

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

PENNSYLVANIA DEMOCRATIC	:	
PARTY, <i>et al.</i> ,	:	
<i>Petitioners,</i>	:	CIVIL ACTION
v.	:	
KATHY BOOCKVAR, in her official	:	No. 407 MD 2020
capacity as Secretary of the	:	
Commonwealth,	:	
<i>Respondent.</i>	:	

**RESPONSE OF THE BUCKS, CHESTER,
MONTGOMERY, AND PHILADELPHIA COUNTY
BOARDS OF ELECTIONS TO PLAINTIFFS’
APPLICATION FOR AN EXPEDITED DISCOVERY
SCHEDULE AND EVIDENTIARY HEARING**

The Boards of Elections of Bucks, Chester, Montgomery, and Philadelphia Counties (“Responding Boards”) believe that prompt resolution of this case will minimize disruption to Pennsylvania’s November 2020 general election. Therefore, Responding Boards do not oppose a reasonable acceleration of the schedule for responses to the Petition, briefing, and a hearing on Petitioners’ claims for relief.

Responding Boards oppose, however, Petitioners’ request for permission to conduct expedited discovery, at least as that request is currently presented. Petitioners ask the Court for an order permitting them to serve ten document requests, ten interrogatories, and ten requests for admissions, and to take three depositions. Petitioners have not, however, told the Court from which

Respondents they intend to seek discovery, have not disclosed what topics they intend to explore, and have not explained to the Court why any discovery is necessary. For several reasons, Responding Boards believe that the Court should not give Petitioners free rein to serve expedited discovery on any and all topics. To the extent the Court permits discovery at all, that discovery should be tightly constrained.

First, because this case involves questions of statutory interpretation, extensive discovery should be unnecessary. Most of Petitioners' allegations involve questions of interpretation of the Pennsylvania Election Code. Details of the administration of past elections—if that is what Petitioners intend to seek—are not relevant to these interpretations.

Second, an ongoing legislative inquiry will likely put much of the information Petitioners seek into their hands without any need for discovery. The General Assembly recently passed Act 35 of 2020, 71 P.S. § 279.6, which requires the Pennsylvania Department of State to collect information from the Counties and publish a report by August 1, 2020. This report is to provide detailed information on 25 different primary-related topics, including numbers of absentee and mail-in ballot applications and approvals, misdelivered or wrongly voted ballots, canvassing procedures, and ballot challenges. The fact that this detailed

information will be available to Petitioners in just a few days further lessens any need for expedited discovery.

Finally, requiring the Responding Boards to produce any amount of information on an expedited basis would put an unreasonable burden on them. The Responding Boards are in the midst of an extraordinarily demanding election year. The COVID-19 crisis has greatly complicated all aspects of election planning; the COVID-related postponement of the primary election has given the Responding Boards less time to prepare for November; and it appears likely that the presidential and other races will inspire high turnout. Moreover, social distancing requirements mean that several Responding Boards are operating with limited personnel, making physical and electronic files more difficult to access and copy. Accordingly, responding to extensive expedited discovery would cause a hardship to the Responding Boards and could divert them from their critical election-related responsibilities.

For these reasons, the Responding Boards respectfully request that if the Court permits any discovery at all, it should require that Petitioners' discovery be narrowly tailored to seek only information that is directly relevant to Petitioners' claims and not duplicative of information that is publicly available.

Respectfully submitted,

**HANGLEY ARONCHICK SEGAL
PUDLIN & SCHILLER**

Dated: July 27, 2020

By: /s/ Mark A. Aronchick

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CERTIFICATION REGARDING PUBLIC ACCESS POLICY

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Dated: July 27, 2020

/s/ Mark A. Aronchick

Mark A. Aronchick