

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

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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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NO. 20-CV-02078-MWB

**MOTION TO DISMISS AMENDED COMPLAINT OF ALLEGHENY  
COUNTY BOARD OF ELECTIONS, CHESTER COUNTY BOARD OF  
ELECTIONS, MONTGOMERY COUNTY BOARD OF ELECTIONS, AND  
PHILADELPHIA COUNTY BOARD OF ELECTIONS OR, IN THE  
ALTERNATIVE, TO DISMISS PENDING STATE-COURT RESOLUTION  
OF STATE-LAW QUESTIONS**

In light of the Court's ruling that previously filed motions to dismiss are moot due to the filing of the Plaintiffs' Amended Complaint, the Boards of Elections of Allegheny, Chester, Philadelphia, and Montgomery Counties ("County Boards") confirm that their previously filed Motion to Dismiss (ECF No. 94) and Reply Brief in support (ECF No. 139) should be treated as a motion to dismiss Plaintiffs' Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). For the reasons set out in those briefs, the Amended Complaint should be dismissed with prejudice.

The County Boards' Reply Brief in Support of their Motion to Dismiss requested that the Court "apply the pending Motion to Dismiss to the deficient claims in the Amended Complaint." (ECF No. 139 at 5.) "This is a sound approach that promotes judicial economy by obviating the need for multiple rounds of briefing addressing complaints that are legally insufficient." *Pettaway v. Nat'l Recovery Sols., LLC*, 955 F.3d 299, 303-04 (2d Cir. 2020). Accordingly, the County Boards respectfully request dismissal of Plaintiffs' Amended Complaint for the reasons set forth in their Brief and Reply Brief in Support of the Motion to Dismiss (ECF No. 94, 139): lack of standing, abstention, and failure to state a cognizable claim for relief. The County Boards do not intend to file a new memorandum of law, but hereby incorporate the arguments in their previous memoranda.

Because the issues and claims underlying Plaintiffs’ emergency lawsuit have been fully briefed—including the due process claim that Plaintiffs “mistakenly” deleted from their Amended Complaint—the County Boards request prompt dismissal of this lawsuit with prejudice. Pursuant to Local Rule 7.1, a proposed order is also attached.

Dated: November 18, 2020

Respectfully submitted,

HANGLEY ARONCHICK SEGAL  
PUDLIN & SCHILLER

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\*Motions for Special Admission  
Forthcoming