

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

DONALD J. TRUMP FOR
PRESIDENT, INC., *et al.*,

Plaintiffs,

v.

KATHY BOOCKVAR, in her capacity
as Secretary of the Commonwealth of
Pennsylvania, *et al.*,

Defendants.

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) Civil Action No. 4:20-cv-02078-
) MWB

)
) Judge Matthew W. Brann

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) Electronically Filed
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**SECRETARY OF THE COMMONWEALTH
KATHY BOOCKVAR'S MOTION TO DISMISS
PLAINTIFFS' AMENDED COMPLAINT**

Defendant Secretary of the Commonwealth Kathy Boockvar hereby moves for abstention and dismissal of all claims in the Amended Complaint in this action filed earlier today. The Court still lacks subject matter jurisdiction, the Amended Complaint still fails to state a plausible claim for relief on any legal theory, and the extant state law issues still should be resolved by Pennsylvania state courts. In accordance with Local Rule 7.5, the grounds supporting this motion will be set forth in Secretary Boockvar's supporting memorandum of law which she will file on or before 12:00 pm tomorrow, Monday, November 16, 2020.

The Amended Complaint adds no new claims for relief and instead materially narrows the pending allegations to a single claim under the same theory alleged in the original complaint.¹ For this reason, although the Secretary does not believe that oral argument is necessary to dispense with Plaintiffs' allegations and claims, counsel for the Secretary will appear and be prepared for argument as scheduled for Tuesday, November 17, 2020, if the Court still intends to hear argument.

Dated: November 15, 2020

Respectfully submitted,

KIRKLAND & ELLIS LLP

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¹ Plaintiffs concede that they lack standing under *Bognet v. Sec'y of the Commonwealth of Pa.*, No. 20-3214, 2020 WL 6686120 (3d Cir. Nov. 13, 2020), to pursue their claim under the Electors Clause brought in Count II of the Amended Complaint and that such claim is included merely "to preserve it for appellate review." See Pls.' Br. in Opp'n to Mot. To Dismiss (ECF No. 125) at 2 n.1.

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CERTIFICATE OF NONCONCURRENCE

I hereby certify that I sought the concurrence of counsel for Plaintiffs, Linda Kerns, Esquire, in this Motion. Ms. Kerns does not concur in this Motion.

Date: November 15, 2020

/s/ Daniel T. Brier

Daniel T. Brier

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties who have appeared in this action via the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Daniel T. Brier

Daniel T. Brier