

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

GUY RESCHENTHALER, et al., : **CIVIL ACTION NO. 1:24-CV-1671**
:
Plaintiffs : **(Judge Conner)**
:
v. :
:
AL SCHMIDT, et al., :
:
Defendants :

ORDER

AND NOW, this 10th day of October, 2024, upon consideration of the motion (Doc. 14) to intervene pursuant to Federal Rule of Civil Procedure 24 filed by proposed-intervenors the Democratic National Committee (“DNC”) and the Pennsylvania Democratic Party (“PDP”), and further upon consideration of plaintiffs’ brief (Doc. 24) in opposition, and the court observing that Rule 24 governs intervention in civil actions by establishing two types of intervention: intervention as of right and permissive intervention, see Fed. R. Civ. P. 24(a)-(b),¹ and further observing that intervention as of right is mandatory: that is, the court “must permit” a party to intervene if (1) it claims a sufficient interest in the subject of the litigation, (2) that may be impaired or impeded by disposition of the action, and (3) it will not be adequately represented by existing parties, see Fed. R. Civ. P. 24(a); Pennsylvania v. President U.S. of Am., 888 F.3d 52, 57 (3d Cir. 2018), while

¹ When considering a Rule 24 motion to intervene, we “must accept as true the non-conclusory allegations made in support of the motion.” See Motorists Mut. Ins. Co. v. Howard’s Towing & Recovery, LLC, 557 F. Supp. 3d 629, 633 (W.D. Pa. 2021) (citations omitted).

permissive intervention, by contrast, is “highly discretionary,” United States v. Territory of Virgin Islands, 748 F.3d 514, 519 (3d Cir. 2014) (citation omitted)—*i.e.*, a court “may permit” a party to intervene if they have a claim or defense that shares a “common question of law or fact” with the existing lawsuit, see Fed. R. Civ.

P. 24(b)(1) after considering “undue delay or prejudice” to existing parties, FED. R. CIV. P. 24(b)(3), and, turning to the matter *sub judice*, the court finding that (1) the DNC and PDP’s interests are directly implicated in this matter because, like plaintiffs, they seek to clarify whether tens of thousands of registered voters who reside overseas may lawfully cast ballots for their candidates of choice, including those nominated by the state and national parties, efforts toward which proposed-intervenors “devote substantial time and resources,” (see Doc. 14 ¶¶ 10, 12); (2) disposing of this action without their involvement could be impaired or impeded given the uncertain nature of the plaintiffs’ request for injunctive relief, as reflected in the telephonic scheduling conference the court held with the parties and proposed intervenors on October 4, 2024; and (3) defendants may not adequately represent their interests or advance certain defenses given their status as public officials who “do not share the DNC’s and PDP’s interests in seeking to ensure that their candidates prevail,” (see id. ¶¶ 14, 17); see also Kleissler v. U.S. Forest Serv., 157 F.3d 964, 974 (3d Cir. 1998) (citing Conservation Law Found. of New England, Inc. v. Mosbacher, 966 F.2d 39, 44 (1st Cir. 1992) (holding that “[a]n intervenor need only show that representation may be inadequate, not that it is inadequate,” and noting risk that a defendant may be tempted to settle out of self-interest)), and the court noting that granting permissive intervention to state and national party

committees is rather commonplace in emergency election litigation in both state and federal court, (see Doc. 14 ¶ 10 (collecting federal cases)); see also Ball v. Chapman, 289 A.3d 1, 12 n.41 (Pa. 2023) (noting grant of intervenor status to, *inter alia*, the DNC and PDP, who sought to defend mail-in votes from invalidation), and the court concluding that, regardless of the DNC and PDP’s entitlement to intervention as of right, resolution of this expedited matter is bound up in common questions of law and fact, such that allowing them to intervene under Rule 24(b) will not unduly delay these proceedings or prejudice the existing parties, (see Doc. 21 (adopting expedited briefing schedule for preliminary injunction hearing, requiring parties to provide notice of all filings to proposed intervenor’s counsel, and admonishing proposed intervenors to “be prepared to comply with” the court’s schedule)), and is appropriate under the circumstances, it is hereby ORDERED that the DNC and PDP’s motion (Doc. 14) to intervene is GRANTED.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner
United States District Judge
Middle District of Pennsylvania