

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

MATT STROUD and POSTINDUSTRIAL, )

Plaintiffs, )

v. )

DANIEL E. BUTLER, et al. )

Defendant. )

2:19-cv-01289-RJC

**ORDER**

Presently pending before the court are two Motions to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) filed by Defendants. Given the constitutional issue to be decided, the likelihood of having to consider matters outside the pleadings, and out of an abundance of caution the Court is inclined to deny the motions to dismiss without prejudice and instead enter an order scheduling cross motions for summary judgment, with the parties filing stipulated facts in support of their respective positions.

AND NOW, to-wit, this 26<sup>th</sup> day of February, 2020, it is hereby ORDERED that the parties shall file with the court on or before March 9, 2020 any objection to this proposed procedure.

BY THE COURT:

/s/ Robert J. Colville  
Robert J. Colville  
United States District Judge