

To the plaintiff:

You are hereby notified to file a written response to the enclose New Matter within twenty (20) days or a judgment may be entered against you.

/s/ Walter S. Zimolong
Attorney for Defendant

**IN THE COMMONWEALTH OF PENNSYLVANIA
COURT OF COMMON PLEAS OF YORK COUNTY
CIVIL DIVISION**

AMERICAN CIVIL LIBERTIES	:	No. 2024-SU-000643
UNION FOUNDATION OF	:	
PENNSYLVANIA, ET AL.	:	
Plaintiff	:	
	:	
v.	:	
	:	
YORK COUNTY BOARD OF	:	
ELECTIONS	:	
Defendant	:	

ANSWER TO COMPLAINT WITH NEW MATTER

York County Board of Election (the “Board”) files this answer to the complaint of plaintiff, American Civil Liberties Foundation of Pennsylvania and Elizabeth Kurian, and raises new matter as follows:

1. Denied as stated. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code.

2. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code.

3. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code.

4. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code.

5. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code. Moreover, the Board has repeatedly made clear to plaintiffs that they are permitted to observe those public processes the public is permitted to observe under 25 P.S. § 3154.

6. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code.

JURISDICTION AND VENUE

7. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code.

8. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required. If further answer is required, the Board follows and complies with the Pennsylvania Election Code.

PARTIES

9. Denied. The Board is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

10. Denied. The Board is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

11. Admitted in part, denied in part. The Board admits it is a county board of elections. The Board denies the remaining averments as conclusions of law to which no response is required.

BACKGROUND

12. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

13. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

14. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

15. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

16. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

17. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

18. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

19. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

20. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

21. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

The Board's Conduct

22. Denied. The Board is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

23. Denied. The Board is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

24. Denied. The Board is without knowledge or information sufficient to form a belief as to the truth of the matter averred.

25. Denied. The Board is without knowledge or information sufficient to form a belief as to the truth of the matter averred. By way of further answer, Ms. Kurian is required to have a watcher's certificate for any proceedings under 25 P.S. 3153. The remaining averments of this paragraph are denied as conclusion of law to which no response is required.

26. Denied. The Board is without knowledge or information sufficient to form a belief as to the truth of the matter averred. By way of further answer, Ms.

Kurian is required to have a watcher's certificate for any proceedings under 25 P.S. 3153. The remaining averments of this paragraph are denied as conclusion of law to which no response is required.

27. Denied. The Board did not deny Ms. Kurian the ability to observe any proceedings under 25 P.S. § 3154.

28. Admitted in part, denied in part. It is admitted only that the ACLU-PA sent a letter to the Board dated January 11, 2024. It is denied that anything in the letter is correct. Like this lawsuit, the letter has no basis in law or fact. The Board further denies the averments of this paragraph as they refer to a document that speaks for itself.

29. Admitted in part, denied in part. It is admitted only that counsel for the Board sent an email dated February 9, 2024. The Board further denies the averments of this paragraph as they refer to a document that speaks for itself.

30. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

31. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

32. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

Count I

33. The Board incorporates the previous paragraphs by reference.

34. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

35. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

36. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

37. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

WHEREFORE, defendant, York County Board of Elections, demands judgment in its favor and against plaintiffs, American Civil Liberties Union of Pennsylvania and Elizabeth Kurian, dismissing plaintiffs' complaint and claims with prejudice and awarding defendant costs incurred and any other necessary and appropriate relief.

Count II

38. The Board incorporates the previous paragraphs by reference.

39. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

40. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

41. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

42. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

43. Denied. The Board denies the averments of this paragraph as conclusions of law to which no response is required.

WHEREFORE, defendant, York County Board of Elections, demands judgment in its favor and against plaintiffs, American Civil Liberties Union of Pennsylvania and Elizabeth Kurian, dismissing plaintiffs' complaint and claims with prejudice and awarding defendant costs incurred and any other necessary and appropriate relief.

NEW MATTER

44. Plaintiffs fail to state claim upon which relief may be granted.

45. Plaintiffs' claims are barred as a matter of law.

46. Plaintiffs are not likely to succeed on the merits.

47. Plaintiffs have suffered no harm.

48. Plaintiffs' right to relief is not clear.

49. The greater injury will result to the Board than to the plaintiffs if an injunction is issued.

50. Plaintiffs' claims are moot.

51. Plaintiffs lack standing.

52. Plaintiffs' claims are barred by the doctrine of laches.

53. Plaintiffs' claims have no basis in law or fact.

54. Plaintiffs' claims are abuse of process.

55. Plaintiffs' claims are barred by the Political Subdivision Tort Claims Act.

56. Plaintiffs' claims are barred by the applicable statute of limitations.

57. Plaintiffs' claims are barred by the Pennsylvania Election Code.

58. The Board follows and complies with the Pennsylvania Election Code.

WHEREFORE, defendant, York County Board of Elections, demands judgment in its favor and against plaintiffs, American Civil Liberties Union of Pennsylvania and Elizabeth Kurian, dismissing plaintiffs' complaint and claims with prejudice and awarding defendant costs incurred and any other necessary and appropriate relief.

Dated: November 5, 2024

Respectfully submitted,

/s/ Walter S. Zimolong

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COURT OF COMMON PLEAS OF YORK COUNTY
CIVIL DIVISION

AMERICAN CIVIL LIBERTIES UN-	:	No. 2024-SU-000643
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	:	
Plaintiff	:	
	:	
v.	:	
	:	
YORK COUNTY BOARD OF ELECTIONS	:	
	:	
Defendant	:	

CERTIFICATE OF SERVICE

I certify that on the date indicated below I caused to be served a copy of the foregoing by e-filing as follows:

Stephen Loney, Esquire
ACLU of Pennsylvania
P.O. Box 60173
Philadelphia, PA 19102
sloney@aclupa.org
mschneider@aclupa.org

Dated: November 5, 2024

Respectfully submitted,

/s/ Walter S. Zimolong
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