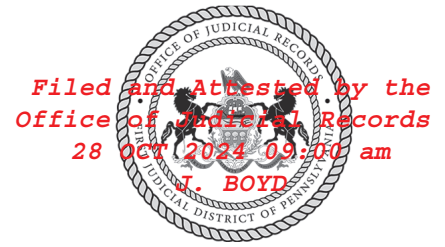


HANGLEY ARONCHICK SEGAL
 PUDLIN & SCHILLER
 By: John S. Summers (Atty. I.D. No. 41854)
 jsummers@hangle.com
 Andrew M. Erdlen (Atty. I.D. No. 320260)
 aerdlen@hangle.com
 One Logan Square, 27th Floor
 Philadelphia, PA 19103-6933
 (215) 568-6200
 (215) 568-0300 (facsimile)



Attorneys for Plaintiff

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
 FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
 CIVIL TRIAL DIVISION**

	:	OCTOBER TERM, 2024
COMMONWEALTH OF PENNSYLVANIA,	:	
acting by and through Philadelphia District Attorney Lawrence S. Krasner,	:	No. _____
3 S. Penn Square	:	
Philadelphia, PA 19107,	:	NOT AN ARBITRATION CASE
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	
AMERICA PAC	:	
P.O. Box 341027	:	
Austin, TX 78734	:	
	:	
and	:	
	:	
ELON MUSK	:	
52448-54298 Boca Chica Blvd.	:	
Brownsville, TX 78521	:	
	:	
Defendants.	:	

NOTICE TO DEFEND – CIVIL

NOTICE You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you. **YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

PHILADELPHIA COUNTY BAR ASSOCIATION
LAWYER REFERRAL AND
INFORMATION SERVICE, 1101
MARKET STREET, 11th FLOOR
PHILADELPHIA, PENNSYLVANIA
19107 TELEPHONE: (215) 238-1701

AVISO Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de lan demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiendandes u otros derechos importantes para usted. **LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIOI, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.**

ASOCIACION DE LICENCIADOR DE PHILADELPHIA VICIO DE REFERENCIA DE INFORMACION LEGAL 1101 MARKET STREET, 11th FLOOR PHILADELPHIA, PENNSYLVANIA 19107 TELEFONO: (215) 238-1701

HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER

By: John S. Summers (Atty. I.D. No. 41854)
jsummers@hangley.com
Andrew M. Erdlen (Atty. I.D. No. 320260)
aerdlen@hangley.com

One Logan Square, 27th Floor
Philadelphia, PA 19103-6933
(215) 568-6200
(215) 568-0300 (facsimile)

Attorneys for Plaintiff

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

	:	OCTOBER TERM, 2024
COMMONWEALTH OF	:	
PENNSYLVANIA,	:	
acting by and through Philadelphia District	:	No. _____
Attorney Lawrence S. Krasner,	:	
3 S. Penn Square	:	NOT AN ARBITRATION CASE
Philadelphia, PA 19107,	:	
	:	CIVIL ACTION
Plaintiff,	:	
	:	
v.	:	
	:	
AMERICA PAC	:	
P.O. Box 341027	:	
Austin, TX 78734	:	
	:	
and	:	
	:	
ELON MUSK	:	
52448-54298 Boca Chica Blvd.	:	
Brownsville, TX 78521	:	
	:	
Defendants.	:	

VERIFIED COMPLAINT

Plaintiff Commonwealth of Pennsylvania, acting by and through Philadelphia District Attorney Lawrence S. Krasner (“Philadelphia District Attorney” or “DA Krasner”), brings this public enforcement action against the Defendants, America PAC and Elon Musk, pursuant to Pennsylvania nuisance law and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1 *et seq.* (“UTPCPL”), and in support of this Verified Complaint, the Philadelphia District Attorney alleges as follows:

I. INTRODUCTION

1. America PAC and Elon Musk are running an illegal lottery in Philadelphia (as well as throughout Pennsylvania).

2. At an October 19, 2024 rally, on Musk’s X platform and on America PAC’s website, America PAC and Musk launched their scheme. They announced that if a registered voter (1) turns over their personal identifying information (i.e., address, cell phone number and e-mail address) and makes a political pledge by signing a petition pledging support for “the Constitution, especially freedom of speech and the right to bear arms”; they (2) are eligible to be selected “randomly”; to (3) win \$1 million.

3. This announcement came after America PAC launched, on October 7, a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition,” which was later raised to \$100 for Pennsylvania registered voters.

4. In other words, America PAC and Musk are lulling Philadelphia citizens – and others in the Commonwealth (and other swing states in the upcoming election) – to give up their personal identifying information and make a political pledge in exchange for the chance to win \$1 million. That is a lottery.

5. And it is indisputably an unlawful lottery. Under unambiguous Pennsylvania law, all lotteries in Pennsylvania must be regulated by the Commonwealth of Pennsylvania. The Commonwealth's lottery law establishes a lottery to be operated and administered by the state, for the benefit of those 65 years of age or older. 72 P.S. § 3761-101; 3761-303; 61 Pa. Code § 801.3. State regulations govern many aspects of the lottery, including the procedures for claiming prizes, the use of lottery funds, and even require the disclosure of the odds of a participant's chances of winning. *See* 61 Pa. Code § 801.1, *et seq.* (regulations).

6. America PAC's and Musk's lottery is plainly not a lawful lottery. Under unambiguous Pennsylvania law, moreover, the Pennsylvania General Assembly has declared that illegal lotteries are a public "nuisance" and empowered law enforcement officers such as DA Krasner to seek an injunction in court to stop them.

7. America PAC's and Musk's illegal lottery scheme also violates the Commonwealth's consumer protection laws. In connection with their scheme, they are deploying deceptive, vague or misleading statements that create a likelihood of confusion or misunderstanding. For example, they have not published a complete set of lottery rules or shown how they are protecting the privacy of participants' personal information. Also, though Musk says that a winner's selection is "random," that appears false because multiple winners that have been selected are individuals who have shown up at Trump rallies in Pennsylvania. The General Assembly's consumer protection laws empower DA Krasner to seek an injunction to stop that misconduct as well.

8. Running an illegal lottery and violating consumer protections is ample basis for an injunction and concluding that America PAC and Musk must be stopped, immediately, before the upcoming Presidential Election on November 5. That is because

America PAC and Musk hatched their illegal lottery scheme to influence voters in that election.

9. To be clear, this is not a case about whether Defendants have violated state or federal laws prohibiting vote-buying. Instead, this case is very simple because America PAC and Musk are indisputably violating Pennsylvania’s statutory prohibitions against illegal lotteries and deceiving consumers.

10. DA Krasner therefore brings this action to immediately stop America PAC and Musk from these violations of Pennsylvania law. If not enjoined, their lottery scheme will irreparably harm Philadelphians – and others in Pennsylvanians – and tarnish the public’s right to a free and fair election.

II. JURISDICTION & VENUE

11. This Court has jurisdiction over this action pursuant to 42 Pa. C.S. § 931(a).

12. There is no federal jurisdiction over this dispute. This is a Pennsylvania law matter, not a federal question. It is for this state court to interpret the Commonwealth’s laws. Additionally, there is no diversity of citizenship between the parties because Plaintiff is District Attorney Krasner, acting in the name of the Commonwealth of Pennsylvania, which is not a “citizen” that can be diverse to other citizens within the meaning of 28 U.S.C. § 1332. *Moor v. Cnty. of Alameda*, 411 U.S. 693, 717 (1973).

13. Venue is proper in Philadelphia County. That is where the cause of action arose, Pa. R. Civ. P. 1006(a)(2), 2156(a)(2), where District Attorney Krasner has the authority to bring a cause of action (a) for public nuisance to enjoin “an unreasonable interference with a right common to the general public” in Philadelphia; and (b) to enjoin unlawful methods, acts or practices under the Unfair Trade Practices and Consumer Protection Law, 73 P.S. §§ 201-1 *et seq.* (“UTPCPL”) in the name of the Commonwealth.

14. America PAC claims it has received over 280,000 petition signers who are registered voters in Pennsylvania, and on information and belief, among those 280,000 petition signers are residents of Philadelphia County. As alleged herein, those signers have accepted America PAC's offer to: (a) provide their personal data in exchange for an opportunity to win the lottery; (b) provide their personal data in exchange for the \$100 compensation; or (c) pay them in exchange for referring the names of others for the purpose of procuring additional individuals who will provide personal data, sign the petition, or otherwise endorse America PAC.

III. PARTIES

15. Plaintiff is Philadelphia District Attorney Lawrence S. Krasner, acting in the name of the Commonwealth of Pennsylvania.

16. The District Attorney is empowered to bring a cause of action for public nuisance to enjoin "an unreasonable interference with a right common to the general public" on behalf of Philadelphia's citizens. *See Atl. Richfield Co. v. Cnty. of Montgomery*, 294 A.3d 1274, 1283 (Pa. Cmwlth. 2023) (quoting Restatement (Second) of Torts § 821B (1979)). "All unlawful lotteries or numbers games are . . . common nuisances." 18 Pa. C.S. § 5512(a).

17. The District Attorney is expressly authorized to bring an action in the name of the Commonwealth under the UTPCPL whenever the District Attorney has reason to believe that any person is using or is about to use any method, act, or practice declared by the UTPCPL to be unlawful, and that such proceedings would be in the public interest. 73 P.S. § 201-4.

18. Defendant America PAC is a political action committee "to support candidates who champion Secure Borders, Sensible Spending, Safe Cities, Fair Justice

System, Free Speech and Self-Protection,” especially the candidacy of former President Donald Trump. See America PAC, <https://x.com/america> (last visited Oct. 24, 2024); America PAC, <https://theamericapac.org/> (last visited Oct. 24, 2024). This Court has personal jurisdiction over America PAC because, among other things, it is operating an illegal lottery in Pennsylvania, it is spending money in Pennsylvania targeted to influence Pennsylvania voters, it has transacted business in the Commonwealth, and it has caused harm or tortious injury by its acts or omissions inside or outside the Commonwealth. 42 Pa. C.S § 5322(a).

19. Defendant Elon Musk is the founder of America PAC. Mr. Musk funded America PAC, is involved in America PAC’s operations, made representations to Philadelphians on behalf of America PAC, and benefits from increased traffic generated by America PAC on the social media platform X, of which Mr. Musk is the majority owner. This Court has personal jurisdiction over Mr. Musk because, among other things, he has funded an illegal lottery operating in Pennsylvania, he has traveled to Pennsylvania as part of the operation of his illegal lottery, he has directed that substantial sums be spent in Philadelphia to influence Pennsylvania voters, he has transacted business in the Commonwealth, and he has caused harm or tortious injury in Pennsylvania by his acts or omissions inside or outside the Commonwealth. 42 Pa. C.S § 5322(a).

IV. FACTUAL ALLEGATIONS

A. America PAC and Musk Target Pennsylvania to Influence Pennsylvania Voters

20. America PAC filed a statement of organization with the Federal Election Commission (“FEC”) on May 22, 2024, as an “independent expenditure-only political committee” or “Super PAC,” listing a P.O. Box in Austin, Texas as its business address.

See Exhibit 1, America PAC, Statement of Organization (May 22, 2024), available at <https://www.fec.gov/data/committee/COO879510/?tab=filings>.

21. As of September 30, 2024, America PAC reported having spent \$133,841,660 on independent expenditures to support or oppose 2024 federal candidates. See Exhibit 2, PAC Profile: America PAC (Texas), Opensecrets.org (last visited Oct. 24, 2024), <https://www.opensecrets.org/political-action-committees-pacs/america-pac-texas/COO879510/summary/2024>; see also Exhibit 3, America PAC, Committee Filings, FEC.gov (last visited Oct. 24, 2024), available at <https://www.fec.gov/data/committee/COO879510/?tab=filings>.

22. In the daily reports filed since October 21, 2024, America PAC has disclosed millions of dollars in additional spending on political communications.

23. On October 24, 2024, the *New York Times* reported, “Mr. Musk, the leader of Space X, Tesla and X, has already poured \$75 million into a pro-Trump super PAC called America PAC,” and is accelerating his spending in this final stretch before Election Day. Exhibit 4, Theodore Schleifer, *Elon Musk Plots His Final Moves for Trump*, N.Y. Times (Oct. 24, 2024), <https://www.nytimes.com/2024/10/24/us/elections/elon-musk-trump-campaign.html>.

24. According to this report, Mr. Musk is particularly focused on Pennsylvania, and a close political ally is quoted as saying, “Elon is literally campaigning every day in Pennsylvania.” *Id.*

25. Mr. Musk is also the majority owner of the social media company, X. Among its other expenditures, America PAC has spent tens of thousands of dollars advertising on X targeting swing state voters, alongside Mr. Musk’s own repeated endorsements of Mr. Trump on X. Exhibit 5, Vittoria Elliot, *Elon Musk’s PAC Is Buying*

Ads for Donald Trump on Elon Musk's X, Wired (Oct. 21, 2024), <https://www.wired.com/story/elon-musks-pac-is-buying-ads-for-donald-trump-on-elon-musks-x/>.

26. America PAC relies heavily on X to communicate with the public, posting political communications throughout each day, and the @America and @ElonMusk X handles work together to re-share and boost each other's content.

27. X makes money in two different ways—advertising and data licensing—both of which are correlated to overall traffic to the platform. As the majority owner, Mr. Musk personally benefits from X's revenue generation.

28. Internet archives show that, on or about October 7, 2024, America PAC first launched a “Petition in Favor of Free Speech and the Right to Bear Arms,” with an offer to pay individuals—including Pennsylvania registered voters—“\$47 for each registered voter you refer that signs this petition.” That petition stated it was “exclusively open to registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina” and “[e]xpires October 21.” Exhibit 6, America PAC, Petition (archive from Oct. 7, 2024), available at <https://web.archive.org/web/20241007081443/https://petition.theamericapac.org/>.

B. Musk Travels to Pennsylvania To Announce His (Illegal) Lottery

29. On Saturday, October 19, 2024, during an America PAC event in Harrisburg, Pennsylvania, Mr. Musk announced a “surprise” before a live crowd. See Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (Oct 19, 2024, 11:06 P.M.), <https://x.com/america/status/1847851986495881434>; see also Exhibit 8, Mike Catalini, *Musk offers voters \$1 million a day to sign PAC petition backing the Constitution. Is that legal?*, Associated Press (updated Oct. 20, 2024 5:10

P.M.), <https://apnews.com/article/musk-1-million-giveaway-trump-voters-petition-b4e48acbfe04fde735e60b1911ado197>.

30. Mr. Musk said, “we’re gonna be awarding a million dollars, *randomly*, every day from now until the election,” because “I figured, ‘How do we get people to know about it?’” Exhibit 7, America PAC (@America), “ELON MUSK: ‘I have a surprise for you’” X (emphasis added), <https://x.com/america/status/1847851986495881434> (video embedded in URL).

31. He explained that this news would “really fly” and would help publicize America PAC’s petition and, in turn, the PAC’s efforts to elect Donald Trump. *Id.*

32. Mr. Musk then said that he would announce the first winner that evening, and called the name “John Dreher.” *Id.*

33. Mr. Dreher was in the audience and mounted the stage in a red MAGA hat. “By the way,” Mr. Musk said, “John had no idea.” *Id.*

34. When Mr. Dreher came onto the stage to accept an oversized check, Mr. Musk asked that, in exchange for the money, “the only thing we ask” is for John to agree to be a spokesperson for America PAC. *Id.*

C. Musk Continues to Make Statements, including in Pennsylvania, Promoting Defendants’ (Illegal) Lottery That He Says Will Operate Until Election Day

35. Shortly after Mr. Musk’s live announcement of Mr. Dreher’s lottery win on October 19, America PAC posted on X: “Every day from now until Election Day, one registered swing state voter who signs the petition will be selected to earn \$1 MILLION,” and included a link to the petition on America PAC’s website. Exhibit 9, America PAC (@America), “John received \$1 MILLION” X (Oct 19, 2024, 11:58 P.M.), <https://x.com/america/status/1847864967816511758>.

36. Mr. Musk posted a similar message minutes before. Exhibit 10, Elon Musk (@ElonMusk), “Every day, from now through Nov 5” X (Oct 19, 2024, 11:25 P.M.), <https://x.com/elonmusk/status/1847856712914555061>.

37. Then, the next day on October 20, 2024, during another America PAC event, this time in McKees Rocks, Pennsylvania, Mr. Musk conducted a second “random” drawing, selecting Kristine Fiskell as the winner, who was also in the audience that day. Exhibit 11, Adam Babetski, *Musk gives away \$1 million at McKees Rocks pro-Trump rally, raising legal questions*, Pittsburgh Post-Gazette (Oct. 20, 2024, 6:36 P.M.), <https://www.post-gazette.com/news/election-2024/2024/10/20/elon-musk-1-million-trump-legal-questions-pittsburgh/stories/202410200166>.

D. The Supposed Rules of Defendants’ (Illegal) Lottery

38. America PAC’s website still includes a page with the petition and the rules of the lottery, albeit in different form than what it originally published in early October 2024. See Exhibit 12 (America PAC, *Petition in Favor of Free Speech and the Right to Bear Arms* (last visited Oct. 27, 2024), <https://petition.theamericapac.org/>).

39. The subject America PAC website now describes the rules of the lottery as follows:

Each day, one petition signer from either PA, GA, NV, AZ, MI, WI, or NC will earn \$1,000,000. . . . Our goal is to get 1 million registered voters in swing states to sign in support of the Constitution, especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in Pennsylvania, Georgia, Nevada, Arizona, Michigan, Wisconsin and North Carolina. Expires November 5.

Id.

40. The description of the lottery does not say anything about agreeing to be a spokesperson for America PAC, despite what Mr. Musk told the first winner.

41. As consideration to enter the lottery and “sign” the petition, a participant must provide several data points of personal information: first and last name, email address, mailing address, and cell phone number. *Id.*

42. A participant must then click a button that says “Sign Petition,” with a space above asking for cell phone information that: “Will only be used to confirm you are the legitimate petition signer. No other purpose.” *Id.*

43. In addition to entering the lottery, the website provides two additional offers of compensation to registered voters in exchange for signing the petition and providing personal information, with a “Special Offer for Pennsylvania Registered Voters.” *Id.*

44. First, the website claims that Pennsylvania registered voters will receive \$100 for providing their personal data and signing the petition, which is more money than what is offered to voters in other battleground states (*e.g.*, Georgia, Nevada, Arizona, Michigan, Wisconsin, or North Carolina).

45. Second, the website claims that a Pennsylvania participant and petition signer who refers another Pennsylvania registered voter to provide personal data and sign the America PAC petition will receive \$100, which is also more money than that offered for referrals in other battleground states.

46. Specifically, the America PAC website states:

Offer valid from time of posting through 11:59 PM on 10/28. New signers only. \$100 replaces standard \$47 offer (not in addition to it)[.] To be eligible, both the referrer and the petition signer must be registered voters of Pennsylvania.

Id.

47. The petition does not provide any information about how or when compensation will be paid.

48. In smaller print at the bottom of the petition, it states:

Each person may only sign this petition once. Eligible people may only list one eligible person as their referrer. Signing the petition on behalf of another person is not permitted. Before payment is made, America PAC will verify the accuracy of all information of the referrer and referee. Payments of \$600 or more will require the referrer to provide a signed IRS W-9 so an IRS 1099 can be issued. To be eligible, both the referrer and the petition signer must be registered voters of Arizona, Michigan, Georgia, Nevada, North Carolina, Pennsylvania, or Wisconsin.

Id.

49. The America PAC petition places no limitations on America PAC's use of or sale of the personal data it collects, nor does it provide any additional information about the planned use of data. *Id.*

50. Defendants' lottery is not authorized by state law. Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.* The purpose of the State Lottery Law is "to establish a lottery to be operated by the state," the proceeds of which benefit those 65 years of age or older. 72 P.S. § 3761-101. The State Lottery Law is also intended to "provide a means through which to curb illegal gambling operations in Pennsylvania." *Id.* The Commonwealth Secretary of Revenue and Bureau of State Lotteries are empowered to operate and administer the lottery, including, for example, the types of lawful lotteries, the manner in which winners are selected, and the licensure of sales agents. *Id.* § 3761-303; 61 Pa. Code § 801.3. State regulations govern the powers and duties of the Secretary and the Director of the Bureau of State Lottery, the procedures for licensing, claiming prizes, the use of lottery funds, and further disclose the odds of a participant's chances of winning. *See* 61 Pa. Code § 801.1, *et seq.* (regulations). All

lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d). Defendant's lottery is not authorized by law and is illegal.

E. Defendants' Announcements of Winners of the (Illegal) Lottery

51. Since launching on October 19, 2024, America PAC claims it awarded \$1,000,000 checks to nine individuals through its lottery, four of whom live in Pennsylvania. *Id.* It made those awards on October 19, 20, 21, 22, 24, 25, 26, and 27, 2024. No winner was announced on October 23.

52. Each winner is featured on America PAC's website and X handle, and has garnered significant public and press attention.

53. Indeed, the videos of the first and second lottery winners have garnered 27 million views and 10.9 million views, respectively, driving significant traffic to Mr. Musk's X platform. *See* Exhibit 9, America PAC (@America), "John received \$1 MILLION . . ." X (Oct. 20, 2024, 12:58 AM), <https://x.com/america/status/1847864967816511758?s=46>; Exhibit 13, America PAC (@America), "Kristine was today's recipient of the \$1 MILLION . . ." X (Oct. 20, 2024, 9:49PM), <https://x.com/america/status/1848179817050517567?s=46>.

54. This \$1 million lottery has earned wall-to-wall media coverage of America PAC, Mr. Musk, and Mr. Trump since the lottery launched, including numerous stories in Philadelphia's newspaper of record, *The Philadelphia Inquirer*.

55. America PAC claims it has received over 1,000,000 petition signers to date, with over 280,000 petition signers who are registered voters in Pennsylvania entering for a chance to win the \$1 million prize. Exhibit 14, America PAC (@America), "Over 280,000 registered voters in Pennsylvania signed our petition . . ." X (Oct. 23, 2024, 1:03 P.M.), <https://x.com/america/status/1849134584182485476>.

56. Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC's offer to provide their personal data in exchange for an opportunity to win the lottery.

57. Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC's offer to provide their personal data in exchange for the \$100 compensation.

58. Upon information and belief, among those 280,000 petition signers are residents of Philadelphia County, who have accepted America PAC's offer to pay them in exchange for referring the names of others for the purpose of procuring additional individuals who will provide personal data, sign the petition, or otherwise endorse America PAC.

59. Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for their personal data, despite America PAC's claims. Nor have petition signers been given any information for how or when payment will be tendered.

60. Upon information and belief, petition signers in Pennsylvania and Philadelphia have not been paid for referring other petition signers, despite America PAC's claims. Nor have petition signers been given any information for how or when payment will be tendered.

61. Also, on October 23, it was reported that the United States Department of Justice sent a letter notifying America PAC that the \$1 million lottery could violate the federal law against paying people to register to vote.

62. Notwithstanding, on October 24, 2024, America PAC announced two additional \$1 million lottery winners. Exhibit 15, America PAC (@America), “Jason of Holland, Michigan received \$1M for signing our petition to support the Constitution” X (Oct. 24, 2024, 10:37 P.M.), <https://x.com/america/status/1849641342051418536>; Exhibit 16, America PAC (@America), X (Oct. 24, 2024 11:00 P.M.), <https://x.com/america/status/1849647294355825052>.

F. Defendants’ Deceptive Conduct and Statements in Connection with Their Lottery

63. As enumerated more fully below, Defendants have engaged in conduct and made statements that are deceptive and which create a likelihood of confusion or misunderstanding.

64. For example, Defendants have shrouded key aspects of the lottery in secrecy, including without limitation the following:

- a. Defendants have not provided a complete set of lottery or contest rules, including the odds of winning or how winners will be selected.
- b. Defendants have not provided information about when they will make payments to participants.
- c. Defendants have not provided what privacy policy, if any, will protect participants’ personal information

65. Also by way of example, Defendants appear to be making false statements about the lottery, including without limitation the following:

- a. Defendants say that the winners are chosen at random; yet, on information and belief, winners are not actually chosen at random. For example, the October 19 and October 20 winners appear not to be chosen at random

because both just happened to live near the locations of Musk's pro-Trump rallies and both were in attendance at those rallies.

- b. Defendants promise to pay \$100 to all participating registered voters who sign America PAC's petition yet, on information and belief, Defendants have not made those payments.

66. Accordingly, Defendants are operating an illegal lottery in violation of Pennsylvania statutes.

67. To be clear, it would be no defense for America PAC and Musk to argue that it was not engaging in a lottery if their scheme actually did not involve a chance or random selection of winners. In that event, (a) they would be admitting to acting deceptively and in violation of the Commonwealth's consumer protection law; and (b) they would still be in violation of the Commonwealth's prohibition against the operation of unlawful lotteries.

G. Plaintiff Is Entitled to Injunctive Relief

68. As alleged herein, Plaintiff has established a clear right to relief and is likely to succeed on the merits of his claims. *See* Plaintiff's Emergency Petition for Preliminary Injunctive Relief, at ¶¶ 71-111.

69. Plaintiff and the public will be irreparably harmed if the requested injunction is not entered, including because irreparable harm *per se* exists due to Defendants' ongoing statutory violations. *Id.* ¶¶ 112-16.

70. The denial of injunctive relief will result in greater harm than by granting injunctive relief. *Id.* ¶¶ 117-25.

71. The requested preliminary injunction will restore the status quo. *Id.* ¶¶ 126-30.

72. The requested injunction is reasonably suited to abate the offending conduct. *Id.* ¶¶ 131-33.

73. An injunction will not adversely affect the public interest; to the contrary, it will advance the public interest. *Id.* ¶¶ 134-37.

COUNT I
PUBLIC NUISANCE

74. DA Krasner incorporates herein the preceding paragraphs of this Complaint.

75. All lotteries in Pennsylvania are regulated and conducted by the state for the benefit of public programs. *See* 72 P.S. § 3761-101, *et seq.* (the “State Lottery Law”). Any lottery not specifically authorized by law is unlawful and illegal. 18 Pa. C.S. § 5512(d).

76. Under Pennsylvania law, a scheme is an unlawful lottery if it satisfies three elements: (1) a prize to be won; (2) a winner to be determined by chance; and (3) the payment of a consideration by the player. *Com. v. Lane*, 363 A.2d 1271, 1272 (Pa. Super. Ct. 1976).

77. The General Assembly has also expressly declared that unlawful lotteries are “common nuisances.” 18 Pa. C.S. § 5512(a).

78. America PAC and Musk’s lottery described above is an illegal lottery.

79. Specifically: (1) the prize to be won in the lottery is \$1 million offered by America PAC; (2) a winner is, according to Defendants, drawn at random; and (3) the players – citizens of Philadelphia and other citizens of the Commonwealth – provide at least two forms of consideration to participate and be eligible to receive the \$1 million: (a) they provide personal information (*i.e.*, first and last name, email address, mailing

address, and cell phone number) inputted into America PAC's electronic system; and
(b) they bind their own future conduct through a pledge to support specified positions.

80. Lotteries are highly regulated under Pennsylvania law. *See generally* 72 P.S. § 3761-101, *et seq.* The purpose of the State Lottery Law is “to establish a lottery to be operated by the state,” the proceeds of which benefit those 65 years of age or older. 72 P.S. § 3761-101. The State Lottery Law is also intended to “provide a means through which to curb illegal gambling operations in Pennsylvania.” *Id.* All lotteries not specifically authorized by law are unlawful. 18 P.S. § 5512(d).

81. Defendants' lottery is not authorized by Pennsylvania law and is unlawful.

82. Defendants' lottery and its creation, maintenance, promotion and operation is also a common nuisance. 18 Pa. C.S. § 5512(a).

83. Defendants have created, maintained, published, advertised, promoted and operated, or participated in the creation, maintenance, promotion and operation of the illegal lottery.

84. Defendants' creation, maintenance, promotion and operation of the lottery is harmful to residents of Philadelphia and the Commonwealth and interferes with their public rights.

85. Defendants' conduct alleged above creates or has the potential to create hazards to public health, safety, and general welfare.

86. Among other things:

- a. The lottery imposes a substantial danger to economic and general welfare, irreparably harms the integrity of Pennsylvania's legitimate State Lottery, and otherwise inflames gambling instincts and corrupts public morals among Pennsylvania citizens.

- b. The lottery is a menace to public welfare in Pennsylvania since illegal gambling has the strong potential to exploit vulnerable populations including children, the elderly, and those with limited means.
- c. The lottery interferes with a public right to vote without undue influence and otherwise injects illegal activity into the integrity of the electoral process. Pennsylvania voters, including voters in Philadelphia, have the right to public peace, public comfort, and public convenience to engage in the electoral process without interference from outside third parties offering the chance of a reward in exchange for providing personal information.

87. As a result, Defendants' illegal lottery causes a serious deterioration in public order, public safety, and further encourages pervasive misconduct by other parties seeking to undermine the integrity of Pennsylvania's electoral process.

88. Defendants are liable for public nuisance because their conduct has caused an unreasonable and substantial interference with a right common to the general public. *See* Restatement (Second) of Torts § 821B.

89. Defendants are also liable for public nuisance because their conduct is illegal and proscribed by 18 Pa. C.S. § 5512. *See* Restatement Second, Torts § 821B(2)(b).

90. The public nuisance created by Defendants' actions is substantial and unreasonable.

91. Defendants knew, or should have known, that their promotion and operation of an illegal lottery not authorized by state law would create a public nuisance by injecting instability into Pennsylvania's electoral process.

92. The Philadelphia District Attorney sues on behalf of the Commonwealth in his public capacity for all appropriate injunctive and mandatory relief to abate the ongoing public nuisance.

WHEREFORE, Plaintiff demands judgment against Defendants, for the following:

- a. Injunctive relief prohibiting Defendants America PAC and Musk from creating, maintaining, operating, or participating in the creation, maintenance, operation of their lottery;
- b. Abatement of the public nuisance; and
- c. Such other and further relief as the Court deems just and proper.

COUNT II
**VIOLATION OF PENNSYLVANIA UNFAIR TRADE PRACTICES AND
CONSUMER PROTECTION LAW, 73 P.S. §§ 201-1 to 201-9.3 (“UTPCPL”)**

93. DA Krasner incorporates herein all of the preceding paragraphs of this Complaint.

94. The UTPCPL prohibits [1] persons from employing [2] “unfair or deceptive acts or practices [3] in the conduct of any trade or commerce,” which includes [4] “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. §§ 201-2(4)(xxi), 201-3(a).

95. Defendants’ conduct alleged in this Complaint constitutes trade or commerce under the UTPCPL. 73 P.S. § 201-2(3).

96. The UTPCPL is to be “liberally construed” to effectuate its objective of protecting Pennsylvanians from unfair or deceptive practices. *See Commonwealth v. Chesapeake Energy Corp.*, 247 A.3d 934, 936 (Pa. 2021) (internal citation and quotations omitted).

97. As to [1], America PAC and Musk are each a “person” under the UTPCPL. 73 P.S. § 201-2(2); *see also* Exhibit 1.

98. As to [3], Defendants are engaging in trade or commerce. Trade or commerce includes “the offering ... or thing of value wherever situate, and includes trade or commerce directly or indirectly affecting the people of this Commonwealth.” 73 P.S. § 201-2(3).

99. America PAC offers a thing of value to a lottery participant—\$100 and a chance to win \$1 million—while a participant confers a thing of value on America PAC—their personal information and data, which benefits America PAC’s marketing, political campaigning, and data analytics capabilities, as well as a pledge of political support. *See Com. by Preate v. Watson & Hughey Co.*, 563 A.2d 1276, 1282 (Pa. Cmwlth. 1989) (noting, “sweepstakes solicitations constitute the *advertising* of some *thing of value*” under the UTPCPL) (emphasis in original); *see also In re Soc. Media Adolescent Addiction/Pers. Inj. Prods. Liab. Litig.*, No. 4:23-CV-05448-YGR, 2024 WL 4532937, at *44 (N.D. Cal. Oct. 15, 2024) (providing personal information in exchange for social-media website/application use is “in the conduct of any trade or commerce” under UTPCPL and other states’ consumer protection laws) (citation omitted).

100. Defendants’ trade or commerce is directly or indirectly affecting Pennsylvania residents. They offer an online lottery to Pennsylvanians, giving participants the daily chance to win \$1 million in exchange for the participant signing America PAC’s petition. *See* Exhibit 12. They also offer \$100 to Pennsylvania registered-voter participants who sign the petition, and \$100 to petition signers referred by a participant, both amounts more than the \$47 offered to petition signers in other states (Georgia, Nevada, Arizona, Michigan, Wisconsin, and North Carolina). *Id.*

101. Registering for America PAC's lottery causes detriment to the participant, in that a participant loses control over their personal data, which could be sold to third parties. A registrant also implicitly pledges that their name, likeness, and support to America PAC, which will be made public if the participant wins the lottery, thus forfeiting personal privacy.

102. As to [2] and [4], Defendants' lottery employs unfair or deceptive acts prohibited by the UTPCPL, including without limitation, the deceptive conduct that creates a likelihood of confusion or misunderstanding. 73 P.S. §§ 201-2(4)(xxi), 201-3(a).

103. Defendants engaged in unfair or deceptive acts or practices in violation of the UTPCPL by failing to:

- a. Provide a complete set of lottery or other contest rules to all participants, with such rules being set forth clearly and conspicuously at a place where participants may readily review;
- b. Clearly and conspicuously disclose to participants the range of payouts available and the method of winning and timing of delivery for those payouts;
- c. Clearly and conspicuously disclose the odds of winning;
- d. Clearly and conspicuously disclose how Defendants will store and/or use the personal data provided by the Participant during the sweepstake registration process. The website, for example, fails to disclose any limitations or restrictions on how Defendants may use participants' collected personal data, including their name, email address, and mailing address (other than a caveat that a participant's cell phone number will only be used to confirm identity); and
- e. Clearly and conspicuously disclose the privacy policy applicable to the registrants.

104. In addition, the America PAC website makes various statements that have the capacity to deceive, or are likely to deceive or confuse, a substantial portion of the public.

105. The website makes unfair or deceptive statements concerning the supposed promise to pay \$100 to participating registered-voters who sign America PAC's petition (or refer a petitioner).

106. The website promoting the petition and lottery states:

especially freedom of speech and the right to bear arms. This program is exclusively open to registered voters in [Pennsylvania](#), [Georgia](#), [Nevada](#), [Arizona](#), [Michigan](#), [Wisconsin](#) and [North Carolina](#). Expires November 5.



Exhibit 12.

107. Yet, upon information and belief, Pennsylvania registered-voter participants who have signed America PAC's petition, or referred a petition signer, have not received \$100 from America PAC.

108. The foregoing conduct has the capacity to deceive, or was likely to deceive or confuse, a substantial portion of the public. *See Gregg v. Ameriprise Fin., Inc.*, 245 A.3d 637, 649 (Pa. 2021); *see also* 73 P.S. § 201-2(4).

109. The liability imposed under Section 201-2(3) is strict liability, as it does not depend on any particular *mens rea*. *Gregg*, 245 A.2d at 650.

110. As a direct result of the foregoing, Defendants have received, and will continue to receive, benefits that they would not have received if they had not engaged in violations of the UTPCPL as alleged herein.

111. As a direct result of the foregoing, Philadelphia citizens and those across the Commonwealth have suffered substantial injury.

112. The General Assembly authorizes District Attorneys such as DA Krasner to seek injunctive relief for violations of the UTPCPL. 73 P.S. § 201-4.

113. DA Krasner seeks an injunction requiring the Defendants cease in engaging in any unfair or deceptive acts or practices in connection with their lottery.

114. Unless restrained by this Court, Defendants will likely continue to engage in the methods, acts, or practices that have a likelihood to deceive, mislead, and confuse the public, absent the grant of an injunction.

115. The ongoing and likely future violations by Defendants of the UTPCPL are contrary to the public interest, necessitating an injunction to restrain and prevent further misconduct by Defendants.

WHEREFORE, Plaintiff demands judgment against Defendants, for the following:

- a. Injunctive relief prohibiting Defendants America PAC and Musk from engaging in any unfair or deceptive acts or practices in connection with their lottery; and
- b. Such other and further relief as the Court deems just and proper.

HANGLEY ARONCHICK SEGAL PUDLIN
& SCHILLER

Dated: October 28, 2024

By: /s/ John S. Summers

John S. Summers (Atty. I.D. No. 41854)

jsummers@hangle.com

Andrew M. Erdlen (Atty. I.D. No. 320260)

aerdlen@hangle.com

One Logan Square, 27th Floor

Philadelphia, PA 19103-6933

(215) 568-6200

(215) 568-0300 (facsimile)

Attorneys for Plaintiff