

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

DEB WHITEWOOD and SUSAN  
WHITEWOOD, FREDIA HURDLE and  
LYNN HURDLE, EDWIN HILL and  
DAVID PALMER, HEATHER POEHLER  
and KATH POEHLER, FERNANDO  
CHANG-MUY and LEN RIESER, DAWN  
PLUMMER and DIANA POLSON,  
ANGELA GILLEM and GAIL LLOYD,  
HELENA MILLER and DARA  
RASPBERRY, RON  
GEBHARDTSBAUER  
and GREG WRIGHT, MARLA  
CATTERMOLE and JULIA LOBUR,  
MAUREEN HENNESSEY,  
and A.W. and K.W., minor children, by  
and through their parents and next friends,  
DEB WHITEWOOD and SUSAN  
WHITEWOOD,

Plaintiffs,

v.

THOMAS W. CORBETT, in his official  
Capacity as Governor of Pennsylvania;  
MICHAEL WOLF, in his official capacity  
as Secretary of the Pennsylvania  
Department of Health; KATHLEEN KANE,  
in her official capacity as Attorney General  
of Pennsylvania; MARY JO POKNIS, in  
her official capacity as Register of Wills of  
Washington County; and DONALD  
PETRILLE, JR., in his official capacity as  
Register of Wills and Clerk of Orphans'  
Court of Bucks County,

Defendants.

Civil Action No. 1:13-cv-01861 JEJ

Type of Pleading:

**MOTION TO DISMISS  
PURSUANT TO FRCP 12**

Filed on behalf of Defendant:

Mary Jo Poknis, in her official  
capacity as Register of Wills of  
Washington County

Counsel of Record for this  
Party:

Robert J. Grimm, Esquire  
PA I.D. # 55381

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KANE, in her official capacity as Attorney General  
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capacity as Register of Wills of Washington County;  
and DONALD PETRILLE, JR., in his official capacity  
as Register of Wills and Clerk of Orphans' Court of  
Bucks County,

Defendants.

**MOTION TO DISMISS PURSUANT TO FRCP 12**

AND NOW, comes the Defendant, Mary Jo Poknis, in her official capacity as

Register of Wills of Washington County (hereinafter, “this Defendant” or “Ms. Poknis”) by and through her attorney, Robert J. Grimm, Esquire, and Swartz Campbell, LLC to move this Court to dismiss certain Plaintiffs and claims pursuant to the Federal Rules of Civil Procedure. This Defendant respectfully requests the following:

1. This Court should dismiss Plaintiffs’ claims against Ms. Poknis pursuant to Fed.R.C.P. 12(b)(1) because they lack standing to sue her.
2. This Court should dismiss Plaintiffs’ claims against Ms. Poknis pursuant to Fed.R.C.P. 12(b)(3) or in the alternative, transfer venue to the Western District of Pennsylvania because venue is most proper in the Western District of Pennsylvania.
3. This Court should dismiss Plaintiffs’ claims against Ms. Poknis on the basis of lack of subject matter jurisdiction pursuant to Fed.R.C.P. 12 (b)(7) because of the Plaintiffs’ failure to name indispensable parties in their Complaint.
4. This Court should dismiss Plaintiffs’ claims against Ms. Poknis pursuant to Fed.R.C.P. 12(b)(6) on the grounds that she is entitled to absolute and/or qualified immunity.
5. Ms. Poknis is also shielded with immunity from the injunctive relief requested by Plaintiffs, so this Court should rule accordingly and dismiss those claims.

6. Finally, the Court should strike the Plaintiffs' claims for attorneys' fees as Ms. Poknis is immune from the claims for attorneys' fees and should not be bear this ominous burden for following the law.
7. In support of this Motion, this Defendant relies on its brief, which will be filed in accordance with the Stipulation approved by this Court on Septmeber 13, 2013.
8. Pursuant to LR 7.1, this Defendant's counsel sought concurrence in this Motion from all parties, and it was denied by Plaintiffs. Defendant Petrille concurs in this Motion. Defendant Kane takes no position on this Motion. Defendants Corbett and Wolf concur in the substantive Motion of Ms. Poknis, but do not concur in the venue request.

Respectfully submitted:

BY: /s/ Robert J. Grimm  
Robert J. Grimm, Esquire

Attorney for Defendant, Mary Jo Poknis, in  
her official capacity as Register of Wills of  
Washington County, Pennsylvania

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and DONALD PETRILLE, JR., in his official capacity  
as Register of Wills and Clerk of Orphans' Court of  
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Defendants.

**CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a true and correct copy of the within **Motion to Dismiss Pursuant to FRCP 12** was served electronically on the following counsel on the 30<sup>th</sup> day of September, 2013:

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**(Attorney for Defendant, Petrille)**

Respectfully submitted:

/s/ Robert J. Grimm

Robert J. Grimm, Esquire

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her official capacity as Register of Wills of  
Washington County, Pennsylvania