Received 6/24/2024 6:00:05 PM Commonwealth Court of Pennsylvania

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,** **v.** **REPUBLICAN NATIONAL COMMITTEE and REPUBLICAN PARTY of PENNSYLVANIA,** **Intervenor-Respondents,** **v.** **DEMOCRATIC NATIONAL COMMITTEE and PENNSYLVANIA DEMOCRATIC PARTY,** **Intervenor-Petitioners.**	**No. 283 MD 2024** **Original Jurisdiction**

ORDER GRANTING APPLICATION FOR SUMMARY RELIEF

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

Petitioners' Petition for Review, Application for Summary Relief, and Memorandum in Support, it is hereby **ORDERED** that said Application is **GRANTED**.

IT IS FURTHER ORDERED that Petitioners' request for declaratory relief is **GRANTED**. It is hereby **DECLARED** that (a) Respondents' practice of enforcing the date requirement for mail-in ballots, 25 Pa. Stat. Ann. §§ 3146.6, 3150.16, so as to reject, disqualify, and/or exclude timely mail ballots received from eligible Pennsylvania voters, based solely on the absence of a handwritten date on the mail ballot return envelope, is unconstitutional under the Free and Equal Elections Clause, Pa. Const. art. I, § 5, and (b) Respondents' practice of enforcing the date requirement for mail-in ballots, 25 Pa. Stat. Ann. §§ 3146.6, 3150.16, so as to reject, disqualify, and/or exclude timely mail ballots received from eligible Pennsylvania voters, based solely on the determination that the voter incorrectly dated the mail ballot return envelope, is unconstitutional under the Free and Equal Elections Clause, Pa. Const. art. I, § 5

IT IS FURTHER ORDERED that Respondents, their agents, officers, and employees are **ENJOINED** from enforcing the date requirement for mail-in ballots in 25 Pa. Stat. Ann. §§ 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

otherwise valid mail-in ballot submitted by eligible Pennsylvania voters, 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

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,** **v.** **REPUBLICAN NATIONAL COMMITTEE and REPUBLICAN PARTY of PENNSYLVANIA,** **Intervenor-Respondents,** **v.** **DEMOCRATIC NATIONAL COMMITTEE and PENNSYLVANIA DEMOCRATIC PARTY,** **Intervenor-Petitioners.**	**No. 283 MD 2024** **Original Jurisdiction** **PETITIONERS' APPLICATION FOR SUMMARY RELIEF**

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PETITIONERS' APPLICATION FOR SUMMARY RELIEF

Petitioners, Black Political Empowerment Project ("B-PEP"), POWER Interfaith ("POWER"), Make the Road Pennsylvania ("Make the Road PA"), OnePA Activists United (d/b/a "One PA For All"), New PA Project Education Fund ("NPPEF"), Casa San José, Pittsburgh United, League of Women Voters of Pennsylvania (the "League"), and Common Cause Pennsylvania ("Common Cause PA"), hereby file this Application for Summary Relief pursuant to Rules 123(a) and 1532(b) of the Pennsylvania Rules of Appellate Procedure. In support of this Application, Petitioners incorporate the accompanying exhibits and Memorandum of Law and aver as follows:

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

2. Petitioners, nonpartisan organizations dedicated to promoting American democracy and the participation of Pennsylvania voters in our shared

civic enterprise, file this Application for Summary Relief to ensure that their members, the people they serve, and other qualified Pennsylvania voters do not again lose their constitutional right to vote based on a meaningless requirement.

3. The refusal to count timely mail ballots submitted by otherwise eligible voters because of an inconsequential paperwork error violates the fundamental right to vote recognized in the Free and Equal Elections Clause, which provides that "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 to suffrage." PA. CONST. art. 1, § 5. *See Ball v. Chapman*, 289 A.3d 1, 27 n.156 (Pa. 2023) (plurality opinion) (acknowledging that the "failure to comply with the date requirement would not compel the discarding of votes in light of the Free and Equal Elections Clause, and our attendant jurisprudence that ambiguities are resolved in a way that will enfranchise, rather than disenfranchise, the electors of this Commonwealth").

4. As multiple courts have found in recent prior lawsuits, the voter-written date is insignificant, and is not necessary to establish voter eligibility or timely ballot receipt.

5. While the date requirement has survived previous court challenges raising other legal claims, none of the lawsuits thus far have analyzed the question presented here: whether enforcement of the date requirement to exclude timely

mail ballots submitted by qualified, eligible voters violates the Pennsylvania Constitution's Free and Equal Elections Clause, PA. CONST. art. I, § 5.

I. STATEMENT OF UNDISPUTED FACTS

II. The facts necessary to decide Petitioners' claims are well-known to the parties and beyond legitimate dispute following years of litigation, including factual findings by federal courts following fulsome discovery regarding the Secretary's and county election boards' enforcement and application of the envelope-dating requirement to disenfranchise voters. Each of these facts was presented in Petitioners' Petition for Review and/or May 29, 2024 Application for Special Relief in the Nature of a Preliminary Injunction, and was in the record at the June 10, 2024 status conference at which all parties agreed there were "no outstanding questions of fact."[1]

Parties

6. Petitioner B-PEP is a non-profit, non-partisan organization that works to promote voting rights in Pittsburgh's African-American communities, through voter registration drives, get-out-the-vote activities, education and outreach about the voting process, and election-protection work. In connection with the 2024

[1] All Parties, including Intervenors, confirmed during a June 10, 2024 status conference with this Court that the material facts set forth in Petitioners' Petition for Review and Application are undisputed at this point. As reflected in the Court's June 10, 2024 Order issued immediately after that status conference, "all parties agreed that there are no outstanding questions of fact…."

general election, as it has in prior elections since Respondents began enforcing the envelope dating requirement, B-PEP will have to divert its staff and volunteers towards educating voters about the risk of disenfranchisement due to the envelope dating requirement and providing information about available cure processes, rather than dedicating its resources toward other "get out the vote" efforts and anti-violence initiatives. *See generally* Exhibit 14.[2]

7. Petitioner POWER is a Pennsylvania non-profit organization of more than 100 congregations of various faith traditions whose civic engagement efforts include voter education programs, registration drives, and "Souls to the Polls" efforts[3] within Philadelphia County to encourage congregants to vote. Since at least 2022, POWER has had to divert resources from its other voter education and mobilization efforts towards educating voters about any available cure processes so they are not disenfranchised by a trivial paperwork mistake. 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

[2] All Exhibits to this Application were previously submitted with Petitioners' May 29, 2024 Application for Preliminary Relief, and were of record at the June 10, 2024 status conference, at which all parties agreed there were "no outstanding questions of fact.

[3] "Souls to the Polls" refers to the efforts of Black church leaders to encourage their congregants to vote *See, e.g.* David D. Daniels, III, *The Black Church has been getting "souls to the polls" for more than 60 years*, THE CONVERSATION (Oct. 30, 2020), https://theconversation.com/the-black-church-has-been-getting-souls-to-the-polls-for-more-than-60-years-145996.

and educate people who had not already attempted to vote. *See generally* Exhibit 15.

8. Petitioner Make the Road PA is a not-for-profit, member-led organization whose work in predominantly Latino communities includes voter protection and education around how to register, apply for and submit a mail-in ballot. Because Make the Road PA's efforts are focused on communities where some voters are not native English speakers, there is a heightened risk of disenfranchisement due to minor errors when completing mail-in ballot forms. In connection with the 2024 general election, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Make the Road PA will have to divert its resources towards contacting thousands of Pennsylvania voters to provide information about existing cure procedures and educating voters about the risk of disenfranchisement from the envelope dating requirement, rather than focusing on other "get out the vote" initiatives and programs including its Immigrant Rights, Education Justice, Housing Justice, Climate Justice and Worker Rights initiatives. *See generally* Exhibit 16.

9. Petitioner One PA For All is a community organizing and voter engagement group that fights for racial, economic and environmental justice. Its work includes a variety of voting- and election-related activities, including

boosting voter registration and turnout within Black communities in Pennsylvania through door-to-door canvassing, phone calls, text messaging, and providing rides to the polls. Since Respondents began strictly enforcing the envelope date requirement to disenfranchise people, One PA For All has had to divert resources toward helping 1000+ voters correct mistakes on their mail ballot envelopes or cast a provisional ballot. If the envelope dating requirement remains in place, One PA For All will be forced to continue diverting resources toward a "ballot envelope curing" program to contact voters and helping them correct the error, rather than focusing its outreach efforts on voter registration, first-time voters, and other "get out the vote" efforts. *See generally* Exhibit 17.

10. Petitioner NPPEF is a nonpartisan, nonprofit organization working to ensure full participation in the democratic process through civic education and year-round engagement by centering Black, Indigenous, and other people of color, immigrant communities and the youth. In connection with every election cycle, NPPEF registers thousands of Pennsylvania voters and does voter education through phone and email outreach, door knocking, canvassing, preparing and distributing voter information guides, and creating digital media, radio ads and emailed newsletters. 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 and the County Respondents' failure to count such ballots directly

affects NPPEF's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, NPPEF will have to divert volunteers and staff away from its other voter education and registration efforts toward ensuring that registered voters are notified of any mistakes on the ballot envelope and provide information on how to make sure their vote counts. *See generally* Exhibit 18.

11. Petitioner Casa San José is a nonpartisan, nonprofit organization based in Pittsburgh that does voter and civic engagement initiatives in the Latino community, including through phone call and text campaigns, clinics and community meetings, and Know Your Rights sessions. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Casa San José will have to divert volunteers and staff away from its other voter education, registration, and canvassing efforts toward helping ensure people are not disenfranchised by the envelope date requirement, including making thousands of "ballot chasing" calls to educate voters on the risk of being disenfranchised based on envelope dating issues. *See generally* Exhibit 19.

12. Petitioner Pittsburgh United is a nonpartisan organization that strives to advance social and economic justice in the Pittsburgh region, through civic engagement work including increasing voter turnout and expanding access to mail voting in Black, low-income, and white working class communities across Western Pennsylvania. In connection with each election cycle, Pittsburgh United engages with voters in a variety of ways, including door-to-door canvassing, phone, text and digital outreach. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement, Pittsburgh United will have to divert volunteers and staff from its other voter education and mobilization efforts to help ensure people are not disenfranchised by the envelope date requirement, including devoting significant time to educating voters about the risk of disenfranchisement when completing a mail-in ballot and resources expended calling voters whose mail ballots were rejected to advise them about "curing" procedures. *See generally* Exhibit 20.

13. Petitioner League is a non-partisan statewide non-profit, dedicated to helping the people of Pennsylvania exercise their right to vote and increasing understanding of major public policy issues. The League's work includes voter registration drives, educational resources in both English and Spanish, and get-out-the-vote efforts across the Commonwealth. Respondent Schmidt's direction to set aside and not count timely-submitted mail ballots based solely on a missing or

incorrect date on the return envelope directly affects the League's members and interferes with its ability to carry out its mission of increasing voter turnout and participation. The County Respondents' failure to count such ballots will also force the League to continue diverting resources in this and future elections from its other voter education and mobilization efforts towards investigating and contacting voters about any available cure processes or to advocate that new processes be developed to ensure that voters who are eligible and registered and who submitted their ballots on time are not disenfranchised by a trivial paperwork mistake. *See generally* Exhibit 21.

14. Petitioner Common Cause PA is a non-profit, non-partisan organization that works to increase the level of voter registration and voter participation in Pennsylvania elections, especially in communities that are historically underserved and whose populations have a low propensity for voting. In preparation for every major state-wide election, Common Cause PA mobilizes hundreds of volunteers to help fellow Pennsylvanians navigate the voting process and cast their votes without obstruction, confusion, or intimidation. During the 2024 election cycle, as it has in prior elections since Respondents began enforcing the envelope dating requirement to disenfranchise voters, Common Cause PA will have to divert volunteers and staff from its other voter education and engagements efforts to help ensure people are not disenfranchised by the envelope date

requirement. If Common Cause PA did not have to devote time, staff, and financial resources to educating voters about the *logistics* of completing a mail ballot, the importance of properly filling in the date, and checking to ensure that ballots are ultimately counted, it could instead focus on other important forms of voter engagement and participation, including informing additional eligible citizens about how to register to vote, working to debunk election-related misinformation, and conducting additional voter education efforts. *See generally* Exhibit 22.

15. Respondent Al Schmidt is the Secretary of the Commonwealth. The Pennsylvania Election Code confers authority and duties upon the Secretary to implement absentee and mail voting procedures throughout the Commonwealth. For example, the absentee and mail-in ballots must be in a form as provided by statute which form "shall be determined and prescribed by the secretary of the commonwealth." 25 P.S. § 3146.3(b) (absentee ballots); *id.* § 3150.13(b) (mail-in ballots). Similarly, the "form of declaration and envelope shall be as prescribed by the Secretary of the Commonwealth." *Id.* § 3146.4. Moreover, in Respondent Schmidt's official capacity, he has the duty "[t]o receive from county boards of elections the returns of primaries and elections, to canvass and compute the votes cast for candidates and upon questions as required by the provisions of this act; to proclaim the results of such primaries and elections, and to issue certificates of election to the successful candidates at such elections. . . ." *Id*. § 2621(f).

16. Respondent Schmidt and his predecessors have issued guidance to county boards of elections that timely-submitted mail-in ballots with a missing or incorrect date on the return envelope must be segregated and excluded from tabulation.

a. Specifically, on November 3, 2022, the Secretary issued guidance instructing counties that "ballots which are administratively determined to be undated or incorrectly dated" should be coded as "CANC – NO SIGNATURE within the SURE system" (*i.e.*, should be canceled and not accepted) and "segregated from other ballots." Press Release, Pa. Dep't of State, Guidance on Undated and Incorrectly Dated Mail-in and Absentee Ballot Envelopes Based on the Pennsylvania Supreme Court's Order in *Ball v. Chapman*, at 1, (Nov. 3, 2022) https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-11-03-Guidance-UndatedBallot.pdf.

b. On April 3, 2023, Respondent Schmidt issued guidance stating, in relevant part, "A ballot-return envelope with a declaration that is not signed or dated is not sufficient and must be set aside, declared void, and may not be counted"; and any declarations "that contain a date deemed by the county board of elections to be incorrect should be set aside and segregated." Press Release, Pa. Dep't of State, Guidance Concerning

Civilian Absentee and Mail-In Ballot Procedures, at 6, https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2023-04-03-DOS-Guidance-Civilian-Absentee-Mail-In-Ballot-Procedures-v3.pdf (last updated Apr. 3, 2023) [hereinafter "Ballot Procedures"].

c. Following the Third Circuit's decision in *Pa. State Conf. of NAACP Branches v. Sec'y Pa ("NAACP II"),* 97 F.4th 120 (3d Cir. 2024), the Department of State continued to instruct counties not to count ballots arriving in undated or incorrectly-date declaration envelopes. For instance, in an April 19, 2024 email, Deputy Secretary Jonathan Marks provided "the Department's view" that certain handwritten dates that can "reasonably be interpreted" as the date in which the voter completed the declaration—such as omitting "24" in the year field—"should not be rejected." Email from Deputy Sec'y Jonathan Marks to Pennsylvania County Election Officials (Apr. 19, 2024) [hereinafter "J. Marks Email"].[4]modify its previous guidance that envelopes that lack a date or have an otherwise "incorrect" date should not be counted.

17. The Boards of Elections of Allegheny and Philadelphia Counties are responsible for administering elections in their respective counties. Section 301 of

[4] A true and correct copy of the April 19, 2024 DOS email to county election officials is attached hereto as Exhibit 13.

the Election Code, 25 P.S. § 2641. County Boards are also charged with ensuring elections are "honestly, efficiently, and uniformly conducted." *Id*. § 2642(g). As relevant to mail and absentee ballots,[5] County Boards are responsible for:

a. reviewing and processing applications for absentee and mail ballots. *Id*. §§ 3146.2b, 3150.12b;

b. confirming absentee and mail ballot applicants' qualifications by verifying their proof of identification and comparing the information on the application with information contained in the voter's record. §§ 3146.2b, 3150.12b; *see also id.* § 3146.8(g)(4).

c. sending absentee and mail-ballot packages that contain a ballot, a so-called secrecy envelope marked with the words "Official Election Ballot," and the pre-addressed outer return envelope, on which a voter declaration form is printed (the "Return Envelope"). *Id*. §§ 3146.6(a), 3150.16(a).

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

[5] Election Code provisions describing the process for handling absentee ballots are equally applicable to no-excuse mail voting provisions added by Act 77. The relevant provisions of law are otherwise identical, and the terms are thus used interchangeably for present purposes and unless otherwise indicated.

e. Upon return of an absentee or mail ballot, stamping the Return Envelope with the date of receipt to confirm its timeliness. *See* Press Release, Ballot Guidance, *supra* pp. 14, at 2-3.

f. Logging returned absentee and mail ballots in the Department of State's Statewide Uniform Registry of Electors ("SURE") system, the voter registration system, which further records the ballot's timely receipt. *See id.*

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

h. Pre-canvassing and canvassing absentee and mail ballots, including examining the voter declaration. *Id*. § 3146.8(g)(3).

i. Conducting a formal hearing to hear challenges as to all challenged absentee or mail ballot applications and challenged absentee ballots. *Id*. § 3146.8(g)(5).

18. Intervenors Republican National Committee ("RNC"), Republican Party of Pennsylvania ("RPP"), Democratic National Committee ("DNC"), and Pennsylvania Democratic Party ("PDP") are the national and state committees of the two major political parties. Each was a party and/or intervenor party in the federal *NAACP* litigation and/or its companion case involving the same issues,

Eakin, et al. v. Adams Cnty. Bd. of Elections, et al., No. 1:22-cv-00340-SPB (W.D. Pa.), fully participating in all stages of litigation and discovery.[6]

Pennsylvania's Mail Ballot Procedure

19. Pennsylvania has long provided absentee ballot options for voters who cannot attend a polling place on Election Day. *See* 25 P.S. §§ 3146.1–3146.9. In 2019, Pennsylvania enacted new mail-in voting provisions, extending the vote-by-mail option to *all* registered, eligible voters. Act of Oct 31, 2019, P.L. 552, No. 77, § 8.

20. A voter seeking to vote by mail must complete an application that includes their name, address, and proof of identification and send the completed application to their county board of elections. 25 P.S. §§ 3146.2, 3150.12. The required proof of identification must include a Pennsylvania driver's license number, or non-driver identification number, if the voter has one. If the voter does not have a PennDOT-issued identification, they must provide the last four digits of the voter's social security number. *Id.* P.S. § 2602(z.5)(3).

21. As part of the mail-ballot application process, voters provide all the information necessary for county boards of elections to verify that they are

[6] Proposed intervenor Doug Chew seeks to join this case in his official capacity as a member of the Westmoreland County Board of Elections, which also participated fully in all stages of litigation and discovery in both the *NAACP* and *Eakin* matters.

qualified to vote in Pennsylvania, namely, that they are at least 18 years old, have been a U.S. citizen for at least one month, have resided in the election district for at least 30 days, and are not currently incarcerated on a felony conviction. *See id.* § 1301(a).

22. After the application is submitted, the county board of elections confirms applicants' qualifications by verifying their proof of identification and comparing the information on the application with information contained in a voter's record. 25 P.S. §§ 3146.2b, 3150.12b; *see also* Press Release, Ballot Guidance, *supra* pp. 14, at 2. The county board's determinations as to qualifications at this stage are conclusive as to voter eligibility unless challenged prior to five p.m. on the Friday before Election Day. *Id.* §§ 3146.2c, 3150.12b(3).

23. Once the county board verifies the voter's identity and eligibility, it sends a mail-ballot package that contains a ballot, a secrecy envelope marked with the words "Official Election Ballot," and the pre-addressed outer return envelope, on which a voter declaration form is printed (the "Return Envelope"). *Id*. §§ 3146.6(a), 3150.16(a); *see also id.* § 3146.4 (the mail ballot packet "shall contain the two envelopes, the official absentee ballot, [and]. . .the uniform instructions in form and substance as prescribed by the Secretary of the Commonwealth and nothing else."). In addition, the "form of declaration and envelope shall be as prescribed by the Secretary of the Commonwealth." *Id.* §

3146.4; *cf id.* §§ 3146.3(b) (the form of absentee ballots "shall be determined and prescribed by the secretary of the commonwealth"); 3150.13(b) (same for the mail-in ballot form).

24. Poll books kept by the county show which voters have requested mail ballots and which have returned them. *Id*. §§ 3146.6(b)(1), 3150.16(b)(1).

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

26. With respect to the voter declaration form on the Return Envelope, the Election Code states that the voter "shall…fill out, date and sign the declaration" printed on the outer envelope used to return their mail ballots. *See* 25 P.S. §§ 3146.6(a), 3150.16(a).

27. The date written on the outer return envelope is not used to determine or confirm voter identity, eligibility, or timeliness of the ballot. A mail ballot is timely so long as the county board of elections receives it by 8 p.m. on Election Day. *Id.* §§ 3146.6(c), 3150.16(c). Upon receipt of a mail ballot, county boards of elections stamp the Return Envelope with the date of receipt to confirm its

timeliness and log it in the Department of State's SURE system, the voter registration system used to generate poll books.[7] *Cf. Pa. State Conf. of NAACP v. Schmidt ("NAACP I"),* No. 1:22-CV-339, 2023 WL 8091601, *32 (W.D. Pa. Nov. 21, 2023), *rev'd on other grounds*, *NAACP II*, 97 F.4th 120 ("When the ballot is received, the county boards of elections stamp or otherwise mark the return envelope with the date of receipt to confirm its timeliness and then log it into the SURE system.").

28. After they are received, timely absentee and mail-in ballots are verified consistent with procedures set forth in §§ 3146.8(g)(3) and (g)(4). Each mail-ballot voter's eligibility is re-confirmed during the canvass to verify that the voter was indeed eligible to vote as of Election Day. *See id.* §§ 3146.8(d), (g)(3). The voter-written date on the return envelope is entirely irrelevant in this process. Any ballot verified by the county board of elections during the canvass and has not been challenged is counted and included with the election results. *Id*. § 3146.8(g)(4).

29. Pennsylvania's adoption of mail voting has been a boon for voter participation in the Commonwealth. For example, in 2020, 2.7 million Pennsylvanians voted by absentee or mail ballot. PA. DEP'T OF STATE, REPORT ON

[7] *See* Press Release, Ballot Guidance, *supra* pp. 14, at 3.

THE 2020 GENERAL ELECTION at 9 (May 14, 2021), https://www.dos.pa.gov/VotingElections/Documents/2020-General-Election-Report.pdf.

30. In the April 2024 primary election, approximately 714,315 Pennsylvania voters returned mail ballots.[8] *See* Pa. Dep't of Sate, *2024 Presidential Primary (Unofficial Returns) Statewide*, COMMONWEALTH OF PA. ELECTION RESULTS https://www.electionreturns.pa.gov/ (last accessed June 20, 2024).

31. However, thousands of timely received ballots from eligible Pennsylvania voters have been set aside in each and every election since 2020 solely because they are received in Return Envelopes that are either missing a voter-written date or are marked with what the local board of elections deems to be an "incorrect" date. In the 2022 election, for example, over 10,000 timely absentee and mail-in ballots were rejected due to enforcement of the dating provision. In the 2023 municipal elections, nearly 7,000 eligible Pennsylvania voters' absentee and mail ballots were initially[9] rejected due to application of the envelope dating

[8] The number of returned ballots is alleged based on data provided by the Pennsylvania Department of State. Turnout in the 2024 primary has not been fully reported, but approximately 1.9 million voters voted based on the number of votes cast in the statewide U.S. Senate race.

[9] County boards ultimately counted many of the votes that were initially set aside in the 2023 General Election, following the U.S. District Court's December 2023 determination in *NAACP I* that the envelope dating provision violates the federal Materiality Provision. That decision was

provision. *See* Ex. Shapell Decl. (Ex. 1) at ¶ 12(a). These disenfranchised voters all had their eligibility confirmed by their respective boards of election, were all approved to vote by mail, all signed the voter declaration form on the Return Envelope, and all returned the package on time—the only issue was with the handwritten date.

The Superfluous Voter-Written Date Serves No Purpose

32. The parties and several courts have conclusively determined, through recent lawsuits in both state and federal court, that the voter-written date on a mail ballot return envelope is utterly meaningless, necessary neither to establish voter eligibility nor timely ballot receipt. *See, e.g., NAACP II*, 97 F.4th at 125 ("The date requirement, it turns out, serves little apparent purpose"); *id.* at 127 ("[I]t may surprise, the date on the declaration plays no role in determining a ballot's timeliness"); *id.* at 139-40 (Shwartz, J., dissenting) ("[T]he date on the envelope is not used to (1) evaluate a voter's statutory qualifications to vote, (2) determine the ballot's timeliness, or (3) confirm that the voter did not die before Election Day or to otherwise detect fraud").

later reversed on the merits by the Third Circuit in 2024, after several counties had already counted initially rejected ballots from the 2023 election.

Timeliness of the ballot:

33. Whether a mail ballot is timely is determined based on when the relevant board of elections *receives* the mail ballot package, regardless of the date (if any) handwritten on the outer return envelope. *Cf. NAACP II*, 97 F.4th at 129 ("Nor is [the handwritten date] used to determine the ballot's timeliness because a ballot is timely if received before 8:00 p.m. on Election Day, and counties' timestamping and scanning procedures serve to verify that. Indeed, not one county board used the date on the return envelope to determine whether a ballot was timely received in the November 2022 election."); *see also NAACP I*, 2023 WL 8091601, at *32, *rev'd on other grounds*, *NAACP II,* 97 F.4th 120. ("Whether a mail ballot is timely, and therefore counted, is not determined by the date indicated by the voter on the outer return envelope, but instead by the time stamp and the SURE system scan indicating the date of its receipt by the county board").

34. Moreover, the voter-written date has no bearing on whether the voter marked their ballot and signed the voter declaration at the appropriate time prior to returning it. A voter whose mail ballot was timely received could *only* have signed the voter declaration form in between the date their county board sent the mail-ballot packages and the Election-Day deadline. Ballots received by county boards *after* 8 p.m. on Election Day are not counted regardless of the handwritten envelope date. *See* 25 P.S. § 3146.8(g)(1)(ii); *see also NAACP I*, 2023 WL

8091601, at *32 ("Irrespective of any date written on the outer Return Envelope's voter declaration, if a county board received and date-stamped a . . . mail ballot before 8:00 p.m. on Election Day, the ballot was deemed timely received . . . [I]f the county board received a mail ballot after 8:00 p.m. on Election Day, the ballot was not timely and was not counted, despite the date placed on the Return Envelope"); Press Release, Ballot Procedures, *supra* pp. 14, at 6.

35. Accordingly, the federal district court in *NAACP I* confirmed based on a fulsome record—including discovery from the Secretary and all of 67 county boards of elections—that the handwritten-date serves absolutely no purpose and found it to be beyond dispute that the Date Requirement is "wholly irrelevant" in determining when the voter filled out the ballot or whether the ballot was timely received by 8:00 p.m. on Election Day. *NAACP I*, 2023 WL 8091601, at *31; *see also id.* at *32 ("the date on the outside envelope was not used by any of the county boards to determine when a voter's mail ballot was received in the November 2022 election. Instead, the counties time-stamped ballots when they were returned . . . The counties' use of the Commonwealth's SURE system also renders the Date Requirement irrelevant in determining when the ballot was received.").

36. These findings were confirmed on appeal. *NAACP II*, 97 F.4th at 127 ("the date on the declaration plays no role in determining a ballot's timeliness").

Voter qualifications:

37. The evidence adduced in *NAACP v. Schmidt* further "show[ed], and the parties either agree . . . or admit . . .," that county boards did not use the date "*for any purpose* related to determining" any factor relevant to voter eligibility, such as "a voter's age, citizenship, county or duration of residence, [or] felony status[.]" *NAACP I*, 2023 WL 8091601, at *22, *29.

38. The undisputed record before the district court revealed that the 10,000-plus mail ballots that were not counted in the November 2022 elections were all timely submitted by otherwise qualified voters and the *only* basis for rejecting those votes was the failure to write a date or writing a date that was deemed "incorrect." *Id.* at *32 ("it is not disputed by any party that all voters whose ballots were set aside . . . solely because of a missing or incorrect date . . . had previously been determined to be eligible and qualified to vote in the election" and the date "was not used to determine any of those qualifications").

39. These findings were also confirmed on appeal. *See NAACP II*, 97 F.4th at 125 ("The date requirement, it turns out, serves little apparent purpose"); *id.* at 139-40 (Shwartz, J., dissenting) (In the November 2022 election, "10,000 timely-received ballots were not counted because they did not comply" with the Date Requirement "even though the date on the envelope is not used to (1) evaluate a voter's statutory qualifications to vote, (2) determine the ballot's

timeliness, or (3) confirm that the voter did not die before Election Day or to otherwise detect fraud").

Inconsistent and arbitrary enforcement

40. Despite the lack of purpose behind requiring mail-in voters to write a date on the return envelope, evidence adduced in prior litigation reflects that enforcement of this provision has been arbitrary and has disenfranchised a significant number of Pennsylvania voters.

41. Evidence in the *NAACP* case, in particular, showed that the envelope dating requirement is being inconsistently and arbitrarily enforced by county boards of elections. Discovery obtained from all 67 counties showed dramatic inconsistencies in how voters had been treated. *See NAACP I*, 2023 WL 8091601, at *32 ("[T]he record is replete with evidence that the county boards' application of the *Ball* order in the November 2022 general election created inconsistencies across the Commonwealth in the way 'correctly dated' and 'incorrectly dated' ballots were rejected or counted by different counties."). For example:

a. Many county boards refused to count ballots where the envelope date was correct but missing one term, such as "Oct. 25" with no year provided, even though they only could have been signed during 2022. *Id.* at *33 ("[A]cross the Commonwealth other **timely-received** ballots were set aside because the voter declaration date omitted the year; omitted the

month; omitted the day"). But others counted such ballots. *Id.* at *33, n. 43-45.

b. Some county boards set aside ballots where the voter put the date elsewhere on the envelope, or included "a cross-out to correct an erroneous date." *Id. at *33.*

c. County boards took varying approaches to dates that appeared to use the international format (*i.e.*, day/month/year), with some counties basing the date range "strictly on the American dating convention" and others "tr[ying] to account for both the American and European dating conventions. . . ." *Id.* at *33. *See also Id.* ("Ballots were set aside for having incorrect dates which, if construed using the European dating convention, would have been within the *Ball* date range") (footnote omitted).

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

e. At least one county board counted a ballot marked September 31—a date that does not exist. *Id.* at *33, n. 45.

f. County boards also took inconsistent approaches to voters who mistakenly wrote their birthdates on the date line, with most refusing to do so. *Id.* at *33.

42. In addition, "[s]imple voter error and partial omissions related to the date declaration also resulted in rejection of mail ballots that were timely received. . ." *NAACP I*, 2023 WL 8091601, at *33 For instance:

a. More than 1,000 *timely-received* ballots were set aside and not counted "because of an obvious error by the voter in relation to the date," such as writing a month prior to September or a month after November 8. *Id.* The *NAACP* district court found that this "shows the irrelevance of any date written by the voter on the outer envelope." *Id.*

b. Counties also refused to count hundreds of timely-received ballots with obviously unintentional slips of the pen, such as a voter writing a year prior to the election (e.g. "2021") or a year in the future (e.g. "2023"). Yet the *NAACP* district court agreed that it was a "factual impossibility" for a voter to have signed the mail-ballot envelope any year before the election. *Id.*

Previous Litigation over the Envelope-Date Requirement

43. While the voter-written date is completely irrelevant to the electoral process, its enforcement has survived prior court challenges based on state-law statutory-interpretation principles and the Materiality Provision of the federal Civil Rights Act. Specifically, between 2020 and 2022, several courts addressed statutory construction of the Election Code concerning the envelope-dating provision -- reaching different conclusions. *Compare In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election* ("*In re 2020 Canvass*"), 241 A.3d 1058, 1062 (Pa. 2020), *cert. denied sub nom. Donald J. Trump for President, Inc. v. Degraffenreid,* 141 S. Ct. 1451 (2021) (concluding undated envelopes would be counted for 2020 election only but not in future), *with Ritter v. Lehigh Cnty. Bd. of Elections*, 272 A.3d 989 (Pa. Commw. Ct. Jan. 3, 2022), *appeal denied*, 271 A.3d 1285 (Pa. 2022) (ruling statute required undated envelopes should not be counted).[10]

44. Additional courts considered whether the dating requirement violated the Materiality Provision of the Civil Rights Act, also reaching different conclusions. *Compare Migliori*, 36 F.4th, at 162-64, *vacated as moot sub nom*

[10] The evidence in the *Ritter* litigation found that, of the 257 timely-received mail ballots set aside based on mail-ballot voters' inadvertent failure to handwrite a date on the Return Envelope, three-quarters of the affected voters were over 65 years old, and fifteen of them were older than 90. *See Migliori v. Cohen*, 36 F.4th 153, 156 n.18 (3d Cir. 2022).

Ritter v. Migliori, 143 S. Ct. 297 (2022) (concluding enforcement of the dating requirement violated the Materiality Provision) *and NAACP I*, 2023 WL 8091601 (same) *and Chapman v. Berks Cnty. Bd. of Elections*, No. 355 M.D. 2022, 2022 WL 4100998, at *12–*29 (Pa. Commw. Ct. Aug. 19, 2022) (same) *and McCormick for U.S. Senate v. Chapman*, No. 286 M.D. 2022, 2022 WL 2900112, at *9–*15 (Pa. Commw. Ct. June 2, 2022) (same) *with Ball v. Chapman*, 289 A.3d 1, 33-34 (Pa. 2023) (deadlocking 3-to-3 on the issue) *with NAACP II*, 97 F.4th 120 (concluding the Materiality Provision did not apply to mail ballots).

45. However, no court has decided whether enforcing this provision to disenfranchise voters—rather than deeming a timely, signed voter declaration sufficient under 25 P.S. § 3146.8(g)(3) regardless of the voter-written date—violates their fundamental right to vote under the Pennsylvania Constitution's Free and Equal Elections Clause. PA. CONST. art. I, § 5.

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

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

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

The 2024 Primary Election

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

48. Following the Third Circuit's decision in *NAACP II*, the Department of State's instruction to counties – *i.e.*, that they segregate and not count ballots that were received in envelopes that lacked the date or had a handwritten date that was deemed "incorrect" – remained in place. *See* J. Mark's Email *supra* pp. 16. (instructing counties not to reject ballots where the handwritten date can "reasonably be interpreted" as the date the voter signed the declaration, but not

otherwise modifying its prior guidance that ballots arriving in undated or incorrectly dated envelopes must be set aside and not counted).

49. In accordance with the Secretary's statutory authority to "prescribe[]" the form of declaration printed on mail ballot envelopes, Respondent Schmidt redesigned the mail ballot return envelope prior to the 2024 primary election. Among other things, he included a field that pre-populated "20" at the beginning of the year on the outer return envelope. Press Release, Pa. Dep't of State, Shapiro Administration Introduces Redesigned Mail Ballot Materials To Give Voters Clearer Instructions, Decrease Number Of Rejected Ballots, And Ensure Every Legal Vote Is Counted (Nov. 29, 2023), https://www.media.pa.gov/pages/state-details.aspx?newsid=584.

50. Nevertheless, voters across the Commonwealth continued to make inconsequential envelope dating mistakes even on the DOS redesigned envelope. *See generally* Carter Walker*, Pennsylvania's redesigned mail ballot envelopes trip up many voters who left date incomplete,* VOTEBEAT PENNSYLVANIA, Apr. 23, 2024, https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/; ASSOCIATED PRESS, *Pennsylvania redesigned its mail-in ballot envelopes amid litigation. Some voters still tripped up*, SPECTRUM NEWS NY1, Apr. 24, 2024, https://ny1.com/nyc/all-boroughs/politics/2024/04/24/pennsylvania-voters-ballot-envelopes.

51. As of the date of this Application, Pennsylvania county boards of elections had recorded their receipt of close to 700,000 mail ballots in the SURE system for the 2024 Primary Election. That number represents more than 37% of all ballots cast in the primary.

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

53. As a result, thousands of mail-ballot envelopes have been set aside and segregated—and the ballots contained therein were not counted—pursuant to Respondent's guidance because they were received in return envelopes with missing or incorrect handwritten dates next to the voters' signatures. More than 4,000 timely-received mail-in ballots were rejected in the 2024 primary election on this basis. *See* Ex. 1 (Shapell Decl.) at ¶ 12(b). The experience of several such voters are set forth in the declarations at Exhibits 1-12 hereto.

54. Thus, even in a low-turnout election, enforcement of the envelope dating requirement resulted in rejection of thousands of timely submitted mail and absentee ballots submitted by eligible Pennsylvania voters. The following individuals are all qualified, eligible, Pennsylvania voters who timely submitted a mail-in ballot in the April 2024 primary election, but whose votes were not

counted because they failed to write the date or wrote a date that was deemed "incorrect" on the outer declaration envelope:

a. Allegheny County voter Otis Keasley, a 73-year-old Vietnam veteran who mailed his ballot to the election office rather than bringing it in person because he was dealing with a family emergency, and did not learn until after the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 2 (Keasley Decl.).

b. Allegheny County voter Joanne Sowell, a 76-year-old Pittsburgh resident who was boarding a flight when she saw an email notification that her mail ballot would not be counted because of the date requirement, but could not correct the problem because she did not return home until after the election. *See* Ex. 3 (Sowell Decl.).

c. Philadelphia voter Eugene Ivory, a 74-year-old retired Philadelphia educator who received notice on election day that his mail ballot had an incorrect date, but was dealing with a family emergency and could not correct the error in person. *See* Ex. 4 (Ivory Decl.).

d. Philadelphia voter Bruce Wiley, a 71-year-old home-bound voter who voted by mail for the first time in the 2024 primary due to health limitations and did not learn until after the date of the primary that there was

a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 5 (Wiley Decl.).

e. Montgomery County Stephen Arbour, a Chief Technology Officer who has dutifully voted in every election since becoming a naturalized U.S. citizen in 2010 and who received notification of the dating mistake one day prior to Election Day, but could not go in person to cure the error or cast a provisional ballot on election day due to work and family commitments. *See* Ex. 6 (Arbour Decl.).

f. York County voter Kenneth Hickman, an 89-year-old retired mechanical engineer who did not learn until after the date of the primary that there was a problem with his mail ballot submission, and his primary vote was not counted. *See* Ex. 7 (Hickman Decl.).

g. Bucks County voter Janet Novick, an 80-year-old retired high school English teacher with mobility issues was who informed by the elections office that she and her husband had made a mistake involving the date on the envelope; the couple could not go in person to Doylestown to correct the errors due to mobility issues. *See* Ex. 8 (Novick Decl.).

h. Chester County voter Joseph Sommar, a 71-year-old retired electrician and union representative who was surprised and frustrated to

receive a notice on or about April 19 that his vote would not be counted due to an envelope dating error. *See* Ex. 9 (Sommar Decl.).

i. Bucks County voter Phyllis Sprague, an 80-year-old voter who has never missed a presidential election in over 50 years. Ms. Sprague submitted her mail-in ballot prior to cervical spine surgery, but upon being discharged from the hospital received an email notice about the envelope dating issue. Ms. Sprague got ready to go to her polling place to cast a provisional ballot on Election Day to remedy the situation, but had a fall and injured herself. *See* Ex. 10 (Sprague Decl.).

j. Berks County voter Mary Stout, a 77-year old retired nurse who received a notice a week before the primary that her ballot would not count because of a missing date on the envelope, but she was unable to go in person to fix it because of her mobility issues. *See* Ex. 11 (Stout Decl.).

k. Dauphin County voter Lorine Walker, a 74-year-old retired school librarian who believed she had done everything correctly and did not learn until after the date of the primary that there was a problem with her mail ballot submission. *See* Ex. 12 (Walker Decl.).

55. Many more qualified Pennsylvania voters will continue to lose their right to vote in the 2024 General Election, and in every election thereafter, unless this Court declares enforcement of the date requirement to exclude otherwise valid,

timely votes unconstitutional and enjoins the continued rejection of timely submitted ballots on this basis. In a high-turnout election, where Petitioners anticipate based on recent history that more than 37% of votes are cast by mail ballot, even a 1% error rate will result in the rejection of tens of thousands of mail ballots.

56. Impacted voters are disproportionately senior citizens, many of whom have voted dutifully for decades. They hail from throughout the Commonwealth and include voters registered Republican, Democrat and independent. These are all duly registered, eligible Pennsylvania voters who fill out their mail ballots, return them on time, and sign the declaration on the Return Envelope, but risk losing the franchise by making a simple mistake on the Return Envelope by omitting a handwritten date or writing an incorrect date. The challenged envelope-date rule ensnares even voters who reasonably believe they are complying with all of the proper requirements to cast their ballot.

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

III. Request for Summary Relief

58. The Pennsylvania Constitution requires that ballots with missing or incorrect dates be canvassed, and that signed voter declarations on mail ballot return envelopes be deemed "sufficient" pursuant to 25 P.S. § 3146.8(g)(3), regardless of the irrelevant voter-written date. The disenfranchisement of thousands of voters over a meaningless paperwork requirement constitutes an injury for which there is no adequate remedy at law and for which this Court's intervention is required.

59. There are no material facts in dispute. *See* June 10, 2024 "Order Granting Application for Intervention" ("The Court additionally notes that all the parties agreed that there are no outstanding questions of fact, nor factual stipulations required, and that this matter involves purely legal questions"). (Ceisler, J.).

60. For the reasons set forth in Petitioners' Brief in Support of Application for Summary Relief being filed contemporaneously herewith and incorporated herein by reference, Petitioners respectfully request that this Honorable Court grant Count I of the Petition for Review, which contains Petitioners' request for a declaratory judgment that Respondents' application of the Election Code's envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), to reject timely mail ballots submitted by eligible voters based solely on the

inadvertent failure to add a meaningless, superfluous handwritten date next to their signature on the mail ballot Return Envelope is an unconstitutional interference with the exercise of the right to suffrage in violation of the Free and Equal Elections Clause.

61. Petitioners right to relief on Count I is clear.

62. Petitioners are entitled to summary relief on Count I as a matter of law.

63. Pennsylvania citizens enjoy a fundamental right to vote, as recognized by the command of the Pennsylvania Constitution's Free and Equal Elections Clause: "no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage." PA. CONST. art. 1, § 5.

64. Pursuant to that mandate, the Pennsylvania Supreme Court has consistently held that election law must be applied in a way so as to enfranchise, rather than disenfranchise. *See*, *e.g.*, *Boockvar*, 238 A.3d at 361; *see also*, *e.g.*, *Shambach v. Bickhart*, 845 A.2d 793, 798-99 (Pa. 2004) ("we have held that ballots containing mere minor irregularities should only be stricken for compelling reasons") (citations omitted); *Petition of Cioppa*, 626 A.2d 146, 148 (Pa. 1993) (noting the "longstanding and overriding policy in this Commonwealth to protect the elective franchise") (citations omitted); *In re Luzerne Cnty. Return Bd.*, 290 A.2d 108, 109 (Pa. 1972) (citing *Appeal of James*, 105 A.2d 64 (Pa. 1954) ("[T]he

power to throw out a ballot for minor irregularities should be sparingly used . . . In construing election laws . . . [o]ur goal must be to enfranchise and not to disenfranchise."); *cf. Ball*, 289 A.3d at 27 n.156.

65. Continued enforcement of the envelope dating requirement to exclude otherwise valid votes will continue to result in the disenfranchisement of eligible Pennsylvania voters who submit timely mail ballots in the 2024 General Election and all future elections, unless and until enjoined by this Court.

66. Further, for the reasons set forth in Petitioners' Brief in Support of Application for Summary Relief being filed contemporaneously herewith and incorporated herein by reference, Petitioners respectfully request in the alternative that this Honorable Court grant Count II of the Petition for Review, which seeks a declaration that Respondents' application of the Election Code's meaningless envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a), and enforcement of a mandatory requirement to disenfranchise eligible mail and absentee voters, triggers a violation of voters' fundamental constitutional right to vote. Petitioners request that the Court reinterpret the statutory envelope dating requirement in conjunction with the Election Code's canvassing provisions, 25 P.S. § 3146.8(g), and apply the dating provision as "directory," such that Respondents cannot use noncompliance with the meaningless date requirement as a basis to deem voter declarations insufficient and disenfranchise eligible voters who submit timely absentee and mail

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

67. Petitioners' right to relief on Count II is clear.

68. Petitioners are entitled to summary relief on Count II as a matter of law.

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

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

resolved in a way that will enfranchise, rather than disenfranchise"); *Shambach v. Bickhart*, 845 A.2d 793, 798 (Pa. 2004) ("To that end, we have held that ballots containing mere minor irregularities should only be stricken for compelling reasons.") (citations omitted).

71. Since the Pennsylvania Supreme Court's decision in *Ball v. Chapman* in 2022, Respondent Schmidt, the county boards of elections in all 67 counties, and federal courts in the Western District of Pennsylvania and the Third Circuit have all confirmed beyond a shadow of a doubt that the envelope dating provision serves no purpose whatsoever, and it has been applied to disenfranchise thousands of eligible Pennsylvania voters in each and every primary and general election since 2022.

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

73. Petitioners are entitled to a permanent injunction because the right to relief is clear and Petitioners have no adequate remedy at law to redress the wrongs suffered as set forth in this Application. Thousands of Pennsylvania voters have been and will continue to be disenfranchised over the enforcement of the meaningless date requirement, and therefore greater injury will result from refusing the injunction than from granting it.

WHEREFORE, Petitioners respectfully request that this Honorable Court grant Summary Relief in favor of Petitioners and against the Respondents pursuant to Pa.R.A.P. 1532(b), and:

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

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

c. Permanently enjoin further rejection of timely-submitted mail ballots submitted by eligible voters based on enforcement of the Election Code's envelope dating provisions, 25 P.S. §§ 3146.6(a), 3150.16(a),

due either to (i) the absence of a handwritten date on the mail ballot return envelope or (ii) the determination that the voter-written date is "incorrect";

d. Award Petitioners costs; and

e. Provide such other and further relief as this Honorable Court deems just and appropriate.

Dated: June 24, 2024

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

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

/s/ *Stephen A. Loney*

EXHIBIT
1

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

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

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

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

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

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

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

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

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

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

presidential primary election, under the file name VR_SWMailBallot_External 20240514.TXT.

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

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

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

a. As of November 17, 2023, **6,804 mail-ballots** submitted in the November 2023 municipal election had been coded in the SURE file as canceled because the voter neglected to write the date on the outer envelope or because the voter wrote a date that was deemed "incorrect." Of that total, 4,849 ballots were coded as canceled because the voter neglected to write the date on the outer envelope, and 1,955 were coded as canceled because the voter wrote a date that was deemed "incorrect."

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

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

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

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

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 R. Keasley

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.

Joanne Sowell

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 24th of May, 2024 in Philadelphia, Pennsylvania.

Eugene Ivory

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.

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.

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 24th of May, 2024 in York, Pennsylvania.

Kenneth Hickman

Kenneth Hickman

EXHIBIT
8

DECLARATION OF JANET NOVICK

I, Janet Novick, hereby declare as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Janet Novick

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.

Phyllis Sprague

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 22 of May, 2024 in Douglassville, Pennsylvania.

Mary Stout

Mary Stout

EXHIBIT
12

DECLARATION OF LORINE WALKER

I, Lorine Walker hereby declare as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Executed this 24th of May, 2024 in Harrisburg, Pennsylvania.

Lorine Walker

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
PA Department of State | @PAStateDept

EXHIBIT
14

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

I, Tim Stevens, hereby declare as follows:

1. I am over the age of eighteen and otherwise competent to testify.

2. I am the Chairman & CEO of The Black Political Empowerment Project ("B-PEP").

3. B-PEP is a non-profit, non-partisan organization that has worked since 1986 to ensure that the Pittsburgh African-American community votes in every election. B-PEP and its supporters throughout the Pittsburgh Region work with community organizations to empower Black and brown communities, including by promoting voting rights and get-out-the vote efforts.

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

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

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

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

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

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

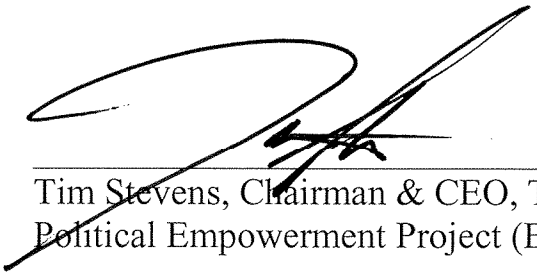
distributing hundreds of flyers and other educational materials to dozens of churches for the purpose of informing prospective voters of the envelope dating issues generated by prior court decisions.

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

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

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

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



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 reassigned 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.

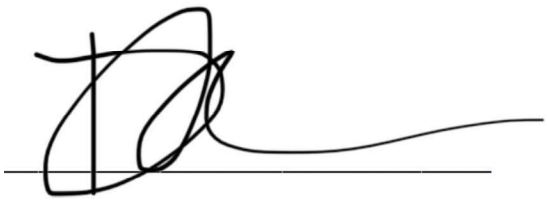
8. Respondents' failure to count timely-submitted mail-in ballots based solely on a missing or incorrect date on the return envelope will disenfranchise potentially thousands of voters, thus directly affecting Make the Road PA's members and interfering with Make the Road PA's ability to carry out its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



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.

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, MSW

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.

Alex Wallach Hanson, Executive Director
Pittsburgh United

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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.

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