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August 2, 2022

Via PACFile

Michael F. Krimmel, Prothonotary
Pennsylvania Judicial Center
601 Commonwealth Avenue
Suite 2100
Harrisburg, PA 17106

Re: *Chapman, et al. v. Berks County Board of Elections, et al.*
Case No.: 355 MD 2022

Dear Mr. Krimmel:

I am writing in response to Mr. Fischer’s August 2, 2022 letter to you regarding the above-referenced matter.

As the Court is aware, the parties participated in a lengthy evidentiary hearing on Thursday, July 28, 2022 before the Honorable President Judge Renee Cohn Jubelirer. In Petitioners’ Petition for Review, Paragraph No. 23, as well as through the testimony of Deputy Secretary Marks, Petitioners represented to the Court that all but the Respondent Counties had included undated absentee and mail-in ballots in their certified election results. In addition, the representation was made to the Court that all of the county results had been certified by the Acting Secretary except for the results of the three Respondent Counties, including any elections encompassing the three Respondent Counties.

On Friday, July 29, 2022, I was informed by a Butler County official that Butler County did not include undated absentee and mail-in ballots in its certified election results by email dated Sunday, July 31, 2022. I notified counsel for Petitioners of the same. On Monday, August 1, 2022, I was provided a copy of Butler County’s letter to Deputy Secretary Marks informing him that Butler County did not include undated absentee mail-in ballots in its certified election results

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(attached hereto). As the Court will recall, Deputy Secretary Marks testified that all of the county election results have been certified by the Acting Secretary except for the three Respondent Counties.

Further, I was informed by a Butler County official that there may be other counties beyond Butler County and the three Respondent Counties that did not include undated absentee and mail-in ballots in their respective certified election results. I have asked counsel for Petitioners to confirm whether all counties, excluding Respondent Counties and Butler County, have submitted certified election results which include undated absentee and mail-in ballots. Petitioners' representation via Mr. Fischer's August 2, 2022 letter that "the department has reviewed its records in respect to the remaining counties, and it is not aware of any other county that did not include undated ballots in the certified returns submitted to the Acting Secretary.", is inconsistent with its prior representations. Petitioners have previously made an affirmative representation that all but the three Respondent Counties have included undated absentee and mail-in ballots in their certified election results. Now, Petitioners are representing to the Court that they are unaware of any additional counties, which is materially different from their prior statements of fact.

Will you please provide this response to the Attorney General's letter, to the Court as well, if appropriate.

Sincerely,

**DILLON, MCCANDLESS, KING
COULTER & GRAHAM, L.L.P.**

/s/ Thomas W. King, III

Thomas W. King, III

Encl.

cc: All counsel of record via PACFile

County of Butler

Board of Commissioners

124 W. Diamond Street, PO Box 1208, Butler, PA 16003-1208
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Commissioners

Leslie A. Osche, *Chairman*
Kimberly D. Geyer, *Vice Chairman*
Kevin E. Boozel, M.S., *Secretary*



Solicitor

H. William White, III

Director of Human Resources/Chief Clerk
Lori Altman

Budget & Human Services Finance Director
Ann M. Brown

June 21, 2022

VIA EMAIL

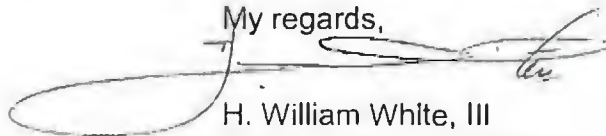
Jonathan Marks
jmarks@pa.gov

Re: DOS Email – Certification of Undated Ballot Vote Totals

Dear Deputy Secretary Marks:

As Solicitor for the County of Butler, I have been directed to respond to your email correspondence, dated June 17, 2022, which was directed to the Butler County Elections Bureau. After much deliberation and discussion, the County of Butler, its Board of Elections, and the Butler County Elections Bureau must respectfully decline. Butler County will not be canvassing ballots which are not compliant with the statutes of this Commonwealth. Butler County has completed the mandatory recount and has submitted its certified results to the Department of State. I do not anticipate any further canvassing, tabulating, certification, or submission on our part in regard to the General Primary Election of May 17, 2022.

My regards,



H. William White, III
Butler County Solicitor

HWW/bjr

cc: Leslie A. Osche, Chairman, Board of Commissioners (via email to losche@co.butler.pa.us)
Kimberly D. Geyer, Vice-Chairman, Board of Commissioners (via email to kgeyer@co.butler.pa.us)
Kevin E. Boozel, M.S., Secretary, Board of Commissioners (via email to kboozel@co.butler.pa.us)
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