

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

Donald J. Trump for President, Inc.,  
Lawrence Roberts, and David John Henry,

Plaintiffs,

v.

Kathy Boockvar, in her capacity as Secretary  
of the Commonwealth of Pennsylvania,  
Allegheny County Board of Elections,  
Centre County Board of Elections, Chester  
County Board of Elections, Delaware  
County Board of Elections, Montgomery  
County Board of Elections, Northampton  
County Board of Elections, and Philadelphia  
County Board of Elections,

Defendants,

v.

DNC Services Corporation/Democratic  
National Committee,

Intervenor-Defendant.

No. 4:20-cv-02078-MWB  
(Judge Matthew W. Brann)

**INTERVENOR-DEFENDANT DNC'S CONDITIONAL MOTION TO  
DISMISS PLAINTIFFS' FIRST AMENDED COMPLAINT**

Intervenor-Defendant DNC Services Corporation/Democratic National Committee, by and through undersigned counsel, hereby moves for dismissal of the Amended Complaint in this action, Dkt. 125, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure.

The Amended Complaint adds no new claims for relief and significantly narrows Plaintiffs' operative allegations to a single count under the Fourteenth

Amendment's Equal Protection Clause.<sup>1</sup> Accordingly, and as explained in Intervenor-Defendant DNC's Reply in Support of Motion to Dismiss or in the Alternative DNC's Memorandum of Law in Support of Conditional Motion to Dismiss Plaintiffs' Amended Complaint, Intervenor-Defendant believes that its prior motion to dismiss the original complaint should be granted to dismiss the Amended Complaint. *See* Dkt. 105. Should the Court conclude that the previously-filed motion cannot lie against the Amended Complaint, Intervenor-Defendant has filed this conditional motion to dismiss the Amended Complaint. In accordance with Local Rule 7.5, the grounds supporting this motion are set forth in the Reply in Support of Motion to Dismiss or in the Alternative DNC's Memorandum of Law in Support of Conditional Motion to Dismiss Plaintiffs' Amended Complaint.

---

<sup>1</sup> Plaintiffs also maintain a count under the Electors and Elections Clauses, U.S. Const. art. I, § 4; *id.* art. II, § 1, but Plaintiffs have acknowledged that they lack standing to assert this claim under *Bognet v. Sec'y of the Commonwealth*, No. 20-3214, 2020 WL 6686120 (3d Cir. Nov. 13, 2020) and stated that the claim is included solely "to preserve it for appellate review." *See* Pls.' Opp. at 2 n.1.

Dated: November 16, 2020

Marc E. Elias\*  
Uzoma Nkwonta\*  
Lalitha D. Madduri\*  
John M. Geise\*  
PERKINS COIE LLP  
700 Thirteenth St., N.W., Suite 800  
Washington, D.C. 20005-3960  
Telephone: (202) 654-6200  
Facsimile: (202) 654-9959  
MElias@perkinscoie.com  
UNkwonta@perkinscoie.com  
LMadduri@perkinscoie.com  
JGeise@perkinscoie.com

Respectfully submitted,

/s/ Clifford B. Levine

Clifford B. Levine (PA ID No. 33507)  
Robert M. Linn (PA ID 44677)  
Alex M. Lacey (PA ID No. 313538)  
Kyle J. Semroc (PA ID No. 326107)  
DENTONS COHEN & GRIGSBY P.C.  
625 Liberty Avenue  
Pittsburgh, PA 15222-3152  
Telephone: (412) 297-4998  
Clifford.levine@dentons.com  
Robert.linn@dentons.com  
Alex.lacey@dentons.com  
Kyle.semroc@dentons.com

Seth P. Waxman\*  
Ari Holtzblatt\*  
WILMER CUTLER PICKERING HALE  
AND DORR LLP  
1875 Pennsylvania Ave. N.W.  
Washington, D.C. 20006  
Telephone: (202) 663-6000  
Seth.Waxman@wilmerhale.com  
Ari.Holtzblatt@wilmerhale.com

*Counsel for Intervenor-Defendant DNC*

*\*Special Admission*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document, memorandum in support, and proposed order were electronically filed on November 16, 2020, via the Court's CM/ECF System, which will send notification of such filing to counsel of record for Plaintiffs.

/s/ Clifford B. Levine

Counsel for Intervenor-Defendant DNC