## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

VIRGINIA L. HUMPHREYS and BRIAN C. HUMPHREYS,

Plaintiffs,

v.

CIVIL ACTION NO. 12-4334

PPL ELECTRIC UTILITIES CORPORATION, NORTHAMPTON COUNTY DEPARTMENT OF HUMAN SERVICES, NORTHAMPTON COUNTY AREA AGENCY ON AGING, MS. BARBARA KLEINTOP and BETHLEHEM POLICE DEPARTMENT,

Defendants.

## **ORDER**

AND NOW, this <u>21st</u> day of November, 2013, upon consideration of all pending Motions to Dismiss and Memoranda of Law in Support, upon consideration of the pending Motion for Judgment on the Pleadings and Memorandum of Law in support, as well as Plaintiffs' responses to said motions, it is hereby **ORDERED** as follows:

- The Motion to Dismiss of Defendants, PPL Electric Utilities Corporation and Michelle LaWall, for Failure to State a Claim Upon Which Relief Can be Granted (Docket No. 14) is GRANTED in part and DENIED in part;
- 2. Count I of Plaintiffs' Amended Complaint as to Defendants, PPL Electric

  Utilities and Michelle LaWall is **DISMISSED** with prejudice. Count II of

  Plaintiffs' Amended Complaint as to Defendants, PPL Electric Utilities and

  Michelle LaWall is **DISMISSED** without prejudice to Plaintiffs' right to

  refile a second amended complaint setting forth plausible, factually specific

  allegations of negligence as to PPL and LaWall;

- 3. The Motion to Dismiss of Defendants, Northampton County Department of Human Services, Northampton County Area Agency on Aging and Barbara Kleintop (Docket No. 28), is **GRANTED** in part and **DENIED** in part;
- 4. The Motion to Dismiss of Defendants, Northampton County Department of Human Services, Northampton County Area Agency on Aging and Barbara Kleintop, is **GRANTED** as to Count III of Plaintiffs' Amended Complaint and is **GRANTED** to the extent it seeks to remove any claims under 18 U.S.C. § 242 from Counts IV, V, VI, X and XI of the Amended Complaint. The Motion is **DENIED** as to Counts X and XI;
- 5. Counts IV, V and VI of Plaintiffs' Amended Complaint are **DISMISSED** without prejudice to Plaintiffs' right to refile plausible, factually specific allegations of § 1983 violations against Northampton County Area Agency on Aging, Northampton County Department of Human Services and Kleintop. Count III of Plaintiffs' Amended Complaint, as well as all claims made pursuant to 18 U.S.C. § 242 are **DISMISSED** with prejudice.
- 6. The Motion for Judgment on the Pleadings of Defendants, City of Bethlehem,
  PA, Police Department, et al (Docket No. 29), is **GRANTED** in part and **DENIED** in part;
- 7. The Motion for Judgment on the Pleadings of Defendants, City of Bethlehem, PA, Police Department, et al is **GRANTED** to the extent it seeks to dismiss City of Bethlehem, PA Police Department from this action and **GRANTED** to the extent is seeks dismissal of Count IX of Plaintiff's Amended Complaint. The remainder of the Motion is **DENIED**.

8. City of Bethlehem, PA Police Department is **DISMISSED** from this action with prejudice and Count IX is **DISMISSED** from Plaintiff's Amended Complaint with prejudice; and

9. Plaintiffs have twenty (20) days to file an Amended Complaint which sets forth more specificity in Counts II, IV, V, and VI. Plaintiffs are cautioned that if they fail to set forth the required specificity in these counts, the Court will dismiss these counts from Plaintiff's amended pleading.

**BY THE COURT:** 

/s/ Jeffrey L. Schmehl
Jeffrey L. Schmehl, J.