

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY,  
PENNSYLVANIA

PENNSYLVANIA ALLIANCE  
FOR RETIRED AMERICANS  
605 Gander Circle  
Bridgeville, PA 15017

CIVIL DIVISION

CI-24- **24-03992**

Plaintiff,

v.

LANCASTER COUNTY  
BOARD OF ELECTIONS  
150 N. Queen Street, Suite 117  
Lancaster, PA 17603

Defendant.

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**VERIFIED COMPLAINT FOR  
DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

HTB

6/7/24 \$180.50  
FP24010247  
R# 180819

Plaintiff Pennsylvania Alliance for Retired Americans (“PARA”), by and through its undersigned counsel, brings this Complaint for Declaratory Judgment and Injunctive Relief against Defendant Lancaster County Board of Elections, stating in support thereof as follows:

## INTRODUCTION

1. The right to vote is “fundamental.” *Bergdoll v. Kane*, 731 A.2d 1261, 1268 (Pa. 1999). “The right to vote in any election is a personal and individual right, to be exercised in a free and unimpaired manner, in accordance with our Constitution and laws. The right is pervasive of other basic civil and political rights.... Since the right of suffrage is a fundamental matter, any alleged restriction or infringement of that right strikes at the heart of orderly constitutional government, and must be carefully and meticulously scrutinized.” *Id.* at 1269 (quoting *Moore v. Shanahan*, 486 P.2d 506, 511 (Kan. 1971)). Accordingly, the Pennsylvania Supreme Court has repeatedly held that the Election Code must be liberally construed in favor of the right to vote and to protect voters’ rights to participate in their democracy. *See, e.g., Shambach v. Bickhart*, 845 A.2d 793, 798, 802 (Pa. 2004). Such is the “longstanding and overriding policy in this Commonwealth to protect the elective franchise.” *Petition of Cioppa*, 626 A.2d 146, 148 (Pa. 1993).

2. The Supreme Court of Pennsylvania has determined that the handwritten date requirement for absentee and mail-in ballots’ outer return envelopes is mandatory. *Ball v. Chapman*, 289 A.3d 1, 21–22 (Pa. 2023); 25 P.S. §§ 3146.6(a) (“Voting by absentee electors”), 3150.16(a) (“Voting by mail-in electors”).

Voters must record the date they sign the declaration, and ballots have been rejected for lack of a handwritten date or due to an erroneous date such as a birthdate.

3. In late 2023, in an attempt to address voter confusion and steer voters away from recording their birthdates, the Pennsylvania Department of State redesigned the outer envelope's date field to include blank boxes, in which voters must handwrite the date on which they sign the voter's declaration. *Ball*, 289 A.3d at 22 (noting "date" refers to the day upon which an elector signs the declaration"). Specifically, the return envelopes include blank boxes for the month and day, followed by "20[]" for the year. *See* Exhibit A.<sup>1</sup> The Department of State rolled out the redesigned return envelopes and accompanying instructions for the first time in connection with the April 23, 2024 primary election. *See* Exhibits A and B.

4. Unfortunately, some absentee and mail-in voters are recording the month and day but are omitting the last two digits of the year on the return envelope. However, it is beyond dispute that *all* mail-in and absentee ballots cast in any given election are necessarily completed by voters in the year identified on the ballot and the year in which the specific elections, races, and candidates appear on the ballot—not in a prior or future year.

5. On April 19, 2023, in response to questions from "several county boards of elections" as to how to treat this particular subset of ballots, the Department of

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<sup>1</sup> Pennsylvania Pressroom, *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), accessible at <https://www.media.pa.gov/pages/state-details.aspx?newsid=584>.

State issued non-binding guidance advising all Pennsylvania county boards of elections officials that a voter's failure to write in "24" in the year field "would not justify rejecting a ballot as having an 'incorrect' date or being 'undated'" because an envelope containing the month and day can be "reasonably interpreted to be 'the day upon which [the voter] completed the declaration.'" Exhibit C.<sup>2</sup>

6. Lancaster County's Board of Elections rejected that advisory guidance and rejected ballots that bear the month and day in the handwritten date on the envelope but not the last two digits of the year. Rejecting such ballots is irrational for three reasons. First, the ballots themselves bear the year of the election. Second, the ballots were obviously not cast in any other year besides 2024, as demonstrated by the unique set of races and candidates appearing on the ballot. Third, 2024 is the first year in which a specific redesign of the handwritten date field appeared. Given the indisputable fact that these ballots were issued to voters and cast in 2024, invalidating ballots missing the last two digits of the year violates the basic tenets of statutory construction and equal protection under the Pennsylvania Constitution. The year a voter signs the absentee or mail-in ballot declaration is *always* effectively present on the ballot envelope for the above reasons.

7. Lancaster County Board of Elections' rejection of otherwise properly cast ballots based on a hyper-technical and inconsequential deficiency has resulted in the unlawful disenfranchisement of Pennsylvania voters and threatens to

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<sup>2</sup> Also available at: <https://drive.google.com/file/d/1oDASH7Mdw-Jvx9-oKo7ajKq71hdVOVmy/view>.



disenfranchise countless more in November, absent judicial relief. Pennsylvania law neither requires nor permits such an absurd and draconian result.

8. Rather, Pennsylvania election laws and policies governing absentee and mail-in ballots must avoid disenfranchisement by meaningless technicality. Absentee and mail-in ballots that include handwritten dates with a month and day within the permissible date range for timely return but omit the last two digits of the year nonetheless satisfy the “date” requirement of Sections 3146.6(a) and 3150.16(a) of the Election Code. Any perceived deficiency is illusory because the year is *always* conclusively and irrefutably established on the face of the ballot itself enclosed in the return and secrecy envelopes. Moreover, this refusal to count absentee and mail-in ballots submitted by otherwise qualified voters because of an inconsequential omission violates the Pennsylvania Constitution’s non-discrimination provision, Pa. Const. art. I, § 26, which requires at a bare minimum, a rational basis—and a compelling state interest—to treat two groups of similarly situated voters differently in the exercise of a fundamental right.

9. No rational basis, let alone a compelling interest, is served by rejecting absentee and mail-in voters’ ballots bearing a month and day but not the last two digits of the year, while counting ballots with the month, day, and all digits of the year present. It is indisputable that the returned mail-in and absentee ballots themselves already bear the year of the election, as well as races and candidates unique to each election. *See* 25 P.S. § 2962 (prescribing the form of official primary ballots, including a requirement that the day, month, and year of the election be

included on the ballot itself); 25 P.S. § 2963 (same for general elections). Furthermore, it is a fact that prior to 2024, absentee and mail-in ballot return envelopes did not have “20□□” preprinted in the date field.

10. Accordingly, the Lancaster County Board of Elections knows the year that voters necessarily signed and cast their ballots—regardless of whether the voter filled in the final two digits of the year. Therefore, the Lancaster County Board of Elections lacks a compelling interest or rational basis to deny the right to vote because of such a technical and immaterial omission.

11. Absent declaratory and injunctive relief from this Court, the rejection of ballots for a missing “24” will recur in November, and, as a result, PARA and its members will suffer irreparable harm.

### **JURISDICTION AND VENUE**

12. This Court has jurisdiction over this Complaint pursuant to 42 Pa. C.S.A. § 931(a), which provides that, with limited exceptions, “the courts of common pleas shall have unlimited original jurisdiction of all actions and proceedings....”

13. Venue in this Court is proper because this action arose in Lancaster County, and this is a suit against one or more political subdivisions located within Lancaster County. Pa.R.C.P. 2103.

14. PARA brings this action pursuant to the Declaratory Judgments Act, which empowers this Court “to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations....” 42 Pa. C.S.A. § 7541(a). The Declaratory Judgments Act permits “[a]ny person . . . whose rights,

status, or other legal relations are affected by a statute” to “have determined any question of construction or validity arising under the . . . statute” and to “obtain a declaration of rights, status, or other legal relations thereunder.” 42 Pa. C.S.A. § 7533.

## **PARTIES**

### ***Plaintiff***

15. PARA was established in May 2004 and is incorporated in Pennsylvania as a 501(c)(4) nonprofit social welfare organization.

16. PARA is a grassroots organization with approximately 300,513 current members and 14 local affiliate members across Pennsylvania. It is one of 39 chartered state affiliates of the national Alliance for Retired Americans, a coalition of approximately 4.4 million members nationwide. PARA has members in each of the 67 counties in the state, including 7,569 members in Lancaster County. PARA’s members are retirees from all walks of life, including former teachers, auto workers, state and federal government workers, construction workers, and community leaders.

17. PARA’s mission is to ensure social and economic justice and full civil rights for all citizens. One of PARA’s primary objectives is to enroll and mobilize retired union members and other senior and community activists into a nationwide grassroots movement advocating for a progressive political and social agenda—one that respects work and strengthens families. PARA seeks to fulfill its mission and advance its primary objectives by working on four key issues: fair trade, Medicare, Medicaid, and Social Security. PARA also engages in voter mobilization and education as elections



approach.

18. In pursuit of its mission, PARA devotes substantial time and resources educating its members on issues impacting seniors and working families and engages in the political process to protect and preserve programs vital to the health and economic security of older Americans. In pursuit of these values, PARA works to: (i) build a strong organization in Pennsylvania of seniors with a viable structure, ample resources, and clear objectives compatible with that of the labor movement and community-based groups at local, state, and national levels; (ii) create programs and membership organizations designed to promote a commitment by retired workers and older persons to the concept of lifelong partnership in their unions, and in their community, political, and civic organizations; and (iii) encourage all segments of the senior population to act with unity on legislative, political, and policy issues of importance to retirees and their families to maximize their influence on federal, state, and local governments and on private organizations that affect their interests.

19. PARA also educates its members on issues and candidates in advance of elections including, but not limited to, preparing and sending members (i) weekly updates; (ii) voter guides; and (iii) report cards on elected officials. PARA also educates its members on voting rules and procedures. In a recent election, PARA prepared and distributed vote-by-mail guides to its members. In advance of the November 2024 general election, PARA will add an organizer to work on voter engagement, education, and mobilization.

20. PARA also holds monthly meetings with its members, and PARA's

leaders travel the state presenting on topics and developments central to its mission and of import to its members.

21. PARA represents the interests of its hundreds of thousands of members, including its more than seven thousand members in Lancaster County, in ensuring that every qualified voter, regardless of partisan alignment, can cast a ballot that counts. According to information available to PARA, the overwhelming majority of PARA's members are registered Pennsylvania voters.

22. As a direct result of Defendant's conduct, qualified voters who cast a mail-in or absentee ballot in the April 23, 2024, primary election—but inadvertently failed to write the last two digits of "2024" on their ballot return envelopes—had their votes rejected.

23. As discussed herein, Defendant's decision to reject mail-in and absentee ballots simply because the outer return envelope omits the last two digits of the year in the handwritten date frustrates and threatens PARA's mission and its members' fundamental right to vote and will cause PARA to divert its limited and finite money, time, and resources away from core mission activities.

24. Some number of PARA's members timely vote by mail-in or absentee ballot. Specifically, many of PARA's members in Lancaster County vote by mail-in or absentee ballot, including in the April 2024 primary election, and at least some of them will do so again in the November 2024 general election. Thus, PARA and its members have or are suffering an immediate or threatened injury as a direct result of Defendant's unjustifiable, irrational, and unlawful rejection of absentee and mail-

in ballots due to an immaterial omission in the handwritten year.

25. Additionally, PARA has a small staff and limited resources to engage in outreach to its potentially affected members to educate them on Defendant's unlawful rejection of absentee and mail-in ballots that omit the last two digits of the year. As a direct result of Defendant's conduct, PARA has diverted—and absent injunctive relief, will continue to divert—money, time, and resources away from core mission activities to educate and warn its members, including those in Lancaster County, that their ballots will be rejected if they omit the last two digits of the year from the outer return envelope, even if they record the month and day. For example, on or around May 11, 2024, PARA sent its members an alert concerning the rejection of mail-in and absentee ballots due to the absence of a completed year on the return envelope. On May 23, 2024, PARA held a member meeting, at which it discussed the specific issue impacting absentee and mail-in voters.

26. Absent judicial intervention ordering Defendant to comply with the Department of State's guidance and Pennsylvania law and count ballots missing only the last two digits of "2024," PARA intends to divert additional paid staff time, money, and other resources to educate and warn its members of this pitfall in the absentee and mail-in voting process by, for instance, traveling to Lancaster County to educate its members, creating and sending direct educational literature, conducting mail surveys, conducting phone banking, and giving presentations. But for the unlawful rejection of this particular subset of absentee and mail-in ballots, PARA would not need to divert staff time, funds, and resources to these activities.

***Defendant***

27. The Lancaster County Board of Elections is a local government agency that oversees and has “jurisdiction over the conduct of primaries and elections” in its county. 25 P.S. § 2641(a). The county elections boards’ powers and duties are set forth under the Election Code. *See id.* § 2642. These powers and duties include, but are not limited to, the following: “[t]o receive from district election officers the returns of all primaries and elections, to canvass and compute the same, and to certify” election results to the Secretary of the Commonwealth; and “[t]o publicly announce by posting at its office the results of primaries and elections [and] to provide the results to the Secretary of the Commonwealth.” *Id.* §§ 2642(k), 2642(l).

28. The Lancaster County Board of Elections rejected mail-in and absentee ballots that omitted from the outer return envelope solely the last two digits of the year. Because it has adopted a policy to reject and not count such ballots, absentee and mail-in voters in Lancaster County who make this error in future elections are threatened with disenfranchisement.

29. In the 2020 general election, over 2.6 million Pennsylvania voters voted by mail, including nearly 1 million Pennsylvania voters aged 66 and up.<sup>3</sup>

30. In the November 2020 general election, over 92,000 Lancaster County

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<sup>3</sup> U.S. Elections Project, *Pennsylvania Early Voting Statistics*, available at: <https://electproject.github.io/Early-Vote-2020G/PA.html>.

voters cast their vote by mail-in or absentee ballot.<sup>4</sup>

31. In the April 2024 primary election, over 20,000 Lancaster County voters cast their vote by mail-in or absentee ballot.<sup>5</sup>

## FACTUAL ALLEGATIONS

### *Overview of Pennsylvania's Absentee and Mail-In Voting Procedures*

32. Pennsylvania has long provided absentee ballot options for voters who cannot appear in person at a polling place on Election Day. *See* 25 P.S. §§ 3146.1–3146.9.

33. In 2019, Pennsylvania enacted new mail-in voting provisions, which allow all registered, qualified voters to vote by mail-in ballot without any excuse or reason. Act of Oct. 31, 2019, P.L. 552, No. 77 (“Act 77”), § 8.

34. Since the adoption of universal mail-in voting in Act 77, millions of Pennsylvanians have voted by mail and, upon information and belief, millions will cast their ballot by mail-in or absentee ballot in this fall’s general election.<sup>6</sup>

35. Identical procedures govern how voters apply for, complete, and return

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<sup>4</sup> Pa. Dep’t of State, *Report on the 2020 General Election* at 9 (May 14, 2021) at §4 (“Total Mail-In and Absentee Ballots Cast in 2020 General Election”), *available at*: <https://www.dos.pa.gov/VotingElections/Documents/2020-General-Election-Report.pdf>

<sup>5</sup> Pa. Dep’t of State, *Pennsylvania 2024 Primary Election Ballot Counting status* at 3, *available at*: [https://www.vote.pa.gov/About-Elections/Documents/PADOS\\_ENRSupplementalBoard\\_2024Primary.042424.pdf](https://www.vote.pa.gov/About-Elections/Documents/PADOS_ENRSupplementalBoard_2024Primary.042424.pdf) (last updated Apr. 24, 2024).

<sup>6</sup> For example, in the last presidential election, approximately 2.7 million Pennsylvanians voted by absentee or mail-in ballot. Pa. Dep’t of State, *Report on the 2020 General Election* at 9 (May 14, 2021), *available at*: <https://www.dos.pa.gov/VotingElections/Documents/2020-General-Election-Report.pdf>.

both absentee and mail-in ballots. Under the Pennsylvania Election Code, qualified registered voters may request an absentee ballot, if they fulfill the requirements for voting absentee, and any qualified registered elector may request a mail-in ballot from their county board of elections. Pennsylvania absentee and mail-in ballot applications require the voter to provide their name, address of registration, and proof of identification (*e.g.* Pennsylvania driver's license or PennDOT ID number, last four digits of their Social Security number, or a statutorily permitted form of alternate photo ID).<sup>78</sup> 25 P.S. §§ 2626, 3146.2, 3150.

36. A voter seeking to vote by absentee or mail-in ballot must complete an application and have their identity and qualifications verified. 25 P.S. §§ 3146.2, 3146.2b, 3150.12, 3150.12b. As part of this application process, voters provide all the information necessary for the county board of elections to verify that they are qualified to vote in Pennsylvania—namely, that they are at least 18 years old, have been a U.S. citizen for at least one month, have resided in the election district for at least 30 days, and are not incarcerated on a felony conviction. 25 Pa. C.S.A. § 1301.

37. After the application is submitted, the county board of elections verifies the applicant's proof of identification and cross-references the details provided in their application against the voter's permanent registration card. 25 P.S. §§

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<sup>7</sup> Pennsylvania Department of State, *Voter Identification Requirements for Voters* (Sept. 2022), at 3, *accessible at* <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-09-26-DOS-Voter-ID-Guidance.pdf>.

<sup>8</sup> If a voter does not have a Pennsylvania driver's license, PennDOT ID card, or Social Security number, then the voter must check a box to that effect and enclose a photocopy of an acceptable identification.



3146.2b(c), 3150.12b(a)).<sup>9</sup> After verification, the voter's eligibility to vote by mail is confirmed unless the validity of their eligibility is otherwise challenged before Election Day. 25 P.S. §§ 3146.2b(a), 3150.12b(a)(1)-(3).

38. Once the county board of elections verifies the voter's identity and eligibility, they send a mail-in or absentee ballot package that contains: (1) the ballot; (2) a "secrecy envelope" marked with the words "Official Election Ballot"; and (3) a pre-addressed outer return envelope that contains the voter declaration prescribed by law, which the voter must sign and date. 25 P.S. §§ 3146.4, 3150.14. The packet also contains instructions to voters for marking their ballot and submitting it properly.

39. At "any time" after receiving their mail-in or absentee ballot package, mail-in and absentee voters may mark their ballot, place it in the secrecy envelope, and then place the secrecy envelope in the outer return envelope. 25 P.S. §§ 3146.6(a), 3150.16(a). To complete the ballot, voters must sign and date the declaration printed on the outer return envelope. *Id.*

40. To return their ballot, mail-in and absentee ballot voters may either deliver their completed ballot package by mail or in person to their county board of elections. 25 P.S. §§ 3146.6(a), 3150.16(a).

41. Timely mail-in and absentee ballots that the county boards of elections

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<sup>9</sup> See also Pa. Dep't of State, *Guidance Concerning Examination of Absentee and Mail-In Ballot Return Envelopes* at 2 (Sept. 11, 2020), <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-11-04-DOS-Guidance-Civilian-Absentee-Mail-In-Ballot-Procedures-3.0.pdf>.

have verified consistent with the procedures set forth in 25 P.S. § 3146.8(g)(3), that have not been challenged, and for which there is no proof that the voter died prior to Election Day, are eligible to be counted and tallied in the election results. *Id.* § 3146.8(d), (g)(4).

42. Nonetheless, qualified voters may have their timely mail-in and absentee ballots rejected if they fail to correctly complete their ballot, such as by failing to fill out the outer return envelope's date field with the date the voter signed the declaration. The Supreme Court of Pennsylvania has held that a ballot must be rejected if the date written on the outermost envelope falls outside a period of 50 days before the election for mail-in ballots or 70 days before the election for absentee ballots.<sup>10</sup> *Ball v. Chapman*, 289 A.3d 1, 22–23 (Pa. 2023); see 25 P.S. §§ 3150.12a, 3146.2a, 3146.5.

43. After canvassing, each county board of elections is then required to submit unofficial returns to the Secretary of the Commonwealth by 5:00 p.m. on the Tuesday following the election. 25 P.S. § 3154(f).

44. Each county board of elections also creates a record of which voters requested mail-in and absentee ballots and who returned them by Election Day, as well as how many mail-in and absentee ballots were rejected and not counted during

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<sup>10</sup> By contrast, for 2020, the Supreme Court of Pennsylvania, in the context of a fast-moving post-election lawsuit, concluded 3-1-3 that otherwise valid mail ballots contained in signed but undated return envelopes would be counted in that election. *In re Canvass of Absentee and Mail-In Ballots of Nov. 3, 2020 Gen. Election*, 241 A.3d 1058, 1062 (Pa. 2020).

canvassing.<sup>11</sup> This data is then compiled by the Department of State.

45. For example, in the 2023 primary, approximately 597,000 mail-in and absentee ballots were cast; 17,000 of those ballots were rejected, 8.4 percent of which were rejected for listing the “incorrect date” on the ballot envelope.<sup>12</sup>

46. In the 2024 primary, approximately 692,459 mail-in and absentee ballots were cast in Pennsylvania.<sup>13</sup> 15,928 of those ballots were rejected, 7,918 of which were rejected because of issues with the date, signature, or inner (secrecy) envelope.<sup>14</sup>

### ***The Department of State Rolls Out Redesigned Envelopes for 2024 Elections***

47. In November 2023, the Department of State redesigned the outer return envelope and the instructions for mail-in and absentee voters to use for the 2024 election cycle. The purpose of the redesign was to reduce voter confusion over the

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<sup>11</sup> 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* (Nov. 1, 2022), <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2022-11-03-Guidance-UndatedBallot.pdf>.

<sup>12</sup> Pennsylvania Pressroom, *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), accessible at: <https://www.media.pa.gov/pages/state-details.aspx?newsid=584>

<sup>13</sup> Pa. Dep’t of State, *Pennsylvania 2024 Primary Election Ballot County Status* at 1, available at: [https://www.vote.pa.gov/About-Elections/Documents/PADOS\\_ENRSupplementalBoard\\_2024Primary.042424.pdf](https://www.vote.pa.gov/About-Elections/Documents/PADOS_ENRSupplementalBoard_2024Primary.042424.pdf) (last updated Apr. 24, 2024).

<sup>14</sup> Katie Bernard, *Nearly 16,000 mail ballots were rejected in Pennsylvania in April. That could be a larger problem in November.*, PHILADELPHIA INQUIRER, May 21, 2024, [https://www.inquirer.com/politics/election/pennsylvania-mail-in-ballots-rejected-20240521.html?utm\\_source=newsletter&utm\\_medium=email&utm\\_campaign=news\\_alerts\\_05\\_21\\_2024&int\\_promo=newsletter&utm\\_term=News%20Alert](https://www.inquirer.com/politics/election/pennsylvania-mail-in-ballots-rejected-20240521.html?utm_source=newsletter&utm_medium=email&utm_campaign=news_alerts_05_21_2024&int_promo=newsletter&utm_term=News%20Alert).

signature and date requirements.<sup>15</sup>

48. As part of the redesign, the date field on the return envelope was reformatted so that “20” would be preprinted as the first two digits of the year in the date field. *See Exhibit A.*

49. The Department of State implemented this change to prompt voters to write the date they signed their declaration on the outer return envelope. Prior to this change, it was common for voters to mistakenly write their birthdate in the date field. The mail-in and absentee ballot instructions now specifically state in bold text: “Put today’s date—not your birthdate.” *See Exhibit B.*

***Some Absentee and Mail-In Voters Did Not Handwrite the Last Two Digits of the Year, Resulting in Their Ballots’ Rejection***

50. In response to inquiries from county boards of elections, on April 19, 2024, Deputy Secretary for Elections Jonathan Marks sent an email advising the county boards to count ballots that bear a month and day in the handwritten date field—even if the voter omitted the last two digits of the year—because an envelope containing the month and day can be “reasonably interpreted to be the day upon which [the voter] completed the declaration.” *See Exhibit C.*

51. In connection with the April 23 primary, county boards of elections discovered a number of voters statewide provided the month and day with their

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<sup>15</sup> Kim Lyons, *Pennsylvania redesigns its mail-in ballots for the 2024 election*, PENNSYLVANIA CAPITAL-STAR, Nov. 29, 2023, <https://penncapital-star.com/voting/pennsylvania-redesigns-its-mail-in-ballots-for-the-2024-election/>.

signed declaration but failed to fill in the last two digits of the year.<sup>16</sup> For example, the Allegheny County Board of Elections has stated that ballots with dating errors comprised the majority of the county’s mail-in and absentee ballots at risk of rejection, and the specific error of failing to fill in the last two digits of the year comprised the “overwhelming” majority of dating errors.<sup>17</sup>

52. Ultimately, the county boards of elections for Allegheny, Berks, Center, Delaware, Luzerne, Montgomery, and Philadelphia followed the Department of State’s guidance and counted mail-in and absentee ballots that omitted the last two digits of the year.<sup>18</sup>

53. On information and belief, against the advisory guidance sent by the Department of State, some county boards—including, but not necessarily limited to,

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<sup>16</sup> Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, VOTEBEAT, April 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*; Mark Scolforo, *Pennsylvania redesigned its mail-in ballot envelopes amid litigation. Some voters still tripped up*, ASSOCIATED PRESS, Apr. 24, 2024, <https://whyy.org/articles/pennsylvania-redesigned-mail-in-ballot-envelope-some-voters-tripped-up/>.

Beaver, Erie, Fayette, Franklin, Indiana,<sup>19</sup> Lancaster,<sup>20</sup> Lehigh, Lycoming,<sup>21</sup> Northumberland, Schuylkill, Snyder,<sup>22</sup> Washington, and York<sup>23</sup>—rejected mail-in and absentee ballots due to the omission of the last two digits of the year.

54. In connection with the April 2024 primary election, Lancaster County Election Chair, Ray D’Agostino, said 300 mail-in and absentee ballots were set aside due to technical errors, including so-called incorrect dates.<sup>24</sup> Mr. D’Agostino confirmed that it was not following the Department of State’s guidance and was instead rejecting mail-in and absentee ballots bearing a month and day but omitting

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<sup>19</sup> Patrick Cloonan, *Indiana County Board of Elections sets aside 103 mailed-in ballots after primary with 31% turnout*, INDIANA GAZETTE, Apr. 25, 2024, [https://www.indianagazette.com/news/indiana-county-board-of-elections-sets-aside-103-mailed-in-ballots-after-primary-with-31/article\\_022f6f3d-23db-5f6a-a106-45b8b344cd40.html](https://www.indianagazette.com/news/indiana-county-board-of-elections-sets-aside-103-mailed-in-ballots-after-primary-with-31/article_022f6f3d-23db-5f6a-a106-45b8b344cd40.html).

<sup>20</sup> Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, VOTEBEAT, April 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>; see also Barbara Barr, *Lancaster County elections officials set aside hundreds of mail-in ballots with mistakes*, WGAL, Apr. 24, 2024, <https://www.wgal.com/article/lancaster-county-hundreds-of-mail-in-ballots-set-aside-due-to-mistakes/60595723>.

<sup>21</sup> Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, VOTEBEAT, April 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>; see also Mark Scolforo, *Pennsylvania redesigned its mail-in ballot envelopes amid litigation. Some voters still tripped up*, ASSOCIATED PRESS, Apr. 24, 2024, <https://whyy.org/articles/pennsylvania-redesigned-mail-in-ballot-envelope-some-voters-tripped-up/>.

<sup>22</sup> Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, VOTEBEAT, April 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>.

<sup>23</sup> *Id.*

<sup>24</sup> Barbara Barr, *Lancaster County elections officials set aside hundreds of mail-in ballots with mistakes*, WGAL, Apr. 24, 2024, <https://www.wgal.com/article/lancaster-county-hundreds-of-mail-in-ballots-set-aside-due-to-mistakes/60595723>.



the last two digits of the year.<sup>25</sup> Lancaster County’s Board of Elections also informed Votebeat and Spotlight PA that it was rejecting and not counting mail-in and absentee ballots with this specific, partial omission.<sup>26</sup>

55. Similarly, Lycoming County invalidated mail-in and absentee ballots because the voter did not write the last two digits of the year.<sup>27</sup> The Lycoming County Elections Director, Forrest Lehman, acknowledged that counties were treating such ballots differently: “I’m sure there may be some counties out there that are choosing to count these, but there are also a lot that aren’t. And there’s simply no denying that the design of these envelopes has created a new way to record a date that instantly became a huge percentage of all the incorrect dates.”<sup>28</sup>

56. Likewise, in Lehigh County, according to Tim Benyo, the chief clerk to the Board of Elections, roughly 40 percent of mail-in and absentee ballots rejected for a “date problem” were instances where the voter did not fill in the year.<sup>29</sup>

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<sup>25</sup> *Id.*

<sup>26</sup> Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, VOTEBEAT, April 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>.

<sup>27</sup> Mark Scolforo, *Pennsylvania redesigned its mail-in ballot envelopes amid litigation. Some voters still tripped up*, ASSOCIATED PRESS, Apr. 24, 2024, <https://whyy.org/articles/pennsylvania-redesigned-mail-in-ballot-envelope-some-voters-tripped-up/>.

<sup>28</sup> Mark Scolforo, *Pennsylvania redesigned its mail-in ballot envelopes amid litigation. Some voters still tripped up*, ASSOCIATED PRESS, Apr. 24, 2024, <https://whyy.org/articles/pennsylvania-redesigned-mail-in-ballot-envelope-some-voters-tripped-up/>.

<sup>29</sup> Ford Turner, *Pa. election directors like new mail ballot materials, even as some voters filled them out improperly*, PITTSBURGH POST-GAZETTE, May 23, 2024, <https://www.post-gazette.com/news/politics-state/2024/05/23/pennsylvania-election-schmidt-shapiro-ballot-primary/stories/202405220084>.

57. In Beaver County, according to Colin Sisk, the Director of Elections, “many” of the ballots that were rejected for having a wrong date were instances in which the last two digits of the year were not filled in.<sup>30</sup>

58. In Washington County, approximately half of the defective absentee and mail-in ballots were solely missing the last two digits of the year.<sup>31</sup>

59. As another example, in Snyder County, approximately half of the ballots rejected for dating errors were properly dated except for omitting the last two digits of the year.<sup>32</sup>

60. In contrast, the Luzerne County Board of Elections voted to count mail ballots which included a handwritten month and day, but not the year. Exhibit D, Findings of Fact, ¶ 7.<sup>33</sup> In the legal challenge that immediately followed, a panel of three judges on the Court of Common Pleas for Luzerne County affirmed the Board of Elections’ decision, holding “[m]ail in ballots which contained handwritten dates which were within the permissible range and provided the month, date and signature but excluded the year constitute valid votes.” *Id.*, Conclusions of Law, ¶ 3. The court

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<sup>30</sup> *Id.*

<sup>31</sup> Mike Jones, *Washington County won’t allow voters to ‘cure’ defective mail-in ballots*, OBSERVER-REPORTER, Apr. 12, 2024, <https://www.observer-reporter.com/news/local-news/2024/apr/12/washington-county-wont-allow-voters-to-cure-defective-mail-in-ballots/>.

<sup>32</sup> Carter Walker, *Pennsylvania’s redesigned mail ballot envelopes trip up many voters who left date incomplete*, VOTEBEAT, April 23, 2024, <https://www.votebeat.org/pennsylvania/2024/04/23/primary-mail-ballot-rejections-incomplete-year-election-2024/>.

<sup>33</sup> See Borys Krawczeniuk, *Luzerne County Court judges will decide on six mail-in ballots that could alter state House race outcome*, WVIA NEWS, May 6, 2024, <https://www.wvia.org/news/local/2024-05-06/050624luz117hearing>.

further stated that “[t]o do otherwise would disenfranchise these Pennsylvania voters.” *Id.* ¶ 4.

61. Likewise, the Centre County Board of Elections voted to count mail-in ballots missing the last two digits of the year.<sup>34</sup> The Centre County Board of Elections’ decision to count these ballots was subject to a lawsuit filed in the Court of Common Pleas of Centre County. On May 24, 2024, the court dismissed the lawsuit.<sup>35</sup>

62. PARA has 7,569 members in Lancaster County, many of whom vote by mail-in or absentee ballot.

63. PARA and its members have a substantial, direct, and immediate interest in ensuring that every qualified voter in their membership can cast a ballot that counts. Furthermore, because PARA’s members rely heavily on mail-in and absentee voting, PARA and its members have an actual and heightened direct interest in ensuring that its members’ lawfully cast mail-in and absentee ballots count.

64. Further, as a direct result of Defendant’s conduct, PARA has been forced to divert money, time, and resources educating and warning its members regarding this issue and intends to divert additional money, time, and resources on an ongoing basis, absent judicial relief preventing the rejection of absentee and mail-in ballots

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<sup>34</sup> Gary Sinderson, *Validity of nearly 100 mail-in ballots questioned in Centre County post-primary election*, WJAC, May 6, 2024, <https://www.wjactv.com/newsletter-daily/validity-nearly-100-mail-in-ballots-questioned-centre-county-post-primary-election-pennsylvania-voting>.

<sup>35</sup> The Centre County Court’s Opinion and Order dismissing Case No. 2024-CV-1220-CI is available at: <https://www.democracymocket.com/wp-content/uploads/2024/05/2024-05-24-Order.pdf>.

for missing the last two digits in the year.

65. Moreover, PARA's core mission includes ensuring full civil rights for all citizens and engaging its members on its four key issues. To that end, PARA educates and mobilizes its members to vote in federal, state, and local elections. Absent judicial relief, Defendant's unlawful rejection of absentee and mail-in ballots that are missing the last two digits in the year will continue to frustrate PARA's core mission. Further, but for the unlawful rejection of these absentee and mail-in ballots, PARA would not need to divert its limited, finite resources to engage in direct outreach activities to educate its members on this specific threat facing mail-in and absentee voters.

66. Accordingly, PARA's members in Lancaster County are immediately threatened with the injury of disenfranchisement due to an insignificant technicality as a direct result of Defendant's unreasonable, irrational interpretation of the handwritten date requirement. Defendant's application of this technical requirement is contrary to the self-evident fact that all ballots submitted this year were issued to voters and cast in 2024. Indeed, 2024 is the first year in which the "20" in the year is pre-printed on the ballot. Furthermore, in future elections and years, absent a permanent injunction, Lancaster County will continue to reject ballots for missing the last two digits of the year, even where the year is plainly at the top of the ballot and the races and candidates appearing on the ballot are unique to the year.

**COUNT I**  
**DECLARATORY JUDGMENT**  
**VIOLATION OF 25 P.S. §§ 3146.6(a), 3150.16(a)**

67. Plaintiff realleges and incorporates by reference Paragraphs 1 through 66, above, as if fully set forth herein.

68. 25 P.S. §§ 3146.6(a) and 3150.16(a) state, in relevant part that “[t]he elector shall then fill out, date and sign the declaration printed on” the outer return mail-in or absentee ballot envelope.

69. It is indisputable that ballots returned in any given year *always* bear the date of the election (including the year) at the top of the ballots themselves. 25 P.S. § 2962 (prescribing the form of official primary ballots, including a requirement that the day, month, and year of the election be included on the ballot); 25 P.S. § 2963 (same for general elections). For instance, mail-in and absentee ballots cast and returned in the upcoming November general election will bear the date of the election (November 5, 2024) at the top of the ballot. This basic fact underscores that the last two digits of the year need not be written by the voter for the date to be effectively complete and the requirement satisfied. Along similar lines, the specific races and candidates on any absentee or mail-in ballot are unique to the particular election day. Ballots that contain the preprinted “20” but omit the last two digits of the year and ballots with “2024” filled in are equally identifiable as ballots signed and cast this year.

70. Additionally, it is also indisputable that mail-in and absentee ballots returned in the April 2024 primary election with an outer return envelope bearing “20[]” were issued to voters and cast in 2024 because only ballot packages from 2024 have the first two digits of the year preprinted on the outer envelope. Therefore, the presence of the preprinted “20” in the date field does effectively identify the year that a voter filled out, signed, and dated their ballot in 2024. Ballots that contain the

preprinted “20” but omit the last two digits of the year and ballots with “2024” completely filled in are equally identifiable as ballots signed and cast this year.

71. Therefore, to satisfy the statutory “date” requirement for mail-in and absentee ballots reflected in 25 P.S. §§ 3146.6(a) and 3150.16(a), voters need only handwrite the month and day on the outer return envelope.

72. Pennsylvania statutes cannot be construed so irrationally and severely as to place greater value on an immaterial technical requirement than the fundamental right to vote. To do otherwise would needlessly disenfranchise these voters in Lancaster County.

73. Declaratory relief by this Court will terminate some or all of the existing controversy between the parties, obviating the need to adjudicate the constitutional claim pled in Count II.

74. Plaintiff respectfully requests that the Court enter judgment declaring that Defendant’s decision to reject mail-in and absentee ballots simply because a voter failed to fill in the last two digits of the year on the outer return envelope violates 25 P.S. §§ 3146.6(a) and 3150.16(a).

**COUNT II**  
**DECLARATORY JUDGMENT**  
**VIOLATION OF PA. CONST. ART. I, § 26**  
**(NON-DISCRIMINATION)**

75. Plaintiff realleges and incorporates by reference Paragraphs 1 through 74, above, as if fully set forth herein.

76. Rejecting a ballot simply because a voter failed to fill in the last two digits of the year on the outer return envelope—and, on the other hand, counting a



ballot because a voter filled in the last two digits of the year—violates the constitutional right to equal protection guaranteed by the non-discrimination provision of the Pennsylvania Constitution. Pa. Const. art. I, § 26.

77. Pennsylvania’s non-discrimination provision guarantees that “[n]either the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.” Pa. Const. art. I, § 26.

78. Indeed, the non-discrimination provision offers Pennsylvanians even greater protections than those created by the Fourteenth Amendment of the United States Constitution. *Allegheny Reprod. Health Ctr. v. Pennsylvania Dep't of Hum. Servs.*, 309 A.3d 808, 945 (Pa. 2024) (“Section 26 of [Pennsylvania’s] Charter affords broader protections than the federal Equal Protection Clause.”).

79. Under Article I, Section 26, the court applies strict scrutiny when a government action discriminates against people in the exercise of a fundamental right. *Id.* at 855, 918 (citing cases). Section 26 “commands that the government will not ‘discriminate against any person in the exercise of any civil right.’ ... If the [implicated] right is one that is fundamental, then only evidence of a compelling government interest and a finding that there are no less intrusive means to advance the interest will save the government action.” *Id.* at 938.

80. If a government action does not implicate the exercise of a fundamental right or a suspect class, the court applies the rational basis test. *Id.* at 855, 918 (“[C]lassifications implicating neither suspect classes nor fundamental rights are

reviewed under a rational basis test.”) (citing cases). Under the rational basis standard, the government action “need only be directed at the accomplishment of a legitimate government interest, and to do so in a manner which is not arbitrary or unreasonable.” *Id.* at 857 (internal quotation omitted).

81. Voting is a fundamental right. *Banfield v. Cortes*, 110 A.3d 155, 176 (Pa. 2015) (“[T]he right to vote is fundamental and ‘pervasive of other basic civil and political rights[.]’”); *see also Perles v. Cnty. Return Bd. of Northumberland Cnty.*, 202 A.2d 538, 540 (Pa. 1964) (“The power to throw out a ballot for minor irregularities . . . must be exercised very sparingly . . . except for compelling reasons.”).

82. When a qualified voter’s mail-in or absentee ballot is rejected, that voter is denied their fundamental right to vote. The practice of rejecting mail-in and absentee ballots because of a voter’s omission of the year’s last two digits—while counting mail-in and absentee ballots bearing the month, day, and all digits of the year—cannot be justified and upheld under either strict scrutiny or rational basis review.

83. The Defendant has no compelling state interest for rejecting ballots that are properly dated except for the omission of the last two digits of the year. The year in which a mail-in or absentee ballot is issued and cast is beyond dispute.

84. Ballots returned in any given year always bear the date of the election (including the year) at the top of the ballots themselves. *See* 25 P.S. § 2962 (prescribing the form of official primary ballots, including a requirement that the day, month, and year of the election be included on the ballot); 25 P.S. § 2963 (same for

general elections). For instance, mail-in and absentee ballots cast and returned in the November general election will bear the date of the election (November 5, 2024) at the top of the ballot. This basic fact underscores that the last two digits of the year need not be present for the date effectively to be complete, and the requirement satisfied.

85. Similarly, the combination of particular races and candidates appearing on any absentee or mail-in ballot are specific and unique to the particular election day and, therefore, the specific year identified on the ballot. In every election, county boards of elections—including Defendant—can equally identify the date on which ballots were cast regardless of whether the outer return envelope contains the last two digits of the year.

86. Additionally, it is also indisputable that mail-in and absentee ballots returned this year with an outer return envelope bearing “20[]” were cast in 2024. Mail-in and absentee ballots returned with an outer envelope preprinted with “20[]” were issued to voters and cast in 2024 because only ballot packages from 2024 have the first two digits of the year preprinted on the outer return envelope. Thus, the presence of the preprinted “20” in the date field clearly identifies for county boards that a voter filled out, signed, and dated the ballot in 2024.

87. Given these reasons, both classifications of ballots (*i.e.*, those that omit and those that include the last two digits of the year in the handwritten date) equally satisfy the statutory date requirement for mail-in and absentee ballots reflected in 25 P.S. §§ 3146.6(a) and 3150.16(a). Ballots with this mere technical omission and

ballots with all digits of the year filled in are equally identifiable as ballots from a particular year.

88. Accordingly, the county boards of elections—including Defendant—do not have a compelling interest in rejecting ballots that merely lack the year’s last two digits. Given the facts above, there is no compelling interest that can justify treating such ballots differently from ballots that bear the month, day, and all digits of the year in the handwritten date field.

89. But rejecting absentee and mail-in ballots for this specific reason is unconstitutional under any level of scrutiny. County boards of elections—including Defendant—have no rational basis for rejecting ballots that omit the last two digits of the year on the outer return envelope. Rejecting such ballots for this mere technical omission is arbitrary and unreasonable. Once again, ballots with this mere technical omission and ballots with all digits of the year filled in are equally identifiable as ballots from a particular year.

90. This disparate treatment of similarly situated voters who only differ in that one group has failed to write the last two digits of a year compels judicial action to ensure that qualified Pennsylvania voters are not denied the right to vote absent a rational basis, let alone a compelling interest, in violation of the Pennsylvania Constitution.

91. Plaintiff respectfully requests that the Court enter judgment declaring that Defendant’s decision to reject mail-in and absentee ballots simply because a voter failed to fill in the last two digits of the year on the outer return envelope

violates Article I, § 26 of the Pennsylvania Constitution.

**COUNT III**  
**EQUITABLE ACTION SEEKING INJUNCTIVE RELIEF**

92. Plaintiff realleges and incorporates by reference Paragraphs 1 through 91, above, as if fully set forth herein.

93. Plaintiff seeks injunctive relief enjoining the Lancaster County Board of Elections from rejecting mail-in and absentee ballots simply because a voter failed to fill in the last two digits of the year on the outer return envelope.

94. It is indisputable that ballots returned in any given year always bear the date of the election (including the year) at the top of the ballots themselves. *See* 25 P.S. § 2962 (prescribing the form of official primary ballots, including a requirement that the day, month, and year of the election be included on the ballot); 25 P.S. § 2963 (same for ballots in general elections). This basic fact underscores that the last two digits of the year need not be present for the date to be effectively complete, and the requirement satisfied. Along similar lines, the particular races and candidates on any absentee or mail-in ballot are specific and unique to particular election days. Furthermore, 2024 is the first year in which the “20” in the year is pre-printed on the ballot. County boards of elections—including Defendant—can equally identify the date on which ballots were cast regardless of whether the outer return envelope contains the last two digits of the year.

95. Thus, Plaintiff’s right to relief is clear because mail-in and absentee ballots that contain handwritten dates within the permissible date range for timely mail-in and absentee ballots and provide the month, day, and signature but omit the

last two digits of the year in the preprinted “20[]” field constitute valid votes “dated” as required by Pennsylvania law.

96. Further, rejecting a ballot simply because a voter failed to fill in the last two digits of the year on the outer return envelope—and, on the other hand, counting a ballot because a voter filled in the last two digits of the year—violates the constitutional right to equal protection guaranteed by the non-discrimination provision of the Pennsylvania Constitution. Pa. Const. art. I, § 26. The year a ballot was cast is equally identifiable irrespective of whether the voter omitted or included the last two digits of the year in the handwritten date. Thus, Defendant’s exclusion of ballots that omit the last two digits of the year cannot be constitutionally upheld under either strict scrutiny or rational basis review, and both classifications of ballots (*i.e.*, those that omit and those that include the last two digits of the year in the handwritten date) equally satisfy the statutory date requirement for mail-in and absentee ballots reflected in 25 P.S. §§ 3146.6(a) and 3150.16(a).

97. Absent injunctive relief, Plaintiff and its members will be irreparably harmed because they will be prevented from exercising their fundamental right to vote.

98. Defendant’s continuing violation of the Election Code and the Pennsylvania Constitution cannot be compensated by damages.

99. Greater injury will result to Plaintiff and its members if the requested injunction is denied, than will be suffered by Defendant if the requested injunctive relief is granted.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Declare that a voter's recording of a month and day on a mail-in or absentee ballot's outer return envelope constitutes a "date" within the meaning of 25 P.S. §§ 3146.6(a) and 3150.16(a), notwithstanding the voter's omission of the last two digits of the year;

B. Declare that Defendant's rejection of otherwise valid mail-in and absentee ballots due to a voter's failure to complete the last two digits of the year on the outer return envelope violates the Non-Discrimination Clause of Pa. Const. art. I, § 26;

C. Preliminarily and permanently enjoin Defendant from rejecting otherwise valid mail-in and absentee ballots solely due to a voter's failure to fill in the last two digits of the year on the outer return envelope;

D. Retain jurisdiction over this dispute to ensure Defendant complies with its obligations under Pennsylvania statutes and the Pennsylvania Constitution; and

E. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: June 7, 2024

By: *s/ Jonathan L. Cochran*  
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Kali Schellenberg, Esq. (PA ID 321435)  
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*\*Pro Hac Vice applications forthcoming*


*Counsel for Plaintiff Pennsylvania Alliance  
for Retired Americans*

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**VERIFICATION**

I, Michael Crossey, individually and on behalf of the Pennsylvania Alliance for Retired Americans, hereby state, subject to the penalties of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities, that the facts set forth in the foregoing *Complaint for Declaratory Judgment and Injunctive Relief* are true and correct to the best of my knowledge, information, and belief.

Dated: June 6, 2024

  
\_\_\_\_\_  
Michael Crossey, President, Pennsylvania Alliance  
for Retired Americans

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## Exhibit A

### Before you complete this side!

1. Seal your ballot in the yellow envelope that says "Official Election Ballot."
2. Then seal that envelope inside this envelope.

### Voter's declaration

I am qualified to vote the enclosed ballot and I have not already voted in this election.

If I am unable to sign without help because I have an illness or physical disability, I have made my mark or somebody has helped me make my mark.

Sign and date



Sign or mark here (REQUIRED)					
X					
Today's date here (REQUIRED)					
			2	0	
Month	Day	Year			

### For your witness only

If you have an illness or physical disability that prevents you from signing, have your witness complete this section.

Witness, sign here

\_\_\_\_\_

Witness address

Street \_\_\_\_\_

City \_\_\_\_\_ Zip \_\_\_\_\_

For county election use only

## Exhibit B



# Instructions – How to Pack Your Ballot

For your ballot to count, you must follow all of these steps.



### 1. Mark your ballot in **pencil, or black or blue ink**, and put it in the the envelope that says **“Official Election Ballot.”**

Put your ballot in the yellow envelope that says “Official Election Ballot” and seal it. This keeps your ballot secret.

**Do not** write your name, sign, or put any other type of mark on this envelope.



### 2. Put the yellow envelope that says **“Official Election Ballot”** in the return envelope with **purple coloring**.

Put the envelope that says “Official Election Ballot” (with your ballot in it) in the return envelope with the **purple** coloring.



### 3. Sign inside the box and put today's date on the return envelope.

- Sign your name inside the box.
- Put today's date—not your birthdate.

If you have an illness or disability that prevents you from signing, make a mark inside the box and have your witness complete the witness section.



### 4. Return your ballot right away.

- By mail – Put a stamp on it. / No postage necessary.
- In person – Bring your ballot to your county board of elections, or another official drop-off location. Check the county website for times and locations.

**Deadline** – Your ballot must be received by your county board of elections by 8 p.m. on **[INSERT ELECTION DATE]**.

Track your ballot at [Vote.pa.gov/MailBallotStatus](http://Vote.pa.gov/MailBallotStatus)

- ✓ If you deliver your ballot in person, you must deliver it yourself. If you have a disability that prevents you from delivering your ballot yourself, contact us at the phone number below.
- ✓ If you lose your ballot or make a mistake, contact us at the phone number below.
- ✓ If you receive an absentee or mail-in ballot and return your voted ballot by the deadline, you cannot vote at your polling place on election day. If you are unable to return your voted absentee or mail-in ballot by the deadline, you can only vote a provisional ballot at your polling place on election day. But if you bring your absentee or mail-in ballot and the return envelope with you to your polling place, you can give up your mail ballot and vote in-person.

## EXHIBIT C

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

Sent on behalf of Deputy Secretary Marks

Dear County Election Official:

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

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

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

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

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

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

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

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

IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY,  
PENNSYLVANIA

IN RE: SIX BALLOTS IN THE 2024  
GENERAL PRIMARY ELECTION

:

:

No. 04970 of 2024

PROTHONOTARY LUZERNE COUNTY  
FILED MAY 24 PM 2:13

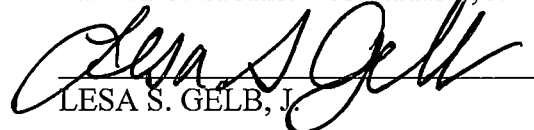
ORDER

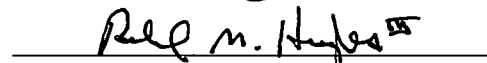
AND NOW, this 8<sup>th</sup> day of May, 2024, following a hearing in the above captioned matter, it is hereby ORDERED as follows:

1. The Petition for Review seeking to set aside the six (6) mail in ballots and not compute those ballots in the final election results is **DENIED**.

BY THE COURT:

  
TINA POLACHEK GARTLEY, J.

  
LESA S. GELB, J.

  
RICHARD M. HUGHES, III, J.

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**IN THE COURT OF COMMON PLEAS OF LUZERNE COUNTY,  
PENNSYLVANIA**

IN RE: SIX BALLOTS IN THE 2024 :  
GENERAL PRIMARY ELECTION :  
: No. 04970 of 2024

**FINDINGS OF FACT**

1. Pennsylvania held its 2024 General Primary Election on Tuesday, April 23, 2024.
2. The Luzerne County Board of Elections held a special meeting for the adjudication of the April 2024 General Primary Election commencing on Friday, April 26, 2024.
3. On Thursday, May 2, 2024, James Walsh filed an appeal from the decision of the Luzerne County Board of Elections to canvass and compute six (6) mail in ballots in the 2024 General Primary Election.
4. On May 6, 2024, a hearing was held before a panel of Luzerne County Judges including the Honorable Tina Polachek Gartley, the Honorable Lesa Gelb and the Honorable Richard M. Hughes, III.
5. During the hearing, counsel for the Luzerne County Election Board made an oral motion to dismiss the petition as being untimely.
6. Denise Williams, chair of the Luzerne County Election Board, testified very credibly at the hearing.
7. One hundred and eleven (111) mail in ballots were pulled for inspection by the Luzerne County Election Board as the ballots contained a date which included handwritten month and day but not the year. The six (6) mail in ballots which are the subject of this appeal were included in the one hundred and eleven (111) ballots inspected by the Luzerne County Election Board.



8. The Election Board reviewed each of the one hundred and eleven (111) mail in ballots and upon motion voted four (4) to one (1) to accept the ballots as properly dated.
9. The Board then reviewed the one hundred and eleven (111) mail in ballots for any irregularities and, finding none, concluded that the ballots should be counted.
10. The ballots were then scanned in and counted as votes.
11. Emily Cook, acting Director for the Luzerne County Bureau of Elections, testified at the hearing very credibly.
12. Emily Cook was present at the Election Board meeting held on Friday, April 26, 2024 and confirmed that it was the decision of the Board to accept and count the mail in ballots which contained a handwritten date within the permissible range from April 1, 2024 through April 23, 2024 even though the ballots contained a handwritten date containing the month and day without the year.
13. On April 19, 2024, by email, Emily Cook received guidance from the Deputy Secretary for Elections and Commissions indicating that a ballot where a voter entered the month and day but did not write the year should not be rejected.
14. The envelopes on which voters placed their signatures and dates were specifically produced for the 2024 General Primary Election.

## **CONCLUSIONS OF LAW**

1. This Court has jurisdiction to hear the Petition for Review of James Walsh.
2. The Election Board of Luzerne County made a decision, by vote, to accept the one hundred and eleven (111) mail in ballots which contained a handwritten date within the permissible range of April 1, 2024 through April 23, 2024 which contained a date for the month and day but not the year.

3. Mail in ballots which contained handwritten dates which were within the permissible range and provided the month, date and signature but excluded the year constitute valid votes.
4. The Luzerne County Election Board properly accepted the one hundred and eleven (111) mail in ballots. To do otherwise would disenfranchise these Pennsylvania voters.

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PROTHONOTARY  
CIVIL COVER SHEET

PLEASE LIST NAMES AND ADDRESSES OF ADDITIONAL PARTIES ON A SEPARATE SHEET.

ALL PARTY INFORMATION IS REQUIRED INCLUDING ZIP CODES. ALL PARTY INFORMATION MUST MATCH THE PLEADING. PLEASE DO NOT STAPLE THE COVER SHEET TO THE PLEADING. IF AN EVENT NEEDS TO BE SCHEDULED, A CAO SCHEDULING COVER SHEET MUST ALSO BE ATTACHED.

TYPE OF ACTION: DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

For Prothonotary Use Only:

DOCKET No: CI -

**24-03992**

**PARTY INFORMATION**

PLAINTIFF'S NAME: PENNSYLVANIA ALLIANCE FOR RETIRED AMERIC DEFENDANT'S NAME: LANCASTER COUNTY BOARD OF ELECTIONS

ADDRESS: 605 Gander Circle  
*If confidential, use 2<sup>nd</sup> sheet* Bridgeville, PA 15017

ADDRESS: 150 N. Queen Street, Suite 117  
Lancaster, PA 17603

MUNICIPALITY: South Fayette Twp.

MUNICIPALITY: Lancaster City

TWP/BOROUGH: \_\_\_\_\_

TWP/BOROUGH: \_\_\_\_\_

DOB: \_\_\_\_\_ TELEPHONE #: (412) 983-8387  
*(mm/dd/yyyy) (#####)*

DOB: \_\_\_\_\_ TELEPHONE #: (717) 299-8293  
*(mm/dd/yyyy) (#####)*

**FILING ATTORNEY / FILING PARTY INFORMATION**

FIRM/OFFICE: LeVan Stapleton Segal Cochran LLC

FILING ATTORNEY/PARTY: Jonathan L. Cochran

AOPC: (Attorney ID) #: 314382

ADDRESS: 1760 Market Street

CITY: Philadelphia

STATE: PA

ZIP CODE: 19103

TELEPHONE #: (215) 561-1500

EMAIL: jcochran@levanstapleton.com

*(#####)*

**TAX LIEN INFORMATION**

MUNICIPALITY: \_\_\_\_\_

MAP REFERENCE: \_\_\_\_\_

DEED BOOK: \_\_\_\_\_

DEED PAGE: \_\_\_\_\_

DEED DATE: \_\_\_\_\_

SALE PRICE: \_\_\_\_\_

TAX YEAR: \_\_\_\_\_

TAX LIEN AMOUNT: \_\_\_\_\_

PROPERTY DESCRIPTION: \_\_\_\_\_

**PFA/SVPO/PFI INFORMATION**

HEARING DATE: \_\_\_\_\_

SOCIAL SECURITY #: (Defendant - Last 4 digits) \_\_\_\_\_

POLICE DEPARTMENT: \_\_\_\_\_

PREVIOUS PETITIONS: YES

NO

If 'YES', File Date: \_\_\_\_\_



# Supreme Court of Pennsylvania

## Court of Common Pleas Civil Cover Sheet

Lancaster

County

Lancaster County Prothonotary E-Filed - 7 Jun 2024 02:22:55 PM

Case Number: CI-24-03992

*For Prothonotary Use Only:*

Docket No:

**24-03992**

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

### Commencement of Action:

- Complaint
- Writ of Summons
- Petition
- Transfer from Another Jurisdiction
- Declaration of Taking

Lead Plaintiff's Name:  
Pennsylvania Alliance for Retired Americans

Lead Defendant's Name:  
Lancaster County Board of Elections

Are money damages requested?  Yes  No

Dollar Amount Requested:  within arbitration limits  
(check one)  outside arbitration limits

Is this a *Class Action Suit*?  Yes  No

Is this an *MDJ Appeal*?  Yes  No

Name of Plaintiff/Appellant's Attorney: Jonathan L. Cochran

Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

**Nature of the Case:** Place an "X" to the left of the **ONE** case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

### TORT (do not include Mass Tort)

- Intentional
- Malicious Prosecution
- Motor Vehicle
- Nuisance
- Premises Liability
- Product Liability (does not include mass tort)
- Slander/Libel/ Defamation
- Other:

### CONTRACT (do not include Judgments)

- Buyer Plaintiff
- Debt Collection: Credit Card
- Debt Collection: Other
- Employment Dispute: Discrimination
- Employment Dispute: Other
- Other:

### CIVIL APPEALS

- Administrative Agencies
- Board of Assessment
  - Board of Elections
  - Dept. of Transportation
  - Statutory Appeal: Other
  - Zoning Board
  - Other:

### MASS TORT

- Asbestos
- Tobacco
- Toxic Tort - DES
- Toxic Tort - Implant
- Toxic Waste
- Other:

### REAL PROPERTY

- Ejectment
- Eminent Domain/Condemnation
- Ground Rent
- Landlord/Tenant Dispute
- Mortgage Foreclosure: Residential
- Mortgage Foreclosure: Commercial
- Partition
- Quiet Title
- Other:

### MISCELLANEOUS

- Common Law/Statutory Arbitration
- Declaratory Judgment
- Mandamus
- Non-Domestic Relations Restraining Order
- Quo Warranto
- Replevin
- Other:

### PROFESSIONAL LIABILITY

- Dental
- Legal
- Medical
- Other Professional:

SECTION B