

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

SEAN PARNELL, individually and as a
candidate for Pennsylvania's 17th
Congressional District and on behalf of all
citizen electors of Allegheny County,
Pennsylvania; LUKE NEGRON, individually
and as a candidate for Pennsylvania's 18th
Congressional District and on behalf of all
citizen electors of Allegheny County,
Pennsylvania; BRIAN CHEW; and JAY
HAGERMAN,

Plaintiffs,

v.

ALLEGHENY COUNTY BOARD OF
ELECTIONS; RICH FITZGERALD, in his
official capacity as County Executive of
Allegheny County and as a member of the
Allegheny County Board of Elections;
SAMUEL DeMARCO III, in his official
capacity as a member of the Allegheny
County Board of Elections; and BETHANY
HALLAM, in her official capacity as a
member of the Allegheny County Board of
Elections,

Defendants.

**FIRST AMENDED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Introduction

1. In 2019, the Pennsylvania General Assembly amended the Election Code, via Act 77 of 2019, to provide qualified electors with the ability to vote via mail-in ballots without the requirement of first demonstrating their expected absence from the voting district on Election Day. *See* 25 P.S. §§ 3150.11-3150.17.

2. In furtherance of Pennsylvania voters' ability to vote via mail-in ballots, on September 17, 2020, the Allegheny County Board of Elections ("**Board of Elections**") unanimously voted to open additional election offices ("**Satellite Offices**") due to the ongoing pandemic. A copy of the resolution is attached as Exhibit "**A**."

3. These Satellite Offices will enable the citizens of Allegheny County to exercise their voting rights at multiple new locations across the county, including: the "North Park Ice Rink, South Park Ice Rink, DPW Garage #2, CCAC Homewood, CCAC South, Boyce Park Ski Lodge, and the Shop 'n Save Hill District." *Id.*

4. The Satellite Offices have been open on October 10, 11, 17, and 18, and are scheduled to be open this weekend on October 24 and 25, 2020.

5. Importantly, the Satellite Offices will enable the citizens of Allegheny County to actually *cast their ballot* at these locations.¹



¹ The image in the Complaint was taken from the Allegheny County website link on October 15, 2020 found at this address: <https://www.alleghenycounty.us/elections/additional-election-offices.aspx>.

6. According to the Allegheny County website, “[p]rivacy screens will be set up on the counter to allow the voter to complete their ballot in secret.” *Id.*

7. “Once voted...the ballot is folded and placed in a security envelope which is then placed inside of a second envelope with the voter’s declaration printed on the back.” *Id.*

8. “The voter will complete and sign the declaration before returning the envelope to the Elections staff.” *Id.*

9. “The voter’s record will be updated to show that the individual’s ballot has been returned.” *Id.*

10. Based upon the foregoing, it is incontrovertible that the Satellite Offices are places where the Citizens of Allegheny County can vote – at least for this year.

11. There is no question that thousands of voters have already cast their vote at the Satellite Offices, and many more will do so this weekend.

12. Plaintiffs, Sean Parnell (“**Mr. Parnell**”) and Luke Negron (“**Mr. Negron**”) (collectively referred to as “**Candidate Plaintiffs**”), are seeking election to the 17th and 18th Congressional Districts of Pennsylvania respectively in the upcoming November 3, 2020 general election.

13. As current candidates for office, Mr. Parnell and Mr. Negron have standing in this case as representatives of a political body (Republican Party) and a body of citizens (electors of Allegheny County), and as voters themselves.

14. The Candidate Plaintiffs have a direct interest in the outcome of the election and in this litigation by requesting the Court protect their constitutional rights by ensuring that the integrity of this year’s election is upheld at the Satellite Offices in Allegheny County.

15. The Candidate Plaintiffs also have a direct interest in this litigation because the \$10 fee to challenge the 28,879 erroneous mail-in ballots issued by Defendants creates an undue burden on their ability to exercise their rights.

16. Specifically, the Candidate Plaintiffs would be required to pay at least \$288,790, and as much as \$577,580, according to their only other available remedy under the Election Code.

17. Plaintiffs, Brian Chew (“**Mr. Chew**”) and Jay Hagerman (“**Mr. Hagerman**”) (collectively referred to as the “**Poll Watcher Plaintiffs**”) were denied poll watcher certificates by Defendants.

18. In fact, to date, there have been no poll watchers allowed at the Satellite Offices.

19. On October 14, 2020 and October 15, 2020, Mr. Chew and Mr. Hagerman attempted to obtain poll watchers certificates for the purpose of serving as poll watchers at the Satellite Offices.

20. Mr. Chew and Mr. Hagerman were denied poll watchers certificates on the same date that they requested them. A copy of Mr. Chew and Mr. Hagerman’s affidavits are attached as Exhibit “**B**.”

21. As stated above, there is no question that the Satellite Offices in Allegheny County allow voters to cast their ballots.

22. Allowing poll watchers at traditional polling locations, but not allowing poll watchers at the Satellite Offices constitutes disparate treatment.

23. Further, allowing poll watchers at traditional polling locations, but not allowing poll watchers at the Satellite Offices violates the Candidate Plaintiffs constitutional rights under the Equal Protection Clause of the 14th Amendment to the Constitution of the United States.

24. Additionally, there is no question that 28,879 erroneous mail-in ballots were issued by Defendants.

25. The Defendants' actions force the Candidate Plaintiffs to pay at least \$288,790 and as much as \$577,580 to challenge the erroneous ballots.

26. The Defendants' actions have also denied the Poll Watcher Plaintiffs their rights.

27. All the Plaintiffs in this action assert that the 28,879 (or more) erroneously issued ballots in this election constitute a substantial threat to the integrity and security of the results in the Presidential Election, the Congressional Election(s), and the "down-ballot" races.

28. As such, these ballots and their mail-in replacements are being improperly handled, and Defendants have, and continue to violate the provisions of the Election Code of the Commonwealth of Pennsylvania regarding the same.

29. Although there has been previous election litigation to date, this specific issue has not been addressed by either the state or federal courts in the Commonwealth of Pennsylvania.

30. Accordingly, it is critical that these issues be decided before the November 3, 2020 general election, particularly, in light of more than 28,000 ballots recently being erroneously sent to voters in Allegheny County and before the Satellite Office are no longer being used after this weekend.

31. Taking such action will serve to protect the individual votes of each of the affected voters and will further and advance fair, free, and constitutionally required Federal (and State) elections.

Jurisdiction and Venue

32. Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988.

33. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

34. This Court has jurisdiction to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

35. This Court has personal jurisdiction over the named individual Defendants, who are sued in their official capacities only.

36. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b).

Parties

37. Plaintiff, Sean Parnell, is a citizen of the United States, and is a current candidate for Pennsylvania's 17th Congressional District, which covers portions of Allegheny County, Pennsylvania. He is suing as a candidate for the United States House of Representatives and on behalf of all citizen electors of Allegheny County.

38. Plaintiff, Luke Negron, is a citizen of the United States, and is a candidate for Pennsylvania's 18th Congressional District, which covers portions of Allegheny County, Pennsylvania. He is suing as a candidate for the United States House of Representatives and on behalf of all citizen electors of Allegheny County.

39. Plaintiff, Brian Chew, is a resident of, and registered voter in, Allegheny County.

40. Plaintiff, Jay Hagerman, is a resident of, and registered voter in, Allegheny County.

41. Defendant, Allegheny County Board of Elections is an administrative board charged with the conduct of elections in Allegheny County, Pennsylvania.

42. Defendant, Rich Fitzgerald, is the County Executive of Allegheny County and serves as a member of the Allegheny County Board of Elections. He is sued in his official capacity only.

43. Defendant, Samuel DeMarco III, is a member of the Allegheny County Council and serves as a member of the Allegheny County Board of Elections. He is sued in his official capacity only.

44. Defendant, Bethany Hallam, is a member of the Allegheny County Council and serves as a member of the Allegheny County Board of Elections. She is sued in her official capacity only.

Factual Background

A. The Allegheny County Board of Elections Approved Satellite Offices.

45. The averments contained in the preceding Paragraphs are incorporated by reference as if fully set forth herein.

46. On September 17, 2020, the Board of Elections voted unanimously to open Satellite Offices. *See* Ex. A.

47. The Board of Elections made the recommendation to open the Satellite Offices “because of concerns related to the pandemic and to ensure that voters have additional safe and accessible options to vote over-the-counter or return their voted ballots.” A copy of the release is attached hereto as Exhibit “C.”

48. The Board of Elections focus was “improving...processes, confirming polling locations, recruiting, assigning and training poll workers, and taking additional measures to further strengthen the integrity of the election system.” *See* Ex. C.

49. The Satellite Offices will “have access to the Statewide Uniform Registry of Electors (SURE) system and will be staffed by county employees.” *Id.*

50. Voters will not be allowed to register at the Satellite Offices, like at the main Elections Office in Allegheny County, but they will be allowed to vote.

B. The Satellite Offices Allow for In-Person Voting.

51. “Offices will be able to accommodate over-the-counter voting and ballot return and will serve voters regardless of where they live in the county.” *Id.*

52. “Over-the-counter voting entails a voter going to the counter in the Elections Division and applying in-person for a mail-in or absentee ballot.”²

53. “The application is the same as the one found online and can be completed in advance of going to the County Office Building.” *Id.*

54. “Once the application is completed and submitted to the Elections staff, the application will be processed using the SURE system to ensure the voter is registered to vote, hasn’t already applied for a ballot, or has any other barriers to voting.” *Id.*

55. “Once reviewed and approved, the ballot for that person’s municipality, ward and precinct will be provided to the voter along with a security and declaration envelope, and instructions for voting.” *Id.*

56. “Privacy screens will be set up on the counter to allow the voter to complete their ballot in secret.” *Id.*

57. “Once voted, the ballot is folded and placed in a security envelope which is then placed inside of a second envelope with the voter’s declaration printed on the back.” *Id.*

58. “The voter will complete and sign the declaration before returning the envelope to Elections staff.” *Id.*

59. “The voter’s record will be updated to show that the individual’s ballot has been returned.” *Id.*

² <https://www.alleghenycounty.us/elections/additional-election-offices.aspx>

60. “Voted ballots are [supposed to be] secured with the Elections Division before being transported to the Elections Warehouse where they are stored in a locked room...[and] remain there until 7AM on Election Day [November 3, 2020] when ballots may begin to be opened and counted.” *Id.*

C. The Election Code Allows for “Poll Watchers” to be Present Where Votes are Cast.

61. The position of “poll watcher” is codified in the Commonwealth of Pennsylvania under 25 P.S. § 2687 in the Election Code.

62. Poll watchers may be present “at any public session or sessions of the county board of elections, and at any computation and canvassing of returns of any primary or election and recount of ballots or recanvass of voting machines” under the Election Code. *See* 25 P.S. § 2650.

63. One poll watcher for each candidate, political party, or political body may “be present in the polling place...from the time that the election officers meet prior to the opening of the polls...until the time that the counting of votes is complete and the district register and voting check list is locked and sealed.” *See* 25 P.S. 2687(b).

64. A poll watcher “shall be authorized to serve in the election district for which the watcher was appointed and, when the watcher is not serving in the election district for which the watcher was appointed, in any other election district in the county in which the watcher is a qualified registered elector.” *See* 25 P.S. § 2687(b).

65. “Watchers allowed in the polling place under the provision of [the Election Code], shall be permitted to keep a list of voters and shall be entitled to challenge any person making application to vote and to require proof of [her] qualifications as provided by [the Election Code].” *See* 25 P.S. § 2687.

66. Watchers are permitted to “inspect the voting check list and either of the two numbered lists of voters maintained by the county board.” *Id.*

67. In sum, poll watchers are critical to the integrity of all elections – and even more critical during this election – in the midst of a pandemic.

D. Defendants Will Not Allow Plaintiffs to have Poll Watchers at the Satellite Offices.

68. Plaintiffs desire to have poll watchers at the Satellite Offices.

69. Mr. Chew and Mr. Hagerman attempted to obtain poll watchers certificates on October 14 and 15, 2020, but were denied. *See* Ex. B.

70. Defendants’ denial of the Candidate Plaintiffs’ right to have poll watchers at the Satellite Offices constitutes disparate treatment of voting locations in Allegheny County.

71. Defendants’ denial of Candidate Plaintiffs’ right to have poll watchers at the Satellite Offices violates their constitutional rights along with the constitutional rights of all citizen voters in Allegheny County.

72. Defendants’ denial of the Poll Watcher Plaintiffs’ right to be poll watchers also constituted disparate treatment and violations their constitutional rights.

E. Defendants Have Already Mishandled Over 28,000 Ballots.

73. On October 14, 2020, the Board of Elections announced that 28,879 voters in Allegheny County received incorrect ballots. A copy of the Board of Elections press releases and statements are attached as Exhibit “D.”

74. Defendants’ actions create an undue burden on the Candidate Plaintiffs’ ability to challenge the mishandled ballots – namely, that they would have pay at least \$288,790 and as much as \$577,580 to challenge the erroneous ballots.

75. The Elections Code provides that this error should have been handled by issuing these affected voters a provisional ballot or setting aside the ballots making them available to be challenged.

76. Instead, the Board of Elections determined, in an arbitrary and capricious manner, to provide a reissued *official, non-provisional ballot* to voters who had already cast their votes in the election – or at least already received an official ballot.

77. Additionally, the Board of Elections decided to access, handle, review, and inspect the previously issued sealed official mail-in ballots, in some manner, prior to election day because they’ve identified the specific voters who received the errant ballots and sent them new ones.

78. Additionally, all of these decisions have been made while voting continues; and specifically continues at the Satellite Offices without the presence of poll watchers.

F. These Issues are Ripe and are Justiciable before this Court.

79. Plaintiffs recognize that courts in the Western District have recently abstained from election litigation. *See Donald J. Trump for Pres., Inc. v. Boockvar*, 2:20-CV-966, 2020 WL 5997680, at *74 (W.D. Pa. Oct. 10, 2020) (where this Court held that the prohibition of poll watchers from being present at the county election offices, satellite offices, and designated ballot-return sites, “is directly related to the unsettled state-law question of whether drop boxes and other satellite locations are “polling places” as envisioned under the Election Code,” and “[i]f they are, then Plaintiffs may be right in that poll watchers must be allowed to be present.”).

80. In that case, this Court also stated it found “comfort that Plaintiffs will be able to seek timely resolution of these issues,” and relied on a lawsuit filed in the Court of Common Pleas of Philadelphia as support for its comfort. *Id.*

81. However, the issues that were before this Court in *Trump v. Boockvar*, and that were before the Court of Common Pleas of Philadelphia, are distinguishable from the issues raised in this lawsuit because the Allegheny County Board of Elections has *expressly denied* poll

watchers from being present in a location where ballots are cast – and are continuing to be cast – *this weekend*.

82. Further, the Court of Common Pleas of Philadelphia analyzed satellite offices that allowed for voters to both register and vote – which is distinguishable from Allegheny County’s allowance only for voters to cast their ballot at the Satellite Offices.

83. These cases are also distinguishable because the Board of Elections has mishandled over 28,000 ballots.

84. Unlike the Court in *Trump v. Boockvar*, Plaintiffs do not have comfort that their constitutional rights – along with the constitutional rights of all the citizens of Allegheny County – are being protected and time is running out – or may have already ran out – to prevent immediate and irreparable harm.

COUNT I – ALL PLAINTIFFS v. ALL DEFENDANTS
Violation of Equal Protection – Erroneous Ballots

85. Plaintiffs incorporate the foregoing paragraphs as though the same were fully set forth at length herein.

86. The Board of Elections identified 28,879 voters within Allegheny County that received incorrect absentee and mail-in ballots.

87. Prior to the public announcement, the Board of Elections began to issue revised official ballots to voters who already had been provided official ballots.

88. The Board of Elections issued revised ballots without knowing whether the recipient voters had already voted.

89. On October 14, 2020, the Board of Elections, and its employees, physically accessed, handled, reviewed, and inspected the sealed official ballots in violation of the Election Code.

90. The Board of Elections also segregated a portion of the ballots.

91. The Board of Elections, as stated above, is legally obligated to “safely keep the ballots in sealed or locked containers until they are to be canvassed by the county board of elections.”

92. Defendants’ conduct with regard to the mishandled ballots violates the Equal Protection Clause of the 14th Amendment to the United States Constitution.

93. In order to address Defendants’ violation of the Election Code, Defendants have asserted that Plaintiffs’ must deposit the sum of Ten Dollars (\$10.00) per challenged ballots. *See* 25 P.S. § 3146.8.

94. Defendants’ conduct also creates an undue burden on Plaintiffs’ rights to challenge the mishandled ballots by making them pay an unconstitutional and exorbitant fee – at least \$288,790 and as much as \$577,580, for an error committed by Defendants.

95. As a result of Defendants’ conduct, the parties are faced with a dilemma on how to treat the ballots cast by electors who used erroneous ballots, if those electors do not utilize the replacement ballots.

96. In such cases, electors may have erroneously cast votes for candidates in an incorrect district while still casting votes for legally correct candidates on the same ballot.

97. There is no legal obligation for electors who have cast their vote using erroneous ballots to recast their votes on the corrected ballot and some electors may not use the corrected ballot.

98. The immediate resolution of this issue by this Court is required to ensure correct and legally appropriate tabulation of all such ballots in Allegheny County for the 2020 General Election.

COUNT II – ALL PLAINTIFFS v. ALL DEFENDANTS
Violation of Equal Protection – Poll Watchers

99. Plaintiffs incorporate the foregoing paragraphs as though the same were fully set forth at length herein.

100. The Equal Protection Clause requires governments to act in a rational and non-arbitrary fashion.

101. The Equal Protection Clause prevents a particular class of individuals from being denied the ability engage in an activity that other similarly situated individuals are allowed to engage in.

102. Defendants' conduct with regard to poll watchers violates the Equal Protection Clause of the 14th Amendment to the United States Constitution.

103. Defendants' conduct fails to permit the Candidate Plaintiffs to have poll watchers at the Satellite Offices, but not other traditional polling places.

104. Defendants' conduct expressly denied the Poll Watcher Plaintiffs ability to be poll watchers without justification.

105. Further, Defendants are preventing Plaintiffs the ability to have poll watchers at the Satellite Offices despite voters being allowed to cast in-person votes at the Satellite Offices.

106. Poll watchers will be allowed to be present at other polling places throughout Allegheny County.

107. Defendants' plan is an arbitrary decision-making process that allows poll watchers in some polling places, but not others, including the Satellite Offices.

108. Defendants' actions will cause Plaintiffs to be deprived of their right to use poll watchers under the Election Code violating the Equal Protection Clause.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, Allegheny County Board of Elections, Rich Fitzgerald, Samuel DeMarco III, and Bethany Hallam as follows:

1. For the Court to determine the whereabouts and security of the erroneous ballots already cast or hereafter cast or returned; and,
2. A Declaratory Judgment directing Defendants on how to treat absentee and mail-in ballots cast on erroneous ballots but containing valid and legally cast votes of appropriate candidates.
3. A Declaratory Judgment that the actions of the Defendants, including, but not limited to the denial of poll watchers, watchers and/or other representatives at the Offices, Satellite Offices and Polls in Allegheny County is unconstitutional; and,
4. A Declaratory Judgment that the rights of the voters of Allegheny County have been violated by Defendants' actions in imposing exorbitant fees on Plaintiffs, or any other candidate, who wishes to challenge the erroneous ballots or their replacement ballots; and,
5. A Temporary Restraining Order to enjoin Defendants from engaging in any such future violations and declaring all of the erroneous ballots and the replacement ballots as "challenged" (without requiring funds to be deposited by Plaintiffs or other candidates) and treated as "provisional ballots" under the Election Code of the Commonwealth; and,
6. A Permanent Injunction to prohibit Defendants from denying poll watchers, watchers and/or other representatives at the Offices, Satellite Offices and Polls in Allegheny County; and,
7. Order Defendants to immediately issue watchers certificates to the individuals listed below:

For Candidate Parnell:	Robert Howard
	Jason Singer
	Kim Gatesman
	Barbara Heinz
	Dawn Davies
	Amanda Kelly
	Elaine Gorski
	Ann Murphy
	Ann Porter
	Quinn Ritchie

For Candidate Negron: Rachael Armstrong
Lynne Ruffing
Eric Williams
Barb Lloyd
Jim Means
Sue Means
Frank Huchrowski
Beth Conway
Larry Conway

along with any other eligible individual applying for a poll-watcher certificate.

8. Order Defendants to properly secure all mail-in ballots and the erroneous ballots and their replacement ballots as required by law, and to prevent continued violations of the Election Code by Defendants as described herein; and,
9. An award of costs and expenses, including reasonable attorneys' fees, under 42 U.S.C. §§ 1983 and 1988; and,
10. Such other relief as this Court deems appropriate.

Respectfully Submitted,

**DILLON, MCCANDLESS, KING,
COULTER & GRAHAM, LLP**

*Special Counsel for the Amistad Project of
the Thomas More Society*

Dated: October 22, 2020

By: /s/ Thomas W. King, III
Thomas W. King, III
PA. I.D. No. 21580
Thomas E. Breth
PA. I.D. No. 66350
Jordan P. Shuber
PA. I.D. No. 317823

Counsel for Plaintiffs

**RESOLUTION OF THE BOARD OF ELECTIONS OF
ALLEGHENY COUNTY, PENNSYLVANIA**

WHEREAS, Pennsylvania law permits the Allegheny County Board of Elections, through its Division of Elections, to have multiple offices for the operation and conduct of election matters throughout Allegheny County; and

WHEREAS, the Allegheny County Division of Elections, in conjunction with the Department of Administrative Services and IT Department, has developed a plan to provide for additional Election Division offices with each office having the necessary technology and security for registered electors to both vote at that location (over the counter) and to return already voted mail-in/absentee ballots; and

WHEREAS, the Allegheny County Board of Elections finds that adoption of the plan to provide for additional Elections Division offices is necessary to make voter participation in the upcoming election more convenient and safer.

NOW, THEREFORE, BE IT RESOLVED by the Allegheny County Board of Elections as follows:

1. To make in-person return of already voted mail-in/absentee ballots as convenient and safe as possible, the following additional Election Division offices with the schedule of locations, dates and hours of operation listed below are hereby established:

Saturday, October 10 – Hours: 9 AM
to 5 PM

1. County Office Building
2. North Park Ice Rink
3. South Park Ice Rink
4. DPW Garage # 2 (Carnegie)
5. CCAC Homewood

Sunday, October 11 – Hours: 11 AM
to 7 PM

1. County Office Building
2. North Park Ice Rink
3. South Park Ice Rink
4. DPW Garage # 2 (Carnegie)
5. CCAC Homewood

Saturday, October 17 – Hours: 9 AM
to 5 PM

1. County Office Building

Sunday, October 18 – Hours: 11 AM
to 7 PM

1. County Office Building

2. South Park Ice Rink
3. CCAC South
4. Boyce Park Ski Lodge
5. Shop 'n Save Hill District

2. South Park Ice Rink
3. CCAC South
4. Boyce Park Ski Lodge
5. Shop 'n Save Hill District

Saturday, October 24 – Hours: 9 AM to 5 PM

1. County Office Building
2. Boyce Park Ski Lodge
3. CCAC South
4. CCAC Allegheny
5. North Park Ice Rink

Sunday, October 25 – Hours: 11 AM to 7 PM

1. County Office Building
2. Boyce Park Ski Lodge
3. CCAC South
4. CCAC Allegheny
5. North Park Ice Rink

2. Each additional Election Division office will have access to the Statewide Uniform Registry of Electors (SURE) system and will be staffed by county employees. Each additional office shall be equipped to accommodate over-the-counter voting and ballot return and will serve voters regardless of where they live in the County.

RESOLVED AND ENACTED by the Board of Elections of Allegheny County Pennsylvania, this 17th day of September, 2020

Attest:

Board of Election of Allegheny County

Allan J. Opsitnick
Assistant County Solicitor

Rich Fitzgerald
Chairperson

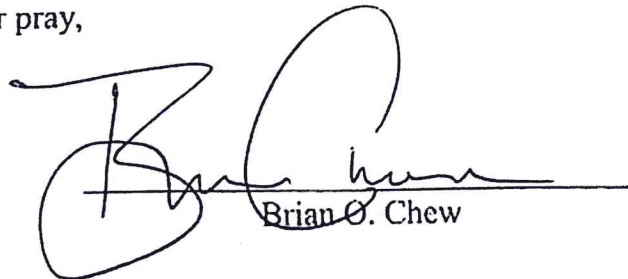
COMMONWEALTH OF PENNSYLVANIA :
 :
COUNTY OF ALLEGHENY : SS.

AFFIDAVIT

1. My name is Brian O. Chew and I live in Mt. Lebanon, Allegheny County, Pennsylvania.
2. I am a registered voter, more than 18 years of age, and registered as a member of the Republican Party.
3. On Wednesday, October 14, 2020, I appeared at the Allegheny County Elections Division Offices located in the County Office Building, 542 Forbes Avenue, Room 604, Pittsburgh, Pennsylvania, and delivered the attached letter, marked Exhibit "A," to "Kristen", an employee of the aforesaid Office, and requested a Poll Watcher's Certificate as set forth in the attached letter.
4. I was advised that Poll Watcher's Certificates were not available and have not yet been printed.
5. I was unable to obtain a Poll Watcher's Certificate for the purposes set forth in the communication attached.

I verify that the statements made in this Affidavit are true and correct to the best of my knowledge, information, and belief. I declare, certify, verify, or state under penalty of perjury that the foregoing is true and correct, under 28 U.S.C. Section 1746, relating to unsworn declarations under penalty of perjury.

And I will ever pray,


Brian O. Chew

Date: October 14, 2020.

DILLON McCANDLESS KING COULTER & GRAHAM L.L.P.
ATTORNEYS AT LAW

THOMAS W. KING III
JAMES P. COULTER
DONALD P. GRAHAM
MICHAEL D. HNATH
MATTHEW F. MARSHALL
THOMAS E. BRETH
RONALD T. ELLIOTT

ANDREA C. PARENTI
PATRICK V. HAMMONDS
ELIZABETH A. GRIBIK
JOHN J. BENCH
JORDAN P. SHUBER
ROBERT W. GALBRAITH
DILLON A. MEEDER
ANTHONY COSGROVE

THOMAS J. MAY, Of Counsel
MARY JO DILLON, Of Counsel

128 WEST CUNNINGHAM STREET
BUTLER, PENNSYLVANIA 16001

(724) 283-2200
FACSIMILE (724) 283-2298

CRANBERRY OFFICE:

600 CRANBERRY WOODS DR., STE. 175
CRANBERRY TWP., PA 16066
(724) 776-6644
FACSIMILE (724) 776-6608

October 14, 2020

Mr. Brian Chew
Mt. Lebanon, Pennsylvania

Re: Republican Party of Pennsylvania

Dear Mr. Chew:

I am writing as the General Counsel to the Republican Party of Pennsylvania.

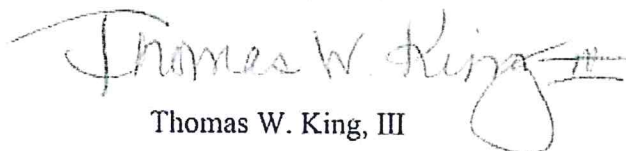
We request that you obtain a Poll Watcher's Certificate from Allegheny County immediately for the purpose of serving as a Poll Watcher at the "Satellite" office in Allegheny County where voting is on-going.

Please present this letter to the Election Bureau in Allegheny County and obtain a Poll Watcher's Certificate for said purposes.

If there any questions, I can be reached on my cell phone at 724-679-1019.

Thank you.

Very truly yours,


Thomas W. King, III

TWK:ksb



COMMONWEALTH OF PENNSYLVANIA :
 :
COUNTY OF ALLEGHENY : ss.

AFFIDAVIT

1. My name is Jay R. Hagerman and I live in Hampton Township, Allegheny County, Pennsylvania.
2. I am a registered voter, more than 18 years of age, and registered as a member of the Republican Party.
3. On Thursday, October 15, 2020, I appeared at the Allegheny County Elections Division Offices located in the County Office Building, 542 Forbes Avenue, Room 604, Pittsburgh, Pennsylvania, and delivered the attached letter, marked Exhibit "A," to a female employee of the aforesaid Office, and requested a Poll Watcher's Certificate as set forth in the attached letter.
4. I was advised that Poll Watcher's Certificates were not available and have not yet been printed.
5. I was unable to obtain a Poll Watcher's Certificate for the purposes set forth in the communication attached.

I verify that the statements made in this Affidavit are true and correct to the best of my knowledge, information, and belief. I declare, certify, verify, or state under penalty of perjury that the foregoing is true and correct, under 28 U.S.C. Section 1746, relating to unsworn declarations under penalty of perjury.

And I will ever pray,


Jay R. Hagerman

Date: October 16, 2020.

DILLON McCANDLESS KING COULTER & GRAHAM L.L.P.
ATTORNEYS AT LAW

THOMAS W. KING III
JAMES P. COULTER
DONALD P. GRAHAM
MICHAEL D. HNATH
MATTHEW F. MARSHALL
THOMAS E. BRETH
RONALD T. ELLIOTT

ANDREA C. PARENTI
PATRICK V. HAMMONDS
ELIZABETH A. GRIBIK
JOHN J. BENCH
JORDAN P. SHUBER
ROBERT W. GALBRAITH
DILLON A. MEEDER
ANTHONY COSGROVE

THOMAS J. MAY, Of Counsel
MARY JO DILLON, Of Counsel

128 WEST CUNNINGHAM STREET
BUTLER, PENNSYLVANIA 16001

(724) 283-2200
FACSIMILE (724) 283-2298

CRANBERRY OFFICE:

600 CRANBERRY WOODS DR., STE. 175
CRANBERRY TWP., PA 16066
(724) 776-6644
FACSIMILE (724) 776-6608

October 14, 2020

jrh@a-h.law

Jay R. Hagerman, Esquire
Abernethy & Hagerman
4499 Mt. Royal Boulevard
Allison Park, PA 15101

Re: Republican Party of Pennsylvania

Dear Mr. Hagerman:

I am writing as the General Counsel to the Republican Party of Pennsylvania.

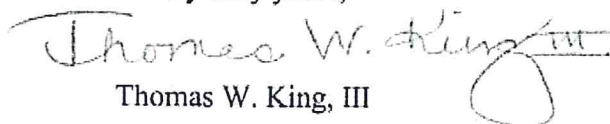
We request that you obtain a Poll Watcher's Certificate from Allegheny County immediately for the purpose of serving as a Poll Watcher at the "Satellite" office in Allegheny County where voting is on-going.

Please present this letter to the Election Bureau in Allegheny County and obtain a Poll Watcher's Certificate for said purposes.

If there any questions, I can be reached on my cell phone at 724-679-1019.

Thank you.

Very truly yours,


Thomas W. King, III

TWK:ksb





ALLEGHENY COUNTY

ALWAYS INSPIRING

FOR IMMEDIATE RELEASE

September 11, 2020

Contact: Amie M. Downs
412-350-3711 (office)
412-327-3700 (cell)
amie.downs@alleghenycounty.us

Elections Board to Consider Proposal for Additional Offices

Secure, Accessible Sites to Provide Over-the-Counter Voting, Return of Voted Ballots

PITTSBURGH – The Board of Elections will be conducting a virtual meeting on Thursday, September 17 at 2:00 p.m. to review plans for the 2020 Presidential Election. The Elections Division will be presenting a plan to the board for its consideration which proposes additional offices only open on specific dates and times leading up to the November 3 election. The recommendation is being made because of concerns related to the pandemic and to ensure that voters have additional safe and accessible options to vote over-the-counter or return their voted ballots.

“Since the June election, we have focused on improving our processes, confirming polling locations, recruiting, assigning and training poll workers, and taking additional measures to further strengthen the integrity of the election system,” said Dave Voye, Elections Division Manager. “We have also heard clearly that voters remain concerned about COVID and their own health and welfare. With that in mind, we have worked on this proposed plan, consistent with guidance from the Pennsylvania Department of State, that will provide additional options for voters to engage in the democratic process.”

The proposed plan will be discussed in detail at the September 17 meeting, but proposes board offices and hours as follows:

Saturday, October 10 – Hours: 9 AM to 5 PM

- County Office Building
- North Park Ice Rink
- South Park Ice Rink
- DPW Garage # 2 (Carnegie)
- CCAC Homewood

Sunday, October 11 – Hours: 11 AM to 7 PM

- County Office Building
- North Park Ice Rink
- South Park Ice Rink
- DPW Garage # 2 (Carnegie)
- CCAC Homewood

Saturday, October 17 – Hours: 9 AM to 5 PM

- County Office Building
- South Park Ice Rink
- CCAC South
- Boyce Park Ski Lodge
- Shop ‘n Save Hill District

Sunday, October 18 – Hours: 11 AM to 7 PM

- County Office Building
- South Park Ice Rink
- CCAC South
- Boyce Park Ski Lodge
- Shop ‘n Save Hill District

Saturday, October 24 – Hours: 9 AM to 5 PM

- County Office Building
- Boyce Park Ski Lodge
- CCAC South
- CCAC Allegheny
- North Park Ice Rink

Sunday, October 25 – Hours: 11 AM to 7 PM

- County Office Building
- Boyce Park Ski Lodge
- CCAC South
- CCAC Allegheny
- North Park Ice Rink

Each office will have access to the Statewide Uniform Registry of Electors (SURE) system and will be staffed by county employees. Offices will be able to accommodate over-the-counter voting and ballot return and will serve voters regardless of where they live in the county. As a result, the over-the-counter voting will likely take longer than going to a typical polling place on Election Day, though voters will be able to return their previously applied-for and voted ballots quickly. Voters are encouraged to

apply now for mail-in and absentee ballots rather than waiting and can do so online at <https://votespa.com/ApplyMailBallot>.

The public may view the meeting at <https://bit.ly/35re12Z>. Anyone wishing to address the board must submit their comments in writing prior to 2 p.m. on Wednesday, September 16, 2020 to BOE@AlleghenyCounty.us and they will be read into the record.

#

Jerry Tyskiewicz, Director

Department of Administrative Services – Division of Elections

604 County Office Building | 542 Forbes Avenue | Pittsburgh, PA 15219

Phone: 412-350-4500 | Fax: 412-350-5697

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ALLEGHENY COUNTY

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October 14, 2020

Contact: Amie M. Downs
412-350-3711 (office)
412-327-3700 (cell)
amie.downs@alleghenycounty.us

Midwest Direct to Reissue Corrected Ballots to County Voters

Mailing to be Completed by October 17 with Most Ballots Delivered Week of October 19

PITTSBURGH – The Elections Division announced today that a ballot image mapping error by the company contracted to handle the printing, collating and mailing of ballots has resulted in 28,879 voters in Allegheny County receiving incorrect ballots. Those mailings are being corrected and new, correct ballots will be delivered to the post office beginning on Thursday, October 15 through Saturday, October 17. Most are expected to be delivered to voters the week of October 19.

The mailing by Midwest Direct is from a batch of 32,318 voters whose date of mailing shows in the state ballot tracker as September 28, 2020. There were no issues with the county data, but a ballot image mapping error by Midwest resulted in individual voter's information being matched to the ballot for the next voter in that batch.

On Friday, October 9, 2020, the Elections office received communications from approximately 20 county voters who received their mail-in or absentee ballot packets but found that they had been sent the wrong ballot. Division staff immediately reached out to Midwest Direct to suspend mailings and directed the company to begin investigating what occurred. As elections identified impacted voters, the ballots were reissued in-house, but no ballots were sent out after Friday.

Midwest Direct identified and corrected the issue yesterday, October 13, and began printing the correct ballots for voters. Moving forward, a printout of the first and last 10 records will be generated for every file showing which images are being used. That printout will be compared to the actual printed ballots before inserting to verify correct images have been pulled. A second data processor will also review the files to create a two-person check.

Beginning this morning, Elections Division staff is manually locating and segregating all ballots received from voters that were included in this batch. Those ballots will be set aside and reviewed as part of the Return Board process following the election. Only one ballot will be counted per voter.

The corrected, re-issued ballots will be identified on the envelope that the voter receives. Additionally, the declaration envelope will also have identification on it to indicate that it is the envelope that should be used to return the corrected ballot. Only one ballot will be counted for each voter.

Midwest Direct had 19,564 ballots that were set to be delivered to the post office when this error was first reported. That initial run has been destroyed and the ballots are being reprinted. The print will be verified and the ballot packets will be delivered on Wednesday and Thursday to the post office. The mailing includes those ballots showing in the state's ballot tracker as having been mailed on October 3 and October 5, 2020.

As an additional security measure, voters who are included in this batch of ballots will not be able to have a new ballot issued except through this mailing until October 26. Voters who have not received their corrected ballot by October 26 may go to the downtown office of the Elections Division, or contact the office, for a reissuance.

Within the next 24 hours, the Elections Division will have a search feature available on its webpage that will allow voters, using their name or voter ID number, to determine if they are part of the impacted batch. In the

interim, voters may use the state's [online ballot tracker](#) to look up when their ballot was mailed. It can be found in the column "Ballot Mailed On." If the date is 09/28/2020, you may have received an incorrect ballot.

Voters may always view the sample ballot for their municipality, ward and district on the county's [webpage](#). If a voter is unsure of his or her municipality, ward and district, they can use the state's "[Find Voter Registration Status](#)" tool. On the page, where the polling place address is listed, the municipality, ward and district are also found.

#

Jerry Tyskiewicz, Director

Department of Administrative Services – Division of Elections

604 County Office Building | 542 Forbes Avenue | Pittsburgh, PA 15219

Phone: 412-350-4500 | Fax: 412-350-5697

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ALLEGHENY COUNTY

ALWAYS INSPIRING

**Statement by David Voye, Manager of the Elections Division
October 14, 2020**

Good morning. Thank you for joining us.

My name is Dave Voye and I am the Elections Division Manager. With me today are Chet Harhut, Deputy Division Manager; Jerry Tyskiewicz, Administrative Services Director; Andy Szefti, County Solicitor; and Al Opsitnick, Assistant County Solicitor.

This past Friday, we announced that we had received communications from approximately 20 county voters who received their mail-in or absentee ballot packets but found that they had been sent the wrong ballot.

Division staff immediately reached out to Midwest Direct, our vendor which the county contracted with to handle the printing, collating and mailing of ballots, about the problem. The company was directed to suspend mailings immediately and to begin investigating what occurred. The division staff began creating a list of identified, impacted voters and reissued a number of ballots for those voters.

On Friday evening, we posted information to that effect on the Election's webpage, on the county's social media channels and issued the same to voters through Allegheny Alerts and NextDoor. We also provided the same to media in response to inquiries. We have continued to add to that list, and reissued ballots throughout the weekend and holiday, although no ballots were mailed out after Friday.

After ongoing communications with Midwest Direct, we were notified yesterday by the company that they had identified the error and were able to tell us the number of impacted voters. There were no issues with the county data, but a ballot image mapping error by Midwest has resulted in 28,879 voters in Allegheny County receiving incorrect ballots.

The mailing by Midwest Direct is from a batch of 32,318 voters whose date of mailing shows in the state ballot tracker as September 28, 2020. The mapping error resulted in individual voter's information being matched to the ballot for the next voter in that batch.

Midwest Direct identified and corrected the issue yesterday, October 13, and began printing the correct ballots for voters. Moving forward, Midwest will create a printout of the first and last 10 records which will be generated for every file showing which images are being used. That printout will be compared to the actual printed ballots before inserting to verify correct images have been pulled. A second data processor will also review the files to create a two-person check.

Beginning this morning, Elections Division staff is manually locating and segregating all ballots received from voters that were included in this batch. Those ballots will be set aside and reviewed as part of the Return Board process following the election.

New, correct ballots are being sent to all 28,879 voters. Those ballot packets will be delivered to the post office beginning on Thursday, October 15 through Saturday, October 17. Most are expected to be delivered to voters the week of October 19.

The corrected, re-issued ballots will be identified on the envelope that the voter receives. Additionally, the declaration envelope will also have identification on it to indicate that it is the envelope that should be used to return the corrected ballot. Only one ballot will be counted for each voter.

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ballot by October 26 may go to the downtown office of the Elections Division, or contact the office, for a reissuance.

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Voters may always view the sample ballot for their municipality, ward and district on the county's [webpage](#). If a voter is unsure of his or her municipality, ward and district, they can use the state's "[Find Voter Registration Status](#)" tool. On the page, where the polling place address is listed, the municipality, ward and district are also found.

As of this morning, the division has approved applications for 371,062 voters. Of those, approximately 35,000-40,000 are remaining to be mailed.

Midwest Direct had 19,564 ballots that were being processed but had not yet been printed. That batch will now be verified, printed and the ballot packets will be delivered on Wednesday and Thursday to the post office. The mailing includes those ballots showing in the state's ballot tracker as having been mailed on October 3 and October 5, 2020.

Once the re-issuance of ballots is complete this weekend, Midwest Direct will verify, print and prepare the ballot packets for the remaining 30,000 voters.

The integrity of our election system is of utmost importance to me as the Elections Division Manager and to our entire team. Voters in this county should be confident that their votes are accurately counted and protected. Our very system of government depends on free and fair elections and nothing underscores that more than a presidential election.

In 2016, a total of 660,009 Allegheny County voters cast ballots in the presidential election. We are on pace to see that turnout figure be even higher in this election. With a little under three weeks to go, it is imperative that we ensure that our election system is one which voters can trust.

I pledge to be fair and transparent in the work that we are doing, and about the work being done on our behalf. This was a failure on behalf of our contractor that impacts too many of our voters. I apologize for it and commit to you that I will do everything in my power to ensure that we are not plagued by any other such issues.

#

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