

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

DONALD J. TRUMP FOR	)	Civil Action
PRESIDENT, INC.; et al.,	)	
	)	
Plaintiffs,	)	
	)	No.: 2-20-CV-966
v.	)	
	)	
KATHY BOOCKVAR; et al.,	)	
	)	
Defendants.	)	Judge J. Nicholas Ranjan

**DEFENDANT POTTER COUNTY BOARD OF ELECTION'S  
MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT  
AND MOTION FOR JOINDER**

Defendant, Potter County Board of Elections (“Potter County”), by and through its attorneys, Thomas R. Shaffer and Glassmire & Shaffer Law Offices, P.C., moves this Court to dismiss Plaintiffs Amended Complaint (EFC#232) against it in accordance with Federal Rule of Civil Procedure 12(b)(6), and states in support thereof:

1. Plaintiffs commenced this lawsuit against the Secretary of the Commonwealth of Pennsylvania and against all 67 county boards of elections for each county of the Commonwealth of Pennsylvania on June 29, 2020. (EFC#232 - ¶ 17)
2. Plaintiffs' Amended Complaint seeks declaratory and injunctive relief for various alleged improprieties in connection with Defendants' conduct of elections in Pennsylvania, including the most recent June 2, 2020 Primary Election and the upcoming November 3, 2020 General Election.

3. In particular, Plaintiffs complain of unmonitored by-mail voting, the use of drop-off boxes for ballots at locations other than the location of county board of elections, the failure to have poll watchers at locations which are not “polling places,” and the counting of ballots which have no secrecy envelope and have raised a number of legal arguments concerning these and other related election matters.

4. Paragraphs 2 and 126 of the Amended Complaint makes reference to approximately twenty (20) counties which are alleged to have engaged in one or more of the practices which Plaintiffs' oppose. (EFC#123 - ¶ 2, 126)

5. Various individual counties are individually named in various paragraphs of the Amended Complaint as alleged to have engaged in the activities and conduct which is the subject matter of the lawsuit.

6. None of the named Plaintiffs are residents of or citizens who vote in Potter County.

7. Plaintiffs include a State Representative from the 15<sup>th</sup> Congressional District, and individual voters from the 16<sup>th</sup> Congressional District, the 13<sup>th</sup> Congressional District and the 14<sup>th</sup> Congressional District (EFC#123, ¶ 9-15).

8. Potter County is a part of the 12<sup>th</sup> Congressional District and no plaintiff is a voter in the 12<sup>th</sup> Congressional District.

9. The Amended Complaint only mentions Potter County, by name, in two locations. The first location is in the caption on page 2 of the Amended Complaint. The second location in the Amended Complaint where Potter County is mentioned, is in paragraph 17 where Potter County is listed as one of the 67 boards of election in Pennsylvania. These are the only facts in the Amended Complaint which

mention or address Potter County. (EFC#232 - ¶ 17)

10. There is not a single factual allegation in the Amended Complaint of any misconduct which is asserted to have occurred in the County of Potter or by Potter County Board of Elections.

11. There is not a single factual allegation in the Amended Complaint that Potter County accepted any mail-in ballots at any location other than the Potter County Board of Elections (it has not).

12. There is not a single factual allegation in the Amended Complaint that Potter County utilized any type or kind of “drop box” for the collection of ballots at any location other than the Potter County Board of Elections (Potter County did not utilize any drop boxes).

13. There is not a single factual allegation in the Amended Complaint that Potter County received any mail-in ballots which lacked a security envelope (all mail-in ballots received had a security envelope).

14. There is not a single factual allegation in the Amended Complaint that any defective ballot was counted nor that any proper mail-in ballot was not counted in Potter County.

15. There is not a single factual allegation in the Amended Complaint that any voter was disenfranchised in Potter County in connection with the June 2, 2020 Primary Election.

16. There is not a single factual allegation in the Amended Complaint that any person, party or candidate engaged in any fraud or conspiracy to impede or interfere with the June 2, 2020 Primary Election in Potter County.

17. There is not a single factual allegation in the Amended Complaint of any irregularities in the Potter County's acceptance of hand-delivered absentee ballots or of implementation of any inconsistent policies regarding the same in connection with the June 2, 2020 Primary Election.

18. Stated most succinctly, Plaintiffs' Amended Complaint does not contain ANY facts regarding Potter County and should be dismissed.

19. Potter County is not an indispensable party to this action.

20. Regarding all other issues, including but not limited to, abstention; standing; poll watcher claims (Counts IV and V); failure to verify the identification and qualification of each applicant; failure to reject ballots that are delivered in person by third parties for non-disabled voters; failure to reject ballots that do not include a declaration signed by the elector; the claim that some counties failed to allow voters to spoil their mail-in ballots at polling places; and that some counties improperly allowed voters who had returned mail-in ballots to vote at polling places, Potter County joins in the Motions (EFC#263 and EFC # 274) and Briefs (EFC#264 and EFC#275) of Secretary Bookvar and Armstrong County et al. (including the joinder of full the argument contained in the Bucks County Memorandum that Plaintiffs' claims are barred by the doctrine of sovereign immunity.)

WHEREFORE, it is respectfully requested that the Complaint against the Potter County Board of Elections be dismissed under Rule 12 (b) (6) of the Federal Rules of Civil Procedure and for the other reasons asserted.

Respectfully submitted,

GLASSMIRE & SHAFFER LAW OFFICES, P.C.

By: /s/Thomas R. Shaffer  
Thomas R. Shaffer,  
Pa. I.D. No. 37503  
Solicitor for Potter  
County Board of Elections

5 East Third Street  
Coudersport, PA 16915  
(814) 274-7292  
[tomshaffer@verizon.net](mailto:tomshaffer@verizon.net)

**CERTIFICATE OF CONFERRAL**

Pursuant to Section II(c) of the Practices and Procedures of the Honorable J. Nicholas Ramjan.

The undersigned counsel certifies that he meet and conferred with Plaintiff's counsel in good faith to see if the matters raised by Potter County's Motion could be addressed by Plaintiff filing a stipulation or otherwise. The parties were not able to resolve the matters raised in the Motion.

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Solicitor for Potter  
County Board of Elections

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Coudersport, PA 16915  
(814) 274-7292  
tomshaffer@verizon.net

Dated: 07/31/2020

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system, pursuant to the Federal Rules of Civil Procedure.

GLASSMIRE & SHAFFER LAW OFFICES, P.C.

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