

LAW OFFICE OF THOMAS J CARROLL

Attorney for Plaintiffs

Attorney ID: 53296

Thomas J. Carroll

224 King Street

Pottstown, PA, 19464

tom@thomasjcarrolllaw.com

(610)419-6981

IN THE COURT OF COMMON PLEAS OF
DELAWARE COUNTY, PENNSYLVANIA
CIVIL DIVISION

JURY TRIAL DEMANDED

RUTH MOTON,

LEAH HOOPES,

GREGORY STENSTROM,

Plaintiffs,

v.

**FORMER SECRETARY OF
STATE KATHY BOOCKVAR,**
in her official and individual
capacity,

and,

DELAWARE COUNTY,

and,

**DELAWARE COUNTY BOARD OF
ELECTIONS,**

and,

**DELAWARE COUNTY BUREAU
OF ELECTIONS,**

and,

JAMES BYRNE,
in his official and individual
capacity,

and,

GERALD LAWRENCE,
in his official and individual
capacity,

and,

ASHLEY LUNKENHEIMER,
in her official and individual
capacity,

and,

LAUREEN HAGAN,
in her official and individual
capacity,

and,

JAMES P. ALLEN,

in his official and individual
capacity,

and,

MARYANNE JACKSON,
in her official and individual
capacity,

and,

JAMES SAVAGE,
in his official and individual
capacity,

and,

THOMAS GALLAGER,
in his official and individual
capacity,

and,

JAMES A. ZIEGELHOFFER,
in his official and individual
capacity,

and,

CRYSTAL WINTERBOTTOM,
in her official and individual
capacity,

and,

CHEVON FLORES,
in her official and individual
capacity,

and,

JEAN FLESCHUTE,
in her official and individual
capacity,

STACY HEISEY-TERRELL,
in her official and individual
capacity,

and,

CHRISTINA IACONO,
in her official and individual
capacity,

and,

CHRISTINA PERRONE,
in her official and individual
capacity,

and,

KAREN REEVES,
in her official and individual
capacity,

and,

DONNA RODE,
in her official and individual
capacity,

and,

NORMA LOCKE,
in her official and individual
capacity,

and,

JEAN DAVIDSON,
in her official and individual
capacity,

and,

S. J. DENNIS,
in his official and individual
capacity,

MARILYN HEIDER,
in her official and individual
capacity,

and,

LOUIS GOVINDEN,
in his official and individual
capacity,

and,

DOUG DEGENHARDT,
in his official and individual
capacity,

and,

MARY JO HEADLEY,
in her official and individual
capacity,

and,

JENNIFER BOOKER,
in her official and individual
capacity,

and,

KENNETH HAUGHTON,
in his official and individual
capacity,

and,

REGINA SCHEERER,
in her official and individual
capacity,

and,

CATHY CRADDOCK,
in her official and individual
capacity,

and,

MAUREEN T. MOORE,
in her official and individual
capacity,

and,

PASQUALE CIPPOLLONI
in his official and individual
capacity,

and,

GRETCHEN BELL,
in her official and individual
capacity,

and,

ANNE COOGAN,
in her official and individual
capacity,

and,

HOWARD LAZARUS,
in his official and individual
capacity,

and,

CHRISTINE REUTHER,
in her official and individual
capacity,

and,

WILLIAM MARTIN,
in his official and individual
capacity,

and

JAMES MANLY PARKS,
in his official and individual
capacity, ET AL.

Defendants.

NOTICE TO DEFEND

You have been sued. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and the attached notice are served by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you in this complaint. You are warned that if you fail to do so the case may proceed and a judgment may be entered against you by the court, without further notice, for any money being sought in the complaint, and/or for any other claims or relief requested by the plaintiffs bringing this action. You may lose money and/or other property or rights important to you. You should take this notice and complaint to your lawyer at once.

IF YOU ARE BEING SUED IN YOUR INDIVIDUAL CAPACITY, YOU MAY NEED INDEPENDENT COUNSEL AS YOU MAY NOT BE ADEQUATELY REPRESENTED BY THE COLLECTIVE GOVERNMENT'S COUNSEL DUE TO A POTENTIAL CONFLICT OF INTEREST WITH YOUR CO-DEFENDANTS.

If you do not have a lawyer or cannot afford one, you may seek help by contacting the following office:

DELAWARE COUNTY BAR ASSOCIATION
Lawyer Referral Services
335 W. Front Street
Media, PA 19063
(610) 566-6625

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Delaware County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact our office. All arrangements must be made at least seventy-two (72) hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

COMPLAINT

NOW COMES Plaintiffs, RUTH MOTON, LEAH HOOPES, AND GREGORY STENSTROM, for their complaint for declaratory, injunctive, mandamus, quo warranto, and any and all other legal remedies available pursuant to law, and other relief as specified herein, state as follows:

INTRODUCTION

1. As provided in this Complaint, Defendants intentionally and fraudulently conspired to and did destroy, delete, secrete, and hide November 3, 2020, election data, materials, and equipment to prevent discovery of election fraud and election law violations in Delaware County, which the Defendants also conspired to commit and did commit while carrying out the November 3, 2020, election.
2. In furtherance of this conspiracy, Defendants intentionally created chaos surrounding the November 3, 2020, election so that they would be able to then carry out undetected the acts of election fraud and the election law violations which are described herein.
3. Defendants did this, in part, by placing incompetent or underqualified individuals with no training in positions of responsibility so that they would be able to hide their fraud under the pretense of the incompetence of election day workers/volunteers in the event the election fraud and election law violations were discovered.
4. Moreover, when a May 21, 2021 Right to Know (RTK) request for election information and data was made with respect to information required to be kept and preserved under state and federal law, the Defendants fraudulently and intentionally deleted, changed, adulterated, manipulated, and/or obscured the information, data, and materials required for production in response to the RTK request in order to hide their fraud and election code

violations because they knew that they could not reconcile the previously fraudulently reported November 3, 2020 election results with the actual responsive information that they had in their possession, and which they were required to preserve and produce in response to the Right to Know request, as well as in compliance with state and federal law.

5. Plaintiffs know this to be the case and can document this and demonstrate this by showing, among other things, that November 3, 2020, election data, materials, and equipment was destroyed including but not limited to V-Drives, Return Sheets, machine tapes/proof sheets/result tapes, ballots, mail-in ballots, voting machines, hard drives, paper documentation, Blue Crest data, and correspondence concerning the November 3, 2020, election.

PARTIES

6. Plaintiff, RUTH MOTON, is a legally registered voter and was a candidate for Pennsylvania State Representative, District 159, in the November 3, 2020, election, appearing on the ballot in Delaware County Pennsylvania.

7. Plaintiff, Ruth Moton resides in Delaware County, Pennsylvania, and voted in the November 3, 2020, election, and dedicated time and financial resources to her campaign for Pennsylvania State Representative.

8. Election laws must “be liberally construed to protect a candidate’s right to run for office and the voters’ rights to elect the candidate of their choice.” *In re Nomination Petition of Gales*, 618 Pa. 93, 54 A.3d 855, 857 (Pa. 2012) and “[t]he Election Code should be construed liberally “so as to not deprive an individual of his right to run for office” or to have his or her candidacy marred by fraud and irregularities. *In re Nomination Petitions of Smith*, 182 A.3d 12, 23 (Pa. Cmwlt. 2018).

9. Plaintiff, LEAH HOOPEES, is a legally registered voter who resides in Delaware County, Pennsylvania, and who voted in the November 3, 2020, election. [Attached hereto as Exhibit A].
10. Plaintiff, GREGORY STENSTROM, is a legally registered voter who resides in Delaware County, Pennsylvania, and who voted in the November 3, 2020, election. [Attached hereto as Exhibit B].
11. Mr. Stenstrom was appointed as the sole GOP poll watcher for 36 precincts in Chester City, Pennsylvania (Chester City, 1st Ward-1st Precinct through Chester City 11th Ward-6th Precinct). *Id.*, ¶ 5.
12. The Delaware County Board of Elections provided Mr. Stenstrom with a certificate of appointment as a poll watcher. *Id.*, ¶ 6. [Attached hereto as Exhibit C].
13. During the November 3, 2020, election, Mr. Stenstrom was able to inspect and observe 22 precincts. *Id.*, ¶ 5.
14. Defendant, Kathy Boockvar, was Pennsylvania's Secretary of State during the November 3, 2020 election. In this role, Secretary Boockvar led the Pennsylvania Department of State.
15. As Secretary of State, she was Pennsylvania's Chief Elections Officer and a member of the Governor's Executive Board.
16. The Pennsylvania Constitution vests no powers or duties in Secretary Boockvar. *Perzel v. Cortes*, 870 A.2d 759, 764 (Pa. 2005).
17. Instead, Secretary Boockvar's general powers and duties concerning elections are set forth in the Pennsylvania Election Code. Section 201, 25 P.S. Ann. § 2621.
18. Under the Election Code, Secretary Boockvar acts primarily in a ministerial capacity

and has no power or authority to intrude upon the province of the Pennsylvania General Assembly. *Perzel*, 870 A.2d at 764; *Hamilton v. Johnson*, 141 A. 846, 847 (Pa. 1928).

19. Secretary Boockvar is being sued in her individual and official capacity for her role in the November 3, 2020 election. In addition to her individual duties and obligations as a citizen of the state of Pennsylvania to comply with and abide by all applicable state and federal laws, Secretary Boockvar, as an employee of the state and as an agent thereof, has the same duties and responsibilities required of a public official.

20. Defendant, Delaware County, is located in the Delaware County Government Center at 201 W. Front St., Media, PA 19063. Delaware County is responsible for legislative and administrative functions of the county government, and for, inter alia, coordinating with all state and national entities and all other private organizations for the conducting of county business, including but not limited to, all elections held in Delaware County, and for providing accurate and up to date information to citizens and voters.

21. Defendant, Delaware County Board of Elections (Board of Elections), is located in the Delaware County Government Center at 201 W. Front St., Media, PA 19063.

22. The Board of Elections is responsible for, inter alia:

- a. the conducting of elections in Delaware County;
- b. providing accurate and up-to-date information to voters;
- c. election day preparations;
- d. processing of mail-in and absentee ballots;
- e. election procedures;
- f. election staff;
- g. election workers;

- h. election observers;
- i. appointing their own employees, voting machine custodians, and machine inspectors;
- j. issuing certificates of appointment to watchers at primaries and elections;
- k. to make and issue such rules, regulations, and instructions, not inconsistent with law, as they may deem necessary for the guidance of voting machine custodians, elections officers and electors;
- l. to receive and determine, as herein after provided, the sufficiency of nomination petitions, certificates, and papers of candidates for county, city, borough, township, ward, school district, poor district, election offices, and local party offices required by law or by party rules to be filed with the board;
- m. selecting and equipping polling places;
- n. purchase, preserve, store, and maintain primary and election equipment of all kinds, including voting booths, ballot boxes and voting machines, and to procure ballots and all other supplies for elections;
- o. instructing election officers in their duties, calling them together in meetings whenever deemed advisable, and to inspect systematically and thoroughly the conduct of primaries and elections in the several election districts of the county to the end that primaries and elections may be honestly, efficiently, and uniformly conducted;
- p. to prepare and publish, in the manner provided by this act, all notices and advertisements in connection with the conduct of primaries and elections, which may be required by law;
- q. to investigate election frauds, irregularities, and violations of this act, and to report all suspicious circumstances to the district attorney;
- r. to preserve, as required by state and federal law, all election materials, including ballots, mail-in ballots,

absentee ballots, envelopes in which mail-in and/or absentee ballots are received, electronic data reflecting the scanning, imaging, or other copying of images of all such ballots, and electronic data and information that represents and reproduces votes cast either through in-person voting, or through the scanning or imaging of any and all mail-in and/or absentee ballots received, electronic data and information that represents, reproduces, and/or tallies the legal and verified votes cast in an election, voter rolls that identify and demonstrate the number of legally registered voters in the County at or before the time of an election in accordance with state and federal law (see, e.g., 52 USC §§ 20701 and 20702);

- s. to ensure the accuracy of Delaware County's vote tabulations;
- t. to transmit accurate information and data reflecting the proper tally of legal votes cast at an election by Delaware County's registered and legal voters;
- u. to receive from district election officers the returns of all primaries and elections, to canvas and compute same, and to certify, no later than the third Monday following the primary or election, the results thereof to the Secretary of the Commonwealth, as may be provided by law, and to such other authorities as may be provided by law;
- v. to publicly announce by posting at its office the results of primaries and elections for county, city, borough, township, ward, school district, poor district, election offices, and party offices, if any;
- w. to provide the results to the Secretary of the Commonwealth;
- x. to issue certificates of election to the successful candidates for said offices;
- y. to prepare and submit, within twenty days after the last day to register to vote in each primary, municipal and general election, a report to the Secretary of the Commonwealth in the form prescribed, which shall contain a statement of the total number of electors registered in each election district, together with a breakdown of registration by each political party or other designation. Copies of said statement shall be

furnished, upon request, to the county chairman of each political party and political body. The Secretary of the Commonwealth shall forthwith submit such information to the Legislative Data Processing Center and shall publicly report the total number of registered electors for each political party or other designation in each county not later than five days prior to the primary, municipal, or general election;

- z. a county board of elections shall not pay compensation to a judge of elections who willfully fails to deliver by two o'clock A.M. on the day following the election envelopes; supplies, including all uncast provisional ballots; and returns, including all provisional ballots cast in the election district and statements signed under sections 1306 and 1302-D;
- aa. to ensure elections in Delaware County are conducted legally and that all facets of an election, including the processing, tallying, return, and certification of the votes, complies with the federal and state constitutions, and all applicable federal and state laws and regulations;
- bb. to respond to and produce complete, truthful, and accurate information, materials, and data as requested in response to a lawful request for said information by a member of the public;
- cc. to amend any records by any employee of any county board of elections by order of such board, which shall be construed to have been done by the board itself, and the board shall likewise be responsible for the correction of any errors in the doing thereof; and
- dd. to perform such other duties as may be prescribed by law.

See 25 Pa. Stat. Ann. §§ 2641 - 2651.

23. Defendant James J. Byrne, Jr. was an individual member of the Delaware County Board of Elections at all relevant time periods covered in this Complaint.

24. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws,

as a member of the Board of Elections, Byrne had the same duties and responsibilities as that of the Board of Elections as described in Paragraph 20.

25. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Byrne has the same duties and responsibilities required of a public official.

26. Defendant Gerald Lawrence is an individual member of Defendant, Board of Elections, and was appointed to a two-year term by the Delaware County Council, which began in 2020 and is to run through December 2022.

27. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as a member of the Board of Elections, Lawrence has the same duties and responsibilities as that of the Board of Elections as described in Paragraph 20.

28. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Lawrence has the same duties and responsibilities required of a public official.

29. Defendant Ashley Lunkenheimer is an individual member of Defendant Board of Elections and was appointed to a two-year term by the Delaware County Council, which term began in 2020 and is to run through December 2022.

30. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as a member of the Board of Elections, Lukenheimer has the same duties and

responsibilities as that of the Board of Elections as described in Paragraph 20.

31. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Lukenheimer has the same duties and responsibilities required of a public official.

32. Defendant Delaware County Bureau of Elections is located on the ground floor of the Delaware County Government Center in Media, Pennsylvania, and its mailing address is 2501 Seaport Drive, Suite BH 120, Chester, Pennsylvania 19013.

33. The Bureau of Elections is responsible for coordinating with all state and national entities and all other private organizations and for providing accurate and up-to-date information to voters, election day preparations, and the processing of mail-in and absentee ballots.

34. Defendant, Laureen T. Hagan, is the Chief Clerk for the Delaware County Bureau of Elections and was performing her functions in that regard at all relevant time periods addressed in this complaint.

35. Defendant Hagen is responsible for coordinating with all state and national entities and all other private organizations and for providing accurate and up to date information to voters, election day preparations, and processing of mail-in and absentee ballots.

36. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Hagan has the same duties and responsibilities required of a public official.

37. Defendant, Delaware County Return Board was created by the Board of Elections

subsequent to recommendations made by Defendant Byrne at a June 22, 2020, pre-general election meeting of the Board of Elections. [Exhibit D].

38. The Return Board was thereafter assembled as an 18-member “bipartisan panel to review primary election activities” (9 republicans and 9 democrats). *Id.*

39. Defendant Karen Reeves is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

40. In addition to her individual duties and obligations as a citizen, of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

41. Defendant Donna Rode is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

42. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

43. Defendant Norma Locke is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

44. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws,

as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

45. Defendant Jean Davidson is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

46. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

47. Defendant S. J. Dennis is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

48. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

49. Defendant Marilyn Heider is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

50. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

51. Defendant Thomas Gallagher, Esq., Attorney ID 27156, is a Delaware County employee, is an individual member responsible for numerous roles as an election official and county employee, including but not limited to the Delaware County Return Board, and was performing his functions in that regard at all relevant time periods addressed in this complaint.

52. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, he has the same duties and responsibilities required of a public official. Additionally, Gallagher served as a Judge of Elections for the 2020 November 3rd, 2020 Election.

53. Defendant Louis Govinden is an individual member of the Delaware County Return Board and was performing his functions in that regard at all relevant time periods addressed in this complaint.

54. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, he has the same duties and responsibilities required of a public official.

55. Defendant Doug Degenhardt is an individual member of the Delaware County Return Board and was performing his functions in that regard at all relevant time periods addressed in this complaint. Additionally, Degenhardt served as a Judge of Elections for the 2020 November 3rd, 2020, Election.

56. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws,

as an employee of the County and as an agent thereof, he has the same duties and responsibilities required of a public official.

57. Defendant Mary Jo Headley is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

58. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

59. Defendant Jennifer Booker is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

60. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

61. Defendant Kenneth Haughton is an individual member of the Delaware County Return Board and was performing his functions in that regard at all relevant time periods addressed in this complaint.

62. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Haughton has the same duties and responsibilities required of a public official.

63. Defendant James A. Ziegelhoffer (“Ziggy”) is a Delaware County employee responsible for numerous roles as an election official and county employee, including but not limited to, as an individual member of the Delaware County Return Board, and was performing his functions in that regard at all relevant time periods addressed in this complaint.

64. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Ziegelhoffer has the same duties and responsibilities required of a public official. Additionally, Ziegelhoffer served as a Judge of Elections for the 2020 November 3rd, 2020, Election.

65. Defendant Regina Scheerer is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

66. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Scheerer has the same duties and responsibilities required of a public official.

67. Defendant Cathy Craddock is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

68. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Craddock has the same duties and

responsibilities required of a public official.

69. Defendant Maureen T. Moore is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

70. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Moore has the same duties and responsibilities required of a public official.

71. Defendant Pasquale Cipollini is an individual member of the Delaware County Return Board and was performing his functions in that regard at all relevant time periods addressed in this complaint.

72. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Cipollini has the same duties and responsibilities required of a public official.

73. Defendant Gretchen Bell is an individual member of the Delaware County Return Board and was performing her functions in that regard at all relevant time periods addressed in this complaint.

74. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Bell has the same duties and responsibilities required of a public official.

75. Defendant Anne Coogan is the Delaware County Clerk and was performing her

functions in that regard at all relevant time periods addressed in this complaint.

76. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Coogan has the same duties and responsibilities required of a public official.

77. Defendant, Howard Lazarus, is the Executive Director of Delaware County and was performing his functions in that regard at all relevant time periods addressed in this complaint.

78. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Lazarus has the same duties and responsibilities required of a public official.

79. Defendant, Christine Reuther is a member of the Delaware County Council. She was elected to a four-year term in November of 2019.

80. As a member of the Delaware County Council, Defendant Reuther is responsible for all legislative and administrative functions of the county government, and for, inter alia, coordinating with all state and national entities and all other private organizations for the conducting of county business, including but not limited to, all elections held in Delaware County.

81. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Reuther has the same duties and responsibilities required of a public official.

82. Defendant James Manly Parks is the Solicitor for the Delaware County Bureau of Elections. Mr. Parks helped manage the 2019 Government Transition in Delaware County (PA) and currently serves as Solicitor for the Delaware County Board of Elections and Voter Registration Commission. He served as Solicitor of the Delaware County Democratic Committee from 2010-2018.

83. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Parks has the same duties and responsibilities required of a public official.

84. Defendant, James “Jim” Savage, is or was the Chief Custodian and Voting Machine Warehouse Supervisor at all relevant time periods addressed in this complaint.

85. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Savage has the same duties and responsibilities required of a public official.

86. Defendant Savage also had “the duty to assign temporary use of poll locations on an emergency basis when designated locations become unavailable after the last meeting of the Board of Elections and prior to elections.” [Exhibit D].

87. Additionally, Defendant Savage was responsible for the storage, security, programming, testing, and delivery of all voting equipment distributed to 428 Delaware County precincts and over 300 polling locations.

88. The official vote tabulation process is conducted at the Voting Machine Warehouse and is supervised by Defendant Savage. [Exhibit E].

89. Defendant James P. Allen, also known as “Jim Allen,” is the Director of Election Operations for the Delaware County Board of Elections and is employed by the County of Delaware.

90. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Allen has the same duties and responsibilities required of a public official.

91. Defendant Christina Perrone is or was a project manager for Delaware County at all relevant time periods addressed in this complaint.

92. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as agent thereof, Perrone has the same duties and responsibilities required of a public official.

93. Defendant Marianne Jackson is or was Interim Director of Elections at all relevant time periods addressed in this complaint.

94. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Jackson has the same duties and responsibilities required of a public official.

95. Defendant Christina Iacono is or was the Poll Worker Coordinator at all relevant time periods addressed in this complaint.

96. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal

laws, as an employee of the County and as an agent thereof, Iacono has the same duties and responsibilities required of a public official.

97. Defendant Stacy Heisey-Terrell is or was Assistant Human Resources Director for Delaware County at all relevant time periods addressed in this complaint.

98. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Heisey-Terrell has the same duties and responsibilities required of a public official.

99. Defendant Stacy Heisey-Terrell was principal in advising Regina Miller to contact Hart Intercivic in efforts to recreate V-Drives. [Exhibit G]

100. Defendant Chrystal Winterbottom is Chief Clerk of Voter Registration in Delaware County and is responsible for maintaining and processing accurate voter registration records.

101. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Winterbottom has the same duties and responsibilities required of a public official.

102. Defendant Chevon Flores is or was the mail-in ballot coordinator for Delaware County at all relevant time periods addressed in this complaint.

103. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Flores has the same duties and responsibilities required of a public official.

104. Defendant William F. Martin is or was County Solicitor for Delaware County at all

relevant time periods addressed in this complaint.

105. In addition to his individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Martin has the same duties and responsibilities required of a public official.

106. Defendant Jean Fleschute is or was a Delaware county contract employee employed by Monarch Staffing as a Bureau of Elections administrator at all relevant time periods addressed in this complaint.

107. In addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, Fleschute has the same duties and responsibilities required of a public official.

108. Defendants also include unnamed co-conspirators, agents, and/or employees of the named Defendants herein, designated as John Does and Jane Does, until they can be identified and named and/or added and/or substituted herein, and who acted for and on behalf of or in complicity with the named Defendants at all relevant times pertinent to the allegations in this complaint, and who are therefore jointly and severally liable and responsible for the actions and conduct alleged herein.

109. In addition to their general statutory obligations and duties, each of the Defendants, named and unnamed, had specific and discrete legal duties and obligations to ensure the November 3, 2020 election was conducted in a constitutionally sufficient and legal manner and that all facets of the election, including the processing, tallying, return, and certification of the votes cast and the results reported, and the retention and preservation of all

documents, information, and data pertinent thereto, complied with the federal and state constitution, and all applicable federal and state laws and regulations.

JURISDICTION AND VENUE

110. Plaintiffs are residents and legal voters in Delaware County, Pennsylvania and voted in the 2020 general election held on November 3, 2020.

111. Plaintiffs have fundamental federal and state constitutional rights ensuring that their fundamental rights to vote are not cancelled, diluted, and/or otherwise ignored. *Reynolds v Sims*, 377 US 533, 560; 84 S Ct 1362; 12 L Ed 2d 506 (1964).

112. “The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise. Having once granted the right to vote on equal terms, the State may not, by later arbitrary and disparate treatment, value one person’s vote over that of another.” *Bush v. Gore*, 531 U.S. 98, 104-05 (2000).

113. All citizens, including Pennsylvanians, have rights under the United States Constitution and the Pennsylvania Constitution to full, complete, free, and accurate elections built upon transparency and verifiability.

114. Citizens are entitled – and deserve – to vote in a transparent system that is designed to protect against vote cancellation, nullification, substitution, and dilution.

115. There is a longstanding and overriding policy in Pennsylvania “to protect the elective franchise.” Election laws must “be liberally construed to protect a candidate's right to run for office and the voters' rights to elect the candidate of their choice.” *In re Nomination Petition of Gales*, 618 Pa. 93, 54 A.3d 855, 857 (Pa. 2012).

116. Plaintiffs have standing to sue as disenfranchised registered voters of the County of Delaware.

117. Specifically, Plaintiffs were disenfranchised by the actions and conduct of Defendants and Defendants specifically violated Pennsylvania law requiring them to preserve and not alter or modify or adulterate public records related to the November 3, 2020, election.

118. Plaintiffs also have a right to sue the Defendants in quo warranto proceedings and to seek mandamus relief for the wrongs alleged against Defendants, as further described herein, because they have individualized grievances. *Zontek v. Brown*, 149 Pa. Commw. 628, 630-31, 613 A.2d 683, 684 (1992) (“where a private person has a special right or interest, as distinguished from the right or interest of the public generally, or he has been specially damaged, he may have standing to bring a quo warranto action.”).

119. Plaintiffs alternatively and independently have the right to pursue mandamus and other equitable relief as against Defendants in the event that quo warranto is not recognized as a proper action due to a failure or refusal of prosecution. *In re One Hundred Or More Qualified Electors*, 546 Pa. 126, 133, 683 A.2d 283, 286-87 (1996).

120. On information and belief, each or all of Defendants are or were residents of Delaware County and engaged in conduct with relation to and were responsible for various and diverse duties and responsibilities concerning the administration and conducting of the November 3, 2020, election in Delaware County as further described herein.

121. Venue is proper in the Delaware County Court of Common pleas where it is alleged that Defendants, and those acting in concert with them or at their direction, violated Plaintiffs’ constitutional rights and committed unlawful, intentional, reckless, grossly negligent, and/or negligent acts in dereliction of their duties, as more fully described herein.

122. Jurisdiction is proper under, inter alia, 42 Pa. C.S. § 931 and 42 Pa. C.S. § 5301, where the claims herein relate to the allegations regarding the conduct and actions of Defendants

during the November 3, 2020, election in Delaware County.

COMMON ALLEGATIONS

123. Plaintiffs herein incorporate the allegations and averments in the preceding paragraphs of this complaint.

124. Pennsylvania certified the presidential election on November 24, 2020, with Joseph Biden having 80,555 more votes than Donald Trump. [Exhibit F1].

125. It appears Delaware County was the last county to submit its presidential vote total in the state potentially changing November 3, 2020, election results in numerous races.

126. It appears prior to Delaware County submitting its vote totals, Donald J. Trump was leading Joseph Biden by 7,515 votes.

127. Delaware County submitted its presidential votes total with a difference of 88,070 between the two presidential candidates. [Exhibit F2].

128. Pa. Const. art. I, § 5 provides: “Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”

129. Pa. Const. art. I, § 26 provides: “Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.”

130. Pa. Const. art. VII, § 6 provides: “All laws regulating the holding of elections by the citizens ... shall be uniform throughout the state...”

131. Every citizen has a constitutionally protected right to participate in elections on an equal basis with other citizens. *Dunn v. Blumstein*, 405 U.S. 330, 336, 92 S. Ct. 995, 1000, 31 L.Ed.2d 274, 280-81 (1972).

132. To this end, the right to cast a vote for every legal (qualified and registered) voter is

protected by both an affirmative guarantee on the part of the government, and by an equally sacrosanct implied assurance that illegal or fraudulent votes and election fraud will not effectuate a cancellation or nullification of a legal voter's vote. *Reynolds v Sims*, 377 US 533, 560; 84 S Ct 1362; 12 L Ed 2d 506 (1964).

133. Failing to count a legal vote and/or allowing a fraudulent vote to be counted are both violative of fundamental constitutional rights of citizens, including Plaintiffs, because such actions and conduct disenfranchises registered voters in direct violation of the state and federal constitution. *Reynolds v Sims*, 377 US 533, 560; 84 S Ct 1362; 12 L Ed 2d 506 (1964).

134. While the Pennsylvania Constitution and the United States Constitution guarantee the right of every citizen to cast one vote and to have that vote counted, and this right includes the right not to have one's vote diluted or canceled out by the tabulation of fraudulent votes or ballots, the Supreme Court of the United States has given the right to vote primacy over all other rights. See, e.g., *Reynolds v. Sims*, 377 US 533, 560-563; 84 S Ct 1362; 12 L Ed 2d 506 (1964).

135. Thus, the Court has recognized the "political franchise" of voting as a "fundamental political right, because preservative of all rights." *Yick Wo v. Hopkins*, 118 US 356, 371; 6 S Ct 1064; 30 L Ed 220 (1886).

136. "[T]he right [to vote]...is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise *in a free and unimpaired manner* is preservative of other basic civil and political rights." *Harper v. Va State Bd of Elections*, 383 U.S. 663, 667 (1966) (emphasis added).

137. Thus, "*any* alleged infringement of the right of citizens to vote must be carefully and

meticulously scrutinized.” *Id.*

138. For an added measure of assurance, it is declared that “[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage *others* retained by the people.” U.S. Const., amend. IX (emphasis added).

139. As “it cannot be presumed that any clause in the constitution is intended to be without effect...effect should be given to all the words it uses.” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 174 (1803). See also *Myers v. United States*, 272 U.S. 52, 229 (1926). Thus, the right to vote is protected not only by the First Amendment, but it is one of those non-enumerated fundamental rights reserved to the People by the Ninth Amendment.

140. It was universally agreed by the Framers that there are additional fundamental rights, protected from governmental infringement, which exist alongside those specifically mentioned in the first eight amendments. “The [Ninth] Amendment...was proffered to quiet expressed fears that a bill of specifically enumerated rights could not be sufficiently broad to cover all essential rights and that the specific mention of certain rights would be interpreted as a denial that others were protected.” I Annals of Congress 439 (Gales and Seaton ed. 1834). See also II Story, Commentaries on the Constitution of the United States (5th ed. 1891), pp. 626-627.

141. And, indeed, a right to political affiliation and political choice has been addressed as protected, at least in part, by this amendment. *United Pub. Workers v. Mitchell*, 330 U.S. 75, 94-95 (1947). This includes, of course, the fundamental right to vote. *Id.* See also *Reynolds*, 377 U.S. at 560.

142. No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. All other rights,

even the most basic, are illusory if the right to vote is undermined.” *Reynolds v Sims*, 377 US 533,560; 84 S Ct 1362; 12 L Ed 2d 506 (1964).

143. Government action that impinges on these rights is constitutionally infirm and unlawful – it is a violation of, inter alia, the First Amendment, Equal Protection Clause, the Ninth Amendment, and those fundamental rights preservative of all other rights.

144. Under Pennsylvania law, government officials, their employees, and agents, and those acting in concert with them, are liable for acts that are criminal, fraudulent, done with malice, or which constitute willful misconduct in the performance of their duties and obligations. 42 Pa.C.S. § 8550. See also *Scott v. Willis*, 116 Pa. Commw. 327, 334, 543 A.2d 165, 169 (1988).

145. “In any action against a local agency or employee thereof for damages on account of an injury caused by the act of the employee in which it is judicially determined that the act of the employee caused the injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, the provisions of sections 8545 (relating to official liability generally), 8546 (relating to defense of official immunity), 8548 (relating to indemnity) and 8549 (relating to limitation on damages) *shall not apply*.” 42 Pa.C.S. § 8550 (emphasis added).

146. An action in mandamus will lie to compel a state officer or agency to perform a ministerial or mandatory statutory duty. *Stackhouse v. Commonwealth*, 892 A.2d 54, 59 n.6 (Pa. Cmwlth. 2006). See also *Finn v. Rendell*, 990 A.2d 100, 105 (Pa. Cmwlth. 2010).

147. In addition, the Pennsylvania Election Code was enacted to regulate the electoral process and to punish fraudulent conduct so that elections are both orderly and fair. *Commonwealth v. Wadzinski*, 492 Pa. 35, 40; 422 A.2d 124, 127 (1980).

148. “The Election Code must be liberally construed so as not to deprive an individual of his right to run for office, or the voters of their right to elect a candidate of their choice.”

Perles v. Hoffman, 419 Pa. 400, 405; 213 A.2d 781, 783-84 (1965).

149. “Any person who violates any of the provisions of [the Election Code] shall be guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to imprisonment for a term not exceeding one (1) year, or to pay a fine not exceeding one thousand dollars (\$ 1,000), or both, in the discretion of the court.” 25 Pa. Stat. Ann. § 2375.

150. The words “qualified elector” means any person who shall possess all of the qualifications for voting now or hereafter prescribed by the Constitution of this Commonwealth, or who, being otherwise qualified by continued residence in his election district, shall obtain such qualifications before the next ensuing election. 25 Pa Stat Ann § 2602.

151. The Election Code also contains pertinent definitions that impose legal obligations and/or have legal significance, in addition to other state and federal laws and regulations.

25 Pa. Stat. Ann. § 3031.1. Such pertinent definitions include:

- a. “AUTOMATIC TABULATING EQUIPMENT” means any apparatus which automatically examines, and computes votes registered on paper ballots, ballot cards or district totals cards or votes registered electronically, and which tabulates such votes;
- b. “BALLOT” means ballot cards or paper ballots upon which a voter registers or records his vote or the apparatus by which the voter registers his vote electronically and shall include any ballot envelope, paper, or other material on which a vote is recorded for persons whose names do not appear on the ballot labels;
- c. “BALLOT CARD” means a card which is compatible with automatic tabulating equipment and on which

votes may be registered;

- d. "COUNTING CENTER" means one or more locations selected by the county board of elections for the automatic tabulation of votes;
- e. "CUSTODIAN" shall mean the person charged with the duty of testing and preparing voting devices and automatic tabulating equipment for elections and instructing election officials in the use of such voting devices and equipment;
- f. "DISTRICT TOTALS CARDS" means a card or other data storage device which is compatible with automatic tabulating equipment and may be used in any voting system which provides for the initial computation and tabulation of votes at the district level to record the total number of votes cast for each candidate whose name appears on the ballot, the total number of write-in votes properly cast for each office on the ballot and the total number of votes cast for or against any question appearing on the ballot;
- g. "ELECTRONIC VOTING SYSTEM" means a system in which one or more voting devices are used to permit the registering or recording of votes and in which such votes are computed and tabulated by automatic tabulating equipment. *The system shall provide for a permanent physical record of each vote cast. Id.* (emphasis added);
- h. "OFFICIAL BALLOT" means the list of offices and candidates and the statement of questions reflected on the voting device;
- i. "PAPER BALLOT" means a printed paper ballot which conforms in layout and format to the voting device in use;
- j. "PUBLIC COUNTER" shall mean a counter or other element which shall at all times publicly indicate how many ballots have been cast during the course of the election;
- k. "VOTING DEVICE" means either an apparatus in which paper ballots or ballot cards are used in connection with an implement by which a voter

registers his votes with ink or other substance or by punching, or an apparatus by which such votes are registered electronically, so that in either case the votes so registered may be computed and tabulated by means of automatic tabulating equipment.

152. The Pennsylvania Election Code also requires certain “post-election procedures” to occur, as follows:

- a. As soon as the polls have been closed and the last elector has voted in districts having an electronic voting system which employs paper ballots or ballot cards, and district tabulation is provided for, the number of such ballots issued to electors (at primary elections, the number issued to the electors of each party) and the number of ballots (at primaries the number of ballots of each party), if any, spoiled and returned by voters and cancelled, shall be announced to all present in the polling place and entered on the general returns of votes cast at such primary or election. The district election officers shall then compare the number of names marked as voting in the district register, “Voting Check List” and numbered lists of voters, shall announce the result, and shall enter on the general returns the number of electors who have voted, as shown by the “Voter’s Check List.” Any differences which exist shall be reconciled where possible, and where reconciliation is not possible such differences shall be noted on the general returns. The district register, the “Voting Check List” and the numbered lists of voters, together with all unused ballots, and all spoiled and cancelled ballots, and all rejected voters’ certificates shall then be placed in separate packages, containers or envelopes and sealed before the tabulation of any ballots.
- b. If ballots are computed and tabulated in the election district, all write-in votes which have been properly cast and recorded on the voting devices shall be counted and recorded on a standard form provided for this purpose. District totals cards or other appropriate data storage device may also be prepared by the district board of elections reflecting the results of the voting in that district. Such cards and reporting forms of write-in vote tabulation shall be delivered to the county board of elections. In cases where central counting is utilized, write-in ballots may be recorded either at the election

district or at the counting center.

- c. In any case in which the write-in ballot is a separate entity from the ballot or ballot card, and the write-in ballot has been used, both sections shall be given a unique identifying number prior to their separation for tabulation.
- d. In returning any votes cast for any person whose name is not printed on the official ballot, the election officers shall record any such names exactly as they were written or stamped.
- e. If, as a result of an otherwise properly cast write-in vote, the voter has registered more votes for an office than he is entitled to vote for that office, the entire vote cast for that office shall be void and shall not be counted; and such write-in ballots shall be fastened to the write-in vote tabulation form and shall be delivered to the county board of elections.
- f. In the event district tabulation of votes is provided for by the voting system, the district election officers shall, immediately upon the close of the polls, cause the automatic tabulating equipment to tabulate the ballots cast during the election and shall prepare duplicate records of the total number of voters whose ballots have been tabulated; the total number of votes cast for each candidate whose name appears on the ballot; the total number of write-in votes properly cast for each office on the ballot; and the total number of votes cast for or against any question appearing on the ballot. One such record shall be publicly posted at the district polling place. All votes so cast and tabulated in the district may also be recorded on a district totals card and all properly cast write-in votes may also be recorded on the district totals card, and the delivery of such district totals cards and reporting forms to the county board of elections shall be the responsibility of the judge of election. The minority inspector shall keep duplicate copies of all such reports and returns. At the close of the election and after the tabulation of all ballots, the automatic tabulating equipment or other component of the voting system which contains ballots shall be locked and sealed so that no further ballots may be deposited in or removed from any such equipment or component, and all components of the voting system, suitably packaged

and secured for storage, shall be held for delivery to the county election board.

- g. In the event district tabulation of votes is not provided for by the voting system, the Judge of Election shall prepare a report of the number of voters who have voted, as indicated by the "Voting CheckList" and numbered lists of voter's poll list. He shall also prepare a report of the number of spoiled ballots and the number of unused ballots. He shall deliver the original copy of this report to the county board of elections under seal. The judge of election inspector shall keep a duplicate copy of this report. The judge of election and minority inspector shall forthwith deliver the sealed transport carrier containing all voted ballot cards to the county board of elections or to such places as the county board may designate. The county board of elections may provide that the ballot container and reports may upon proper certification and signature instead be picked up at the polling places by two authorized election deputies of opposite parties.
- h. All reports and returns shall be signed by all district election officers.
- i. In the event that district tabulation of votes is not provided for by the voting system, it shall be the responsibility of the county board of elections to make available to the public at the central tabulating center, the election results for each election district.
- j. By two o'clock A. M. on the day following the election, all of the following shall be returned to the county board:
 - i. Envelopes.
 - ii. Supplies, including all uncast provisional ballots.
 - iii. Returns, including all provisional ballots and absentee ballots cast in the election district.

See 25 Pa. Stat. Ann. § 3031.13.

and data reflecting the proper tally of legal votes cast at an election by Delaware County's legally registered citizen voters; to properly certify the aforementioned citizens' votes; to ensure elections in Delaware County are conducted legally and that all facets of an election, including the processing, tallying, return, and certification of the votes, complies with the federal and state constitutions, and all applicable federal and state laws and regulations; to guard and preserve all evidence in relation to a federal election as required by federal law; to refrain from destroying or altering any such evidence; and to respond to and produce complete, truthful, and accurate information, materials, and data as requested in response to a lawful request for said information by a member of the public; and to preserve all documents and information demonstrating that this was done, constitutes a violation of state and federal law and entitles Plaintiffs to the relief sought herein.

154. Any voter or elector of this Commonwealth willfully voting or attempting to vote at any primary election in violation of the provisions of this act, or any election officer willfully receiving or conspiring to receive the vote of any elector casting the ballot, as an elector of any political party, not qualified as a member of said party under the provisions of this act, shall be guilty of a misdemeanor; and upon conviction thereof shall be punished by imprisonment for not more than one (1) year, and a fine of not more than one thousand dollars (\$ 1,000), or either or both, in the discretion of the court. 25 Pa. Stat. Ann. § 303.

155. With respect to the "count and return of votes," "[i]f any officer under this act shall neglect or fail to perform the duties herein imposed upon them, then they, or either of them, shall, upon conviction, be sentenced to pay a fine of five hundred dollars, and undergo an imprisonment, by separate or solitary confinement, not exceeding three years, respectively, for every such offense." 25 Pa. Stat. Ann. § 2096.

156. Regarding neglect of duty in the care of ballot boxes, “[i]f any officer under this act shall neglect or fail to perform the duties herein imposed upon them, then they, or either of them, shall, upon conviction, be sentenced to pay a fine of five hundred dollars, and undergo an imprisonment, by separate or solitary confinement, not exceeding three years, respectively, for every such offense. 25 Pa. Stat. Ann. § 2096.

157. “Any Secretary of the Commonwealth, deputy, or employee of his office, who shall refuse to permit the public inspection or copying as authorized, except when in use in his office, by this act, of any return, nomination petition, certificate or paper, other petition, account, contract, report or any other document or record in his custody which, under the provisions of this act, is required to be open to public inspection; or who shall destroy or alter, or permit to be destroyed or altered, any such document or record during the period for which the same is required to be kept in his office; or who shall remove any such document or record from his office during said period, or permit the same to be removed, except pursuant to the direction of any competent court or any committee required to determine any contested primary or election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$ 1,000) dollars, or to undergo an imprisonment of not less than one month nor more than two years, or both, in the discretion of the court.” 25 Pa. Stat. Ann. § 3503.

158. “Any member, chief clerk or employee of any county board of elections or judge, inspector or clerk of election, machine inspector, overseer, or other person, who knowingly inserts or knowingly permits to be inserted any fictitious name, false figure or other fraudulent entry on or in any registration card, district register, voter’s certificate, list of voters, affidavit, tally paper, general or duplicate return sheet, statement, certificate, oath, voucher, account, ballot or other record or document authorized or required to be made,

used, signed, returned or preserved for any public purpose in connection with any primary or election; or who materially alters or intentionally destroys any entry which has been lawfully made therein, except by order of the county board of elections or court of competent jurisdiction, or who takes or removes any such book, affidavit, return, account, ballot or other document or record from the custody of any person having lawful charge thereof, in order to prevent the same from being used or inspected or copied as required or permitted by this act, or who neglects or refuses, within the time and in the manner required by this act, to deliver the same into the custody of the officers who are required by this act to use or keep the same, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$ 1,000) dollars, or to undergo an imprisonment of not less than one (1) month or more than two (2) years, or both, in the discretion of the court.” 25 Pa. Stat. Ann. § 3505.

159. “Any judge of election, inspector of election, clerk of election, or machine inspector who shall willfully violate any of the provisions of his oath of office, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$ 1,000) dollars, or to undergo an imprisonment not exceeding one (1) year, or both, in the discretion of the court.” 25 Pa. Stat. Ann. § 3510.

160. “If any person shall vote in more than one election district, or otherwise fraudulently vote more than once at the same primary or election, or shall vote a ballot other than the ballot issued to him by the election officers, or shall advise or procure another so to do, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$ 15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court.” 25 Pa. Stat. Ann. § 3535.

161. “Any person other than an officer charged by law with the care of ballots, or a person entrusted by any such officer with the care of the same for a purpose required by law, who shall have in his possession outside the polling place any official ballot, or any person who shall make or have in his possession any counterfeit of an official ballot, shall be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$ 5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.” 25 Pa. Stat. Ann. § 3516 (LexisNexis, Lexis Advance through 2021 Regular Session Act 74; P.S. documents are current through 2021 Regular Session Act 74).

162. “Any person who shall forge or falsely make the official endorsement on any ballot or willfully destroy or deface any ballot or willfully delay the delivery of any ballots, shall be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$ 5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court. 25 Pa. Stat. Ann. § 3517.

163. “Any election officer or other person who shall unlawfully open or who shall tamper with or injure or attempt to injure any voting machine to be used or being used at any primary or election, or who shall prevent or attempt to prevent the correct operation of such machine, or any unauthorized person who shall make or have in his possession a key to a voting machine to be used or being used in any primary or election, shall be guilty of a misdemeanor of the second degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five thousand (\$ 5,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court.” 25 Pa. Stat. Ann. § 3518.

164. “Any judge or inspector of election who permits any person to vote at any primary or election who is not registered in accordance with law, except a person in actual military service or a person as to whom a court of competent jurisdiction has ordered that he shall be permitted to vote, or who permits any registered elector to vote knowing that such registered elector is not qualified to vote, whether or not such person has been challenged, or who permits any person who has been lawfully challenged to vote at any primary or election without requiring the proof of the right of such person to vote which is required by law, or who refuses to permit any duly registered and qualified elector to vote at any primary or election, with the knowledge that such elector is entitled to vote, shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$ 15,000) dollars, and to undergo an imprisonment of not more than seven (7) years, or both.” 25 Pa. Stat. Ann. § 3523.

165. “Any judge, inspector or clerk of election or machine inspector who shall be guilty of any willful fraud in the conduct of his duties at a primary or election, and any person who shall make a false return of the votes cast at any primary or election, or who shall deposit fraudulent ballots in the ballot box or certify as correct a return of ballots in the ballot box which he knows to be fraudulent, or who shall register fraudulent votes upon any voting machine or certify as correct a return of votes cast upon any voting machine which he knows to be fraudulently registered thereon, or who shall make any false entries in the district register, or who shall fail to insert in the voting check list the voter’s certificate of any elector actually voting at any primary or election, or who shall fail to record voting information as required herein, or who shall fail to insert in the numbered lists of voters the name of any person actually voting, or who shall willfully destroy or alter any ballot, voter’s certificate, or registration card contained in any district register, or who shall willfully tamper with any

voting machine, or who shall prepare or insert in the voting checklist any false voter's certificates not prepared by or for an elector actually voting at such primary or election, for the purpose of concealing the destruction or removal of any voter's certificate, or for the purpose of concealing the deposit of fraudulent ballots in the ballot box, or the registering of fraudulent votes upon any voting machine or of aiding in the perpetration of any such fraud, or who shall fail to return to the county board of election following any primary or election any keys of a voting machine, ballot box, general or duplicate return sheet, tally paper, oaths of election officers, affidavits of electors and others, record of assisted voters, numbered list of voters, district register, voting check list, unused, spoiled and cancelled ballots, ballots deposited, written or affixed in or upon a voting machine, or any certificate, or any other paper or record required to be returned under the provisions of this act; or who shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$ 15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court." 25 Pa. Stat. Ann. § 3525.

166. "Any judge, inspector or clerk of election, or other person, who, before any ballot is deposited in the ballot box as provided by this act, shall unfold, open or pry into any such ballot, with the intent to discover the manner in which the same has been marked, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred (\$ 500) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court." 25 Pa. Stat. Ann. § 3526.

167. "If any person shall prevent or attempt to prevent any election officers from holding any primary or election, under the provisions of this act, or shall use or threaten any violence

to any such officer; or shall interrupt or improperly interfere with him in the execution of his duty; or shall block up or attempt to block up the avenue to the door of any polling place; or shall use or practice any intimidation, threats, force or violence with design to influence unduly or overawe any elector, or to prevent him from voting or restrain his freedom of choice; or shall prepare or present to any election officer a fraudulent voter's certificate not signed in the polling place by the elector whose certificate it purports to be; or shall deposit fraudulent ballots in the ballot box; or shall register fraudulent votes upon any voting machine; or shall tamper with any district register, voting check list, numbered lists of voters, ballot box or voting machine; or shall conspire with others to commit any of the offenses herein mentioned, or in any manner to prevent a free and fair primary or election, he shall be guilty of a felony of the third degree, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifteen thousand (\$ 15,000) dollars, or to undergo an imprisonment of not more than seven (7) years, or both, in the discretion of the court." 25 Pa. Stat. Ann. § 3527.

168. "Any Secretary of the Commonwealth, member of a county board of elections, chief clerk, employee, overseer, judge of election, inspector of election, clerk of election, machine inspector or custodian or deputy custodian of voting machines on whom a duty is laid by this act who shall willfully neglect or refuse to perform his duty, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$ 1,000) dollars, or to undergo an imprisonment of not more than two (2) years, or both, in the discretion of the court." 25 Pa. Stat. Ann. § 3548.

169. "Election officers are required to afford to said overseers, so selected and appointed, every convenience and facility for the discharge of their duties. If said election officers shall refuse to permit said overseers to be present and to perform their duties, as aforesaid, or if

the overseers shall be driven away from the polls by violence or intimidation, all the votes polled in such election district may be rejected by the proper tribunal trying a contest of the said primary or election, or a part or portion of such votes aforesaid may be counted, as such tribunal may deem necessary to a just and proper disposition of the case.” 25 Pa. Stat. Ann. § 2686.

170. “Any person who shall violate any of the provisions of this act, for which a penalty is not herein specifically provided, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand (\$ 1,000) dollars, or to undergo an imprisonment of not more than one (1) year, or both, in the discretion of the court.” 25 Pa. Stat. Ann. §3550.

171. “If any person shall sign an application for absentee ballot, mail-in ballot or declaration of elector on the forms prescribed knowing any matter declared therein to be false, or shall vote any ballot other than one properly issued to the person, or vote or attempt to vote more than once in any election for which an absentee ballot or mail-in ballot shall have been issued to the person, or shall violate any other provisions of Article XIII or Article XIII-D of this act, the person shall be guilty of a misdemeanor of the third degree, and, upon conviction, shall be sentenced to pay a fine not exceeding two thousand five hundred (\$2,500), or be imprisoned for a term not exceeding two (2) years, or both, at the discretion of the court. If any chief clerk or member of a board of elections, member of a return board or member of a board of registration commissioners, shall neglect or refuse to perform any of the duties prescribed by Article XIII or Article XIII-D of this act, or shall reveal or divulge any of the details of any ballot cast in accordance with the provisions of Article XIII or Article XIII-D of this act, or shall count an absentee ballot or mail-in ballot knowing the same to be contrary to Article XIII or Article XIII-D, or shall reject an absentee ballot or

mail-in ballot without reason to believe that the same is contrary to Article XIII or Article XIII-D, or shall permit an elector to cast the elector's ballot at a polling place knowing that there has been issued to the elector an absentee ballot, the elector shall be guilty of a felony of the third degree, and, upon conviction, shall be punished by a fine not exceeding fifteen thousand dollars (\$15,000), or be imprisoned for a term not exceeding seven (7) years, or both, at the discretion of the court." 25 Pa. Stat. Ann. § 3553.

172. In addition to other duties and responsibilities required of election officers and custodians (including Defendants), the Election Code, along with other state and federal laws, obligates them to guard and to ensure all materials, documents, data and information related to or reflective of votes, vote tabulations, and forensic evidence of votes cast be preserved.

173. "The records of the Secretary of the Commonwealth and all returns, nomination petitions, certificates and papers, other petitions, accounts, contracts, reports and other documents and records in his custody shall be open to public inspection, and may be inspected and copied by any qualified elector of the State during ordinary business hours at any time when they are not necessarily being used by the Secretary of the Commonwealth, or his deputy or employees having duties to perform in reference thereto: Provided, however, That such public inspection thereof shall only be in the presence of the Secretary of the Commonwealth, or his deputy or one of his authorized employees, and shall be subject to proper regulation for safe-keeping of the records and documents, and subject to the further provisions of this act." 25 Pa. Stat. Ann. § 2622.

174. The election code requires that "[a]ll documents and records in the office of the Secretary of the Commonwealth shall be preserved therein for a period of two years, unless

otherwise provided in this act.” 25 Pa. Stat. Ann. § 2623.

175. The records of each county board of elections, general and duplicate returns, tally papers, affidavits of voters and others, nomination petitions, certificates and papers, other petitions, appeals, witness lists, accounts, contracts, reports and other documents and records in its custody, except the contents of ballot boxes and voting machines and records of assisted voters, shall be open to public inspection, except as herein provided, and may be inspected and copied by any qualified elector of the county during ordinary business hours, at any time when they are not necessarily being used by the board, or its employees having duties to perform thereto: provided, however, that such public inspection thereof shall only be in the presence of a member or authorized employee of the county board, and shall be subject to proper regulation for safekeeping of the records and documents, and subject to the further provisions of this act: and provided further, that general and duplicate returns, tally papers, affidavits of voters and others, and all other papers required to be returned by the election officers to the county board sealed, shall be open to public inspection only after the county board shall, in the course of the computation and canvassing of the returns, have broken such seals and finished, for the time, their use of said papers in connection with such computation and canvassing.” 25 Pa. Stat. Ann. § 2648.

176. Federal law also requires as follows:

Every officer of election shall retain and preserve, for a period of twenty-two months from the date of any general, special, or primary election of which candidates for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Resident Commissioner from the Commonwealth of Puerto Rico are voted for, all records and papers which come into his possession relating to any application, registration, payment of poll tax, or other act requisite to voting in such election, except that, when required by law, such records and papers may be delivered to another officer of election and except

that, if a State or the Commonwealth of Puerto Rico designates a custodian to retain and preserve these records and papers at a specified place, then such records and papers may be deposited with such custodian, and the duty to retain and preserve any record or paper so deposited shall devolve upon such custodian. Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.”

See 52 U.S.C.S. § 20701.

177. 52 U.S.C.S. § 20702 further provides:

Any person, whether or not an officer of election or custodian, who willfully steals, destroys, conceals, mutilates, or alters any record or paper required by section 301 [52 U.S.C.S. § 20701] to be retained and preserved shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

178. In addition to these legal obligations and the penalties imposed thereby, a party’s destruction or loss of proof – “spoliation of evidence” – that is or may be pertinent to a legal proceeding can result in a variety of additional sanctions. *Parr v. Ford Motor Co.*, 2014 PA Super 281, 109 A.3d 682 (Pa. Super. 2014). See also *Gavin v. Loeffelbein*, 2017 Pa. Super. 130; 161 A.3d 340, 353 (2017).

179. “Spoliation of evidence” includes the *failure to preserve* or the *significant alteration of evidence* for pending or future litigation. *Pyeritz v. Commonwealth*, 613 Pa. 80; 32 A.3d 687, 692 (Pa. 2011). “When a party to a suit has been charged with spoliating evidence in that suit (sometimes called “first-party spoliation”), courts have allowed trial courts to exercise their discretion to impose a range of sanctions against the spoliator.” *Id.*, citing *Schroeder v. Commonwealth, Department of Transportation*, 551 Pa. 243; 710 A.2d 23, 27 (Pa. 1998)) (footnotes omitted).

180. “‘Spoliation of evidence’ is the *non-preservation or significant alteration* of evidence

for pending or future litigation.” *Pyeritz, supra; King v. Pittsburgh Water & Sewer Auth.*, 139 A.3d 336, 345 (Pa. Cmwlth. 2016). “The doctrine of spoliation provides that a party may not benefit from its own destruction or withholding of evidence.” *King*, 139 A.3d at 345.

181. Penalties for spoliation of evidence have been applied since the early 17th century. The spoliation doctrine is applicable in *any case* “where ‘relevant evidence’ has been lost or destroyed.” *Mount Olivet Tabernacle Church v. Edwin L. Wiegand Div.*, 2001 PA Super 232, 781 A.2d 1263, 1269 (Pa.Super. 2001), *aff’d sub nom. Mount Olivet Tabernacle Church v. Edwin Wiegand Div.*, 571 Pa. 60, 811 A.2d 565 (Pa. 2002).

182. Sanctions arise out of “the commonsense observation that a party who has notice that evidence is relevant to litigation and who proceeds to destroy evidence is more likely to have been threatened by that evidence than is a party in the same position who does not destroy the evidence.” *Mount Olivet*, 781 A.2d at 1269 (quoting *Nation-Wide Check Corp. v. Forest Hills Distributors, Inc.*, 692 F.2d 214, 218 (1st Cir.1982))

183. The duty to retain evidence is established where a party “knows that litigation is pending or likely” and “it is foreseeable that discarding the evidence would be prejudicial” to the other party. *Mt. Olivet*, *supra* at 1270-71.

184. Where spoliation has occurred, the trial court must weigh three factors in assessing the proper penalty: “(1) the degree of fault of the party who altered or destroyed the evidence; (2) the degree of prejudice suffered by the opposing party; and (3) whether there is a lesser sanction that will avoid substantial unfairness to the opposing party and, where the offending party is seriously at fault, will serve to deter such conduct by others in the future.” *Marshall v. Brown’s IA, LLC*, 2019 PA Super 191, 213 A.3d 263, 268 (2019).

185. “[T]he destruction or withholding of evidence which a party ought to produce gives rise to a presumption unfavorable to him, as his conduct may properly be attributed to his

supposed knowledge that the truth would operate against him.” *Pyeritz*, 32 A.3d at 692 n.5 (citation omitted). To compensate a party whose rights are impaired by the destruction of evidence, the party may be entitled to an adverse inference against the party responsible for the destruction. *Duquesne Light Co. v. Woodland Hills Sch. Dist.*, 700 A.2d 1038 (Pa. Cmwlth. 1997).

186. In determining whether an adverse inference is warranted, the court considers the degree of fault of the party who allegedly destroyed the evidence. *King*, 139 A.3d at 345. The degree of fault is comprised of two components: (1) the extent of the party’s duty to preserve the evidence; and, (2) the presence or absence of bad faith. *Id.* The duty to preserve evidence is established where both “the offending party knows litigation against it is pending or likely; and, it is foreseeable that discarding the evidence would be prejudicial.” *Id.* at 348.

187. Before, during and after November 3, 2020 through to the present, Delaware County and numerous Delaware County employees (including various of the Defendants) conspired to and did actually destroy, delete, secrete, alter, hide and/or obscure election data, materials, equipment, and/or the product of same, and/or the results reflected thereby, in order to prevent the discovery of the fraudulent results of the November 3, 2020 election, and the violation of various state and federal election laws.

188. On May 21, 2021, a request for November 3, 2020, election data and information was submitted to Delaware County under Pennsylvania’s Right to Know Law (RTKL). See 65 P.S. Ann. §§ 67.101-67.3104. [Attached hereto as Exhibit H].

189. The Right to Know Request specifically asked Delaware County (and its relevant departments and employees, including various of the Defendants) to provide election data including return sheets of reported and machine-recorded election results and supporting

information (front and back with notes) from the November 3, 2020, election, including but not limited to the paper tapes generated by the voting machines commonly known as proof sheets/results sheets/tally tapes and other information and data from the voting machines for the November 3, 2020, election. [Attached hereto as Exhibit H].

190. Specifically, the request asked for the “final certified return sheets from the November 3, 2020, general election” for all 428 Delaware precincts with the attached machine tapes (also known as proof sheets, scanner tape results, tally tapes, or paper tapes) from the voting machines.

191. The request also asked for notes on the front of and “any additional notes written on the back of the return sheet, as well as any attached notes that are related to each return sheet.” *Id.*

192. A Pennsylvania Return Sheet contains the following information: instructions that require “all entries on this sheet must be made in ink” opening poll chain of custody, blue seal numbers from the handle of each scanner, blue seal numbers from the printer port of the printerport, red seal numbers from the cage, lifetime counter data, signature of Judge of Election, signature of Minority Inspector, instruction to complete certificate number one, requirement to record all seal numbers, record the lifetime counter for each device, show that all present Election Board Members reviewed the zero count on the scanner prior to certifying, closing of polls, new blue seal number for handle on touch writer, new blue seal numbers on handle of scanners, new blue seal numbers on printer port, new red seal numbers for cage, new lifetime counter, ballots cast by scanner, total scanned ballots, total provisional ballots cast, grand total ballots cast, signature of Judge of Elections, signature of Minority Inspector, instructions to record all new seal numbers, record the new lifetime counter for each device, complete and sign certificate number two, place the V-Drive from

each scanner, the zero count report with the Board signatures from opening, and one tally by precinct report tape with the Board signatures from closing in the clear box, attach the tally by precinct report tape(s) (results) and the write in report tape(s) on the right side of each Return Sheet, post one Return Sheet with tapes attached outside of the polling place, place one Return Sheet with tapes attached in envelope C, and return it inside of the supply box to your designated site, place one Return Sheet with tapes attached in envelope D to be maintained by the minority inspector. Complete the audit of election ballots section, record the blank Election Day Ballots Received, subtract Ballot Count from Scanner One, subtract ballot Count from Scanner Two, Subtract Spoiled Ballot Precinct Ballots, Record Total of ballots to be returned unused, signature of Judge of Election, signature of Minority Inspector. [Attached hereto as Exhibit I]

193. On and after November 3, 2020, the Delaware County Return Board was missing necessary November 3, 2020, election data, materials, results, and equipment which was needed to reconcile all Delaware County precincts and certify the November 3, 2020, election. [Attached hereto as Exhibit J].

194. On or about November 3, 2020, the Delaware County Return Board (and individual members including various Defendants) discovered numerous election law violations, and/or incidents of election fraud, and referred these to the District Attorney for investigation. [Attached hereto as Exhibit K]. In fact, only a small number of precincts were actually referred and there was no evidence that anything was actually prosecuted.

Id.

195. According to Attorney General Josh Shapiro, “Pennsylvania law clearly states that fraud by election officers is not permissible and this behavior such as certifying false results is fraud.” Both Attorney General Shapiro and Jack Stollsteimer failed to act and charge

Delaware County election officers despite referral for investigation. [Attached hereto as Exhibit L].

196. The Delaware County November 3, 2020, election was certified without the necessary election data, materials, and equipment required to reconcile the election results.

197. On June 28, 2021, Delaware County responded to the May 21, 2021, Right to Know Request. [Attached hereto as Exhibit M].

198. Specifically, out of 428 precincts, the following 15 precincts did not have Return Sheets at the time of certification: Chester Township- 3rd Precinct, Lower Chichester Township- 1st Precinct, Darby Borough- 2nd Ward 1st Precinct, Upper Darby Township- 3rd District 1st Precinct, Upper Darby Township- 3rd District 10th Precinct, Upper Darby Township- 7th District 6th Precinct, Upper Darby Township- 7th District 7th Precinct, Upper Darby Township- 7th District 8th Precinct, Haverford Township- 8th Ward 2nd Precinct, Haverford Township- 9th Ward 1st Precinct, Nether Providence Township 5th Ward 1st Precinct, Parkside Borough, Ridley Township 4th Ward 2nd Precinct, Springfield Township 4th Ward 2nd Precinct, Tincum Township- 4th Precinct. [Attached hereto as Exhibit N]. Despite this deficiency, Delaware County certified the November 3, 2020 election.

199. Specifically, out of 428 precincts, the following 16 precincts submitted blank Return Sheets at the time of certification: Collingdale Borough- 5th Precinct, Darby Borough- 3rd Ward 2nd Precinct, Upper Darby Township- 5th District 3rd Precinct, Upper Darby Township- 5th District 9th Precinct, Marcus Hook Borough- 1st Precinct, Marcus Hook Borough- 2nd Precinct, Marcus Hook Borough- 3rd Precinct, Newtown Township- 2nd Precinct, Thornbury Township- 4th Precinct, Yeadon Borough- 5th Precinct, Chester City-

1st Ward 5th Precinct, Chester City- 7th Ward 2nd Precinct, Chester City- 8th Ward 1st Precinct, Chester City- 8th Ward 2nd Precinct, Chester City- 10th Ward 1st Precinct, Chester City- 11th Ward 5th Precinct. [Attached hereto as Exhibit N].

200. Delaware County's response to the May 21, 2021, Right to Know (RTK) Request, revealed that 213 precincts had return sheets that were missing information, yet Delaware County certified the November 3, 2020, election. Despite this deficiency, Delaware County certified the November 3, 2020, election.

201. The May 21, 2021, Right to Know (RTK) Request revealed the following 213 precincts had return sheets that were missing information: Aldan Borough-Eastern Precinct, Aldan Borough-Western Precinct, Aston Township- 1st Ward, Aston Township- 2nd Ward, Brookhaven Borough- 1st Precinct ,Brookhaven Borough- 2nd Precinct ,Chester Township- 2nd Precinct, Chester Township- 5th Precinct, Lower ChiChester Township- 2nd Precinct, Upper ChiChester Township- 2nd Ward 1st Precinct, Upper ChiChester Township- 2nd Ward 2nd Precinct, Upper ChiChester Township- 3rd Ward 1st Precinct, Upper ChiChester Township- 3rd Ward 2nd Precinct, Upper ChiChester Township- 4th Ward 1st Precinct, Upper ChiChester Township- 4th Ward 2nd Precinct, Clifton Heights Borough- 2nd Ward, Clifton Heights Borough- 3rd Ward 1st Precinct, Collingdale Borough- 2nd Precinct, Collingdale Borough- 3rd Precinct, Collingdale Borough- 4th Precinct, Collingdale Borough- 6th Precinct, Colwyn Borough- 1st Precinct, Colwyn Borough- 2nd Precinct, Concord Township- 1st Precinct, Concord Township- 10th Precinct, Darby Borough- 1st Ward 1st Precinct, Darby Borough- 1st Ward 2nd Precinct ,Darby Borough- 2nd Ward 2nd Precinct, Darby Borough- 3rd Ward 1st Precinct, Darby Township- 1st Ward, Darby Township- 2nd Ward, Darby Township- 3rd Ward 2nd Precinct, Upper Darby Township- 1st District 7th Precinct, Upper Darby Township- 1st

District 8th Precinct, Upper Darby Township- 2nd District 4th Precinct, Upper Darby Township- 2nd District 6th Precinct, Upper Darby Township- 2nd District 7th Precinct, Upper Darby Township- 3rd District 5th Precinct, Upper Darby Township- 3rd District 6th Precinct, Upper Darby Township- 3rd District 7th Precinct, Upper Darby Township- 3rd District 9th Precinct, Upper Darby Township- 3rd District 11th Precinct, Upper Darby Township- 4th District 1st Precinct, Upper Darby Township- 4th District 3rd Precinct, Upper Darby Township- 4th District 4th Precinct, Upper Darby Township- 4th District 5th Precinct, Upper Darby Township- 4th District 6th Precinct, Upper Darby Township- 4th District 7th Precinct, Upper Darby Township- 4th District 11th Precinct, Upper Darby Township- 5th District 1st Precinct, Upper Darby Township- 5th District 2nd Precinct, Upper Darby Township- 5th District 4th Precinct, Upper Darby Township- 5th District 7th Precinct, Upper Darby Township- 5th District 10th Precinct, Upper Darby Township- 6th District 2nd Precinct, Upper Darby Township- 6th District 3rd Precinct, Upper Darby Township- 6th District 4th Precinct, Upper Darby Township- 6th District 5th Precinct, Upper Darby Township- 6th District 7th Precinct, Upper Darby Township- 6th District 10th Precinct, Upper Darby Township- 6th District 11th Precinct, Upper Darby Township- 6th District 12th Precinct, Upper Darby Township- 7th District 1st Precinct, Upper Darby Township- 7th District 2nd Precinct, Upper Darby Township- 7th District 3rd Precinct, Upper Darby Township- 7th District 4th Precinct, Upper Darby Township- 7th District 11th Precinct, Eddystone Borough Northern, Eddystone Borough Southern, Edgmont Township- 1st Precinct ,Folcroft Borough- 1st Precinct ,Folcroft Borough- 2nd Precinct ,Folcroft Borough- 3rd Precinct, Folcroft Borough- 4th Precinct ,Folcroft Borough- 5th Precinct ,Glenolden Borough- 1st Precinct, Glenolden Borough- 2nd Precinct, Glenolden Borough- 3rd Precinct, Glenolden Borough- 4th Precinct, Glenolden Borough- 5th

Precinct, Glenolden Borough- 6th Precinct, Haverford Township- 1st Ward 1st Precinct, Haverford Township- 1st Ward 2nd Precinct, Haverford Township- 1st Ward 4th Precinct, Haverford Township- 2nd Ward 1st Precinct, Haverford Township- 2nd Ward 2nd Precinct, Haverford Township- 4th Ward 2nd Precinct, Haverford Township- 4th Ward 4th Precinct, Haverford Township- 9th Ward 4th Precinct, Lansdowne Borough- 5th Precinct, Lansdowne Borough- 6th Precinct, Lansdowne Borough- 8th Precinct, Lansdowne Borough- 9th Precinct, Lansdowne Borough- 10th Precinct, Lansdowne Borough- 11th Precinct, Marcus Hook Borough- 4th Precinct, Marple Township 1st Ward 1st Precinct, Marple Township 1st Ward 3rd Precinct, Marple Township 2nd Ward 2nd Precinct, Marple Township 2nd Ward 3rd Precinct, Marple Township 3rd Ward 1st Precinct, Marple Township 3rd Ward 2nd Precinct, Marple Township 3rd Ward 3rd Precinct, Marple Township 4th Ward 1st Precinct, Marple Township 4th Ward 2nd Precinct, Marple Township 4th Ward 3rd Precinct, Marple Township 5th Ward 1st Precinct, Marple Township 5th Ward 2nd Precinct, Marple Township 5th Ward 3rd Precinct, Marple Township 6th Ward 1st Precinct, Marple Township 6th Ward 2nd Precinct, Marple Township 6th Ward 3rd Precinct, Marple Township 7th Ward 1st Precinct, Marple Township 7th Ward 2nd Precinct, Marple Township 7th Ward 3rd Precinct, Media Borough Northern, Media Borough Western, Middletown Township 1st District 1st Precinct, Middletown Township 1st District 2nd Precinct, Middletown Township 1st District 3rd Precinct, Middletown Township 2nd District 2nd Precinct, Middletown Township 2nd District 3rd Precinct, Middletown Township 3rd District 1st Precinct, Middletown Township 3rd District 2nd Precinct, Middletown Township 4th District 2nd Precinct, Middletown Township 4th District 3rd Precinct, Morton Borough, Nether Providence Township 1st Ward 1st Precinct, Nether Providence Township 4th Ward 1st

Precinct, Nether Providence Township 4th Ward 2nd Precinct, Nether Providence Township 6th Ward 1st Precinct, Newtown Township- 5th Precinct ,Newtown Township- 8th Precinct ,Norwood Borough- 2nd Precinct, Norwood Borough- 4th Precinct, Norwood Borough- 7th Precinct, Norwood Borough- 8th Precinct, Prospect Park Borough- 2nd Precinct ,Prospect Park Borough- 3rd Precinct ,Prospect Park Borough- 4th Precinct ,Upper Providence Township- 1st District, Upper Providence Township- 3rd District, Upper Providence Township- 4th District, Radnor Township 1st Ward 1st Precinct, Radnor Township 2nd Ward 1st Precinct, Radnor Township 2nd Ward 2nd Precinct, Radnor Township 2nd Ward 3rd Precinct, Radnor Township 3rd Ward 1st Precinct, Radnor Township 3rd Ward 2nd Precinct, Radnor Township 4th Ward 1st Precinct, Radnor Township 6th Ward 2nd Precinct, Radnor Township 7th Ward 1st Precinct, Radnor Township 7th Ward 2nd Precinct, Ridley Park Borough- 2nd Precinct ,Ridley Park Borough- 4th Precinct ,Ridley Township 1st Ward 1st Precinct, Ridley Township 1st Ward 2nd Precinct, Ridley Township 1st Ward 3rd Precinct, Ridley Township 2nd Ward 2nd Precinct, Ridley Township 3rd Ward 2nd Precinct, Ridley Township 5th Ward 1st Precinct, Ridley Township 6th Ward 2nd Precinct, Ridley Township 7th Ward 2nd Precinct, Ridley Township 8th Ward 1st Precinct, Ridley Township 8th Ward 2nd Precinct, Ridley Township 9th Ward 1st Precinct, Rutledge Borough, Sharon Hill Borough- 1st Precinct ,Sharon Hill Borough- 2nd Precinct ,Sharon Hill Borough- 3rd Precinct ,Springfield Township 2nd Ward 1st Precinct, Springfield Township 2nd Ward 3rd Precinct, Springfield Township 4th Ward 1st Precinct, Springfield Township 4th Ward 3rd Precinct, Springfield Township 5th Ward 2nd Precinct, Springfield Township 6th Ward 2nd Precinct, Springfield Township 7th Ward 1st Precinct, Springfield Township 7th Ward 3rd Precinct, Swarthmore- Western, Thornbury Township- 3rd Precinct ,Tinicum Township-

3rd Precinct ,Tinicum Township- 5th Precinct ,Trainer Borough- Lennox Park Precinct, Trainer Borough- Lower Park Precinct, Upland Borough- 1st Precinct ,Upland Borough- 2nd Precinct ,Yeadon Borough- 1st Precinct, Yeadon Borough- 2nd Precinct, Yeadon Borough- 3rd Precinct, Yeadon Borough- 4th Precinct, Yeadon Borough- 7th Precinct, Yeadon Borough- 9th Precinct, Chester City- 1st Ward 1st Precinct, Chester City- 1st Ward 2nd Precinct, Chester City- 1st Ward 8th Precinct, Chester City- 2nd Ward 1st Precinct, Chester City- 2nd Ward 3rd Precinct, Chester City- 2nd Ward 4th Precinct, Chester City- 3rd Ward, Chester City- 4th Ward, Chester City- 5th Ward 1st Precinct, Chester City- 5th Ward 2nd Precinct, Chester City- 6th Ward 1st Precinct, Chester City- 7th Ward 3rd Precinct, Chester City- 7th Ward 4th Precinct, Chester City- 9th Ward 1st Precinct, Chester City- 9th Ward 2nd Precinct, Chester City- 9th Ward 3rd Precinct, Chester City- 10th Ward 2nd Precinct, Chester City- 11th Ward 1st Precinct, Chester City- 11th Ward 2nd Precinct, Chester City- 11th Ward 4th Precinct, Chester City- 11th Ward 6th Precinct. [Attached hereto as Exhibit N]. Despite this deficiency, Delaware County certified the November 3, 2020 election.

202. On or about November 24, 2020, Delaware county certified the November 3, 2020, election with over half (244) of the precincts missing necessary election data to determine accurate election results ($15+16+213=244$) according to Delaware County's Response to the May 21, 2021, Right to Know Request. [Attached hereto as Exhibit N].

203. On June 28, 2021, Delaware County responded to the May 21, 2021, Right to Know Request and provided data it used to certify the November 3, 2020, election.

204. The information and data produced does not align with or match the November 3, 2020, election data the County referred to in its November 18, 2020, letter to the Election

Board regarding certification of the November 3, 2020 election.

205. On or about May 21, 2021, Delaware county employees (including various Defendants) began to conspire as to how to respond on behalf of Delaware County to the May 21, 2021, Right to Know Request knowing that numerous election laws had been violated and massive election fraud and other irregularities had occurred during the November 3, 2020 election, and these individuals began planning how they were going to conceal the November 2020 violations of the election code and the fraud in the process of responding to the Right to Know Request.

206. On or about April 29, 2021, James A. Ziegelhoffer, also known as “Ziggy”, disclosed to Regina Miller that the Return Sheets and election tapes from the November 3, 2020, election were not stored with the election data, equipment, and materials on the main, and second floor with the remaining November 3, 2020, election data, materials, and equipment in the Voting Machine Warehouse in Delaware County as required by Pennsylvania law. [Attached hereto as Exhibit O].

207. On or about April 29, 2021, Defendant James A. Ziegelhoffer escorted Regina Miller to the basement of the Voting Machine Warehouse and showed her where the Return Sheets and election tapes were hidden along with the November 3, 2020, election materials stored in a cardboard box labeled “Return Sheets not Reviewed by Return Board November 3, 2020, Election”. [Attached hereto as Exhibit P].

208. On or about April 29, 2021, Ziegelhoffer emphatically stated that “there is no way these Return Sheets could have been reconciled!” as he moved the November 3, 2021 election data from its secret hiding spot in the basement of the Voting Machine Warehouse. [Attached hereto as Exhibit Q].

209. On or about April 29, 2021, Ziegelhoffer provided additional information to Regina

Miller that the November 3, 2020, election Return Sheets could not be reconciled for numerous reasons including, but not limited to, the fact that multiple precinct ballots were placed into various scanners because the scanners were set up to accept ballots from any precinct for the November 3, 2020, election. [Attached hereto as Exhibit Q].

210. On or about April 29, 2021, Ziegelhoffer stated that Return Sheets could not be reconciled because election data was missing.

211. Ziegelhoffer further provided information the Delaware County Return Board met for weeks following the November 3, 2020, election and called election day workers in for interviews.

212. Ziegelhoffer stated that during the interviews, the Return Board provided the election workers with election data and prompted them to create new Return Sheets for the November 3, 2020, election as part of the certification process. [Attached hereto as Exhibit R].

213. On or about April 29, 2021, Ziegelhoffer states to Regina Miller that only a few people (the context of the conversation refers to people in Delaware County) understood the election machines, and how to fill the Return Sheets out correctly. [Attached hereto as Exhibit Q].

214. On or about April 29, 2021, Ziegelhoffer disclosed to Regina Miller that the Return Sheets from the November 3, 2020, election contained various notes written on the front and back of the sheets detailing missing election evidence needed to reconcile the November 3, 2020, election.

215. Regina Miller observed numerous Delaware County employees, including Gallagher and Ziegelhoffer destroying election data/evidence.

216. Miller was able to retrieve a note from the trash regarding Upper Darby 2.

217. The note written on a yellow piece of paper, stated that additional and unrequested ballots were delivered to the precinct by a Sheriff. [Attached hereto as Exhibit S]

218. The Return Sheet from Collingdale contained a note which stated that the election data did not match, and the ballots were not requested. [Attached hereto as Exhibit T]

219. The Right to Know Request specifically asked for *all notes* front, back, *and attached*, on and to return sheets.

220. Delaware County employees, including but not limited to Ziegelhoffer, Savage, Gallagher, and Allen, obscured, secreted, hid, and destroyed notes, both attached to, and written on, return sheets. [Attached hereto as Exhibit S and Exhibit T]

221. Notes were written on the return sheets, some notes were obscured, some not copied, and some appended or attached notes were not produced. Evidence reflects that the production in response to the right to know request was inaccurate and demonstrates deletion, alteration, manipulation, and in some cases outright destruction of the requested information.

222. On or about June 3, 2021, Ziegelhoffer discussed and conspired with Defendant, Attorney Thomas Gallagher, as to how to fulfill and respond to the May 21, 2021, Right to Know Request and worked in unison sorting through November 3, 2020, election data, tapes, and return sheets and conspired as to how they would fulfill and respond.

223. The pair tried to create a Right to Know Response that was consistent with the November 3, 2020, reported election results for Delaware County and hide or mask the fraud and election law violations committed in Delaware County by election official for the November 3, 2020, election.

224. Specifically, Gallagher and Ziegelhoffer destroyed November 3, 2020, election data

to hide, secrete, obscure, and prevent discovery of election fraud, irregularities, or unreconcilable precinct results from the November 3, 2020, election.

225. Specifically, Ziegelhoffer presented a large cardboard box marked “miscellaneous tapes” and reminded Gallagher that the tapes in the box marked “miscellaneous tapes” pertained to the precincts that were called in for interviews before the Delaware County Return Board. [Attached hereto as Exhibit U].

226. On or about June 3, 2021, Ziegelhoffer stated to Regina Miller that “we have all of the Return Sheets, but we don’t have all of the tapes” from the November 3, 2020, election corroborating that election results were altered and reported with V-Drive data to certify the November 3, 2020, election. [Attached hereto as Exhibit V].

227. Additionally, Ziegelhoffer and Gallagher conspired to exclude evidence requested in the Right to Know Request while standing near a box labeled, “Return Sheets Not Reviewed by the Return Board November 3, 2020, Election.”

228. At this time, Ziegelhoffer had been having nightmares since the May 21, 2021, Right to Know Request was submitted to Delaware County, and he “wouldn’t be surprised if a lot of people went to jail.” Attorney Gallagher agreed. [Attached hereto as Exhibit W].

229. Specifically, Ziegelhoffer and Gallagher conspired to exclude the contents of the box labeled “Return Sheets Not Reviewed by the Return Board for the November 3, 2020, election in the Delaware County response to the Right to Know Request dated May 21, 2021. [Attached hereto as Exhibit P].

230. The collusion continued as Gallagher directed Ziegelhoffer and other Delaware County employees to exclude the written information on the front and back of the Return Sheets requested in the May 21, 2021, Right to Know Request. [Attached hereto as Exhibit X] Despite the request in the May 21, 2021, Right to Know request for all notes on the front

and back of the return sheets and any notes attached or appended thereto Gallagher specifically instructed employees to “cover the notes over with paper” and only copy the front of the Return Sheet to fulfill the May 21, 2021, Right to Know Request. [Attached hereto as Exhibit Y].

231. Gallagher and Ziegelhoffer further elaborated on the instruction to conceal incriminating notes on the Return Sheets while fulfilling the May 21, 2021, Right to Know Request. Specifically, Gallagher instructed Regina Miller to only scan the front of the Return Sheet, and to set up the scanner to only provide and document the front of the Return Sheets to avoid including notes that were on the back of the Return Sheets. [Attached hereto as Exhibit X].

232. Gallagher continued to provide instructions on how to hide the incriminating data on the Return Sheets and instructed Defendant Jean Fleschute to alter the Return Sheets requested in the May 21, 2021, Right to Know Request.

233. Gallagher specifically instructed Jean Fleschute to use scissors to alter Return Sheets along with other methods to modify the November 3, 2020, election data. [Attached hereto as Exhibit Z-1, Z-2].

234. On or about June 3, 2021, Defendant James P. Savage, Ziegelhoffer, and Gallagher conspired as to how to meet quorum for the June 7, 2021, Board of Elections meeting and allow Gallagher to inform and or obtain approval from the Board of Elections regarding the certification of the May 2021 election and likely the May 21, 2021, Right to Know Request seeking the election tapes and Return Sheets from the November 3, 2020, election

235. Gallagher insisted “I will do all of the talking” and that he just needed a “warm body.”

236. Gallagher inquired if Savage and Ziegelhoffer want “another democrat” for the June 7, 2021, meeting. [Attached hereto as Exhibit AA].

237. According to the Delaware County government website as of November 14, 2021, <https://delcopa.gov/vote/boardmeetings.html>, the Board of Elections Meeting Archive page states that a complete archive of notices, agendas, public comments, and recorded meeting videos for ALL Election Board Meetings since March 5, 2020, are posted for review.

238. The website provides a working link to each Board Meeting video *except for the June 7, 2021*, Board Meeting discussed by Gallagher, Savage, and Ziegelhoffer. [Attached hereto as Exhibit BB].

239. On or about June 3, 2021, Regina Miller retrieved a small amount of November 3, 2020, election data and materials from the trash can into which Ziegelhoffer and Gallagher threw the November 3, 2020, election data and materials.

240. Unfortunately, Miller was unable due to fear, to retrieve significant amount of November 3, 2020, election data from the trash and it was permanently disposed of at Delaware County Voting Machine Warehouse. [Attached hereto as Exhibit CC-1, CC-2, CC-3, CC-4, CC-5, CC-6, CC-7, CC-8, CC-9, CC-10, CC-11].

241. Gallagher and Ziegelhoffer conspired to destroy November 3, 2020, election data, and materials. The pair set up a long table full of November 3, 2020, election data and selectively destroyed the machines/proof tapes along with other November 3, 2020 records by tearing it into pieces and placing into the trash stating they will have a campfire to burn the data. [Attached hereto as Exhibit DD]

242. Regina Miller was present and witnessed Gallagher and Ziegelhoffer destroy, hide, and secrete the November 3, 2020, election data and materials.

243. Regina Miller became nervous and informed the pair that they were violating numerous state and federal laws. [Attached hereto as Exhibit EE-1]

244. Despite being advised election information was to be kept for 22 months, Ziegelhoffer justified his actions of disposing of the tapes by stating “there was no audit value” to the November 3, 2020, election data that he was “tossing” meaning it wouldn’t match the election results reported and certified by Delaware County in November 2020 [Attached hereto as Exhibit EE-2].

245. On or about March or April of 2021, James Allen began working as the Delaware County Director of Elections earning a salary of approximately \$230,000 annually. [Attached hereto as Exhibit FF].

246. Defendant James P. Allen also conspired with Delaware County employees and contract staff to conceal and destroy November 3, 2020, election data, materials, and evidence to hide the November 3, 2020, election fraud in Delaware County.

247. On or about May 27, 2021, Defendant Allen conspired and instructed the removal and destruction of November 3, 2020, election evidence, material, and data.

248. On or about May 27, 2021, Defendant Savage directed poll workers to shut down machines. [Attached hereto as Exhibit GG].

249. Specifically, Defendant Allen conspired with Savage to “get rid” of the “pads and second scanners” from the November 3, 2020, election. [Attached hereto as Exhibit HH].

250. Savage encouraged a private conversation to continue the conversation concerning the removal of the pads and scanners due to other Delaware County employees and Regina Miller who were present and witnessed Savage state that he was aware that plan of destruction of November 3, 2020, election information, data, and equipment “was a felony.” [Attached hereto as Exhibit HH].

251. In May of 2021, Allen swiftly began developing a plan to hide and destroy November

3, 2020, election evidence and conspired with Savage to create “new” results to provide as a response to the May 21, 2021, Right to Know Request.

252. Specifically, James Allen and James Savage conspired to create new results with “Clean V-Drives” by removing the election scanners from the locked cages at the Voting Machine Warehouse to have data to consistently match the November 3, 2020, data. [Attached hereto as Exhibit II].

253. On or about May 5, 2021, James Allen ordered the Blue Crest Sorter to be erased of all November 3, 2020, election data. The Blue Crest Sorter is a system that was purchased in August 2020 for deployment in the November 2020 election to allow automation of the ballot fulfillment, sending out ballots to voters, and sorting returned voted ballots which would allow the Board of Elections with one piece of equipment the ability to time stamp the envelope, create a file to give voter credit for voting and sort the ballot envelopes into precinct order.

254. On or about June 3, 2021, James Allen made a statement that how counties deal with post elections is “perception” of what the public thinks when discussing the fulfillment of the May 21, 2021, RTK Request. He has made previous similar statements in his past employment as director of planning for Chicago Elections in Chicago. [Attached hereto as Exhibit JJ-1, JJ-2].

255. In May 2021, James Allen instructed an employee to contact Hart to obtain a Verity key to switch off a setting to allow scanners to accept ballots from any precinct, which is one reason the precincts could not be reconciled. [Attached hereto as Exhibit KK].

256. On May 27, 2021, James Allen is speaking about the RTK with Attorney Thomas Gallagher and Defendant Allen says he is aware the Return Sheets are “fucked up, and they aren’t straight anywhere in the County.” He further states there is nothing that can be done

about it. [Attached hereto as Exhibit LL].

257. Defendant Allen wrote a letter to party leaders, requesting more ballots for elections moving forward due to the large turnout in the November 2020 Election. However, according to the May 2021 Primary Election Results showed a 17,751 voter decrease in registration from Nov 2020. The November 2021 election also has similar registered voters as the May 2021 primary election. [Attached hereto as Exhibit MM,] This pattern of conduct further corroborates the system of fraud in continuing to have more ballots, continuous practices of the Delaware County fraud that took place in the November 3, 2020, election and continues to this day.

258. Prior to releasing the May 21, 2021, RTK Response, James P. Allen intentionally renamed files to be provided in response to the RTK request and mixed up the return sheets and tapes to make it time consuming for anyone reviewing the response to be able to organize the data and read it. In fact, James P. Allen spent hours mixing up the RTK response data with Regina Miller observing this in his office as he proudly described what he was doing. James P. Allen also reprimanded Regina Miller for organizing the RTK response as he reviewed each document it contained.

259. On or about April 2021, James Savage told Regina Miller that he would have someone killed if he was ever betrayed by someone at work and described a story that he heard regarding someone from the county that someone “ratted on.”

260. Regina Miller is aware of and witnessed numerous election law violations and fraud that occurred during the November 3, 2020 election, motivating Attorney Thomas Gallagher, James A. Ziegelhoffer, James P. Savage, James Allen, and other Delaware County employees to cover up the November 3, 2020 election fraud and election law violations, and to hide the inability of Delaware County to certify its November 3, 2020,

election properly and accurately in accordance with the requirements of the election code.

261. From November 3, 2020, to November 18, 2020, the Board of Elections had members meet daily to reconcile the November 3, 2020, election. Members signed in reflecting their attendance at these meetings. [Attached hereto as Exhibit NN].

262. On or about June 28, 2021, Delaware County responded to the May 21, 2021, Right to Know Request and did not provide return sheets for all 428 Delaware Precincts.

263. Additionally numerous Return Sheets were blank, notes on the Return Sheets were covered up, and none of the Return Sheets had a copy of the actual overleaf which contained incriminating notes witnessed and described by Regina Miller. Additionally, Delaware County failed to provide complete tapes/proof sheets/results for over 233 precincts missing one or more required tape types.

264. The Delaware County Right to Know Response Revealed that there were 125 out of 428 missing tally tapes scanner 1; 138 out of 428 precincts had 2 scanners and out of 138, 42 were missing tally tapes; out of the 428 precincts, 137 are missing ballot count tapes for scanner 1; out of 138 precincts with two scanners, 49 are missing ballot count tapes for scanner 2; 108 out of 428 precincts are missing write-in report tapes for scanner 1; 44 out of 138 that had two scanners are missing write-in reports for scanner 2; 255 out of 428 are missing open poll tapes for scanner 1; there are 92 out of 138 precincts missing open poll tapes for scanner 2; there are 233 out of 138 precincts missing open poll tapes for scanner 2; there are 233 out of 428 precincts missing zero report tapes for scanner 1; there are 89 out of 138 missing “zero” report tapes, which means that the machines may not have been zeroed out from a previous election; there are 41 out of 428 precincts that are not reconciled; 82 out of 428 precincts that submitted return sheets with no provisional ballot

numbers; there are 73 out of 428 precincts that submitted return sheets with no spoiled ballot count; there are 53 out of 428 precincts that submitted return sheets with no spoiled ballot count; there are 53 precincts out of 428 that had unused ballot return counts and had a discrepancy of plus or minus 20. [Attached hereto as Exhibit N].

265. On or about November 24, 2020, the Defendant Boockvar, the former Secretary of State, certified the November 3, 2020, election with over 200 precincts from Delaware County missing necessary data to determine accurate election results, and instead using election results that were obtained as a result of fraud and numerous election law violations.

266. On or about January 4, 2021, Leah Hoopes, and Gregory Stenstrom sent certified letters to Jack Stollsteimer, Delaware County District Attorney, Josh Shapiro, Pennsylvania Attorney General, and William McSwain, United States Attorney. [Attached hereto as Exhibit OO-1].

267. Leah Hoopes and Gregory Stenstrom informed Jack Stollsteimer, Josh Shapiro, and William McSwain of the election law violations and requested law enforcement to investigate fraud and election law violations in Delaware County.

268. As of November 17, 2021, the District Attorney, state Attorney General and the Department of Justice have failed to charge anyone with a crime related to the November 3, 2020, and have not responded to a request for investigation and for the preservation of evidence requested by Leah Hoopes and Gregory Stenstrom. To date no Delaware County employees or election workers have been charged with election fraud or election law violations.

269. In fact, William McSwain wrote a letter dated June 9, 2021, that states William Barr instructed him to pass all reports of election law violations to Attorney General Josh Shapiro, who had stated bias prior to the election that Donald Trump could not win.

[Exhibit OO-2].

270. In addition to the November 3, 2020, election law violations, Delaware County intentionally created chaos surrounding the November 3, 2020, election to hide election law violations and fraud.

271. On or about April 7, 2021, Defendant Christina Perrone admitted that they did not follow the law for the November 3, 2020, election and suggested that further discussion of the election law violations should be discussed further offline. [Attached hereto as Exhibit PP].

272. On or about April 7, 2021, Defendant Christina Perrone and Defendant Lauren Hagan admitted that the Agissar machine used to extract the ballot from the secrecy envelope, and that the Blue Crest machine that was responsible for sorting, verifying the signatures, and uploading the sorted and processed ballots was “slicing tons of ballots” when processing the November 3, 2020, election ballots, which would then send these ballots to adjudication. Jim Allen: “Quick question.... Will the envelope size be 6x9 or smaller?” Lauren Hagen: “I will check, I don’t have off the top of my head what Agissar had done, but last year the secrecy envelope was not long enough...it was too short... so it did not allow the ballot to jog before it went into the extractor.” Christina Perrone: “It needs 25% clearance around the ballot, that’s why we were cutting so many of them....so we either have to fold the ballot very, very small or increase the size of the secrecy [envelope].” [Attached hereto as Exhibit QQ].

273. On or about January 12, 2021, Jim Foley the owner of the Aggisar machines state the sliced ballots were not a result of the machine and were caused by the user’s failure with the preparation of envelopes. [Attached hereto as Exhibit RR].

274. On or about November 4-5, 2020, Plaintiff Leah Hoopes witnessed the machine

slicing thousands of ballots, and the ballots being removed from the machine and taken upstairs to be processed unobserved. Delaware County continued to use the ballot machine despite being aware of the slicing issue.

275. On or about November 18, 2020, the Delaware County Board of Elections sent a letter regarding the Report of the Delaware County Return Board for the General Election, November 2020 to the Members of the Delaware County Board of Elections. [Attached hereto as Exhibit J].

276. On or about November 18, 2020, The Delaware County Return Board stated in its November 18, 2020, letter to the members of the Delaware County Board of Elections that precincts and election workers within Delaware County required referral to the Delaware County District Attorney.

277. On or about November 18, 2020, the Delaware County Return Board attempted to minimize the precincts sent for review to the District Attorney in its November 18, 2020, letter. The Return Board stated that the differential and the inability to reconcile precincts in the November 3, 2020, election only impacted a “small number of precincts” and was caused by “human error.” [Attached hereto as Exhibit J].

278. On or about November 18, 2020, the Delaware County Return Board gave credit to James Savage, also known as Jim Savage for his “guidance” during the Return Boards daily work to certify the November 3, 2020, election. [Attached hereto as Exhibit J].

279. Regina Miller observed, and it was common knowledge that, Defendant James Savage, Director of the Voting Machine Warehouse, slept from approximately November 3, 2020 to November 18, 2020 at the Voting Machine Warehouse where the scanners/tabulators, election data and materials from the November 3, 2020, election were

stored for the certification process, which allowed him to have unfettered, exclusive and unobserved access to the voting machines, scanners/tabulators, V-Drives, and other election material, equipment, and data throughout the process.

280. On or about November 3, 2020, MaryAnne Jackson was hired by Delaware County as the Interim Director of Elections. MaryAnne Jackson has disclosed that she had no prior experience with elections, and her only election experience was voting. Additionally, defendant MaryAnne Jackson was encouraged by Delaware County to apply as the Interim Director of Elections despite having no experience with elections or running elections. [Attached hereto as Exhibit SS].

281. On or about November 3, 2020, Regina Miller participated in creating a spreadsheet of alphabetical names for provisional ballots. Regina Miller is aware that there were approximately 9,000 provisional ballots.

282. On or about November 3, 2020, Regina Miller observed the provisional ballot process to determine if provisional ballots would be challenged. Provisional ballots are linked to voter registration, and 12 Delaware County employees were to match signatures. Provisional ballots were compared with signatures at the Wharf, but not at Media.

283. Delaware County employees directed and violated election laws and utilized spaces such as cafeterias to pre-canvass votes. [Attached hereto as Exhibit TT].

284. On or about November 3, 2020, Kathy Dollymore saw people with numerous mail in ballots. Minority inspectors did not allow anyone to look in the yellow book to see the names listed for provisional ballots. [Attached hereto as Exhibit UU-1, UU-2, UU-3, UU-4].

285. Kathy Dollymore wrote a memorandum because her precinct, Upper Darby 2-6, was not reconciled. The Return Sheet from Upper Darby 2-6 was not complete. [Attached

hereto as Exhibit VV].

286. After November 2020 Delaware County received a letter from Newtown directing the mail-in drop box be removed pursuant to contract. Delaware County failed to timely remove the Newtown mail-in drop box requiring Newtown to remove the drop box with a jackhammer, heavy construction machinery and they then dumped the drop box in a dumpster, possibly with ballots in it. [Attached hereto as Exhibit WW].

287. Following this, Regina Miller saw an email between Defendant William Martin and Defendant Chevon Flores and others, stating that someone needed to go and see if there were ballots in the mail-in drop box in the dumpster. Regina Miller was sent with others to find the mail-in drop box and see if there were ballots in it. Upon retrieving the mail-in drop box, no ballots were discovered.

288. On or about April 19, 2021, Defendant, Attorney Thomas Gallagher, discussed with defendant Christina Iacono, that there were still on-going problems with Delaware County and that November 3, 2020, V-drives were still missing

289. "V Drives" are the USB drives that are in every voting machine, which record the votes entered into the machine. Once the voting has ended, and before the V-Drives are removed from the machine, a tape is printed out and that tape identifies the number of votes cast.

290. Regina Miller stated "I'm still quite concerned and baffled as to why Laureen Hagen would dump all the V- Drives in a bag and returned them that way. Attorney Gallagher was not pleased with Laureen Hagen's handling of the V-Drives "I almost said she was a fucking bitch, but there are three ladies here."

291. Attorney Gallagher further described Laureen Hagen dumping V-Drives into a bag and putting them in a box and placing the V-Drives on the hood of her car and describing

as traffic is going by “we don’t have anything for Chester 1-1, we have don’t have the pinks for...inaudible Folcroft is missing.” Gallagher stated that he “had no idea what we were getting.” [Attached hereto as Exhibit XX].

292. On or about November 18, 2020, Delaware County employee, Crystal Winterbottom, created a spreadsheet reflecting problems at the election polls for the November 3, 2020, election.

293. The problems detailed by Delaware County include but are not limited to the absence of secrecy envelopes used for the provisional votes, people who were not registered from different precincts signed the back of the book, voters with “inactive” status voted provisionally, voters voted provisionally but also signed the book, official ballots were accidentally in the provisional envelopes instead of provisional ballots, affidavits were not filled out and only secrecy envelopes were sent, provisional voters also signed the poll book, receipt stickers without voter information were placed on provisional affidavit envelopes, multiple voters filled out one affidavit and multiple ballots were placed in one affidavit envelope with two barcode receipts, provisional ballots with no affidavits, multiple provisional voters accidentally voted on official ballots and not on provisional ballots, boxes were not checked to remit mail in ballots, incomplete provisional affidavits, voters did not remit mail in or absentee ballots but signed the book and checked the box. [Attached hereto as Exhibit YY].

294. On or about, November 18, 2020, Attorney Thomas Gallagher requested that Regina Miller obtain a list of missing return sheets from the Nov 3, 2020, election to provide the information to James Savage. Regina Miller obtained the information and made a list on June 23, 2021, for James Savage and sent an email to James Savage with a list that the following precincts did not have Return Sheets: Chester Township- 3rd Precinct, Lower

Chichester Township- 1st Precinct, Darby Borough- 2nd Ward 1st Precinct, Upper Darby Township- 3rd District 1st Precinct, Upper Darby Township- 3rd District 10th Precinct, Upper Darby Township- 7th District 6th Precinct, Upper Darby Township- 7th District 7th Precinct, Upper Darby Township- 7th District 8th Precinct, Haverford Township- 8th Ward 2nd Precinct, Haverford Township- 9th Ward 1st Precinct, Nether Providence Township 5th Ward 1st Precinct, Parkside Borough, Ridley Township- 4th Ward 2nd Precinct, Springfield Township- 4th Ward 2nd Precinct, Tinicum Township- 4th Precinct. [Attached hereto as Exhibit ZZ]

295. On or about, June 23, 2021, Regina Miller also offered to make a list of the unreconciled precincts and provide same to Attorney Thomas Gallagher and James Savage. Attorney Thomas Gallagher instructed Regina Miller that he did not want her to make a list of the unreconciled precincts.

296. Pursuant to Pennsylvania law all Delaware County polls were required to have a Judge of Elections, Majority Inspector, Minority Inspector, Machine Operator, Clerk, and a Democrat and a Republican.

297. Christina Iacona had in addition to her individual duties and obligations as a citizen of Delaware County and the state of Pennsylvania to comply with and abide by all applicable state and federal laws, as an employee of the County and as an agent thereof, she has the same duties and responsibilities required of a public official.

298. Additionally, Iacono failed to appropriately staff the Delaware County polling locations for the November 3, 2020 election. Specifically, she failed to staff Chester City- 3rd Ward, had only one person listed as working its precinct. Idella Quann Boone-Byers is listed as the Judge of Election. Minority inspector is blank, majority inspector is blank, machine operator

is blank, clerk is blank, one person is listed as a Democrat count, and no-one is listed for republican count. Chester City Township has one scanner.

299. In addition to missing the return sheet, Lower Chichester-1st precinct is missing the tally report. Lower Chichester 1st precinct has the Judge of election is listed as Josie Arias, Majority inspector is listed as Catherine B. Gaspari, Minority inspector is blank, Machine operator is listed as Joanna C. Naugle, and Clerk is listed as Gina Connell. One Democrat and 3 Republicans.

300. In addition to missing return sheets, Darby Borough 2-1, does not have open polls report for scanner 1, the 2nd scanner is missing the tally report, there is no tally count, and no write in report, no open polls, and no ballot count report. The Judge of Election listed for Darby Borough 2-1 is John Haigis, no majority inspector is listed, no minority inspector machine operator was listed, and Darice Stephens 2 for Democrat count and zero for republican count.

301. In addition to missing return sheets, Upper Darby 3-1, 1 scanner: missing ballot count, open polls and zero report, Judge of Election is Jodean Robbins Duarte Majority inspector is blank minority inspector is Mary Ellen Tuinstra machine operator Jacqueline Pellegrini clerk is blank democrat is one republican is two.

302. On or about May 4, 2021, Christina Perrone informed Crystal Winterbottom, Christina Iacono, and James P. Allen that “our changes last election is what screwed everything up.”

303. Additionally, no seals we retained for chain of custody for the November 3, 2020, election, and Christina Perrone admits that there were issues surrounding provisional ballots/bags after the November 3, 2020, election [Exhibit AAA-1, AAA-2, AAA3].

304. On or about, March 31, 2021, Maryanne Jackson, Christina Perrone, and Lauren Hagen collaborated and discussed the failure of the Blue Crest Machine and that it did not upload all the election data to the Sure System. Additionally, Delaware County purchased over 100 scanners than needed for the November 3, 2020, election. It is unclear without serial and seal numbers where these scanners were used during the elections. [Exhibit BBB-1, BBB-2].

305. On or about April 28, 2021, James Savage disclosed that he was going into the “900 Report” that holds the election database and “there were errors.”

306. On or about April 28, 2021, a planning meeting for new election security practices was discussed by James Savage, Christina Perrone, and James Manly Parks. During the meeting, it was suggested that new V-Drive security measures could be implemented, and the multiple Delaware County employees make suggestions for new “security” measures that involve breaking seals, using envelopes secured with a string, and other measures that would continue to allow for V-Drive security breaches.

307. On or about April 28, 2021, James Manly Parks shared his institutional knowledge because of working with Delaware County and states that for 15 years there is a history of people “dudes rolling in with tapes” and that was the only copy of the votes other than the “print out” and further discusses the history of no chain of custody in Delaware County elections. [Attached hereto as Exhibit CCC]

308. On or about July 28, 2021, Regina Miller worked at the Bureau of Elections, also known as the Government Center, and found 27 banker boxes full of blank Official Ballots mostly from the November 3, 2020, election that were never returned to the Voting Machine Warehouse. Regina Miller informed James Savage of the Official Ballots, and he stated that

he would “take care of it.” [Attached hereto as Exhibit DDD].

309. Numerous witnesses state that the Return Board did not properly randomly audit or statistical sample of the Delaware County November 3, 2020, election results. Specifically, the Return Board only sampled precincts from the November 3, 2020, election containing completed Return Sheets, machine tapes, and all election data necessary. Delaware County did not audit the dozens of precincts missing election data.

310. Additionally, The Delaware County Return Board stated in its November 18, 2020, letter to the members of the Delaware County Board of Elections that it complied with the Post-Election Reconciliation Project dated November 2016 for the Commonwealth of Pennsylvania.

311. The Post-Election General Reconciliation Project dated November 2016 from the Commonwealth of Pennsylvania has the following requirements as part of its checklist:

- a. compare the number of registered voters in each precinct to the number list of voters created at the polls on Election Day;
- b. compare the numbered list of voters to the number of votes recorded on the voting machines that appears on the results tapes printed at the close of polls. The Return Board must investigate any discrepancies or irregularities among those records;
- c. the Return Board must account for and reconcile all balloting materials, including extra ballots printed in accordance with the Election Code, the number of ballots issued, the number of spoiled ballots, the number of ballots cast for all counties with paper ballots, and verify the number of cancelled absentee ballots;
- d. the Return Board must carefully review the tally papers, or district total cards and compare them to the totals tapes from the machines and reconcile them with the numbers on the general return sheets. Pa. Stat. Ann. § 3154(d). During this process, the Return Board should ensure that all votes were properly compiled from all of the removable storage media associated with the voting machines in each precinct;

- e. The Return Board must conduct a statistical recount of a random sample of ballots as part of its canvass prior to certifying the totals. Pa. Stat. Ann. § 3031.17. Counties using optical scan voting systems must conduct the statistical recount via hand recount and must count every race on the ballot, and counties using direct recording electronic (DRE) voting systems must conduct the statistical recount via hand count of the ballot images, or cast vote records, contained in the system, rather than the “totals tapes.” Again, all races must be counted;
- f. Voting systems must remain locked after the completion of the canvass unless the return board is required to open them by court order or for purposes of an election contest. 25 P.S. § 3070;
- g. If a county board of elections re-formats the memory cards used in an election, the county board must prepare and maintain a printed or electronic copy of the ballot images, also known as cast vote records, for 22 months after the election. 52U.S.C.A § 20701. [Attached hereto as Exhibit EEE].

312. On or about November 17, 2020, the Delaware County Board of Elections falsely stated in its letter to the Board Members that it had complied with the Post-Election General Reconciliation Project dated Nov 2016.

313. Specifically, the Delaware County Board of Elections falsely stated that it had complied with the requirement to compare registered voters in each precinct to the numbered list of voters created at the polls on Election Day and to compare the number list of voters to the number of votes recorded on the voting machines that appears on the result tapes printed at the close of polls. Section 25 P. S. Ann. § 3154(b) requires that the return board *investigate* any discrepancies or irregularities.

314. Delaware County November 3, 2020, election data reflected that many Delaware County precincts from the November 3, 2020, election were missing for the certification of the election.

315. Additionally, Judge of Elections Radnor did not fill out the yellow book for her

precinct and said “that is not my job” when asked by the Board, and over 10 precincts had yellow books that do not match results or were not filled out.

316. Specifically, Delaware County is missing machine tapes, close poll tapes, a report of spoiled ballot numbers in 88 precincts, and numerous precincts had unused ballots that did not add up, and the Return Board stated that James Savage was heavily relied upon to provide information because 202 precincts were not able to be reconciled.

317. Specifically, the Delaware County Board of Elections falsely stated that it had complied with the requirement to meet and investigate unreconciled precincts and missing election data from the November 3, 2020, election. Daily sign in sheets reflect that numerous Board Members were missing for portions of the investigation process.

318. Additionally, the Delaware County Return Board stated that it met from Friday November 6 to November 16 from 8:30 to 3:00 pm every day and signed in. The Board Members refused to sign the official Return Board Review Report of the Delaware County Return Board for the General Election, November 2020 in person and allegedly agreed to the contents of the Report via email.

319. Moreover, the return Board has the authority to summon the district election officers, machine inspectors, clerks, and overseers during its investigation of any discrepancies.

320. Specifically, the Return Board could not reconcile a small number of precincts in Delaware County for the November 3, 2020, election and the matter was referred to the District Attorney for review.

321. The Return Board did not have Return Sheets for 15 precincts, 16 precincts had blank return sheets, and 213 precincts were missing information on Return Sheets necessary to certify the November 3, 2020, elections.

322. The missing information on the Return Sheets included but is not limited to zero report for the verity touch writer, zero report for the verity scanner, open polls data, suspend polls data, close polls data, tally, ballot count, and write-in report.

323. Checklist item four requires for counties with paper ballots that the return board must account for and reconcile all balloting materials including the following-extra ballots printed in accordance with the Election Code, the number of ballots issued, the number of spoiled ballots, the number of ballots cast. (25 PA sec 3154(c) the counties must also verify the number of cancelled ballots.

324. Checklist item five requires that the return board must carefully review the tally papers, or district total cards (V-Drives) and compare them to the totals tapes from the machines and reconcile them with the numbers on the general return sheets. See 25 P.S. Ann. § 3154(d). The return board should ensure that all votes were properly compiled from all the removable storage media associated with the voting machines in each precinct.

325. Checklist item six requires that before certification of the vote totals, the return board must conduct a statistical recount of a random sample of ballots. 25 P.S. Ann. § 3031.17.

326. Item six specifically requires that counties using optical scan voting system must conduct the statistical recount via a hand count of ballots and must count every race on the ballot.

327. The Return Board circumvented this requirement in the November 3, 2020, election by sampling the precincts with the completed Return Sheets and containing all necessary election data according to witnesses. Witnesses further state that the precincts with missing data and Return Sheets were not used for the sampling process.

328. Further it is required that voting Systems must remain locked after the completion of

the canvass unless the return board is required to open them by court order or for the purposes of an election contest 25 P.S. sec 3070

329. Defendant James Savage and Defendant James P. Allen conspired to acquire clean V- Drives and recreate election results for the May 21, 2021, Right to Know Request, and many precincts failed to completely fill out return sheets and did not write the secure chain of custody with closing polls with seals. Closing procedures were not followed.

330. Federal law requires that if a county board of elections re-formats the memory cards used in an election, the county board must prepare and maintain a printed or electronic copy of the ballot images, also known as cast vote records, for 22 months after the election. 52 U.S.C.S. § 20701.

331. On or about November 3, 2020, to present Delaware County has deleted and destroyed election evidence, data, and materials. Here they conspired to destroy the Blue Crest images, they did not create images to preserve as required prior to using “clean V- Drives” to recreate results for the May 21, 2021, Right to Know Request.

332. Specifically, on or about May 5, 2021, James Allen ordered the Blue Crest Sorter to be erased of all November 3, 2020, election data.

333. Specifically, Attorney Thomas Gallagher attempted to obtain missing November 3, 2020, V-Drives that were in the possession of Defendant Laureen Hagan in April of 2021. Attorney Thomas Gallagher stated that he “left a scathing voicemail, probably inappropriate, no cursing” for Laureen on Friday. Attorney Thomas Gallagher further stated that Laureen “handed him a box (containing V-Drives)” and that Laureen told him that “its missing Chester-1, Haverford, Folcroft, and had no piece of paper.” Regina Miller questioned why Laureen was missing V-Drives and Attorney Thomas Gallagher replied, “I

have no idea, but there is a thousand V-Drives in there and they all came out of the plastic cases, and they were all over the place!” Attorney Thomas Gallagher described Lauren Hagan “shoving V-Drives into plastic bags!” Attorney Thomas Gallagher then told Lauren Hagan “You get down here and straighten this out!” Attorney Thomas Gallagher stated that James Allen was aware of the November 3, 2020, issue with the V- Drives that Lauren Hagan had in her possession and stated that James Allen “is making check marks.” [Attached hereto as Exhibit FFF].

334. On or about July 22, 2021, James Allen, Director of Elections threatened Regina Miller, who was a Monarch Staffing contract employee, and witness to numerous crimes and election law violations and stated, “If you are going to take it upon yourself to file a complaint somewhere else (other than with James Allen) consider it your second and final violation of the chain of command!”

335. Specifically, Regina Miller was prevented from disclosing criminal acts or election law violations to anyone other than James Allen.

336. Moreover, all prosecuting offices with jurisdiction over Delaware County refused or failed to investigate.

337. On or about November 3, 2020, to present, Attorney Thomas Gallagher has been aware of the election law violations, and election fraud that took place in the November 3, 2020, election and said disclosed that 20 to 30 names had been sent to the District Attorney, and he has “no idea why the DA didn’t do anything about it.”

338. On or about June 16, 2021, James Ziegelhoffer, disclosed that the polls opened and closed multiple times during the November 3, 2020, election and only the last tally was submitted despite having a lifetime counter. [Attached hereto as Exhibit GGG-1]

339. On or about June 16, 2021, James Ziegelhoffer admitted that the date and times were wrong on the November 3, 2020, election scanner tapes/proof sheets/machine tapes and specifically mentioned that Yeadon Township did not have the correct date and times. [Attached hereto as Exhibit GGG-2].

340. On or about November 3, 2020, Christina Iacona and Delaware County failed to fill out Vacancy Kits for Judges of Elections as required by 25 P.S. Ann. § 2675.

341. Delaware County has history of creating chaos to allow fraud to take place by County employees and easily go undetected and be blamed on untrained workers/unqualified workers.

342. Petitions for Appointments to fill an election board vacancy not completed nor notarized for vacancies of Judge of Elections for the November 3, 2020, election.

343. On or about July 22, 2021, Steven Bailey provided a notarized affidavit that he was a poll worker on November 3, 2020, in Delaware County at the Garden City Firehouse. [Attached hereto as Exhibit HHH].

344. Specifically, Steven Bailey witnessed lack of chain of custody with the November 3, 2020, election data. He stated that the drop off location designated at the Media Courthouse was disorganized. He further states that his father was a Judge of Elections on November 3, 2020 and submitted a Return Sheet on November 3, 2020.

345. On or about December 12, 2020, Cynthia Long provided a notarized affidavit stating that she was a Minority Inspector at the Upper Darby 4-10 polling location in Delaware County for the November 3, 2020, election. [Attached hereto as Exhibit III].

346. Specifically, Cynthia Long states that there was a purposeful chaotic environment created in an effort to allow fraud to occur. Cynthia Long further stated that over 300 ballots

were not taken out of her car at the drop off location, and there were numerous chain of custody problems. Additionally, Cynthia Long stated that Delaware County did not ask for a record of seal numbers.

347. On or about November 8, 2020, Michael Martin provided an affidavit that he worked as a Judge of Elections at the Upper Darby 4-10 precinct in Delaware County. He further stated that he received an email from Christina Iacono that there was missing election data from the November 3, 2020, election. Michael Martin states that he turned in all election data on November 3, 2020, at the drop off location and upon drop off was told “not to place the V-Drives in the secure blue bag, so that they could be quickly tallied by the BOE.” [Attached hereto as Exhibit JJJ].

348. Cynthia Long later wrote an email pleading with the county to not certify the election. She emailed the elections board stating she was an observer, and 47 V-Drives were missing and that there were V-Card irregularities which were unresolved. [Attached hereto as Exhibit III].

349. On or about November 4, 2021, Grace Almafantino states that she worked at the Voting Machine Warehouse on November 3, 2020, and that she is a former employee of Delaware County. [Attached hereto as Exhibit KKK].

350. Specifically, Grace Almafantino states that “V-Drives were lost, and I was asked to look for them.” Additionally, she states that James Savage had her look in all the machines after the November 3, 2020, polls had closed. Grace Almafantino believes that 5 to 7 or more V-Drives were missing but is not sure of the total amount of V-Drives. She described the environment at the Voting Machine Warehouse a “cluster fuck” following the close of the polls. She states that the election was mismanaged and made her feel as if the votes were

not accurately counted. Grace Almafantino is unsure if the V-Drives were accurately counted or if the V-Drives were found. She questions “how could they validate, and certify the election with the V-Drives missing?” She heard the V-Drives were found in an empty van with Biden stickers on the van. Grace Almafantino adds that she found provisional ballots while looking for the V-Drives and provided them to James Savage.

351. Additionally, Daniel Hunt stated that he worked as the Judge of Elections in Upper Darby 3-4 on November 3, 2020, in Delaware County and that he observed an individual dropping multiple ballots inside the ballot box located inside of the DELCO courthouse and made a report to law enforcement. [Attached hereto as Exhibit LLL].

352. On or about November 2020, Mary Jo Headly stated that she saw no signature verification at the mail in ballot counting center. [Attached hereto as Exhibit MMM].

353. On or about December 24, 2018, James Savage posted on Facebook “Dear Santa, I’ve been really, really good this year, and I’m not greedy...I only have one request...” James Savage placed a picture of Donald Trump in handcuffs next to his request to Santa.[Attached hereto as Exhibit NNN].

354. On or about November 14, 2019, James Savage posted on social media that “Decisions Have Been Made” and that while he enjoys his home in Costa Rica, and he has reflected on the circumstances that brought him there, however he will not yet retire in Costa Rica. Having made certain commitments to people and organizations (Vice Chair of the Delaware County Democratic Party, Candidate for the Democratic Party State Committee, Delegate to the Democratic National, Vice President of the Philadelphia AFL-CIO, President of USW Local 10-1, represents workers of the Philadelphia Energy Solutions- Carlyle Group, Committee Leader for the Brookhaven Democrats, USW National Oil Bargaining Committee, National Steering Committee of the “labor Campaign for Single Payer

Healthcare) that I feel strongly to seeing through completion.” [Attached hereto as Exhibit OOO].

355. Specifically, James Savage states that “I have more to contribute before laying down my sword. I have made certain commitments to people and organizations that I feel strongly about seeing through to completion. Costa Rica will be waiting for me when I’m ready, but I’m just not ready. I will be returning in mid-December to reenter the ring.” [Attached hereto as Exhibit OOO].

356. On or about November 3, 2020, the data in Pennsylvania’s SURE system stated that more ballots cast than voters registered in the November 3, 2020, Delaware election.

357. On or about November 5, 2020, Bob Heisner, from Hart provided a report regarding the November 3, 2020, election in Delaware County and stated the Delaware County election was a “shit show”. Heisner stated that he was at the Voting Machine Warehouse on November 3, 2020, until 5 am until at least 11:30 pm on November 4, 2020, for technical support. Heisner stated that all election machines crashed at the same time.

358. Election expert, J. Alex Halderman stated in a 2006 report that one method to steal an election involves causing the machines to crash. [Attached hereto as Exhibit PPP].

359. The Delaware County Election Board members who knowingly, falsely and unlawfully certified the Delaware County vote with a one-way hearing knowing election data was missing or altered.

360. On or about November 12, 2020, Christina Iacono, Delaware County Poll Worker Coordinator, sent out hundreds of letters to November 3, 2020, election poll workers stating that Delaware County could not reconcile its precincts, or approve final tabulation numbers for certification due to missing election data [Attached hereto as Exhibit QQQ].

361. Specifically, Christina Iacono informed poll workers that the Delaware County was missing yellow numbered list of voters, had incorrect numbers in the yellow book that did not match the scanner tabulation, had missing ballot reconciliation forms that impacted ballot chain of custody, there was missing information on the close of night Return Sheet, and Return Sheets were missing.

362. Additionally, Christina Iacono suggested in her letter that Delaware County would find it sufficient if one member of the precinct election team appeared at the Voting Machine Warehouse to address the missing November 3, 2020, election data with the Delaware County Board of Elections.

363. On or about April 19, 2021, Delaware County employees joked about violating election laws and admitted that the Delaware County polls were not staffed for the November 3, 2020, election, and that Delaware County selectively chose which Pennsylvania election laws Delaware County should follow. [Attached hereto as Exhibit RRR].

364. Specifically, Christina Iacono admitted that staffing the polls is “a freaking pain in the ass” and “for the general (election) we had so many vacancies” and that she believes following Delaware County election laws to staff the polls “doesn’t make a difference...its more or less like do we want the polls open or do we want to follow these procedures that were written in the code of elections in 1950?” [Attached hereto as Exhibit RRR].

365. Additionally, Christina Iacono utilized the long-standing Delaware process of “curb-siding” to staff the polls for the November 3, 2020, election, and explained that “curb-siding” consisted of polling voters “off from the street” and asking if they were free to work the election despite having no training or authority to do so pursuant to Pennsylvania law.

[Attached hereto as Exhibit SSS].

366. Specifically, Christina Iacona, Poll worker Coordinator for Delaware County, Patty Carfagno, Delaware County Elections Staffing Coordinator also agreed with Attorney Thomas Gallagher that people became inspectors for the November 3, 2020, election without legal appointment pursuant to Pennsylvania law. [Attached hereto as Exhibit SSS].

367. Attorney Thomas Gallagher stated that its sufficient to staff inspectors with “warm bodies.” [Attached hereto as Exhibit SSS].

368. On or about November 22, 2020, Delaware County certified the November 3, 2020, election using blank, incomplete, or modified return sheets as if they had proper results. These precincts include, Lower ChiChester Township, 1st Precinct, Report of Election Results; Chester Township, 3rd Precinct; Darby Borough, 2nd Ward, 1st Precinct; Parkside Borough;Ridley Township, 4th Ward, 2nd Precinct; Springfield Township, 4th Ward, 2nd Precinct; Tincum Township, 4th Precinct; Yeadon, 5th Precinct; Collingdale, 5th Precinct; Thornberry, 4th Precinct; Marcus Hook, 1st Precinct; Marcus Hook, 2nd Precinct; Marcus Hook, 3rd Precinct; Newtown, 2nd Precinct; Darby Borough, 3rd Ward, 2nd Precinct.[Attached hereto as Exhibit TTT].

369. During elections, Defendant James Savage, instructed employees to refrain from sending rover vans to assist with problems poll workers encountered during the closing of the polls. He instructed the poll workers not to print tapes; but to instead shut the machine (scanners) down, allowing him to take control over the printing of the results/proof tapes. [Attached hereto as Exhibit GG].

370. James Savage has routinely utilized union contacts from his organizations to drive the Delaware County rover vehicles during elections; possess and utilize the V-Drives

containing the vote totals; and work in the Delaware County elections in various capacities, including but not limited to working as poll workers.

371. Defendant James Savage has bragged that he can print new tabulation result tapes, that appear as though they were created just as they would during an election. He states this can be achieved by a setting which can change clocks back on the scanner machines. The clock can be manipulated to change election results on the tabulator to appear as if that result change took place during the election.

372. Savage brags about his relationship with the local prosecutor and Savage made statements that the Delaware County District Attorney, Jack Stollsteimer owed him favors because Savage was the vice chair of the Democratic Party and Savage worked as Stollsteimer's "progressive shield" and "buffer." [Attached hereto as Exhibit UUU].

373. Savage routinely brags and makes threatening statements that are intimidating or designed to discourage or prevent witnesses from disclosing his violations of Pennsylvania law. For example, Savage bragged about his involvement with the Philadelphia Oil Refinery explosion and stated that when he was Union President "we blew it up." [Attached hereto as Exhibit VVV].

374. Additionally, Savage made additional statements as the Chief Custodian/Voting Machine Warehouse Supervisor that "fuck Trump" should be inserted into the new Delaware County Poll Worker Guide. [Attached hereto as Exhibit WWW].

375. Additionally, Savage warned his employees that "no one sneaks up on Savage" and that if anyone at work betrayed him that he would have them killed. [Attached hereto as Exhibit XXX].

376. Savage further demonstrates his intimidating leadership tactics and has made

numerous statements about his previous political involvement including the boycott of Sunoco's 4,900 gasoline stations and spoke about how they weren't ready to "put a stick in anyone's eye just yet." Additional examples include Savage bragging about his role as President of the United Steelworkers vote that was 10 to 1, and that the "alternative was the death penalty." [Attached hereto as Exhibit YYY].

377. On or about May 2021, Regina Miller was instructed by Attorney Thomas Gallagher, not to tell anyone there are missing precincts.

378. A substantial number of ballots and/or the returns sheets, and tapes were altered or obscured by a person or persons other than the voter in the November 2020 election.

379. The number of ballots and/or returns altered by an unknown person or persons cannot be ascertained with reasonable accuracy and therefore the correctness of the result of the election cannot be determined.

380. Where it is shown that of the ballots and/or returns were altered or obscured such that they were adulterated and cannot be counted, the rights of the voters including Plaintiffs would be prejudiced through no fault of their own and they would be disenfranchised.

381. In such case, the remedy is to utilize all legal remedies available to the Court to ascertain the true intent of the voters in the county. See, e.g., *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 226, 670 A.2d 629, 633-34 (1996).

382. The Board of Elections and each of its individual members, have a duty to adequately secure the ballot boxes and ensure the seals on the ballot boxes are recorded at the end of election night in accordance with Pennsylvania law.

383. The Board of Elections and each of its individual members had a duty to adequately ensure that the return sheets and vote tallies are accurate and properly reconciled and that

the results must be recorded as of the end of election night.

384. Cast and provisional ballots were not secured and stored manner upon the closing of polls. In addition, seals were not recorded to ensure that chain of custody procedures were adequately followed, as such Defendants violated the provisions of the Pennsylvania Election Code.

385. Multiple persons had access to the ballots and/or return sheets, proof sheets and/or tapes and election data was altered before the return board met to begin the certification process.

386. Upon the discovery that the election board and/or each or any of its individual members erred and/or committed material fraud in transferring voting results from tally sheets to return sheets, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

387. Plaintiffs had a right to depend on the Board of Elections and/or each of its individual members performing their duties. *In re Koch Election Contest Case*, 351 Pa. 544, 550, 41 A.2d 657, 660 (1945).

388. As citizens of the United States and the state of Pennsylvania, Plaintiffs have fundamental constitutional rights to vote for their chosen candidate and a fundamental guarantee that their vote will not be discarded, diluted, or otherwise adulterated, which rights are protected by, inter alia, the Pennsylvania Constitution, and the First and Ninth Amendments of the United States Constitution, and which rights are preservative of all other fundamental constitutional rights.

389. This Complaint is supported by direct documentary and video evidence of manipulation, alteration, and destruction of ballots, ballot return sheets, and/or tally sheets

by Defendants and those who were acting at their direction and/or under their supervision, in order to cover up and obfuscate the true results of the November 2020 election.

390. Plaintiffs seek a jury trial and, inter alia, mandamus, injunctive, and equitable relief by way of a judgment finding that Defendants, individually and in concert with one another, not only acted in error and/or with neglect of duty, but also acted recklessly and with gross negligence, and intentionally engaged fraud and a cover-up of the fraud through false statements, fraudulent and forged information in response to requests for public records, destruction of evidence giving rise to a presumption of wrongdoing and resulting penalties, and as a result failed to properly certify the results of the November 3, 2020, election.

391. Plaintiffs also seek a judgment for damages for violations of their civil rights stemming from the use of uncertified voting systems, allowing, or facilitating vote flipping, additions, falsification, and/or deletions to the vote returns and vote tally counts, and for allowing or facilitating party preference tracking and/or ballot identification.

392. Nunc pro tunc relief is appropriate where a breakdown in the administrative operations of the Election Board occurs. *Appeal of Orsatti*, 143 Pa. Commw. 12, 598 A.2d 1341, appeal denied, 529 Pa. 637, 600 A.2d 956 (1991).

393. Pennsylvania Courts also have the power to allow appeal nunc pro tunc from the erroneous tabulation and computation performed by a Board of Electors where it appears that there was error on the part of the board and where a claimant had no prior knowledge of it. See *In re Koch Election Contest Case*, 351 Pa. 544, 550, 41 A.2d 657, 660 (1945).

394. The within petition sufficiently alleges an administrative breakdown in the operations of the Board of Elections and/or each or any of its individual members and the named defendants, including those acting in concert with them or at their direction, including, but

not limited to ballot and return tampering while the ballots and the returns tapes were in the custody of the Board of Elections. See *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 228, 670 A.2d 629, 635 (1996).

COUNT I – COMMON-LAW FRAUD

395. Plaintiffs herein incorporate the allegations and averments in the preceding paragraphs of this complaint.

396. To state a claim for fraud, the following elements must be pled with particularity in a plaintiff's complaint: a representation; which is material to the transaction at hand; made falsely, with knowledge of its falsity or recklessness as to whether it is true or false; with the intent of misleading another into relying on it; justifiable reliance on the misrepresentation; and (6) the resulting injury was proximately caused by the reliance. *Gibbs v. Ernst*, 538 Pa. 193, 207, 647 A.2d 882, 889 (1994). See also *Huddleston v. Infertility Ctr. Of Am.*, 700 A.2d 453, 461 (Pa. Super. Ct. 1997).

397. In any action against a local agency or employee thereof for damages on account of an injury caused by the act of the employee in which it is judicially determined that the act of the employee caused the injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, the provisions of sections 8545 (relating to official liability generally), 8546 (relating to defense of official immunity), 8548 (relating to indemnity) and 8549 (relating to limitation on damages) shall not apply.” 42 Pa.C.S. § 8550(LexisNexis, Lexis Advance through 2021 Regular Session Act 83; P.S. documents are current through 2021 Regular Session Act 83).

398. Fraud and related claims against governmental officials, employees, agents, etc., may proceed as cognizable claims under Pennsylvania law notwithstanding principles of

immunity from suits for mere negligence.

399. The within petition sufficiently alleges an administrative breakdown in the operations of the Board of Elections and/or each or any of its individual members – namely, ballot and returns tape tampering while the ballots and the returns tapes were in the custody of the Board of Elections. See *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 228, 670 A.2d 629, 635 (1996).

400. A substantial number of ballots and/or the returns sheets, and tapes were altered or obscured by a person or persons other than the voter in the November 2020 election.

401. The number of ballots and/or returns altered by an unknown person or persons cannot be ascertained with reasonable accuracy and therefore the correctness of the result of the election cannot be determined.

402. Where it is shown that a sufficient number of the ballots and/or returns were altered or obscured such that they are adulterated and cannot be counted, the rights of the voters including Plaintiffs would be prejudiced through no fault of their own and they would be disenfranchised.

403. Upon the discovery that the election board and/or each or any of its individual members violated the Election Code and/or committed material fraud in transferring voting results from tally sheets to return sheets, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

404. Upon the discovery that the individual Defendants violated the Election Code and/or committed material fraud in transferring voting results from tally sheets to return sheets, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

405. Upon the discovery that the individual Defendants violated the Election Code and/or committed material fraud in altering, manipulating, secreting, or destroying election information, data, and equipment, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

406. Petitioners have a right to depend on the Election Board and/or each of its individual members performing their duties. *In re Kock Election Contest Case*, 351 Pa. 544, 550, 41 A.2d 657, 660 (1945). The Defendants failed in this regard.

COUNT II – FRAUDULENT MISREPRESENTATION

407. Fraudulent (or intentional) misrepresentation requires a plaintiff to prove six elements: (i) a representation; (ii) that is material to the transaction at issue; (iii) made falsely, with knowledge of its falsity or reckless disregard as to whether it is true or false; (iv) with the intent to mislead another person into relying on it; (v) justifiable reliance; and (vi) an injury proximately caused by the reliance. *Gregg v. Ameriprise Fin., Inc.*, 245 A.3d 637, 640 (Pa. 2021).

408. In any action against a local agency or employee thereof for damages on account of an injury caused by the act of the employee in which it is judicially determined that the act of the employee caused the injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, the provisions of sections 8545 (relating to official liability generally), 8546 (relating to defense of official immunity), 8548 (relating to indemnity) and 8549 (relating to limitation on damages) shall not apply.” 42 Pa.C.S. § 8550(LexisNexis, Lexis Advance through 2021 Regular Session Act 83; P.S. documents are current through 2021 Regular Session Act 83).

409. Upon the discovery that the election board and/or each or any of its individual

members violated the Election Code and/or committed fraudulent misrepresentations in transferring voting results from tally sheets to return sheets, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

410. Upon the discovery that the individual Defendants violated the Election Code and/or committed fraudulent misrepresentations in transferring voting results from tally sheets to return sheets, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

411. Upon the discovery that the individual Defendants violated the Election Code and/or committed fraudulent misrepresentations in altering, manipulating, secreting, or destroying election information, data, and equipment, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

COUNT III – NEGLIGENT MISREPRESENTATION

412. The four elements of a common law claim for negligent misrepresentation are: (1) a misrepresentation of a material fact; (2) made under circumstances in which the actor should have known of its falsity; (3) with an intent to induce another to act on it; (4) thereby causing injury to a party who justifiably relied upon the misrepresentation. *Gregg v. Ameriprise Fin., Inc.*, 245 A.3d 637, 640 (Pa. 2021).

413. Negligent misrepresentation must concern a material fact and the speaker need not know his or her words are untrue, but must have failed to make a reasonable investigation of the truth of the statements. *Id.*

414. Upon the discovery that the election board and/or each or any of its individual

members violated the Election Code and/or committed negligent misrepresentations in transferring voting results from tally sheets to return sheets, an action for relief will be recognized.

415. Upon the discovery that the individual Defendants violated the Election Code and/or committed negligent misrepresentations in transferring voting results from tally sheets to return sheets, an action for relief will be recognized.

416. Upon the discovery that the individual Defendants violated the Election Code and/or committed negligent misrepresentations in altering, manipulating, secreting, or destroying election information, data, and equipment, an action for relief will be recognized.

COUNT IVI – COMMON-LAW QUO WARRANTO

417. Quo warranto is warranted whenever it appears that material fraud or error has been committed during an election

418. Quo warranto is the proper method with which to contest the right to public office. *DeFranco v. Belardino*, 448 Pa. 234, 292 A. 2d 299 (1972). See also *League of Women Voters v. Bd. of Comm'rs*, 451 Pa. 26, 29, 301 A.2d 797, 799 (1973).

419. The 'right' to office undoubtedly includes more than just challenging the ostensible victor's rights, but also allows questions concerning their qualification and eligibility, as well as questions concerning the regularity of the electoral or appointive process, and whether other preconditions to the holding of a particular public office were satisfied. *League of Women Voters v. Bd. of Comm'rs*, 451 Pa. 26, 29, 301 A.2d 797, 798 (1973).

420. Upon a failure of a prosecution of material fraud and conduct violative of the election code, quo warranto and/or other equitable relief is available to challenge the actions of the

Board of Elections and those acting for them and/or on their behalf, and to question the results of an election. See, e.g., *Andrezjwski v. Borough of Millvale*, 543 Pa 539, 543-44; 673 A.2d 879, 881 (1996) (failure of the proper party (district attorney) to institute the quo warranto proceedings established the right of the plaintiffs to such a remedy in equity).

COUNT V – MANDAMUS AND EQUITABLE RELIEF

421. Plaintiffs have demonstrated the Defendants violated certain legal duties imposed by certain provisions of the Election Code, among others, as follows:

- a. knowingly inserting or knowingly permitting to be inserted any fictitious name, false figure or other fraudulent entry on or in any registration card, district register, voter's certificate, list of voters, affidavit, tally paper, general or duplicate return sheet, statement, certificate, oath, voucher, account, ballot or other record or document authorized or required to be made, used, signed, returned or preserved for any public purpose in connection with any primary or election; materially altering and/or intentionally destroying any entry which has been lawfully made therein, except by order of the county board of elections or court of competent jurisdiction, taking and removing any such book, affidavit, return, account, ballot or other document or record from the custody of any person having lawful charge thereof, in order to prevent the same from being used or inspected or copied as required or permitted by this act, neglecting and/or refusing, within the time and in the manner required by this act, to deliver the same into the custody of the officers who are required by this act to use or keep the same. See 25 P.S. § 3504;
- b. willfully violating any of the provisions of their oath of office. See 25 P.S. § 3510;
- c. having in their possession outside the polling place any official ballot, and/or having in their possession any counterfeit of an official ballot, 25 P.S. § 3516;
- d. forging and/or falsely making the official endorsement on any ballot and/or wilfully destroying or defacing any ballot or wilfully delaying the delivery of any ballots, 25 P.S. § 3517;

- e. permitting persons to vote at any primary or election who were not registered in accordance with law, and/or permitting any registered elector to vote knowing that such registered elector is not qualified to vote, and/or permitting any person who has been lawfully challenged to vote at any primary or election without requiring the proof of the right of such person to vote which is required by law, and/or refusing to permit any duly registered and qualified elector to vote at any primary or election, with the knowledge that such elector is entitled to vote, 25 P.S. § 3523;

- f. in failing to keep and preserve records, and in destroying, altering or adulterating same, willfully engaging in fraudulent conduct in their duties; and/or making false returns of the votes case; and/or depositing fraudulent ballots in the ballot boxes; and/or certifying as correct a return of the ballots in a ballot box which they know to be fraudulent; and/or register fraudulent votes upon any voting machine or certify as correct a return of votes cast upon any voting machine which they know to be fraudulently registered thereon, and/or making false entries in the district register, and/or failing to insert in the voting check list the voter's certificate of any elector actually voting at any primary or election, and/or failing to record voting information as required herein, and/or failing to insert in the numbered lists of voters the name of any person actually voting, and/or willfully destroying or altering any ballot, voter's certificate, or registration card contained in any district register, and/or willfully tampering with any voting machine, and/or preparing or inserting in the voting check list any false voter's certificates not prepared by or for an elector actually voting at such primary or election, for the purpose of concealing the destruction or removal of any voter's certificate, or for the purpose of concealing the deposit of fraudulent ballots in the ballot box, and/or the registering of fraudulent votes upon any voting machine or of aiding in the perpetration of any such fraud, and/or failing to return to the county board of election following any primary or election any keys of a voting machine, ballot box, general or duplicate return sheet, tally paper, oaths of election officers, affidavits of electors and others, record of assisted voters, numbered list of voters, district register, voting check list, unused, spoiled and cancelled ballots, ballots deposited, written or affixed in or upon a voting machine, or any certificate, or any other paper or record required to be

returned under the provisions of this act; and/or conspiring with others to commit any of the offenses herein mentioned, and/or in any manner preventing a free and fair election, 25 P.S. § 3525; and/or

- g. willfully neglecting or refusing to perform any of their duties as outlined in the Election Code, 25 P.S. § 3548.

422. Plaintiffs have also demonstrated Defendants violated provisions of Pennsylvania's Right to Know Law by destroying, concealing, altering, modifying, and/or adulterating materials and information related to the November 2020 election, and in doing so Defendants not only violated specific provisions of that law, but also violated their duties and oaths of office as provided by the Election Code.

423. Plaintiffs have also demonstrated that Defendants have violated common-law and statutory provisions relating to the destruction, alteration, adulteration, and concealment of evidence of fraud and criminal conduct, and as such Defendants are liable for and subject to all remedies and relief sought and penalties imposed, respectively, under such laws relating to the destruction.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request this Honorable Court grant the following relief:

Justice Cooley instructed that *the manner* in which an election is conducted is “the substance of every election and a failure to comply with the law in these particulars is not generally to be treated as *a mere irregularity*.” Cooley, *Treatise on the Constitutional Limitations* (2d ed 1871), p 619 (emphasis added).

Courts have power to allow an appeal nunc pro tunc where it appears that there was an error on the part of the board and appellant had no knowledge of it: *In re Koch Election*

Contest Case, 351 Pa. 544. "The Election Code must be liberally construed so as not to deprive an individual of his right to run for office, or the voters of their right to elect a candidate of their choice": *Perles v. Hoffman*, 419 Pa. 400, quoting *Ross Nomination Petition*, 411 Pa. 45; *Thomas v. York Cty. Bd. of Elections*, 59 Pa.D.&C.2d 377, 379 (C.P. York 1972)

Though the election boards and canvassers might be bound in their decision by the number of votes deposited in accordance with the law regulating their actions, where there is competent evidence that illegal votes have been admitted, the decision of the board can be challenged, because they were in such case "compelled to admit votes which they know to be illegal, and they cannot constitute tribunals of last resort for the determination of the rights of parties claiming an election." Cooley, *supra* at p 628, quoting *People v Cicotte*, 16 Mich 283, 311 (1868) (Christiancy, J), overruled on other grounds in *Petrie v Curtis*, 387 Mich 436, 440; 196 NW2d 761 (1972). "If this were so, and there were no legal redress...there would be much reason to apprehend that elections would degenerate into *mere contests of fraud.*" *Id.*

The within petition sufficiently alleges an administrative breakdown in the operations of the Board of Elections and/or each or any of its individual members – namely, ballot and returns tape tampering while the ballots and the returns tapes were in the custody of the Board of Elections. See *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 228, 670 A.2d 629, 635 (1996).

A substantial number of ballots and/or the returns sheets, and tapes were altered, destroyed, omitted, or obscured by a person or persons other than the voter in the November 2020 election.

The number of ballots and/or returns altered by an unknown person or persons cannot

be ascertained with reasonable accuracy and therefore the correctness of the result of the election cannot be determined.

Where it is shown that a sufficient number of the ballots and/or returns were altered or obscured such that they are adulterated and cannot be counted, the rights of the voters including Plaintiffs would be prejudiced through no fault of their own and they would be disenfranchised.

Upon the discovery that the election board and/or each or any of its individual members violated the Election Code and/or committed material fraud in transferring voting results from tally sheets to return sheets, an action for relief will be recognized. *In re Gen. Election for Dist. Justice*, 543 Pa. 216, 230, 670 A.2d 629, 636 (1996).

Petitioners have a right to depend on the Election Board and/or each of its individual members performing their duties. *In re Kock Election Contest Case*, 351 Pa. 544, 550, 41 A.2d 657, 660 (1945). The Defendants failed in this regard.

Plaintiffs seek mandamus relief to the extent that there is a want of any other adequate, appropriate and specific remedy available; there is a clear legal right to which they are entitled; and there exists a corresponding duty on the part of the Defendants.

Nunc pro tunc relief is also appropriate where a breakdown in the administrative operations of the Election Board occurs. *Appeal of Orsatti*, 143 Pa. Commw. 12, 598 A.2d 1341, appeal denied, 529 Pa. 637, 600 A.2d 956 (1991).

Plaintiffs also seek injunctive relief from the Court as follows:

A. Plaintiffs request the Court to issue a protective order to enjoin Defendants, and anyone acting on their behalf, from destroying, secreting, or otherwise altering any and all voting machines, servers, computers, computer codes, hard drives, software, and programs. internet records, mobile phone records, ballot images, photocopies, or scanned

images of ballots, return tapes, and/or tally sheets, paper ballots, return tapes, and/or tally sheets used in and/or related to the November 3, 2020, election;

B. Order Defendants to produce any and all voting machines, servers, computers, computer codes, hard drives, software, and programs. internet records, mobile phone records, ballot images, photocopies, or scanned images of ballots, return tapes, and/or tally sheets, paper ballots, return tapes, all election data and materials, and/or tally sheets used in and/or related to the November 3, 2020, election;

C. Allow Plaintiffs access to any and all voting machines, servers, computers, computer codes, hard drives, software, and programs. internet records, mobile phone records, ballot images, photocopies, or scanned images of ballots, return tapes, and/or tally sheets, paper ballots, return tapes, and/or tally sheets used in and/or related to the November 3, 2020, election;

D. Allow Plaintiffs to conduct an independent forensic examination of any and all voting machines, servers, computers, computer codes, hard drives, software, and programs. internet records, mobile phone records, ballot images, photocopies, or scanned images of ballots, return tapes, and/or tally sheets, paper ballots, return tapes, and/or tally sheets used in and/or related to the November 3, 2020, election;

Plaintiffs also request the Court to:

Determine that Plaintiff's constitutional rights were violated consistent with the allegations in this Complaint.

Determine that, by their conduct as alleged herein, Defendants violated the Pennsylvania Right to Know Law (RTKL), in that they did destroy, secrete, alter, or otherwise adulterate information, documents, and materials responsive to Plaintiffs' requests for information, consistent with the allegations in this Complaint.

Determine that, by their conduct as alleged herein, Defendants committed fraud, consistent with allegations in the Complaint.

Determine that, by their conduct as alleged herein, Defendants committed intentional and negligent misrepresentation, consistent with the allegations in the First Amended Complaint.

Determine that, by their conduct as alleged herein, Defendants engaged in a conspiracy to violate the law and commit fraud consistent with allegations in this Complaint.

Grant such other and further relief as is equitable and just and grant him costs, expenses and attorney fees incurred in having to bring this action and damages Plaintiffs are entitled to pursuant to law.

Respectfully submitted,

/s/ Thomas J Carroll
Attorney ID: 53296
Attorney for Plaintiffs
LAW OFFICE OF THOMAS J
CARROLL
224 King Street
Pottstown, PA, 19464
(610)419-6981
tom@thomasjcarrolllaw.com

Date: December 21, 2021

VERIFICATION

I, Thomas J. Carroll, Esquire, hereby verify that I represent Defendants Ruth Moton, Gregory Stenstrom and Leah Hoopes in this action and that the statements made in the foregoing pleadings are true correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. section 4904 relating to unsworn falsification to authorities.



THOMAS J. CARROLL

Date: December 21, 2021