

Nathan D. Fox, PA Bar No. 307744
BEGLEY, CARLIN & MANDIO, LLP
680 Middletown Boulevard
Langhorne, PA 19047
(215) 750-0110 (P)
nfox@begleycarlin.com

Attorney for Defendant Petrille

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA (HARRISBURG)

DEB WHITEWOOD, et al.,

Plaintiffs,

vs.

THOMAS W. CORBETT, in his
official capacity as Governor of
Pennsylvania, et al.,

Defendants.

Case No. 13-cv-01861-JEJ

(Honorable John E. Jones, III)

**DEFENDANT PETRILLE'S
MOTION TO DISMISS
PLAINTIFFS' COMPLAINT FOR
FAILURE TO STATE A CLAIM
UNDER FED. R. CIV. P. 12(b)(6),
AND FAILURE TO JOIN
PARTIES UNDER FED. R. CIV. P.
12(b)(7) AND 19.**

Defendant Petrille, by and through counsel, respectfully moves that the Court Dismiss Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure (FRCP) 12(b)(6), for failure to state a claim upon which relief may be granted, and pursuant to FRCP 12(b)(7), for failure to join parties under Rule 19.

A Brief in Support of this Motion to Dismiss will be timely filed in accord with L.R. 7.5 and the Court's order of September 13, 2013.

Respectfully submitted,

s/ Nathan D. Fox

Nathan D. Fox

BEGLEY, CARLIN & MANDIO, LLP

680 Middletown Boulevard

Langhorne, PA 19047

(215) 750-0110 (P)

nfox@begleycarlin.com

Attorney for Defendant Petrille

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1, I hereby certify that counsel for the movant has sought concurrence in the motion from each party.

Counsel for Defendant Poknis have concurred in the motion.

Counsel for Defendants Corbett and Wolf have concurred with this motion under FRCP 12(b)(6), and concurrence was sought today for a motion to dismiss under 12(b)(7) but has not yet been confirmed.

Counsel for Plaintiffs have declined to concur in the motion.

Counsel for Defendant Hon. Kathleen Kane takes no position regarding the motion.

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 2013, I electronically filed the foregoing Defendant Petrille's Motion to Dismiss Plaintiffs' Complaint for Failure to State a Claim Under Fed. R. Civ. P. 12(b)(6) and Failure to Join Parties Under Fed. R. Civ. P. 12(b)(7), with the Clerk of Court using the ECF system, which will effectuate service of this filing on the following ECF-registered counsel by operation of the Court's electronic filing system:

James D. Esseks
American Civil Liberties Union
Foundation
125 Broad Street
18th Floor
New York, NY 10004
212-549-2627
jesseks@aclu.org

John S. Stapleton
Hangley, Aronchick, Segal &
Pudlin
One Logan Square
27th Floor
Philadelphia, PA 19103-6933
215-496-7048
215-568-0300 (F)
jstapleton@hangley.com

Leslie Cooper
American Civil Liberties Union
Foundation
125 Broad Street
18th Floor
New York, NY 10004
212-549-2627
lcooper@aclu.org

Mark A. Aronchick
Hangley, Aronchick, Segal &
Pudlin
1 Logan Square, 27th Floor
Philadelphia, PA 19103
(215) 496-7002
maronchick@hangley.com

Mary Catherine Roper

Molly M. Tack-Hooper

American Civil Liberties Union of
Pennsylvania
P.O. Box 40008
Philadelphia, PA 19106
215-592-1513 ext 116
mroper@aclupa.org

American Civil Liberties Union of
Pennsylvania
P.O. Box 40008
Philadelphia, PA 19106
215-592-1513
mtack-hooper@aclupa.org

Rebecca S. Melley
Hangley, Aronchick, Segal, Pudlin
& Schiller
One Logan Square
27th Floor
Philadelphia, PA 19103
215-496-7374
rsantoro@hangley.com

Seth F. Kreimer
3400 Chestnut Street
Philadelphia, PA 19144
215-898-7447
skreimer@law.upenn.edu

Witold J. Walczak
American Civil Liberties Union of
Pennsylvania
313 Atwood Street
Pittsburgh, PA 15213
(412) 681-7864
vwalczak@aclupa.org

Attorneys for Plaintiffs

M. Abbegael Giunta
Office of Attorney General
15th Floor Strawberry Square
Harrisburg, PA 17120
717-787-1179
mgiunta@attorneygeneral.gov

William H. Lamb
Lamb McErlane PC
24 E. Market Street
P.O. Box 565
West Chester, PA 19381-0565
610-430-8000
wlamb@chescolaw.com

*Attorney for Defendant Kathleen
Kane, Attorney General of
Pennsylvania*

*Attorney for Defendant Thomas W.
Corbett, Governor of Pennsylvania,
and Michael Wolf, Secretary of the
Pennsylvania Department of*

Health

Robert J Grimm
Swartz Campbell LLC
4750 U.S. Steel Tower
600 Grant Street
Pittsburgh, PA 15219
412-560-3267
rgrimm@swartzcampbell.com

Thomas J Jezewski
Swartz Campbell, LLC
4750 U.S. Steel Tower
600 Grant Street
Pittsburgh, PA 15219
412-456-5416
tjezewski@swartzcampbell.com

Attorneys for Mary Jo Poknis, Register of Wills of Washington County

and I further certify that I have caused the foregoing document to be served by U.S. First-Class Mail on the following non-ECF participant:

Dylan J. Steinberg
One Logan Square, 27th Floor
Philadelphia, PA 19103
215-568-6200

Attorney for Plaintiffs

s/ Nathan D. Fox
Nathan D. Fox
BEGLEY, CARLIN & MANDIO, LLP
680 Middletown Boulevard
Langhorne, PA 19047
(215) 750-0110 (P)
nfox@begleycarlin.com

Attorney for Defendant Petrille