

**IN THE DELAWARE COUNTY COURT OF COMMON PLEAS
CIVIL DIVISION
CIVIL ACTION - ELECTION LAW**

JOY SCHWARTZ,
and
GREGORY STENSTROM,
and
LEAH HOOPEES,
And
PAUL RUMLEY,
Plaintiffs,

v.

**ACTING SECRETARY OF THE
COMMONWEALTH OF PENNSYLVANIA
AL SCHMIDT**
and
DELAWARE COUNTY
and
**DELAWARE COUNTY PARK POLICE
DEPARTMENT**
and
**JAMES ALLEN, Delaware County Director of
Elections, in his personal capacity**
and
**JOHN S. DIEHL, Delaware County Park Police
Chief, in his personal capacity**
Defendants.

Commonwealth Court Case No.: 258 MD 2023

Delaware County Court of Common Pleas

Case: CV-2023-006012

**PRO SE PLAINTIFFS' RESPONSE TO
DEFENDANTS' PRELIMINARY
OBJECTIONS**

CIVIL ACTION: ELECTION CASE

ORAL ARGUMENTS REQUESTED

JURY TRIAL REQUESTED

NOTICE TO PLEAD

To Defendants:
You are hereby notified to file a written
response to Plaintiffs within twenty (20)
days from date of service hereof or a
judgment may be entered against you.

/s/ Joy Schwartz, Gregory Stenstrom,
Leah Hoopes, Paul Rumley

**PRO SE PLAINTIFFS' RESPONSE TO DEFENDANTS' PRELIMINARY
OBJECTIONS**

1. Plaintiffs original May 31st, 2023, PRO SE emergency petition of several pages, and request(s) for relief to the Commonwealth Court of Pennsylvania was simply to request that the Court order Defendants to comply with the Pennsylvania Open Records Act of 2008, the Election Reform Act of 2019 referred to as Act 77, to produce election records that included the signatures of electors on the expended (opened) Mail In Ballot ("MIB") envelopes from the May 2023 primary election, and to cease from allowing Plaintiffs to exert their civil rights in violation of USC 42 § 1983.

2. At primary issue was that Plaintiffs had observed less than 10,000 MIB envelopes processed on May 16th, 2023, Election Day, but shortly after 8:00pm reported more than 24,000 envelopes has been processed, and refused Plaintiffs request to sight the envelopes in the observation area partitioned off for that purpose at the centralized counting center, or to subsequently see the MIB envelopes, with signatures of electors, to verify what was reported by the Defendants.
3. It is now October 16th, 2023, and Pro Se Plaintiffs have been taken on a 138-day trajectory through the Courts by Defendants, with the virtually unlimited financial, legal, and staffing resources of the government, on a procedural journey of procedural denials, defiance, and recalcitrance to provide transparency and honest government services, required by law.
4. Plaintiffs have had to respond to over 1,600 pages of filings including the subject 89-page Preliminary Objections that include so many misstatements of facts by Defendants that to respond equally to each would require double or triple that number of pages, and worse, continue to deny Plaintiffs, and the People of Delaware County and Pennsylvania, a public hearing on the merits and substance of the controversy before the Court.
5. Despite Defendants' initial objections to providing the requested public records by order of the Secretary of the Commonwealth that MIB's and signatures were not public records, the Commonwealth Court ruled favorably on the argument by the Commonwealth and Defendants (attorneys Stephen Kovatis and J. Manly Parks) that the Secretary's and Pennsylvania Department of State written, signed, formal Directives and Orders were merely "suggestions" and "recommendations," that the Defendants, and other Pennsylvania County public officials, were not obligated to comply with.
6. Hence, having ruled that the Secretary of the Commonwealth was not an "indispensible party" to Plaintiff's petition, that the Commonwealth Court of Pennsylvania did not have original jurisdiction, and Plaintiffs' emergency petition was remanded back to the Delaware County Common Pleas Court for "immediate" and "timely" adjudication on July 11th, 2023.
7. Now, Defendants have resubmitted their very same (identical) June 30th, 2023 Preliminary

Objections, and procedural arguments, ignoring the fact that in the 138-day interim, contrary to Defendants own objections and arguments, Defendants have since provided MIB envelopes with unredacted signatures, and allegedly the images of those envelopes taken by the mail sorting machine, and also partially complied with Office of Open Records RTKL rulings to provide MIB images from previous elections.

8. And yet, the core controversy not only still remains, but Defendant's production of documents have only raised MORE questions of whether the images are genuine, and compliant with Plaintiff's requests, and further, whether respondent Solicitors and licensed attorneys are advocates, or participants in obfuscating and obstructing access to the true public records of the May 16th, 2023 election.
9. Defendants have resolved all of their own Preliminary Objections sufficient to move forward with hearing on the material facts, oral arguments, and jury trial as follows:
 - a. Defendants have resolved the matter of whether the Delaware County Court of Common Pleas has local jurisdiction in their own 1st Preliminary Objection.
 - b. Defendants have resolved the matter of Plaintiffs' standing or claim by providing ~26,000 MIB envelopes for high-definition photographs, which Plaintiffs accomplished in under seven hours, in their own 2nd and 3rd Preliminary Objection
 - c. Defendants have resolved their 4th Preliminary Objection regarding Plaintiff Stenstrom not exhausting his administrative remedies by not only providing the ~26,000 MIB envelopes from the May 2023 election for photographs, but also a meeting which was lawfully recorded by mutual agreement between Plaintiffs and Defendant Allen, and his staff, to discuss findings of Plaintiffs inspection, and questions regarding chain of custody of the MIB's.
 - d. Similarly, Defendants have resolved their 5th and 6th Preliminary Objections of failure to state a claim, or having a claim, by providing what they purport to be the MIB's opened on Election Day, along with a video recording for some of the cameras in the centralized counting center that show less than 10,000 MIB

envelopes bring processed, corroborating Plaintiff's claim.

10. Having essentially negated their own Preliminary Objections by their own actions subsequent to the July 11th, 2023, hearing before the Commonwealth Court, the controversy and matter before the Common Pleas Court of Delaware County are to adjudicate material facts, which now hinge on whether the ~26,000 MIB envelopes Plaintiffs photographed by Plaintiffs, and ~26,000 MIB envelope photographic images Defendants provided ALL allegedly taken by the BlueCrest mail sorting machine, were in fact, the same envelopes processed and opened on the May 16th, 2023, election day from which the ballots emanated.
11. Defendants have not only obliterated their own objections, but have also at least marginally cooperated with Plaintiffs sufficient to meet the burden of production of evidence to permit this Court's further adjudication of the number, pedigree, trajectory and chain of custody of the MIB envelopes and the trajectory and pedigree of the elector's ballots cut out of them, to determine if Defendants have honestly produced the true public records.

FACTS

12. Exhibit A provides links to video compilations of the MIB Envelope images as follows:
 - a. Defendant Provided May 2023 MIB envelopes images allegedly all from the centralized counting center BlueCrest sorter:

<https://cloud.patriot.online/s/pWBPwjxyzLyb2WS>
 - b. Defendant Provided November 2022 MIB envelopes images allegedly all from the centralized counting center BlueCrest sorter:

<https://cloud.patriot.online/s/CEJaQTd2gZo4kAF>
 - c. Plaintiff Provided Photographed Images of May 2023 Envelopes

<https://cloud.patriot.online/s/yFyXWiP8Wr4E3Ys>

- d. Plaintiff Provided Comparison between May 2023 and November 2022 MIB envelop images.

<https://cloud.patriot.online/s/gFCBggCqRy379T5>

13. It is a material FACT that there are substantial differences between the date time stamps printed by what appears to be multiple mail sorters on the ~26,000 MIB envelopes photographed by Plaintiffs.
14. It is a material FACT that Defendant Allen and his staff stated on the record that all MIB envelopes were processed by a single BlueCrest mail sorter, and no other, and that the BlueCrest stamped an identically formatted MM-DD HH:MM 1B#9999 0000XXXXXX, where the 0000XXXXXX was the BlueCrest increment counter which the BlueCrest company uses to bill Defendants for use of the mail sorter.
15. It is a material FACT that there are hundreds of discrepancies between the electronic records and spreadsheets provided by Defendants to Plaintiffs, and the physical records.
16. It is a material FACT that the majority of MIB envelope images provided by Defendants to Plaintiffs inexplicably have no date time stamps, while a considerable number of envelope images do have date time stamps, and virtually none match the photographs of MIB envelopes taken by Plaintiffs.
17. It is a material FACT that the MIB envelope images of November 2022 and May 2023 elections show identical or nearly identical signatures.
18. It is a material FACT that there are substantial reconciliation issues between the spreadsheets and electronic documents provided by Defendants, the MIB envelopes, National Change of Address (“NCOA”) database, and “verified” electors.
19. The Commonwealth of Pennsylvania is a Material Fact Law State (231 Pa. Code § 1019), and the controversy before the Court remains to adjudicate whether the Defendants produced the actual MIB envelopes from which ballots emanated and were, in fact, counted on May 16th, 2023, as required by election law.

20. It is unconscionable that the Defendants have wasted months of the Plaintiffs, the Courts, and the Peoples time and hard-earned money, wrestling with procedural minutia denying Plaintiffs of their rights, or permitting adjudication of the merits of the subject controversies of the trajectory and pedigree of MIB envelopes and elector ballots.
21. Civil litigants have a statutory right to proceed Pro Se under 28 U.S.C. § 1654.
22. Pro Se Plaintiffs have a protected interest in a meaningful opportunity to be heard. This interest is analytically distinct from any protected liberty or property interests that may underlie the Plaintiff's cause of action or legal defenses.
23. Pro Se Plaintiffs have invoked the interest in a meaningful opportunity to be heard by this Honorable Court to gain access to the true public records and the courts that have been denied to them by Defendants to resolve a controversy in which Plaintiffs have been aggrieved, and is also in the best interest of the public good and public trust.
 - a. "The fundamental tenet that the rules of procedure should work to do substantial justice, . . . commands that judges painstakingly strive to ensure that no person's cause or defense is defeated solely by reason of their unfamiliarity with procedural or evidentiary rules. . . . Cases should be decided on the merits, and to that end, justice is served by reasonably accommodating all parties, whether represented by counsel or not. This "reasonable accommodation" is purposed upon protecting the meaningful exercise of a litigant's constitutional right of access to the courts." Blair v. Maynard, 324 S.E.2d 391 (West Virginia 1984).

Respectfully submitted:

(Signatures next page)



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VERIFICATION

We, Joy Schwartz, Paul Rumley, Gregory Stenstrom and Leah Hoopes, state that we are Pro Se Defendants in this matter and are authorized to make this Verification on its behalf. We hereby verify that the statements made in the foregoing PRO SE PLAINTIFFS' RESPONSE TO DEFENDANTS' PRELIMINARY OBJECTIONS are true and correct to the best of our knowledge, information and belief. This verification is made subject to the penalties of 19 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



JOY SCHWARTZ

Date: 16OCT2023

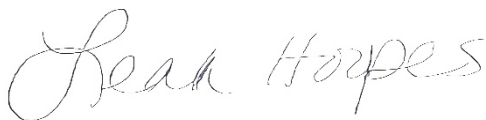
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SELF REPRESENTATION (PRO SE) (Commonwealth Court of PA Case No. 258 MD 2023)

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DELAWARE COUNTY, PENNSYLVANIA
CIVIL DIVISION
CIVIL ACTION-LAW**

Commonwealth Court Case No. 258 MD 2023

Common Pleas Court Case No. CV-2023-006012

SCHWARTZ, et al.
Plaintiffs,

v.

ACTING SECRETARY OF STATE AL SCHMIDT, et. al,
Defendants

CERTIFICATE (PROOF) OF SERVICE

Petitioners (Plaintiffs) certify that on September 11th, 2023, Petitioners caused PRO SE PLAINTIFFS' RESPONSE TO DEFENDANTS' PRELIMINARY OBJECTIONS to be served on the following via personal service and email to:

Defendants Delaware County
Delaware County Park Police
Defendant John Diehl
Defendant James Allen
Solicitor for Defendants J. Manly Parks
201 West Front Street
Media, PA 19106
Email Service

/S/ Joy Schwartz, Paul Rumley, Leah Hoopes and Gregory Stenstrom Dated: October 16th, 2023

EXHIBIT A

Defendant Provided May 2023 MIB envelopes images allegedly all from the centralized counting center BlueCrest sorter:

<https://cloud.patriot.online/s/pWBPwjxyzLyb2WS>

Defendant Provided November 2022 MIB envelopes images allegedly all from the centralized counting center BlueCrest sorter:

<https://cloud.patriot.online/s/CEJaQTd2gZo4kAF>

Plaintiff Provided Photographed Images of May 2023 Envelopes

<https://cloud.patriot.online/s/yFyXWiP8Wr4E3Ys>

Plaintiff Provided Comparison between May 2023 and November 2022 MIB envelop images.

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