

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,
PHILADELPHIA COUNTY BOARD
OF ELECTIONS AND ALLEGHENY
COUNTY BOARD OF ELECTIONS,**

Respondents.

**No. 283 MD 2024
Original Jurisdiction**

**[PROPOSED] BRIEFING SCHEDULE FOR APPLICATION FOR
SPECIAL RELIEF IN THE NATURE OF A PRELIMINARY INJUNCTION**

AND NOW, this ____ day of _____, 2024, upon consideration of
Petitioners' Application for Special Relief in the Nature of a Preliminary
Injunction, including their request for an expedited briefing schedule, it is hereby
ORDERED that Petitioners' request for an expedited briefing schedule is
GRANTED, and IT IS FURTHER **ORDERED** that:

Respondents shall file a response and/or brief in opposition to
Petitioners' Application for Special Relief in the Nature of a Preliminary
Injunction on or before **June 14, 2024**, and

Petitioners shall file any reply in further support of their Application
for Special Relief in the Nature of a Preliminary Injunction on or before
June 28, 2024.

The Court will hold a preliminary injunction hearing on _____,
2024.

BY THE COURT

IN THE COMMONWEALTH COURT of Pennsylvania

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Respondents.

**No. 283 MD 2024
Original Jurisdiction**

**ORDER GRANTING APPLICATION FOR SPECIAL RELIEF IN THE
NATURE OF A PRELIMINARY INJUNCTION**

AND NOW, this _____ day of _____, 2024, upon consideration of

Petitioners' Petition for Review, Application for Special Relief in the Nature of a Preliminary Injunction, and Memorandum in Support, it is hereby **ORDERED** that said Application is **GRANTED**.

IT IS FURTHER ORDERED that Respondents, their agents, officers, and employees are **ENJOINED** from enforcing the date requirement for mail-in ballots in 25 P.S. §§ 3146.6, 3150.16 for the November 5, 2024 election.

IT IS FURTHER ORDERED that Respondents, their agents, officers, and employees are **ENJOINED**, for the 2024 general election, to accept and count any mail-in ballot, regardless of compliance with the date requirement, if the ballot is received by the county board of elections by 8 p.m. on November 5, 2024;

BY THE COURT

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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**AL SCHMIDT, in his official capacity
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Respondents.

**No. 283 MD 2024
Original Jurisdiction**

**PETITIONERS' APPLICATION FOR SPECIAL RELIEF IN THE
NATURE OF A PRELIMINARY INJUNCTION**

Pursuant to Rule 1532(a) of the Pennsylvania Rules of Appellate Procedure, Petitioners, through their counsel, hereby move for special relief in the form of a preliminary injunction enjoining Respondents Secretary of the Commonwealth Al Schmidt, the Philadelphia County Board of Elections, and the Allegheny County Board of Elections from enforcing, during the upcoming November 2024 election, the requirement in 25 P.S. §§ 3146.6, 3150.16 that absentee and mail-in voters “date

... the declaration printed on [the] envelope” before returning the completed ballot. In support of their application, Petitioners hereby incorporate (1) the Verified Petition for Review in this action filed May 28, 2024, and (2) the Memorandum of Law in Support of Petitioners’ Application for Preliminary Injunction filed along with this application. Petitioners further state the following:

BACKGROUND

1. As set forth in the Petition for Review filed May 28, 2024, and in the Memorandum accompanying this application, enforcement of the statutory date requirement for absentee and mail-in ballots violates the Pennsylvania Constitution.¹

2. Following the Supreme Court of Pennsylvania’s decision in *Ball v. Chapman*, 289 A.3d 1 (Pa. 2023), Respondents have applied the statutory directive to date mail-in ballot return envelopes, (25 P.S. §§ 3146.6, 3150.16), as mandatory and disqualified ballots that arrive in undated or misdated envelopes.

3. The date requirement has thus disenfranchised, and will in the future disenfranchise, thousands of Pennsylvania mail-in voters. Over 10,000 voters were disenfranchised in the 2022 general election because of the date requirement. *Pennsylvania State Conf. of NAACP v. Sec’y Commonwealth of Pennsylvania*, 97 F.4th 120, 127 (3rd Cir. 2024) (“NAACP”) (“thousands of Pennsylvania mail-in

¹ For brevity, this Application will hereinafter use the term “mail-in ballots” to refer to both absentee ballots, *see* 25 P.S. § 3146.6, and mail-in ballots, *see id.* § 3150.16.

voters” in the November 2022 election did not have their votes counted because they did not date, or misdated, their ballots); *see also id.* at 144 (Shwartz, J., dissenting) (“more than 10,000 eligible voters had their timely ballots disqualified” because they did not sign, or misdated, their ballots). In the 2023 municipal elections, thousands of eligible Pennsylvania voters’ absentee and mail ballots were set aside and not counted due to application of the envelope dating provision.² And thousands more were disenfranchised in the 2024 Presidential primary because of the date requirement.³ *See* Ex. 1 (5/27/24 Decl. of A. Shapell [“Shapell Decl.”]) at ¶ 12.

4. As the United States Court of Appeals for the Third Circuit has noted, the date requirement “serves little apparent purpose.” *NAACP*, 97 F.4th at 125.

5. The date a mail-in voter places on the envelope plays no role in determining a ballot’s timeliness. Instead, timeliness is established by a receipt stamp and also through scanning of a unique barcode on the envelope. Accordingly, the date requirement is “unnecessary” with respect to determining timeliness. *In re*

² Following the U.S. District Court’s December 2023 determination in *Pennsylvania State Conf. of NAACP v. Schmidt*, No. 1:22-CV-339, 2023 WL 8091601 (W.D. Pa. Nov. 21, 2023), that the envelope dating provision violates the federal Materiality Provision, several county boards of elections reversed course and counted these ballots. The Third Circuit later reversed that decision, holding that a federal statute at issue in that case does not cover the Pennsylvania Election Code’s date requirement for mail-in ballots. *NAACP*, 97 F.4th 120 (3d Cir. 2024).

³ Petitioners note that the precise number of votes impacted by this issue is currently unknown, as several counties still have not entered all ballot cancelations in the SURE system for the 2024 primary. It is already clear as of the date of this filing, however, that the date requirement again impacted several thousand Pennsylvania voters even in this low-turnout election. *See* Shapell Decl. ¶ 12.

Canvass of Absentee & Mail-in Ballots of Nov. 3, 2020 Gen. Election, 241 A.3d 1058, 1077 (Pa. 2020) (opinion announcing judgment of the court).

6. The handwritten date on a mail-in voter's envelope also plays no role in determining a voter's qualifications to vote, *NAACP*, 97 F.4th at 137, or in detecting fraud, *In re 2020 Canvass*, 241 A.3d at 1077 (opinion announcing judgment of the court); *see also NAACP*, 97 F.4th at 139-40.

7. The date requirement is unconstitutional because it violates the Free and Fair Elections Clause of the Pennsylvania Constitution. Pa. Const. art. I, § 5. This clause establishes the right to vote as a fundamental individual right that may not be diminished by the government.

INJUNCTIVE RELIEF

8. Pursuant to Pennsylvania Rule of Appellate Procedure 1532(a), this Court may order special relief, including a preliminary or special injunction "in the interest of justice and consistent with the usages and principles of law." Preliminary injunctive relief may be granted at any time following the filing of a Petition for Review. *See* Pa. R. App. P. 1532(a). The standard for obtaining a preliminary injunction under this rule is the same as that for a grant of a preliminary injunction pursuant to the Pennsylvania Rules of Civil Procedure. *Shenango Valley Osteopathic Hosp. v. Dep't of Health*, 451 A.2d 434, 441 (Pa. 1982). Preliminary injunctive relief may be granted at any time following the

filing of a Petition for Review. *See* Pa. R. App. P. 1532(a).

9. The Court in deciding whether to issue a preliminary injunction considers whether (1) the petitioner is likely to prevail on the merits; (2) an injunction is necessary to prevent immediate and irreparable harm; (3) greater injury would result from refusing the injunction than from granting it, and granting it will not substantially harm other interested parties; (4) the injunction will not adversely affect the public interest; (5) the injunction will properly restore the parties to their status immediately prior to the passage of the law; and (6) the injunction is reasonably suited to abate the offending activity. *SEIU Healthcare Pa. v. Commonwealth*, 104 A.3d 495, 501-02 (Pa. 2014).

10. As explained in greater detail in the accompanying Memorandum, Petitioners meet all of the elements for the entering of a preliminary injunction in this case.

11. *First*, Petitioners are likely to succeed on the merits of their claims.

12. In Pennsylvania, the right to vote is enshrined in and protected by Article I, Section 5 of the Pennsylvania Constitution, also known as the Free and Equal Elections Clause, and multiple courts have characterized the right to vote as “fundamental.” *E.g.*, *Pennsylvania Democratic Party v. Boockvar*, 238 A.3d 345, 385 (Pa. 2020); *Kuznik v. Westmoreland Cnty. Bd. of Comm’rs*, 902 A.2d 476, 503 (Pa. 2006); *In re Nader*, 858 A.2d 1167, 1181 (Pa. 2004).

13. “It is well settled that laws which affect a fundamental right, such as the right to vote . . . are subject to strict scrutiny.” *Petition of Berg*, 712 A.2d 340, 342 (Pa. Commw. Ct. 1998), *aff’d*, 713 A.2d 1106 (Pa. 1998). The date requirement is such a law.

14. Under a strict scrutiny analysis, the government bears the burden of proving that the law in question serves a “compelling government interest.” *Pap’s A.M. v. City of Erie*, 812 A.3d 591, 596 (Pa. 2002).

15. The government cannot meet its burden here because the date requirement serves no government interest at all, let alone a “compelling” one for strict scrutiny purposes.

16. *Second*, Petitioners and their members have been and will be irreparably harmed absent the requested injunction. It is well-settled that deprivation of a Constitutional or statutory right constitutes *per se* irreparable harm. *See Wolk v. Sch. Dist. of Lower Merion*, 228 A.3d 595, 610-11 (Pa. Commw. Ct. 2020) (citing *Pa. Pub. Util. Comm’n v. Israel*, 52 A.2d 317, 21 (Pa. 1947)).

17. Moreover, Petitioners will be irreparably harmed absent injunctive relief because the date requirement would force them to waste resources to carry out their missions. *Applewhite v. Commonwealth*, No. 330 M.D. 2012, 2014 WL 184988, at *7-8 (Pa. Commw. Ct. Jan. 17, 2014).

18. *Third*, greater injury would result from denying the injunction than

granting it. Refusing to enforce a rule such as the date requirement, which has no purpose, harms no one. But enforcing that rule will strip thousands of registered and qualified voters of their right to have their votes counted. *See Beaver Cnty. ex rel. Beaver Cnty. Bd. of Comm'rs v. David*, 83 A.3d 1111, 1119 (Pa. Commw. Ct. 2014).

19. *Fourth*, the injunction will not adversely affect the public interest. To the contrary, preserving citizens' constitutional right to vote promotes the public interest.

20. *Fifth*, the injunction will properly restore the parties to their status immediately prior to passage of the date requirement statute.

21. *Sixth*, the injunction is reasonably suited to abate the offending activity because the requested injunctive relief will only prevent respondents from invalidating undated or misdated mail-in ballots, and it will not impact any other requirement for mail-in voting.

EXPEDITED TIMING

22. The Commonwealth has a general election scheduled for November 5, 2024. Petitioners seek an injunction that will prevent enforcement of the date requirement for that upcoming election in order to prevent irreparable constitutional injury that will occur absent the injunction. Petitioners thus respectfully submit that the interests of all parties as well as the general public will be best served by a

schedule that allows this Court to resolve Petitioners' application for a preliminary injunction as soon as possible to ensure that such injunction could be implemented in time for the election.

23. Petitioners request that this Honorable Court therefore set an expedited schedule for briefing and hearing in this application, and propose the following schedule:

- Respondents file a response and/or brief in opposition to preliminary injunction by June 14, 2024.
- Petitioners file any reply in support of preliminary injunction by June 28, 2024.
- Preliminary injunction hearing held at the Court's convenience thereafter, if the Court determines that a hearing is warranted.

WHEREFORE, for all the foregoing reasons, and those stated in the Petition for Review and Memorandum accompanying this application, Petitioners respectfully request that this Honorable Court grant their application for special relief in the nature of a preliminary injunction, and enter an order that:

- a. Enjoins Respondents, their agents, officers, and employees from enforcing the envelope dating provision for mail-in ballots in 25 P.S. §§ 3146.6, 3150.16 in connection the November 5, 2024 election.
- b. Enjoins Respondents, their agents, officers, and employees, for the

2024 general election, to open and canvass any mail-in ballot, regardless of compliance with the envelope dating provision, if the ballot is received by the county board of elections by 8 p.m. on November 5, 2024.

FURTHERMORE, Petitioners respectfully request that this Honorable Court shorten the time for Respondents' response and/or brief in opposition to a preliminary injunction pursuant to Pennsylvania Rule of Appellate Procedure 123(b), and set a schedule for expedited briefing and hearing on this application in accordance with the proposed order submitted with this application.

Dated: May 29, 2024

Respectfully submitted,

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**MEMORANDUM OF LAW IN
SUPPORT OF PETITIONERS'
APPLICATION FOR
PRELIMINARY INJUNCTION**

Table of Contents

INTRODUCTION	1
BACKGROUND	2
ARGUMENT	9
I. STANDARD OF REVIEW.....	9
II. PETITIONERS ARE ENTITLED TO PRELIMINARY INJUNCTIVE RELIEF	9
A. Petitioners Are Likely to Prevail on the Merits.....	9
1. The Date Requirement Violates the Free and Equal Elections Clause of the Pennsylvania Constitution.	11
a. The Right to Vote Is a Fundamental Right Guaranteed by the Free and Equal Elections Clause.	11
b. Strict Scrutiny Applies to the Date Requirement’s Restriction on the Fundamental Right to Vote.	13
c. The Date Requirement Cannot Survive Strict Scrutiny.	14
d. The Date Requirement Cannot Survive any Level of Scrutiny.....	18
2. Petitioners Preserve the Argument That the Envelope Dating Provision Should Be Reinterpreted Under the Canon of Constitutional Avoidance So as Not to Disenfranchise.	19
B. Petitioners Will Be Irreparably Harmed Absent the Requested Injunction.....	19
C. The Public Interest Weighs in Favor of Granting the Injunction.	22
D. Greater Injury Would Result from Denying the Injunction Than From Granting It.....	23
E. An Injunction Will Restore the Status Quo Ante.	24
F. The Injunction Is Reasonably Suited To Abate The Offending Activity	25
CONCLUSION.....	25

TABLE OF AUTHORITIES

	<u>Page(s)</u>
<u>Cases</u>	
<i>ACLU v. Ashcroft</i> , 322 F.3d 240 (3d Cir. 2003)	23
<i>ACLU v. Reno</i> , 217 F.3d 162 (3d Cir. 2000)	23
<i>Appeal of James</i> , 105 A.2d 64 (Pa. 1954).....	10, 19
<i>Appeal of Norwood</i> , 116 A.2d 552 (Pa. 1955).....	20
<i>Applewhite v. Commonwealth</i> , 54 A.3d 1 (Pa. 2012).....	12
<i>Applewhite v. Commonwealth</i> , No. 330 M.D.2012, 2014 WL 184988 (Pa. Commw. Ct. Jan. 17, 2014)	13, 14, 21
<i>Ball v. Chapman</i> , 289 A.3d 1 (Pa. 2023).....	2, 19, 22
<i>Bethune-Hill v. Virginia State Bd. of Elections</i> , 580 U.S. 178 (2017).....	15
<i>Commonwealth ex rel. Corbett v. Snyder</i> , 977 A.2d 28 (Pa. Commw. 2009)	9, 25
<i>Curtis v. Kline</i> , 666 A.2d 265 (Pa. 1995).....	19
<i>Dillon v. City of Erie</i> , 83 A.3d 467 (Pa. Commw. Ct. 2014) (en banc)	20
<i>Firearm Owners Against Crime v. Lower Merion Twp.</i> , 151 A.3d 1172 (Pa. Commw. Ct. 2016)	20

<i>Fischer v. Dep’t of Pub. Welfare</i> , 439 A.2d 1172 (Pa. 1982).....	25
<i>Gambone v. Commonwealth</i> , 101 A.2d 634 (Pa. 1954).....	19
<i>Hartford Accident & Indem. Co. v. Ins. Comm’r of Commonwealth</i> , 482 A.2d 542 (Pa. 1984).....	19
<i>In re Canvass of Absentee & Mail-in Ballots of Nov. 3, 2020 Gen. Election</i> , 241 A.3d 1058 (2020)	3, 15, 16, 17
<i>In re Luzerne Cnty. Return Bd. (Appeal of Wieskerger)</i> , 290 A.2d 108 (Pa. 1972).....	10, 19
<i>In re Nader</i> , 858 A. 2d 1167 (Pa. 2004).....	13
<i>James v. SEPTA</i> , 477 A.2d 1302 (1984).....	13, 15
<i>K.A. ex rel. Ayers v. Pocono Mountain Sch. Dist.</i> , 710 F.3d 99 (3d Cir. 2013)	22
<i>Kennedy v. Bremerton Sch. Dist.</i> , 597 U.S. 507 (2022).....	15
<i>Kroger Co. v. O’Hara Twp.</i> 392 A.2d 266 (Pa. 1978).....	15
<i>Kuznik v. Westmoreland Cnty. Bd. of Comm’rs</i> , 902 A.2d 476 (Pa. 2006).....	12, 13, 20
<i>League of Women Voters v. Commonwealth</i> , 178 A.3d 737 (Pa. 2018) (“LWV”)	<i>passim</i>
<i>Migliori v. v. Cohen</i> , 36 F.4th 153 (3d Cir. 2022).....	23
<i>Morrison Informatics, Inc. v. Members 1st Fed. Credit Union</i> , 139 A.3d 1241 (Pa. 2016).....	15

<i>Nixon v. Commonwealth</i> , 839 A.2d 277 (Pa. 2003).....	18
<i>Obama for Am. v. Husted</i> , 697 F.3d 423 (6th Cir. 2012)	21
<i>One Three Five, Inc. v. City of Pittsburgh</i> , 951 F. Supp. 2d 788 (W.D. Pa. 2013).....	22
<i>Pa. Pub. Util. Comm’n v. Israel</i> , 52 A.2d 317 (Pa. 1947).....	20
<i>Page v Allen</i> , 58 Pa. 338 (1868).....	20
<i>Pap’s A.M. v. City of Erie</i> , 812 A.2d 591 (Pa. 2002).....	13
<i>Pennsylvania Democratic Party v. Boockvar</i> , 238 A.3d 345 (Pa. 2020).....	11, 18
<i>Pennsylvania State Conf. of NAACP v. Schmidt</i> , 1:22-CV-00339, 2023 WL 8091601 (W.D. Pa. Nov. 21, 2023)	<i>passim</i>
<i>Pennsylvania State Conf. of NAACP v. Sec’y Commonwealth of Pennsylvania</i> , 97 F.4th 120 (3rd Cir. 2024)	<i>passim</i>
<i>Perles v. Cnty. Return Bd. of Northumberland Cnty.</i> , 202 A.2d 538 (Pa. 1964).....	21
<i>Petition of Berg</i> , 712 A.2d 340 (Pa. Commw. Ct. 1998).....	13
<i>Petition of Cioppa</i> , 626 A.2d 146 (Pa. 1993).....	10
<i>SEIU Healthcare Pennsylvania v. Commonwealth</i> , 104 A.3d 495 (Pa. 2014).....	9, 20
<i>Self Advocacy Sols. N.D. v. Jaeger</i> , 464 F. Supp. 3d 1039 (D.N.D. 2020).....	20

<i>Shambach v. Bickhart</i> , 845 A.2d 793 (Pa. 2004).....	8, 10
<i>United States v. Virginia</i> , 518 U.S. 515 (1996).....	15
<i>Valley Forge Hist. Soc’y v. Washington Mem’l Chapel</i> , 426 A.2d 1123 (Pa. 1981).....	25
<i>Williams v. Salerno</i> , 792 F.2d 323 (2d Cir. 1986)	21
<i>Wolk v. Sch. Dist. of Lower Merion</i> , 228 A.3d 595 (Pa. Commw. Ct. 2020)	9, 20
<u>Constitutional Provisions and Statutes</u>	
Civil Rights Act of 1964	8
Pennsylvania Constitution Article I, Section 5	<i>passim</i>
25 P.S. §§ 3146.6	2, 17
25 P.S. § 3150.16	2, 17
<u>Other Authorities</u>	
Borys Krawczeniuk, <i>Court says six mail-in ballots in state 117th House District race should count</i> , WVIA NEWS (May 8, 2024)	24
Dan Sokil, <i>Towamencin supervisors race tied after Montgomery County election update</i> , THE REPORTER ONLINE (Nov. 27, 2023),	23
Katherine Reinhard and Robert Orenstein, <i>Cohen wins Lehigh County judicial election by 5 votes</i> , PENNSYLVANIA CAPITAL-STAR (June 17, 2022).....	23

INTRODUCTION

Since 2022, thousands of Pennsylvania voters in every election have had their mail ballots rejected because they did not write the date on or “incorrectly” dated the outer envelope. This mass disenfranchisement continues despite the fact that the date written on the outer envelope is utterly useless. It plays no role in establishing a mail ballot’s timeliness or the voter’s eligibility and is not used to detect fraud. Thousands more will undoubtedly face disenfranchisement on the same basis in this November’s presidential election. This severe penalty for a meaningless mistake violates Article I, Section 5 of the Pennsylvania Constitution – the “Free and Equal Elections” clause.

The Free and Equal Elections clause establishes the right to vote as a fundamental individual right that may not be diminished by the government. The clause “strikes at all regulations which shall impair the right of suffrage...” *League of Women Voters v. Commonwealth*, 178 A.3d 737, 740-41 (Pa. 2018) (“*LWV*”). Under any standard of review, rejection of a ballot because of a missing or incorrect date on the envelope unjustifiably burdens this constitutional right.

Granting this Application for Preliminary Injunction is necessary to protect the franchise of Petitioners’ members and constituents, and thousands more Pennsylvania voters whose mail ballots will otherwise not count in the November 2024 election. This Court should enjoin enforcement of the date requirement.

BACKGROUND

In Act 77 of 2019, Pennsylvania adopted “no excuse” absentee or mail-in voting, allowing registered voters to cast their vote by submitting a mail ballot without having to show cause why they cannot make it to the polls on Election Day. The statutory provision establishing mail voting provides the elector “shall . . . fill out, date and sign the declaration printed on [the] envelope” before returning the completed ballot. 25 P.S. §§ 3146.6 (absentee ballots), 3150.16 (other mail-in ballots). The Supreme Court of Pennsylvania has ruled, strictly as a matter of statutory construction divorced from any constitutional considerations, that these provisions require dating the envelope, and ballots arriving in undated or misdated envelopes cannot be counted. *Ball v. Chapman*, 289 A.3d 1, 28 (Pa. 2023).

As the United States Court of Appeals for the Third Circuit has noted, however, the date requirement “serves little apparent purpose.” *Pa. State Conf. of NAACP v. Sec’y Commonwealth of Pa.*, 97 F.4th 120, 125 (3rd Cir. 2024) (“*NAACP*”). Critically, the date a voter places on the ballot does not play a role in determining a ballot’s timeliness. *Id.* at 127. Instead, timeliness is established by the time and date on which the county board of elections actually receives the ballot, which is confirmed when the board scans a unique barcode on the envelope and applies its own date stamp. *Id.* Because a mail ballot must be received by a County Board of Elections before 8:00 p.m. on Election Day to be counted, the date on the

envelope is not necessary and is not used by any County Board to determine timeliness. *Id.* at 129.

Nor is the handwritten date used to determine a voter's qualifications to vote. "The voter who submits his mail-in package has already been deemed qualified to vote -- first, when his application to register is approved and again when his application for a mail-in ballot is accepted." *NAACP*, 97 F.4th at 137. Thus, the voter declaration (including the handwritten date on the declaration) "is not even remotely a form used in Pennsylvania's voter qualification process." *Id.*; *see also id.* at 129 ("No party disputed that election officials 'did not use the handwritten date . . . for any purpose related to determining' a voter's qualification under Pennsylvania law.").

The date requirement is also irrelevant to, and is not used for the purpose of, detecting fraud. Because ballots received by county boards of elections after the 8:00 p.m. election day deadline are ineligible to be counted, only ballots received before the deadline are counted. *See In re Canvass of Absentee & Mail-in Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058, 1076-77 (Pa. 2020) ("*In re 2020 Canvass*"); *see also NAACP*, 97 F.4th at 129. This eliminates any "danger that any of these ballots was . . . fraudulently backdated." *In re 2020 Canvass*, 241 A.3d at 1077; *see also NAACP*, 97 F.4th at 139-40 (Shwartz, J., dissenting) (handwritten date "not used to . . . detect fraud.").

Despite serving no discernible purpose, the date requirement has caused thousands of Pennsylvanians' ballots to be set aside in every election since 2022. Over 10,000 voters were disenfranchised in the 2022 general election because of the date requirement. *NAACP*, 97 F.4th at 127 (“thousands of Pennsylvania mail-in voters” in the November 2022 election did not have their votes counted because they did not date, or misdated, their ballots); *see also id.* at 144 (Shwartz, J., dissenting) (“more than 10,000 eligible voters had their timely ballots disqualified” because they did not sign, or misdated, their ballots). In the 2023 municipal elections, thousands of eligible Pennsylvania voters' absentee and mail ballots were rejected due to application of the envelope dating provision.¹ And thousands more were disenfranchised in the 2024 Presidential primary because of the date requirement.² *See Ex. 1 (5/27/24 Decl. of A. Shapell [“Shapell Decl.”]) at ¶ 12.*

Eligible Pennsylvania voters of all walks of life and across the political spectrum were disenfranchised by Respondents' continued application of the envelope dating rule in the 2024 primary election. They included:

¹ Following the U.S. District Court's December 2023 determination in *Pennsylvania State Conf. of NAACP v. Schmidt*, 1:22-CV-00339, 2023 WL 8091601 (W.D. Pa. Nov. 21, 2023), *rev'd*, 97 F.4th 120 (3d Cir. 2024), that the envelope dating provision violates the federal Materiality Provision, several counties reversed course and counted these ballots. That decision was later reversed on the merits by the Third Circuit on March 27, 2024.

² Petitioners note that the precise number of votes impacted by this issue is currently unknown, as several counties still have not entered all ballot cancelations in the SURE system for the 2024 primary. It is already clear as of the date of this filing, however, that the date requirement again impacted at least 4,000 Pennsylvania voters even in this low-turnout election. *See Shapell Decl. at 12.*

- Allegheny County voter Otis Keasley—a 73-year-old Vietnam veteran who usually drops his ballot off in person but was dealing with a family member’s health situation this year and could not deliver his mail ballot in person to the election office (Ex. 2 [Keasley Decl.]);
- Allegheny County voter Joanne Sowell—a 76-year-old voter who was boarding a flight when she saw an email that her ballot would not be counted because of an envelope dating issue (Ex. 3 [Sowell Decl.]);
- Philadelphia County voter Eugene Ivory—a 74-year-old retired educator who did not receive an email notice that his mail ballot would not be counted until Election Day and could not cure the envelope date issue due to a family emergency (Ex. 4 [Ivory Decl.]);
- Philadelphia County voter Bruce Wiley—a 71-year-old home-bound voter who did not learn until after the primary that there was a problem with his mail ballot submission (Ex. 5 [Wiley Decl.]);
- Montgomery County voter Stephen Arbour, a Chief Technology Officer who has dutifully voted in every election since becoming a naturalized U.S. citizen in 2010 (Ex. 6 [Arbour Decl.]);
- York County voter Kenneth Hickman, an 89-year-old regular voter who was surprised to learn after the primary that his vote had not been counted (Ex. 7 [Hickman Decl.]);
- Bucks County voter Janet Novick, an 80-year-old retired teacher whose mobility issues prevented her and her husband from curing their ballots after learning of envelope dating issues (Ex. 8 [Novick Decl.]);
- Chester County voter Joseph Sommar, a 71-year-old regular voter who was surprised and frustrated to learn that his vote may not count due to an envelope dating error (Ex. 9 [Sommar Decl.]);
- Bucks County Phyllis Sprague, an 80-year-old regular voter who submitted her mail ballot just before a scheduled surgery and could not cast a provisional ballot after suffering a fall on the date of the primary (Ex. 10 [Sprague Decl.]);

- Berks County voter Mary Stout, a 77-year old retired nurse whose mobility issues prevented her from going in person to cure an envelope dating issue (Ex. 11 [Stout Decl.]); and
- Dauphin County voter Lorine Walker, a 74-year-old retired school librarian who did not learn until after the date of the primary that there was a problem with her mail ballot submission (Ex. 12 [Walker Decl.]).

Each of these voters timely applied for, received, and returned their mail ballot packages. Each of their ballots were received prior to the 8:00 pm deadline on April 23, 2024. And none of their ballots was counted in the 2024 primary.

The enforcement of the date requirement has led to arbitrary and inconsistent results among counties. Although some counties have previously accepted misdated mail ballots, others have rejected otherwise timely, valid ballots, disenfranchising voters for reasons having nothing to do with the voter’s eligibility or the timeliness of the ballot. For example, in the 2022 general election:

a. Many counties refused to count ballots where the envelope date was correct but missing the year (even though they only could have been signed in 2022), while other counties counted such ballots. *NAACP*, 2023 WL 8091601, at *33, n.43 (Baxter, J.)

b. 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. *NAACP*,

2023 WL 8091601, at *33. The district court in *NAACP* found that this “shows the irrelevance of any date written by the voter on the outer envelope.” *Id.*

c. Counties also refused to count hundreds of timely-received ballots with obviously unintentional slips of the pen, such as a voter writing in the wrong year. *Id.*

d. Meanwhile, many counties counted ballots with necessarily “incorrect” envelope dates—*e.g.*, the handwritten date indicated a date before the county sent out the mail-ballot package, or after the elections board received it back from the voter. *NAACP*, 2023 WL 8091601, at *33. (“The record reveals that some counties precisely followed [the prescribed] 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”). Indeed, at least one county counted a ballot marked September 31—a date that does not exist. *Id.* at *33, n. 45

e. Counties took varying approaches to counting ballots with 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.” *NAACP*, 2023 WL 8091601, at *33.

f. Counties also took inconsistent approaches to voters who mistakenly wrote their birthdates on the date line. *Id.* at *33.

In the several rounds of litigation over statutory interpretation of the date provision and other lawsuits asserting that enforcement of the requirement violates the Materiality Provision of the Civil Rights Act of 1964, no court has addressed the constitutionality of the date requirement under the Free and Equal Elections Clause of the Pennsylvania Constitution. However, three Justices of the Pennsylvania Supreme Court have opined that “failure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause....” *Ball*, 289 A.3d at 27 n.156 (opinion of Wecht. J., joined by Todd, C.J. and Donohue, J.).

As these Justices recognized, applying the meaningless date requirement to disenfranchise thousands of Pennsylvania voters runs afoul of the Pennsylvania Constitution. As the Pennsylvania Supreme Court held 20 years ago, “ballots containing mere minor irregularities should only be stricken for compelling reasons.” *Shambach v. Bickhart*, 845 A.2d 793, 798-99 (Pa. 2004). No such compelling reason exists here.

ARGUMENT

I. STANDARD OF REVIEW

In deciding whether to grant relief in the form of a preliminary injunction, the Court considers whether (1) the petitioner “is likely to prevail on the merits”; (2) an injunction “is necessary to prevent immediate and irreparable harm”; (3) “greater injury would result from refusing the injunction than from granting it”, and granting it “will not substantially harm other interested parties”; (4) the injunction “will not adversely affect the public interest”; (5) the injunction “will properly restore the parties to their status” immediately prior to the passage of the law; and (6) the injunction is reasonably suited to abate the offending activity. *SEIU Healthcare Pa. v. Commonwealth*, 104 A.3d 495, 501-02 (Pa. 2014). Petitioners’ application satisfies these requirements.

II. PETITIONERS ARE ENTITLED TO PRELIMINARY INJUNCTIVE RELIEF

A. Petitioners Are Likely to Prevail on the Merits

To establish likelihood of success on the merits, the moving party “need not prove the merits of the underlying claim, but need only show that substantial legal questions must be resolved to determine the rights of the parties.” *Wolk v. Sch. Dist. of Lower Merion*, 228 A.3d 595, 610, 611 (Pa. Commw. Ct. 2020) (quoting *Commonwealth ex rel. Corbett v. Snyder*, 977 A.2d 28, 43 (Pa. Commw. 2009)). Here, demonstrating a violation of the Free and Equal Elections clause is

straightforward: Disregarding these ballots treats the voters who cast these ballots unequally and violates the fundamental right to vote. Conversely, counting such ballots is consistent with decades of holdings from the Supreme Court that the Free and Equal Elections clause “should be given the broadest interpretation, one which governs all aspects of the electoral process, and which provides the people of this Commonwealth an equally effective power to select the representative of his or her choice, and bars the dilution of the people’s power to do so.” *LWV*, 178 A.3d at 814; *see also, e.g., 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). And counting the ballots is consistent with the Pennsylvania Supreme Court’s mandate that “ballots containing mere minor irregularities should only be stricken for compelling reasons.” *Shambach*, 845 A.2d at 798-99 (citations omitted); *see also In re Luzerne Cnty. Return Bd. (Appeal of Wieskerger)*, 290 A.2d 108, 109 (Pa. 1972) (citing *Appeal of James*, 105 A.2d 64 (Pa. 1954)) (acknowledging the “flexible” approach to ministerial requirements of the Election Code “in order to favor the right to vote”).

1. The Date Requirement Violates the Free and Equal Elections Clause of the Pennsylvania Constitution.

a. The Right to Vote Is a Fundamental Right Guaranteed by the Free and Equal Elections Clause.

“No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Pa. Democratic Party v. Boockvar*, 238 A.3d 345, 386-87 (2020) (Wecht, J. concurring); *see also LWV*, 178 A.3d at 741 (right to vote is “that most central of democratic rights.”). In Pennsylvania, the right to vote is enshrined in and protected by Article I, Section 5 of the Pennsylvania Constitution, also known as the Free and Equal Elections Clause. That clause states: “Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Pa. Const. art. I, § 5.

The Free and Equal Elections Clause is part of the Pennsylvania Constitution’s Declaration of Rights, which is “an enumeration of the fundamental individual human rights possessed by the people of this Commonwealth that are specifically exempted from the powers of Commonwealth government to diminish.” *LWV*, 178 A.3d at 803. In accordance with the “plain and expansive sweep of the words ‘free and equal,’” these words are “indicative of the framers’ intent that all aspects of the electoral process, to the greatest degree possible, be kept open and

unrestricted to the voters of our Commonwealth. . . .” *Id.* at 804. The clause “strike[s] . . . at all regulations of law which shall impair the right of suffrage rather than facilitate or reasonably direct the manner of its exercise.” *Id.* at 809. Among other things, an election is not “free and equal” when “any substantial number of legal voters are, from any cause, denied the right to vote.” *Id.* at 813 n.71.

Pennsylvania’s Constitution was adopted in 1776 and “is the ancestor, not the offspring, of the federal Constitution,” adopted in 1787, *LWV*, 178 A.3d at 741. It “stands as a self-contained and self-governing body of constitutional law, and acts as a wholly independent protector of the rights of the citizens of our Commonwealth.” *Id.* at 802. With respect to the right to vote, the Pennsylvania Constitution “provides a constitutional standard, and remedy, even if the federal charter does not.” *Id.* at 741. Indeed, the United States Constitution does not grant the right to vote, and contains no provision analogous to the Free and Equal Elections Clause. *Id.* at 804.

In light of this backdrop, there can be no question that voting is a fundamental right in Pennsylvania. *LWV*, 178 A.3d at 803 (the right to vote is a “fundamental right[] reserved to the people in Article I of our Constitution.”); *Applewhite v. Commonwealth*, 54 A.3d 1, 3 (Pa. 2012) (in which the Commonwealth stipulated that “the right to vote in Pennsylvania, as vested in eligible, qualified voters, is a fundamental one.”); *Kuznik v. Westmoreland Cnty. Bd. of Comm’rs*, 902 A.2d 476,

503 (Pa. 2006) (right to vote is “fundamental” under Pennsylvania law); *In re Nader*, 858 A. 2d 1167 (Pa. 2004) (same).

b. Strict Scrutiny Applies to the Date Requirement’s Restriction on the Fundamental Right to Vote.

“It is well settled that laws which affect a fundamental right, such as the right to vote . . . are subject to strict scrutiny.” *Petition of Berg*, 712 A.2d 340, 342 (Pa. Commw. Ct.), *aff’d*, 713 A.2d 1106 (Pa. 1998); *Applewhite v. Commonwealth*, No. 330 M.D.2012, 2014 WL 184988, at *20 (Pa. Commw. Ct. Jan. 17, 2014) (laws that “infringe[] upon qualified electors’ right to vote” are analyzed “under strict scrutiny.”); *see also, e.g., James v. SEPTA*, 477 A.2d 1302, 1306 (Pa. 1984) (where a “fundamental right has been burdened, another standard of review is applied: that of strict scrutiny”).

Under a strict scrutiny analysis, the government bears the burden of proving that the law in question serves a “compelling governmental interest.” *Pap’s A.M. v. City of Erie*, 812 A.2d 591, 596 (Pa. 2002); *see also In re Nader*, 858 A.2d 1167, 1180 (Pa. 2004) (“where a precious freedom such as voting is involved, a compelling state interest must be demonstrated”). If the government cannot satisfy this heavy burden, the law must be stricken as unconstitutional. *Id.* at 1181.

The date requirement restricts the right to have one’s vote counted to those voters who correctly date their mail-in ballot envelopes. Respondents do not count the ballots of voters who do not handwrite the date on their envelopes or misdate

their envelopes. Accordingly, the date requirement “affects,” “burdens,” and “interferes with” a fundamental constitutional right. Indeed, enforcement of the date requirement to prevent timely votes from counting does not just severely burden the right to vote; it eliminates that right entirely for all duly qualified and registered voters who neglect to date their ballot envelope, or who misdate their ballot envelope. *Cf. Applewhite*, 2014 WL 184988, at *23 (“The right to vote embodied in our Constitution entitles every vote to be counted.”). This triggers strict scrutiny review and thereby requires the government to prove that the requirement serves a compelling state interest.

c. The Date Requirement Cannot Survive Strict Scrutiny.

The date requirement serves no compelling government interest. Indeed, it serves no interest at all. As shown above and in several prior litigations, the date requirement is not used to determine (1) the timeliness of a voter’s ballot, (2) a voter’s qualifications, or (3) whether fraud has occurred. *See supra*, 2-4 . In these circumstances, the date requirement cannot stand. The fundamental right to vote enshrined in the Pennsylvania Constitution cannot be waylaid by a legal requirement that serves no purpose.

A rule devoid of any underlying purpose is unworthy of enforcement. Even absent constitutional considerations, this Court should follow the enduring principle “*cessante ratione legis cessat lex*,” or “[w]here stops the reason, there stops the rule.”

Morrison Informatics, Inc. v. Members 1st Fed. Credit Union, 139 A.3d 1241, 1252 n.6 (Pa. 2016) (Wecht, J., concurring). When, as here, a rule is not only unsupported by reason but *also* infringes on fundamental constitutional rights, it must give way to those rights.

While post-hoc justifications have been proffered about how, in theory, the date requirement might serve some purpose, *see, e.g., In re 2020 Canvass*, 241 A.3d at 1090 (Dougherty, J., concurring in part, dissenting in part), strict scrutiny analysis requires focusing on the actual, contemporaneous justifications provided (if any) rather than justifications that are “hypothesized or invented *post hoc* in response to litigation.” *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 543 n.8 (2022) (quoting *United States v. Virginia*, 518 U.S. 515, 533 (1996)); *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 189-90 (2017) (courts must look to “the actual considerations . . . not *post hoc* justifications the legislature in theory could have used but in reality did not”).³ No party in the past four years of litigating this issue has identified any contemporaneously asserted legislative purpose. That should be the end of the inquiry.

³ The Pennsylvania Supreme Court has emphasized that it is “guided by” the U.S. Supreme Court’s application of “strict scrutiny” review where the same standard applies under the Pennsylvania Constitution.” *Kroger Co. v. O’Hara Twp.* 392 A.2d 266, 274 (Pa. 1978). *See generally James v. SEPTA*, 477 A.2d 1302, 1305-06 (Pa. 1984) (citing U.S. Supreme Court standard to define strict scrutiny).

In any event, none of these post-hoc justifications withstands scrutiny. This is consistent with the Third Circuit’s observation just two months ago that the date requirement “serves little apparent purpose.” *NAACP*, 97 F.4th at 125. After years of litigation over the date requirement, including fulsome discovery from the Commonwealth of Pennsylvania and all 67 county boards of election in the *NAACP* case, it is now beyond legitimate dispute that election officials do not use and have no use for the handwritten dates on mail ballot return envelopes. Taking each of the purported purposes in turn:

First, the date requirement purportedly “ensures the elector completed the ballot within the proper time frame.” *In re 2020 Canvass*, 241 A.3d at 1091 (Dougherty, J. concurring in part, dissenting in part). But there can be no dispute that the handwritten date plays no role in determining whether the ballot is timely because a ballot has to be received by 8:00 p.m. on Election Day to be counted. *See supra*, 3. Obviously, “a voter whose mail-in ballot was timely received could have only signed the declaration at some point between the time that he received the mail-[in] ballot from election officials and the time election officials received it back. Election officials discarded ballots received after the Election Day deadline. . . .” *NAACP*, 97 F.4th at 155 n.31 (Shwartz, J. dissenting).

Second, the date requirement was theorized to “prevent[] the tabulation of potentially fraudulent back-dated votes.” *In re 2020 Canvass*, 241 A.3d at 1091

(Dougherty, J. concurring in part, dissenting in part). But again, there is no danger of back-dated ballots being counted, because election officials simply do not count ballots received after the 8:00 p.m. Election Day deadline. *See supra*, 3-4.

Third, some have posited that the date requirement is used to “establish[] a point in time against which to measure the elector’s eligibility to cast the ballot.” *Id.* at 1090. But it is now beyond dispute, particularly given the Commonwealth’s and county boards’ admissions in *NAACP*, that the handwritten date plays zero role in determining a voter’s eligibility to vote. *See supra*, 3.

Finally, the handwritten date was said to “provide[] proof of when the ‘elector actually executed the ballot in full, ensuring their desire to cast it in lieu of appearing in person at a polling place.’” *Id.*. This rationale does not suggest a legitimate purpose for the date requirement; surely signing and mailing the ballot, with or without a date, sufficiently demonstrates a desire to cast one’s vote by mail in lieu of appearing in person. Nor, in any event, is the handwritten date used to determine when the voter executed their ballot. *Id.* at 1077. As the Election Code specifically states, “at *any* time after receiving an official absentee ballot, but on or before eight o’clock P.M. the day of the primary or election, the elector shall, in secret, proceed to mark the ballot[.]” 25 P.S. §§ 3146.6(a); 3150.16(a) (emphasis added) Therefore, pinpointing *when* the voter marked the ballot within the statutory timeframe is not even contemplated by the statute.

In sum, as a result of an unjustified, and unjustifiable, rule, tens of thousands of Pennsylvania voters have been disenfranchised, and thousands more will be in future elections. The Free and Equal Elections Clause forbids this perverse result. *LWW*, 178 A.3d at 813 n.71 (“[W]hen any substantial number of legal voters are, from any cause, denied the right to vote, the election is not free and equal.”); *Pa. Democratic Party v. Boockvar*, 238 A.3d at 371 (“in enforcing the Free and Equal Elections Clause,” courts “possess broad authority to craft meaningful remedies when required.”) (citation omitted).

d. The Date Requirement Cannot Survive any Level of Scrutiny.

Even if a lesser level of scrutiny than strict scrutiny applied here, the date requirement would still be an unjustified restriction on the right to vote. Pennsylvania recognizes two lesser levels of scrutiny. Under intermediate scrutiny, a law will survive if the Commonwealth can show that the law serves an “important regulatory interest.” *Boockvar*, 238 A.3d at 385. The lowest level of scrutiny is rational basis analysis, where the Commonwealth need only prove that there is a rational basis for the restriction. *Id.* The date requirement cannot survive even the lowest level of scrutiny because it serves no purpose at all. *See supra*, 2-4; *see generally Nixon v. Commonwealth*, 839 A.2d 277, 289 (Pa. 2003) (declaring statute unconstitutional where there was not “a real and substantial relationship to the interest the General Assembly is seeking to achieve”); *Curtis v. Kline*, 666 A.2d 265,

269-70 (Pa. 1995) (declaring statute unconstitutional under rational basis test because it failed to “promote [a] legitimate state interest or public value”); *Gambone v. Commonwealth*, 101 A.2d 634, 636-37 (Pa. 1954) (declaring unconstitutional a law that was “wholly unreasonable and arbitrary and bears no rational relation to” the purported government interests).

2. Petitioners Preserve the Argument That the Envelope Dating Provision Should Be Reinterpreted Under the Canon of Constitutional Avoidance So as Not to Disenfranchise.

Petitioners recognize that the Pennsylvania Supreme Court held in *Ball v. Chapman*, that, as a matter of statutory interpretation, the envelope dating provision should be construed as mandatory. For preservation purposes, Petitioners respectfully submit that the date requirement is susceptible to more than one reasonable interpretation, and that under various doctrines of statutory interpretation, including the canon of constitutional avoidance,⁴ the requirement should be interpreted as directory and not mandatory in order to avoid a violation of the Free and Equal Elections Clause.

B. Petitioners Will Be Irreparably Harmed Absent the Requested Injunction

The Petitioners will be irreparably harmed in at least two ways.

⁴ See, e.g., *Hartford Accident & Indem. Co. v. Ins. Comm’r of Commonwealth*, 482 A.2d 542, 549 (Pa. 1984) (“It is a cardinal principle that ambiguous statutes should be read in a manner consonant with the Constitution.”); *In re Luzerne Cnty.*, 290 A.2d at 109 (the Election Code must be interpreted “in order to favor the right to vote,” and “to enfranchise and not to disenfranchise”) (citing *Appeal of James*, 105 A.2d 64).

First, the date requirement has already resulted in the disqualification of at least one of the Petitioner’s members. *See* Widestrom Decl. ¶ 12. And the disqualification of timely-received ballots from the Petitioners’ members and constituents, based on an irrelevant defect, would irreparably harm qualified and registered Pennsylvania voters.

It is well-settled that deprivation of a Constitutional or statutory right constitutes *per se* irreparable harm. *See Wolk v. Sch. Dist. of Lower Merion*, 228 A.3d 595, 610-11 (Pa. Commw. Ct. 2020) (citing *Pa. Pub. Util. Comm’n v. Israel*, 52 A.2d 317, 21 (Pa. 1947)); *see also SEIU*, 104 A.3d at 508; *Firearm Owners Against Crime v. Lower Merion Twp.*, 151 A.3d 1172, 1180 (Pa. Commw. Ct. 2016); *Dillon v. City of Erie*, 83 A.3d 467, 474 (Pa. Commw. Ct. 2014) (en banc).

Moreover, the Pennsylvania Supreme Court has repeatedly recognized the paramount importance of the Constitutional right to vote, calling it “sacred,”⁵ “fundamental,”⁶ and “the most treasured prerogative of citizenship.”⁷ This right cannot be bought, sold, or quantified, and once taken away, it cannot be repaired or replaced. “[T]here is no possibility of meaningful post-deprivation process when a voter’s ballot is rejected.” *Self Advocacy Sols. N.D. v. Jaeger*, 464 F. Supp. 3d 1039, 1052 (D.N.D. 2020). Thus, “[t]he disenfranchisement of even one person validly

⁵ *Page v Allen*, 58 Pa. 338, 347 (1868).

⁶ *Kuznik v. Westmoreland Cnty. Bd. of Comm’rs*, 902 A.2d 476, 488 (Pa. 2006).

⁷ *Appeal of Norwood*, 116 A.2d 552, 553 (Pa. 1955).

exercising his right to vote is an extremely serious matter.” *Perles v. Cnty. Return Bd. of Northumberland Cnty.*, 202 A.2d 538, 540 (Pa. 1964).

Because the Pennsylvania Constitution expressly guarantees the right to vote, and because there is no adequate remedy for disenfranchisement, Respondents’ refusal to count the votes of Petitioners’ members would cause them irreparable harm.⁸

Second, an organization is harmed in its own right if an unconstitutional statute forces it to waste resources to carry out its mission. *Applewhite*, 2014 WL 184988, at *7-8. Absent an injunction, that will be the case here.

The mission and core activities of each Petitioner includes mobilizing and educating Pennsylvania voters. *See* Ex. 14 (5/24/24 Decl. of T. Stevens [“Stevens Decl.”]) at ¶¶ 3-4; Ex. 15 (5/27/24 Decl. of D. Royster [“Royster Decl.”]) at ¶¶ 3-4; Ex. 16 (5/25/24 Decl. of D. Robinson [“Robinson Decl.”]) at ¶¶ 5-7; Ex. 17 (5/27/24 Decl. of S. Paul [“Paul Decl.”]) at ¶¶ 5-8; Ex. 18 (5/27/24 Decl. of K. Kenner [“Kenner Decl.”]) at ¶¶ 5-9; Ex. 19 (5/27/24 Decl. of M. Ruiz [“Ruiz Decl.”]) at ¶ 8; Ex. 20 (5/27/24 Decl. of A. Hanson [“Hanson Decl.”]) at ¶¶ 8-9; Ex. 21 (5/24/24 Decl. of A. Widestrom [“Widestrom Decl.”]) at ¶¶ 5-6; Ex. 22 (5/24/24 Decl. of P. Hensley-Robin [“Hensley-Robin Decl.”]) at ¶¶ 5-8. The prohibition on counting

⁸ Other courts routinely deem restrictions on fundamental voting rights irreparable injury. *See, e.g., Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986).

ballots from undated and misdated envelopes has forced and will force the Petitioners to divert scarce resources to educating voters regarding compliance with meaningless requirements, rather than devoting those resources to the substantive matters that are central to their missions. *See* Stevens Decl. at ¶¶ 5-11; Royster Decl. at ¶¶ 6-8; Robinson Decl. at ¶¶ 8-12; Paul Decl. at ¶¶ 10-22; Kenner Decl. at ¶¶ 14-20; Ruiz Decl. at ¶¶ 17-19; Hanson Decl. at ¶¶ 10-17; Widestrom Decl. at ¶¶ 7-11; Hensley-Robin Decl. at ¶¶ 9-11. Such expenditure of organizational resources to educate voters in the face of election-administration policies that violate the Pennsylvania Constitution gives rise to per se irreparable harm. *Ball v. Chapman*, 289 A.3d 1, 19-20 (Pa. 2023).

C. The Public Interest Weighs in Favor of Granting the Injunction.

No public interest will be adversely affected by not enforcing the date requirement, because it is a meaningless rule that serves no purpose. To the contrary, it is continued enforcement of the date requirement that contravenes the public's interest, because as a result of that enforcement thousands of registered and qualified Pennsylvania voters will be disenfranchised. *See One Three Five, Inc. v. City of Pittsburgh*, 951 F. Supp. 2d 788, 825 (W.D. Pa. 2013) (finding that “injunctive relief is in the public's interest when governmental action is likely to be declared unconstitutional ‘because the enforcement of an unconstitutional law vindicates no public interest.’”) (citing *K.A. ex rel. Ayers v. Pocono Mountain Sch. Dist.*, 710 F.3d

99, 114 (3d Cir. 2013); *see also* *ACLU v. Ashcroft*, 322 F.3d 240, 247 (3d Cir. 2003), *aff'd*, 542 U.S. 656 (2004) (finding “that the public interest was ‘not served by the enforcement of an unconstitutional law.’”)

D. Greater Injury Would Result from Denying the Injunction Than From Granting It.

The balance of harms weighs heavily in favor of granting a preliminary injunction. Refusing to enforce a rule with no purpose harms no one. But enforcing that rule will continue to strip thousands of registered and qualified voters of the franchise. *See ACLU v. Reno*, 217 F.3d 162, 172 (3d Cir. 2000) (Affirming the district court’s finding that “the government lacks an interest in enforcing an unconstitutional law”). As discussed, thousands of voters in each election over the past two years have faced disenfranchisement based on a requirement that serves no purpose whatsoever. The resulting harm to those voters and the system at large is significant. When even a relatively small number of mail ballots are set aside, application of the date requirement can impact the outcome of close races, sowing distrust in election results and further highlighting the harm done by denying qualified voters their voice in a given election.⁹

⁹ *See, e.g.*, Katherine Reinhard and Robert Orenstein, *Cohen wins Lehigh County judicial election by 5 votes*, PENNSYLVANIA CAPITAL-STAR (June 17, 2022), <https://penncapital-star.com/election-2022/cohen-wins-lehigh-county-judicial-election-by-5-votes/> (noting impact on municipal election results after counting 257 mail ballots received in undated envelopes following *Migliori v. Cohen*, 36 F.4th 153, 162-64 (3d Cir. 2022), *vacated as moot*, 143 S. Ct. 297 (2022)); Dan Sokil, *Towamencin supervisors race tied after Montgomery County election update*; THE REPORTER

At the same time, there is no countervailing public interest to support enforcement of a meaningless technical requirement that no respondent (or any other county board) relies upon for any purpose. Moreover, a ruling that prevents county boards from rejecting mail ballots based on envelope dating issues would not cause harm to election officials administering elections going forward. Such a ruling would not require any changes to the envelope and declaration forms, instructions, or methods of distributing or receiving mail ballots. If anything, it would relieve election officials of the obligation to parse whether an envelope needs to be set aside for failure to “correctly” complete an inconsequential date requirement.

E. An Injunction Will Restore the Status Quo Ante.

Preliminary injunctive relief is designed to place the parties in the position they were in prior to the commencement of the unlawful conduct – here, the enforcement of an unconstitutional date requirement leading to the rejection of thousands of ballots. Barring the enforcement of this unconstitutional rule would place the parties in the position they were in prior to the rule’s enforcement: ballots would not unconstitutionally be rejected – “the last actual, peaceable and lawful,

ONLINE (Nov. 27, 2023), <https://www.thereporteronline.com/2023/11/27/towamencin-supervisors-race-tied-after-montgomery-county-election-update/> (noting impact on Towamencin Township supervisor results after counting six impacted mail ballots following *NAACP v. Schmidt, of NAACP v. Schmidt*, No. 1:22-CV-00339, 2023 WL 8091601 (W.D. Pa. Nov. 21 2023), *rev’d*, 97 F.4th 120 (3d Cir. 2024)); Borys Krawczeniuk, *Court says six mail-in ballots in state 117th House District race should count*, WVIA NEWS (May 8, 2024), <https://www.wvia.org/news/local/2024-05-08/050824luz-117thhouse> (noting potential impact on outcome of state house race if six outstanding mail ballots are counted in Luzerne County).

noncontested status which preceded the pending controversy.” *Valley Forge Hist. Soc’y v. Washington Mem’l Chapel*, 426 A.2d 1123, 1129 (Pa. 1981). Where important constitutional questions are raised and there is a “threat of immediate and irreparable harm,” there are “reasonable grounds for the entry of a preliminary injunction preserving the status quo.” *Fischer v. Dep’t of Pub. Welfare*, 439 A.2d 1172, 1175 (Pa. 1982).

F. The Injunction Is Reasonably Suited To Abate The Offending Activity

The requested injunctive relief is reasonably tailored to abate the unconstitutional invalidation of mail-in ballots that are undated or misdated. It will only prevent respondents from invalidating mail ballots inside undated or misdated envelopes. It will not impact any other requirement for mail-in voting and is the only way to prevent further unwarranted disenfranchisement in violation of the Free and Equal Elections Clause. *See Commonwealth ex rel. Corbett v. Snyder*, 977 A.2d 28, 48-49 (Pa. Commw. Ct. 2009) (granting preliminary injunction noting that the injunction was a reasonable way to preventing the possibility of future harm).

CONCLUSION

Petitioners respectfully request that the Court enter an order in the form attached hereto, pending final adjudication of the matter.

Dated: May 29, 2024

John A. Freedman*
James F. Speyer*
David B. Bergman*
Erica E. McCabe*
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* *Pro hac vice* applications to be filed

Respectfully submitted,

/s/ Benjamin Geffen

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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 that reads "Ariel Shapell". The signature is written in a cursive style with a large initial 'A'.

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.

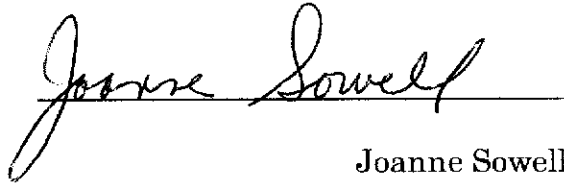
15. I am very upset that my ballot will not count because nobody's ballot should get rejected for a trivial paperwork mistake. When I received the email, it really bothered me for a few days because the date shouldn't matter; it's what's inside the ballot that counts.

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 matches the printed name below it.

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.

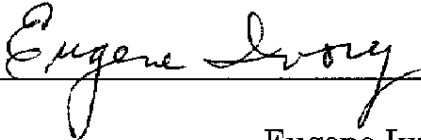
9. On Election Day, I received notice that my ballot had been received, but may not be counted due to an incorrect date on my envelope. The notice informed me that I could vote via a provisional ballot at my in-person polling location. My wife, who also voted by mail, received the same notice. At the 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 th24 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.

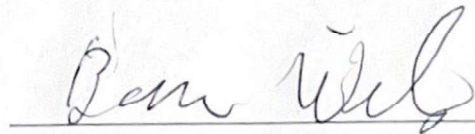
9. I was informed on May 21, 2024 that my ballot was not counted in the primary election because I forgot to write the date on the outer envelope. A person from the ACLU of Pennsylvania contacted me and informed me about this date issue. I do not regularly check my email and was unaware that I should 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 cursive script, 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.

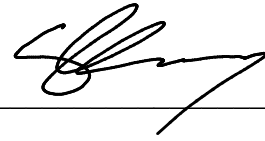
12. When I received the email right before Election Day, I had meetings scheduled all day and did not have time to get to Norristown by 4:00pm to fix the mistake. On Election Day, I was unable to cast a provisional ballot due to my busy work and family schedule.

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 above 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 22nd, 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

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.

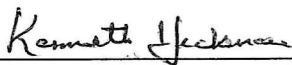
13. I found out that my vote was not counted when a person from the ACLU of Pennsylvania called me and told me my ballot was not counted because of an incorrect date.

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 27th of May, 2024 in York, Pennsylvania.



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

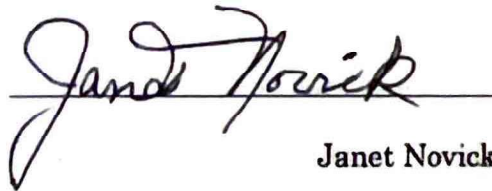
explained that I was the only driver in our household, and that I would be physically unable to drive 45 minutes each way to Doylestown due to my health constraints.

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.

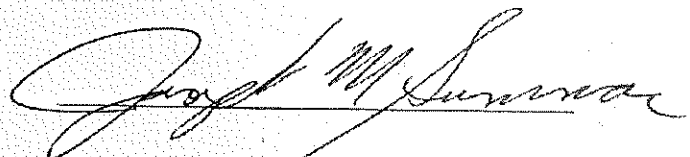
16. I believe that my vote should count. I am a citizen of this country who wants to participate in electing our government representatives.

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 22nd of May, 2024 in Glenmoore, Pennsylvania.



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.

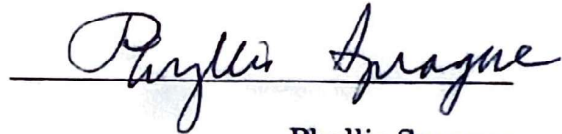
13. I was unable to vote with a provisional ballot at a polling place on Election Day because I experienced an accident while recovering from my cervical spine surgery. On April 19, 2024, I was discharged from the hospital following surgery. On April 23, 2024, while I was preparing to walk to the polling 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.

A handwritten signature in cursive script, reading "Phyllis Sprague", is written over a horizontal line.

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.

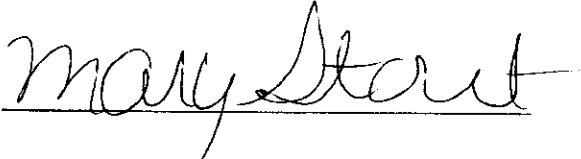
13. I was unable to go to Reading because of my mobility issues. As a result, my vote was not counted in the recent primary election.

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.



A handwritten signature in cursive script that reads "Mary Stout". The signature is written in black ink and is positioned above a solid horizontal line.

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 24th 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*.^[1]

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,”^[2] 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.

^[1] 289 A.3d 1 (Pa. 2023).

^[2] *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

[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 34 of May, 2024, in Pittsburgh, Pennsylvania.



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

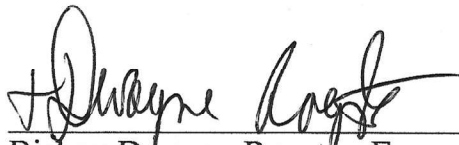
the Philadelphia County Board of Elections is again unable or unwilling to open and count ballots received in undated and/or “incorrectly” dated return envelopes.

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.



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.

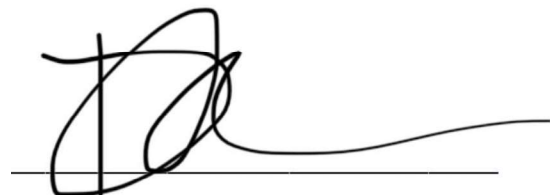
8. Respondents' failure to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope will disenfranchise potentially thousands of voters, thus directly affecting Make the Road PA's members and interfering with Make the Road PA's ability to carry out its 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, consisting of a stylized 'D' and 'R' followed by a long horizontal line 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.

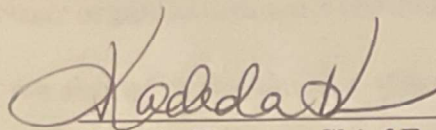
19. In our experience with engaging Pennsylvania's electorate, the confusion around mail voting has increased voter apathy and fatigue, and casts doubts about the accuracy of our free and fair elections. The ever-changing and inconsistent communication around correctly completing and returning vote by 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 cursive script, 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 initial 'A' followed by a long, sweeping horizontal line that tapers to the right.

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 24th of May, 2024 in Philadelphia County, Pennsylvania.



Philip Hensley-Robin