

sloney@aclupa.org

Adams County Board of Elections; Allegheny County Board of Elections; Armstrong County Board of Elections; Beaver County Board of Elections; Bedford County Board of Elections; Berks County Board of Elections; Blair County Board of Elections; Bradford County Board of Elections; Bucks County Board of Elections; Butler County Board of Elections; Cambria County Board of Elections; Cameron County Board of Elections; Carbon County Board of Elections; Centre County Board of Elections; Chester County Board of Elections; Clarion County Board of Elections; Clearfield County Board of Elections; Clinton County Board of Elections; Columbia County Board of Elections; Crawford County Board of Elections; Cumberland County Board of Elections; Dauphin County Board of Elections; Delaware County Board of Elections; Elk County Board of Elections; Erie County Board of Elections; Fayette County Board of Elections; Forest County Board of Elections; Franklin County Board of Elections; Fulton County Board of Elections; Greene County Board of Elections; Huntingdon County Board of Elections; Indiana County Board of Elections; Jefferson County Board of Elections; Juniata County Board of Elections; Lackawanna County Board of Elections; Lancaster County Board of Elections; Lawrence County Board of Elections; Lebanon County Board of Elections; Lehigh County Board of Elections; Luzerne County Board of Elections; Lycoming County Board of Elections; McKean County Board of Elections; Mercer County Board of Elections; Mifflin County Board of Elections; Monroe County Board of Elections; Montgomery County Board of Elections; Montour County Board of Elections; Northampton County Board of Elections; Northumberland County Board of Elections; Perry County Board of Elections; Philadelphia County Board of Elections; Pike County Board of Elections; Potter County Board of Elections; Schuylkill County Board of Elections; Snyder County Board of Elections; Somerset County Board of Elections; Sullivan County Board of Elections; Susquehanna County Board of Elections; Tioga County Board of Elections; Union County Board of Elections; Venango County Board of Elections; Warren County Board of Elections; Washington County Board of Elections; Wayne County Board of Elections; Westmoreland County Board of Elections; Wyoming County Board of Elections; and York County Board of Elections,

Respondents.

~~You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days, or within the time set~~

~~by order of the court, after this amended petition for review and notice are served, by entering a written appearance personally or by attorney and filling in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claims or relief requested by the plaintiff. You may lose money or property or other rights important to you. You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.~~

~~Dauphin County Bar Association  
Lawyer Referral Service  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536~~

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

BLACK POLITICAL EMPOWERMENT  
PROJECT, POWER INTERFAITH, MAKE THE  
ROAD PENNSYLVANIA, ONEPA ACTIVISTS  
UNITED, NEW PA PROJECT EDUCATION  
FUND, CASA SAN JOSÉ, PITTSBURGH UNITED,  
LEAGUE OF WOMEN VOTERS OF  
PENNSYLVANIA, AND COMMON CAUSE  
PENNSYLVANIA,

Petitioners,

v.

AL SCHMIDT, in his official capacity as Secretary  
of the Commonwealth, AND 67 COUNTY BOARDS  
OF ELECTIONS,  
(See back cover for list of County  
Respondents) ~~PHILADELPHIA COUNTY BOARD  
OF ELECTIONS, AND ALLEGHENY COUNTY  
BOARD OF ELECTIONS,~~

Respondents.

No. 23 M.D. 2024

Original  
Jurisdiction

AMENDED PETITION FOR REVIEW  
ADDRESSED TO THE COURT'S ORIGINAL JURISDICTION

Adams County Board of Elections; Allegheny County Board of Elections; Armstrong County Board of Elections; Beaver County Board of Elections; Bedford County Board of Elections; Berks County Board of Elections; Blair County Board of Elections; Bradford County Board of Elections; Bucks County Board of Elections; Butler County Board of Elections; Cambria County Board of Elections; Cameron County Board of Elections; Carbon County Board of Elections; Centre County Board of Elections; Chester County Board of Elections; Clarion County Board of Elections; Clearfield County Board of Elections; Clinton County Board of Elections; Columbia County Board of Elections; Crawford County Board of Elections; Cumberland County Board of Elections; Dauphin County Board of Elections; Delaware County Board of Elections; Elk County Board of Elections; Erie County Board of Elections; Fayette County Board of Elections; Forest County Board of Elections; Franklin County Board of Elections; Fulton County Board of Elections; Greene County Board of Elections; Huntingdon County Board of Elections; Indiana County Board of Elections; Jefferson County Board of Elections; Juniata County Board of Elections; Lackawanna County Board of Elections; Lancaster County Board of Elections; Lawrence County Board of Elections; Lebanon County Board of Elections; Lehigh County Board of Elections; Luzerne County Board of Elections; Lycoming County Board of Elections; McKean County Board of Elections; Mercer County Board of Elections; Mifflin County Board of Elections; Monroe County Board of Elections; Montgomery County Board of Elections; Montour County Board of Elections; Northampton County Board of Elections; Northumberland County Board of Elections; Perry County Board of Elections; Philadelphia County Board of Elections; Pike County Board of Elections; Potter County Board of Elections; Schuylkill County Board of Elections; Snyder County Board of Elections; Somerset County Board of Elections; Sullivan County Board of Elections; Susquehanna County Board of Elections; Tioga County Board of Elections; Union County Board of Elections; Venango County Board of Elections; Warren County Board of Elections; Washington County Board of Elections; Wayne County Board of Elections; Westmoreland County Board of Elections; Wyoming County Board of Elections; and York County Board of Elections,

Respondents.



## I. SUMMARY OF THE LAWSUIT

1. Pennsylvania election officials, including Secretary of the Commonwealth Al Schmidt (“Secretary Respondent”) and officials at [all 67 County Boards of Elections](#) ~~the Philadelphia and Allegheny County Board of Election~~ (“County Respondents”) have arbitrarily disqualified thousands of plainly eligible voters’ timely-submitted mail-in ballots in every primary and general election since 2020 merely because the voters neglected to write a date, or wrote an “incorrect” date, on the ballot-return envelope. Such conduct violates the Pennsylvania Constitution’s Free and Equal Elections Clause, Pa. Const. art. I, § 5.

2. Petitioners, nonpartisan organizations dedicated to promoting American democracy and the participation of Pennsylvania voters in our shared civic enterprise, bring this [Amended](#) Petition for Review to ensure that their members, the people they serve, and other qualified Pennsylvania voters do not again lose their constitutional right to vote based on a meaningless requirement.

3. The refusal to count timely mail ballots submitted by otherwise eligible voters because of an inconsequential paperwork error violates the fundamental right to vote recognized in the Free and Equal Elections Clause, which provides that “no power, civil or military, shall at any time interfere to prevent the free exercise of the right to suffrage.” Pa. Const. art. 1, § 5. *See Ball v. Chapman*, 289 A.3d 1, 27 n.156 (Pa. 2023) (plurality opinion) (acknowledging that

the “failure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause, and our attendant jurisprudence that ambiguities are resolved in a way that will enfranchise, rather than disenfranchise, the electors of this Commonwealth”).

4. Enforcement of the dating provision disenfranchised at least 10,000 voters in the 2022 general election and thousands more<sup>1</sup> voters in the 2024 Presidential primary whose ballots were timely received by election day. These include individuals like ~~Allegheny County voters~~ Joanne Sowell and Otis Keasley (~~Allegheny County~~), ~~Philadelphia County voters~~ Bruce Wiley and Eugene Ivory (~~Philadelphia County~~), ~~and other impacted individuals from across the Commonwealth like~~ Stephen Arbour (Montgomery County), Kenneth Hickman (York County), Janet Novick (Bucks County), Joe Sommar (Chester County),

---

<sup>1</sup> Petitioners note that the precise number of votes impacted by this issue in the 2024 primary election is currently unknown, as several counties still have not entered all ballot cancelations in the SURE system. It is already clear ~~as of the date of this filing~~, however, that the meaningless envelope dating provision again impacted several thousand Pennsylvania voters even in this low-turnout election. In any event, recent history has proven that not counting even a relatively small number of mail ballots based on this provision can be outcome determinative in close races. *See, e.g.*, Katherine Reinhard and Robert Orenstein, “Cohen wins Lehigh County judicial election by 5 votes,” *Pennsylvania Capital-Star* (June 17, 2022) (noting impact on municipal election results after counting 257 mail ballots received in undated envelopes following *Migliori v. v. Cohen*, 36 F.4th 153, 162-64 (3d Cir. 2022), *vacated as moot*, 2022 WL 6571686 (U.S. Oct. 11, 2022)); Dan Sokil, “Towamencin supervisors race tied after Montgomery County election update,” *The Reporter Online* (Nov. 27, 2023) (noting impact on Towamencin Township supervisor results after counting 6 impacted mail ballots following *NAACP, et al. v. Schmidt, of NAACP v. Schmidt*, ~~No. 1:22-CV-00339, 2023 WL 8091601~~ 703 F. Supp. 3d 632 (W.D. Pa. ~~Nov. 21,~~ 2023), *rev’d* 97 F.4th 120 (2024)); Borys Krawczeniuk, “Court says six mail-in ballots in state 117th House District race should count,” *WVIA News* (May 8, 2024) (noting potential impact on outcome of state house race if six outstanding mail ballots are counted in Luzerne County).

Phyllis Sprague (Bucks County), Mary Stout (Berks County), and Lorine Walker (Dauphin County), whose timely ballots, as described herein, were rejected for arbitrary and trivial reasons.

5. Absent declaratory and injunctive relief by this Court enjoining enforcement of the date requirement, Petitioners, their members and thousands of qualified Pennsylvania voters will suffer the irreparable harm of having their timely-submitted mail-in ballots rejected in this year's general election and at every election thereafter.

6. As multiple courts have found in recent prior lawsuits, the voter-written date is meaningless, necessary neither to establish voter eligibility or timely ballot receipt. While the date requirement has nevertheless survived previous court challenges, none of the lawsuits thus far have tested the date requirement under the Pennsylvania Constitution's Free and Equal Elections Clause, Pa. Const. art. I, § 5. Until now.

## **II. JURISDICTION**

7. This Court has original jurisdiction over this Amended Petition for Review pursuant to 42 Pa.C.S. § 761(a)(1).

## **III. PARTIES**

8. Black Political Empowerment Project ("B-PEP") is a non-profit, non-partisan organization that has worked since 1986 to ensure that the Pittsburgh

African-American community votes in every election. B-PEP's and its supporters throughout the Pittsburgh Region, including in Allegheny County, work with community organizations to empower Black and brown communities, including by promoting voting rights and get-out-the vote efforts.

9. During every election cycle, B-PEP's work includes voter registration drives, get-out-the-vote activities, education and outreach about the voting process, and election-protection work. B-PEP focuses these activities in predominantly Black neighborhoods in Allegheny County, with some efforts in Westmoreland and Washington Counties.

10. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects B-PEP's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. Respondent Allegheny County Board of Elections' failure to count such ballots will also obligate B-PEP to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. In connection with the 2024 general election, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters B-PEP will have to divert its resources towards educating voters about the risk of disenfranchisement due to the

envelope dating requirement and about any available cure processes. B-PEP will also divert resources toward continued advocacy for new processes to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake, as it has in other prior election cycles since at least 2022.

b. In connection with the November 2022 election, for example, B-PEP conducted outreach to members and constituent communities in Allegheny County about the importance of voting in person or by mail. When it was announced that county boards of elections would not count timely-submitted mail ballots based solely on missing or supposedly incorrect dates on return envelopes, B-PEP redirected its limited resources, including staff and volunteer time, to efforts to inform voters of this change and educate them as to how to avoid disenfranchisement.

c. In the days leading up to the election in November 2022, B-PEP's staff and volunteers also expended time and money developing, printing and distributing hundreds of flyers and other educational materials to dozens of churches for the purpose of informing prospective voters of the envelope dating issues generated by prior court decisions.

d. B-PEP's time and resources dedicated by B-PEP staff and volunteers would otherwise have been available for the organization's other

“get out the vote” efforts and other initiatives serving BPEP’s mission, including its Greater Pittsburgh Coalition Against Violence.

e. Leading up to the November 2024 General Election and other future elections, B-PEP plans similarly to divert its staff and volunteer resources from voter engagement and community initiatives toward preventing the disenfranchisement of voters who have already submitted their ballots.

11. POWER Interfaith (“POWER”) is a Pennsylvania non-profit organization of more than 100 congregations of various faith traditions, cultures and neighborhoods committed to civic engagement and organizing communities so that the voices of all faiths, races and income levels are counted and have a say in government.

12. During every election cycle, POWER’s civic engagement efforts include voter education programs, voter registration drives, and “Souls to the Polls” efforts<sup>2</sup> within Philadelphia County to encourage congregants to vote. In the weeks leading up to the November 2022 election, for example POWER launched a

---

<sup>2</sup>“Souls to the Polls” refers to the efforts of Black church leaders to encourage their congregants to vote *See, e.g.* Daniels, III, D. “The Black Church has been getting “souls to the polls” for more than 60 years,” *The Conversation*, Oct. 30, 2020, <https://theconversation.com/the-black-church-has-been-getting-souls-to-the-polls-for-more-than-60-years-145996>

bus tour focused on engaging Philadelphia County voters who were not already participating in the political process.

13. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects POWER's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. [County Respondents' Philadelphia County Board of Elections'](#) failure to count such ballots will also compel POWER to continue diverting resources in this and future elections from its other voter education and mobilization efforts towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, POWER will reassign volunteers and staff from its other voter education and mobilization efforts towards contacting and educating voters who had already submitted their mail ballots about how to fix problems with the mail ballot envelope date and avoid having their vote set aside, as it has in prior election cycles since at least 2022.

b. In one prior example, when Philadelphia published a list of over 3,000 voters who were at risk of having their November 2022 general election ballots thrown out over technical errors, including a missing or incorrect date on the return envelope, POWER's members and volunteers made more than 1,200 manual calls and sent more than 2,900 texts to the voters whose names appeared on Philadelphia's at-risk list to provide them with information to help them cure their ballot or vote provisionally. POWER also stationed volunteers at City Hall to ensure voters returning their mail ballots to that location had correctly dated their return envelopes.

c. The time and attention that POWER devoted to ensuring voters who had already submitted their mail ballots would have their votes counted would otherwise have been used to engage and educate people who had not already attempted to vote.

d. Leading up to the 2024 General Election and other future elections, POWER plans to similarly divert its member and volunteer resources from their intended mission—engaging, educating, and mobilizing new voters—toward addressing the risk that voters who have already submitted their mail ballots may have their ballot set aside due to an error or omission of the handwritten date on the mail ballot return envelope.



14. Make the Road Pennsylvania (“Make the Road PA”) is a not-for-profit, member-led organization formed in 2014 that builds the power of the working class in Latino and other communities to achieve dignity and justice through organizing, policy innovation, and education services. Make the Road PA’s more than 10,000 members are primarily working-class residents of Pennsylvania, many in underserved communities. Many members of Make the Road PA are registered voters in Pennsylvania.

15. Make the Road PA’s work includes voter protection, voter advocacy and voter education on, for example, how to register to vote, how to apply for mail-in/absentee ballots, how to return mail-in/absentee ballots, and where to vote. Its get-out-the-vote efforts have included knocking on doors and speaking directly with eligible voters in historically underserved communities of color, especially in Berks, Bucks, Lehigh, Northampton and Philadelphia Counties.

16. Many members of Make the Road PA are registered voters in Pennsylvania and are at risk of disenfranchisement if Respondents fail to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope. Because Make the Road PA’s efforts are focused on communities where some voters are not native English speakers, the risk that some voters may make a minor paperwork mistake in filling out various forms related to mail or absentee ballot voting is heightened.

17. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Make the Road PA's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. [County Respondents Philadelphia County Board of Elections](#)' failure to count such ballots will also compel Make the Road PA to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. In connection with the 2024 general election, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Make the Road PA will have to divert its resources towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake, as it has in prior election cycles since at least 2022.

b. During the 2024 election cycle, Make the Road PA will reassign volunteers and staff from its other voter education and mobilization efforts, redirecting its limited resources to efforts to inform voters of the risk of disenfranchisement from the envelope dating rule and to educate them as to how to avoid disenfranchisement.

c. Similarly, in connection with the 2022 General Election, Make the Road PA contacted thousands of Pennsylvania voters, including [Berks](#), [Bucks](#), [Lehigh](#), [Northampton](#) and Philadelphia County voters, to provide them with information to help them cure their ballot or vote provisionally to prevent the counties' actions from disenfranchising them.

d. Leading up to the November 2024 General Election and other future elections, Make the Road PA plans to similarly divert its staff and volunteer resources from voter engagement and community initiatives toward preventing the disenfranchisement of voters who have already submitted their ballots.

e. But for application of the rule at issue in this case, such time and resources dedicated by Make the Road PA staff and volunteers would have been available for the organization's other "get out the vote" efforts and other initiatives serving Make the Road PA's mission, including its Immigrant Rights, Education Justice, Housing Justice, Climate Justice and Worker Rights initiative.

18. OnePA Activists United (d/b/a "One PA For All") is a community organizing and voter engagement group that fights for racial, economic and environmental justice. It builds multiracial, working-class progressive power in Pennsylvania with a deep focus on Black liberation, with offices in Pittsburgh and

Philadelphia, and does voter engagement work in Philadelphia, Allegheny, Delaware, and Dauphin Counties.

19. One PA For All's mission and program include a variety of voting- and election-related activities, including boosting voter registration and turnout within Black communities in Pennsylvania and educating and mobilizing community members for active participation in democratic processes, including city council, school board, zoning hearings, and PA General Assembly meetings. In connection with every election cycle, One PA For All runs an ambitious and comprehensive strategy to engage marginalized communities through door-to-door canvassing, phone calls, relational organizing, text messaging, digital ads, and earned media, with a goal to increase civic participation. In 2024, One PA plans to register more than 35,000 voters and make more than 2.14 million contacts with voters. In just the last two years, One PA has registered 28,000 voters in working class Black communities in Philadelphia, Delaware, and Allegheny Counties.

20. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects One PA For All's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also compel One PA For All to

continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. Since Respondents began strictly enforcing the envelope date requirement to disenfranchise people, One PA For All has helped 1000+ voters correct mistakes on their mail ballot envelopes. In one striking instance in 2022, One PA For canvassers knocked on door of Ms. Phyllis, a voter in her 70s, after learning that her mail-in ballot was in danger of not being counted because she had forgotten to write the date on the return envelope. Canvassers took her to her polling place and helped her obtain a provisional ballot, ensuring that her vote would count. Such a monumental effort requiring the resources of One PA For All and its staff and volunteers would not have been necessary if not for the decision to set aside mail ballots submitted without a voter written date on the return envelope.

b. One PA For All has, in past election cycles, expended scarce resources to help voters, like Ms. Phyllis, correct errors on mail ballot envelopes. This work is labor intensive and prevents its staff and volunteers from carrying out other aspects of its civic engagement work. In addition to contacting voters through the telephone or text message, One PA For All also sends staff and volunteers to the voters' homes and provides rides to the polling location for those voters who need a ride.

c. If the envelope dating requirement remains in place to disenfranchise mail-ballot voters who do not handwrite a date on the return envelope, or who write an “incorrect” date, One PA For All will continue its work instructing voters on how to correctly fill out a mail ballot return envelope. This work includes: distribution of a digital video via social media channels walking voters through how to properly vote by mail; organizing staff and volunteers to perform a “ballot chase” program that involves calling voters who have not turned in their mail ballots; and deploying staff and volunteers to mount a “ballot envelope curing” program that includes getting a copy of the list of voters in Allegheny and Philadelphia counties, contacting those voters and helping them correct the error on the envelope or helping them cast a provisional ballot in person.

d. In connection with the 2024 general election, One PA For All plans to deploy a five-person staff for the purpose of contacting voters who have made a mistake on their mail ballot envelope.

e. But for application of the rule at issue in this case, resources and staff deployed to reach out to voters with mistakes on their envelopes could be spent doing other work to advance One PA For All’s mission, such as knocking on additional doors, covering more territory in canvassing voters, calling or texting newly-registered voters, and recruiting and training

more volunteers. One PA For All is also diverting resources away from broader civic engagement and voter education program, which includes producing and distributing content publication on social media channels and coordinating messaging with micro influencers who have followings on Instagram and TikTok. If One PA For All did not have to expend resources on creating content about mail ballot envelope dating mistakes, it could focus educational materials more on voter registration, reach out to more first-time voters to encourage them to vote in the first place, and produce more communications focused on participation in the election in general. One PA For All would also have more resources to dedicate to its other civic engagement efforts, including its efforts to unite the community against exploitative corporate landlords, labor law violators, and health-threatening industrial polluters, and to transform the media narrative around community needs, enabling residents to share their stories for non-partisan direct action and civic engagement.

21. New PA Project Education Fund (“NPPEF”) is a nonpartisan, nonprofit organization based in Pennsylvania. NPPEF and its affiliated organization have offices in West Chester, Norristown, Harrisburg, and Pittsburgh. NPPEF is led by community leaders across the Commonwealth dedicated to centering underrepresented and underserved communities to embrace their power.

NPPEF works to ensure full participation in the democratic process through civic education and year-round engagement by centering Black, Indigenous, and other people of color, immigrant communities and the youth.

22. In connection with every election cycle, NPPEF conducts civic engagement and voter education in Philadelphia, Chester, Delaware, Montgomery, Bucks, Monroe, Lehigh, Northampton, Dauphin, Cumberland, Lebanon, York, Allegheny and Berks Counties. In 2024, NPPEF seeks to expand its operations into Erie, Beaver, Lawrence, Centre and Lackawanna counties. In the past two years, NPPEF and its affiliated organization registered nearly 40,000 Pennsylvanians to vote in Pennsylvania. More than 70% of those NPPEF registered to vote in 2024 are under the age of 36 and 68% of the newly registered, who self-identified, belong to a community of color. NPPEF’s voter registration, voter education and mobilization programs include repeat phone and email outreach to voters, door knocking, canvassing, mailings, preparing and distributing voter information guides, creating digital media, radio ads and emailed newsletters, and reaching out to voters on social media platforms. NPPEF also engages in “Community Conversations,” whereby staff travels the Commonwealth attending events and setting up informational tables to engage voters and potential voters and we provide nonpartisan information on how to register to vote, how to vote by mail and instructions for properly completing the vote by mail return envelope.



23. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects NPPEF's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also compel NPPEF to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, NPPEF will have to divert volunteers and staff from its other voter education and mobilization efforts to help ensure people are not disenfranchised by the envelope date requirement. Working in coalition with partner organizations, NPPEF expends resources towards ensuring that registered voters are notified of any mistakes on the mail ballot envelope, such as missing and incorrect dates, and provide information on how to make sure their vote counts. NPPEF will continue and expand this program for the general election in 2024. Because of the confusion around proper dates on mail ballot envelopes, in 2024, NPPEF anticipates adding information on the consequences of failing to handwrite the date or writing

the wrong date on the mail ballot envelope into its revised voter information guide tri-fold pamphlet.

b. Given the number of voters NPPEF aims to contact in 2024, any time spent discussing with voters the consequences of failing to date their mail ballot envelopes means staff and volunteers have that much less time to discuss other issues, and register additional Pennsylvanians to vote. NPPEF staff and volunteers are also forced to spend time and resources addressing inconsistent communication around correctly completing and returning vote by mail ballots and the resulting misinformation and voter fatigue around mail-in voting. NPPEF has thus had to spend additional resources to more thoroughly training staff, producing additional content and literature, more often than planned or budgeted, and redirecting staff capacity away from the organization's primary focus of registering Pennsylvanians to vote.

c. If NPPEF staff and volunteers did not need to spend time and resources educating voters about the dangers of being disenfranchised due to the envelope dating requirement, they would have more opportunities to discuss other issues with their centered communities instead of spending precious resources instructing them on how to properly date the mail ballot envelope. The more time and resources NPPEF is forced to spend providing

civic education around mail voting, the less time and resources it has to meet its organizational goals, and the expectations of its funders and donors.

24. Casa San José is a nonpartisan, nonprofit organization based in Pittsburgh, Pennsylvania, employing a staff of 24 and supported by three members of the order of the Sisters of St. Joseph and more than 100 volunteers. Casa San José connects, supports, and advocates with and for the Latino community toward a Pittsburgh region that celebrates Latino culture, welcomes immigrants, and embraces inclusion, dignity, and respect. In addition to voter engagement for the Latino community, Casa San José provides a variety of resources including weekly clinics, food pantries, summer camps, community meetings, and Know Your Rights sessions, among other services.

25. In connection with every election cycle, Casa San José does voter outreach in Allegheny, Beaver, Butler, Erie, Indiana, Lawrence, Washington, and Westmoreland counties. Casa San José engages the rapidly growing Latino community through phone calls, relational organizing, text messaging, and digital ads with a goal to increase the civic participation of the Latino communities. In 2022, for example, Casa San José conducted three phone call campaigns and three text campaigns, in addition to holding civic engagement events and distributing voter education information through social media sites, including Spanish videos with information on the importance of voting and the impact on local communities.

26. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Casa San José's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. [County Respondent ~~Allegheny County Board of Elections~~](#)' failure to count such ballots will also compel Casa San José to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Casa San José will have to divert volunteers and staff from its other voter education and mobilization efforts to help ensure people are not disenfranchised by the envelope date requirement. As in past elections since at least 2022, Casa San José will need to spend time making thousands of "ballot chasing" calls and text messages educating voters on the danger of being disenfranchised based on envelope dating issues.

b. In the 2022 election, phone calls and texts that included information on envelope dating issues were completed by a Community Policy Organizer and six volunteers.

c. Contacting voters and spending time and effort on the correct way to fill out the mail ballot envelope is time consuming and requires Casa

San José to carefully train callers and volunteers to make sure they emphasize the need for the date and the consequences for omitting it.

d. But for application of the rule at issue in this case, resources and staff deployed to reach out to voters who thought they already voted properly could be used for a multitude of other activities core to Casa San José's mission, including but not limited to: creating educational material to help voters understand the importance of elections; engaging with more voters through phone calls and text messages; additional canvassing in predominantly Latino neighborhoods; and registering more voters, especially first time voters.

e. If the mail ballot dating rule continues to be enforced in a way that disenfranchises voters in future elections, Casa San José will have to continue diverting its time and resources away from these activities and toward addressing mail ballot envelope dating issues with voters who thought they already voted properly, as it did in 2022, in connection with the November 2024 general election.

27. Pittsburgh United is a nonpartisan organization that strives to advance social and economic justice in the Pittsburgh region. It is a membership and coalition organization employing 31 staff members in six offices, one each in Pittsburgh, Ambridge, Meadville, Erie, Greensburg and State College.

28. Among its other community-based initiatives, Pittsburgh United staff and volunteers work to increase civic engagement in the communities it serves, including through work to increase voter turnout and expand access to mail voting in Black, low-income, and white working class communities across its six chapters in Allegheny, Beaver, Erie, Crawford, Centre, and Westmoreland Counties.

29. In connection with each election cycle, Pittsburgh United engages with voters in a variety of ways, including door-to-door canvassing, phone, text and digital outreach. Over the past four years, Pittsburgh United has made hundreds of thousands of phone calls and knocked on hundreds of thousands of doors. Its staff and volunteers provide nonpartisan information on the election process, and how elections directly impact the issues that matter most to the organization and its members, such as jobs, housing, racial justice, and climate equity. Pittsburgh United uses a variety of methods to reach voters and distribute information via social media platforms many times using content created by its coalition partners.

30. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Pittsburgh United's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. [County](#) Respondent ~~Allegheny County Board of Elections~~' failure to count such ballots

will also compel Pittsburgh United to continue diverting resources in this and future elections from its other voter education and mobilization efforts.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Pittsburgh United will have to divert volunteers and staff from its other voter education and mobilization efforts to help ensure people are not disenfranchised by the envelope date requirement.

b. In their direct voter outreach, Pittsburgh United staff and volunteers will have to continue spending time with voters explaining the numerous steps required to accurately complete a mail ballot, including the date field, and talking to voters who have had their ballot fail to be counted. They will also have to continue devoting significant resources to calling voters whose mail ballots were rejected because of a handwritten date error on the outer envelope and advising them to contact their county or go to their local polling place and cast a provisional ballot on election day.

c. Pittsburgh United has extremely limited resources to reach people who are typically left out of the process of voting. The time necessary to explain the steps of correctly filling out a mail ballot, including the dating requirement, slows down its staff because they have to take more

time in each conversation with a voter, ultimately reducing the number of voters Pittsburgh United can reach leading up to the 2024 election.

d. But for application of the rule at issue in this case, the additional resources and staff spent with voters who thought they already voted properly could be used both for more voter outreach and for a multitude of other activities core to Pittsburgh United's mission, including but not limited to its "Clean Rivers Campaign," its "Our Water Campaign," its worker campaigns, and its affordable housing campaigns.

31. The League of Women Voters of Pennsylvania ("the League") is a non-partisan statewide non-profit formed in 1920. The League and its members are dedicated to helping the people of Pennsylvania exercise their right to vote, as protected by the law. The League encourages informed and active participation in government, works to increase understanding of major public policy issues, and seeks to influence public policy through education and advocacy. The League is a predominantly volunteer organization and has 30 member chapters and one Inter-League Organization operating in 28 counties around the Commonwealth. The League has nearly 2,500 individual members who are registered voters and regularly vote in state and federal elections using, among other methods, absentee and mail ballots.



32. The League's mission is to empower voters and defend democracy, which includes voter registration, education, and get-out-the-vote drives. During every election cycle, the League conducts voter-registration drives, staffs nonpartisan voter-registration tables, educates incarcerated and formerly incarcerated individuals about their voting rights, and works with local high schools and universities to register young voters. The League maintains voter information resources on its website in English and Spanish. It also maintains an online database called VOTE411, a nonpartisan and free digital voter resource with information available in both English and Spanish, including registration information, voter guides, mail-in ballot information, candidate information, polling rules and locations.

33. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects the League's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also force the League to continue diverting resources in this and future elections from its other voter education and mobilization efforts towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters

who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, the League will have to divert volunteers and staff from its other voter education and engagements efforts to help ensure people are not disenfranchised by the envelope date requirement, as it has in prior election cycles since at least 2022.

b. In 2022, for example, the League had to reassign its members' and volunteers' time and efforts from its core activities towards contacting and educating voters who had already submitted their mail ballots about how to fix problems with the mail ballot envelope date and avoid having their ballot set aside. Following the Pennsylvania Supreme Court's decision in *Ball v. Chapman, et al.*, 284 A.3d 1189 (Pa. 2022) just before Election Day and after many LWVPA members and others served by LWVPA's mission had already submitted mail ballots, the League was forced to redirect its limited resources, including staff and volunteer time, to efforts to inform voters of this change and educate them about how to avoid disenfranchisement. League staff members and volunteers spent time contacting voters directly through any means possible, including via email,

in person, and through social media, to alert them that their ballot would not be counted because of the missing or incorrect date and provided steps that voters could take to rectify the error. The League also enlisted staff members and volunteers from its local chapters and coordinated the chapters' efforts to broadcast the potential to cure ballots on social media channels, sharing available information including, when possible, direct links to undated ballot lists. The League developed and issued a statement about the Pennsylvania court's ruling, and the League's members spent time creating content for its websites, posting information on social media, and attending Board of Elections meetings urging counties to provide notice and cure opportunities for mail-ballot voters.

c. Similar work continued into the 2024 primary election season and in preparation for the 2024 general election season. For example, as a direct result of the uncertainty around the mail ballot envelope dating requirement, the League developed and hosts a webinar—"Ballot Box Basics"—to educate voters about the steps to successfully vote by mail. The League has had to spend resources developing this series to inform voters of the required steps—especially the date requirement—to ensure a ballot does not get rejected for a dating error. League staff also publish written materials to educate voters on how to avoid a ballot being rejected, including through

social media posts, emails, and postcards and flyers about the intricacies of voting by mail and the importance of the date requirement to have one's ballot counted. And League staff do media appearances to educate voters about the date requirement and the potential for disenfranchisement if a voter makes minor mistakes when completing a mail-in ballot. Local League chapters also dedicate time and resources to informing voters about the date requirement during the dozens of voter registration and education events they host across the Commonwealth.

d. If the LWVPA didn't have to devote the time, staff, and financial resources to educating voters about the logistics of completing a mail ballot, the importance of properly filling in the date, and checking to ensure that ballots are ultimately counted, it could instead focus on other important forms of voter engagement and participation, including: helping individuals make a personalized plan to vote and developing creative solutions to eliminate voters' personal obstacles to voting; conducting more outreach and voter registration efforts with new voters, younger voters, and voters from marginalized communities; educating more voters about substantive issues that affect their lives and communities, and generally directing resources toward making Pennsylvanians more efficacious and informed voters.

e. The envelope dating requirement further hinders the League’s mission by generating confusion around mail-in ballots and mistrust around the electoral process, which in turn decreases voter participation. Any aspect of the voting process that makes it harder for voters to successfully cast a ballot and have it counted—such as not counting ballots over a dating error—harms the League’s efforts to increase voter participation and confidence in the electoral process. Absent the relief requested in this case, the League will continue in the 2024 General Election and other future elections to divert staff, member and volunteer resources from their core activities toward addressing the risk that voters who have already submitted their mail ballots may have their ballot set aside due to an error or omission of the handwritten date on the mail ballot return envelope.

34. Common Cause Pennsylvania (“Common Cause PA”) is a non-profit, non-partisan organization, and a chapter of the national Common Cause organization. Common Cause PA is a non-partisan good government organization with approximately 36,000 members and supporters who live in all 67 counties of Pennsylvania, ~~including Allegheny and Philadelphia Counties.~~

35. One of Common Cause PA’s core functions is to increase the level of voter registration and voter participation in Pennsylvania elections, especially in communities that are historically underserved and whose populations have a low

propensity for voting. In preparation for every major state-wide election, Common Cause PA mobilizes hundreds of volunteers to help fellow Pennsylvanians navigate the voting process and cast their votes without obstruction, confusion, or intimidation. As part of these efforts, Common Cause PA is a leader of the nonpartisan Election Protection volunteer program in Pennsylvania, which works to ensure voters have access to the ballot box, to provide voters with necessary and accurate information about voting and answer their questions, to quickly identify and correct any problems at polling places, and to gather information to identify potential barriers to voting.

36. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or incorrect date on the return envelope directly affects Common Cause PA's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also force Common Cause PA to continue diverting resources in this and future elections from its other voter education and mobilization efforts towards investigating and educating voters about any available cure processes or to advocate that new processes be developed to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake.

a. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Common Cause PA will have to divert volunteers and staff from its other voter education and engagements efforts to help ensure people are not disenfranchised by the envelope date requirement, as it has in prior election cycles since at least 2022.

b. During the 2022 election, for example, Common Cause PA had to reassign its volunteers' time and efforts from Common Cause PA's other efforts toward contacting and educating voters who had already submitted their mail ballots about how to fix problems with the mail ballot envelope date and avoid having their vote set aside. When Respondent Schmidt's predecessor announced that ballot envelopes with an incorrect or missing date would be segregated and not counted, Common Cause PA ensured that accurate information was available for [Pennsylvania](#) voters, ~~including those in Allegheny and Philadelphia Counties~~. Additionally, Common Cause PA issued the press advisories, held press briefings and issued press statements with the goal of alerting as many voters as possible to the Commonwealth's requirements.

c. Heading into the 2024 General Election and other future elections, Common Cause PA will continue to divert its volunteer resources

from its intended mission—educating and mobilizing voters—toward addressing the risk that voters who have already submitted their mail ballots may have their ballot set aside due to an error or omission of the handwritten date on the mail ballot return envelope.

d. If Common Cause PA did not have to devote time, staff, and financial resources to educating voters about the *logistics* of completing a mail ballot, the importance of properly filling in the date, and checking to ensure that ballots are ultimately counted, it could instead focus on other important forms of voter engagement and participation, including informing additional eligible citizens about how to register to vote, working to debunk election-related misinformation, and conducting additional voter education efforts.

37. Respondent Al Schmidt is the Secretary of the Commonwealth. The Pennsylvania Election Code confers authority upon the Secretary to implement absentee and mail voting procedures throughout the Commonwealth.

38. Specifically, the absentee and mail-in ballots must be in a form as provided by statute which form “shall be determined and prescribed by the secretary of the commonwealth.” 25 P.S. § 3146.3(b) (absentee ballots); *id.* § 3150.13(b) (mail-in ballots).



39. Similarly, the Election Code mandates that the form of the declaration printed on absentee and mail ballot envelopes, which includes a place for voters to insert the date, must be “as prescribed” by the secretary of the commonwealth. 25 P.S. § 3146.4 (absentee ballots); *id.* § 3150.14 (mail-in ballots).

40. In accordance with its specific statutory authority, before the 2024 primary election, Respondent Schmidt redesigned the mail ballot return envelope. Among other things, he included a field that pre-populated “20” at the beginning of the year on the outer return envelope. *Shapiro Administration Introduces Redesigned Mail Ballot Materials To Give Votes Clearer Instructions, Decrease Number Of Rejected Ballots, And Ensure Every Legal Vote Is Counted*, Pennsylvania Pressroom, Nov. 29, 2023, <https://www.media.pa.gov/pages/state-details.aspx?newsid=584>. Nevertheless, voters across the Commonwealth continued to make inconsequential envelope dating mistakes even on the DOS redesigned envelope. *See* Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, Votebeat Pennsylvania, Apr. 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>; <https://ny1.com/nyc/all-boroughs/politics/2024/04/24/pennsylvania-voters-ballot-envelopes>.

41. In Respondent Schmidt’s official capacity, he has the duty “[t]o receive from county boards of elections the returns of primaries and elections, to

canvass and compute the votes cast for candidates and upon questions as required by the provisions of this act; to proclaim the results of such primaries and elections, and to issue certificates of election to the successful candidates at such elections. . . .” 25 P.S. § 2621(f).

42. Respondent Schmidt and his predecessors have issued guidance to county boards of elections that timely-submitted mail-in ballots with a missing or incorrect date on the return envelope must be segregated and excluded from tabulation. Specifically, on November 3, 2022, the Secretary issued guidance instructing counties that “ballots which are administratively determined to be undated or incorrectly dated” should be coded as “CANC – NO SIGNATURE within the SURE system” (*i.e.*, should be canceled and not accepted) and “segregated from other ballots.” *Guidance on Undated and Incorrectly Dated Mail-in and Absentee Ballot Envelopes Based on the Pennsylvania Supreme Court’s Order in Ball v. Chapman*, at 1, Pa. Dep’t of State, Nov. 3, 2022

(Archived), <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/archived/2022-11-03-Guidance-UndatedBallot.pdf><https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-11-03-Guidance-UndatedBallot.pdf>. On April 3, 2023,

Respondent Schmidt issued guidance stating, in relevant part, “A ballot-return

envelope with a declaration that is not signed *or dated* is not sufficient and must be set aside, declared void, and may not be counted”; and any declarations “that contain a date deemed by the county board of elections to be incorrect should be set aside and segregated.” *Guidance Concerning Civilian Absentee And Mail-In Ballot Procedures*, at 6, Pa. Dep’t of State, Updated Apr. 3, 2023,

<https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2023-04-03-Examination-Absentee-Mail-In-Ballot-Return-Envelopes-4.0.pdf> <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2023-04-03-Examination-Absentee-Mail-In-Ballot-Return-Envelopes-4.0.pdf>

43. Following the Third Circuit’s decision in *NAACP v. Schmidt*, the Department of State continued to instruct counties not to count ballots arriving in undated or incorrectly-date declaration envelopes. For instance, in an April 19, 2024 email, Deputy Secretary Jonathan Marks provided “the Department’s view” that certain handwritten dates that can “reasonably be interpreted” as the date in which the voter completed the declaration—such as omitting “24” in the year field—“should not be rejected.”<sup>3</sup> However, the Department did otherwise not

---

<sup>3</sup> A true and correct copy of the April 19, 2024 DOS email to county election officials is attached hereto as Exhibit 13.

modify its previous guidance that envelopes that lack a date or have an otherwise “incorrect” date should not be counted.

44. The ~~Boards of Elections of Allegheny and Philadelphia Counties~~<sup>67</sup> County Boards of Elections are responsible for administering elections in their respective counties. Section 301 of the Election Code, 25 P.S. § 2641. County Boards are also charged with ensuring elections are “honestly, efficiently, and uniformly conducted.” 25 P.S. § 2642(g). As relevant to absentee ballots, County Boards are responsible for:

- a. reviewing and processing applications for absentee and mail ballots. 25 P.S. § 3146.2b, 3150.12b;
- b. confirming an absentee applicant’s qualifications by verifying their proof of identification and comparing the information on the application with information contained in the voter’s record. 25 P.S. §§ 3146.2b, 3150.12b; *see also id.* § 3146.8(g)(4).
- c. sending a mail-ballot package that contains a ballot, a “secrecy envelope” marked with the words “Official Election Ballot,” and the pre-addressed outer return envelope, on which a voter declaration form is printed (the “Return Envelope”). *Id.* §§ 3146.6(a), 3150.16(a).

d. maintaining poll books that track which voters have requested mail ballots and which have returned them. *Id.* §§ 3146.6(b)(3), 3150.16(b)(3).

e. Upon return of an absentee ballot, stamping the Return Envelope with the date of receipt to confirm its timeliness. *See Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2–3, Pa. Dep’t of State, (Sept. 11, 2020), <https://campaignlegal.org/sites/default/files/2020-09/Examination%20of%20Absentee%20and%20Mail-In%20Ballot%20Return%20Envelopes.pdf>

f. Logging returned absentee ballots in the Department of State’s Statewide Uniform Registry of Electors (“SURE”) system, the voter registration system. *See* Pa. Dep’t of State, *Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2–3, Pa. Dep’t of State, (Sept. 11, 2020), <https://campaignlegal.org/sites/default/files/2020-09/Examination%20of%20Absentee%20and%20Mail-In%20Ballot%20Return%20Envelopes.pdf>

g. Keeping returned absentee ballots in sealed or locked containers until they are canvassed by the County Board. 25 P.S. § 3146.8(a)

h. Pre-canvassing and canvassing absentee ballots, including examining the voter declaration. 25 P.S. § 3146.8(g).

i. Conducting a formal hearing to hear challenges as to all challenged absentee ballot applications and challenged absentee ballots. 25 P.S. § 3146.8(g)(5).

#### **IV. FACTS**

##### **Pennsylvania's Mail Ballot Rules**

45. Pennsylvania has long provided absentee ballot options for voters who cannot attend a polling place on Election Day. *See* 25 P.S. § 3146.1–3146.9. In 2019, Pennsylvania enacted new mail-in voting provisions, extending the vote-by-mail option to *all* registered, eligible voters. Act of Oct 31, 2019, P.L. 552, No. 77, § 8.

46. A voter seeking to vote by mail must complete an application and send it to their county board of elections that includes their name, address, and proof of identification. 25 P.S. §§ 3146.2, 3150.12. Such proof of identification must include, a Pennsylvania driver's license number, or non-driver identification number, if the voter has one. If the voter does not have a PennDOT-issued identification, they must provide the last four digits of the voter's social security number. 25 P.S. § 2602(z.5)(3). As part of the application process, voters provide all the information necessary for county boards of elections to verify that they are

qualified to vote in Pennsylvania, namely, that they are at least 18 years old, have been a U.S. citizen for at least one month, have resided in the election district for at least 30 days, and are not currently incarcerated on a felony conviction. *See* 25 Pa.C.S. § 1301.

47. After the application is submitted, the county board of elections confirms applicants' qualifications by verifying their proof of identification and comparing the information on the application with information contained in a voter's record. 25 P.S. §§ 3146.2b, 3150.12b; *see also id.* § 3146.8(g)(4).<sup>4</sup> The county board's determinations on that score are conclusive as to voter eligibility unless challenged prior to Election Day. *Id.*

48. Once the county board verifies the voter's identity and eligibility, it sends a mail-ballot package that contains a ballot, a "secrecy envelope" marked with the words "Official Election Ballot," and the pre-addressed outer return envelope, on which a voter declaration form is printed (the "Return Envelope"). *Id.* §§ 3146.6(a), 3150.16(a). Poll books kept by the county show which voters have requested mail ballots and which have returned them. *Id.* §§ 3146.6(b)(3), 3150.16(b)(3).

---

<sup>4</sup> *See also* Pa. Dep't of State, *Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2 (Sept. 11, 2020), <https://campaignlegal.org/sites/default/files/2020-09/Examination%20of%20Absentee%20and%20Mail-In%20Ballot%20Return%20Envelopes.pdf> <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/Examination%20of%20Absentee%20and%20Mail-In%20Ballot%20Return%20Envelopes.pdf>.

49. At “any time” after receiving their mail-ballot package, the voter marks their ballot, puts it inside the secrecy envelope, and places the secrecy envelope in the Return Envelope. 25 P.S. §§ 3146.6(a), 3150.16(a). The voter delivers the ballot, in the requisite envelopes, by mail or in person, or by other designated method, to their county board of elections.

50. The Election Code provides that the voter “shall...fill out, date and sign the declaration” printed on the outer envelope used to return their mail ballots. *See* 25 P.S. §§ 3146.6(a), 3150.16(a).

51. However, the date written on the envelope is not used to establish whether the mail ballot was submitted on time. Indeed, lawsuits in both state and federal court have conclusively demonstrated that the date is meaningless, necessary neither to establish voter eligibility nor timely ballot receipt. *See, e.g., NAACP*, 97 F.4th 120, 129 (3d Cir. 2024) (“Nor is [the handwritten date] used to determine the ballot’s timeliness because a ballot is timely if received before 8:00 p.m. on Election Day, and counties’ timestamping and scanning procedures serve to verify that. Indeed, not one county board used the date on the return envelope to determine whether a ballot was timely received in the November 2022 elections.”). *See also Pennsylvania State Conf. of NAACP v. Schmidt*, ~~No. 1:22-CV-00339~~, ~~2023 WL 8091601~~, at \*32703 F. Supp. 3d 632, 679 (W.D. Pa. ~~Nov. 21~~, 2023) (Baxter, J.) (“Whether a mail ballot is timely, and therefore counted, is not



determined by the date indicated by the voter on the outer return envelope, but instead by the time stamp and the SURE system scan indicating the date of its receipt by the county board”).

52. A mail ballot is timely so long as the county board of elections receives it by 8 p.m. on Election Day. *Id.* §§ 3146.6(c), 3150.16(c). Upon receipt of a mail ballot, county boards of elections stamp the Return Envelope with the date of receipt to confirm its timeliness and log it in the Department of State’s Statewide Uniform Registry of Electors (“SURE”) system, the voter registration system used to generate poll books.<sup>5</sup>

53. A voter whose mail ballot was timely received could have signed the voter declaration form *only* in between the date their county board sent the mail-ballot packages and the Election-Day deadline. Ballots received by county boards *after* 8 p.m. on Election Day are not counted regardless of the handwritten envelope date. *See NAACP*, [2023 WL 8091601, at \\*32-703 F. Supp. 3d at 679](#) (“Irrespective of any date written on the outer Return Envelope’s voter declaration, if a county board received and date-stamped a . . . mail ballot before 8:00 p.m. on Election Day, the ballot was deemed timely received . . . [I]f the county board received a mail ballot after 8:00 p.m. on Election Day, the ballot was not timely

---

<sup>5</sup> See, e.g., *Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2–3, Pa. Dep’t of State, (Sept. 11, 2020).

and was not counted, despite the date placed on the Return Envelope”), *rev’d on other grounds*, *NAACP*, 97 F.4th 120 (3d Cir. 2024).

54. Timely absentee and mail-in ballots are then verified consistent with procedures set forth in § 3146.8(g)(3). Any ballot that has been so verified by the county board of elections and has not been challenged is counted and included with the election results. *Id.* § 3146.8(d), (g)(4).

55. Pennsylvania’s adoption of mail voting has been a boon for voter participation in the Commonwealth. For example, in 2020, 2.7 million Pennsylvanians voted by absentee or mail ballot.<sup>6</sup>

56. In the 2024 primary election, approximately 714,315 Pennsylvania voters returned mail ballots.<sup>7</sup>

57. But the enforcement of the dating provision again resulted in the arbitrary and baseless rejection of thousands timely ballots.

---

<sup>6</sup> *Report on the 2020 General Election* at 9, Pa. Dep’t of State, (May 14, 2021), <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/reports/2020-General-Election-Report.pdf><https://www.dos.pa.gov/VotingElections/Documents/2020-General-Election-Report.pdf>. For ease of reference, the term “mail ballots” is used herein to encompass both absentee and mail ballots. The relevant rules governing the treatment of absentee and mail ballots are identical.

<sup>7</sup> The number of returned ballots is alleged based on data provided by the Pennsylvania Department of State. Turnout in the 2024 primary has not been fully reported, but approximately 1.9 million voters voted based on the number of votes cast in the statewide U.S. Senate race *See* 2024 Presidential Primary (Unofficial Returns) Statewide, Apr. 23, 2024, accessed May 17, 2024 <https://www.electionreturns.pa.gov/>

58. On information and belief, in the 2024 Presidential primary election, several thousand timely absentee and mail-in ballots were rejected because of the envelope dating provision.

59. This is not new. In the 2022 election, over 10,000 timely absentee and mail-in ballots were rejected because of the dating provision. In the 2023 municipal elections, nearly 7,000 eligible Pennsylvania voters' absentee and mail ballots were initially<sup>8</sup> rejected due to application of the envelope dating provision. *See* Ex. 1 (5/27/24 Decl. of A. Shapell ("Shapell Decl.)) at ¶ 12(a).

### **Previous Litigation over the Envelope-Date Requirement**

60. Despite the date requirement's complete irrelevance to the electoral process and its devastating impact on the fundamental right to vote, it has withstood prior court challenges based on state-law statutory-interpretation principles and the Materiality Provision of the Civil Rights Act. Specifically, between 2020 and 2022, several courts addressed statutory construction of the Election Code concerning the envelope-dating provision -- reaching different conclusions. *Compare In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058, 1062 (Pa. 2020), *cert. denied*, 141 S. Ct. 1451

---

<sup>8</sup> County boards ultimately counted many of the votes that were initially set aside in the 2023 General Election, following the U.S. District Court's ~~December~~November 2023 determination in *NAACP, et al. v. Schmidt*, ~~2023 WL 8091601~~703 F. Supp. 3d, that the envelope dating provision violates the federal Materiality Provision. That decision was later reversed on the merits by the Third Circuit in 2024, after several counties had already counted initially rejected ballots from the 2023 election.

(2021) (concluding they would be counted for 2020 election only but not in future) with *Ritter v. Lehigh Cnty. Bd. of Elections*, 272 A.3d 989 (Pa. Commw. Ct. Jan. 3, 2022), *appeal denied*, 271 A.3d 1285 (Pa. 2022) (ruling statute required undated envelopes should not be counted). Additional courts considered whether the dating provision violated the Materiality Clause of the Civil Rights Act, also reaching different conclusions. Compare *Migliori v. Cohen*, 36 F.4th 153, 162-64 (3d Cir.), *vacated as moot*, 143 S. Ct. 297 (2022) (concluding immaterial) and *NAACP v. Schmidt*, ~~2023 WL 8091601~~ 703 F. Supp. 3d 632 (W.D. Pa. ~~Nov. 21,~~ 2023) (same) and *Chapman v. Berks Cnty. Bd. of Elections*, No. 355 M.D. 2022, 2022 WL 4100998, at \*12–\*29 (Pa. Commw. Ct. Aug. 19, 2022) (same) and *McCormick for U.S. Senate v. Chapman*, No. 286 M.D. 2022, 2022 WL 2900112, at \*9–\*15 (Pa. Commw. Ct. June 2, 2022) (same) with *Ball v. Chapman*, 289 A.3d 1, 33-34 (Pa. 2023) (deadlocking 3-to-3 as to materiality) with *NAACP v. Schmidt*, 97 F.4th 120 (3d Cir. 2024) (concluding material).

61. However, no court has decided whether applying this provision to disenfranchise voters violates their fundamental right to vote under the Pennsylvania Constitution’s Free and Equal Elections Clause. Pa. Const. art. I, § 5.

62. In a previous case concerning the Materiality Clause, three of the six Pennsylvania Supreme Court justices in *Ball v. Chapman* expressly acknowledged

that, even if the federal Materiality Provision does not require canvassing of mail ballots received in undated envelopes:

**[F]ailure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause,** and our attendant jurisprudence that ambiguities are resolved in a way that will enfranchise, rather than disenfranchise, the electors of this Commonwealth.

*Ball*, 289 A.3d at 27 n.156 (emphasis added) (citing Pa. Const. art. I, § 5; *Pa.*

*Democratic Party v. Boockvar*, 238 A.3d 345, 361 (Pa. 2020)), *cert. denied*, 141 S. Ct. 732 (2021).

63. Meanwhile, evidence adduced in prior litigation over the envelope dating provision reflects that enforcement of this provision has been arbitrary and has disenfranchised a significant number of Pennsylvania voters. For example, the evidence in the *Ritter* litigation found that of the 257 timely-received mail ballots based on mail-ballot voters' inadvertent failure to handwrite a date on the Return Envelope, three-quarters of the affected voters were over 65 years old, and fifteen of them were older than 90.<sup>9</sup>

64. Similarly, evidence in the *NAACP v. Schmidt* case indicated that over 10,000 ballots had been rejected in the 2022 general election alone based on the envelope dating requirement, and that the requirement was inconsistently and

---

<sup>9</sup> These and other facts relating to the 2021 Lehigh County election are drawn from the Joint App'x in *Migliori v. Cohen*, No. 22-1499 (3d Cir.), Dkt.33-2.

arbitrarily enforced. The plaintiffs obtained discovery from all 67 counties and found dramatic inconsistencies in how voters had been treated. *See NAACP*, 2023 WL 8091601, at \*32703 F. Supp. 3d at 680 (Baxter, J.) (“[T]he record is replete with evidence that the county boards’ application of the *Ball* order in the November 2022 general election created inconsistencies across the Commonwealth in the way ‘correctly dated’ and ‘incorrectly dated’ ballots were rejected or counted by different counties.”). For example:

a. Many county boards refused to count ballots where the envelope date was correct but missing one term, such as “Oct. 25” with no year provided, even though they only could have been signed during 2022. *Id.* at \*33681 (“[A]cross the Commonwealth other timely-received ballots were set aside because the voter declaration omitted the year; omitted the month; omitted the day”). But others counted such ballots. *Id.* at \*33681, n. 43-45.

b. Some county boards set aside ballots where the voter put the date elsewhere on the envelope, or included “a cross-out to correct an erroneous date.” *Id.* at 681.

c. County boards took varying approaches to dates that appeared to use the international format (*i.e.*, day/month/year), with some counties basing the date range “strictly on the American dating convention” and

others “try[ing] to account for both the American and European dating conventions. . . .” *Id.* at \*33.—See also *id.* at 681-82 (“Ballots were set aside for having incorrect dates which, if construed using the European dating convention, would have been within the *Ball* date range”) (footnote omitted).

d. Many county boards counted ballots with necessarily “incorrect” envelope dates—*e.g.*, the handwritten date was before the county sent out the mail-ballot package, or after the elections board received it back from the voter—because the date written nevertheless fell within the date range that the Pennsylvania Supreme Court identified in its supplemental order in *Ball*. *Id.* at 680 (“The record reveals that some counties precisely followed the *Ball* date range even where the date on the return envelope was an impossibility because it predated the county’s mailing of ballot packages to voters”).

e. At least one county board counted a ballot marked September 31—a date that does not exist. *Id.* at \*33681, n. 45.

f. County boards also took inconsistent approaches to voters who mistakenly wrote their birthdates on the date line, with most refusing to do so. *Id.* at \*33681.

65. In addition, “[s]imple voter error and partial omissions related to the date declaration also resulted in rejection of mail ballots that were timely received. . . .” *Id.* For instance:

a. More than 1,000 *timely-received* ballots were set aside and not counted because of “an obvious error by the voter in relation to the date,” such as writing a month prior to September or a month after November 8. *Id.* The *NAACP* district court found that this “shows the irrelevance of any date written by the voter on the outer envelope.” *Id.*

b. On information and belief, counties also refused to count an hundreds of timely-received ballots with obviously unintentional slips of the pen, such as a voter writing a year prior to the election (e.g. “2021”) or a year in the future (e.g. “2023”). Yet the *NAACP* district court agreed that it was a “factual impossibility” for a voter to have signed the mail-ballot envelope any year before the election. *Id.* In other instances of rejected ballots, voters made simple typos such as “2033” or “2202” instead of “2022.”

c. On information and belief, county boards attempting to apply the directive to set aside envelopes bearing “incorrect” dates ultimately failed to count many ballots where it turned out the voter had actually written a correct date.



66. Moreover, in *NAACP v. Schmidt* the district court confirmed that the handwritten-date requirement serves absolutely no purpose and concluded in granting the plaintiffs’ motion for summary judgment that it was beyond dispute that the Date Requirement was “wholly irrelevant” in determining when the voter filled out the ballot or whether the ballot was timely received by 8:00 p.m. on Election Day. *See NAACP*, [2023 WL 8091601, at \\*29703 F. Supp. 3d at 678](#) (Baxter, J.). Further, the evidence at the district court “show[ed], and the parties either agree . . . or admit . . .” that county boards did not use the date “*for any purpose* related to determining a voter’s age, citizenship, county or duration of residence, felony status, or timeliness of receipt.” *Id.* at [\\*22668](#), [\\*29676](#). In fact, the undisputed record before the district court revealed that the 10,000-plus mail ballots that were not counted in the November 2022 elections were all timely submitted by otherwise qualified voters and the *only* basis for rejecting those votes was the failure to write a date or writing a date that was deemed “incorrect.”

67. These findings were confirmed on appeal. *NAACP*, 97 F.4th at 125 (“The date requirement, it turns out, serves little apparent purpose”); *id.* at 127 (“[I]t may surprise, the date on the declaration plays no role in determining a ballot’s timeliness”); *id.* at 131 (The Materiality Provision does not “preempt state requirements . . . regardless what (if any) purpose those rules serve”); *id.* at 139-40 (Shwartz, J., dissenting) (In the November 2022 election, “10,000 timely-received

ballots were not counted because they did not comply” with the Date Requirement “even though the date on the envelope is not used to (1) evaluate a voter’s statutory qualifications to vote, (2) determine the ballot’s timeliness, or (3) confirm that the voter did not die before Election Day or to otherwise detect fraud”).

### **The 2024 Primary Election**

68. Throughout all of the foregoing cases, Respondent Schmidt and his predecessors had consistently taken the position that eligible voters who timely submit mail ballots should have their ballots counted regardless of the envelope-dating rule. *See, e.g., Ball*, 289 A.3d at 16 (“the Acting Secretary argues that none of the proffered justifications for the date requirement withstand scrutiny, and that if the Court finds any ambiguity in the Election Code, such ambiguity should be resolved in favor of the exercise of the franchise”) (footnote omitted).

69. Following the Third Circuit’s decision in *NAACP v. Schmidt*, however, the Department of State’s instruction to counties – i.e., that they segregate and not count ballots that were received in envelopes that lacked the date or had a handwritten date that was deemed “incorrect” – remained in place. *See* Ex. 13 (April 19, 2024 email from Deputy Secretary Jonathan Marks, instructing counties not to reject ballots where the handwritten date can “reasonably be interpreted” as the date the voter signed the declaration, but not otherwise

modifying its prior guidance that ballots arriving in undated or incorrectly dated envelopes must be set aside and not counted).

70. On information and belief, ~~as of the date of this Petition~~, Pennsylvania county boards of elections had recorded their receipt of 714,315 mail ballots in the Department of State’s Statewide Uniform Registry of Electors (“SURE”) system for the 2024 Primary Election. That number represents more than 37% of all ballots cast in the primary.

71. Pursuant to Respondent Schmidt’s guidance, no county boards of elections canvassed any mail ballot received in an outer return envelope that is missing a voter-written date or has a date that the county board deemed “incorrect.”

72. As a result, thousands of mail-ballot envelopes have been set aside and segregated—and the ballots contained therein were not counted—pursuant to Respondent’s guidance because they were received in return envelopes with missing or incorrect handwritten dates next to the voters’ signatures.

73. On information and belief, more than 4,000 such ballots were marked as canceled in the SURE system for 2024 primary election due to a missing or incorrect handwritten date ~~as of the date of this Petition~~. See Ex. 1 (Shapell Decl.) at ¶ 12(b).

74. Voters across the Commonwealth continued to make envelope dating mistakes even on the DOS redesigned envelopes in 2024. *See* <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>; <https://ny1.com/nyc/all-boroughs/politics/2024/04/24/pennsylvania-voters-ballot-envelopes>

75. Even in a low-turnout election, application of the envelope dating rule resulted in rejection of thousands of timely submitted mail and absentee ballots submitted by eligible Pennsylvania voters.

76. As noted above, thousands of voters were impacted by the date requirement in the 2024 primary – this impacted eligible Pennsylvania voters of all walks of life and across the political spectrum who were disenfranchised by this rule in the 2024 primary election. These are some of the impacted individuals:

a. Allegheny County voter Otis Keasley, a 73-year-old Vietnam veteran who rarely misses an opportunity to vote. Mr. Keasley timely applied for and received a mail ballot package from Respondent Allegheny County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and mailed it to the elections office rather than dropping it off in person because he was dealing with a family health issue. Respondent Allegheny County Board of Elections timely received Mr.

Keasley's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Keasley's timely mail ballot submission, and he believed he had done everything correctly. Mr. Keasley did not learn until after the date of the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 2 (Keasley Decl.).

b. Allegheny County voter Joanne Sowell, a 76-year-old Pittsburgh resident who rarely misses an opportunity to vote. Ms. Sowell timely applied for and received a mail ballot package from Respondent Allegheny County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and returned it to the elections office early because she had travel plans on the day of the 2024 primary, believing she had done everything correctly. Respondent Allegheny County Board of Elections timely received Ms. Sowell's mail ballot well in advance of 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Sowell's timely mail ballot submission. Ms. Sowell was boarding a flight when she saw an email notifying her that her ballot would not be counted because of the date issue, and she was unable to correct the purported issue with her ballot

submission as she did not return home until after April 23. Ms. Sowell's primary vote was not counted. *See* Ex. 3 (Sowell Decl.).

c. Philadelphia voter Eugene Ivory, a 74-year-old retired Philadelphia educator who has been voting regularly for more than 50 years. Mr. Ivory timely applied for and received a mail ballot package from Respondent Philadelphia County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and returned the ballot package at a dropbox located at the Eastwick Library on or about April, 22, 2024. Respondent Philadelphia County Board of Elections timely received Mr. Ivory's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Ivory's timely mail ballot submission, and he believed he had done everything correctly. Mr. Ivory received a notice on the date of the primary election that his ballot may not be counted due to an incorrect date on the envelope, but he was unable to correct the error or cast a provisional ballot in person that day due to a family emergency. Respondent Philadelphia County Board of Elections did not count Mr. Ivory's primary vote. *See* Ex. 4 (Ivory Decl.).

d. Philadelphia voter Bruce Wiley, a 71-year-old home-bound voter who voted by mail for the first time in the 2024 primary due to health limitations that prevent him from leaving the home except for doctor appointments. Mr. Wiley timely applied for and received a mail ballot package from Respondent Philadelphia County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and mailed it to the elections office in advance of primary day. Respondent Philadelphia County Board of Elections timely received Mr. Wiley's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Wiley's timely mail ballot submission, and he believed he had done everything correctly. Mr. Wiley did not learn until after the date of the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 5 (Wiley Decl.).

e. Montgomery County Stephen Arbour, a Chief Technology Officer who has dutifully voted in every election since becoming a naturalized U.S. citizen in 2010. Mr. Arbour timely applied for and received a mail ballot package from ~~the Respondent~~ Montgomery County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted

the secrecy envelope into the outer return envelope. He then signed the envelope and returned it prior to the primary election day. The Respondent Montgomery County Board of Elections timely received Mr. Arbour's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Arbour's timely mail ballot submission, and he believed he had done everything correctly. Mr. Arbour received an email notification on April 22, 2024, that his ballot may not count due to a mistake in the date on the declaration form but could not go in person to cure the error or cast a provisional ballot on election day due to work and family commitments. His primary vote was not counted. *See* Ex. 6 (Arbour Decl.).

f. York County voter Kenneth Hickman, an 89-year-old retired mechanical engineer who has been voting since 1973. Mr. Hickman timely applied for and received a mail ballot package from the Respondent York County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and mailed it to the elections office within a week or two of receiving it. The Respondent York County Board of Elections timely received Mr. Hickman's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope



dating error. There were no other errors with Mr. Hickman's timely mail ballot submission, and he believed he had done everything correctly. Mr. Hickman did not learn until after the date of the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 7 (Hickman Decl.).

g. Bucks County voter Janet Novick, an 80-year-old retired high school English teacher with mobility issues who has voted regularly since registering in 1979. Ms. Novick timely applied for and received a mail ballot package from the Respondent Bucks County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and mailed it to the elections office in advance of the primary election date. The Respondent Bucks County Board of Elections timely received Ms. Novick's mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Ms. Novick's timely mail ballot submission, and she believed she had done everything correctly. Ms. Novick and her husband received voicemails indicating that their mail ballots would not be counted due envelope dating errors. When they returned the call, the elections office informed Ms. Novick that she had written her birthdate in the date line next to "2024,"

which Ms. Novick attributes to “a momentary lapse when I was completing the outer envelope.” The elections office also informed Ms. Novick that the only way to correct these errors would be to go in person to the office in Doylestown. The Novicks could not appear in person due to their mobility issues, and their primary votes were not counted. *See* Ex. 8 (Novick Decl.).

h. Chester County voter Joseph Sommar, a 71-year-old retired electrician and union representative who has voted in nearly every Pennsylvania election since the 1980s. Mr. Sommar timely applied for and received a mail ballot package from ~~the~~ Respondent Chester County Board of Elections, marked his ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. He then signed the envelope and returned it to the elections office in advance of the primary election date. The Respondent Chester County Board of Elections timely received Mr. Sommar’s mail ballot prior to 8pm on April 23, 2024, but decided to set his ballot aside due to a purported envelope dating error. There were no other errors with Mr. Sommar’s timely mail ballot submission, and he believed he had done everything correctly. Mr. Sommar was surprised and frustrated to receive a notice on or about April 19 that his vote may not count due to an envelope dating error. Mr. Sommar’s 2024 primary vote was not counted. *See* Ex. 9 (Sommar Decl.).

i. Bucks County voter Phyllis Sprague, an 80-year-old regular voter who has never missed a presidential election in over 50 years. Ms. Sprague timely applied for and received a mail ballot package from the Respondent Bucks County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and returned it to the elections office prior to a cervical spine surgery she had scheduled for April 18<sup>th</sup>. The Respondent Bucks County Board of Elections timely received Ms. Sprague's mail ballot prior to 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Sprague's timely mail ballot submission, and she believed he had done everything correctly. After Ms. Sprague was discharged from the hospital following her surgery, she received an email notice that her ballot may not count due to an envelope dating issue. Not wanting to miss the opportunity to vote, Ms. Sprague got ready to go to her polling place to cast a provisional ballot on Election Day but had a fall and injured herself before she had the chance to do so. Ms. Sprague's 2024 primary vote was not counted. *See* Ex. 10 (Sprague Decl.).

j. Berks County voter Mary Stout, a 77-year old retired nurse who started voting by mail a few years ago after getting back surgery. Ms. Stout

timely applied for and received a mail ballot package from ~~the~~ Respondent Berks County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and returned it to the elections office about two weeks before the primary election date. The Respondent Berks County Board of Elections timely received Ms. Stout's mail ballot prior to 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Stout's timely mail ballot, and she believed she had done everything correctly. Ms. Stout received a notice about a week before the primary that her ballot would not count because of a missing date on the envelope, but she was unable to go in person to fix it because of her mobility issues. Ms. Stout's 2024 primary vote was not counted. *See* Ex. 11 (Stout Decl.).

k. Dauphin County voter Lorine Walker, a 74-year-old retired school librarian who started voting by mail in 2020 during the pandemic and can no longer drive because of mobility issues. Ms. Walker timely applied for and received a mail ballot package from ~~the~~ Respondent Dauphin County Board of Elections, marked her ballot, placed it in the secrecy envelope, and inserted the secrecy envelope into the outer return envelope. She then signed the envelope and mailed it to the elections office a few weeks ahead of the

2024 primary election date. The Respondent Dauphin County Board of Elections timely received Ms. Walker's mail ballot prior to 8pm on April 23, 2024, but decided to set her ballot aside due to a purported envelope dating error. There were no other errors with Ms. Walker's timely mail ballot submission, and she believed she had done everything correctly. Ms. Walker did not learn until after the date of the primary that there was a problem with her mail ballot submission, and her primary vote was not counted. *See* Ex. 12 (Walker Decl.).

77. These and many other Pennsylvania voters will continue to lose their right to vote unless this Court declares application of the date requirement unconstitutional and enjoins the continued rejection of timely submitted ballots from eligible voters simply because they omitted a meaningless date, or wrote the wrong date, on the Return Envelope. In a high-turnout election, where Petitioners anticipate based on recent history that more than 37% of votes are cast by mail ballot, even a 1% error rate will result in the rejection of tens of thousands of mail ballots.

78. Impacted voters are disproportionately senior citizens, many of whom have voted dutifully for decades. They hail from throughout the Commonwealth and include voters registered Republican, Democrat and independent. These are all duly registered, eligible Pennsylvania voters who filled out their mail ballots,

returned them on time, and signed the declaration on the Return Envelope, but simply made a mistake on the Return Envelope by omitting a handwritten date or writing an incorrect date. The challenged envelope-date rule ensnares even voters who reasonably believed they were complying with all of the proper requirements to cast their ballot.

79. Absent court intervention, the County Respondents ~~and other county boards of election~~ will continue to follow Respondent Schmidt's guidance, setting aside mail ballot envelopes with missing or incorrect voter-written dates in the November 2024 General Election and subsequent elections.

80. The Pennsylvania Constitution requires that ballots with missing or incorrect dates be counted. The disenfranchisement of the affected voters in this and future elections constitutes irreparable harm for which there is no adequate remedy at law and for which this Court's intervention is required.

## V. CLAIMS

### **COUNT I (Violation of Pennsylvania's Free and Equal Elections Clause, Pa. Const. art. I, § 5)**

81. Petitioners hereby incorporate and adopt each and every allegation set forth in the foregoing paragraphs of the Amended Petition for Review.

82. Pennsylvania citizens enjoy a fundamental right to vote, as recognized by the command of the Pennsylvania Constitution's Free and Equal Elections

Clause: “no power, civil or military, shall at any time interfere to prevent the free exercise of the right to suffrage.” Pa. Const. art. 1, § 5.

83. Pursuant to that mandate, the Pennsylvania Supreme Court has consistently held that election law must be applied in a way so as to enfranchise, rather than disenfranchise. *See, e.g., Boockvar*, 238 A.3d at 361; *see also, e.g., Shambach v. Bickhart*, 845 A.2d 793, 798-99 (Pa. 2004) (“we have held that ballots containing mere minor irregularities should only be stricken for compelling reasons”) (citations omitted); *Petition of Cioppa*, 626 A.2d 146, 148 (Pa. 1993) (noting the “longstanding and overriding policy in this Commonwealth to protect the elective franchise”) (citations omitted); *In re Luzerne Cnty. Return Bd.*, 290 A.2d 108, 109 (Pa. 1972) (citing *Appeal of James*, 105 A.2d 64 (Pa. 1954) (“[T]he power to throw out a ballot for minor irregularities should be sparingly used . . . In construing election laws . . . [o]ur goal must be to enfranchise and not to disenfranchise.”); *cf. Ball*, 289 A.3d at 27 n.156.

84. Respondents’s application of the Election Code’s envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters based solely on the inadvertent failure to add a meaningless, superfluous handwritten date next to their signature on the mail ballot Return Envelope is an unconstitutional interference with the exercise of the right to suffrage in violation of the Free and Equal Elections Clause.

85. Continued application of this requirement will result in the disenfranchisement of eligible Pennsylvania voters who submit timely mail ballots in the 2024 General Election and all future elections, unless and until enjoined by this Court.

**COUNT II**  
**(Violation of Pennsylvania’s Free and Equal Elections Clause,**  
**Pa. Const. art. I, § 5))**

86. Petitioners hereby incorporate and adopt each and every allegation set forth in the foregoing paragraphs of the Amended Petition for Review.

87. Under Pennsylvania’s canon of constitutional avoidance, a statute must be given a construction that is consistent with the Pennsylvania Constitution. *See, e.g., Atlantic-Inland, Inc. v. Board of Supervisors of West Goshen Township*, 410 A.2d 380, 382 (Pa. Commw. Ct. 1980) (courts have an “obligation to adopt a reasonable construction which will save the constitutionality of the ordinance”) (citation omitted).

88. Moreover, Pennsylvania courts have consistently held that provisions of the Election Code must be interpreted “in order to favor the right to vote,” interpreting the statute so as “to enfranchise and not to disenfranchise.” *In re Luzerne Cnty. Return Bd.*, 290 A.2d 108, 109 (Pa. 1972) (citing *Appeal of James*, 105 A.2d 64 (Pa. 1954)); *see also, e.g., Ball v. Chapman*, 289 A.3d 1, 27 n.156 (2022) (plurality opinion) (citing Pa. Const. art. I, § 5; *Pa. Democratic Party*



*v. Boockvar*, 238 A.3d 345, 361 (Pa. 2020)) (“failure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause, and our attendant jurisprudence that ambiguities are resolved in a way that will enfranchise, rather than disenfranchise”); *Shambach v. Bickhart*, 845 A.2d 793, 798-99 (Pa. 2004) (“To that end, we have held that ballots containing mere minor irregularities should only be stricken for compelling reasons.”) (citations omitted).

89. Since the Pennsylvania Supreme Court’s decision in *Ball v. Chapman* in 2022, Respondent Schmidt, ~~the county boards of election in all 67~~  
~~counties~~Respondent Counties, and federal courts in the Western District of Pennsylvania and the Third Circuit have all confirmed beyond a shadow of a doubt that the envelope dating provision serves no purpose whatsoever, and it has been applied to disenfranchise thousands of eligible Pennsylvania voters in each and every primary and general election since 2022.

90. Since the Pennsylvania Supreme Court’s decision in *Ball v. Chapman* in 2022, the record in the other court cases establishes that the envelope dating rule has been inconsistently and arbitrarily enforced.

91. Accordingly, Petitioners claim in the alternative that, because Respondents’ application of the Election Code’s meaningless envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), imposing a mandatory requirement to

disenfranchise eligible mail and absentee voters, triggers a violation of voters' fundamental constitutional right to vote, the statutory envelope dating requirement must be reinterpreted and applied as a "directory" provision such that Respondents cannot use noncompliance with this entirely meaningless provision as a basis to disenfranchise eligible voters to submit timely absentee and mail ballots. *Cf. In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 General Election*, 241 A.3d 1058 (Pa. 2020) (plurality opinion).

### **PRAYER FOR RELIEF**

92. Petitioners have no adequate remedy at law to redress the wrongs suffered as set forth in this petition. Petitioners have suffered and will continue to suffer irreparable harm as a result of the unlawful acts, omissions, policies, and practices of Respondent, as alleged herein, unless this Court grants the relief requested.

**WHEREFORE**, Petitioners respectfully request that this Honorable Court enter judgment in their favor and against Respondents Al Schmidt, in his official capacity as Secretary of Commonwealth, and the 67 County Boards of Elections ~~and the Secretary of State and:~~

- a. Declare pursuant to Pennsylvania's Declaratory Judgments Act, 42 Pa.C.S. § 7531. et seq., that enforcement of the Election Code's envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject

timely mail ballots submitted by eligible voters, based solely on the absence of a handwritten date on the mail ballot return envelope is unconstitutional under the Free and Equal Elections Clause, Pa. Const. art. I, § 5;

- b. Declare pursuant to Pennsylvania’s Declaratory Judgments Act, 42 Pa.C.S. § 7531. et seq., that enforcement of the Election Code’s envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters, based solely on the determination that the voter wrote an incorrect date on the mail ballot return envelope is unconstitutional under the Free and Equal Elections Clause, Pa. Const. art. I, § 5;
- c. Preliminarily and permanently enjoin further enforcement of the Election Code’s envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters, based either on (i) the absence of a handwritten date on the mail ballot return envelope or (ii) the determination that the voter-written date is “incorrect”;
- d. Award Petitioners costs; and
- e. Provide such other and further relief as this Honorable Court deems just and appropriate.

Dated: ~~May 28~~September 18, 2024

Respectfully submitted,

John A. Freedman (*pro hac vice*)  
James F. Speyer (*pro hac vice*)  
David B. Bergman (*pro hac vice*)  
Erica E. McCabe\*  
ARNOLD & PORTER KAYE SCHOLER  
LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001  
(202) 942-5000  
[john.freedman@arnoldporter.com](mailto:john.freedman@arnoldporter.com)  
[james.speyer.arnoldporter.com](mailto:james.speyer.arnoldporter.com)  
[david.bergman@arnoldporter.com](mailto:david.bergman@arnoldporter.com)  
[erica.mccabe@arnoldporter.com](mailto:erica.mccabe@arnoldporter.com)

Sophia Lin Lakin (*pro hac vice*)  
Ari J. Savitzky (*pro hac vice*)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
125 Broad Street, 18<sup>th</sup> Floor  
New York, NY 10004  
Tel.: (212) 549-2500  
[slakin@aclu.org](mailto:slakin@aclu.org)  
[asavitzky@aclu.org](mailto:asavitzky@aclu.org)

\* *Pro hac vice* application to be filed

/s/ Benjamin Geffen  
Benjamin Geffen (No. 310134)  
Mary M. McKenzie (No. 47434)  
PUBLIC INTEREST LAW CENTER  
1500 JFK Blvd., Suite 802  
Philadelphia, PA 19102  
(267) 546-1313  
[mmckenzie@pubintl.org](mailto:mmckenzie@pubintl.org)  
[bgeffen@pubintl.org](mailto:bgeffen@pubintl.org)

Witold J. Walczak (No. 62976)  
Stephen Loney (No. 202535)  
Marian K. Schneider (No. 50337)  
Kate I. Steiker-Ginzberg (No. 332236)  
AMERICAN CIVIL LIBERTIES  
UNION OF PENNSYLVANIA  
P.O. Box 60173  
Philadelphia, PA 19102  
(215) 592-1513  
[sloney@aclupa.org](mailto:sloney@aclupa.org)  
[mschneider@aclupa.org](mailto:mschneider@aclupa.org)  
[ksteiker-ginzberg@aclupa.org](mailto:ksteiker-ginzberg@aclupa.org)

*Counsel for Petitioners*

## **CERTIFICATE OF COMPLIANCE**

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

/s/ Benjamin Geffen