

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM C. TOTH JR., *et al.*,

*Plaintiffs,*

V.

LEIGH M. CHAPMAN, *et al.*,

*Defendants.*

V.

CAROL ANN CARTER, *et al.*,

*Intervenor-Defendants.*

No. 1:22-cv-00208-JPW-KAJ-PS

Three Judge Panel Convened  
Pursuant to 28 U.S.C. § 2284(a)

**CARTER PETITIONERS' MOTION TO DISMISS  
THE SECOND AMENDED COMPLAINT**

Carol Ann Carter, Monica Parrilla, Rebecca Poyourow, William Tung, Roseanne Milazzo, Burt Siegel, Susan Cassanelli, Lee Cassanelli, Lynn Wachman, Michael Guttman, Maya Fonkeu, Brady Hill, Mary Ellen Balchunis, Tom Dewall, and Stephanie McNulty (the “Carter Petitioners”) hereby move, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Claim 3 of the Second Amended Complaint of William C. Toth Jr., William J. Hall, James Bognet, Aaron Bashir, and Alan M. Hall (ECF No. 49) with prejudice for failure to state a claim upon which relief can be granted.<sup>1</sup>

<sup>1</sup> The Carter Petitioners' motion to dismiss Claims 1 and 2 of the Second Amended Complaint (ECF No. 58) is currently pending with this Court.

The Carter Petitioners shall submit a memorandum of law in support of this Motion within 14 days, as set forth in Local Rule 7.5, or at such time as the Court may direct at the scheduling conference that will be convened on March 17, 2022.

Counsel for the Carter Petitioners have consulted with Plaintiffs' and Defendants' counsel regarding this Motion. Counsel for Defendants have indicated that they do not oppose this Motion. Counsel for Plaintiffs have indicated that they oppose this Motion.

WHEREFORE, the Carter Petitioners respectfully request that this Court enter an order granting this Motion to Dismiss and dismissing Claim 3 of the Second Amended Complaint with prejudice.

Dated: March 14, 2022

Respectfully submitted,

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*\*Motions for Pro Hac Vice  
Forthcoming*

*\*\*Admitted Pro Hac Vice*