

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BCO-093

No. 23-2969

Fulton County, et al,  
Appellants

v.

Dominion Voting Systems Inc, et al

(M.D. Pa. No. 1-22-cv-01639)

Present: SHWARTZ, CHUNG and SMITH, Circuit Judges

1. Clerk Order advising that the case has been listed for possible dismissal;
2. Response filed by Appellees to clerk order;
3. Response filed by Appellants to clerk order;
4. Motion filed by Appellees to dismiss case;
5. Response filed by Appellants to Motion to Dismiss case.

Respectfully,  
Clerk/amr

ORDER

Appellees' motion to dismiss is granted and the appeal is hereby dismissed for lack of appellate jurisdiction. This Court's jurisdiction is generally confined to appeals from final decisions of the district court. See 28 U.S.C. § 1291. "A 'final decision' is 'one which ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.'" Weber v. McGrogan, 939 F.3d 232, 236 (3d Cir. 2019). "[T]he proceedings in a district court must be final as to [. . .] all causes of action and parties." Morton Int'l, Inc. v. A.E. Staley Mfg. Co., 460 F.3d 470, 476 (3d Cir. 2006). Here, the District Court dismissed portions of Appellants' complaint without prejudice and provided them leave to file an amended complaint, which they did. As the case is ongoing in District Court, the order appealed is not final under 28 U.S.C. § 1291 or otherwise appealable at this time. See Borelli v. City of Reading, 532 F.2d 950, 951–52 (3d Cir. 1976); see also Weber, 939 F.3d at 237–41. Nor does the order fall under the collateral order exception. Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 546

(1949). If the issues are properly preserved, Appellants may seek review of the interlocutory decision once final judgment is entered in the District Court. See U.S. ex rel Atkinson v. PA Shipbuilding Co., 473 F.3d 506, 516-17 (3d Cir. 2007).

By the Court,

s/ Cindy K. Chung

Circuit Judge

Dated: April 19, 2024

Amr/cc: All counsel of record



**A True Copy:**

*Patricia A Dodszuweit*

Patricia S. Dodszuweit, Clerk

Certified Order Issued in Lieu of Mandate

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OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

UNITED STATES COURT OF APPEALS

TELEPHONE

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April 19, 2024

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RE: Fulton County, et al v. Dominion Voting Systems Inc, et al

Case Number: 23-2969

District Court Case Number: 1-22-cv-01639

ENTRY OF JUDGMENT

Today, **April 19, 2024** the Court issued a case dispositive order in the above-captioned matter which serves as this Court's judgment. Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,  
Patricia S. Dodszuweit, Clerk

By: s/Alicia  
Case Manager  
267-299-4948

Cc: Mr. Peter J. Welsh

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