



Election 2020 legal battles take shape as Trump campaign files lawsuits in key battleground states

The Trump campaign has filed suits in Pennsylvania, Georgia and Michigan, and one is planned in Nevada

Ronn Blitzer

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As expected, the 2020 presidential campaign season has evolved into a post-election battle consisting of legal challenges in crucial battleground states as President Trump's campaign attempts to prevent the counting of ballots they allege are or could be invalid.

With several states still too close to call as of early Thursday morning, the Trump campaign has lawsuits filed in Georgia, Pennsylvania and Michigan, and is seeking a recount in Wisconsin. It's also expected to announce a lawsuit in Nevada Thursday morning.

Here is a breakdown of what is happening with the lawsuits in those states.

Pennsylvania

The Trump campaign has launched a multipronged attack in Pennsylvania, alleging various procedural violations.

Trump campaign attorney Justin Clark said the campaign was suing to stop elections officials in Pennsylvania from what they characterize as "hiding the ballot counting and processing from our Republican poll observers."

Clark said that in Philadelphia and elsewhere elections officials had forced their elections watchers to stand 25-plus feet away to observe the counting process.

This is in addition to another lawsuit the campaign filed Wednesday against Pennsylvania Secretary of State Kathy Boockvar and 67 county election boards. This lawsuit centers on a guidance letter Boockvar sent out Nov. 1 "contradicting the Election Code." "This new flagrant attack on the legislature's authority was sent to every county in the Commonwealth of Pennsylvania," the lawsuit says.

The lawsuit claims the letter "re-writes the Election Code" by "resetting the deadline for absentee and mail-in voters to provide missing proof of identification" to the sixth day after the end of canvassing, which is Nov. 12, while the Pennsylvania Election Code says the deadline is "the sixth day following the election," which the campaign notes is Nov. 9. People who do not provide proof of identification in time are to have their ballots discarded.

“If Secretary Boockvar’s guidance is allowed to continue, it will undoubtedly create a high risk of jeopardizing the integrity of the November 3, 2020 General Election by allowing for the counting and canvassing of absentee and mail-in ballots who fail to provide by November 9, 2020, the requisite proof of identification, as mandated by the General Assembly,” the lawsuit says.

Boockvar said during a Wednesday news conference that she would not comment on any active litigation.

Typically there would be no difference in the two dates, but for 2020 the Pennsylvania Supreme Court allowed absentee votes to be received for an extra three days in a decision that Republicans are looking to challenge before the U.S. Supreme Court.

That challenge was brought to the high court prior to the election by the Republican Party of Pennsylvania. The GOP had sought to have the state Supreme Court’s decision thrown out before the election, which would have reinstated the state’s Election Day deadline for receiving absentee ballots. The Supreme Court denied a request to block the state court’s ruling for the duration of the case and then denied a subsequent case to decide the case on the merits before the election. As a result, mail-in ballots received by Nov. 6 will be counted barring evidence that they were mailed after Election Day, but those votes will be segregated pending any court ruling.

The Trump campaign is now requesting to be added as a party in that case.

“As the real party in interest, Movant has a direct, concrete stake in the outcome of these petitions and, ultimately, the lawfulness of Pennsylvania’s vote tally,” the campaign said in a court filing, in which it claimed the Pennsylvania Supreme Court ruling “violates federal law.”

Georgia

The Trump campaign and the Georgia Republican Party filed a lawsuit Wednesday alleging that in Chatham County absentee ballots that arrived after the Nov. 3, 7 p.m. deadline may have been counted. A poll watcher claimed that a stack of unprocessed ballots appeared to be mixed in with properly cast and processed ballots and that when he asked for information he was denied.

“Despite attempts by the poll watcher to obtain information from the [Chatham County Board of Elections] regarding the source of the absentee ballots in mixed into other, already-processed absentee ballots being tabulated in Chatham County, no information to confirm the source of such absentee ballots was provided to the poll watcher,” the complaint states.

That poll watcher, Sean Pumphrey, said in a sworn affidavit that he saw a poll worker bring a stack of ballots out from a back room and place them on a table near bins of ballots that he believed had been properly processed. Not long after, he said, that stack of ballots was no longer on the table, and when he asked another poll worker what happened to them, “she became agitated, removed her COVID mask, stated the ballots were ‘not on the manifest’ and had to be individually processed and entered into the computer.” She also told him that those ballots had been added to the other ballots and sent off to the county board of elections annex.

The lawsuit states that it is unknown to them when that stack of ballots had arrived. The Trump campaign is looking for the court to order county officials to secure and set aside all absentee ballots that come in after the deadline and provide a list of those voters' names.

Michigan

While the Fox News Decision Desk has projected Michigan for Joe Biden, not all votes have been tallied and the Trump campaign sued Michigan Secretary of State Jocelyn Benson, claiming a lack of transparency in the vote-counting process.

The complaint says that the state's absent voter counting boards violated state law by not allowing poll challenger Eric Ostergren from being present for the counting in Oakland County. The relevant state law says that "[a]t all times, at least 1 election inspector from each major political party must be present at the absent voter counting place and the policies and procedures adopted by the secretary of state regarding the counting of absent voter ballots must be followed."

The complaint also cites a law that requires ballot boxes to be monitored by video surveillance, alleging that challengers were not permitted to view the video. The Trump campaign asked the court to have the ballots cast in "remote and unattended ballot drop boxes" to be set aside and remain uncounted until the video can be viewed. That law only applies to boxes installed on or after Oct. 1 and does not specify whether election challengers are entitled to view the video.

"President Trump's campaign has not been provided with meaningful access to numerous counting locations to observe the opening of ballots and the counting process, as guaranteed by Michigan law," Trump campaign manager Bill Stepien said in a statement. "We have filed suit today in the Michigan Court of Claims to halt counting until meaningful access has been granted. We also demand to review those ballots which were opened and counted while we did not have meaningful access. President Trump is committed to ensuring that all legal votes are counted in Michigan and everywhere else."

The Michigan Attorney General's office said in a statement that the Trump campaign's claims "are without merit and we will respond accordingly in court."

In addition to those lawsuits, former Director of National Intelligence Ric Grenell is scheduled to hold a press conference Thursday morning to announce a new lawsuit from the Trump campaign in Nevada, where they are claiming that at least 10,000 people voted there despite no longer living in the state.

Ilya Shapiro, director of the Robert A. Levy Center for Constitutional Studies at the Cato Institute, noted that all of these legal matters would have to be resolved relatively quickly, comparing the situation to the legal battle surrounding the 2000 election.

"I think it's a replay of Bush v. Gore, really," Shapiro told "Fox & Friends" on Thursday. "The states have to certify their electors by Dec. 8 and the Electoral College meets Dec. 14. So the briefing and argument will be held before then."

This is all on top of a possible recount in Wisconsin. State law only permits a candidate to request a recount if the difference between them and the leading candidate is 1% or less. As of early Thursday, Trump trailed Biden by 0.7% with 99% reporting.

The Biden campaign cried hypocrisy over Trump's desire for a recount.

"When Donald Trump won Wisconsin in 2016 by roughly the same amount of votes that Joe Biden just did, or won Michigan with fewer votes than Joe Biden is winning it now, he bragged about a 'landslide,' and called recount efforts 'sad,'" Biden campaign spokesperson Andrew Bates told Fox News. "What makes these charades especially pathetic is that while Trump is demanding recounts in places he has already lost, he's simultaneously engaged in fruitless attempts to halt the counting of votes in other states in which he's on the road to defeat."

Shapiro said once any recounts are completed, "then we'll see if there are any systemic allegations of fraud or anything else," noting that "you have to have a legal theory" to have an effective challenge.

"It's not just what they filed in Michigan to stop the counting temporarily to get access or something like that," Shapiro said. "That's not a real claim that something's invalid."