



FOR IMMEDIATE RELEASE

November 21, 2022

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Press Release No. 2022-08

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Berks County Republican Committee and Pennsylvania Liberty Fund Support Election Recount in 30 Precincts.

Nov. 21, 2022, Berks County, Pa.—The Berks County Republican Committee (BCRC), together with 94 voters, today filed election recount petitions for 30 precincts in the Berks County Court of Common Pleas. The election recount process is jointly-funded by the BCRC and the Pennsylvania Liberty Fund, a political action committee that is connected with the Pennsylvania Liberty Alliance.

“Numerous voters complained to us — and continue to complain to us each day — that these electronic voting machines were switching their choices from Republican to Democrat for the offices of U.S. Senate and governor,” BCRC Chair Clay Breece said, “We want to make this expressly clear: No one is alleging the 2022 election is stolen. A recount is only an investigation. We are asking for a court order to open the ballot boxes so the paper ballots are manually counted by human beings to verify that the machines are working as advertised.”

Under the Election Code, after the Berks County Board of Elections completed a final count on Wednesday, November 16th, voters had exactly five days to file a petition for a recount as applied to their precinct.

“If everyone believes in free, fair, and accurate elections, then there shouldn’t be any threat from a recount,” said Ron Boltz, President of the Pennsylvania Liberty Fund.

Candidate-Switching.

A married couple in Exeter Township were in for a surprise on Election Day.

“I went into the voting booth,” Frederick Kelly said, “and the machine changed my vote to John Fetterman for U.S. Senate after I selected Dr. Oz. I had to redo it. I didn’t think much of it at first.”

But then it happened to his wife, Maureen Cavallucci, voting in a separate booth at the same time. “I thought, ‘Oh my gosh, I didn’t do that. How did that happen?’” she said. “I clearly selected Oz, and it came-up Fetterman.”

With time for reflection after Election Day, Kelly and Cavallucci reached out to the BCRC.

In all 202 precincts, the Berks County Board of Elections contracted with a private manufacturer, Election Systems & Software (“ES&S”), for the use of the ExpressVote Universal Voting System. Voters make their selection through a computer touchscreen, which then prints a paper ballot with a barcode. After the voter reviews the paper ballot, it is then put into a tabulator which scans the barcode, not the text of the paper ballot.

“We don’t know whether the barcodes are registering a vote that matches the voter’s intent,” Clay Breece said, “A manual recount of the paper ballots is one way to reduce any doubts.”

Seeking Help on Election Day.

On Election Day, the BCRC retained Attorney Eric E. Winter of the Cornerstone Law Firm, LLC as stand-by counsel in the event any relief was needed from the courts. Attorney Winter is a civil rights litigator and a former prosecutor, who currently represents numerous restaurants and taverns that defied Governor Wolf’s COVID-19 mandates and received fines from the Pennsylvania Liquor Control Board.

On Election Day, the Cornerstone Law Firm spoke with 12 voters who complained the ES&S ExpressVote Universal Voting System was switching their votes from Republican to Democrat for either the offices of U.S. Senate or Governor. Voters discovered the error either while making their selections on the touchscreen or after reviewing the paper ballot. In some instances, it took voters multiple attempts for the touchscreen to stop switching their choice.

If a paper ballot fails to reflect the voter’s intent, then the judge of election is required to destroy such ballot and permit the voter to generate a new one.

Cornerstone Law Firm encouraged voters to submit a complaint with the Berks County Office of Election Services and the Pennsylvania Department of State. The Berks County Republican Committee then asked the County Board of Elections to notify all poll workers that voters should be carefully instructed to review the paper ballot before putting it into the tabulator.

The Board approved the request but did not admit that any problem existed.

Voter Disenfranchisement.

Miriam Snyder, 68, a resident of Robesonia Borough, voted in-person on Election Day. When she looked at the paper ballot generated by the ES&S system, it registered a non-selection for State Senate (i.e., an “undervote”) even though she selected Republican Chris Gebhard on the computer touchscreen.

In the presence of all the poll workers, Snyder asked for help and was (incorrectly) told that nothing could be done and she had already voted. Snyder was instructed to put the paper ballot into the tabulator, thereby presenting an undervote for State Senate contrary to her intent.

“I want our election process to be fair for everyone, whether I agree with the outcome or not,” Snyder said, “It has to be fair. Or else we don’t have the United States of America anymore. Our voices have to be heard and respected. And I feel as if that isn’t happening right now.”

The BCRC, which has organizational standing to raise the rights of Republican voters,¹ filed a recount petition in Robesonia at Snyder’s request.

“Five days,” under the Election Code, “were not enough time to submit a petition for Robesonia,” Snyder said, “I’m proud the Berks County Republican Committee is stepping up to defend our rights.”

“Fleeing Voters.”

“Fleeing voters” is a colloquial expression where a precinct’s machine count on Election Day does not match the manual count maintained by the poll workers.

In Rockland Township Precinct No. 2, poll workers directly observed the ES&S equipment fail to register a vote after a paper ballot was put into the tabulator. That ballot was actually cast by the Clerk, Ericka Thomas-Ernst, for herself as a voter.

“When I fed my ballot into the tabulator, the machine counter did not register my vote. At the end of the day, my manual logbook did not match the machine count by three votes,” Thomas-Ernst said, “That tells me that my vote wasn’t counted at all, along with two other people.”

“It’s my right. My vote needs to count. I was pissed. But the County claimed we shouldn’t worry,” Thomas-Ernst added.

A Reconciliation Sheet is provided by the Berks County Board of Elections to the poll workers in each precinct, which they must promptly fill out after the polls close. Thomas-Ernst observes the Reconciliation Sheet, as a standardized form, did not contain any entry where the poll workers could report the problem of Fleeing Voters.

¹ *In re Barlip*, 428 A.2d 1058, 1060 (Pa. Commw. Ct. 1981) (“[A] political party, by statutory definition, is an organization representing qualified electors” and maintaining “the same interest as do its members in obtaining compliance with the election laws so as to effect the purpose of those laws in preventing fraudulent or unfair elections.”).

Thomas-Ernst filed a recount petition for her precinct, together with Kyra Genell, the Majority Inspector, and Donna J. Dugas, the Machine Inspector.

Democrats are Helping Too.

Joseph Soga, 74, of Greenwich Township, is a registered Democrat voter. Soga determined to join with other voters in his township for joint-representation with the BCRC in a recount petition.

“Something has to be done about this,” Soga said. “There is nothing about a recount that should be perceived as harming democracy.”

Financial Support is Needed.²

The Pennsylvania Liberty Fund and Berks County Republican Committee are requesting contributions from the public to defray the costs of the recount petitions and if they share the same general mission that local officeholders in Berks County need to be held accountable for election integrity.

Donors can mail checks payable to “PA Liberty Fund” to P.O. Box 98, Bethel, PA 19507.

Donors can mail checks payable to “Berks County Republican Committee” at 8468 Allentown Pike, Suite 6, Blandon, PA 19510 (or online at Berksgop.com).

Contributions are not tax deductible. Contributions from business entities and foreign nationals are prohibited by law.

ES&S Agrees that Paper Ballots are “Critical” for Auditing.

In an online Security Bulletin,³ the manufacturer ES&S represents to the public that the ExpressVote Universal Voting Machine is capable of audits through paper records.

“ES&S fully supports the use of paper ballots and post-election audits to ensure accuracy and increase confidence in our country’s election process. ES&S views paper records as critical for auditing,” the Security Bulletin reads.

Scope of the Recount.

In designing the scope of the recount, the BCRC had assistance from Rick Crump of Kinetic Faith and Don Bogusky of the Election Integrity Project Taskforce. In each of the precincts where a petition was filed, the following are requested from the Court:

² This Press Release is not advocacy for the election or defeat of a clearly identified candidate. Nor is this Press Release authorized by any candidate or candidate’s committee. This Press Release is paid for by the Berks County Republican Committee and the Pennsylvania Liberty Fund.

³ <https://www.essvote.com/storage/2020/12/ExpressVote-Marker-Security-Bulletin.pdf>

- (1) Manual recount of all papers ballots, including mail-in, absentee, and provisional ballots.
- (2) Consistent with recent orders by the Supreme Court of Pennsylvania,⁴ (a) whether the date of mail-in ballot outer envelopes falls outside the range of September 19, 2022 through November 8, 2022 and (b) whether the date of absentee ballot outer envelopes falls outside the range of August 30, 2022 through November 8, 2022.
- (3) Whether the outer envelopes of mail-in ballots are signed by the voter.
- (4) To examine the risk of double-voting, disclose to Attorney Winter a list of voters who voted, grouped as follows: (a) in-person; (b) by mail-in or absentee ballot and (c) by provisional ballot.
- (5) Make available for inspection and testing the ES&S ExpressVote Universal Voting System and related voting devices.

Timeline for the Recount.

The Election Code gives the Court of Common Pleas discretion in determining the logistics of a recount. Judges typically try to get it done as soon as possible.

County Government in Denial.

On November 18th, the *Reading Eagle* quoted a public relations official for Berks County who said, “There were no malfunctions, no vote switching and no recount ordered at this time.”

“Let me get this straight,” Clay Breece responded, “The County appears to be saying that everyone who had a different experience is a liar and before any recount petition was filed. This is not how government is supposed to serve its constituents.”

“Our County still possesses the mechanical voting machines we used to use,” Breece added, “Our County Commissioners do not have to continue with electronic voting equipment.”

A Recount is an Investigation, Not a Trial.

In an article published on November 18th, the *Reading Eagle* reports that grassroots Patriot groups were making “allegations without providing evidence” on social media whether the ES&S machines were causing error.⁵

The article by the *Reading Eagle* is missing context: As to recount petitions, the Pennsylvania Election Code reads, “It shall not be necessary for the petitioners to specify in their

⁴ Ball v. Chapman, No. 102 MM 2022.

⁵ Karen Shuey, *Berks Says Facebook Post Incorrect that Votes Were Switched*, READING EAGLE (Reading, Pa.), Nov. 18, 2022.

petition the particular act of fraud or error which they believe to have been committed, nor to offer evidence to substantiate the allegations of their petition.”⁶

“A recount is not a trial. It’s an investigation only. There is no requirement to prove beyond a reasonable doubt the existence of error just to get a recount,” Breece said, “If a voter observes the machine malfunction, that IS evidence, whether the *Reading Eagle* likes it or not.”

The same article by the *Reading Eagle* was also missing context: The social media posts only asked voters to contact the BCRC if they thought a recount was warranted. The posts were not intended as a public debate or discussion where evidence is presented.

Precincts under the Recount.

1. Bern Township Precinct 1
2. Bethel Township
3. Centre Township Precinct 1
4. Cumru Township Precinct 2
5. Earl Township Precinct 2
6. Exeter Township Precinct 3
7. Exeter Township Precinct 6
8. Exeter Township Precinct 8
9. Greenwich Township Precinct 1
10. Hamburg Borough Precinct 2
11. Kutztown Borough Ward 1
12. Kutztown Borough Ward 2
13. Leesport Borough
14. Lower Heidelberg Township Precinct No. 1
15. Lower Heidelberg Township Precinct No. 2
16. Lower Heidelberg Township Precinct No. 3
17. Maiden creek Township Precinct No. 3
18. Maxatawny Township Precinct No. 3
19. Mohnton Borough
20. North Heidelberg Township
21. Perry Township
22. City of Reading Precinct 16-5
23. Robesonia Borough
24. Rockland Township Precinct 2
25. Ruscombmanor Township Precinct 1
26. Ruscombmanor Township Precinct 2
27. Spring Township Precinct 7
28. Tilden Township
29. Washington Township Precinct 2
30. Wyomissing Borough Precinct 2

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⁶ 25 P.S. § 3261.