

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

DONALD J. TRUMP FOR PRESIDENT, INC., <i>et al.</i> ,	:	Civil Action
	:	
	:	
Plaintiffs,	:	
	:	No.: 2:20-cv-966
v.	:	
	:	
KATHY BOOCKVAR, <i>et al.</i> ,	:	
	:	
Defendants.	:	Judge J. Nicholas Ranjan

**CERTAIN DEFENDANT COUNTIES’
MOTION TO DISMISS AND JOINDER**

Defendants Armstrong County Board of Elections, Bedford County Board of Elections, Blair County Board of Elections, Centre County Board of Elections, Columbia County Board of Elections, Dauphin County Board of Elections, Fayette County Board of Elections, Indiana County Board of Elections, Lackawanna County Board of Elections, Lawrence County Board of Elections, Mercer County Board of Elections, Montour County Board of Elections, Northumberland County Board of Elections, Venango County Board of Elections, and York County Board of Elections (collectively the “Counties”) move to dismiss the claims asserted against them by Plaintiffs pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) and join in those arguments of Defendants Bucks County Board of Elections, Chester County Board of Elections, Montgomery County Board of Elections, and Philadelphia County Board of Elections as set forth below:

1. Plaintiffs’ Complaint asserts seven state and federal constitutional claims against all Defendants. (Complaint, ECF No. 4, ¶¶ 145–204). Plaintiffs seek both declaratory and injunctive relief.

2. Plaintiffs’ claims must be dismissed in their entirety under Federal Rule of Civil Procedure 12(b)(1) because Plaintiffs fail to sufficiently plead facts to establish standing.

3. In addition, the Counties hereby join, incorporate, and adopt in full the abstention arguments contained in the Memorandum of Law in Support of Motion to Dismiss the Complaint or, In the Alternative, to Abstain Pending State-Court Resolution of State-Law Questions filed by Defendants Bucks County Board of Elections, Chester County Board of Elections, Montgomery County Board of Elections, and Philadelphia County Board of Elections (“Bucks County Memorandum”).

4. The Counties also hereby join, incorporate, and adopt in full the sovereign immunity argument contained in the Bucks County Memorandum.

5. Lastly, the Counties hereby join, incorporate, and adopt in the argument that the poll watcher claims should be dismissed under Federal Rule 12(b)(6) contained in the Bucks County Memorandum.

6. By way of further support for this Motion, the Counties incorporate their contemporaneously-filed Brief in Support.

WHEREFORE, the Counties respectfully request that this Court dismiss the claims against Defendants it in accordance with the attached proposed order.

Respectfully submitted,

BABST, CALLAND, CLEMENTS
and ZOMNIR, P.C.

/s/ Steven B. Silverman

Steven B. Silverman

PA I.D. No. 56829

ssilverman@babstcalland.com

Elizabeth A. Dupuis

PA I.D. No. 80149

bdupuis@babstcalland.com

Sean R. Keegan

PA I.D. No 316707

skeegan@babstcalland.com

Two Gateway Center, 6th Floor

Pittsburgh, PA 15222

412.394.5400

Counsel for Defendants, Armstrong County Board of Elections, Bedford County Board of Elections, Blair County Board of Elections, Centre County Board of Elections, Columbia County Board of Elections, Dauphin County Board of Elections, Fayette County Board of Elections, Indiana County Board of Elections, Lackawanna County Board of Elections, Lawrence County Board of Elections, Mercer County Board of Elections, Montour County Board of Elections, Northumberland County Board of Elections, Venango County Board of Elections, and York County Board of Elections

/s/ Nathan W. Karn

Nathan W. Karn

PA I.D. No. 86068

PACER: nkarn@eveyblack.com

Communication: Nkarn@blairco.org

401 Allegheny Street

PO Box 415

Hollidaysburg, PA 16648

814-695-7581

Co-Counsel for Defendant, Blair County Board of Elections

/s/ Joseph A. Curcillo, III

Joseph A. Curcillo, III

PA I.D. No. 44060

JCurcillo@dauphinc.org

2 South Second Street

Harrisburg, PA 17101

717-645-4930

*Co-Counsel for Defendant, Dauphin County Board
of Elections*

/s/ Michéllé Pokrifka

Michéllé Pokrifka

PA I.D. No. 66654

mpokrifka@yorkcountypa.gov

28 East Market Street

2nd Floor

York, PA 17401

717-771-4777

*Co-Counsel for Defendant, York County Board of
Elections*

/s/ Thomas W. Leslie

Thomas W. Leslie

PA I.D. No. 43238

tleslie@co.lawrence.pa.us

116 N Mercer St

New Castle, PA 16101

(724) 654-8101

*Co-Counsel for Defendant, Lawrence County Board
of Elections*

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

DONALD J. TRUMP FOR	:	Civil Action
PRESIDENT, INC., <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	
	:	No.: 2:20-cv-966
v.	:	
	:	
KATHY BOOCKVAR, <i>et al.</i> ,	:	
	:	
Defendants.	:	Judge J. Nicholas Ranjan

CERTIFICATE OF CONFERRAL

Pursuant to Section II(c) of the Practices and Procedures of the Honorable J. Nicholas Ranjan, undersigned counsel certifies that prior to the filing of this Motion he met and conferred with Plaintiffs’ counsel in good faith to see if Plaintiffs would dismiss or amend their claims in light of the arguments raised in Defendants’ Motion to Dismiss. Plaintiffs refused.

/s/ Steven B. Silverman

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

DONALD J. TRUMP FOR PRESIDENT, INC., <i>et al.</i> ,	:	Civil Action
	:	
	:	
Plaintiffs,	:	
	:	No.: 2:20-cv-966
v.	:	
	:	
KATHY BOOCKVAR, <i>et al.</i> ,	:	
	:	
Defendants.	:	Judge J. Nicholas Ranjan

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Dismiss and Joinder was filed electronically and served via the Court’s CM/ECF system, pursuant to the Federal Rules of Civil Procedure.

/s/ Steven B. Silverman