



November 7, 2023

Richard Santee, Esq. *Via email to* RSantee@norcopa.gov
Northampton County Courthouse
669 Washington Street
Easton, PA 18042

RE: ES&S Express Vote XL issue on Election Day

Dear Mr. Santee,

The undersigned organizations are writing to express their concerns about the voting machine issue that surfaced today, Election Day. As we understand it, the Superior Court retention election is incorrectly coded so that the voter's choice for one of the Superior Court judges will be recorded for the other judge. This will result in an incorrect tally only when the voter votes "yes" to retain one judge and "no" to retain the other judge or if the voter leaves one of the questions blank. If a voter votes "yes" to retain both or "no" not to retain both, the voter's choices will be recorded correctly.

We request that the county take the following steps to mitigate the harm and alleviate voter confusion around this issue:

1. The county should advise all voters that this issue **only** impacts the Superior Court **retention election** and does not impact any other races on the ballots. Voters should cast their ballots in the way they planned.
2. In accordance with the Order of the Court of Common Pleas, voters should be alerted that a computer coding issue is present, that the county is aware of it, and that voters should make their selections for the Superior Court retention race and other races as they intended.
3. The County should clarify its previously issued statement. At the start of that statement, the county should advise voters that no other races on the ballot are affected. In addition, the county should be clearer in advising voters to vote their ballot as they had planned.
4. The county should have distributed emergency paper ballots to all polling locations for just these types of emergencies. These paper ballots should be offered to any voter who wishes to use a paper ballot instead of voting on the

machine. In that instance, the voter must not vote on the machine but must mark their choices for all races on the emergency paper ballot.

This is an unfortunate situation caused by human error; yet, it is generating a lot of consternation for voters. We strongly urge the Northampton County Board of Elections to increase their communications efforts to reassure voters. We will reach out to you later with our recommendations so that such human errors are properly detected, and corrected, before Election Day. Please send a copy of this letter to the five members of the Northampton County Elections Commission.

Very truly yours,

/s/Marian K. Schneider
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