

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: MATTER OF THE 2016 PRESIDENTIAL ELECTION :
: No. 659 MD 2016

PETITION OF ONE HUNDRED (100) OR
MORE UNNAMED REGISTERED VOTERS OF
THE COMMONWEALTH OF PENNSYLVANIA

**ANSWER IN OPPOSITION TO PETITIONERS’
REQUEST FOR CONTINUANCE**

Respondents Republican Party of Pennsylvania, All Pennsylvania Electors of President-Elect Donald J. Trump and Vice-President-Elect Michael Pence, President-Elect Trump, Vice-President-Elect Pence, and Donald J. Trump for President, Inc. hereby respond to and oppose Petitioners’ Request for Continuance as follows:

1. No response to this paragraph is required. To the extent a response is required, Respondents oppose the Petitioners’ request for a continuance, as it is nothing more than a blatant effort to delay while the Petitioners attempt to search for evidence to support their action, which evidence Petitioners were required to possess before filing. There is a mandatory deadline imposed by the Federal Safe Harbor set forth in 3 U.S.C. §5 in which Pennsylvania participates, which requires certification of Presidential Electors by the

Governor on or before December 13, 2016. *See also: Bush v. Gore*, 531 U.S. 98, 110 (2000). As such, this case must be resolved expeditiously.

2. Denied. Petitioners misstate Pennsylvania election law and invoke—without any citation—a non-existent “customary” practice to support their efforts to unnecessarily delay disposition of this matter. Furthermore, Petitioners claim that this alleged customary practice applies only in non-Presidential races, which confirms that, even if credited, such customary practice could have no possible relevance here, where a *Presidential* race is at issue and the strict time limitations of 3 U.S.C. §5 require this Court’s scheduled hearing date to remain. The Court has recognized the time frame in which this case must be disposed to comply with federal statutes.
3. Denied, and averred that Petitioners continue to misrepresent their recanvassing actions in various counties as somehow relevant or related to the instant election contest. Petitioners have commenced a limited number of recount proceedings at the county level, all of which have absolutely no bearing on any action this Court may or can take with respect to Petitioners’ *election contest* objective, which is to nullify every Pennsylvanian’s vote for President. Indeed, Petitioners never explain what possible relevance the results of Stein’s recount efforts could have on this proceeding. Apparently, Petitioners expect this Court to take a leap of faith with Stein and her allies,

and *assume* that there is a connection, notwithstanding Petitioners' inability to identify one. In any event, contrary to Petitioners' assertions, it is believed and therefore averred that less than nine counties still have recount proceedings pending, which confirms that whatever happens in those proceedings, it cannot possibly justify upsetting the results of the election statewide.

4. It is admitted that the Petitioners exercised their right to file their election contest on the last available day under the law. In other words, Petitioners had the maximum amount of time allowable by law to develop evidence that would support negating the vote for President in Pennsylvania. Despite this time, they found no such evidence. In choosing to take the maximum amount of time available, and still finding nothing, Petitioners should not be rewarded with more time in the hopes of finding their desired but ever-elusive evidence.
5. Denied, and averred that no one, at any time – including Petitioners' own expert – has ever suggested (let alone outright claimed) that a single Pennsylvania voting machine was hacked, manipulated, or even targeted by a “foreign power” or any other malefactor. Petitioners continue to support their baseless legal filings with unfounded accusations and innuendo instead of evidence.

6. Denied. Petitioners and Jill Stein have requested relief – a forensic examination of voting machines – for which Petitioners have not established any basis in fact or law which would permit the Court to grant such relief.
7. Denied. Petitioners have not established any basis through law or facts which would allow them to conduct forensic examinations of the voting machines. As such, it is averred that Petitioners’ sole interest and true aim is to prevent the certification of the Pennsylvania Presidential Electors by December 13, 2016 in order to meddle with the Electors’ ability to cast their votes for President on December 19, 2016, the date set by Congress for such voting. Petitioners seek nothing short than the total disenfranchisement of every Pennsylvanian who cast a Presidential ballot. This Court should not countenance this strategy by permitting further delay.
8. Denied. Petitioners have absolutely no evidence to support their allegations, which are wholly based upon conjecture and speculation with no foundation in fact. Furthermore, this allegation alone should be the basis for dismissal of the Petitioners’ entire election contest, because they admit they possess no evidence that would support their claims. Notably, Petitioners delayed the filing of their election contest until the last possible day to bring such an action under the law. Petitioners already had twenty days before filing in order to amass evidence to support their allegations, but were unable to do

so because it simply does not exist. Awarding Petitioners even more time than that allowed by law will yield no new evidence, but will in fact place Pennsylvania at imminent and real risk of failing to comply with both federal and state laws regarding the Electoral College deadlines.

9. Denied, and averred that this Court's original scheduling Order properly balanced Petitioners' ability to prepare for an election contest against the critical need for the matter to be resolved so Pennsylvania's Presidential Electors can cast their votes, thereby preserving the integrity of the Commonwealth's electoral process. Delaying the hearing scheduled for December 5, 2016 by even one day puts that integrity in very real peril. Since Petitioners have not offered any factual or legal claims to support their election contest, Petitioners are certainly not entitled to an extension of time in which to continue their fishing expedition for evidence that does not exist, and which would conflict with federal and state requirements relating to the certification of Electors and convening of the Electoral College.

WHEREFORE, Respondents respectfully request that Petitioners' Request for Continuance be DENIED, and that the December 5, 2016 hearing in this matter proceed as scheduled.

Respectfully Submitted:

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