

ORDER

AND NOW, this _____ day of _____ 2023 upon consideration of the subject **2nd RULE 1531 MOTION FOR INJUNCTIVE RELIEF** (231 Pa. Code § 1531), it is hereby ORDERED that:

1. That an immediate litigation hold on ALL election equipment (voting machines), data storage (both fixed and portable), blue books, records, ballots, envelopes, return sheets, electronic records, and other election materials for Fayette County, to the broadest possible interpretation of administrative procedures and law, be retained and secured from potential spoliation, is GRANTED.
2. That within the next five business days, the Defendants shall produce:
 - a. A digital copy of the Cast Vote Record (“CVR”) files transmitted or transferred to the tabulator(s) used in the May 16, 2023, Fayette County primary election ("the Election") for all seventy-seven (77) precincts, plus the de facto “seventy-eighth” (78) precinct comprised of Mail in Ballot (“MIB”) scanner(s) CVR, be made available to Plaintiffs, is GRANTED.
 - b. Make all ballots used in the Election for all 77 precincts in Fayette County, plus the “78th” MIB precinct, including any spoiled ballots, available for photographs by Plaintiffs, is GRANTED.
 - c. Make all documents used in the adjudication of ballots cast by electors for all 77 precincts, available for photographs by Plaintiffs, is GRANTED.
 - d. Make all Mail in Ballot, Absentee, and Provisional envelopes and attestations from all 77 (plus “78th” MIB) precincts in Fayette County available for photographs by Plaintiffs, is GRANTED.
 - e. Deliver all electronic images of ballots and envelopes scanned by any mail sorting, scanners, or imaging equipment use for the May 16th, 2023, primary election, available to Plaintiffs, is GRANTED.
3. The private meeting held amongst the Fayette County Board of Elections on August 30th, 2023, without PROPER Public Notice in violation of amendments related to publishing of Meeting

Agendas of the Pennsylvania Sunshine Act, 65 Pa.C.S. §§ 701-716 to certify the May 16th, 2023, Primary Election should be nullified and voided, is GRANTED.

4. That an immediate stay of certification of the May 16th, 2023, primary election in Fayette County be made, and remain in place, until a full public forensic investigation is completed for election results, with full transparency and accounting to the Plaintiffs and the People, is GRANTED.

BY THE COURT

**IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION**

JON R. MARRIETTA JR.,
CANDIDATE FOR FAYETTE COUNTY
COMMISSIONER, PRO SE

and

GREGORY STENSTROM,
AUTHORIZED REPRESENTATIVE,

AS INTERVENORS FOR QUALIFIED
ELECTOR PETITIONERS, PRO SE

Plaintiffs,

v.

FAYETTE COUNTY, PA,
and
**FAYETTE COUNTY, PA, BOARD OF
ELECTIONS,**

and

MARK ROWAN (in his official capacity),

and

ROBERT J. LESNICK (in his official capacity),

and

JOHN A. KOPAS, II (in his official capacity),

and

SHERYL HEID (in her official capacity)

Defendants.

PRO SE

2nd MOTION FOR INJUNCTIVE RELIEF

Case # 1759 (2023)

CIVIL ACTION: BREACH OF FIDUCIARY
DUTY

DISCOVERY REQUESTED

ORAL ARGUMENTS REQUESTED

JURY TRIAL REQUESTED

NOTICE TO PLEAD: To Defendants:

You are hereby notified to file a written response to
Plaintiffs within thirty (30) days from date of service
hereof or a judgement may be entered against you. /s/
Jon R. Marietta, Jr. & Gregory Stenstrom

2nd AMENDED RULE 1531 MOTION FOR INJUNCTIVE RELIEF

Plaintiffs respectfully request the Honorable Court immediately grant subject 2nd MOTION FOR INJUNCTIVE RELIEF, in favor of the Plaintiffs pursuant to 231 Pa. Code § 1531.

1. The attached Proposed Order prepended to this 2nd AMENDED 1531 MOTION FOR INJUNCTIVE RELIEF includes requested relief, which does NOT require notice or hearing.
2. Plaintiffs 1st AMENDED 1531 MOTION FOR INJUNCTIVE RELIEF presented to the Honorable Court on Wednesday, September 13th, 2023, was submitted as a motion attached to underlying civil law cause of action Breach of Fiduciary Duty Case # 1759, which unknown at that time to Plaintiffs,

had been assigned by Common Pleas Honorable President Judge Stephen P. Leskinen to Honorable Judge Joseph M. George Jr.

3. Honorable Judge John F. Wagner informed the parties at the hearing of said assignment, and further informed Plaintiffs that having reviewed the (1st) motion and proposed order, and that the urgency regarding the certification of the May 16th, 2023, primary election by Defendants on August 30th, 2023 – said certification having already been effected – would be more appropriately heard by the dutifully assigned Judge (George), who again, unknown to Plaintiffs at that time, is normally scheduled to hear motions on Tuesday's, and would be available on September 19th, 2023, only four (4) business days later (from the hearing date).
4. Pro Se Plaintiffs, being reasonably unfamiliar with the Honorable Court's procedures, and seeking clarity, dutifully requested a transcript of the hearing, to determine appropriate course of actions, which the Honorable Court provided on September 14th, 2023. (See Exhibit A).
5. Honorable Judge John F. Wagner stated in the hearing that should Honorable Judge George or any of the other Honorable Judges that hear motions, be unable to hear the motion or case, he would hear them if, or when, the President Judge assigned it to him. (Again, see Exhibit A).
6. Plaintiffs Marietta and Stenstrom, now armed with an understanding of Honorable Judge Wagner's ruling respectfully, again request the subject Rule 1531 proposed order (prepended to this motion) be granted, and further, that the underlying case (No. 1759) with cause of action being Breach of Fiduciary Duty, be expeditiously assigned by Honorable President Judge Leskinen to Honorable Judge Wagner.
7. Honorable Judge's George and Cordero are candidates for re-election in Fayette County, PA, in the subject elections in controversy and Judge Cordero has already recused herself from being assigned the case, and Plaintiffs expect Judge George to do the same, and whether he does so as expeditiously, or not, Plaintiffs will respectfully request that he does so.
8. Like every relatively small, and close-knit community in the Commonwealth of Pennsylvania, and our nation, those that choose public service, including Honorable Judges, interact and know their neighbors, and especially other elected officials, and while the remaining motions Judge Vernon's and President Judge Leskinen's solemn oaths of impartiality would certainly allow them to hear the subject case and motion(s) regardless of their personal relationships and interactions with Plaintiff Marietta (who is the current elected Recorder of Deeds for Fayette County, PA, and shares

the same office spaces in the Fayette County, PA, Courthouse), Honorable Judge Wagner is in a unique position to be assigned by President Judge Leskinen to hear the subject case and motion(s).

9. Honorable Judge Wagner previously heard Petitioners who had filed cases on behalf of Plaintiff Marietta (Petitions No. 1205, 1206, 1207, 1208, 1209, 1211 of 2023, G.D. IN RE: PETITION TO OPEN BALLOT BOX(ES)), for which Plaintiffs Marietta and Stenstrom have filed Motions for Reconsideration and Rule 1532 Relief, as qualified Intervenors, in a separate litigative trajectory under Election Law (Code), that they have yet to receive an adjudicative order for, from Honorable Judge Wagner.
10. Central to the litigative controversy in both the case filed under Election Law (Code); and the subject Civil Case with cause of action being Breach of Fiduciary Duty and associated tort; is Plaintiffs Marietta's and Stenstrom's allegation(s) (in both cases) that Defendants have knowingly perpetrated fraud upon the Honorable Court by their statements to the Court and in media releases to the People of Fayette County, PA, that there was "only one (1) error" in the recount of six (6) precincts (of seventy seven (77)) in the County Commissioners election race, when in fact, there were 41 errors.
11. To put a finer point on the "errors," in only 187 Mail in Ballots provided to Plaintiff Marietta for recounting the results of the four-candidate Commissioners May 16th, 2023, primary, 17 votes were incorrectly recorded to the wrong candidate.
12. Using the computation of "residual vote rate" errors most unfavorable to Candidate and Plaintiff Marietta, this is a 9.09% error rate.
13. A full recount of all votes for all precincts is required, by law, should the "residual vote rate" error exceed 0.5% (1 out of 200).
14. Defendants had 98 days to examine and curate only those 187 Mail in Ballots before providing them – under Court order by Honorable Judge Wagner – before providing them for inspection to Plaintiff Marietta.
15. There were approximately 4,000 Mail in Ballots counted in the May 16th, 2023, primary election by the Defendants, which they were repeatedly recalcitrant in denying access to Plaintiffs for inspection and analysis, defying an Order from Honorable Judge Wagner compelling them to do so, and instead "negotiating" access to only the 187 specified ballots for six precincts.

16. Candidate cum Plaintiff Marietta “lost” by only 121 votes to two incumbent Republican candidates in the entirety of Fayette County.
17. Assuming ONLY the 9.09% error rate for only the 187 Mail in Ballots permitted by the Defendants for inspection by Plaintiff Marietta across approximately 4,000 Mail in Ballots withheld by the Defendants from inspection, the expected error rate could be 363 votes.
18. Sparing the Honorable Court the equations and calculations for the In Person Vote and the 1.00% error rate found in the inspection of 1,487 ballots provided to Candidate (Plaintiff) Marietta, the expected error rate could be 160 votes.
19. Hence, the error rate derived from the manual recount of only 6 out of 77 precincts permitted by Defendants to Plaintiffs, could be 523 votes, in an election race, that Defendants state Plaintiff Marietta lost by only 121 votes.
20. Defendants were lawfully and properly served by Plaintiffs Marietta and Stenstrom with their separate Motion for Reconsideration (under the separate Election Law trajectory) midday on Monday, August 28th, 2023, informing them of these errors and of their lawful duty to perform a full recount of all 77 precincts in accordance with Pennsylvania election law.
21. Defendants responded by effecting the submission of request for “VERY URGENT” public notice to the local “Herald Standard” newspaper “to consider the results of the recount of the Republican County Commissioner race and the Court Order of August 24, 2023” at 2:00 PM US EST. (see Exhibit B).
22. Defendants with full knowledge that they had perjurally extorted the Court Order of August 24, 2023, (denying Petitioners Election Law cases No. 1205, 1206, 1207, 1208, 1209, 1211 of 2023, G.D.), by perpetrating fraud upon the Honorable Court, and at best case having a full duty to know, and ALL five (5) of the Defendants being licensed, barred attorneys, subject to Pennsylvania Rules of Professional Conduct, which is presumably a “higher bar” for ethical conduct, knowingly intended to illegally certify the May 16th, 2023, primary under color of law, skirting the intent of the Pennsylvania “Sunshine Act” (P.S. 65 Sections 701-716)
23. Plaintiffs Marietta and Stenstrom, inadvertently and erroneously, reasonably alleged Defendants had not provided proper public notice because Defendants, whether by intention or omission, failed to post notice on the Fayette County Board of Election notices website, failed to physically post

the agenda, and contrary to previous practice, failed to notify candidates and third parties of said hearing, and because Plaintiffs were unable to find the public notice in Internet searches for said public notice, as the search engines had not yet indexed the Herald Standard's public notice in the Classified Section, and were only made aware of this error on September 13th, 2023, by a reporter (Mike Jones) for the Herald.

24. It is because of such scurrilous skiting of the Pennsylvania Sunshine Act by malfeasant public officials' that the law was amended by Gov. Tom Wolf on June 30, 2021, to require that the Defendants should:
 - a. make **detailed** public meeting agendas available 24 hours prior to a meeting;
 - b. post the meeting agenda with a list of each matter of agency business that will be the subject of deliberation or official action not later than 24 hours in advance of the meeting;
 - c. post the meeting agenda at both the meeting location and the Board's main office;
 - d. provide copies of the meeting agenda to individuals in attendance
25. Defendants published no such **detailed** agenda, and only attempted to perfect their illegal certification under color of law by publishing POST meeting minutes congratulating themselves on obfuscating and effectively hiding the factual results of the election and recount conducted by the Plaintiffs, from the Honorable Court and the People of Fayette County. (See Exhibit C).
26. While the efficacy, and plausible deniability, that might spare the Defendants from criminal prosecution and/or disciplinary actions by the Commonwealth of Pennsylvania for conduct by licensed attorneys (one of who is a federal judge residing in Virginia and was appointed to the Board of Elections for reasons unknown to the Plaintiffs), the "lawyering" and deception involved in deceiving the Honorable Court, specifically Judge Wagner, the Plaintiffs, other candidates, and the People of Fayette County is clear.
27. Given the knowledge of the Defendants scurrilous, underhanded actions in fraudulently certifying a vote they knew required a recount to be compliant with election law, and their recalcitrance in defying the Honorable Court's order previously compelling Defendants to provide all election materials (CVR's, ballots, envelopes, etc.) to Plaintiffs, and evident proclivity to subvert and break the law, it is not unreasonable for the Court to IMMEDIATELY grant Plaintiffs request for an Order for litigation hold of all these election materials for their inspection, and to ensure these

materials will be fully available to law enforcement and justice officials for investigation.

28. With the November general election now approaching, and required Logic and Accuracy Testing (“L&A Testing”), and production of Ballot Definition Documents (ballot templates), and printing of Mail In Ballots and In Person ballots required to be started in only the next one to two weeks, there is substantial concern that the evidentiary base and burden of production on Defendants will be destroyed or otherwise spoliated during those preparations, and that Defendants might be able to curate the fraud alleged by Plaintiffs Marietta and Stenstrom, under the false guise of “administrative errors.”
29. The Defendants, and the Honorable Court, have a duty to protect the evidentiary base for either or all of the Election Law cases (assuming they may proceed on an appellate trajectory or be submitted under separate Rule 1532 action to the Commonwealth Court under their original jurisdiction), and the Civil Law Breach of Fiduciary Duty and tort, AND any prospective criminal investigation, thus compelling urgent, and aggressive action to preserve the election materials for inspection and investigation.
30. Lastly, the reasons the Plaintiffs have had to proceed Pro Se, is because aside from Defendants financially exhausting Plaintiffs, few to no licensed attorneys are willing to touch the controversy surrounding elections and risk censure or disbarment, and similarly, Honorable Jurists and triers of fact have been reluctant to hear said cases because despite their best efforts to fairly and impartially adjudicate them, the Defendant political and partisan parties have demonstrated no shame or ethics in attacking anyone – including Honorable Courts and honest People in subverting our elections.
31. Plaintiffs can think of no better remedy than to continue to proceed Pro Se, and for Judge Wagner, an accomplished, fair, and impartial Jurist, and Trier of Fact, with 36 years on the bench, who is retiring, and immune from partisan politics, to finally sort things out.

(Signatures next page)

Respectfully submitted:



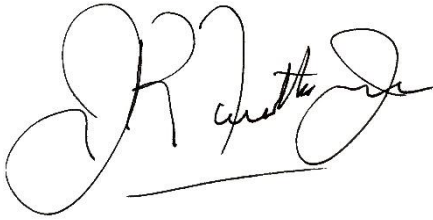
JON R. MARIETTA JR.
Date: 15 SEP 2023
348 Bunker Hill Road
New Salem, PA 15468
chosenhillbilly1@yahoo.com
724-880-4507



GREGORY STENSTROM
15 SEP 2023
1541 Farmers Lane
Glen Mills, PA 19342
gregorystenstrom@gmail.com
gstenstrom@xmail.net
856-264-5495

VERIFICATION

We, Jon R. Marietta, Jr. and Gregory Stenstrom state that we are Pro Se Plaintiffs in this matter and are authorized to make this Verification on its behalf. We hereby verify that the statements made in the foregoing 2nd 1531 MOTION FOR INJUNCTIVE RELIEF are true and correct to the best of our knowledge, information, and belief. This verification is made subject to the penalties of 19 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



JON R. MARIETTA JR.

Date: 15 SEP 2023

348 Bunker Hill Road
New Salem, PA 15468
chosenhillbilly1@yahoo.com

724-880-4507



GREGORY STENSTROM

15 SEP 2023

1541 Farmers Lane
Glen Mills, PA 19342
gregorystenstrom@gmail.com
gstenstrom@xmail.net
856-264-5495

SELF REPRESENTATION (PRO SE)

COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA, CIVIL DIVISION:
ELECTION LAW

JON R. MARIETTA JR.

348 Bunker Hill Road
New Salem, PA 15468
chosenhillbilly1@yahoo.com
724-880-4507

GREGORY STENSTROM

1541 Farmers Lane
Glen Mills, PA 19342
gregorystenstrom@gmail.com
gstenstrom@xmail.net
856-264-5495

**IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA
CIVIL DIVISION**

CIVIL ACTION-LAW

BREACH OF FIDUCIARY DUTY

MARIETTA, et al.
Plaintiffs,
v.
FAYETTE COUNTY BOARD OF ELECTIONS, PA,
et. al,
Defendants

CERTIFICATE (PROOF) OF SERVICE

Plaintiffs certify that they caused 2nd 1531 MOTION FOR INJUNCTIVE RELIEF to be served on the following via U.S.P.S. Certified Mail, personal service, and/or email to:

Defendants, Fayette County, PA, Board of Elections
Solicitor Sheryl Heid
61 East Main Street
Uniontown, PA 15401
(724) 430-1200

/S/ Jon R. Marietta, Jr., and Gregory Stenstrom

Dated: September 15th, 2023

EXHIBIT A

IN THE COURT OF COMMON PLEAS OF FAYETTE COUNTY, PENNSYLVANIA

CIVIL DIVISION

JON R. MARRIETTA, JR., Candidate for:
Fayette County Commissioner, pro se,
and GREGORY STENSTROM, Authorized :
Representative, pro se, :

Plaintiffs, :

vs. :

FAYETTE COUNTY, PA, BOARD OF
ELECTIONS, and MARK ROWAN, and :
ROBERT J. LESNICK, and JOHN A. :
KOPAS, II, and SHERYL HEID, :

Defendants. : No. 1759 of 2023 GD

MOTIONS COURT

PROCEEDINGS

Before the Honorable JOHN F. WAGNER, JR.,
Senior Judge, Wednesday, September 13, 2023, in
Courtroom No. 2, Courthouse, Uniontown,
Fayette County, Pennsylvania.

APPEARANCES:

FOR THE DEFENDANT:

JOHN R. PURCELL, ESQUIRE
SHERYL HEID, ESQUIRE

LORI LYNN WILLIAMS
OFFICIAL COURT REPORTER

- - - - -
P R O C E E D I N G S
- - - - -

(Convened at 9:10 o'clock a.m.)

(Court Security admonished the audience that
cell phones are to be turned off.)

THE COURT: Okay. We have, in various forms
here, I believe, a Motion -- Rule 1531 Motion For Injunctive
Relief filed at No. 1759 of 2023 General Docket; correct?

(Inaudible response.)

THE COURT: What would you like to say?

THE PLAINTIFF MARRIETTA: Well, what I do want
to say is that -- I will tell you what, Your Honor, I'm not
being funny, first off, I do respect you very much. I am Jon
Marrietta and everyone knows me as the Hillbilly and I have
lived in this county for forty -- sixty-one years. I have
been married to the same lady for forty-one years. I have
three children and seven grandchildren. I ran for county
commissioner for one reason and I am going to continue to run
for county commissioner for one reason, because I want to
invoke change in the county. This is about election integrity
and there is no doubt about it. It is about -- this isn't
about any candidate.

COURT SECURITY OFFICER BYERS: Turn that off.

(Court reporter admonished that it is not permitted to record audio or video in the courtroom.)

THE PLAINTIFF MARRIETTA: This is about election integrity. This isn't about any particular candidate. This is about making sure everyone's vote counts and that is why I went ahead and proceeded. I ran for Recorder of Deeds two years ago and shortly after the election, I went to the Republican Committee and asked them, shouldn't we have a recount because the vote was close and everybody told me, no. Stand down, you won. This is where we are at right now. I think that the process is flawed. I think that we have definite discrepancies in the whole situation. I think that we can prove them, if we can get to see the things that we need to see. We have already done that to some degree. I want this to be about we the people understand that the process needs to be intact. It is a sacred thing, your vote, and I want everybody's vote to count. That is what I have to say right now about all of this.

I brought my authorized representative Greg Stenstrom with me and he -- and he knows the process way better than I do, so that is where we are at.

THE COURT: Okay. It is filed at No. 1759 of 2023, which is a new number?

THE PLAINTIFF MARRIETTA: That would be a new number, yes.

THE COURT: It is a new filing?

THE PLAINTIFF MARRIETTA: Yes.

THE COURT: I was assigned by President Judge Steve P. Leskinen to hear the -- I don't remember the numbers now, but all of the objections that you had to the primary election -- I'm kind of searching for the proper designation. At No. 1759 of 2023, it has been assigned by the Judge Conrad B. Capuzzi, now retired, computer to Judge Joseph George. So he is currently the judge which No. 1759 of 2023 has been assigned. If, as I suspect it might, it works it way back to me, then I will proceed further with whatever needs to be done, but until it works it way back to me, it has to go through all of those people who are currently seated judges, not retired judges.

THE PLAINTIFF STENSTROM: Your Honor, point of order --

THE COURT: If it works it way back to me, then I will handle it.

THE PLAINTIFF STENSTROM: Your Honor --

THE COURT: Is there anything that you want Judge George to know?

THE PLAINTIFF STENSTROM: Your Honor, may it please the Court, my name is Gregory Stenstrom --

THE COURT: Are you an attorney, sir?

THE PLAINTIFF STENSTROM: I am an authorized

representative under statutory code --

(Telephone ringing in courtroom.)

THE COURT: Are you an attorney?

THE PLAINTIFF STENSTROM: No, sir.

THE COURT: You are not licensed to practice in Pennsylvania?

THE PLAINTIFF STENSTROM: No, I am a pro se plaintiff in this case.

THE COURT: I saw you listed as a plaintiff.

THE PLAINTIFF STENSTROM: Excuse me.

THE COURT: I see you're listed as a plaintiff.

THE PLAINTIFF STENSTROM: Yes.

THE COURT: I have no clue what the designation authorized representative means, but --

THE PLAINTIFF STENSTROM: Authorized representative under election code, Your Honor --

THE COURT: Well, you're not under the Election Code, you're under the Pennsylvania Rules of Civil Procedure, but be that as it may, that is of no moment to me right now.

THE PLAINTIFF STENSTROM: Your Honor --

THE COURT: What is it that you want to say?

THE PLAINTIFF STENSTROM: If it please the Court, I am not sure of the case numbers, we didn't have them, but today is the Amended 1531 and that is an emergency injunction under civil law and --

THE COURT: It will emergently go to Judge George.

THE PLAINTIFF STENSTROM: Judge George, when will that be?

THE COURT: I will send it to him immediately.

THE PLAINTIFF STENSTROM: Well, the issue here is an emergency injunction, Your Honor.

THE COURT: I will let him know. I will get out my red pen and write emergency on the front of it.

THE PLAINTIFF STENSTROM: So --

THE COURT: Why is it an emergency?

THE PLAINTIFF STENSTROM: The emergency is that the recount here in the county -- and it was quite clear in the amended complaint, is that the plaintiff's (sic.) in the case, certified an election without making a public announcement of that election under the Pennsylvania Sunshine Law 65, Paragraph 701 of 716. That was an illegal proceeding. And they have illegally certified the vote, a vote that is going to be coming up in the primary (sic.)

THE COURT: That is your contention.

THE PLAINTIFF STENSTROM: Absolutely.

THE COURT: That is what you intent to prove?

THE PLAINTIFF STENSTROM: Absolutely, it --

THE COURT: So why does that make it an emergency?

THE PLAINTIFF STENSTROM: Well, they are going to certify the election -- they have already certified an election illegally, Your Honor.

THE COURT: If they have already certified the election, it is not like we're trying to prevent them from doing something today.

THE PLAINTIFF STENSTROM: Your Honor, they have illegally certified an election and they are going to go forward with the primary (sic.). Having gone over, the statutory code specifically states that the residual error rate for recount is zero point five percent and we provided this one exhibit in here and it shows, clearly, that the residual error rate is aggregate of one point seven two percent and that would be more and that requires a recount, number one.

So number one, it is a statutory requirement under the election law that they have a recount; and number two, that they went knowing this and having filed a Motion For Reconsideration under the previous petitioners -- we filed a new Breach of Fiduciary Duty with the Emergency Injunction stating that the Board Of Elections illegally certified the vote and a recount is required. That constitutes an emergency, Your Honor, and that is why we are here. And what Mr. Marrietta said at the beginning, this is about restoring public trust.

THE COURT: You seem --

THE PLAINTIFF STENSTROM: Public trust has been breached, Your Honor.

THE COURT: You seem very well versed in the procedure here, on whom did you serve the petition?

THE PLAINTIFF STENSTROM: The petition was -- the motion -- excuse me, the Complaint, Your Honor, and Emergency Injunction was served by Mr. Marrietta.

THE COURT: On?

THE PLAINTIFF STENSTROM: Personal service to the Board of Elections, Your Honor.

THE COURT: You have listed the County of Fayette, as a defendant, the Fayette County Board Of Elections, as a defendant, and Mr. Rowan, Mr. Lesnick, Mr. Kopas and Sheryl Heid in her personal capacity.

THE PLAINTIFF STENSTROM: Excuse me, Your Honor, we corrected that. There is nobody in here in their personal capacity. That was an error and we corrected that.

THE COURT: I am looking at the amended, did you amend it again?

THE PLAINTIFF STENSTROM: It was -- we crossed that out. Yes, sir, it was corrected. It had been a carry over from the Reconsideration, and I apologize. When we filed the Reconsideration we had them in their personal capacity.

THE COURT: Let's take the personal category

out. You listed four individuals.

THE PLAINTIFF STENSTROM: Your Honor, in their official capacity.

THE COURT: Okay --

MR. STENSTROM: -- excuse me --

THE COURT: -- did you serve any of the four individuals?

THE PLAINTIFF STENSTROM: Five copies were given to -- nothing requires us to serve those individuals, Your Honor --

THE COURT: You listed them as defendants, you are required by the Pennsylvania Rules Of Civil Procedure to serve every defendant that is listed.

THE PLAINTIFF STENSTROM: Not in person, Your Honor. They are served.

THE COURT: Okay.

THE PLAINTIFF STENSTROM: They are appointed officials for the county and the solicitor and the Board Of Elections were properly served and there is proper service and you're right, Your Honor, I have been doing this a while. When you serve a public official that is working in a public capacity -- and these Board of Election members are appointed members for the Board Of Elections by the county, there are appointed members, they don't require personal representation, Your Honor, they only require representation by the county as

appointed members.

THE COURT: Okay. I will --

THE PLAINTIFF STENSTROM: There was proper service, Your Honor.

THE COURT: I will be sending this to Judge George.

THE PLAINTIFF STENSTROM: Your Honor, what --

THE COURT: I am not doing anything. Why would you need to speak? You can, if you want.

MR. PURCELL: I don't want to leave this unsaid or unanswered.

THE COURT: Go ahead. I would assume that you would be filing an answer?

MR. PURCELL: We have not been served properly. Services has not been effectuated. No Sheriff instructions are provided. Yes, there is an equity or injunction request and it can be served by any competent adult, if you read the rules --

THE COURT: Dont you --

MR. PURCELL: -- any competent adult does not include the parties. So there is no service at all here.

THE PLAINTIFF STENSTROM: You're incorrect --

MR. PURCELL: Would you let me speak, sir, I let you speak, even though you have no right to speak in this Court.

THE COURT: Will you be filing Preliminary Objections then?

MR. PURCELL: We will be, once we are served. We have not been served.

THE COURT: Find your way to the Prothonotary's Office and file them.

MR. PURCELL: We will certainly file, probably a ten count Preliminary Objection, maybe more, and we will, also, object to that gentlemen over there trying to be an authorized representative. That is nonsense.

THE COURT: Yes, I understand, but he is, also, a pro se plaintiff which would --

MR. PURCELL: Which absolutely --

THE COURT: Which further muddies the water, because plaintiffs and defendants can proceed pro se, but --

MR. PURCELL: You have to have an interest in the case, you can't be from Delaware County, and not be a voter. We have already litigated the recount, Judge. It is over and the appeal period has run.

I guess here is what I want to say to the Court. I have litigated how many years in front of you, thirty-five? When you became a Judge, I was an attorney and this case has put me --

THE COURT: When I became a Judge, you were still in swaddling clothes.

MR. PURCELL: No, I was an attorney. I have argued cases in the Pennsylvania Supreme Court and many places and not that that makes me anything special, but this case keeps me up at night, because these people are making claims against my assistant; against my board members that have no basis in fact and have no basis in law, yet, they are making them because they feel that this is just some game.

THE COURT: Who I might add are serving at very little, if any, compensation.

MR. PURCELL: They are getting nothing. They are getting nothing to serve on that board. Three prominent attorneys that this Court well knows, Judge Lesnick, a former administrative law judge, who served with dignity, and he has to have his name drug through the mud, because these two are making these outrageous claims that have no basis in fact.

THE COURT: You're burning my white cells.

MR. PURCELL: It needs to stop.

THE COURT: I have only have so many white cells left at my age --

MR. PURCELL: I understand.

THE COURT: -- and you're using them up.

MR. PURCELL: I am burning mine, too, with this case. It needs to stop. The allegations -- when you come into Court, you need to know what you're talking about and you need to tell the truth. I will not concede to them that they

are here for democracy. We are the one's that are here trying to hold fair elections in an atmosphere that is extremely difficult --

THE COURT: Right now this is a Court proceeding and not a political rally. Therefore, I will send it to Judge George, who I am certain will be thrilled to see this hit his desk this morning.

MR. PURCELL: Just to inform the Court, he is on the ballot, so he may not be able to take this.

THE COURT: I have no doubt in my mind that it will work it's way through the four people who have been duly elected to serve as judges in this county and end up back here on some future date, at which time you can pontificate until your heart's content, because at that point I will be getting paid by the hour to listen to you.

MR. PURCELL: I will be here, Judge?

THE COURT: Until it works it's way through the four duly elected judges and comes back to me, it's not my problem.

MR. PURCELL: Our problem is that we have an election to do, Judge.

THE PLAINTIFF STENSTROM: Your Honor --

MR. PURCELL: -- it is burning time and attention that we need to do this election right.

THE COURT: Dianne --

THE CLERK: Yes, Your Honor.

THE PLAINTIFF STENSTROM: Your Honor --

THE COURT: -- this is the first time in my life that I am going to have you do this --

THE PLAINTIFF STENSTROM: Your Honor --

THE COURT: -- pick up the gavel and bang it and announce a recess.

THE CLERK: Where is it, Your Honor?

THE COURT: Joey Nesser has it down there somewhere.

THE PLAINTIFF STENSTROM: Recess, Your Honor?

THE COURT: Yes.

THE PLAINTIFF STENSTROM: Will you be returning, Your Honor?

THE COURT: Will I be returning? No.

It is going to Judge George.

THE PLAINTIFF STENSTROM: Your Honor, before you bang the gavel --

(Pause.)

THE PLAINTIFF STENSTROM: I have a right to speak, Your Honor.

(Gavel bangs.)

THE COURT: Not any longer you don't --

THE CLERK: Court is over.

THE COURT: It's adjourned.

THE CLERK: Sorry, adjourned.

(Judge exits courtroom.)

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(Proceedings concluded at 9:25 o'clock a.m.)

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C E R T I F I C A T E
- - - - -

I, Lori Lynn Williams, hereby certify that the proceedings and evidence are contained fully and accurately in the notes of testimony taken by me upon the hearing of the within and that this copy is a true and correct transcript of the same.

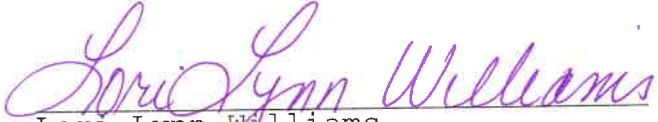

Lori Lynn Williams
Official Court Reporter

EXHIBIT B

Amy Revak

From: Amy Revak
Sent: Monday, August 28, 2023 2:01 PM
To: hslegals@heraldstandard.com
Subject: FW: VERY URGENT -- Election Board Meeting
Attachments: Legal Ad - P-2023 August 30 Election Board meeting[19].pdf; Legal Ad - P-2023 August 30 Election Board meeting[19].docx

Importance: High

Good afternoon,

See attached. Can I please get this in tomorrow?

Amy Revak

Chief Clerk of Fayette County
724-430-1200 extension 1504

From: Marybeth Kuznik <mbkuznik@fayettepa.org>
Sent: Monday, August 28, 2023 2:00 PM
To: Amy Revak <arevak@FAYETTEPA.ORG>
Subject: VERY URGENT -- Election Board Meeting
Importance: High

Dear Amy,

Here is the notice. I am so sorry about the phone!

Thank you for your help,

MB

Marybeth Kuznik
Director
Fayette County Election Bureau
2 West Main Street, Suite 111
Uniontown, PA 15401
724-430-1289, ext. 101, phone
724-430-4948, fax

Legal Ad – Please publish today -- needs to run with 24 hours' notice, so needs to run no later than tomorrow, Tuesday, August 29.

PUBLIC NOTICE

The Fayette County Board of Elections will hold a meeting on Wednesday, August 30, 2023, at 10:30 AM in the Election Bureau Office at the Gallatin Bank Building, 2 West Main Street, Uniontown, PA 15401, to consider the results of the recount of the Republican County Commissioner race and the Court Order of August 24, 2023, and to consider the location of the Henry Clay Township polling place.

County Board of Elections
Fayette County, PA

Mark Rowan
Robert J. Lesnick
John A. Kopas, III

Amy Revak

From: Amy Revak
Sent: Monday, August 28, 2023 2:21 PM
To: hslegals
Subject: RE: VERY URGENT -- Election Board Meeting

Received, thank you.

Amy Revak

Chief Clerk of Fayette County
724-430-1200 extension 1504

From: hslegals <hslegals@heraldstandard.com>
Sent: Monday, August 28, 2023 2:08 PM
To: Amy Revak <arevak@FAYETTEPA.ORG>
Subject: Re: VERY URGENT -- Election Board Meeting

CAUTION

This message originated from an external source. Verify the legitimacy before clicking links or opening attachments.

Hi Amy,

Sure. I have this scheduled for tomorrow. The proof & invoice are attached.

Thanks,

Mandy Kisko

Legal / Layout Clerk

O: 724-439-7513 | F: 724-425-7287

hslegals@heraldstandard.com
akisko@heraldstandard.com

Herald Standard
www.heraldstandard.com
8 East Church Street
Uniontown, PA 15401

Greene Co. Messenger
www.greenecountymessenger.com

Central Pennsylvania Newspapers LLC

From: Amy Revak <arevak@FAYETTEPA.ORG>
Sent: Monday, August 28, 2023 02:01 PM
To: hslegals <hslegals@heraldstandard.com>
Subject: FW: VERY URGENT -- Election Board Meeting

EXHIBIT C

Fayette County Election Board Meeting

Wednesday, August 23, 2023

Fayette County Election Bureau's Training Room

2 West Main Street, Suite 111, Uniontown, PA 15401, at 3:00 pm.

Silent Prayer or Moment of Reflection

Pledge of Allegiance

Roll Call

Election Board Members in attendance:

Robert Lesnick, serving as Chair

John Kopas, III

Mark Rowan, (attended via Zoom)

Also present:

Jack Purcell, Solicitor, Fayette County

Marybeth Kuznik, Director of Elections

Jessica Zele, Deputy Director of Elections

Meeting called to order by Robert Lesnick at 3:09PM

Public Comment of Agenda Item:

None

Review of Minutes of the July 27, 2023, and August 17, 2023, meetings

John Kopas moved to postpone the review until the next meeting.

Mark Rowan seconded the motion.

Motion passed unanimously.

Review the results of the recount of the Republican County Commissioner race and any direction from the court.

Robert Lesnick requested that Marybeth Kuznik provide the recount results to the Board.

The results were as follows: 1484 ballots hand counted, one discrepancy was found in the hand count for Bullskin 1 which resulted in one extra vote for candidate Lohr but did not affect candidates Dunn, Grimm, or Marietta. There were no indications that this one vote was caused by the machine but may have been accorded to counting fatigue by the workers. All other vote totals remained the same.

John Kopas stated the petitioners did not present any evidence to the board initially, nor to the court, after doing the recount the issue raised was completely meritless.

Robert Lesnick conducted a demonstration using test ballots to show how the machines work and that bleed-through on the ballots does not adversely affect any races. Using an actual ballot with the words 'Test Ballot' written in red ink at the top of it, and the bar code redacted so that the ballot could not be read by any tabulator, Robert Lesnick filled in all of the ovals in every election contest on both sides of the ballot. He observed that bleed-through from any oval did not overlap into any oval on the other side, by design of the Dominion Voting Systems company.

Jack Purcell gave credit to the entire staff of the Election Bureau for working extremely hard on this recount while keeping the normal election process moving forward. He also thanked the Election Board, who are unpaid volunteers, they all have been very accommodating, and the county appreciates it.

Robert Lesnick stated that elections are partisan events, that's the nature of the election process, but the counting of the votes should never be, and should be as accurate as we can make it, with every vote counted. Most importantly, allegations of mistake or fraud or worse without any support hurt the public's perception of our democratic process. We've tried here to put to rest any such allegations as we initially had an open meeting where anyone could come forward with any specific allegations.

Following this discussion, the Board noted that they are still awaiting guidance or an Order from the Court of Common Pleas, so no action was taken.

Robert Lesnick concluded that the Board will wait to hear from Judge Wagner and offered his thanks to the entire Election Bureau staff, the other members of the Election Board, and both solicitors.

Adjournment

John Kopas moved to adjourn the meeting.

Seconded by Mark Rowan

Motion passed unanimously.

Meeting adjourned at 3:29PM