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**COMMONWEALTH OF PENNSYLVANIA
LANCASTER COUNTY COURT OF COMMON PLEAS**

PENNSYLVANIA DEPARTMENT OF : Assigned Judge: Sponaugle
AGRICULTURE, by Secretary Russell C. Redding, :
and OFFICE OF ATTORNEY GENERAL, : **CIVIL ACTION - EQUITY**
by Attorney General Michelle A. Henry, :
: :
: :
Plaintiffs, :
v. : Case No. 24-00528
: :
AMOS MILLER and REBECCA MILLER, husband :
And wife, d/b/a Mill Creek Buffalo and Bird-in- :
Hand Meats; MILLER'S ORGANIC FARM (an :
unincorporated association); MILLER CAMEL :
FARM LLC; MILLER ORGANIC FARM LLC; :
A-B FARM (an unincorporated association); A-B :
FARM, LLC; and BIRD IN HAND GRASS FED :
MEATS, LLC, :
: :
Defendants. :

**PLANTIFFS' BRIEF IN SUPPORT OF PLAINTIFFS' PRELIMINARY OBJECTIONS TO
DEFENDANTS' PRELIMINARY OBJECTIONS**

I. INTRODUCTION

Defendants' Preliminary Objections and related brief are comprised of two elements – a barrage of facts that are not alleged in the Complaint, and a litany of conclusory statements of law that fail to provide any cogent argument. The only legal themes that may be gleaned are: (1) that the Department of Agriculture's January 4, 2024 search of Miller's Organic Farm, collection of raw milk samples, and subsequent detention order and disposition order were unlawful; (2) that the injunction entered on January 24, 2024 should not have been extended; and (3) that consumers have a Constitutional right to purchase and eat any food they want.

Paragraph after paragraph and page after page of facts not alleged in the Complaint are improper speaking demurrers. Moreover, the same facts, as well as a myriad of legal arguments Defendants make, are impertinent to the claims made and relief sought in the Complaint, and the new factual allegations fail to conform to the requirements of Pennsylvania law for proper verification. Finally, the Preliminary Objections are not sufficiently specific for the Commonwealth to even formulate a response. Accordingly, Defendants' Preliminary Objections should be dismissed with prejudice.

II. PROCEDURAL AND FACTUAL BACKGROUND

Plaintiffs the Pennsylvania Department of Agriculture (the "Department") and the Office of Attorney General (collectively with the Department, the "Commonwealth") started this action by filing a Complaint on January 23, 2024, and the next day the Court issued an *ex parte* injunction related to Defendants' raw milk-related operations (the "Emergency Injunction"). This Court modified the Emergency Injunction following a February 29, 2024 hearing, and entered a new injunction related to Defendants' sale and use of raw milk on January 1, 2024 (the "Preliminary Injunction"). On February 13, 2024, Defendants filed Preliminary Objections to the Complaint ("Defendants' Preliminary Objections"), but the Commonwealth was not properly served with Defendants' Preliminary Objections, and the

Commonwealth learned of them inadvertently on February 20, 2024. On February 23, 2024, Defendants filed Defendants' Brief in Support of Preliminary Objections to Plaintiffs' Complaint *& In Opposition to Any Injunction* ("Defendants' Brief," emphasis added).

The Complaint alleges that Defendants are violating various Pennsylvania food safety laws by selling raw milk and other food products without the necessary licenses and permits from the Pennsylvania Department of Agriculture and without complying with other food safety regulations. (Compl. at ¶¶154-61). The Complaint also includes a claim under the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCPL") based on the same conduct. (Compl. at ¶¶162-65). The relief sought by the Commonwealth includes declarations of Defendants' unlawful activity, enjoining Defendants' unlawful conduct, and civil penalties under the UTPCPL. (Compl. at p. 30-34, 36-37, 39-40).

Factually, the Complaint alleges that on January 4, 2024, food safety personnel from the Department visited Miller's Organic Farm ("MOF") to execute an administrative search warrant (the "January 4 Search," and the "Search Warrant," respectively) (Compl. at ¶102). The Complaint also alleges that the Department "collected products for sampling purposes." The Complaint attaches a January 11, 2024 Order Confirming Detention of Adulterated and Misbranded Food, and Notice of Food Under Detention Order. (Compl. at ¶107 & Exs. A, C, collectively, the "Detention Order").

There are no allegations in the Complaint or exhibits attached to the Complaint regarding any of the following: the fact that Defendant Amos Miller is Amish; what or how Defendant Amos Miller feeds his family and animals; disposition or destruction of any food manufactured, stored, held or sold by Defendants; consumer desire or demand for Defendants' products; consumer complaints about Defendants' products; or consumer knowledge or desires related to Defendants' permitting status.

Nonetheless, Defendants' Preliminary Objections and Brief are overwhelmingly comprised of averments of fact on these very matters. For example, Defendants assert that:

- a. Defendant Amos Miller is Amish, an injunction would hurt "the local Amish community," and "Amos Miller provides a pillar to the Amish community;" (Def. Prel. Obj. at ¶10; Def. Br. at 1-2);
- b. the Commonwealth is trying to "dictate what [Defendant Amos Miller] is allowed to feed himself and his family and even his own animals..." (Def. Prel. Obj., p. 2, introductory Paragraph);
- c. preliminary injunctive relief "will bankrupt the defendant, severely damage the local Amish farming economy, and prevent thousands of Americans from obtaining food they need for medical, religious, politically associational and express, and deeply personal purposes..." (*Id.* at ¶12);
- d. Defendants' food is "known to be made in a traditional Amish way, and known to the informed consumer [to be] produced by an unregulated, unpermitted, unlicensed, uninspected and unapproved-by-the-government family farmer..." (*Id.* at ¶13);
- e. "those who consume the food produced by defendant do not consider any of the food mislabeled as they want, demand and need food that is made in the traditional way Amish farmers produced that food..." (*Id.* at ¶9); and
- f. "[t]he current injunction has caused substantial harm to...thousands of Americans unable to produce or procure the food they need to survive." (*Id.* at ¶10).

Defendants' Preliminary Objections and Brief also include many averments of fact that are not included in the Complaint related to the Search Warrant, the January 4 Search, and the detention and ordered disposition¹ of products following the January 4 Search. For example, Defendants aver that:

- a. "[t]he government seeks authority to...search and seize food in [Defendant Amos Miller's] own freezers and fridge, detain and destroy food without a hearing..." (*Id.* at p. 2, Introductory Paragraph);
- b. the Department "sought [a search] warrant based on contradictory claims..." "... " (*Id.* at ¶6);
- c. the Department "misled the court in its search warrant solicitation" and "omitted [] information from its search warrant affidavit [that] was material to the magistrate's findings providing probable cause for a search warrant to issue." (*Id.* at ¶7);

¹ Notably, there is nothing alleged in the Complaint regarding disposition of food detained on January 4.

- d. the Department “excluded any observer from monitoring” the January 4 Search, “excluded observers from its process of sampling,” and “excluded observers from detecting any contamination of the site by the many agents meandering through the farm and failed to provide an inspection result at its conclusion...” (*Id.*);
- e. “Defendants immediately stopped the sale and distribution of [raw milk products for which the Commonwealth had notified Defendants of safety concerns] prior to Plaintiff seeking an emergency ex parte court order” and “omitted material facts from its submissions to this court to mislead this court into issuing its initial ex parte order...” (*Id.* at ¶8); and
- f. the Commonwealth “has never found any food of the Defendants to be unfit for human consumption or adulterated in any way,” [and] that “Defendants have never mislabeled any of their food within the meaning of the law...” (*Id.* at ¶9).

Any and all facts included in Defendants’ Preliminary Objections and Brief that are not alleged in the Complaint are hereinafter referred to as the “Unpled Facts.”

Defendants’ attorney, Robert Barnes, executed the only Verification included with the Preliminary Objections (the “Barnes Verification”). The Barnes Verification states only that the Unpled Facts “are true and correct to the best of the signor’s knowledge, information and belief.” (*Id.* at p. 10). The Barnes Verification does not set forth the source of Attorney Barnes’ information as to the Upled Facts or the reason why the Unpled Facts are not verified by a party. (*Id.*). The Unpled Facts in Defendants’ Brief are “supported” by a five-page Declaration signed by Attorney Barnes (the “Barnes Verification”) as well as hundreds of consumer declarations indicating the importance of Defendants’ products to consumers (“Consumer Demand”).

The only reference to Pennsylvania Rule of Civil Procedure 1028 in Defendants’ Preliminary Objections is as follows: “Defendants object to the Complaint pursuant to Pa.R.Civ.P. 1028(a)[(2) and (4). Because the complaint suffers from a defect that cannot be cured, it must be dismissed.” (Def. Prel. Obj. at ¶11). Defendants do not even cite Rule 1028 in their Brief, and the legal standards for Preliminary Objections based on Rules 1028(a)(2) and 1028(a)(4) are not stated, discussed, or otherwise included in

either Defendants' Preliminary Objections or Brief. To the contrary, the "Standard of Review" set forth in Defendants' Brief is solely related to Pennsylvania's preliminary injunction standard. (Def. Br. at 6-7).

Defendants' Preliminary Objections conclude with over three pages of conclusory legal statements and unsupported rhetoric about how the unspecified "actions of the Plaintiff" violate 12 Sections of Article I of the Pennsylvania Constitution, Articles 2-6 of the Pennsylvania Constitution, the Fourteenth Amendment of the United States Constitution, procedural and substantive due process, freedoms of religion, expression, bodily autonomy and property, 15-20 Pennsylvania statutory provisions, and that the Preliminary Objections are supported by approximately 30 state and federal cases. (Def. Prel. Obj. at ¶¶12-14).

III. LEGAL STANDARD: PRELIMINARY OBJECTIONS

Defendants provide a single reference to Pennsylvania Rule of Civil Procedure 1028(a)(2) and (4) as the basis for their Preliminary Objections. (Def. Prel. Obj. at ¶11). Plaintiffs' Preliminary Objections to Defendants' Preliminary Objections are based on Rule 1028(a)(2) and (a)(3).

Rule 1028 provides, in relevant part, as follows:

- (a) Preliminary objections may be filed by any party to any pleading and are limited to the following grounds:

...

- (2) failure of a pleading to conform to law or rule of court or inclusion of scandalous or impertinent matter;
- (3) insufficient specificity in a pleading;
- (4) legal insufficiency of a pleading (demurrer)[.]

A. Legal Standard: Speaking Demurrers

"[W]hen considering a demurrer, a court cannot consider matters collateral to the complaint, but must limit itself to such matters as appear therein, and an effort to supply facts missing from the

objectionable pleading makes the preliminary objection in the nature of a demurrer an impermissible ‘speaking demurrer.’” *Mobley v. Coleman*, 65 A.3d 1048, 1053 (Pa. Cmwlth. 2013) (citations omitted). Where preliminary objections “are really little more than lengthy assertions of alleged additional facts,” a court should strike the pleading altogether. *Elling v. Callas*, 482 A.2d 1065, 1067 (Pa. Super. 1984).

B. Legal Standard: Inclusion of Scandalous or Impertinent Material

“Rule 1028(a)(2) provides that preliminary objections may be filed for failure of a pleading to conform to law or rule of court or ‘inclusion of scandalous or impertinent matter.’” *Common Cause/Pennsylvania v. Com.*, 710 A.2d 108, 115 (Pa. Commw. Ct. 1998). A pleading is “scandalous and impertinent” when the allegations made in the pleading are “immaterial and inappropriate to the proof of the cause of action.” *Id.* (citing *Department of Environmental Resources v. Peggs Run Coal Company*, 423 A.2d 765 (1980)).

C. Legal Standard: Proper Verification of New Factual Averments

Pennsylvania Rule of Civil Procedure 1024 provides as follows:

(a) Every pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer’s personal knowledge or information and belief and shall be verified...

...

(b) The verification shall be made by one or more of the parties filing the pleading unless all the parties (1) lack sufficient knowledge or information, or (2) are outside the jurisdiction of the court and the verification of none of them can be obtained within the time allowed for filing the pleading. In such cases, the verification may be made by any person having sufficient knowledge or information and belief and shall set forth the source of the person’s information as to matters not stated upon his or her own knowledge and the reason why the verification is not made by a party.

D. Legal Standard: Insufficient Specificity

In deciding whether to sustain preliminary objections for insufficient specificity under Rule 1028(a)(3), the court should look at whether the pleading is “sufficiently clear to enable the [opposing party] to prepare his [response]...” *Rambo v. Greene*, 906 A.2d 1232, 1236 (2006) (citing *Ammlung v. City of Chester*, 302 A.2d 491, 498 n. 36 (1973) (quoting 1 Goodrich–Amram § 1017(b)–9)).

IV. ARGUMENT

A. Defendants’ Preliminary Objections Should Be Dismissed Pursuant to Rule 1028(a)(2) as Impermissible “Speaking Demurrers” that Fail to Conform to Law or Rule of Court

Defendants indicate that their Preliminary Objections are a demurrer to the Complaint. (Def. Prel. Obj. at ¶12). “Preliminary objections in the nature of a demurrer test the legal sufficiency of the complaint.” *Haun v. Community Health Systems, Inc.*, 14 A.3d 120, 123 (Pa. Super. 2011) (citation omitted). As eloquently stated by one Court of Common Pleas:

The guiding principle in dealing with a demurrer has been stated so often that like the child in the swing who goes too high and finally tops the arc, its purpose has been defeated. It has been announced so repeatedly that many pay it only lip service. Nevertheless, one more time. When you demur, you accept the facts pleaded as gospel. You are rivetted [sic] to the allegations, just as a mountain climber in repelling from a rock face is utterly dependent upon his rope. One cannot slip in a word here, bend an inference there, or ignore a fact. You are, like our climber, on your own.

Dorsey v. Kalathas, 44 Pa. D. & C.3d 272, 273 (Pa. Com. Pl. 1986).

Supplying the Court with facts that are outside of the pleading being objected to (here the Complaint), renders the preliminary objection an impermissible “speaking demurrer.” *Mobley*, 65 A.3d at 1053.

A “speaking demurrer” is defined as “one which, in order to sustain itself, requires the aid of a fact not appearing on the face of the pleading objected to, or, in other words, which alleges or assumes the existence of a fact not already pleaded, and which constitutes the ground of objection and is

condemned both by the common law and the code system of pleading.”

Regal Indus. Corp. v. Crum & Forster, Inc., 890 A.2d 395, 398 (2005) (quoting BLACK'S LAW DICTIONARY 299 (6th ed.1991)). Where preliminary objections “are really little more than lengthy assertions of alleged additional facts,” a court should strike the pleading altogether. *Elling*, 482 A.2d at 1067.

Defendants’ Preliminary Objections and Brief are overwhelmingly comprised of Unpled Facts. In fact, Defendants do not once cite to the factual averments in the Complaint, and most notably, attach to their Brief a five-page attorney Declaration with entirely new facts.

Consideration of Defendants’ litany of Unpled Facts in deciding Defendants’ Preliminary Objections would violate the well-established rule of law that requires the Court to “accept as true all well-pleaded allegations of material fact as well as all reasonable inferences deducible therefrom that are included in the Complaint.” *Sweatt v. Dep’t of Corr.*, 769 A.2d 574, 576 (Pa. Commw. Ct. 2001). With the inclusion and reliance upon the Unpled Facts, and virtually nothing else, Defendants’ Preliminary Objections are improper speaking demurrers that must be dismissed for failure to conform to the law. *See* Pa.R.C.P. 1028(a)(2).

B. Defendants’ Preliminary Objections Should Be Stricken Pursuant to Rule 1028(a)(2) Because they Include Scandalous or Impertinent Material

Allegations in a pleading that are “immaterial and inappropriate to the proof of the cause of action” should be stricken pursuant to Pennsylvania Rule 1028(a)(2). *Common Cause*, 710 A.2d at 115 (citation omitted). This is true not only for scandalous or impertinent material in an initial pleading, but also in preliminary objections to a complaint. *Koken v. Balaban & Balaban*, 720 A.2d 823, 826 (Pa. Cwlt. Ct. 1998). In *Balaban*, the Court sustained a preliminary objection to a preliminary objection saying “Defendant’s second preliminary objection is itself impertinent; it has nothing to do with the contents of the Second Amended Complaint...” *Id.* Instead of being material to the allegations in the

complaint, the impertinent objection in *Balaban* was an effort to have the court reconsider a prior ruling in the case. *Id.*

Likewise, Defendants' Preliminary Objections here have nothing to do with the factual allegations, claims or requests for relief set forth in the Complaint. Rather, they myopically focus on the legality of the Search Warrant, the January 24 Search, and subsequent detention and ordered disposition of products; the Emergency Injunction (and whether it should have been continued); Consumer Demand, consumer knowledge and consent, and the purported rights of consumers related to the acquisition and consumption of Defendants' illegal products. *See supra* Section II. Like *Balaban*, Defendants' seek to challenge a prior decision of the Court – the entry of the Emergency Order. As set forth below, these issues are impertinent to the matters set forth in the Complaint.

First, none of the Department's actions – including obtaining the Search Warrant, the January 4 Search, and issuance of subsequent administrative orders – provide substantive defenses to the claims set forth in the Complaint. Rather, these were administrative actions taken pursuant to the Department's authority under Sections 5726 and 5732 of the *Food Safety Act* (at 3 Pa.C.S. §§ 5726 and 5732). Defendants' have a statutory right to appeal these actions to the Court of Common Pleas, which is separate and discrete from the claims set forth in the Complaint. *Id.* at 5726(b).²

² **(b) Determination and appeal.**--The secretary [of the Department] shall determine whether a food detained under this subchapter may be sold, delivered, consigned, held or offered for sale as is or whether it shall be relabeled, reprocessed or destroyed within 40 days of issuance of the detention order. *Any determination by the secretary that the food shall be relabeled, reprocessed or destroyed shall be subject, within 30 days of the determination, to appeal by the owner or operator of the food establishment or the manufacturer or owner of the food to the court of common pleas of the county in which the food was located.* The detention order shall expire after five working days from the issuance of the order, unless the secretary confirms the order. The order shall clearly and concisely state the facts on which it is based.

3 Pa.C.S.A. § 5726 (emphasis added).

As for the Emergency Injunction and Preliminary Injunction, the Court held a full evidentiary hearing for the entirety of the afternoon of February 29, 2024. That proceeding was governed by Pennsylvania Rule of Civil Procedure 1531, and the standards for preliminary injunctions that are well-established in Pennsylvania. Again, these proceedings are wholly separate from the allegations in the Complaint.

Finally, Consumer Demand, or consumer knowledge, consent, and/or purported Constitutional rights to obtain Defendants' products are immaterial to the allegations in the Complaint. The Commonwealth's claims involve Defendants' failure to comply with permitting and other regulations for the sale of raw milk and food products, thus rendering those products illegal. The claims make no mention of regulating what consumers can consume, only what Defendants can sell.

There will always be demand for illegal products – in the absence of demand, there would be no market for or need to regulate the safety of products. Of course there is Consumer Demand for Defendants' products, just as there is a market for unapproved medications, uninspected vehicles, and other consumer products that fail to meet regulatory safety standards. The existence of a market for illegal products – whether because of a belief in the quality of those products or simply because of cost savings – is immaterial to whether regulations can be enforced against a seller. Further, Defendants do not have standing to assert the purported rights of third-parties to this action. *See Philadelphia Facilities Management Corporation v. Biester*, 431 A.2d 1123, 1131 (1981) (citations omitted) (“A party may not contest the constitutionality of a statute because of its effect on the putative rights of other persons or entities.”). Thus, all of Defendants' allegations regarding Consumer Demand, knowledge, consent, or alleged rights to obtain and consume Defendants' products are impertinent to the allegations in the Complaint.

Here, Defendants' Preliminary Objections and Brief are replete with Unpled Facts and legal argument that are entirely immaterial³ to the claims set forth in the Complaint. As such, Defendants' Preliminary Objections should be stricken and dismissed in their entirety.⁴

C. Defendants' Preliminary Objections Should Be Dismissed Pursuant to Rule 1028(a)(2) Because they are Not Properly Verified

Even if any of the Unpled Facts could otherwise be considered as part of preliminary objections, which they cannot, they must be stricken for failure to conform to law or rule of court because they are not properly verified as required by Pennsylvania Rule 1024. Rule 1024 mandates that every pleading that includes averments of fact that are not already in the record must be verified by a party unless all of the parties lack sufficient knowledge or are outside of the jurisdiction of the Court and cannot provide a verification within the time allowed for filing the pleading. Pa.R.C.P. 1024(a), (c). In the latter case, a verification by a third-person must include a statement regarding the source of that third-person's knowledge and the reason why a party did not make the verification. *Id.* at 1024(c)(2).

“[T]he requirement of a verification is not waivable because without it a pleading is mere narration, and amounts to nothing.” *Atlantic Credit & Finance, Inc. v. Giuliana*, 829 A.2d 340, 344

³ Rule 1024(a)(2) also allows for preliminary objections based on the inclusion of scandalous material. Here, Defendants' filings accuse Plaintiffs of misleading the magisterial district court in obtaining the Search Warrant, and even of outright perjury. (Prel. Obj. at ¶7, Br. at p. 2). Defendants also say that the Department is seeks to “destroy” Miller's Organic Farm, which is a gross misrepresentation of the relief sought in the Complaint. (Br. at p. 19). And, Plaintiffs rant about the “regulatory reign” of the Department, making statements like “[d]uring this regulatory reign, preservative-pervasive, additive-adulterated, and lots and lots of chemicals laced into our ultra-processed food supply of cattle often crammed into food containers so small they eat each others' dung.” (*Id.* at p. 15). In addition to being impertinent, these statements are also scandalous.

⁴ To the extent any factual averment made by Defendants' in their Unpled Facts has any bearing on the ultimate outcome of this case, they should be set forth in a new matter when Defendants' file a written Answer to the Complaint. Pa.R.C.P. 1030(b) (“A party may set forth as new matter any other material facts which are not merely denials of the averments of the preceding pleading.”).

(quoting 2 Goodrich Amram 2d §1024(a):1). Failure to properly verify factual averments is sufficient grounds to sustain preliminary objections, and failure to do so is reversible error. *Id.* at 345 (holding that trial court erred in failing to sustain preliminary objection where “the verification attached to the complaint in the instant case falls so short of the statutory mandate that the verification is wholly defective...”).

Here, of course, the Unpled Facts in the Preliminary Objections were supported by the Barnes Verification, not a party verification. Moreover, the Barnes Verification falls so short of the requirements of 1024(c)(2) that it is “wholly defective.” *Id.* Accordingly, Defendants’ Preliminary Objections fail to conform to a Rule of Court and should be stricken and dismissed with prejudice.

D. Defendants’ Preliminary Objections Should Be Dismissed Pursuant to Rule 1028(a)(3) for Insufficient Specificity in a Pleading

Defendants’ Preliminary Objections contain pages and Paragraphs of immaterial Unpled Facts that are not properly verified and then four Paragraphs summarized as follows:

- a two-sentence statement that Defendants object to the Complaint under Pennsylvania Rules 1028(a)(2) and (4) (Def. Prel. Obj. at ¶11);
- lengthy and conclusory allegations that the unspecified “actions of the Plaintiff” violate 12 sections of Article I of the Pennsylvania Constitution, Articles 2-6 of the Pennsylvania Constitution, and the Fourteenth Amendment of the United States Constitution, replete with lengthy and indecipherable statements like “infringing on the religiously expressive rights of the Amish community and the religiously motivated decisions of the food from Defendants’ family farm, the politically expressive decisions to procure the food from the defendants’ family farm, and the right to anonymity, privacy and bodily autonomy...” (Def. Prel. Obj. at ¶¶12-13); and
- a string of case citations at least a page long, with no substantive legal analysis (Def. Prel. Obj. at ¶14).

Even a cursory reading of Defendants’ Preliminary Objections shows that they are insufficiently specific to enable the Commonwealth to tailor a response. As such, they should be dismissed in their entirety with prejudice.

V. **CONCLUSION**

For the foregoing reasons, the Commonwealth respectfully requests that the Court sustain all of Plaintiffs' Preliminary Objections to Defendants' Preliminary Objections and dismiss Defendants' Preliminary Objections in their entirety with prejudice.

Dated: March 11, 2024

/s/Heather Z. Kelly

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DEPARTMENT OF AGRICULTURE and

OFFICE OF ATTORNEY GENERAL

CERTIFICATION

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.

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL
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Date: March 11, 2024

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CERTIFICATE OF SERVICE

I, Heather Z. Kelly, hereby certify that a true and correct copy of the foregoing *Commonwealth's Preliminary Objections to Defendants' Preliminary Objections* was served on counsel of Defendants by Electronic Mail (only, per agreement of counsel) on March 11, 2024.

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