

COPY

RICHARD HOUSER and CATHERINE
BURNS,
Plaintiffs

vs.

COUNTY OF LYCOMING, LYCOMING
COUNTY BOARD OF ELECTIONS,
LYCOMING COUNTY
COMMISSIONER TONY MUSSARE,
LYCOMING COUNTY
COMMISSIONER SCOTT METZGER,
LYCOMING COUNTY COMMISSIONER:
RICHARD MIRABITO, and FORREST
LEHMAN, DIRECTOR OF ELECTIONS
Defendants

IN THE COURT OF COMMON PLEAS
OF LYCOMING COUNTY, PA

CIVIL ACTION - LAW

NO.:

CV 22 - 01219

NOTICE TO DEFEND

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW, THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NOTHING

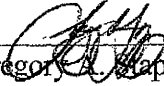
STAPP LAW, LLC
Attorney at Law
153 W. 4th Street, Suite 6
Williamsport, PA 17701

Pennsylvania Bar Association or
Lawyer Referral Service
100 South Street, P.O. Box 186
Harrisburg, PA 17108-0186
Telephone (800) 692-7375

COURT ADMINISTRATOR
Lycoming County Courthouse
48 West Third Street
Williamsport, PA 17701
(570) 327-2330

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Lycoming County, Pennsylvania 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 72 hours prior to any hearing before the Court. You must attend the scheduled conference or hearing.



Gregory A. Stapp, Esquire
Attorney No. 78247
Attorney for the Plaintiff
153 West Fourth Street, Suite 6
Williamsport, PA 17701
(570) 326-1077
gstapp@stapplaw.net

FILED
LYCOMING COUNTY
2022 DEC -5 PM 4:37
THOMAS D. HEAP
PROthonotary

RICHARD HOUSER and CATHERINE
BURNS,
Plaintiffs

vs.

COUNTY OF LYCOMING, LYCOMING
COUNTY BOARD OF ELECTIONS,
LYCOMING COUNTY
COMMISSIONER TONY MUSSARE,
LYCOMING COUNTY
COMMISSIONER SCOTT METZGER,
LYCOMING COUNTY COMMISSIONER
RICHARD MIRABITO, and FORREST
LEHMAN, DIRECTOR OF ELECTIONS
Defendants

IN THE COURT OF COMMON PLEAS
OF LYCOMING COUNTY, PA

CIVIL ACTION – LAW

CV 22 - 01219

NO.:

THOMAS D. HEAR
PROTHONOTARY

2022 DEC - 6 PM 4:37

FILED
LYCOMING COUNTY

COMPLAINT IN MANDAMUS

AND NOW, comes the Plaintiffs, Richard Houser, and Catherine Burns, by and through their attorney, Gregory A. Stapp, Esquire, and complains against the Defendants as follows:

1. Richard Houser and Catherine Burns are adult individuals, citizens and qualified electors of Lycoming County, Pennsylvania.
2. Lycoming County is a municipal organization duly formed and operating under the laws of the Commonwealth of Pennsylvania.
3. Lycoming County Board of Elections consists of the presently elected Commissioners and the Director of Elections.
4. Lycoming County Commissioner Scott Metzger was a commissioner for Lycoming County at all times relevant hereto.
5. Lycoming County Commissioner Tony Mussare was a commissioner for Lycoming County at all times relevant hereto.

6. Lycoming County Commissioner Richard Mirabito was a commissioner for Lycoming County at all times relevant hereto.

7. Forrest Lehman was at all times relevant hereto the Director of Elections for Lycoming County and a member of the Board of Elections.

8. The Declaration of Independence states, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.--That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed."

9. In the United States of America, the government derives its power from the consent of the governed through their legal vote.

10. Article XV, Section 1 of the U.S. Constitution states, "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude."

11. Despite the continued misrepresentation in most social media, cable television, local and national news programs, the United States of America is not a democracy. We are a representative republic who exists at "the consent of the governed." If any one citizen's vote is not counted, whether because of suspicious circumstances like unavailable ballots or because of fraud, then we no longer live in a representative republic and the dream that was America is dead.

12. The Plaintiffs look to the Defendants to protect and preserve the vote of each and every citizen of Lycoming County, particularly those who are the most vulnerable.

13. 25 P.S. 2642(i), states, "The county boards of elections, within their respective counties, shall exercise, in the manner provided by this act, all powers granted to them by this act, and shall perform all the duties imposed upon them by this act, which shall include the following: To investigate election frauds, irregularities and violations of this act, and to report all suspicious circumstances to the district attorney."

14. Over the past approximately 14 months, the Commissioners have been shown evidence of fraud, numerous irregularities, and violations of the Election Code.

15. Plaintiffs are both members of the Lycoming County Patriots, an organization formed and duly operating in the Commonwealth of Pennsylvania.

16. On or about August 21, 2021, the Lycoming County Patriots were presented with an idea of requesting that our Lycoming County Commissioners vote to perform a forensic audit similar to the one going on in Arizona.

17. The Lycoming County Patriots tasked certain individuals with researching and working with Audit the Vote PA to determine whether a forensic audit could be performed by an independent third-party group with expertise and experience in performing forensic audits.

18. A meeting was held in the fall of 2021 with members of the board of the Lycoming County Patriots and the Lycoming County Commissioners to explain how there were numerous irregularities in the November 2020 election in Lycoming County.

19. Following this initial meeting, the Lycoming County Commissioners agreed to meet with a member of Audit the Vote PA and Seth Keshel via Zoom in October of 2021 to allow Mr. Keshel to explain the anomalies that he had discovered in the voting in Lycoming County in the November 2020 election compared to previous elections.

20. Following these meetings, the Defendants participate in a meeting that was held with members of the Audit the Vote PA in November of 2021 to discuss with the Commissioners how a forensic audit could be performed here in Lycoming County.

21. Following this meeting, the Commissioners failed to vote for a forensic audit which calls into question why the Commissioners would refuse to vote for a forensic audit when they were presented with an option to perform a forensic audit that would have been funded privately avoiding any cost to the taxpayers of Lycoming County.

22. As a result of the Commissioners refusal to agree to a forensic audit by an independent third party, citizens of the Lycoming County began to canvass houses in the beginning of 2022 to provide firsthand evidence of irregularities and possible fraud in the November 2020 election.

23. The results of that canvassing showed clear anomalies and irregularities in the November 2020 election.

24. At a meeting in May 2022 with Commissioner Tony Mussare, Commissioner Mussare admitted to Plaintiffs that he believed fraud occurred in the November 2020 election in Lycoming County and that the envelopes are the key to finding the fraud as the ballots do not have the name of the voter or even a bar code to determine the identity of the person who voted.

25. The Commissioners were presented evidence in the form of testimony and affidavits from numerous citizens at a hearing on or about June 2022.

26. The Commissioners were presented with evidence that an elderly woman was admitted to a nursing home in 2020 and was labeled as "not capable"; yet according to the voting records this woman registered to vote on October 14, 2020 and voted in the November 2020 election despite the fact that she was bed ridden.

27. The Commissioners were provided evidence of an address in Hughesville that state voting information says exists and from which a vote was cast in the November 2020 election; yet, no such address exists in Hughesville, Pennsylvania.

28. At another address in Hughesville, a resident stated that 3 people were registered to vote at this address and 3 people voted; yet the state voting records show that only 2 people voted.

29. The Commissioners were presented evidence that residents at a home in Montoursville stated that no one at that home was registered to vote; yet, according to state voting information one person registered to vote from that address and cast a vote in the November 2020 election.

30. The Commissioners were also presented evidence of a household with 2 registered voters that said that they were registered and voted in the November 2020 election; yet, according to state voting information only one vote was recorded from this household.

31. Following the hearing at which the Commissioners were provided the above affidavits and evidence, they failed to investigate these clear frauds, irregularities, and violations of the law in accordance with 25 P.S. §2642.

32. On July 22, 2022, the Commissioners were notified by undersigned counsel that Representative Michael Puskaric was part of the Committee investigating the November 2020 election in Harrisburg which found that Governor Wolf gave access to the voter rolls in the Commonwealth of Pennsylvania to third party non-profit groups for the first time in the 2020 election. As a result of this access, Representative Puskaric stated that these groups registered fake people who then voted in the November 2020 election and then removed the names after the election in March of 2021.

33. The Commissioners were given Representative Puskaric's personal cell phone number and advised to contact him to discuss this very important issue and whether this occurred in Lycoming County.

34. Plaintiffs believe, and therefore aver, that the Commissioners did not contact Representative Puskaric to discuss whether fake registrations were made in Lycoming County on or around the time of the November 2020 election.

35. On July 27, 2022, the Commissioners were made aware of a website operated by Matt Braynard, a former Trump official, called www.lookaheadamerica.org. According to this website, the Lycoming County Director of Elections was contacted by this organization with the names of individuals on the voter rolls that they believed were fraudulent. This organization posted on social media the following statement, "We have followed up with all the affected counties in Pennsylvania and submitted 1,359 questionable and potentially illegal registrations to the clerks of the 63 affected counties. We published their responses here. Ian Camacho, LAA's Director of Research, made the following statement: While most responses were good and helpful, a few that were hostile and combative. Noteworthy was that the two hostile counties Lycoming and Fulton used verbatim language in their responses, indicative of a coordinated response between clerks that parroted familiar language of the legacy media (i.e., "baseless claims")."

36. Look Ahead America provided 11 registrations that they were concerned about as potentially fraudulent to Defendant Forrest Lehman.

37. A representative of Look Ahead America and Forrest Lehman exchanged numerous emails in which Mr. Lehman seemed to admit that 6 registrations were suspicious.

38. As a result of the work of Look Ahead America, Forrest Lehman has admitted that he cancelled 6 registrations of alleged voters that listed their home address at the Montoursville Post Office, the UPS Store, and the Goodwill Store, which Plaintiffs believe confirms the statements of Representative Puskaric to undersigned counsel.

39. Since this clear evidence of fraud was provided to the Commissioners in July of 2022, the Commissioners have failed to conduct a forensic audit of the November 2020 election.

40. Throughout the year 2022, evidence of voter fraud and convictions have been reported across America in states such as Wisconsin, Georgia, Arizona, and Florida.

41. One of those convictions in Florida resulted in a Democratic official explaining the different types of ballot harvesting that she and others performed and for which they were convicted. The Commissioners were provided this information by undersigned counsel on October 27, 2022, for their review in light of the previously provided evidence of election fraud here in Lycoming County involving nursing homes and residents.

42. The Democratic official admitted the following, "For nursing homes ... ballot brokers get the list of residents by cross referencing the address with the voter registration list," she explained. "The ballot broker figures out the best way to make contact, usually thru friends and family that may or may not know they are even part of a scheme. They help the resident fill out the mail-in-ballot or just take the mail-in-ballot from the nursing home and deliver it to the ballot broker." <https://justthenews.com/politics-policy/elections/florida-opens-criminal-probe-democrat-whistleblowers-evidence-ballot>

43. Following the Commissioner's notification of fraudulent voters on the voter rolls in Lycoming County and Forrest Lehman's admission that these 6 voters were fraudulent, the citizens of Lycoming County passed around a petition to add a referendum to the ballot in

Lycoming County in November 2022 that asked the citizens of Lycoming County whether they believe machines should be used in our local elections.

44. The Commissioners voted to put this referendum on the ballot for the November 2022 election in Lycoming County.

45. Following this vote by the Commissioners to put the referendum on the ballot, they received a letter from the Pennsylvania Department of State telling the Commissioners that if they did not immediately vote to remove this referendum from the ballot that Monday that the Department of State would sue them on Tuesday of that same week.

46. As a result of this letter, a meeting was held on Monday, September 12, 2022, to vote on whether to leave the referendum question in the ballot.

47. Prior to the Monday meeting, undersigned counsel reviewed the case law provided in the letter from the Department of State and advised the Commissioners that the Assistant Secretary of State was misinterpreting the case law that was provided to them and that the cases did not stand for the propositions that the letter asserted, and that the referendum was not in violation of the law.

48. Despite this advice, the Commissioners immediately bowed to the will of the Department of State under the direction of Governor Wolf and removed the referendum question from the ballot.

49. Plaintiffs note that the Solicitor, or attorney, for the Lycoming County Commissioners is J. Michael Wiley, Esquire. According to the McCormick Law Firm website, it notes that Attorney Wiley is a partner in this firm along with State Senator Gene Yaw.

McCormick Law Firm's website states the following in reference to their member Gene Yaw,

"Elected to the Pennsylvania State Senate in 2008, Senator Yaw serves as Chairman of the Environmental Resources and Energy Committee."

50. Plaintiffs believe that it is a clear conflict of interest for McCormick Law Firm to represent the Lycoming County Commissioners who are the members of the Board of Elections that is charged under the law with overseeing elections in Lycoming County where State Senator Gene Yaw ran for office in 2020.

51. Presently, the Lycoming County Commissioners and the Board of Elections are receiving legal advice about decisions such as whether to perform a forensic audit or to remove a referendum question from the ballot from a law firm that has a lawyer in it that ran for office in November 2020 and that they declared the winner of both the primary and the general election in Lycoming County.

52. This represents a clear conflict of interest in the event there may be questions or concerns about the election of Gene Yaw, member of McCormick Law Firm, where those questions or concerns would be resolved with the advice of a lawyer working at Attorney Yaw's firm.

53. Throughout the presentation of evidence to the Commissioners and the now confirmation of voter fraud in the November 2020 election Plaintiffs believe, and therefore aver, that they have been provided legal advice by a member or members of the McCormick Law Firm.

54. The common law writ of mandamus lies to compel the performance of a ministerial act or mandatory duty. Chesapeake Appalachia, LLC v. Golden, 35 A.3d 1277 (Pa. Cmwlth. 2012).

55. The burden of proof falls upon the party seeking this extraordinary remedy to establish his legal right to such relief.” Werner v. Zazyczny, 545 Pa. 570, 681 A.2d 1331, 1335 (1996). To state a claim for mandamus, a petitioner must establish the following three elements: (1) a clear legal right to relief in the petitioner; (2) a corresponding duty in the respondent; and, (3) the lack of any other adequate and appropriate remedy. Wilson v. Pa. Bd. of Prob. & Parole, 942 A.2d 270, 272 (Pa. Cmwlth. 2008). “Mandamus is not available to establish legal rights but only to enforce rights that have been established.” Smires v. O'Shell, 126 A.3d 383, 387 (Pa. Cmwlth. 2015) (citations omitted).

56. The Plaintiffs have a clear right to relief as they are qualified electors in Lycoming County, Pennsylvania and cannot determine whether their votes counted in the November 2020 election.

57. The Defendants are required under Title 25 of the Election Code to investigate irregularities, fraud and to report any suspicious circumstances to the District Attorney.

58. The Plaintiffs and other citizens have for months tried to get the Defendants to agree to a forensic audit and to investigate the clear fraud, some of which Mr. Lehman has even admitted to in a public hearing by cancelling the registration of 6 alleged voters. The Plaintiffs have no other adequate and appropriate remedy.


59. At the Board of Elections hearing held on December 5, 2022, a citizen expressed concern over who would be used to perform a hand recount in Lycoming County, Pennsylvania.

60. In order for each and every citizen of Lycoming County to feel that their vote will be counted moving forward, any investigation into the November 2020 election needs to be performed by an independent third-party group with expertise in forensic audits.

WHEREFORE, the Plaintiffs demand the following relief:

- a. Order Lycoming County and the Board of Elections to maintain any and all materials from the November 2020 election, including but not limited to, the cast ballots, the envelopes, the jump drives and/or any other electronic device that recorded or counted votes;
- b. Order Lycoming County and the Board of Elections to perform a forensic audit of the November 2020 election by an independent third party group;
- c. Order Lycoming County and the Board of Elections to immediately report all the suspicious activity that has been reported to them to the district attorney's office and report any additional suspicious circumstances that are revealed as a result of the forensic audit to the district attorney's office;
- d. And upon proof of fraud and irregularities in the November 2020 election to order Lycoming County and the Board of Elections to decertify the results of the November 2020 election for Lycoming County in accordance with the Pennsylvania Election Code.
- e. And any such other relief the Court deems appropriate.

STAPP LAW, LLC



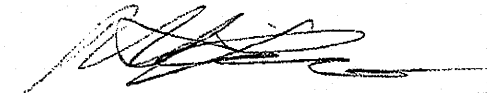
Gregory A. Stapp, Esquire
Attorney for Plaintiffs
Atty. I.D.# 78247
153 W. 4th Street, Suite 6
Williamsport, PA 17701
(570) 326-1077

VERIFICATION

I, Richard Houser, hereby state and aver that I have read the foregoing document which has been drafted by my counsel.

The factual statements contained therein are true and correct to the best of my knowledge, information and belief although the language is that of my counsel and to the extent that the content of the foregoing document is that of counsel, I have relied upon counsel in making this Verification.

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

A handwritten signature in dark ink, appearing to read 'Richard Houser', is written over a horizontal line.

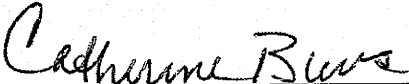
Richard Houser

VERIFICATION

I, Catherine Burns, hereby state and aver that I have read the foregoing document which has been drafted by my counsel.

The factual statements contained therein are true and correct to the best of my knowledge, information and belief although the language is that of my counsel and to the extent that the content of the foregoing document is that of counsel, I have relied upon counsel in making this Verification.

This statement is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

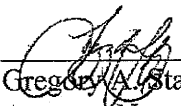


Catherine Burns

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Signature: _____


Gregory A. Stapp, Esquire
Attorney No.: 78247