

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

DONALD J. TRUMP FOR  
PRESIDENT, INC.; LAWRENCE  
ROBERTS; and DAVID JOHN  
HENRY;

Plaintiffs,

v.

KATHY BOOCKVAR, in her capacity  
as Secretary of the Commonwealth of  
Pennsylvania; ALLEGHENY  
COUNTY BOARD OF ELECTIONS;  
CENTRE COUNTY BOARD OF  
ELECTIONS; CHESTER COUNTY  
BOARD OF ELECTIONS;  
DELAWARE COUNTY BOARD OF  
ELECTIONS; MONTGOMERY  
COUNTY BOARD OF ELECTIONS;  
NORTHAMPTON COUNTY BOARD  
OF ELECTIONS; and  
PHILADELPHIA COUNTY BOARD  
OF ELECTIONS;

Defendants.

Civil Action

No.: 4:20-cv-02078-MWB

**MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE BY  
NON-PARTIES NAACP—PENNSYLVANIA STATE CONFERENCE,  
BLACK POLITICAL EMPOWERMENT PROJECT, COMMON CAUSE  
PENNSYLVANIA, LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA,  
JOHN AYENI, LUCIA GAJDA, STEPHANIE HIGGINS, MERIL LARA,  
RICARDO MORALES, NATALIE PRICE, TIM STEVENS, AND TAYLOR  
STOVER FOR LEAVE TO FILE A RESPONSIVE PLEADING ON THE  
SAME SCHEDULE AS DEFENDANTS**

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The National Association for the Advancement of Colored People-Pennsylvania State Conference (“NAACP-PSC”), Black Political Empowerment Project (“B-PEP”), Common Cause Pennsylvania, and League of Women Voters of Pennsylvania (“the League”) (together, the “organizational Applicants”), and Joseph Ayeni, Lucia Gajda, Stephanie Higgins, Meril Lara, Ricardo Morales, Natalie Price, Tim Stevens, and Taylor Stover (together, the “individual Applicants”) (collectively, “Applicants”), submit this memorandum in support of their Motion to Intervene as Defendants as a matter of right pursuant to Rule 24(a) of the Federal Rules of Civil Procedure or, in the alternative, by permissive intervention pursuant to Rule 24(b).

## **I. INTRODUCTION**

Plaintiffs have launched an all-out attack on voting by mail-in and absentee ballot. They have done so, unapologetically, in the midst of a global pandemic. The relief Plaintiffs seek from this Court is unprecedented, unsupported and unsupportable: They want to stop Pennsylvania from certifying the results of the 2020 General Election. If that fails, they seek (1) to prevent *all* mail-in and absentee ballots cast in up to seven counties, including Pennsylvania’s two largest counties from being counted – a request for relief that, if granted, would result in over 2.6 million voters having their lawfully cast ballots discarded; *and* (2) to prevent ballots cast by qualified electors in the seven named counties from being counted if a voter was afforded an opportunity to cure a mail-in ballot. This flagrant attempt to disenfranchise hundreds of thousands of Pennsylvania voters must be rejected.

Applicants are critical participants in these actions – as of now, they would be the only party in the case representing the interests of individual voters – and are well-situated to defend the right of all Pennsylvania voters to cast their ballots safely during this global pandemic. The individual Applicants are voters whose ballots will be thrown out if Plaintiffs obtain the relief they seek. The organizational Applicants are nonpartisan organizations representing the interests of their nearly 50,000 Pennsylvania members – many of whose votes would also be thrown out – and dedicated to eliminating barriers to voting and increasing civic engagement among their members and in traditionally disenfranchised communities.

Applicants are entitled to intervene as a matter of right under Federal Rule of Civil Procedure 24(a)(2) because (1) Applicants filed this motion without delay; Applicants have legally protectable interests in ensuring their lawfully cast ballots are counted; (3) the relief Plaintiffs seek would harm Applicants’ interests; and (4) Applicants’ interests go beyond those of the named Defendants, who have only a generalized public interest in applying Pennsylvania’s election code.

Alternatively, Applicants should be permitted to intervene under Rule 24(b). Because Applicants seek leave to directly challenge Plaintiffs’ attempt to discount otherwise valid ballots, their claims and defenses necessarily share common questions of law and fact with the main action, and Applicants’ motion would neither delay nor prejudice the orderly adjudication of Plaintiffs’ claims.

## II. FACTUAL BACKGROUND

### A. Plaintiffs Seek to Undo Pennsylvania's Efforts To Ensure That Mail-in Ballots Are Counted.

Plaintiffs seek an emergency order, declaration, or injunction prohibiting Defendants from certifying the results of the 2020 General Election. Comp. ¶ 15 and p. 84 (Request for Relief). In the alternative, they seek an emergency order, declaration, or injunction prohibiting Defendants from certifying any results from the General Election that included the tabulation of absentee and mail-in ballots “for which Plaintiffs’ watchers were prevented from observing during the pre-canvass and canvass in the County Election Boards.” *Id.* “In addition to the alternative requests for relief,” Plaintiffs also seek an emergency order, declaration, or injunction prohibiting Defendants from certifying any results from the General Election that include the tabulation of absentee and mail-in ballots “which Defendants improperly permitted to be cured.” *Id.* And although Plaintiffs do not include it in their final request for relief (*id.* at p. 84), Plaintiffs also raise issue with the tabulation of

invalidly cast absentee and mail-in ballots which (i) lack a secrecy envelope, or contain on that envelope any text, mark, or symbol which reveals the elector’s identity, political affiliation, or candidate preference, (ii) do not include on the outside envelope a completed declaration that is dated and signed by the elector, or (iii) are delivered in-person by third parties for non-disabled voters.

*Id.* at ¶ 15.



Plaintiffs' 243-paragraph Complaint makes a litany of allegations that purportedly support these requests for relief. Plaintiffs are wrong on the facts and the law, and Applicants seek to intervene in this action to protect the interests of individual voters whose fundamental right to vote is under attack and to provide the perspective of organizations whose mission is to facilitate full and fair participation in the electoral process. Applicants have at least as much of an interest in the outcome of this litigation as Defendants. But as voters who stand to be disenfranchised if Plaintiffs get their relief, the individual Applicants' interest is even greater. *See Pennsylvania Psychiatric Society v. Green Spring Health Servs., Inc.*, 280 F.3d 278, 284 (3d Cir. 2002)

**B. The Organizational Applicants Are Organizations That Promote the Interests of Voters.**

Applicants are nonpartisan organizations that represent nearly 50,000 Pennsylvania members, many of whom are now at risk of being unlawfully deprived of their right to vote. Their organizations are dedicated to eliminating barriers to voting and increasing civic engagement among their members and in traditionally disenfranchised communities. Applicants expend substantial resources on voter education and turnout efforts. For this election, Applicants' efforts have included providing accurate information to voters on how to cast mail-in and absentee ballots to ensure that voters have a full and fair opportunity to participate in spite of the unprecedented circumstance of the election taking place during a global pandemic.

The **NAACP-Pennsylvania State Conference** is a non-profit advocacy group for civil rights for Black Americans. Every election cycle, the NAACP-PSC engages in voter registration, education, and turnout efforts. Declaration of Kenneth L. Huston ¶¶ 6–8. The NAACP-PSC has been working to ensure that Black voters in Pennsylvania are educated on different voting methods, including mail-in and absentee voting, during the COVID-19 pandemic, and has conducted phone-banking to assist Pennsylvania voters, including those whose absentee ballots were rejected. *Id.* ¶¶ 9-10, 12. NAACP-PSC also has members, such as Philadelphia resident Mary Grice, who cured their rejected absentee ballot and are at risk of disenfranchisement if the Plaintiffs prevail in this case. *Id.* ¶¶ 13-14. It focuses on strategies, including litigation, to eliminate Black voter suppression in Pennsylvania. *Id.* ¶ 8; *see also Applewhite v. Commonwealth*, 2014 WL 184988 (Pa. Commw. Ct. Jan. 17, 2014).

The **Black Political Empowerment Project (B-PEP)** is a non-profit, non-partisan organization that has worked since 1986 to ensure that the Black community in Pittsburgh votes in every election. During every election cycle, B-PEP’s work includes voter registration drives, get-out-the-vote activities, education outreach about the voting process, and election-protection work. B-PEP focuses these activities in predominantly Black American neighborhoods in Allegheny County, with some efforts in Westmoreland and Washington Counties. In preparation for the November 3 election, B-PEP’s work has included educating voters about recent changes to Pennsylvania election procedures and informing its members and

members of the public about the signature requirement for the declarations accompanying mail-in ballots. *See* Declaration of Tim Stevens

**Common Cause Pennsylvania** is a non-profit political advocacy organization and a chapter of the national Common Cause organization. With approximately 36,000 members and supporters in Pennsylvania, Common Cause Pennsylvania works to encourage civic engagement and public participation in democracy, to ensure that public officials and public institutions are accountable to and reflective of all people, and to implement structural changes through the American democratic process. Common Cause Pennsylvania is non-partisan and uses grassroots mobilization, community education, coalition building, legislative advocacy, and litigation to build a democracy that is inclusive of all voters. Common Cause Pennsylvania works to ensure that voters in communities that vote at the lowest rates and use vote-by-mail at the lowest rates—which are also the communities that may be most unfamiliar with the technical instructions mail-in voting—can have their vote counted. *See* Declaration of Suzanne Almeida.

The **League of Women Voters of Pennsylvania** is a nonpartisan, statewide non-profit formed in August 1920, shortly after the Nineteenth Amendment granted women suffrage in November 1918. The League and its 2,273 members are dedicated to helping the people of Pennsylvania exercise their right to vote, as protected by the law. As part of its mission to educate and empower voters, the League promotes political responsibility and encourages the informed and active

participation in government and public policy issues. Through its education and advocacy efforts, the League works in the areas of voter registration, election protection, voter education, get-out-the vote efforts, and grassroots mobilization around voting rights. It works to ensure that voters are not disenfranchised by removing unnecessary barriers to full participation in the electoral process. The League has pursued legal action against Pennsylvania officials to achieve these goals. *See* Declaration of Terrie E. Griffin.

**C. The Individual Applicants Are Voters With Particularized Interests.**

**Joseph Ayeni** is a seventy-seven year old African American voter whose ballot was rejected for failure to include a secrecy envelope. Declaration of Joseph Ayeni ¶¶ 3-6, 12. He was called on Election Day by election officials about this problem and cast a provisional ballot that day. *Id.* at ¶¶ 8-9.

**Lucia Gajda** is forty year old Northampton County voter who has underlying medical conditions, including an autoimmune disorder. Declaration of Lucia Gajda ¶¶ 3-6. She submitted her absentee ballot for the November 2020 election via an official dropbox, in order to avoid exposure to COVID-19, on or about October 10, 2020. *Id.* at ¶¶ 6-7. She recently checked the status of her ballot on the Pennsylvania ballot tracker website and it is marked as "vote recorded." *Id.* at ¶ 7. Ms. Gajda was exceedingly proud to cast her vote and would lose faith in our democracy if her vote

were not counted and she is robbed of her ability to express her views and hold elected officials accountable through no fault of her own. *Id.* at ¶ 9.

**Stephanie Higgins** is a Philadelphia County voter who voted by mail. Ms. Higgins is in the third trimester of a high-risk pregnancy, and she did not want to risk COVID exposure. She used a drop box and her vote was received and recorded on October 23, 2020.

**Meril Lara** is a twenty-six year old Hispanic Philadelphia County voter who voted provisionally after receiving an email notification from election officials that her ballot was rejected for failure to include a secrecy envelope. Declaration of Meril Lara ¶¶ 3-9.

**Ricardo Morales** is a forty-eight year old Hispanic Philadelphia County voter whose mail-in ballot was cancelled or rejected, likely due to a signature error. Declaration of Ricardo Morales ¶¶ 3-7. His full, Hispanic name has 4 names but he signed using the anglicized version, which has only two names. *Id.* at 7. SEIU texted him to let him know his ballot had been rejected on Election Day (he is a member of the American Federation of Musicians), so he voted provisionally. *Id.* at 8-9.

**Natalie Price** is a seventy-three year old Montgomery County voter who votes in every election and who voted by mail-in ballot in order to avoid exposure to COVID-19, which she is at high risk for due to her age. Declaration of Natalie Price ¶¶ 3-6. Ms. Price received her mail-in ballot several weeks ago and returned

it right away, even making sure that a postal worker time-stamped it. *Id.* at ¶ 7. On November 1st and 2nd, Ms. Price received three calls from the Democratic Party informing her that her ballot had been rejected (though they weren't sure why). *Id.* at ¶ 8. The first site Ms. Price visited in Norristown to attempt to cure her ballot was drop-off only; she went to a second site where she learned that her ballot had been marked as defective because she did not hand-write her name and address on the ballot. *Id.* at ¶ 10. Ms. Price was not aware that she needed to hand-write her name and address in non-cursive print because that information was preprinted on the envelope and it seemed redundant to write it again. *Id.* at ¶ 11. Her ballot was signed, dated, and otherwise complied with all other ballot instructions. *Id.* at ¶ 12. Ms. Price would be devastated if her vote were thrown out, especially after she drove to a different town in the pouring rain to cure her ballot. *Id.* at ¶ 15.

**Tim Stevens** is a 75-year-old Black man and lifelong resident (minus 9 months in DC many years ago) of Allegheny County. He is the Chairman, Founder and CEO of Black Political Empowerment Project, B-PEP for short. As a long time civil rights leader in Pittsburgh, voting is very important to Mr. Stevens. He cannot recall the last time he missed an election. This year, concerns about contracting COVID-19 prompted him to vote by mail. Besides his age, which puts him at elevated risk of serious illness and death if he contracts the coronavirus, Mr. Stevens has seen reporting about how the disease disproportionately impacts Black people and people of color. For these reasons, he did not feel safe voting as he usually does

at a polling place. Mr. Stevens drove his mail ballot to drop it off at the East Liberty post office several weeks before election day. He confirmed online that his ballot was accepted. Mr. Stevens does not want his vote nullified.

**Taylor Stover** is a twenty-six year old African American Philadelphia County voter whose ballot was rejected due to a problem with her signature. Declaration of Taylor Stover ¶¶ 3-8. She voted provisionally on Election Day because she says “[t]his is the most consequential election that I have experienced and I want my ballot to count.” *Id.* at ¶¶ 9-10.

### **III. APPLICANTS ARE ENTITLED TO INTERVENE AS A MATTER OF RIGHT.**

Applicants satisfy the criteria to intervene as of right under Federal Rule of Civil Procedure 24(a). Applicants have a right to intervene upon establishing: “(1) a timely application for leave to intervene, (2) a sufficient interest in the underlying litigation, (3) a threat that the interest will be impaired or affected by the disposition of the underlying action, and (4) that the existing parties to the action do not adequately represent [their] interests.” *Liberty Mut. Ins. Co. v. Treesdale, Inc.*, 419 F.3d 216, 220 (3d Cir. 2005). Courts construe these factors to “favor[] intervention over subsequent collateral attacks.” *Kleissler v. U.S. Forest Serv.*, 157 F.3d 964, 970 (3d Cir. 1998). When these requirements are satisfied, intervention is mandatory. *Id.* at 974; *see also Commonwealth of Pa. v. President of United States of Am.*, 888 F.3d 52, 60 (3d Cir. 2018). The Applicants have satisfied these

requirements.

**A. The Motion to Intervene Is Timely.**

This motion, which is being filed the day after Plaintiffs initiated this action, is undoubtedly timely. *See Wallach v. Eaton Corp.*, 837 F.3d 356, 371 (3d Cir. 2016). Applicants’ prompt intervention does not delay the advancement of this action or otherwise harm the parties. *See Cmty. Vocational Schs. of Pittsburgh, Inc. v. Mildon Bus Lines, Inc.*, 2017 WL 1376298, at \*5 (W.D. Pa. Apr. 17, 2017); *see also Mountain Top Condominium Ass’n*, 72 F.3d at 370. Applicants’ next-day motion to intervene is timely for purposes of Rule 24.

**B. Applicants Have Sufficient Interests in This Litigation.**

Applicants have a “sufficient” – *i.e.*, a “significantly protectable” – interest in the litigation. *Donaldson v. United States*, 400 U.S. 517, 531 (1971). Under Rule 24(a)(2), a protectable interest is a “cognizable legal interest” distinguished from “an interest of a general and indefinite character.” *Pennsylvania v. President of United States of Am.*, 888 F.3d at 58. It is “recognize[d] as belonging to or being owned by the [proposed intervenor].” *United States v. Alcan Aluminum, Inc.*, 25 F.3d 1174, 1185 (3d Cir. 1994).

The interest of the individual Applicants and organizational members is simple: Voters who cast mail-in or absentee ballots in the 2020 election, or who voted by provisional ballot or in person after receiving notice of a mail-in ballot error, have a significantly protectable interest in ensuring their ballots are counted.



*See League of United Latin Am. Citizens, Dist. 19 v. City of Boerne*, 659 F.3d 421 (5th Cir. 2011) (finding a legally protectable interest where the intervenor sought to protect his right to vote); *see also Pierce v. Allegheny Cty. Bd. of Elections*, 324 F. Supp. 2d 684, 694–95 (W.D. Pa. 2003) (“The right of qualified electors to vote . . . is recognized as a fundamental right, . . . extend[ing] to all phases of the voting process, [and applying] equally to the initial allocation of the franchise as well as the manner of its exercise.”).

Likewise, the organizational Applicants have an interest in protecting one of the core missions of their organizations – ensuring that their members, and all Pennsylvanians, are given a full and equal opportunity to exercise their fundamental right to vote – which they have dedicated considerable effort to advancing. *See Pennsylvania v. President of United States of Am.*, 888 F.3d at 58 (permitting a religious group to intervene based on its interest in preserving the religious exemption achieved through prior litigation efforts, where the religious organization was described as an “impetus for change”).

Each of the organizational Applicants is committed to eliminating barriers to voting and increasing civic engagement, especially in communities that have been traditionally disenfranchised. In pursuit of that mission, each organization engages in robust voter registration, voter education, and get-out-the-vote activities, expending considerable resources towards ensuring that eligible voters in Pennsylvania can exercise their right to vote. Discarding ballots that have been

lawfully cast would undermine these organizations' voter-advocacy efforts by leading some voters to believe that voting is pointless because their ballots will not be counted, making it more expensive for the organizational Applicants to carry out their missions in the future. The threat of frustration of these core voter enfranchisement missions gives the organizational Applicants a significantly protectable interest in this litigation. *See, e.g., Common Cause Ind. v. Lawson*, 937 F.3d 944, 950 (7th Cir. 2019) (“[A] voting law can injure an organization enough to give it standing by compelling [it] to devote resources to combatting the effects of that law that are harmful to the organization’s mission.”).

The organizational Applicants also have an interest in ensuring that legally cast ballots are not discarded because it would force Applicants to divert resources from other organizational priorities to educate members and other voters of their rights and the severe restrictions on voting that Plaintiffs seek to impose. *See, e.g., OCA-Greater Houston v. Texas*, 867 F.3d 604, 610-12 (5th Cir. 2017) (finding standing where an organization was required to dedicate additional resources to assisting voters navigate the polls); *Fla. State Conf. of N.A.A.C.P. v. Browning*, 522 F.3d 1153, 1164-65 (11th Cir. 2008); *Crawford v. Marion Cnty. Election Bd.*, 472 F.3d 949, 951 (7th Cir. 2007), *aff'd*, 553 U.S. 181 (2008); *Issa v. Newsom*, No. 2:20-cv-01044, 2020 WL 3074351, at \*3 (E.D. Cal. June 10, 2020). If Plaintiffs were to obtain the relief they seek, the organizational Applicants would be forced to commit resources immediately to respond to questions from members and voters about the

status of their lawfully cast ballots in this election. In addition, the diversion of the organizational Applicants' resources would continue into future years, as they would need to dedicate larger portions of their staff and monetary resources toward ensuring that members' votes are not rejected. These efforts will come at the expense of other organizational priorities.

Finally, courts routinely find that public interest organizations, like the organizational Applicants, should be granted intervention in voting and other election-related cases, demonstrating the significantly protectable interests such organizations have in the electoral process. *See, e.g., Texas v. United States*, 798 F.3d 1108, 1111 (D. C. Cir. 2015); *Pub. Interest Legal Found., Inc. v. Winfrey*, No. 19-13638, 2020 WL 2781826, at \*2 (E. D. Mich. May 28, 2020); *Kobach v U. S. Election Assistance Comm'n*, No. 13-cv-04095, 2013 WL 6511874 (D. Kan. Dec. 12, 2013); *LaRoque v. Holder*, No. 1:10-cv-00561 (D. D. C. Aug. 25, 2010). This case is no exception.

**C. Disposition of this Case May Impair Applicants' Interests.**

Applicants also satisfy the third prong of the intervention analysis because the “disposition” of this action “‘may’ impair or impede their ability to protect their interests.” Applicants need not show that their interests “will” be impaired by disposition of the litigation; only that they “may” be. *See Brumfield v. Dodd*, 749 F.3d 339, 344 (5th Cir. 2014). Indeed, the “very purpose of intervention is to allow interested parties to air their views so that a court may consider them before making

potentially adverse decisions.” *Id.* at 345; *see also Brody By & Through Sugzdinis v. Spang*, 957 F.2d 1108, 1122 (3d Cir. 1992).

The individual Applicants, the organizational Applicants’ members, and many other Pennsylvania voters are in jeopardy of being stripped of their fundamental right to vote. Applicants’ rights thus undoubtedly stand to “be affected by a proposed remedy in this case.” *See Seneca Res. Corp. v. Twp. of Highland, Elk Cty.*, 863 F.3d 245, 257 (3d Cir. 2017). The individual Applicants could have their lawfully cast ballots tossed out. The organizational Applicants are at risk of losing their ability to protect their interests and those of their members in voter participation. These concerns of voter disenfranchisement are amplified with respect to the underrepresented minority communities that the organizational Applicants serve. “Historically . . . throughout the country, voter registration and election practices have interfered with the ability of minority, low-income, and other traditionally disenfranchised communities to participate in democracy.” *Ind. State Conf. of NAACP v. Lawson*, 326 F. Supp. 3d 646, 650 (S.D. Ind. 2018), *aff’d*, 937 F.3d 944 (7th Cir. 2019). The organizational Applicants have worked to remedy those practices, in part, by ensuring that their registration, education, and get-out-the-vote efforts reach vulnerable or underserved minority communities. Thus, the organizational Applicants have significant interests in ensuring that Plaintiffs’ proposed relief does not harm those communities.

**D. The Interests of Existing Defendants May Diverge from Those of Applicants.**

Applicants also meet the “minimal” burden of demonstrating that the existing parties in the litigation may not protect their interests. *Trbovich v. United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *Hoots v. Pennsylvania*, 672 F.2d 1133, 1135 (3d Cir. 1982). “The possibility that the interests of the applicant and the parties may diverge need not be great,” *Am. Farm Bureau Fed’n v. Env’tl. Prot. Agency*, 278 F.R.D. 98, 110 (M.D. Pa. 2011), and a proposed intervenor need only show that “although [its] interests are similar to those of a party, they diverge sufficiently that the existing party cannot devote [them] proper attention,” *United States v. Territory of V.I.*, 748 F.3d 514, 519–20 (3d Cir. 2014).

Here, the interests of the organizational and individual Applicants are distinct and may diverge from those of the governmental Defendants. *See Am. Farm Bureau Fed’n*, 278 F.R.D. at 110-11 (public interest groups allowed to intervene in litigation in which EPA was a defendant, “[b]ecause the EPA represents the broad public interest . . . not only the interests of the public interest groups” and similar stakeholders). While the Defendants may have a generalized interest in upholding the law, they do not have a direct interest in protecting the validity of their own votes, as the individual Applicants and the organizational Applicants’ members do, or in ensuring the broad voter access that is fundamental to the mission of the organizational Applicants. *See Kobach v. U.S. Election Assistance Comm’n*, No.

13-cv-4095- EFM-DJW, 2013 WL 6511874, at \*4 (D. Kan. Dec. 12, 2013) (applicants who had shown their interests in protecting voter rights, particularly in minority and underprivileged communities, may have private interests that diverge from the public interest of the defendant Election Assistance Commission); *see also*, e.g., *Meek v. Metro. Dade County*, 985 F.2d 1471, 1478 (11th Cir. 1993), (“The intervenors sought to advance their own interests in achieving the greatest possible participation in the political process. Dade County, on the other hand, was required to balance a range of interests likely to diverge from those of the intervenors.”), *abrogated on other grounds by Dillard v. Chilton Cty. Comm’n*, 495 F.3d 1324 (11th Cir. 2007).

Moreover, there are a number of issues, positions, and claims that a governmental entity may not be willing to raise that are critical to public interest organizations like the organizational Applicants. Unlike Defendants, who are broadly responsible for the management of elections, the interests of Applicants are personal to these individuals and the organizations’ members. Their right to vote – indeed, their right to have the votes they have already cast counted – is at risk. As the Third Circuit has recognized: “[W]hen an agency’s views are necessarily colored by its view of the public welfare rather than the more parochial views of a proposed intervenor whose interest is personal to it, the burden [of establishing inadequacy of representation] is comparatively light.” *Kleissler*, 157 F.3d at 972.

**IV. IN THE ALTERNATIVE, THE COURT SHOULD GRANT PERMISSIVE INTERVENTION.**

Even if the Court determines that Applicants are not entitled to intervene as a matter of right, the Court should exercise its broad discretion to grant permissive intervention. *See Donald J. Trump for President v. Boockvar*, No. 2:20-cv-00966-NR (W.D. Pa. Aug. 3, 2020), ECF No. 309; *Hoots*, 672 F.2d at 1136. A court may grant permissive intervention when the motion to intervene is timely and “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b). The decision whether or not to do so is “highly discretionary.” *Brody*, 957 F.2d at 1115.

Applicants easily satisfy the threshold requirements for permissive intervention here. Their motion is timely, and they seek to assert defenses that squarely address the factual and legal premise of Plaintiffs’ claims, including but not limited to whether: (1) alleged noncompliance with Pennsylvania law regarding election observers requires throwing out hundreds of thousands of ballots that were lawfully cast; (2) a ballot that has a defect that is cured by the voter on or before Election Day must be thrown out.

Permissive intervention is especially appropriate where, as here, Applicants may meaningfully contribute to the proper development of the factual or legal issues in dispute. *See Nat’l Wildlife Fed’n v. Ruckelshaus*, 99 F.R.D. 558, 561 (D.N.J.

1983). Applicants expect to present a perspective on key legal and factual issues that are different from the Defendants and the other parties in this case.

In particular, the individual Applicants and organizational Applicants' members are themselves the individual voters whose ballots Plaintiffs seek to discard. Furthermore, the organizational Applicants will be able to present a unique perspective based on their deep experience educating, registering, and assisting voters in Pennsylvania counties and constituent communities. Organizational Applicants, their affiliates in sister-states, and their counsel have litigated numerous voting rights cases and have experience analyzing claims such as those asserted here and the methodology behind them. *See, e.g., Va. Voter's All., Inc. v. Leider*, No. 16-cv-394 (E.D. Va. June 17, 2016), ECF No. 25 (granting League of Women Voters of Virginia's motion to intervene in suit seeking to compel maintenance of voter registration list). Applicants will draw on this national experience and their history representing populations most likely to be impacted by the relief Plaintiff seeks in framing their defense of this litigation. The organizational Applicants also represent thousands of Pennsylvania voters who, along with individual Applicants, would be burdened if Plaintiffs are successful in this litigation.

Granting Applicants' Motion at this early stage of the case would not delay or prejudice the adjudication of the original parties' rights. *See Fed. R. Civ. P. 24(b)*. By contrast, refusing to permit intervention would deprive Applicants of the chance to defend their significant and protectable interests in the litigation.



**V. THE COURT SHOULD GRANT APPLICANTS LEAVE TO FILE A RESPONSIVE PLEADING ON THE SAME SCHEDULE AS DEFENDANTS.**

Applicants further move for leave to file a responsive pleading on the same date that the current Defendants file a pleading in response to the Complaint. This Court has discretion to grant this motion without the inclusion of a pleading where no prejudice will result to the other parties. *See, e.g., Amalgamated Transit Union, Local 1729 v. First Grp. Am. Inc.*, No. 2:15-CV-806, 2016 WL 520989, at \*1 (W.D. Pa. Feb. 10, 2016); *U.S. ex rel. Frank M. Sheesley Co. v. St. Paul Fire & Marine Ins. Co.*, 239 F.R.D. 404, 411 (W.D. Pa. 2006). This motion is being filed at the very initial stages of the litigation and granting this motion will not delay or prejudice any party, as Defendants have filed no responsive pleading and this Memorandum provides sufficient notice of the basis for intervention and defenses Applicants will assert. For these reasons, the Applicants request leave to file a responsive pleading on the same schedule as Defendants.

**VI. CONCLUSION**

For the reasons stated above, the Court should grant the Applicants' Motion to Intervene as of right, or in the alternative, for permissive intervention, and to file a responsive pleading on the same schedule as defendants.

Dated: November 10, 2020

Respectfully submitted,

Witold J. Walczak (PA No. 62976)  
Marian K. Schneider (PA No. 50337)

/s/ Witold J. Walczak  
Mary M. McKenzie (PA No. 47434)\*

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**CERTIFICATE OF WORD COUNT**

I HEREBY CERTIFY on this 10th day of November that the above memorandum contains fewer than 5000 words (4864).

/s/ *Witold J. Walczak*  
Witold J. Walczak

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, the foregoing memorandum of law in support of motion to intervene was filed electronically and served on Plaintiffs' counsel of record via the ECF system of the U.S. District Court for the Middle District of Pennsylvania; and via e-mail on counsel for defendants.

Dated: November 10, 2020

/s/ Witold J. Walczak  
Witold J. Walczak

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

DONALD J. TRUMP FOR  
PRESIDENT, INC.; LAWRENCE  
ROBERTS; and DAVID JOHN  
HENRY;

Plaintiffs,

v.

KATHY BOOCKVAR, in her capacity  
as Secretary of the Commonwealth of  
Pennsylvania; ALLEGHENY  
COUNTY BOARD OF ELECTIONS;  
CENTRE COUNTY BOARD OF  
ELECTIONS; CHESTER COUNTY  
BOARD OF ELECTIONS;  
DELAWARE COUNTY BOARD OF  
ELECTIONS; MONTGOMERY  
COUNTY BOARD OF ELECTIONS;  
NORTHAMPTON COUNTY BOARD  
OF ELECTIONS; and  
PHILADELPHIA COUNTY BOARD  
OF ELECTIONS;

Defendants.

Civil Action

No.: 4:20-cv-02078-MWB

**DECLARATION OF SUZANNE ALMEIDA**

Pursuant to 28 U.S.C. § 1746, I, Suzanne Almeida, hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I am the Interim Executive Director of Common Cause Pennsylvania. I have served in that role since March 7, 2020.
4. I also serve as Common Cause Redistricting and Representation Counsel.
5. Prior to joining Common Cause, I was the Executive Director of the League of Women Voters of Pennsylvania.
6. I have a law degree from the James E. Beasley School of Law at Temple University and an undergraduate degree from George Fox University.
7. Common Cause is one of the nation's leading grassroots democracy-focused organizations and has over 1.2 million members nationwide and chapters in 35

states, including approximately 36,000 members and supporters in Pennsylvania, who live in all of the 67 counties in Pennsylvania. Most of those members are eligible to vote in Pennsylvania.

8. Since 1970, Common Cause has been dedicated to the promotion and protection of the democratic process. It works to create open, honest, and accountable government that serves the public interest; to promote equal rights, opportunity and representation for all; and to empower all people to make their voices heard in the political process.

9. Common Cause of Pennsylvania's principal place of business is located in Harrisburg.

10. Common Cause works in the areas of voter access advocacy, election protection, voter education, advocacy, outreach, get out the vote, and grassroots mobilization around voting rights.

11. Common Cause seeks to increase the level of voter registration and voter participation in Pennsylvania elections.

12. Common Cause works to educate voters in Black, Indigenous, People of Color communities about the voting process and how to participate in elections, including by mail or absentee ballot.

13. With respect to the 2020 election, Common Cause's voter outreach efforts have included providing education to voters on how to cast mail-in and absentee ballots. In preparation for the November 3 election, Common Cause's work has included educating voters about recent changes to Pennsylvania election procedures; informing its members and members of the public about the signature requirement for the declarations



accompanying mail-in ballots; educating voters about correcting minor mistakes on mail-in ballots; educating voters about various options provided under Pennsylvania election law including the option to vote provisionally if a voter never received a ballot, to vote provisionally if the voter was concerned that their ballot would not be timely received by the county board of elections; or to vote in person by spoiling their mail ballot at the poll. This has included both direct voter contact and broader voter education through town halls, media appearances, and direct mailing.

14. Common Cause's members include many voters at risk of disenfranchisement in this election if mail-in ballots cast by qualified electors were discarded.

15. Here are just a few of the many members of Common Cause who are at risk of disenfranchisement in this election if mail-in ballots cast by qualified electors and accompanied by signed declarations were discarded:

- Brian Cullin is a resident of Philadelphia. He is the Chair of the Common Cause Pennsylvania Governing Board, and a member of Common Cause. This year, Mr. Cullin voted by mail ballot through USPS and his ballot was accepted and recorded as received on October 10, 2020. Mr. Cullin does not want his vote nullified.
- Delana Listman is a resident of Philadelphia and a member of Common Cause Pennsylvania. This year, Ms. Listman voted by mail by returning her ballot to the Philadelphia City Hall secure drop box on or around October 7, 2020 and her ballot was accepted. Ms. Listman has family members with pre-existing

conditions that make them vulnerable to COVID so took significant precautions.

Ms. Listman does not want her vote nullified.

- Johnathan Listman is a resident of Philadelphia and a member of Common Cause Pennsylvania. This year, Mr. Listman voted by mail by returning his ballot to the Philadelphia City Hall secure drop box on or around October 8, 2020 and his ballot was accepted. Mr. Listman has family members with pre-existing conditions that make them vulnerable to COVID so took significant precautions. Mr. Listman does not want his vote nullified.

- Maya Afilalo is a resident of Philadelphia and a member of Common Cause Pennsylvania. Ms. Afilalo voted by mail in this general election because she wanted to avoid being indoors with others during COVID-19, and wanted to volunteer on Election Day to help others vote. Ms. Afilalo does not want her ballot nullified.

- Alan Cohn is a resident of Montgomery County and a member of Common Cause Pennsylvania. Mr. Cohn voted by mail by returning his ballot to a secure drop box at the Ludington Library around the end of September and his ballot was recorded. Mr. Cohn chose to vote by mail because he has elderly relatives that he cares for and so was not comfortable voting in person. Mr. Cohn does not want his vote nullified.

- Darlene Cohn is a resident of Montgomery County and a member of Common Cause Pennsylvania. Ms. Cohn voted by mail by returning her ballot to a secure drop box at the Ludington Library around the end of September and her ballot was recorded. Ms. Cohn chose to vote by mail because she has elderly relatives

that she cares for and so was not comfortable voting in person. Ms. Cohn does not want her vote nullified.

- Jill Friedman is a resident of Montgomery County and has been registered to vote there for 26 years. She is a member of Common Cause Pennsylvania. Ms. Friedman voted by mail in this general election by dropping her ballot in a secure drop box in Narberth, PA on or around October 18, 2020 and her ballot was accepted. Ms. Friedman chose to vote by mail because she wanted to remain safe during COVID-19 and volunteer on Election Day to help others vote. She also cares for elderly parents and needs to take extra precautions. Ms. Friedman does not want her vote nullified.
- Kenneth Myers is a resident of Montgomery County and a Member of Common Cause Pennsylvania's Governing Board, and a member of Common Cause. This year, Mr. Myers voted by mail ballot returning his ballot to the Elkins Park secure drop box. Mr. Myers does not want his ballot nullified.
- Ann Smolar is a resident of Montgomery County and has voted there for 27 years. She is a member of Common Cause Pennsylvania. She voted by mail by returning her ballot at a secure drop box location and her ballot was accepted. Ms. Smolar voted by mail because of COVID. Ms Smolar does not want her vote nullified.
- Shoshana Fishbein is a resident of Montgomery County and has voted there for approximately five years. She voted by mail by returning her ballot to a drop box on or around October 26, 2020 and her ballot has been accepted. Ms. Fishbein chose to vote by mail to limit her potential exposure to COVID. Ms. Fishbein does not want her vote nullified.

- Emily Cohn is a resident of Montgomery County and a member of Common Cause Pennsylvania. She voted by mail ballot because she was away at college and returned her ballot via USPS and her ballot has been accepted. Ms. Cohn does not want her vote nullified.
- Jack Cohn is a resident of Montgomery County and a member of Common Cause Pennsylvania. He voted by mail ballot this year because he was away at college and returned his ballot via USPS and his ballot has been accepted. Mr. Cohn does not want his vote nullified.
- Harriet Cohn is a resident of Montgomery County and a member of Common Cause Pennsylvania. She voted by mail in this election by returning her ballot to a secure drop box at the Ludington Library, likely around the end of September 2020 because she is in a vulnerable population (over 80) for COVID. Her ballot was accepted. Ms. Cohn does not want her vote nullified.
- Magdalene Listman is a resident of Montgomery County and a member of Common Cause Pennsylvania. She voted by mail in this election by returning her ballot to a secure drop box, likely around the end of September 2020. Ms. Listman voted by mail because she is in a vulnerable population (over 80) for COVID. Ms. Listman does not want her ballot nullified.
- Kristin Rubens is a resident of Montgomery County and a member of Common Cause Pennsylvania. She voted by mail in this election because she was concerned about COVID. Ms. Rubens does not want her ballot nullified.
- Reba B. Shapiro is a resident of Montgomery County and a member of Common Cause Pennsylvania. She voted by mail in this election because she is a member

of a vulnerable population for COVID. Ms. Shapiro does not want her ballot nullified.

- Andrew Smolar is a resident of Montgomery County and a member of Common Cause Pennsylvania. He voted by mail in this election because he was concerned about COVID. Mr. Smolar does not want his ballot nullified.
- Dalia Whitehouse is a resident of Chester County and a member of Common Cause Pennsylvania. She voted by mail in this general election because she has a preexisting condition that makes her more vulnerable to COVID-19. Ms. Whitehouse does not want her ballot nullified.
- Pricilla McNulty is a resident of Allegheny County and a member of Common Cause. This year, Ms. McNulty voted by mail ballot by returning her ballot to the secure drop box at Homewood on October 10, 2020 and her ballot was accepted. Ms. McNulty voted by mail because of the risk of COVID for someone in her age range (over 75). Ms. McNulty does not want her vote nullified.

16. Common Cause has an interest in preventing the disenfranchisement of eligible voters who properly cast mail-in ballots including its members and voters it may have assisted in navigating the mail-in voting process.

17. Discarding lawfully cast mail-in ballots cast by qualified electors, including mail-in ballots accompanied by signed declarations, would effectively disenfranchise voters who cast such ballots, and would harm Common Cause's mission of increasing voter participation in Pennsylvania elections and is substantially likely to harm individual Common Cause members who cast mail-in ballots.

18. Discarding lawfully cast mail-in ballots would also undermine Common Cause's voter-advocacy efforts by leading some voters to believe that voting is pointless because their ballots will not be counted. This sense of futility will likely depress turnout in future elections and make it more difficult for Common Cause to carry out its mission of promoting and protecting the democratic process and empowering all people to make their voices heard in the democratic process.

19. Moreover, discarding lawfully cast ballots will force Common Cause to dedicate additional resources to voter education efforts, at the expense of other organizational priorities. In the short term, news that boards of elections are rejecting mail-in ballots will likely contribute to more voters asking Common Cause staff questions about whether their ballots will count and how (if at all) they can cure these errors. These questions will result in Common Cause staff spending additional time and resources responding that could have been dedicated to other efforts.

20. Moreover, the rejection of mail-in ballots will force Common Cause, in an effort to promote the effective enfranchisement of Pennsylvania voters, and voters in Black, Indigenous, People of Color communities in particular, to dedicate a larger share of its limited sources to voter education efforts, to ensure that voters cast mail-in ballots that cannot be challenged or rejected and to education efforts on voters' rights and the severe restrictions on voting that Plaintiffs seek to impose. Because Common Cause's resources are limited, those efforts will necessarily come at the expense of, for example, voter registration and other efforts.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 11 day of November, 2020 in Harrisburg, Pennsylvania.

*Suzanne Almeida*

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Suzanne Almeida

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

DONALD J. TRUMP FOR PRESIDENT,  
INC. et al.;

Plaintiffs,

v.

KATHY BOOCKVAR, in her capacity as  
Secretary of the Commonwealth of  
Pennsylvania, et al.,

Defendants.

Civil Action

No.: 4:20-cv-02078-MWB

**DECLARATION OF TIM STEVENS**

Pursuant to 28 U.S.C. § 1746, I, Tim Stevens, hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am a 75-year-old Black man and lifelong resident (minus 9 months in DC many years ago) of Allegheny County. As a long time civil rights leader in Pittsburgh, voting is very important to me. I cannot recall the last time I missed an election. This year, concerns about contracting COVID-19 prompted me to vote by mail. Besides my age, which puts me at elevated risk of serious illness and death if I contract the coronavirus, I have seen reporting about how the disease disproportionately impacts Black people and people of color. For these reasons, I did not feel safe voting as I usually do at a polling place. Instead, I drove my mail ballot to drop it off at the East Liberty post office several weeks before election day. I do not want my vote nullified.
3. I am also the Chairman, Founder and CEO of Black Political Empowerment Project, BPEP for short. I have held this position since May 21, 2020.



4. B-PEP is a non-profit, non-partisan organization that has worked since 1986 to ensure that the Pittsburgh African-American community votes in every election.

5. B-PEP advocates that all who are eligible vote in Pennsylvania.

6. During every election cycle, B-PEP's work includes voter registration drives, get-out-the-vote activities, education outreach about the voting process, and election protection work. B-PEP focuses these activities in predominantly Black American neighborhoods in Allegheny County, with some efforts in Westmoreland and Washington Counties.

7. With respect to the 2020 election, B-PEP's voter outreach efforts have included providing education to voters on how to cast mail-in and absentee ballots. In preparation for the November 3 election, B-PEP's work has included educating voters about recent changes to Pennsylvania election procedures; and informing its members and members of the public about the signature requirement for the declarations accompanying mail-in ballots; educating voters about correcting minor mistakes on mail-in ballots; educating voters about various options provided under Pennsylvania election law including the option to vote provisionally if a voter never received a ballot, to vote provisionally if the voter was concerned that their ballot would not be timely received by the county board of elections; or to vote in person by spoiling their mail ballot at the poll.

8. B-PEP's supporters include many voters at risk of disenfranchisement in this election if mail-in ballots cast by qualified electors were discarded.

9. B-PEP has an interest in preventing the disenfranchisement of eligible voters who properly cast mail-in ballots including voters it may have assisted in navigating the mail-in voting process.

10. Discarding lawfully cast mail-in ballots cast by qualified electors, including mail in ballots accompanied by signed declarations, would effectively disenfranchise voters who cast such ballots, and would harm B-PEP's mission of promoting voting by the Pittsburgh African-American community and is substantially likely to harm individual B-PEP supporters and partners who cast mail-in ballots.

11. Discarding lawfully cast mail-in ballots would also undermine B-PEP's voter-advocacy efforts by leading some voters to believe that voting is pointless because their ballots will not be counted. This sense of futility will likely depress turnout in future elections and make it more difficult for B-PEP to carry out its mission of promoting voting by the Pittsburgh African-American community.

12. Moreover, discarding lawfully cast mail in ballots will force B-PEP to dedicate additional resources to voter education efforts, at the expense of other organizational priorities. In the short term, news that boards of elections are rejecting mail-in ballots will likely contribute to more voters asking B-PEP staff questions about whether their ballots will count and how (if at all) they can cure these errors. These questions will result in B-PEP staff spending additional time and resources responding, which could have been dedicated to other efforts.

13. Moreover, the rejection of mail-in ballots will force B-PEP, in an effort to promote the effective enfranchisement of the Pittsburgh African-American community, to dedicate a larger share of its limited sources to voter education efforts, to ensure that voters cast mail-in ballots that cannot be challenged or rejected and to education efforts on voters' rights and the severe restrictions on voting rights that Plaintiffs seek to impose. Because B-PEP's resources are limited, those efforts will necessarily come at the expense of, for example, voter registration and other efforts.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10 day of November, 2020 in PITTSBURGH, Pennsylvania.



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Tim Stevens

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

DONALD J. TRUMP FOR PRESIDENT,  
INC.; et. al,

*Plaintiffs,*

v.

KATHY BOOCKVAR, in her capacity as  
Secretary of the Commonwealth of  
Pennsylvania; et. al,

*Defendants.*

No. 4:20-cv-02078-MWB

**DECLARATION OF KENNETH L. HUSTON**

Pursuant to 28 U.S.C. § 1746, I, Kenneth L. Huston, hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I am the President of the National Association for the Advancement of Colored People Pennsylvania State Conference (“NAACP-PSC”). I have held this position since October of 2019.
4. NAACP-PSC is a nonpartisan organization operating in Pennsylvania and is affiliated with the NAACP operating across the United States.
5. NAACP-PSC has approximately 10,000 members in 44 branches across Pennsylvania. Most of those members are eligible to vote in Pennsylvania.
6. Philadelphia resident Mary Grice is a NAACP-PSC member.
7. Among other organizational missions, the NAACP-PSC Political Action Committee is dedicated to ensuring that all eligible Pennsylvania citizens are given a full and equal opportunity to exercise their fundamental right to vote.
8. In furtherance of these purposes, NAACP-PSC conducts voter registration, education, and turnout efforts. NAACP-PSC also has been involved in voting rights litigation in the Commonwealth and has sought to prevent efforts to suppress or disenfranchise African American voters. NAACP-PSC works in the areas of voter registration, voter education, get-out-the-vote efforts, and grassroots mobilization around voting rights.
9. With respect to the 2020 election, NAACP-PSC’s voter outreach efforts have included providing education to voters on how to cast mail-in and absentee ballots. Specifically, in preparation for the November 3 election, NAACP-PSC’s work has included educating voters

about recent changes to Pennsylvania election procedures and informing its members and members of the public about the signature requirement for the declarations accompanying mail-in ballots, as well as educating voters about correcting minor mistakes on mail-in ballots.

NAACP-PSC also worked to educate voters about the options for voting in person on Election Day by spoiling a mail ballot at the polling place, and for voting by provisional ballot under certain circumstances, such as when a voter never received their mail ballot or if voters were concerned that their mail ballot might not be timely received by their local board of elections.

10. NAACP-PSC has launched a get out the vote campaign called “Wake Up Black Vote” for the 2020 election cycle. One of the three key components of the campaign included providing accurate information regarding mail-in ballots to NAACP-PSC’s membership and the rest of the public. As part of that campaign, NAACP-PSC developed a website, [www.wakeupblackvote.com](http://www.wakeupblackvote.com), that directs voters to the Pennsylvania Department of State that provides information about how to request and cast a mail-in or absentee ballot. The website also links to the Pennsylvania Department of State’s mail-in and absentee ballot tracker.

11. NAACP-PSC has developed materials and worked with local NAACP branches to educate its members and the public about the availability and location of mail ballot drop boxes in counties where they are available. NAACP-PSC has developed messaging and materials regarding mail ballot drop box locations in particular counties.

12. NAACP-PSC conducted a phone banking program for the November 2020 election. As part of the program, NAACP-PSC has been reaching out to voters to encourage the use of mail-in and absentee voting and to educate the public about the voting process and, where necessary, assist voters, including those whose absentee ballots were rejected. NAACP-PSC’s multi-week phone banking program began on or around October 2, 2020.

13. Many of the NAACP-PSC's members, including Ms. Grice, cast mail or absentee ballots that were rejected, and then subsequently cured by voting another mail or absentee ballot or by voting in person on Election Day via provisional ballot. Ms. Grice cured by obtaining and casting a mail ballot.

14. NAACP-PSC's members include many voters such as Ms. Grice who are at risk of disenfranchisement in this election if mail-in or provisional ballots cast by qualified electors are discarded because they were notified of an issue with their mail ballot.

15. NAACP-PSC has an interest in preventing the disenfranchisement of eligible voters who properly cast mail-in ballots, including its members and voters it may have assisted in navigating the mail-in voting process.

16. Discarding lawfully cast mail-in ballots cast by qualified electors, including mail-in ballots accompanied by signed declarations would effectively disenfranchise African-American voters who cast such ballots, would harm NAACP-PSC's mission of preventing such disenfranchisement and is substantially likely to harm individual NAACP-PSC members who cast mail-in ballots.

17. Discarding lawfully cast mail-in ballots would also undermine NAACP-PSC's voter advocacy efforts by leading some voters to believe that voting is pointless because their ballots will not be counted. This sense of futility will likely depress turnout in the future and make it more difficult for NAACP-PSC to carry out its mission of encouraging African-American individuals to register to vote, to vote, and to help protect others' right to vote.

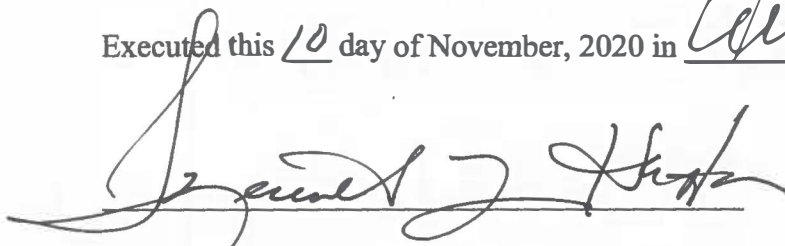
18. Moreover, discarding lawfully cast mail-in and absentee ballots will force NAACP-PSC to dedicate additional resources to voter education efforts, at the expense of other organizational priorities. The news that county boards of elections are rejecting valid mail-in

ballots will likely contribute to more voters asking NAACP-PSC staff questions about whether their ballots will count and how (if at all) they can cure these errors. These questions will result in NAACP-PSC staff spending additional time and resources responding that could have been dedicated to other efforts.

19. Moreover, the rejection of Pennsylvania voters' mail-in and absentee ballots will force NAACP-PSC, in an effort to promote the effective enfranchisement of African-American individuals, to dedicate a larger share of its limited sources to voter education efforts, to ensure that voters cast mail-in ballots that cannot be challenged or rejected on the basis of minor errors. Because NAACP-PSC's resources are limited, those efforts will necessarily come at the expense of, for example, voter registration and other efforts.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10 day of November, 2020 in Allegheny City, Pennsylvania.



Kenneth L. Huston



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

DONALD J. TRUMP FOR  
PRESIDENT, INC.; LAWRENCE  
ROBERTS; and DAVID JOHN  
HENRY;

Plaintiffs,

v.

KATHY BOOCKVAR, in her capacity  
as Secretary of the Commonwealth of  
Pennsylvania; ALLEGHENY  
COUNTY BOARD OF ELECTIONS;  
CENTRE COUNTY BOARD OF  
ELECTIONS; CHESTER COUNTY  
BOARD OF ELECTIONS;  
DELAWARE COUNTY BOARD OF  
ELECTIONS; MONTGOMERY  
COUNTY BOARD OF ELECTIONS;  
NORTHAMPTON COUNTY BOARD  
OF ELECTIONS; and  
PHILADELPHIA COUNTY BOARD  
OF ELECTIONS;

Defendants.

Civil Action

No.: 4:20-cv-02078-MWB

**DECLARATION OF TERRI E. GRIFFIN**

Pursuant to 28 U.S.C. § 1746, I, Terrie E. Griffin, hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify. [L]  
[SEP]
3. I am the Co-President of the League of Women Voters of Pennsylvania. I have served in that role since June 2019.
4. I am also a member of the League of Women Voters of Allegheny County and have served on their board for several years and served as chair of the membership committee.
5. League of Women Voters of Pennsylvania (“LWV-PA”) is a nonpartisan nonprofit organization that encourages the informed and active participation of citizens in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.
6. LWV-PA supports full voting rights for all eligible citizens and opposes efforts to build barriers to exercise this right.
7. LWV-PA has approximately 2,373 members. Most of those members are eligible to vote in Pennsylvania.
8. This includes approximately a total of 184 members in Montgomery County; 391 members in Allegheny County; 89 members in Philadelphia County; 309 members in Delaware County; 66 members in Centre County; and 52 members in Northampton County.
11. Many of these LWV-PA members are qualified voters who cast vote by mail and absentee ballots adhering to all guidance provided to them. These members, including those named below, are at risk of disenfranchisement in this election if mail-in ballots cast by qualified electors were discarded.
12. Additionally, LWV-PA’s members include voters at risk of disenfranchisement in this election if mail-in ballots cast by qualified electors and accompanied by signed declarations were discarded if the declaration contained minor errors.

13. I am League member myself and I live in Allegheny County Pennsylvania. I voted by mail. I requested on mail ballot and returned it in-person to my county Board of Election offices before Election Day. My ballot was accepted without any issues.

14. Elizabeth Tinker is also a LWPA member. She lives in Philadelphia. She voted by mail and her mail ballot was accepted without any issues.

15. Mary Grice is another member of LWVPA. She is lives in Philadelphia County. She is 89 years old, has been voting for 68 years, and has Type-2 Diabetes, so she is at high risk of serious complications from COVID-19. Ms. Grice voted by mail. On November 1, she received a call notifying her ballot had a defect, so she went to the Liacouras Center to receive and fill out a replacement ballot.

16. LWV-PA works in areas of voter registration, election protection, voter education, get out the vote, and grassroots mobilization around voting rights.

17. With respect to the 2020 election, LWV-PA's voter outreach efforts have included providing education to voters on how to cast mail-in and absentee ballots. In preparation for the November 3 election, LWV-PA has built and delivered educational tools and programs and has run marketing and awareness campaigns to educate voters about recent changes to Pennsylvania election procedures for mail in and absentee ballots. Among other issues, LOWV has been informing its members and members of the public about the signature requirement for the declarations accompanying mail-in ballots. This effort also included educating voters about correcting minor mistakes on mail-in ballots; educating voters about various options provided under Pennsylvania election law including the option to vote provisionally if a voter never received a ballot, to vote provisionally if the voter was concerned that their ballot would not be timely received by the county board of elections; or to vote in person by spoiling their mail ballot at the poll.

18. LWV-PA has an interest in preventing the disenfranchisement of eligible voters who properly cast mail-in ballots accompanied by signed declarations but who made minor errors on the declarations, including its members and voters it may have assisted in navigating the mail-in voting process.

19. LWVPA has an interest in preventing the disenfranchisement of any eligible voters who properly cast mail-in ballots including its members and voters it may have assisted in navigating the mail-in voting process.

20. Discarding ballots cast by qualified electors and accompanied by signed

declarations merely because the declarations contained minor errors would effectively disenfranchise Pennsylvania voters who cast such ballots, which would harm LWV-PA's mission of supporting full voting rights for all eligible citizens and opposing efforts to build barriers to exercise this right, and is substantially likely to harm individual LWV-PA members who cast mail-in ballots.

21. Discarding ballots, including for minor errors in declarations, would also undermine LWV-PA's voter-advocacy efforts by leading some voters to believe that voting is pointless because their ballots will not be counted. This sense of futility will likely depress turnout in future elections and make it more difficult for LWV-PA to carry out its mission of encouraging the informed and active participation of citizens in government.

22. Moreover, discarding ballots, including ballots with minor errors in declarations, will force LWV-PA to dedicate additional resources to voter education efforts, at the expense of other organizational priorities. In the short term, news that boards of elections are rejecting mail-in ballots, including for minor inaccuracies in declarations, or for any other reason, will likely contribute to more voters asking LWV-PA staff questions about whether their ballots will count and how (if at all) they can cure these errors. These questions will result in LWV-PA staff spending additional time and resources responding that could have been dedicated to other efforts.

23. Moreover, the rejection of mail-in ballots, including for minor inaccuracies in declarations or of any other reason, will force LWV-PA, in an effort to promote the informed and active participation of citizens in government, to dedicate a larger share of its limited sources to voter education efforts. LWV-PA's resources are limited, those efforts will necessarily come at the expense of, for example, voter registration and other efforts.

24. Adrian Seltzer is also a LWPA member. She lives in Montgomery County. She voted by mail and her ballot was accepted without any issues.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10<sup>th</sup> of November, 2020 in Pittsburgh, Pennsylvania.

Terrill E. Guffin

**DECLARATION OF STEPHANIE NICOLE HIGGINS**

I, Stephanie Nicole Higgins, hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I currently live in Philadelphia, Pennsylvania, which is in Philadelphia County.
4. I am a registered voter at my current address and have been since 2018.
5. I am 32 years old and my racial background is white.
6. For the November 2020 general election, I voted by absentee ballot. I did so because I am currently in my third trimester of a high-risk pregnancy, which puts me at risk of serious complications from a COVID-19 infection.
7. I submitted my absentee ballot on or around October 21, 2020 to the official dropbox at the satellite election office located at CAPA High School, 901 S. Broad St., Philadelphia, PA. I recently checked the status of my ballot on the PA ballot tracker website and it is marked as “vote recorded,” which I understand to mean my ballot was properly filled out, submitted, and counted.

8. I understand that this lawsuit seeks to invalidate my vote and those of many thousands of other people who voted absentee, even though I voted properly, legally, and am a fully qualified and registered voter.

9. As a mother-to-be, it was particularly important for me to cast a ballot in this election, the outcome of which will affect my child's future. I would be extremely upset if my vote was not counted and my voice was silenced despite the fact that I did everything I was supposed to do in order to safely vote.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Dated this 10 day of November, 2020.

  
Stephanie Nicole Higgins

**DECLARATION OF LUCIA GAJDA**

I, Lucia Gajda, hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I currently live in the City of Easton, Pennsylvania, which is in Northampton County.
4. I am a registered voter at my current address and have been since 2019.
5. I am 40 years old and my racial background is white.
6. For the November 2020 general election, I voted by absentee ballot. I did so because I suffer from an autoimmune disorder and have other underlying medical conditions and as such am at a higher risk for contracting COVID. I used Pennsylvania's mail-in ballot procedure during the primary successfully and was satisfied that my vote would count, safely, without undue risk to me or my family – or risking anyone else's safety.
7. I submitted my absentee ballot to the official dropbox in the Northampton County on or about October 10, 2020. I recently checked the status of my ballot on the PA ballot tracker website and it is marked as "vote recorded,"



which I understand to mean my ballot was properly filled-out, submitted, and counted.

8. I understand this lawsuit seeks to invalidate my vote and those of many thousands of other people who voted absentee even though I voted properly, legally, and am a fully qualified and registered voter. It would be outrageous if my vote were not counted.

9. I am exceedingly proud to cast my vote. I have voted in every election since reaching voting age. It is the primary way I can express my views and desires for the direction of the country, county and state, and to hold accountable elected officials to be true to the wishes of their constituents. If my vote were not counted, I would be robbed of this essential democratic voice, through no fault of my own. If my vote does not count, my voice is not heard, and I am not represented. I would lose faith in our democracy, of which I am very proud.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Dated this 10th day of November, 2020.



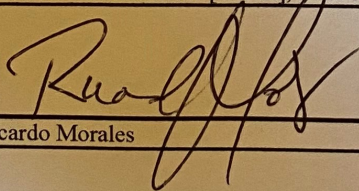
Lucia Gajda

My name is Ricardo Morales and I hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I currently live in Philadelphia County, Pennsylvania. My current address is: 2016 Race Street.
4. I am a registered voter at my current address.
5. I am a 48 year old Hispanic male.
6. In the November 2020 general election, I originally completed and returned to election officials in my county a mail ballot on October 28, 2020.
7. This ballot was cancelled or rejected, I believe because of a signature error. My full, Hispanic name has four names, and I think that is how it appears on my registration. But the space on the mail-in ballot to sign my name was very small, so I only wrote the anglicized version of my name, which consists of two names.
8. I learned that this ballot was rejected because on Election Day, Tuesday, November 3, 2020, when I received a text message from SEIU letting me know that my ballot had been rejected and letting me know I could appear in person to cast a provisional ballot. I believe that SEIU contacted me because I am a member of the American Federation of Musicians.
9. After learning that my first ballot was not accepted, I went to a polling place and cast a provisional ballot.
10. It would undermine my fundamental right to vote if my ballot were invalidated. I would hate it if my vote were not counted. That would be totally unacceptable to me.

The statements made in this Declaration are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Executed on November [DATE], 2020 in Philadelphia, Pennsylvania.

 11/9/2020  
Ricardo Morales

## DECLARATION OF NATALIE ZASLOW PRICE

My name is Natalie Price and I hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I currently live in Elkins Park, Pennsylvania, in Montgomery County, and am a registered voter at my current address. I vote in every election. I believe the General Election of 2020 is particularly important.
4. I am 73 years old and identify as white.
5. I understand that my age puts me at risk of serious complications from a COVID-19 infection. I avoid contact with strangers as much as possible as a result.
6. I chose to vote via mail-in ballot this year to avoid unnecessary exposure to crowds on Election Day.
7. I do not remember exactly when I received my mail-in ballot, but it was several weeks ago. I returned it right away. I asked the postal worker to time-stamp it before I walked away to make sure it was sent, because of how much my vote matters to me.
8. Between Sunday and Monday, November 1 and 2, I received three calls from the Democratic Party notifying me that my ballot had been rejected. I asked why and they told me they didn't know. They instructed me to visit the voting center in Norristown to cure it.
9. I never received a call from any election official to inform me that my ballot had been rejected.
10. The first site I visited in Norristown was a drop-off-only site. They told me that I had to go to another site to see and cure my actual ballot. At that second site, I learned that my

ballot had been marked as defective because I did not write my name and address in non-cursive print.

11. I was not aware that I was supposed to hand-write my name and address in non-cursive print, next to where that information was already pre-printed on the envelope. Because that exact information was already there, I understood it would have been redundant to write it out again.

12. My ballot was signed, dated, and otherwise complied with all other ballot instructions.

13. To cure my ballot, I showed the county employee my ID, added my information next to where it was pre-printed, and left. I told the employee that I would not leave the building until I was certain my vote was counted.

14. I did not think to use a provisional ballot because I was not aware that I could. As far as I knew, curing my ballot in Norristown was the only way I could ensure that my vote counted in this election.

15. If I found out my vote would be thrown out over this, I would be devastated. Voting is very important to me and I drove to a different town, and then to multiple buildings, just to cure my ballot. I did this all in the pouring rain. This election is important to me. I need my vote to count.

The statements made in this Declaration are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Executed on November 6, 2020, in Elkins Park, Pennsylvania

Natalie Zaslow Price 11/06/20  
Natalie Zaslow Price

My name is Joseph Ayeni and I hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I currently live in Philadelphia County, Pennsylvania. My current address is: 918 N. Farson Street, Philadelphia, PA 19131.
4. I am a registered voter at my current address.
5. I am a 77-year-old Black man.
6. In the November 2020 general election, I originally completed and returned to election officials in my county a mail-in ballot in mid-October.
7. This ballot was rejected because I failed to include the secrecy envelope to seal my ballot.
8. I learned that this ballot was rejected because elections officials called me the day before Election Day to let me know that the ballot would not count.
9. After learning that my first ballot was not accepted, I went to the elections office so I could understand what was going on. The elections officials showed me an example of the required secrecy envelope, but this envelope was not included with my mail-in ballot.
10. The officials told me to vote in person. Therefore, on Election Day, I cast a provisional ballot at my local polling place.
11. It would undermine my fundamental right to vote if my ballot were invalidated. I have been a registered voter for over forty years and I vote regularly.
12. I am a member of the NAACP of Pennsylvania.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury, under the laws of the United States, that the foregoing is true and correct to the best of my knowledge.

Executed on November 10, 2020 in Philadelphia, Pennsylvania.

A handwritten signature in black ink, appearing to read "Ayeni", written over a horizontal line.

Joseph Ayeni

My name is Meril Lara and I hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I currently live in Philadelphia County, Pennsylvania. My current address is 7136 Oakland St, Philadelphia, PA 19149.
4. I am a registered voter at my current address. I have been registered to vote and a regular voter for over 8 years now.
5. I am 26 years old and identify as Hispanic.
6. In the November 2020 general election, I originally completed and mailed to election officials in my county a mail ballot on approximately October 22 or 23, 2020.
7. This ballot was cancelled or rejected because I failed to place it inside the secrecy envelope.
8. I learned that this ballot was rejected because I received an email from elections officials stating that my ballot was missing a second envelope. I tried calling the number provided in the email a few times but didn't get through to anyone.
9. Worried that my vote would not be counted, on Election Day, I went to my local polling place at the Solis Cohen School at 7001 Horrocks Street, Philadelphia, PA 19149. I completed a provisional ballot there.
10. Later, I saw on the Pennsylvania ballot tracking website that the status of my original ballot was updated to "cancelled."



11. I would be upset if my ballot were invalidated. I am a U.S. citizen. I pay taxes. A denial of my vote would tell me that I'm not an equal citizen of the United States, that my voice doesn't matter. My vote should and must be counted.

The statements made in this Declaration are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Executed on November 8, 2020 in Philadelphia, Pennsylvania.

A handwritten signature in black ink, appearing to read 'Meril Lara', written above a horizontal line.

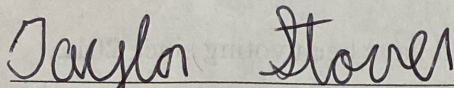
Meril Lara

My name is Taylor Stover and I hereby declare as follows:

1. I have personal knowledge of the matters stated herein and would testify to the same if called as a witness in Court.
2. I am over eighteen years of age and am otherwise competent to testify.
3. I currently live in Philadelphia County, Pennsylvania. My current address is: 8106 Germantown Ave, Philadelphia, PA 19118.
4. I am a registered voter at my current address.
5. I am 26 years old and African American; I have been voting since 2012.
6. In the November 2020 general election, I originally completed and returned to election officials in my county a mail ballot on approximately October 10, 2020.
7. This ballot was cancelled because the county “could not obtain” my required signature, even though I believe I had correctly signed my ballot.
8. I learned that this ballot was rejected because I received a call from Joe’s Volunteer Squad on Halloween night alerting me to the defect and I then noticed an email dated October 30, 2020, from Philadelphia County explaining that there was a problem with my signature.
9. After learning that my first ballot was not accepted, I became hysterical. It was incredibly upsetting that my ballot may not be counted. The next morning, on November 1, I went to the satellite election office set up at Roxborough High School at 9:30am. I was the first in line. I showed the worker there my ID, gave them my last four digits of my SSN, and they called the county clerk’s office to confirm my eligibility, who cancelled my old ballot and authorized the worker to give me a replacement ballot, which I filled out and submitted.
10. It would undermine my fundamental right to vote if my ballot were invalidated. This is the most consequential election that I have experienced and I want my ballot to count.

The statements made in this Declaration are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Executed on November 5, 2020 in Philadelphia, Pennsylvania.



Taylor Stover