

4. Paragraph 4 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 4.

PARTIES AND VENUE

5. Defendants admit the allegations in Paragraph 5.

6. The Erie Reader admits the allegations of Paragraph 6.

7. Admitted in part and denied in part. Jim Wertz admits that he is an individual residing in Erie County. It is denied that Mr. Wertz's business address is 1001 State Street, Erie, PA 16501.

8. Paragraph 8 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants admit the Court has personal jurisdiction over each Defendant.

FACTUAL BACKGROUND

9. Defendants admit that on October 31, 2019, Governor Tom Wolf signed Act 77 into law. Defendants deny the remaining allegations in Paragraph 9.

10. Defendants deny the allegations in Paragraph 10. In addition, Defendants are without reasonable basis to know what Plaintiff intends to assert by "numerous challenges" to mail-in voting and "[g]rowing concerns" about mail-in voting and therefore, Defendants do not have a reasonable basis to admit or deny the averments in Paragraph 10; accordingly, the allegations in Paragraph 10 are deemed denied.

11. The case cited in Paragraph 11 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants admit that the

Pennsylvania Supreme Court's decision in *Pa. Democratic Party v. Bookvar* extended the statutory deadline for receipt of mail-in ballots by three days and deny the remaining allegations in Paragraph 11.

12. Admitted in part and denied in part. Defendants admit that election-related litigation occurred in the United States. Defendants are without sufficient knowledge regarding “last minute challenges while adapting to voting in the fact of a global pandemic” and “record number of voters” and therefore, the allegations contained in Paragraph 12 are denied.

13. Admitted in part and denied in part. Defendants admit that in December 2020 Republican Texas Attorney General Ken Paxton attempted to block four states – including Pennsylvania – from certifying then-president-Elect Joe Biden's electoral victory. Defendants deny the remaining allegations of Paragraph 13.

14. Admitted in part and denied in part. It is admitted that Plaintiff filed an amicus brief with the Supreme Court. Defendants further admit that Exhibit B is a true and correct copy of an amicus brief filed in *Texas v. Pennsylvania*, No. 20-155 (U.S. Dec. 10, 2020), the contents of which speaks for itself and thus, no response is required. To the extent a response is required, Defendants deny the remaining allegations in Paragraph 14.

15. Exhibit B is a document that speaks for itself and thus, no response is required. To the extent a response is required, it is admitted that the language of the amicus brief quoted in Paragraph 15 appears in the amicus brief.

16. Admitted.

17. Admitted in part and denied in part. Defendants admit that the U.S. Congress convened on January 6, 2021 to certify the 2020 presidential election. It is further admitted that

the United States Capitol was attacked, resulting in damage and injuries. Defendants deny the remaining allegations of Paragraph 17.

18. Admitted in part and denied in part. Defendants admit that the House of Representatives created the Select Committee to Investigate the January 6th Attack on the United States Capitol. All remaining allegations in Paragraph 18 are denied.

19. Defendants are without reasonable basis to know what “certain evidence” was uncovered and thus, the allegation is denied. Moreover, the email from Congressman Mo Brooks is a document that speaks for itself, and thus, no response is required. To the extent a response is required, the remaining allegations in Paragraph 19 are denied.

20. The email from Congressman Mo Brooks is a document that speaks for itself, and thus, no response is required. To the extent a response is required, the allegations in Paragraph 20 are denied.

21. The email from Congressman Mo Brooks is a document that speaks for itself, and thus, no response is required. To the extent a response is required, the allegations in Paragraph 21 are denied. Specifically, Defendants deny the characterization of to whom the e-mail “plainly refers.”

22. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22; therefore, the allegations in Paragraph 22 are denied.

23. Admitted in part and denied in part. Defendants admit that Exhibit A is a true and correct copy of an opinion piece published by The Erie Reader, the contents of which speak for itself, and thus, no response is required. To the extent a response is required, the allegations in Paragraph 23 are denied. Specifically, Defendants deny the characterization of the opinion piece as an “article,” as well as the characterization of the opinion piece as containing “false claims about

Senator Laughlin.” Moreover, Defendants deny the characterization that the information from the January 6 Committee regarding Plaintiff was “benign.”

24. The opinion piece published by The Erie Reader speaks for itself, and thus, no response is required. To the extent a response is required, the allegations in Paragraph 24 are denied. Specifically, Defendants deny the characterization of the opinion piece as an “article.”

25. The opinion piece published by The Erie Reader speaks for itself, and thus, no response is required. To the extent a response is required, the allegations in Paragraph 25 are denied. Specifically, Defendants deny the characterization of the opinion piece as an “article” and the characterizations that any assertion in the opinion piece is “baseless.”

26. Admitted in part and denied in part. Defendants admit the opinion piece discusses election-related litigation, the amicus brief, and Representative Brooks’ email. Defendants deny the characterization of the opinion piece as an “article.”

27. The opinion piece published by The Erie Reader speaks for itself, and thus, no response is required. To the extent a response is required, the allegations in Paragraph 27 and each sub-paragraph thereto are denied. Defendants specifically deny the characterization of the opinion piece as an “article” and the characterization that the opinion piece contained “baseless claims.”

28. Paragraph 28 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 28.

29. Defendants deny the allegations in Paragraph 29, except refer to the document containing the quoted language referenced therein for a true and complete recitation of the contents thereof. Defendants specifically deny the characterization that Defendants “attempt[ed] to obfuscate” or “ignore” any facts, as well as the characterization of the opinion piece as an “article.”

30. Defendants are without reasonable basis to know what “some sort of media outlets” means and therefore, the allegations in Paragraph 30 are denied. Further, Defendants specifically deny the characterization that Defendants “[i]ntentionally ignore[ed]” any facts, as well as the characterization of the opinion piece as an “article.”

31. The Supreme Court Rule quoted in Paragraph 31 speaks for itself and therefore, no response is required. To the extent a response is required, the allegations in Paragraph 31 are denied. Defendants specifically deny the characterization of what the opinion piece “suggest[s],” the characterization that the opinion piece “intentionally omits” any facts, and the characterization of the opinion piece as an “article.”

32. Defendants deny the allegations in Paragraph 32.

33. The opinion piece is a document that speaks for itself, and therefore, no response is required. To the extent a response is required, the allegations in Paragraph 33 are denied. Defendants specifically deny the characterization that the opinion piece contains false allegations, as well as the characterization of the opinion piece as an “article.”

34. The opinion piece is a document that speaks for itself, and therefore, no response is required. To the extent a response is required, the allegations in Paragraph 34 are denied. Defendants specifically deny the characterization of the opinion piece as an “article.”

35. The opinion piece is a document that speaks for itself, and therefore, no response is required. To the extent a response is required, the allegations in Paragraph 35 are denied. Defendants specifically deny the characterization that the opinion piece contains “false[] claims,” as well as the characterization of the opinion piece as an “article.”

36. Defendants deny the allegations in Paragraph 36. Defendants specifically deny the characterization that the statements in the opinion piece were baseless, as well as the characterization of the opinion piece as an “article.”

37. The opinion piece is a document that speaks for itself, and therefore, no response is required. To the extent a response is required, the allegations in Paragraph 37 are denied. Defendants specifically deny the characterization that the opinion piece contains “falsehoods,” as well as the characterization of the opinion piece as an “article.”

38. Defendants deny the allegations in Paragraph 38. Defendants specifically deny that nothing in the amicus brief supports the opinion piece, and that the opinion piece is “unmoored from reality.” Further, Defendants deny the characterization of the opinion piece as an “article.”

39. Defendants deny the allegations in Paragraph 39. Defendants specifically deny the characterization that the opinion piece was “wholly without basis,” as well as the characterization of the opinion piece as an “article.”

40. Admitted in part and denied in part. It is admitted that Representative Brooks is from Alabama. The remaining averments of Paragraph 40 are denied.

41. Paragraph 41 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 41.

42. Paragraph 42 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 42.

43. Defendants deny the allegations in Paragraph 43. Defendants specifically deny the characterization that the opinion piece was “without any basis in fact” as well as the characterization that Defendants could not have believed the statement in the opinion piece to be true. Further, Defendants deny the characterization of the opinion piece as an “article.”

44. Admitted in part and denied in part. It is admitted that a representative for Representative Kelly requested removal of the opinion piece. Defendants deny the remaining averments of Paragraph 44.

45. Admitted in part and denied in part. It is admitted that the Erie Reader declined to remove the opinion piece. Defendants deny the remaining averments of Paragraph 45.

46. Admitted in part and denied in part. It is admitted that Defendant Wertz discussed the opinion piece at a public forum on July 22, 2022. The remaining allegations in Paragraph 46 contain allegations of law, not fact, to which no response is required. To the extent a response is required, Defendants deny the remaining allegations in Paragraph 46.

47. Admitted in part and denied in part. It is admitted that Defendant Wertz discussed the opinion piece at a public forum on July 22, 2022. The statements made by Defendant Wertz speak for themselves and therefore, no response is required. Defendants specifically deny any characterization concerning the statements made by Defendant Wertz, whose statements speak for themselves. To the extent a response is required, the remaining allegations in Paragraph 47 are denied.

48. Admitted in part and denied in part. It is admitted that Defendant Wertz discussed the opinion piece at a public forum on July 22, 2022. The statements made by Defendant Wertz speak for themselves and therefore, no response is required. Defendants specifically deny any characterization concerning the statements made by Defendant Wertz, whose statements speak for themselves. To the extent a response is required, the remaining allegations in Paragraph 48 are denied.

49. Admitted in part and denied in part. Defendants admit that the Erie Reader published opinion pieces titled “Erie at Large: True Patriotism,” “Erie at Large: Our Nation’s Dark

Day,” “Erie at Large: Defeating Trump was Just the Start,” and “What We’re Voting For,” the contents of which speak for themselves, and thus no response is required. Defendants deny the remaining allegations in Paragraph 49 and all sub-paragraphs thereto. Defendants specifically deny the characterization of the opinion pieces as “articles.”

50. Paragraph 50 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 50.

51. Paragraph 51 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 51.

52. Paragraph 52 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 52.

53. Paragraph 53 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 53.

54. Admitted in part and denied in part. It is admitted that Plaintiff is up for re-election when his term ends in two years in 2024. However, Defendants are without reasonable basis to know whether Plaintiff plans to run for re-election and therefore, the allegation is denied. Additionally, Defendants are without reasonable basis to know the cost for running for re-election, and therefore the remaining allegations in Paragraph 54 are denied.

55. Paragraph 55 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 55.

56. Paragraph 56 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 56.

COUNT I

DEFAMATION – Against all Defendants

57. Defendants hereby incorporate by reference, as though fully set forth herein, its responses to the paragraphs 1 through 56 above.

58. Paragraph 58 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 58.

59. Paragraph 59 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 59.

60. Paragraph 60 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 60.

61. The language of the Pennsylvania Constitution quoted in Paragraph 61 speaks for itself and therefore, no response is required. To the extent a response is required, the allegations in Paragraph 61 are denied. Defendants are without reasonable basis to know whether Plaintiff's eligibility to hold office would be adversely affected and therefore, the allegation is denied. Moreover, Paragraph 61 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 61.

62. Paragraph 62 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 62.

63. Paragraph 63 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 63.

64. Paragraph 64 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 64.

65. Paragraph 65 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 65.

66. Paragraph 66 contains allegations of law, not fact, to which no response is required. To the extent the allegations require a response, Defendants deny the allegations in Paragraph 66.

NEW MATTER

By pleading the defenses set forth below, the Defendants do not admit that they bear the burden of proof on all or any of the aforesaid defenses and reserve all rights with respect to allocation of the burden of proof under law. Defendants reserve the right to amend their Answer to assert such additional defenses as may later become available or apparent to them.

1. Plaintiff's Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff's claims are barred in whole or in part because Defendants' actions are protected by the First and Fourteenth Amendments to the Constitution of the United States and Article I, Section 7 of the Pennsylvania Constitution.
3. The statements complained of in the Complaint are not defamatory statements of fact or are not reasonably capable of defamatory meaning or susceptible to a defamatory interpretation or implication, and thus cannot give rise to any claim against the Defendants.
4. The statements complained of in the Complaint are not actionable because they are true, substantially true, and/or not substantially false, and thus they cannot give rise to any claim against the Defendants.
5. The statements complained of in the Complaint are not actionable as libel per se because Plaintiff fails to properly allege the requisite special damages.

6. Plaintiff is a public figure and a public official, and the statements were not published with actual malice.

7. To the extent that the Plaintiff challenges any statement as purported implications, Plaintiff's claims fail because he cannot assert facts sufficient to show that the implication was intended or endorsed.

8. Plaintiff's claims fail because Plaintiff did not incur any damages or loss as a result of any act or conduct by the Defendants.

9. Plaintiff's claims fail because any injury or damages suffered by Plaintiff, which injury or damage the Defendants expressly deny, were proximately or directly caused, in whole or in part, by the actions of others over whom Defendants had no control, including Plaintiff himself.

10. Plaintiff's claim for punitive damages is barred by the Constitution of the United States and the governing state Constitution and the common law.

11. Some or all of the allegedly defamatory statements complained of by Plaintiff are privileged fair reports.

12. Some or all of the allegedly defamatory statements complained of by Plaintiff do not assert verifiably false facts, and/or constitute subjective statements of opinion, and thus cannot give rise to any claim against the Defendants.

13. Plaintiff's claims are barred in whole or in part by the incremental harm and/or "libel proof plaintiff" doctrines.

14. Plaintiff's claims are barred, in whole or in part, because Plaintiff's damages, if any, are vague, uncertain, imaginary, and speculative.

15. The publications at issue were privileged exercises of the right of free speech and of a free press under the First and Fourteenth Amendments to the United States Constitution and/or Article I, Section 7 of the Pennsylvania Constitution.

16. The opinion piece was published upon a proper occasion, in good faith, without fault, for a justifiable journalistic purpose, and with a belief founded upon reasonable grounds that the publication was fair and accurate.

17. Defendants acted in good faith toward Senator Laughlin, with neither common law malice nor actual malice.

18. The opinion piece is otherwise privileged.

THEREFORE, Defendants pray for judgment as follows:

1. That Plaintiff takes nothing by this action;
2. That judgment be entered in favor of Defendants and against Plaintiff;
3. That Defendants recover their costs and attorneys' fees in this action; and
4. For such other relief as the Court deems just and proper.

Date: October 19, 2022



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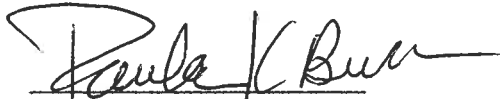
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CERTIFICATE OF SERVICE

I hereby certify that this 19th day of October, 2022 I have served the foregoing document,
Answer and New Matter, upon the persons listed and in the manner indicated below:

Via email, with consent of counsel:

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CERTIFICATE OF COMPLIANCE WITH PUBLIC ACCESS POLICY

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

Date: October 19, 2022

Submitted by: Paula Knudsen Burke

Signature: 

Attorney No.: 87607

VERIFICATION

I, Jim Wertz, hereby state that the facts above set forth in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

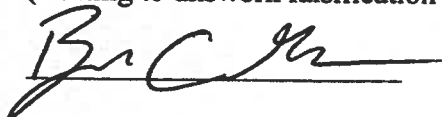


(signature)

Date: 10/19/22

VERIFICATION

I, Brian Graham, hereby state that the facts above set forth in the foregoing Answer and New Matter are true and correct to the best of my knowledge, information and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. §4904 (relating to unsworn falsification to authorities).

A handwritten signature in black ink, appearing to read "Brian Graham", written over a horizontal line.

(signature)

Date: 10/19/22