

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

SEAN PARNELL, a candidate for )	CIVIL ACTION
Pennsylvania's 17 <sup>th</sup> Congressional District )	
and on behalf of all citizen electors of )	Case No.: 2:20-cv-1570
Allegheny County, Pennsylvania; and LUKE )	
NEGRON, a candidate for Pennsylvania's )	The Hon. J. Nicholas Ranjan
18 <sup>th</sup> Congressional District and on behalf of )	United States District Judge
all citizen electors of Allegheny County, )	
Pennsylvania, )	
)	
Plaintiffs, )	
)	
v. )	
)	
ALLEGHENY COUNTY BOARD OF )	
ELECTIONS, et al., )	
)	
Defendants. )	

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***Plaintiffs' Brief in Support of Motion for Temporary Restraining Order  
Regarding Poll Watchers***

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Thomas W. King, III  
PA I.D. 21580

Thomas E. Breth  
PA I.D. 66350

Jordan P. Shuber  
PA I.D. 317823

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

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

*Counsel for Plaintiffs, Sean Parnell and  
Luke Negron*

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

**I. PROCEDURAL HISTORY**

On October 16, 2020, Plaintiffs, Sean Parnell and Luke Negron, as candidates for Congressional office, as electors within Allegheny County and/or as representatives of a “political body (Republican Party) and a body of citizens (electors of Allegheny County), filed a Complaint for Declaratory and Injunctive Relief against Defendants, the Allegheny County Board of Elections (“Board of Elections”) as well as Rich Fitzgerald (“Mr. Fitzgerald”), Samuel DeMarco, III (“Mr. DeMarco”), and Bethany Hallam, (“Ms. Hallam”) (collectively the “Defendants”) all in their official capacities. The Candidates claim violations of both the Elections Clause (Count I)

and Equal Protection Clause (Count II). [ECF 1, pp. 11-14]. Along with their Complaint, the Candidates contemporaneously filed a Motion for Temporary Restraining Order. [ECF 2].

On October 19, 2020, this Court entered an Order for a telephonic status conference. [ECF 7]. On October 20, 2020, the status conference was held between the parties. Following the status conference, the Court entered two Orders. [ECF 11, 12]. The first Order requires the parties to meet and confer and file to file “a proposed consent order, competing consent orders, or a status report on th[ose] issues by no later than October 22, 2020.” [ECF 11].

The second Order relates to the Court’s bifurcation of the Candidates two claims; namely, their claims related to the 28,879 mishandled ballots by the Defendants at Count I, their claims related to poll watchers at Count II. [ECF 12]. For now, the Candidates file this Brief in Support of their Motion for Temporary Restraining Order [ECF 2] as to only Count II of their Complaint [ECF 1, pp. 12-14]. *Id.*

## II. INTRODUCTION

This year’s election will be unlike any other in recent history primarily due to the COVID-19 pandemic. In light of the pandemic, many elected officials, including the Defendants, have maintained a “well-intentioned effort to protect Pennsylvanians from the virus.” *County of Butler v. Wolf*, 2:20-CV-677, 2020 WL 5510690, at \*1 (W.D. Pa. Sept. 14, 2020). “However good intentions toward a laudable end are not alone enough to uphold governmental action against a constitutional challenge.” *Id.* “Indeed, the greatest threats to our system of constitutional liberties may arise when the ends *are* laudable, and the intent *is* good...” *Id.* (emphasis in the original).

There have been various election issues before this Court; however, the present case is not the same. The previous issues raised questions surrounding concrete injuries in fact and involved

many unsettled state law questions from which this Court abstained.<sup>1</sup> But, now the previous concerns have become realities – because it’s undeniable that Defendants expressly denied poll watchers certificates to at least two voters in Allegheny County, Mr. Chew and Mr. Hagerman, and mishandled at least 28,879 mail-in ballots. [ECF 1, ¶¶ 62-70]. What’s worse is that both these errors occurred while voting is taking place at Allegheny County’s Satellite Elections Offices – and will continue to occur *this weekend*.

### III. QUESTIONS BEFORE THE COURT<sup>2</sup>

1. Whether the Plaintiffs, Sean Parnell and Luke Negron, have standing to assert their claims at Count II of their Complaint related to violations of the Equal Protection Clause?

**Suggested Answer: Yes.**

2. What level of scrutiny should apply to the Court’s analysis of Plaintiffs’ Claims?

**Suggested Answer: Strict scrutiny.**

### IV. ARGUMENT

#### A. The Plaintiffs Have Article III Standing.

##### 1. The Plaintiffs Have Standing as Candidates.

“Federal courts must determine that they have jurisdiction before proceeding to the merits of any claim.” *Donald J. Trump for Pres., Inc. v. Boockvar*, 2:20-CV-966, 2020 WL 5997680, at \*31 (W.D. Pa. Oct. 10, 2020) (citation omitted). Because “[t]he existence of a case or controversy is a prerequisite to all federal actions, including those for declaratory or injunctive relief...[the

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<sup>1</sup> Unlike in *Trump for Pres., Inc. v. Boockvar*, 2:20-CV-966, 2020 WL 4920952, at \*19 (W.D. Pa. Aug. 23, 2020), the Candidates here are seeking injunctive relief. (“[T]he Court, even if it abstains, must still decide any motions seeking preliminary relief...True, if Plaintiffs had filed a motion for a preliminary injunction, the Court would have likely been required to rule on it before abstaining. *See, e.g., Chez Sez III Corp.*, 945 F.2d at 634 n.4 (noting that the district court had to consider appellants’ request for preliminary relief even though the court decided to abstain under the *Pullman* doctrine); *Pierce*, 324 F. Supp. 2d at 704 (“Notwithstanding a decision to abstain on the merits, this court is still obliged to consider plaintiffs’ request for preliminary relief.”) (citations omitted).” *Id.*

<sup>2</sup> The questions presented are taken from the issues raised by the Court. [ECF 12].

Court] first must consider” the Candidates’ standing. *Belitskus v. Pizzingrilli*, 343 F.3d 632, 639 (3d Cir. 2003).

“Article III of the Constitution limits the jurisdiction of federal courts to Cases and Controversies.” *Trump v. Boockvar* at \*31. (internal quotation marks omitted). “One component of the case-or-controversy requirement is standing, which requires a plaintiff to demonstrate the now-familiar elements of (1) injury in fact, (2) causation, and (3) redressability.” *Id.* (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992)). “Standing is particularly important in the context of election-law cases.” *Id.*

A party invoking federal jurisdiction must allege facts demonstrating that each of the following elements have been satisfied in order to have standing to pursue the case: (1) the plaintiff “suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016). “To establish injury in fact, a plaintiff must show that he or she suffered ‘an invasion of a legally protected interest’ that is ‘concrete and particularized’ and ‘actual or imminent, not conjectural or hypothetical.’” *Id.* (quotation omitted). That is, the injury “must actually exist” and “must affect the plaintiff in a personal and individual way.” *Id.* at 1548 (quotation omitted).

Here, the Candidates have pled a sufficient injury. Specifically, they pled that they are seeking election. Their Complaint alleges that if the Court does not act quickly, they will not have any mechanism to enable them to have poll watchers be present at the Satellite Offices during any of the three weekends they were open. Importantly, once this weekend passes, that right will be forever lost.

The Candidates causation and redressability prongs are also met in this case. Based upon the allegations in their Complaint, including the affidavits from Mr. Chew and Mr. Hagerman, their challenge regarding poll watchers is traceable to the Defendants' implementation of policies that are contrary to the Election Code. With regard to redressability, the relief Plaintiffs request would alleviate their injury and provide an opportunity – at least for one of the three weekends the Satellite Offices allowed voting – to allow poll watchers to oversee and observe the validity and integrity of the operations at those locations.

Further, the Candidates' loss of an opportunity to win a Congressional seat at the general election on November 3, 2020, is “an invasion of a legally protected interest that is concrete and particularized, not conjectural or hypothetical.” Indeed, the Candidates not having an opportunity to win the Congressional seat on November 3, 2020 is an injury that actually exists and affects the Candidates in a personal and individualized way. This is not a generalized grievance affecting the general public. The general public is not running for Congress; rather, the Candidates are running for Congress.

The Court could compare the instant case to an analogous scenario that occurred in the North Carolina Ninth Congressional District matter in 2018 – wherein election irregularities led to the invalidation of a Congressional election – and a vacant Congressional District disenfranchised voters within that Congressional district until a special election could be held. In that case, election misconduct occurred including illegal ballot harvesting.

The U.S. Constitution, Article I, section 5, states that each House of Congress is the judge of the elections of its members and the final arbiter of contests. While the election contest in the North Carolina Board of Elections was pending, incoming U.S. House Majority Leader Steny Hoyer issued a statement saying House Democrats won't allow Republican Mark Harris to be

sworn in because of the ongoing investigation, “Given the now well-documented election fraud that took place in NC-09, Democrats would object to any attempt by Mr. Harris to be seated on January 3,” Hoyer said, adding that “the integrity of our democratic process outweighs concerns about the seat being vacant at the start of the new Congress.” The North Carolina Board of Elections concurred—refusing to certify the November 2018 results and scheduling a special election on September 10, 2019.

Here, the same thing could happen to the Congressional candidates in this case—having to wait until September of 2021 for a chance to win the Congressional seat. Because such a delay is an injury-in-fact, caused by Defendants’ misconduct and redressable by the Court through an injunction, the Candidates here have standing.

Various courts have held that a candidate for public office may assert the rights of those who wish to vote for him. *Mancuso v. Taft*, 476 F.2d 187, 190 (1<sup>st</sup> Cir. 1973); *Torres-Torres v. Puerto Rico*, 353 F.3d 79 (1<sup>st</sup> Cir. 2003). In doing so courts have recognized “a candidate for public office ... is so closely related to and dependent upon those who wish to voter for him and his litigation will so vitally affect their rights that the courts ... permit the candidate to raise constitutional rights of voters.” *Mancuso* 476 F.2d at 190. The Third Circuit has adopted the standard set forth in *Mancuso v. Taft*, noting that a candidate’s ability to raise a voters’ constitutional rights is one of several instances in which third-party standing is commonly recognized. *Pennsylvania Psychiatric Soc. V. Green Spring Health Servs., Inc.*, 280 F.3d 278, 288, *nt.10*, (3<sup>rd</sup> Cir. 2002); *citing Mancuso v. Taft*, 476 F.2d 187, 190 (1st Cir. 1973).

Lastly, the Supreme Court of the United States has recognized the right of candidates to assert the constitutional rights of their voters in *Bullock v. Carter*, 405 U.S. 134 (1972). In *Bullock*, the Court stated that, “the rights of voters and the rights of candidates do not lend themselves to

neat separation; laws that affect candidates always have at least some theoretical, correlative effect on voters.” *Bullock*, 405 U.S. at 143. Pennsylvania’s Election Code recognizes a candidate’s right to represent the interests of the electorate when it states that candidates are “entitled to appoint watchers ... or attorneys to represent such party or political body or *body of citizens* at any public session or sessions of the county board of elections, and at any computation and canvassing of returns of any primary or election ... under the provisions of this act.” 25 P.S. §2650(a). [Emphasis added]

**2. The Plaintiffs are Amending their Complaint to include Additional Plaintiffs.**

The Court’s point in *Trump v. Boockvar*, regarding standing is well taken when it stated that “[s]tanding is measured based on the theory of harm and the specific relief requested.” *Donald J. Trump for Pres., Inc. v. Boockvar*, 2:20-CV-966, 2020 WL 5997680, at \*37 (W.D. Pa. Oct. 10, 2020). In *Trump v. Boockvar*, the remedy sought by plaintiffs was “much broader than simply allowing [plaintiffs] to poll watch in a certain county, but [was] tied to the broader harm of vote dilution...” *Id.*

Here, as Mr. Chew and Mr. Hagerman’s affidavits show, they were specifically denied a poll waters certificate without justification. [ECF 1, ¶ 62]. [ECF 1-3]. Their claims are not broader than simply allowing them to poll watch at the Satellite Offices, distinguishable from *Trump v. Boockvar*. Accordingly, Mr. Chew and Mr. Hagerman would be appropriate parties to this litigation, in addition to the Candidates.

**B. The Court Should Apply Strict Scrutiny to its Analysis.**

“[The] first step in analyzing [the Candidates’] equal protection claim[] is to determine the appropriate level of scrutiny.” *Belitskus v. Pizzingrilli*, 343 F.3d 632, 643 (3d Cir. 2003) (citing *Reform Party of Allegheny County v. Allegheny County Dept. of Elections*, 174 F.3d 305, 314 (3d



Cir. 1999). “Making this determination requires an analysis of the [denial of poll watchers’] effect on [the Candidates’] rights.” *Id.*

“[A]s a practical matter, there must be substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process.” *Belitskus v. Pizzingrilli*, 343 F.3d 632, 641 (3d Cir. 2003) (quotation omitted).

“Nevertheless, a state’s power to regulate elections must be exercised in a manner consistent with the Equal Protection Clause of the Fourteenth Amendment.” (quotation omitted). *Id.* at 641-642.

“[T]he Supreme Court has developed the following balancing test for use in determining the appropriate level of scrutiny:

[A reviewing court] must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of those interests; it must also consider the extent to which those interests make it necessary to burden the plaintiff’s rights. Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional.

*Belitskus* at 643 (3d Cir. 2003) (citing *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983)).

“Pursuant to this test, the rigorousness of [the] inquiry into the propriety of a state election law depends upon the extent to which a challenged regulation burdens...Fourteenth Amendment rights.” *Id.* (quotation omitted). “[W]hen those rights are subjected to severe restrictions, the regulation must be narrowly drawn to advance a state interest of compelling importance.” *Id.* (quotation omitted). The “first step in applying *Anderson* requires a consideration of the burdens imposed on [the Candidates’] constitutional rights.” *Id.*

“The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” *Reynolds v. Sims*, 377 U.S. 533, 554 (1964). “Obviously included with the right to choose, secured by the Constitution, is the right of qualified voters within a state to cast their ballots and have them counted at Congressional elections.” *U.S. v. Classic*, 313 U.S. 299, 315 (1941). When these rights are threatened by actions of the state, the Supreme Court of the United States has typically relied upon strict scrutiny. *See e.g. Reynolds v. Sims*, 377 U.S. 533 (1964); *Harper v. Virginia State Bd. of Elections*, 383 U.S. 663 (1966); *Kramer v. Union Free Sch. Dist. No. 15*, 395 U.S. 621 (1969).

The Pennsylvania Election Code provides that,

“Each candidate for nomination or election at any election shall be entitled to appoint two watchers for each election district in which such candidate is voted for. Each political party and each political body which has nominated candidates in accordance with the provisions of this act, shall be entitled to appoint three watchers at any general, municipal or special election for each election district in which the candidates of such party or political body are to be voted for. Such watchers shall serve without expense to the county.”

Pa. Stat. Ann. tit. 25, § 2687 (West). Further, the legislative history of the Pennsylvania Election Code indicates that among other purposes, poll watchers were created to safeguard against voter fraud. Poll watchers were created “for filing fees, for poste election procedures, for election recounts, for manner of applying to vote and related matters, for returns, registers and verification, for public inspection of returns, for computation and certification, for judicial review, for opening ballot boxes to determine fraud, for recanvassing to determine fraud and correction of returns.” *Pennsylvania House Journal*, 2004 Reg. Sess. No. 59, SB 346, PN 1864.

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

Ann. tit. 25, § 2687 (West). [ECF 1, ¶ 58]. Watchers are permitted to “inspect the voting check list and either of the two numbered lists of voters maintained by the county board.” *Id.* [ECF 1, ¶ 59].

Here, Defendants denied the Candidates the right to have poll watchers at the Satellite Offices. [ECF 1, ¶¶ 61-64]. This is a severe restriction without a compelling interest and triggers a strict scrutiny analysis.

First, the magnitude of the Candidates’ claims is severe because the Board of Elections has denied them a statutory right under the Pennsylvania Elections Code to have poll watchers present when votes are being cast. Second, the Defendants have put forth no justification for the burden imposed by the denial of poll watchers. To the contrary, the Defendants are restricting their own legitimate government interests in ensuring the integrity of the election. Third, the legitimacy and strength of the Candidates’ and Defendants’ interests should be equally aligned by having poll watchers, rather than denying poll watchers. Fourth, there is no compelling interest to burden the Candidates’ rights.

In sum, Defendants have just as much of an interest in maintaining the integrity of this year’s election as the Candidates, if not more; however, Defendants have summarily denied the Candidates right to have poll watchers at the Satellite Office without any justification. This is evidenced by both Mr. Chew and Mr. Hagerman applying for – and being denied – watcher’s certificates because there were not available and have not yet been printed. [ECF 1-3]. There is simply no legitimate reason why Defendants have denied poll watchers at places where voting occurs. Rather, Defendants’ interests should be aligned with the Candidates in ensuring the integrity of any of the mail-in ballots being cast at the Satellite Offices.

**C. Whose Rights have been Violated and How have Those Right been Violated.**

In order to fully understand whose rights have been violated by Defendants' conduct and how those rights have been violated, one must scrutinize Pennsylvania's Election Code, as recently amended by the General Assembly. For the reasons set forth below, Plaintiffs, as candidates for Congressional office, as electors within Allegheny County and/or as representatives of a "political body" (Republican Party) and a "body of citizens" (electors of Allegheny County) have had their rights violated by Defendants' conduct. Plaintiffs' rights have been violated by and through Defendants' below described conduct which is in direct violation of Defendants' obligation under Pennsylvania's Election Code.

Plaintiffs, as candidates for Congressional office, as electors within Allegheny County and/or as representatives of a "political body" (Republican Party) and a "body of citizens" (electors of Allegheny County), are "entitled to have watchers at any registration, primary or election" and are also "entitled to appoint watchers ... or attorneys to represent such party or political body or body of citizens at any public session or sessions of the county board of elections, and at any computation and canvassing of returns of any primary or election ... under the provisions of this act." 25 P.S. §2650(a). As more fully described below, Defendants have failed and refused to provide authorization and/or permit watchers as required by Section 2650(a).

Further, Plaintiffs Parnell and Negron, as Congressional candidates, are "entitled to be present in person or by attorney-in-fact duly authorized, and to participate in any proceeding before any county board whenever any matters which may affect his candidacy are being heard, including any computation and canvassing of returns of any primary or election or recount of ballots or recanvass of voting machines affecting his candidacy." 25 P.S. §2650(b). As more fully described

below, Defendants have failed and refused to provide Plaintiffs Parnell and Negron and/or their attorneys-in-fact to participate as required by Section 2650(b).

“[U]pon receipt of official absentee ballots in sealed official absentee ballot envelopes as provided under this article and mail-in ballots as in sealed official mail-in ballot envelopes,” Defendants “shall safely keep the ballots in sealed or locked containers until they are to be canvassed by the county board of elections. *25 P.S. §3146.8*. Defendants are obligated to canvass absentee and mail-in ballots in accordance with subsection (g).” *25 P.S. §3146.8*.

Pursuant to subsection (g)(1.1) of Section 3146.8, Defendants are required to “meet no earlier than seven o’clock A.M. on election day to pre-canvass all ballots received prior to the meeting.” *25 P.S. §3146.8(g)(1.1)*. Defendants are further required to “provide at least forty-eight hours’ notice of a pre-canvass meeting by publicly posting a notice of a pre-canvass meeting on its publicly accessible Internet website.” *25 P.S. §3146.8(g)(1.1)*. At any such pre-canvassing meeting, Plaintiffs and political parties are entitled to have “[o]ne authorized representative in the room in which the absentee ballots and mail-in ballots are pre-canvassed.” *25 P.S. §3146.8(g)(1.1)*. Pursuant to subsection (g)(1.2) of Section 3146.8, Defendants have the same obligations and Plaintiffs have the same right as subsection (g)(1.1) when the absentee and mail-in ballots are canvassed by Defendants. *25 P.S. §3146.8(g)(1.2)*.

There is no factual dispute that pursuant to Section 3146.8 of the Election Code, *25 P.S. §3146.8*, Defendants have received “official absentee ballots in sealed official absentee ballot envelopes” and official “mail-in ballots in sealed official mail-in ballot envelopes.” Likewise, there is no legal dispute that upon receipt, Defendants are obligated, pursuant to Section 3146.8 of the Election Code, *25 P.S. §3146.8*, to “keep the ballots in sealed or locked containers until they are to be canvassed by the county board of elections.” By Defendants’ own admission, they have failed

to safely secure the absentee and mail-in ballots in sealed or locked container until the ballots were canvassed. This violation of the Election Code is one of the injuries-in-fact suffered by Plaintiffs, as Candidates for Congressional office, as electors within Allegheny County and/or as representatives of a “political body” (Republican Party) and a “body of citizens” (electors of Allegheny County).

However, even more egregious is Defendants’ refusal to comply with Sections 2650 and 3146.8 of the Election Code, as it relates to the appointment of “watchers ... or attorneys to represent such party or political body or body of citizens”, *25 P.S. §2650(b)*, and, “[o]ne authorized representative in the room in which the absentee ballots and mail-in ballots are pre-canvassed.” *25 P.S. §3146.8*. There is no factual dispute that Defendants physically accessed, inspected and segregated the official absentee and mail-in ballots. If Defendants’ actions do not meet the definition of “canvassing,” then there is no statutory authority for the actions and such actions are in direct violation of the Election Code which requires the ballots to be kept in sealed or locked containers until the ballots were canvassed. If Defendants’ actions are deemed to be “pre-canvassing” or “canvassing” of the ballots, Defendants have violated the Election Code by failing to provide advanced public notice; by refusing to permit Plaintiffs to have authorized representatives present to observe Defendants’ actions; and, by refusing to permit Plaintiffs or Plaintiffs’ attorneys to be present to observe Defendants’ actions. *25 P.S. §3146.8(g)(1.1)*, *25 P.S. §3146.8(g)(1.2)* and, *25 P.S. §2650(b)*.

For the reasons articulated above, Plaintiffs, as candidates for Congressional office, as electors within Allegheny County and/or as representatives of a “political body” (Republican Party) and a “body of citizens” (electors of Allegheny County) have had their rights violated by Defendants’ conduct. Plaintiffs’ rights have been violated by and through Defendants’ above-

described conduct which is in direct violation of Defendants' obligation under Pennsylvania's Election Code.

Along with this Brief, Plaintiffs have file emails in response to Defendants' public meeting related to the various actions of Defendants as described herein. Said emails and there content are incorporated herein.

**D. The Defendants' Actions Violate Plaintiffs' Equal Protection Rights.**

The Equal Protection Clause requires governments to act in a rational and non-arbitrary fashion. [ECF 1, ¶ 88]. The Equal Protection Clause prevents a particular class of individuals from being denied the ability engage in an activity that other similarly situated individuals are allowed to engage in. [ECF 1, ¶ 89]. Defendants' conduct with regard to poll watchers violates the Equal Protection Clause of the 14<sup>th</sup> Amendment to the United States Constitution. [ECF 1, ¶ 90].

The Court's equal protection analysis in *Trump v. Boockvar, supra*, is extremely thorough. As the Court pointed out, the equal protection claims in *Trump v. Boockvar*, ultimately failed because "there [was], in fact, no differential treatment [t]here—a necessary predicate for an equal-protection claim." *Donald J. Trump for Pres., Inc. v. Boockvar*, 2:20-CV-966, 2020 WL 5997680, at \*41 (W.D. Pa. Oct. 10, 2020).

In the instant case, there is differential treatment between the Satellite Offices – in effect polling places – and traditional voting precincts. The differential treatment is occurring specifically in Allegheny County and is comparable between two distinct locations. If you cast your vote at your traditional polling place, Pennsylvania law applies. If you cast your vote at a Satellite Office, apparently it does not. Here, the Candidates clearly articulated the claims in their Complaint – namely, that in every other municipality in Allegheny County they will be able to have poll

watchers present, but they cannot have poll watchers present at the Satellite Offices, where votes are clearly being cast. Not only this, but the general confidence of the electorate has been eroded.

**E. The Plaintiffs' Specific Relief Requested Will Not Harm Defendants.**

1. For the Court to determine the validity of the ballots already cast at the Satellite Offices in Allegheny County; and,

2. Declaratory Judgment that the actions of the Defendants, including, but not limited to the denial of poll watchers, watchers and/or other representatives at the Offices, Satellite Offices and Polls in Allegheny County is unconstitutional; and,

3. Declaratory Judgment that the rights of the voters of Allegheny County have been violated by Defendants' actions; and,

4. A Temporary Restraining Order to enjoin Defendants from engaging in any such future violations and declaring all affected ballots and the replacement ballots as "challenged" (without requiring funds to be deposited by Plaintiffs) and treated as "provisional ballots" under the Election Code of the Commonwealth; and,

5. A Permanent Injunction to prohibit Defendants from denying poll watchers, watchers and/or other representatives at the Offices, Satellite Offices and Polls in Allegheny County; and,

6. Order Defendants to immediately issue watchers certificates to the individuals listed below:

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



Ann Porter  
Quinn Ritchie

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

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

Respectfully Submitted,

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

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

Dated: October 21, 2020

By: /s/ Thomas W. King, III  
Thomas W. King, III  
Thomas E. Breth  
Jordan P. Shuber

*Counsel for Plaintiffs, Sean Parnell and Luke  
Negron*