

**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

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

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

1. Plaintiffs’ Amended Complaint asserts nine state and federal constitutional claims against all Defendants. (Amended Complaint, ECF No. 232, ¶¶ 193–267). 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. Plaintiffs’ claims associated with new allegations asserted in the Amended Complaint fail to state a claim upon which relief can be granted and should be dismissed under

Federal Rule 12(b)(6) since they are not pled with sufficient specificity to establish a plausible claim.

4. 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 Amended Complaint 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”).

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

6. Lastly, the Counties hereby join, incorporate, and adopt in the argument Defendant Secretary of the Commonwealth Kathy Boockvar’s Memorandum of Law in Support that Plaintiffs’ poll watcher claims (Counts IV and V) should be dismissed under Federal Rule 12(b)(6).

7. 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,

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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 did not indicate a willingness to do so.

/s/ Steven B. Silverman

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Dismiss Amended Complaint 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