

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA DEMOCRATIC PARTY, et al.,	:	
	:	
	:	No. 407 MD 2020
Petitioners,	:	
	:	
v.	:	
	:	
KATHY BOOCKVAR, et al.,	:	
	:	
Respondents.	:	

ANSWER IN LIMITED OPPOSITION TO PETITIONERS’ APPLICATION FOR AN EXPEDITED DISCOVERY SCHEDULE AND EVIDENTIARY HEARING

Respondents Armstrong County Board of Elections, Bedford County Board of Elections, Blair County Board of Elections, Centre County Board of Elections, Columbia County Board of Elections, Dauphin County Board of Elections, Fayette County Board of Elections, Huntingdon County Board of Elections, Indiana County Board of Elections, Lackawanna County Board of Elections, Lawrence County Board of Elections, Montour County Board of Elections, Mercer County Board of Elections, Northumberland County Board of Elections, Venango County Board of Elections, and York County Board of Elections (collectively the “Counties”), by their counsel, Babst, Calland, Clements and Zomnir, P.C., file the following Answer in Limited Opposition to Petitioners’ Application for an Expedited Discovery Schedule and Evidentiary Hearing.

The Counties respond in this Answer in Limited Opposition to object to the specific relief requested in the order attached to Petitioners’ Application for an Expedited Discovery Schedule and Evidentiary Hearing, and to propose alternate relief as set forth in the Counties’ attached proposed order.

First, the Counties assert that the deadline for their response brief should be 30 days post-service (here, post-waiver as the Counties accepted service), as dictated by Pa. R. App. P. 1516(b).

Under Pa. R. App. P. 1516(b), the Counties' response deadline would be Monday, August 17, 2020, and the Counties request this Court set that date as their response deadline.

Second, the Counties do not object to Petitioners' proposed limit on the number of interrogatories, requests for production of documents, and requests for admission per Party, all set at ten each, or to limiting discovery to three depositions per Party. However, the Counties do object to being treated as a single Party with all other Respondents under the discovery order. In total, there are sixty-seven (67) county Respondents in addition to Secretary Boockvar. If granted, Petitioners' order would unreasonably restrict the Counties' ability to participate in meaningful discovery in their defense of this matter. These significant discovery limits would prejudice the Counties if they were forced to adhere to those limits collectively with other Respondents (including the other Respondent counties) represented by other counsel. As the Counties are collectively represented by their counsel Babst Calland, the Counties propose in the alternative that they collectively be considered a single Party under the order, distinct from the other Respondents.

Finally, the Counties request that any expedited discovery schedule allow for no fewer than fifteen (15) calendar days to respond to written discovery.

For the foregoing reasons, the Counties request that this Court deny in part the Petitioners' Application due to its unreasonable discovery limitations, and instead grant the Counties' proposed Order attached to this limited opposition as Exhibit A.

Respectfully submitted,

BABST, CALLAND, CLEMENTS
and ZOMNIR, P.C.

Date: July 27, 2020

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ORDER GRANTING ALTERNATE RELIEF

AND NOW, this _____ day of July, 2020, upon consideration of Respondents' Answer in Limited Opposition to Petitioners' Application for an Expedited Discovery Schedule and Evidentiary Hearing, it is hereby ORDERED that Petitioners' Application is GRANTED IN PART AND DENIED IN PART, and that the alternate relief requested by the Counties is GRANTED as follows.

IT IS FURTHER ORDERED that Respondents file their responses to the underlying Petition by Monday, August 17, 2020.

IT IS FURTHER ORDERED that the parties serve discovery by _____, and complete discovery by _____, with responses to requests for production of documents, responses to requests for admission, and answers to interrogatories due within fifteen (15) days of service. Parties shall be limited to serving ten (10) requests for production of documents, ten (10) interrogatories, ten (10) requests for admission, and to taking no more than three (3) depositions.

It is further ordered that for the purposes of the right to promulgate discovery under this paragraph:

- all Petitioners shall collectively be treated as a single party;
- Respondents Armstrong County Board of Elections, Bedford County Board of Elections, Blair County Board of Elections, Centre County Board of Elections, Columbia County Board of Elections, Dauphin County Board of Elections, Fayette County Board of Elections, Huntingdon County Board of Elections, Indiana County Board of Elections, Lackawanna County Board of Elections, Lawrence County Board of Elections, Montour County Board of Elections, Mercer County Board of Elections, Northumberland County Board of Elections, Venango County Board of Elections, and York County Board of Elections shall collectively be treated as a single party; and
- Respondents _____ shall collectively be treated as a single party.

IT IS FURTHER ORDERED that an evidentiary hearing on Petitioners' Petition for Special Relief will take place on _____, 2020.

BY THE COURT: