



Allegheny County Court of Common Pleas

Fill out form and save a copy to email to the Court with your Motion.

The filename of the form should be the GD number of your case.

Remote Discovery

Motion Form

Fields in red MUST be completed.

Motions with incomplete/no form WILL NOT BE HEARD Completed forms MUST accompany ALL Discovery Motions. All parties must be CC'd. Completed forms and accompanying motions must be emailed to:

civildiscmotions@alleghenycourts.us

You will be assigned a date and time via email.

Has this Matter ON or EVER BEEN ON a Trial List? Yes No

If "Yes" then the Motion **MUST** go to Calendar Control Judge

GD Number:

Contested

Uncontested

(If you are unsure select CONTESTED)

Plaintiff(s),

v.

Motion Title (i.e. Motion to Compel):

Plaintiff/Counsel Contact Info*:

Defendant(s).

Notes/Additional Party Contact Information*:

Defendant/Counsel Contact Info*:

APPROPRIATE SERVICE MUST BE PROVIDED ACCORDING TO PROCEDURES LOCATED IN THE DISCOVERY SECTION OF THE CIVIL DIVISION WEBSITE

*Contact information **must include an email address as well as a personal contact number for the party.** If a party wishes to use their firm contact information on a filing in lieu of personal contact information. Personal contact information MUST be placed in the email to the Court.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM TOWNE,

Plaintiff,

vs.

ALLEGHENY COUNTY
& THE ALLEGHENY COUNTY
BOARD OF ELECTIONS,

Defendants.

Allan J. Opsitnick, Esquire
Assistant County Solicitor
Allegheny County Law Department
564 Forbes Avenue, Suite 1301
Pittsburgh, PA 15219

aopsitnick@opsitnickslaw.com

(412) 391-3299

Counsel for Defendants

DATE SERVED: JUNE 7, 2023

) CIVIL DIVISION

)

) No. GD-22-007739

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) **MOTION TO COMPEL DISCOVERY**

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I, Zachary N. Gordon, Esquire, herby certify that this Motion requests relief for a case that has never appeared on any published trial list, has not been designated complex, and a complex designation is not pending.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM TOWNE,)	CIVIL DIVISION
Plaintiff,)	
)	
v.)	No. GD-22-007739
)	
ALLEGHENY COUNTY)	
& THE ALLEGHENY COUNTY)	
BOARD OF ELECTIONS,)	
Defendants.)	

NOTICE OF PRESENTATION

TO: Allan J. Opsitnick, Esquire
Assistant County Solicitor
Allegheny County Law Department
564 Forbes Avenue, Suite 1301
Pittsburgh, PA 15219
aopsitnick@opsitnickslaw.com
(412) 391-3299
Counsel for Defendants

PLEASE TAKE NOTICE that the within *Motion* will be presented to The Special Civil Motions Judge on a date to be identified by the Court pursuant to the Court's Remote Motions Practice.

Certificate of Service

I certify that the within *Motion* was served on the counsel indicated above on this 7th day of June 2023 by electronic mail.

/s/ Zachary N. Gordon

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM TOWNE,)	CIVIL DIVISION
Plaintiff,)	
)	
v.)	No. GD-22-007739
)	
ALLEGHENY COUNTY)	
& THE ALLEGHENY COUNTY)	
BOARD OF ELECTIONS,)	
Defendants.)	

MOTION TO COMPEL DISCOVERY

Plaintiff, William Towne (“Requester”), by and through his undersigned counsel Del Sole Cavanaugh Stroyd LLC, files this *Motion* stating as follows:

Procedural History

1. This two-count mandamus action seeks to compel Allegheny County and the Allegheny County Board of Elections to comply with its mandatory obligations to comply with a Final Determination issued by the Pennsylvania Office of Open Records (OOR) (Count I) and other transparency provisions of the Election Code (Count II).

2. Plaintiff sought a preliminary injunction to compel compliance with the Defendants’ transparency obligations before the November 2022 General Election.

3. On August 2, 2022 Judge McVay presided over an injunction hearing before ultimately denying the injunction by Order dated September 16, 2022, which was docketed on October 12, 2022.

4. The same parties are litigating similar (though not necessarily identical) transparency obligations involving a separate Final Determination issued by the OOR, which was handled by Senior Judge O’Brien, who issued a decision on April 17, 2023 in SA-21-000515, from which Plaintiff has appealed to the Commonwealth Court (docketed as 381 CD 2023).

Request to Compel Discovery

5. To prepare this mandamus action for resolution, Plaintiff served *Interrogatories and Document Requests* on the Defendants on April 18, 2023 (“Discovery Requests”). The Defendants’ responses were due on May 18, 2023. The Discovery Requests are attached as Exhibit 1.

6. On May 11, 2023, the Defendants’ counsel requested a two-week extension to respond seeking a new deadline of June 1, 2023.

7. On May 12, 2023 Plaintiff’s counsel agreed to the extension and indicated that Plaintiff was expecting Defendants’ complete response at that time.

8. On June 1, 2023, Defendants, provided a letter and objections purporting to be an “initial response.” The letter and initial response are attached as Exhibit 2.

9. Defendants did not answer a single Interrogatory or Document Request, but instead objected for irrelevant reasons.

10. Defendants’ June 1, 2023 letter indicates that Defendants know these objections are meritless as Defendants promised a “goal” of late June for their actual response.

11. Defendants’ primary objection is the timing of the Discovery Request, but Defendants cite absolutely no authority for their objections instead, Defendants’ objection are plainly improper as violative of Pa. R.C.P. No. 4007.3

Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

Id.

12. Plaintiff respectfully requests that this Court enter an Order compelling Defendants' responses by July 3, 2023, which is 30 days from the prior extension Defendants sought.

WHEREFORE, Plaintiff, William Towne, respectfully requests that this Court grant this *Motion to Compel Discovery* and require Defendants to provide responses and responsive documents by July 3, 2023.

Respectfully submitted,

/s/ Zachary N. Gordon

Zachary N. Gordon, Esquire

Counsel for Plaintiff, William Towne

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM TOWNE,

Plaintiff,

vs.

ALLEGHENY COUNTY
& THE ALLEGHENY COUNTY
BOARD OF ELECTIONS,

Defendants.

) CIVIL DIVISION

)

) No. GD-22-007739

)

) **PLAINTIFF'S FIRST SET OF**
) **INTERROGATORIES AND REQUESTS**
) **FOR PRODUCTION OF DOCUMENTS**
) **DIRECTED TO DEFENDANTS,**
) **ALLEGHENY COUNTY AND THE**
) **ALLEGHENY COUNTY BOARD OF**
) **ELECTIONS**

)

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) Filed on behalf of Plaintiff,

)

) William Towne,

)

) Counsel of Record for this Party:

)

) Zachary N. Gordon

) PA ID No. 318808

)

)

) DEL SOLE CAVANAUGH STROYD LLC

) 3 PPG Place, Suite 600

) Pittsburgh, PA 15222

) Tel: (412) 261-2393

) Fax: (412) 261-2110



IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM TOWNE,)	CIVIL DIVISION
Plaintiff,)	
)	
v.)	No. GD-22-007739
)	
ALLEGHENY COUNTY)	
& THE ALLEGHENY COUNTY)	
BOARD OF ELECTIONS,)	
Defendants.)	

PLAINTIFF’S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS, ALLEGHENY COUNTY AND THE ALLEGHENY COUNTY BOARD OF ELECTIONS

Plaintiff William Towne, through his undersigned counsel, Del Sole Cavanaugh Stroyd LLC, pursuant to Pennsylvania Rule of Civil Procedure 4005, requests that Defendants, Allegheny County (“County”) and Allegheny County Board of Elections (“Board”), answer the following Interrogatories and respond to the following Requests for Production of Documents, in writing and under oath within thirty (30) days following service of these Interrogatories and Requests:

I. DEFINITIONS

1. “You”, “Your” shall mean Defendants County and Board, and Your agents, investigators, servants, employees, attorneys and/or Any Persons acting on Your behalf.

2. “Complaint” shall mean the Complaint bearing the above caption and filed at GD-22-007739 in the Court of Common Pleas of Allegheny County, Pennsylvania. “Answer” shall mean Your Answer filed under the same docket number in response to the Complaint.

3. “Document” shall mean, without limitation, all written, printed, typed, graphic, or oral records or recordings, however produced or reproduced, in Your actual or constructive possession, custody, care, or control or in the actual or constructive possession, custody, care, or control of Your officers, agents, employees, and attorneys, or any of them, including but not

limited to originals and all copies of: correspondence, notes, messages, letters, file summaries, drafts, recordings of any conversations, meetings, interviews, data compilations, telegrams, teletype, telefax bulletins, facsimiles, tapes, disks, microfilm, photographs, diagnostic films, x-ray or MRI or CT-scan films, sound recordings, videotapes, motion pictures and electronic, mechanical or electric recordings or representations of any kind, minutes of director's meetings and of committee meetings, minutes of all other types of meetings, memorandum of all types, interoffice communications, including e-mail or electronic mail, reports, appraisals, books of account, ledgers, bills, invoices, financial statements, vouchers, bank checks, invoices, copies of tax returns and tax reports, receipts, working papers, computer printouts, statistical records, delivery records, stenographers notebooks, desk calendars, appointment books, diaries, time sheets and logs, job, matter and transaction files, contracts, agreements, and any papers or recordings similar thereto. Any comment or notation appearing on any documents, and not a part of the original text, is to be considered a separate Document. Any draft or preliminary form of any document will also be considered a separate Document. Specific reference to any other type of documents in the following Requests shall not be construed as in any respect limiting the generality of the foregoing definition.

4. "Communication" shall mean any transmission of information, the information transmitted and any process by which information is transmitted and shall include written communications and oral communications.

5. "Person" shall mean any natural person, partnership, association, corporation, business, governmental or other legal entity.

6. "Identify," "Identity" or "Identification" when used in reference to:

- a. a Natural Person shall mean to state the individual(s) full name, business address (or last known address), present employer and position;

- b. an Entity (other than a natural person) shall mean to state the correct legal name of the entity, type of entity (e.g. corporation, partnership, etc...) and address; and
- c. a Document shall mean to set forth: i) the type of document (e.g., letter, memorandum, report, chart, etc...); ii) its date; iii) the name and address of its author; iv) the name and address of each addressee or recipient of a copy; and v) present location or custodian. If such document was but is no longer in your possession or custody or subject to your control, state what disposition was made of it and when.

7. "All" shall mean "Any" and vice versa.

8. The terms "And" and "Or" shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of the request any documents which might otherwise be considered beyond its scope.

9. "Each" and "Every" shall be used interchangeably with, and shall be interpreted as including, the term "any and all"

10. "Describe" or "Describe in Detail" means to set out every aspect of every fact, circumstance, act, omission, or course of conduct known to You or relating in any way to the matter inquired about, including, without limitation, the date and place thereof, the identity of each person present, connected therewith, or who has knowledge thereof, the identity of all persons relating thereto, and if anything was said by any person, the Identity of each such person and each such oral statement, and if the oral statement in whole or in part constituted or was contained or reported, summarized or referred to in any Documents, the Identity of each such Document. The phrase "State in Detail" may be substituted for the phrase "Describe in Detail" and has the same meaning.

II. INSTRUCTIONS

1. Whenever appropriate, the singular form of a word shall be interpreted in the plural, or vice versa, and verb tenses shall be interpreted to include past, present and future tenses.

2. Each Interrogatory is intended to and does request that each and every part be answered by the same force as if such part were the subject of and were asked by a separate Interrogatory.

3. In responding to the following Interrogatories, You are requested to furnish all information available to You, including information in the possession of Your attorneys, agents, investigators, representatives, employees, or anyone acting in cooperation or in concert with You.

4. If You cannot answer any Interrogatory in full, after exercising due diligence to secure any information to do so, please so state and answer the Interrogatory to the extent possible, specify Your inability to answer the remainder of the Interrogatory and state whatever information or knowledge You have concerning the unanswered portion of the Interrogatory.

5. If an objection is made to any Interrogatory, all information covered by the Interrogatory which is not subject to the objection must be provided.

6. These Interrogatories are continuing in nature and therefore require You to provide supplemental answers if You obtain further information between the time answers are served and the time of trial.

7. In the event that any Document called for in response to these Document Requests has been turned over to another individual or entity, destroyed, lost, discarded, or otherwise disposed of, any such Document is to be Identified as completely as possible, including, without limitation, the following information: a) the date of origin of such Document; b) a brief description of such Document and its subject matter; c) the author(s), recipient(s), and sender(s) of such

Document; d) the date of disposal, manner of disposal, Person(s) authorizing the disposal of such Document; e) the Person(s) currently in possession of the Documents; and f) the Person disposing of the Document.

8. In responding to the following Document Requests, You are requested to furnish All Documents available to You, including Documents in the possession of Your attorneys, agents, investigators, representatives, employees, contractors, vendors, service providers, or anyone acting in cooperation or in concert with You.

9. If any Document requested herein is withheld by reason of a claim of privilege, work-product or other ground of nonproduction, a list is to be furnished at the time the Documents are produced identifying: a) any such Document for which the privilege is claimed by its nature (e.g., letter, memorandum, etc. . .); b) the date of the Document; c) a description of the Document; d) the number of pages of any such Document; e) the author(s), recipient(s), sender(s) and All Persons who have otherwise seen the original or a copy of Each such Document; f) the nature of the privilege or other protection claimed; g) the circumstances said to justify the claim of privilege or other protection; and h) the Document Request to which such privilege relates. If a portion of an otherwise responsive Document contains information subject to a claim of privilege, those portions of the Document subject to the claim of privilege should be deleted and redacted from the Document and the rest of the Document should be produced.

10. If an objection is made to a Document Request, all Documents covered by the Document Request which are not subject to the objection must be produced. If an objection is made relative to a portion of a Document, but not the entire Document, the portion(s) of that Document not subject to objection should be produced with the portion(s) objected to deleted and clearly indicated. In addition, please furnish a list of each Document withheld from production

together with the following information: a) the reason for withholding production; b) a statement of the facts constituting the basis for Your withholding the Documents withheld c) a brief description of the Documents withheld, including i) the date upon which the Document was originated; ii) the identity of its author or preparer; iii) the identity of Each Person who was a recipient of the Document, iv) the specific Document Request which encompasses the Document; v) a brief description of the subject matter of the Document; and vi) the identity of all Persons who have Personal knowledge of the subject matter.

11. These Document Requests are continuing in nature and therefore require You to provide supplemental answers if You obtain further Documents between the time answers are served and the time of trial.

III. INTERROGATORIES

1. Identify all documents produced in response to the Office of Open Records Final Determination attached as Exhibit 2 to the Complaint.

ANSWER:

2. Identify any other production or basis for the County's claim of full compliance in paragraph 11 of the County's Answer.

ANSWER:

3. Identify why the County did not respond to Plaintiff's request for information as admitted in paragraph 140 of the County's Answer.

ANSWER:

4. Identify all responses to Right-to-Know-Law requests submitted by Plaintiff to You before December 7, 2021 where You responded within the statutorily mandated extension period as alleged in Paragraph 72 of your Answer.

ANSWER:

5. Describe and specify the details of the staffing shortage claimed (also in paragraph 29 of Your Answer) as a basis for maximal extension of time in response to the original Right-to-Know Law Request attached as Exhibit 1 to the Complaint.

ANSWER:

6. Describe all formats in which the County stores, saves, and compiles rejected applications as described in paragraph 144 of the County's Answer, and the locations where that data is saved and backed up.

ANSWER:

7. Identify the reasons the County and/or Board have not permitted Plaintiff to copy, scan, or photograph declaration envelopes from the 2020 General Election.

ANSWER:

8. Describe the basis for the County's assertion in paragraph 3 of its New Matter that the time limit specified in the law cited therein is inapplicable.

ANSWER:

9. Identify the date on which the County allegedly destroyed its scans of declaration envelopes from the 2020 general election.

ANSWER:

10. Identify any backup systems or servers that stored the scans of declaration envelopes from the 2020 general election and state whether any searches of those backup systems or servers have been performed.

ANSWER:

11. Describe any backup procedures which might be used in recovering the scans of declaration envelopes from the 2020 general election and state whether anyone has followed those procedures to try and search for or recover the scans.

ANSWER:

12. Describe how the codes discussed in paragraph 16 of the County's Answer are assigned to or associated with individual voters.

ANSWER:

13. Describe what obligations the County believes it has pursuant to the final sentence of Paragraph 16 of its Answer.

ANSWER:

14. Identify whether the County and/or Board believes that the ability of employees and agents of the County and/or Board to access to the declaration envelopes and voted postal ballots from the 2020 general election violates the PA Constitution as discussed in paragraph 16 of the County's Answer and if not, any basis for that response.

ANSWER:

15. As declared in paragraph 49 of the County's Answer, describe how the practice of putting codes uniquely identifiable to voters on ballots is "required to ensure security in voting."

ANSWER:

16. Identify and describe any occasion on which the County has conducted elections with security in voting *without* voter-identifying codes on ballots as alleged in paragraph 49 of its Answer.

ANSWER:

17. Identify who searched for records in response to the Request attached as Exhibit 1 to the Complaint from (a) October 12, 2021 to October 19, 2021; (b) October 20, 2021 to February 15, 2022, and (c) February 16, 2022 to the present.

ANSWER:

18. Identify what records and/or databases the individuals identified in Interrogatory No. 17 searched as well as the search tools, terms, and filters were used, and when those searches took place.

ANSWER:

19. Identify all individuals involved in inputting data into the documents produced by data drop on March 17, 2022 as referenced in the March 18, 2022 letter attached as Exhibit 7 to the Complaint.

ANSWER:

20. Identify the individuals involved in compiling data for rejected postal ballot applications and/or rejected absentee ballot applications for the November 2020 General Election.

ANSWER:

21. If You did not compile data for rejected postal ballot applications and/or rejected absentee ballot applications for the November 2020 General Election, identify the individuals involved in the decision not to compile that data.

ANSWER:

22. Identify what specific actions Mr. Tyskiewicz specifically (as opposed to anyone else) took in response to (a) the Request attached as Exhibit 1 to the Complaint, and (b) in response to the Request attached as Exhibit 7 to the Complaint.

ANSWER:

IV. DOCUMENT REQUESTS

1. Provide a copy of all documents the County and/or the Board produced to Requester in response to the OOR's Final Determination on February 15, 2022 attached as Exhibit 2 to the Complaint.

RESPONSE:

2. Provide a copy of all Communications evidencing the "appropriate efforts and inquiry" made by Mr. Tyskiewicz to respond to the Request attached as Exhibit 1 to the Complaint as alleged in Paragraph 84 of Your Answer.

RESPONSE:

3. Provide a copy of all Communications evidencing the "appropriate efforts and inquiry" made by Mr. Tyskiewicz to respond to the Request attached as Exhibit 7 to the Complaint as alleged in Paragraph 84 of Your Answer.

RESPONSE:

4. Provide a copy of all Affidavits or other sworn evidence the County and/or the Board provided in response to the Request (Exhibit 1 to the Complaint) or the OOR's Final Determination (Exhibit 2 to the Complaint).

RESPONSE:

5. Provide a copy of all Documents referenced in your answers to the above Interrogatories.

RESPONSE:

6. Provide a copy of all Documents you relied upon to prepare your answers to any of the above Interrogatories or Document Requests.

RESPONSE:

7. Provide a copy of all Documents you relied upon to prepare your Answer to the Complaint.

RESPONSE:

/s/ Zachary N. Gordon
Zachary N. Gordon, Esquire
Attorney ID # 318808
zgordon@dscslaw.com

Del Sole, Cavanaugh, & Stroyd LLC
Three PPG Place, Suite 600
Pittsburgh, PA 15222
412-261-2393
412-261-2110 (fax)
Counsel for Plaintiff, William Towne

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of April 2023, a copy of the within *Plaintiff's First Set of Interrogatories and Requests for Production of Documents Directed to Defendants* was served upon the following via email:

Allan J. Opsitnick, Assistant County Solicitor
Allegheny County Law Department
564 Forbes Avenue, Suite 1301
Pittsburgh, PA 15219
aopsitnick@opsitnickslaw.com
Counsel for Defendants

/s/ Zachary N. Gordon
Zachary N. Gordon, Esquire



DEPARTMENT OF LAW

COUNTY OF ALLEGHENY

300 Fort Pitt Commons Bldg. ♦ 445 Fort Pitt Boulevard ♦ Pittsburgh, PA 15219
TELEPHONE: (412) 350-1120 ♦ FAX: (412) 350-1174

Rich Fitzgerald
Chief Executive

George M. Janocsko
County Solicitor

June 1, 2023

Zachary N. Gordon, Esquire
Del Sole Cavanaugh Stroyd LLC
3 PPG Place, Suite 600
Pittsburgh, PA 15222

By Email: zgordon@dscslaw.com

Re: Towne v. Allegheny County, et al.
No. GD-22-007739

Dear Mr. Gordon,

Enclosed please find the Defendants' initial response. My pledge that this information would be provided by this date was overly optimistic and not fully considering post-election activities, including certification of results and extensive write-in calculations.

Without painting myself into a corner, it is my goal to have full responses to you by late June.

Very Truly Yours,

/s/ Allan J. Opsitnick
Allan J. Opsitnick

Enclosure



IN THE COURT OF COMMON PLEAS, ALLEGHENY COUNTY PENNSYLVANIA

WILLIAM TOWNE,

Plaintiff,

vs.

**ALLEGHENY COUNTY, and THE
ALLEGHENY COUNTY BOARD OF
ELECTIONS,**

Defendants.

CIVIL DIVISION

No. GD-22-007739

**INITIAL RESPONSE TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION
OF DOCUMENTS**

FILED ON BEHALF OF

DEFENDANTS:

County of Allegheny and The Allegheny
County Board of Elections

**COUNSEL OF RECORD FOR
THIS PARTY:**

Allan J. Opsitnick, Assistant County Solicitor
PA I.D. No. 28126
564 Forbes Avenue, Suite 1201
Pittsburgh, PA 15219
aopsitnick@opsitnickslaw.com
Phone: 412.391.3299

IN THE COURT OF COMMON PLEAS, ALLEGHENY COUNTY PENNSYLVANIA

WILLIAM TOWNE,

Plaintiff,

CIVIL DIVISION

No. GD-22-007739

vs.

**ALLEGHENY COUNTY and THE
ALLEGHENY COUNTY BOARD OF
ELECTIONS,**

Defendants.

**DEFENDANTS' INITIAL RESPONSE TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

AND NOW come Defendants, Allegheny County and the Allegheny County Board of Elections, by their attorney, Allan J. Opsitnick, Assistant County Solicitor, and brings the initial response to Plaintiff's First Set of Interrogatories and Requests for Production of Documents, as follows:

GENERAL OBJECTIONS

The following objections are incorporated by reference into all responses as if fully restated therein.

1. County Defendants (County) object to various definitions inasmuch as certain definitions include information to persons to which the attorney/client privilege and/or work product doctrine or similar applicable privilege exists.

2. Defendants object to the discovery requests as overbroad, unduly burdensome and oppressive, compound and seeking information that is irrelevant or subject to privilege.

3. More specifically, this matter was heard before the Honorable John T McVay, Jr., on August 2, 2022, in the context of a Motion for Preliminary Injunction. Pursuant to that hearing, and including evidentiary submissions and pleadings, Judge McVay, in a detailed Order of Court dated September 16, 2022, found that a full and complete evidentiary hearing was held and dismissed the Motion for Preliminary Injunction in a detailed order with findings, indicating that the prerequisites for a preliminary injunction and an injunction itself were not met.

These discovery requests were propounded solely as a bad faith attempt to annoy, harass and burden County, in that these discovery requests were filed on or about April 18, 2023, six months after Judge McVay's order of dismissal.

Not coincidentally, these discovery requests were propounded at the same time an appeal to Commonwealth Court was filed by Counsel from an adverse decision by Judge W. Terrence O'Brien in the statutory appeal case of SA-21-000515, wherein the appellant was William Towne, represented by the same counsel, and the issues involved in the statutory appeal case were somewhat similar. That is, involving election related matters and materials.

County contends that Plaintiff in this matter had no intention to pursue further action in this mandamus case until the Trial Court's order in the case at SA-21-000515 resulted. SA-21-000515 is currently on appeal in the Commonwealth Court with a briefing schedule having been established.

4. County objects to "Definitions" to the extent that such definitions attempt to define words outside their commonly understood meaning.

5. County objects to the Discovery Requests to the extent that such Discovery Requests are compound and/or containing subparts as unduly burdensome, oppressive, and violative of 231 Pa. Code § 4005(c).

6. County objects to the Discovery Requests to the extent that they seek information protected from discovery by the attorney-client privilege, work product doctrine, or any other privilege known to law whether statutory or judicially created. Any inadvertent disclosure of any document or information protected by any such privilege shall not constitute a waiver of such privilege, and County reserves the right to request the return or withdrawal of such inadvertently produced privileged or confidential documents or information. Under no circumstances shall such inadvertently produced privileged or confidential documents or information be permitted to be used as evidence at trial or otherwise.

7. County objects to the Discovery Requests to the extent that they seek documents or information not known to Defendant or documents not in its possession or control.

8. County objects to the discovery requests to the extent that such requests seek information prohibited from public dissemination by the Pennsylvania Election Code and Constitution.

9. County objects to the Discovery Requests to the extent that such requests call for legal conclusions or are based on assumed factual or legal conclusions not conclusively admitted or proven on the record.

10. County objects to the Discovery Requests to the extent that such requests call for a narrative answer or are more properly the subject of deposition testimony.

11. County objects to the Discovery Requests as requesting certain information that is publicly available or that has been made available previously in this action.

12. Given the context of this matter, that is six months post Judge McVay's September 16, 2022 Order, these Discovery Requests are invalid, being barred by laches and/or estoppel.

Respectfully submitted,

/s/ Allan J. Opsitnick
Allan J. Opsitnick
Assistant County Solicitor
Counsel for Defendants

IN THE COURT OF COMMON PLEAS, ALLEGHENY COUNTY PENNSYLVANIA

WILLIAM TOWNE,

Plaintiff,

CIVIL DIVISION

vs.

No. GD-22-007739

**ALLEGHENY COUNTY, and THE
ALLEGHENY COUNTY BOARD OF
ELECTIONS,**

Defendants.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of INITIAL RESPONSE TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF
DOCUMENTS was sent to the following party on this, the 1st day of June, 2023:

By Email:

Zachary N. Gordon, Esquire
Del Sole Cavanaugh Stroyd LLC
3 PPG Place, Suite 600
Pittsburgh, PA 15222

zgordon@dscslaw.com

Date: June 1, 2023

/s/ Allan J. Opsitnick
Allan J. Opsitnick,
Assistant County Solicitor
564 Forbes Avenue, Suite 1201
Pittsburgh, PA 15219
aopsitnick@opsitnickslaw.com
Phone: 412.391.3299

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.

Submitted by: Zachary N. Gordon

Signature: /s/ Zachary N. Gordon

Name: Zachary N. Gordon

Attorney No. (if applicable): 318808

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

WILLIAM TOWNE,)	CIVIL DIVISION
Plaintiff,)	
)	
v.)	No. GD-22-007739
)	
ALLEGHENY COUNTY)	
& THE ALLEGHENY COUNTY)	
BOARD OF ELECTIONS,)	
Defendants.)	

ORDER OF COURT

AND NOW this ____ day of _____, 2023, upon consideration of Plaintiffs' Motion to Compel Discovery, it is hereby ORDERED, ADJUDGED, and DECREED that said Motion is GRANTED as follows:

1. By July 3, 2023, Defendants shall provide complete answers and responsive documents without further objections to Plaintiff's First Set of Interrogatories and Requests for Production of Documents Directed to Defendants Allegheny County and the Allegheny County Board of Elections included as part of Exhibit 1 to Plaintiff's Motion.

_____, J.