

**IN THE COMMONWEALTH COURT OF HARRISBURG, PENNSYLVANIA
CIVIL DIVISION
CIVIL ACTION - ELECTION LAW**

JON R. MARRIETTA JR., PRO SE,
Republican Candidate for Commissioner
and
GENO GALLO, PRO SE
Democrat Candidate for Commissioner
and
GREGORY STENSTROM, PRO SE,
Authorized Representative

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)
And
JACK PURCELL (in his official capacity)

Defendants.

Case # _____ MD 2023

PRO SE PETITION

CIVIL ACTION: ELECTION LAW

DISCOVERY REQUESTED

ORAL ARGUMENTS REQUESTED

JURY TRIAL REQUESTED

(Note: Proposed Order attached last page)

NOTICE TO PLEAD: To Defendants:
You are hereby notified to file a written response to
Plaintiffs within twenty (20) days from date of service
hereof or a judgement may be entered against you. /s/
Jon R. Marietta, Jr. Geno Gallo, & Gregory Stenstrom

PETITION AND REQUEST FOR EMERGENCY INJUNCTIVE RELIEF

1. Plaintiffs seek injunctive relief from continued violations of election law 25 P.S. § 3146.8, Act 77 § 1309, Act 65 Pa.C.S.A. §§ 701-716, and 42 U.S. Code § 1983, being committed by Defendants, and repeated denial by Defendants of required full recount of May 16th, 2023, primary election for Fayette County, Pennsylvania
2. The Honorable Court has original jurisdiction in this case and authority to provide requested injunctive, special, and summary relief in cases involving state and local government and regulatory agencies in matters of election law.

3. The controversy before the Honorable Court is Defendants preference and proclivity to hold their elections and certification hearings in the same manner as their "public" judicial proceedings – without proper notice, in private without observation, without audio recordings of proceedings, and without any troublesome due process accorded to Pro Se Plaintiffs, or transparency to the People.
4. Defendants – all licensed attorneys - have abused and perverted the legal process to quash procedurally what it cannot, or cares not, argue as matters of fact before a trier of fact, and have perpetrated fraud upon the Courts, the Plaintiffs, and the People.

PROCEDURAL HISTORY

5. Plaintiffs have exhausted all administrative remedies and taken all possible actions to comply with strict latches of Election Law, “ringing the bell” immediately after the May 16th, 2023, primary election in Fayette County, for recount without delay, which was thwarted and delayed without lawful cause, up to the present time, by Defendants Fayette County Board of Elections (“BOE”) Members, and Fayette County Solicitors.
6. Defendants’ defied Orders from Fayette County Common Pleas Honorable Judge John F. Wagner directing them to produce the election materials required for full recount of the election.
7. Judge Wagner has been administratively excised from being able to remedy this situation by Fayette County President Judge Steve Leskinen, who has taken over all election law and civil tort law proceedings related to Plaintiffs, has acted beyond his judicial discretion or jurisdiction, and is unable to take offense to what only Judge Wagner can adjudicate.
8. Hence, while there may be personal and subject matter jurisdiction controversy within the Fayette County Common Pleas Court beyond the scope of this Honorable Court to adjudicate, nevertheless, the Commonwealth Court of Pennsylvania still has original jurisdiction to hear the subject petition and request for injunctive relief to resolve the election law controversy at hand.

9. Defendants' unlawful actions exhausted \$30,000 in legal fees from Plaintiff (and candidate) Marietta, in a delaying strategy in which they weaponized unlimited government funds, full time solicitors and administrative staff, and sheriffs available for service, forcing candidate Marietta and his post-election "authorized representative" (a statutory role under PA election law), Plaintiff Stenstrom, with no other options than to proceed Pro Se. Pro Se Plaintiff Geno Gallo, joins this action as Democrat Candidate for Commissioner in Fayette County.
10. Pro Se Plaintiffs Marietta and Stenstrom submitted a Motion for Reconsideration under "Civil Law: Election Law" (Exhibit A) on August 28th, 2023, which summarized the outrageous, and criminal, actions of the Fayette BOE and Solicitors to perpetrate fraud on the Court, and documents for the Honorable Commonwealth Court that Defendants had full knowledge that the 0.5% residual error rate requiring full recount had been exceeded (1.72% aggregate, with a 9.09% Mail In Ballot error rate) in a recount of six (6) precincts or seventy-seven (77) in Fayette County.
11. Defendants did not seek to resolve what could potentially have been a misunderstanding, or otherwise resolve the merits of the controversy presented by Pro Se Plaintiffs Motion for Reconsideration, but rather responded by immediately, surreptitiously, and unlawfully certifying an election they knew should NOT be certified, and then proceeded to procedurally attack Pro Se Plaintiffs under color of law as "election deniers."
12. Fayette County President Judge Steve P. Leskinen took charge of Plaintiffs litigative cases from Judge Wagner, that now include both Election Law and Civil Law Breach of Fiduciary Duty Tort trajectories brought by Pro Se Plaintiffs.
13. President Judge Leskinen, having assumed Plaintiffs' litigation for hearing and adjudication, has refused to rule on Plaintiff's Motion for Reconsideration for 36 calendar days, effectively mooting redress by Plaintiffs, within his personal and subject matter jurisdiction, and procedurally subverting Plaintiffs appellate options under Election Law, but otherwise not negating the Honorable Commonwealth Court's original jurisdiction, and hence, Plaintiffs subject petition.

14. Fayette County President Judge Leskinen further refused to hear Pro Se Plaintiffs in their Civil Law Breach of Fiduciary Duty Tort complaint to secure a recount of the election, also quashing a separate Rule 1531 hearing on September 21st, 2023, by advocating and testifying on behalf of defiantly absent Defendants over the objections of Pro Se Plaintiffs, and then administratively excising Pro Se Plaintiff Stenstrom from the case without Preliminary Objections or Answer from Defendants, and without hearing, thus further abusing his judicial discretion, and exceeding his personal and subject matter jurisdiction.
15. Fayette County President Judge Leskinen then caused the transcript of the September 21st, 2023, Plaintiffs' Rule 1531 hearing before him (Exhibit B) to be curated, falsified, and revised, to grossly misrepresent those proceedings, subsequently refused to release the audio to Plaintiffs to correct those erroneous transcripts (See Exhibit C), and crafted an order to align with the fabricated transcript, further quashing Plaintiffs' appellate options, and violating their rights.
16. Attached as Exhibit D are eight (8) sworn, notarized affidavits from People of Fayette County who were in attendance at the September 21st, 2023, Rule 1531 hearing presided over by President Judge Leskinen, willing to testify that the attached official transcript(s) (included with the Exhibit D) do NOT accurately reflect the true record of the public proceedings in the Court room, with more affidavits being prepared by additional People of Fayette County for later inclusion by Praecipe with this petition and request for injunctive relief.
17. Considering Defendants recalcitrance to comply with Election Law, and President Judge Leskinen's dilatory and deleterious actions beyond his jurisdiction, and abuse of discretion, the Honorable Commonwealth Court of Pennsylvania has a duty to assume original jurisdiction in this subject matter.

PLAINTIFFS

18. Pro Se Plaintiff, Jon R. Marietta, resides at 348 Bunker Hill Road, New Salem, PA 15468. Mr. Marietta is a **REPUBLICAN** candidate running for public office (County Commissioner), and was a Republican candidate in the May 16th, 2023, primary election in Fayette County, PA.

19. Pro Se Plaintiff, Geno Gallo, resides at 232 North Seventh Street, Connelsville, PA, 15425. Mr. Gallo is a **DEMOCRAT** candidate running for public office (County Commissioner), and was a Democrat candidate in the May 16th, 2023, primary election in Fayette County.
20. Pro Se Plaintiff, Gregory Stenstrom, is an “authorized representative,” a statutory role under election law, duly appointed by Plaintiff Jon Marietta. Mr. Stenstrom resides at 1541 Farmers Lane, Glen Mills, PA. 19342.

DEFENDANTS

21. Defendant Fayette County corporation is the incorporated, fictitious government entity the People of Fayette County, Pennsylvania, has instituted and impugned with their powers and authority to conduct statutory and administrative tasks on their behalf.
22. Defendant Fayette County Board of Elections, is the fictitious government entity responsible for administering elections for Fayette County, Pennsylvania, with those powers and duties as set forth in the Pennsylvania Election Code 25 Pa.C.S.
23. The Fayette County Board of Elections, in turn, has appointed various employees and solicitors to act for it pursuant to 25 Pa.C.S. § 2643, and these named parties (Defendants Rowan, Lesnick, Kopas, Purcell and Heid), as such, are included as Defendants in their official capacities, as physical personages of the “BOE.”

CONTROVERSY

24. The core controversy before the Honorable Court is that Defendants, all government officials, have stated there was only 0.000385% residual error rate, despite a partial recount by Plaintiffs, who having timely requested recount, subsequently tabulated a 9.09% Mail in Ballot residual error rate, a 1.0% error rate for In Person ballots, and an aggregate 1.72% error rate, exceeding the 0.5% residual error rate that required a full recount on the May 2023 primary; and reported as such to Defendants. (see Exhibit A and Exhibit B)
25. Defendants, all licensed attorneys, hold the positions:
 - a. That their integrity, by virtue alone, is unimpugnable and must remain

unquestioned;

- b. That they are immune from compliance with Election Law statutes;
 - c. Have the authority to refuse to disclose public records and comply with Court orders, or with Pennsylvania Office of Open Records opinions;
 - d. That their authority supersedes Plaintiffs' assertion of their rights under election law, civil law, common law, and constitutional law;
 - e. That they have the authority to ignore Pennsylvania Sunshine Act and not publish detailed public meeting agendas, physically post notices of public meetings, and may certify elections without public observation or comment;
 - f. That Plaintiffs' allegation that Defendants have perpetrated fraud upon the Fayette County Court of Common Pleas, Plaintiffs and the People are conjecturally "outrageous," without providing any material facts refuting Plaintiff's allegations;
 - g. That Defendants should be implicitly trusted to fully retain all subject election results, records, electronic logs, and results, that could incriminate them of perpetrating the election fraud, and breach of fiduciary duty, the Plaintiffs have alleged.
 - h. That Defendants, having already perpetrated fraud on Fayette County Common Pleas Court by stating there was only a single error in the May 16th, 2023, primary election, will take all due diligence to secure the subject election records in accordance with federal and state election laws, and under Pa.R.P.C. while litigation is in progress, and ABA ethics.
26. Destruction and spoliation of election records is a violation of Federal and State law requiring retention of those records for 22 months (under federal law) and 24 months (under PA Act 77), and retention of evidence under Pa.R.C.P and Pa.R.P.C, until litigation is fully resolved through appellate process. *(NOTE: All election machine manufactures, which in Fayette County's case is Dominion, provide full capability to retain forensic images of electronic election records).*
27. Defendants had a statutory duty to perform a full recount of the May 16th, 2023, and having a duty to know the results of the partial six (6) precinct recount performed by Plaintiffs under Defendant's observation and their participation, falsely swore that the residual error

rate for the May 16th, 2023, election was below the 0.5% permissible error rate.

STRATEGIC MOOTING AND QUASHING OF PLAINTIFFS RIGHTS

28. It is unconscionable that the Defendants, all licensed lawyers, and all officers of the Court, and including President Judge Leskinen, have wasted months of the Plaintiffs, the Courts, and the Peoples time and hard earned money, wrestling with procedural minutia without permitting any airing of the merits of the subject controversies, or even addressing Defendants perpetration of fraud upon Judge Wagner having excised him from the proceedings, and refusing to acknowledge Pro Se Plaintiffs rights of self-representation, admonishing them publicly – multiple times – that they are not “licensed attorneys,” as if the Courts were a mystic venue available only for a special esquire class to resolve litigative controversies.
29. Civil litigants have a statutory right to proceed Pro Se under 28 U.S.C. § 1654.
30. Pro Se Plaintiffs have a protected interest in a meaningful opportunity to be heard. This interest is analytically distinct from any protected liberty or property interests that may underlie the Plaintiff’s cause of action or legal defenses.
31. Pro Se Plaintiffs have invoked the interest in a meaningful opportunity to be heard by this Honorable Court to gain access to the courts that has been denied to them by Defendants and the Fayette County Common Pleas Court to resolve a controversy in which they have been aggrieved and is also in the best interest of the public good and public trust.

“The fundamental tenet that the rules of procedure should work to do substantial justice, . . . commands that judges painstakingly strive to ensure that no person’s cause or defense is defeated solely by reason of their unfamiliarity with procedural or evidentiary rules. . . . Cases should be decided on the merits, and to that end, justice is served by reasonably accommodating all parties, whether represented by counsel or not. This “reasonable accommodation” is purposed upon protecting the meaningful exercise of a litigant’s constitutional right of access to the courts.” *Blair v. Maynard*, 324 S.E.2d 391 (West Virginia 1984).

REMEDY AND PRAYER FOR RELIEF

32. Plaintiffs request, and pray, that the Honorable Commonwealth Court of Pennsylvania will grant the attached proposed Order on behalf of the Plaintiffs.

Respectfully submitted,



JON R. MARIETTA JR.
Date: 03 OCT 2023
348 Bunker Hill Road
New Salem, PA 15468
chosenhillbilly1@yahoo.com
724-880-4507



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



GENO GALLO.
Date: 03 OCT 2023
232 North Seventh Street
Connellsville, PA 15425
genegallo@gmail.com
724-880-5681

VERIFICATION

We, Jon R. Marietta, Jr. Geno Gallo, 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 PETITION AND REQUEST FOR EMERGENCY 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: 06 OCT 2023
348 Bunker Hill Road
New Salem, PA 15468
chosenhillbilly1@yahoo.com
724-880-4507



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



GENO GALLO.
Date: 06 OCT 2023
232 North Seventh Street
Connellsville, PA 15425
genegallo@gmail.com
724-880-5681
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

GENO GALLO

232 N 7th St
Connellsville, PA 15425
genegallo@gmail.com
724-880-5681

GREGORY STENSTROM

1541 Farmers Lane
Glen Mills, PA 19342
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 the subject PETITION AND REQUEST FOR EMERGENCY INJUNCTIVE RELIEF to be properly served on the following:

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

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

Dated: 06 October 2023

ORDER

AND NOW, this _____ day of _____ 2023 upon consideration of the subject **PETITION AND REQUEST FOR EMERGENCY INJUNCTIVE RELIEF**, it is hereby ORDERED that:

1. That an immediate litigation hold on ALL election equipment (voting machines), data storage (both fixed and portable), voter registration poll books (electronic and/or paper), 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 meeting held amongst the Fayette County Board of Elections on August 30th, 2023, without proper Public Notice, and detailed agenda, 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 investigation is completed to verify election results, with full transparency and accounting to the Plaintiffs and the People, is GRANTED.

BY THE COURT

EXHIBIT A

ORDER

AND NOW, this _____ day of _____ 2023 upon consideration of the subject MOTION FOR RECONSIDERATION, it is hereby ORDERED that:

1. That given the aggregate error / discrepancy percentage and specifically the “residual vote rate” is 1.72% (and individually 9.09% for Mail-in ballots, and 1.00% for In-person ballots), that the Order to Dismiss subject consolidated petitions be reconsidered, and vacated, and new Order to Require a full recount of ALL 77 Fayette County precincts is GRANTED.
2. That a stay on certification of the May 16th, 2023, primary election in Fayette County until full election recount is completed, or other mutually agreeable remedy is reached, is GRANTED.
3. Petitions No. 1205, 1206, 1207, 1208, 1209, 1211 of 2023, G.D. which all use subject case description “IN RE: PETITION TO OPEN BALLOT BOX PURSUANT TO 25 PA.STAT. § 3261(a) AND TO RECANVASS VOTING MACHINES PURSUANT TO 25 PA.STAT. §3262(a) AND FOR A CORRECT ACCOUNT OF THE MAY 16, 2023, PRIMARY ELECTION FOR THE REPUBLICAN CANDIDATES FOR FAYETTE COUNTY COMMISSIONER” be consolidated for the purpose of this unified MOTION FOR RECONSIDERATION, and subsequent filings, is GRANTED.
4. That consolidated Petitions and MOTION FOR RECONSIDERATION be amended to add Pro Se Plaintiff Jon Marietta (“candidate”) and Pro Se Plaintiff Gregory Stenstrom (“authorized representative”), as qualified intervenors, with direct nexus to the original petitioners, and standing, to justly, expediently, and administratively resolve the remaining controversies, and / or prospective appellate trajectory of the consolidated Petitions, is GRANTED.
5. That Defendants, having already provided due and required notice, immediately provide all public records for the election, in accordance with Act 77.
6. That sanctions and legal expenses award of \$_____ to Plaintiff Marietta is GRANTED.

BY THE COURT

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

JON R. MARIETTA 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**

Defendants.

**PRO SE MOTION FOR
RECONSIDERATION**

IN RE: PETITION TO OPEN BALLOT BOX
PURSUANT TO 25 PA.STAT. § 3261(a) AND
TO RECANVASS VOTING MACHINES
PURSUANT TO 25 PA.STAT. §3262(a) AND
FOR A CORRECT ACCOUNT OF THE MAY
16, 2023, PRIMARY ELECTION FOR THE
REPUBLICAN CANDIDATES FOR FAYETTE
COUNTY COMMISSIONER

**Consolidated Petitions No. 1205, 1206, 1207,
1208, 1209, 1211 of 2023, G.D**

CIVIL ACTION: ELECTION CASE

ORAL ARGUMENTS REQUESTED

JURY TRIAL REQUESTED

NOTICE TO PLEAD: To Defendants:
You are hereby notified to file a written response to
Plaintiffs within five (5) days from date of service hereof
or a judgement may be entered against you. /s/ Jon R.
Marietta, Jr. & Gregory Stenstrom

MOTION FOR RECONSIDERATION

Plaintiffs respectfully request the Honorable Court reconsider its Order to Dismiss subject consolidated petitions, and in support thereof avers as follows:

1. There was insufficient evidence to support a finding that the Plaintiffs (cum Petitioners) "failed to produce prima facie evidence," in that:
 - a. Defendants had 98 days to curate and prepare to provide the "Republican Candidates for Commissioner" primary ballots to Plaintiffs (cum Petitioners who only had several hours to tabulate, calculate, and prepare said "prima facie evidence" of forty-one (41) errors of 2,385 ballots provided for inspection by Defendants; (See Exhibit A)
 - b. Defendants' Solicitor, falsely testified there was only one (1) error in the reported total of 2,400 ballots for the six (6) selected precincts, with a corresponding 0.039% error rate, grossly misrepresenting the true error rate to the Honorable Court;

- c. Defendants reported 1,489 Republican, 1,057 Democrat, and 2,546 total ballots in their "official" tally for the six (6) selected precincts;
 - d. Defendants only provided 1,487 Republican ballots for recount for six (6) precincts, omitting providing two (2) Provisional ballots;
 - e. For the In-person election day voting recount, twenty-two (22) errors / discrepancies were found, out of 2,198 total votes cast for the four Republican candidates for Commissioner Grimm, Lohr, Dunn and Marietta) for an In-person error / discrepancy rate of 1.00% (percent);
 - f. For the Mail-in ballot voting recount, seventeen (17) errors / discrepancies were found, out of 187 total votes received by the four Republican candidates for Commissioner Grimm, Lohr, Dunn and Marietta) for a Mail-in Ballot error / discrepancy rate of 9.09% (percent);
 - g. The accuracy requirement for optical scan voting systems are required to achieve is a "residual vote rate" of no more than 0.5% for each contest on the ballot;
 - h. The aggregate optical scanner error rate for In-Person and Mail-in ballots derived from discrepancies, while only allowing for 2 errors for the Provision Ballots not provided by the Defendants ($22 + 17 + 2 \Rightarrow 41$), divided by the total number of votes counted for the "Republican Count Commissioner" primary election ($2,198 + 187 \Rightarrow 2,385$ possible cast votes, is $(41 / 2,385) * 100 \Rightarrow 1.72\%$ (percent);
 - i. Hence, the recount of the six precincts, for which the Defendants had 98 days to curate and prepare for, having revealed an error rate of 1.72%, exceeds the required 0.5% error rate, thus requiring a full recount for all seventy-seven (77) precincts;
 - j. Given the substantial error rate, and Defendants' 98-day curation and preparation time for only six (6) pre-selected precincts, it is reasonable to presume the balance of seventy-one (71) precincts may have a higher error rate;
 - k. The May 16th, 2023, Primary certification should therefore be delayed.
2. Plaintiffs submit this subject motion, and will file a Memorandum of Law, with citations and exhibits under separate cover, prior to requested Oral Arguments and/or Jury Trial, to respectfully and most expediently give notice to this Honorable Court, and Defendants, and provides the

abbreviated arguments and requested remedies below for immediate consideration of subject motion.

SUMMARY

3. Defendants failed to comply with this Honorable Courts August 9th, 2023, original order, and subsequent amending order of August 23rd, 2023, to provide all election result materials sufficient to satisfy Defendants' burden of production, for the Trier of Fact(s) to fully and properly adjudicate the subject matter(s), a fact that Plaintiffs submit would change the outcome and order, and further clarified in attached Memorandum of Law.
4. Subject motion seeks timely administrative remediation of this situation with subject motion, as a matter of justice, where even a timely, and expedited appeal would not serve the public good, or not infringe on the civil and statutory rights of Pro Se Plaintiff, and Candidate, Marietta.
5. Defendants had over ninety-eight (98) days since the May 16th, 2023, primary election, to curate, perfect, and meet their burden to produce election result materials for only six (6) precincts of seventy-seven (77), and objected, stalled, delayed, and denied Plaintiff Marietta (cum Petitioners) rights to view these public records as defined by Act 77, Section 1307-1309, refusing to even provide copies, and only reluctantly allowing Plaintiff Marietta to view an incomplete subset of MIB's through a glass window partition as County officials laboriously held each ballot up, one-by-one, taking the majority of working hours on August 21st and 22nd, 2023, and not permitting any photographs, as also allowed by law and most recent PA Office of Open Records (OOR) rulings.
6. Having had only several hours to tabulate the noncompliant and incomplete election materials provided by Defendants to Plaintiff Marietta, after 98-days to curate and prepare them, and with those results in the hands of former named Counsel Teufel, but not provided opportunity to be admitted at the August 22nd, 2023, hearing, and only Defendants' Solicitor's unsupported, and false, testimony that there was only "one" (1) error in a recount of six (6) precincts (which Defendant's gleefully announced to the news media), with said solicitor only obliquely admitting multiple "discrepancies," Plaintiffs remit that the Honorable Court correspondingly erred in its Order.
7. Further, Defendants' Solicitor openly admitted during hearings held by this Honorable Court that Defendants ran ALL ballots received on elections day through a single optical scanner / voting

machine without segregating them by precinct, having presumably loaded all seventy-seven (77) precinct Ballot Definition Documents ("BDD"s) which enable an optical scanner and voting machine software to read, tabulate and properly create a resulting Cast Vote Record ("CVR").

8. A CVR is the "official" election record and contains a tabulation of all votes, by precinct, and by candidate, assuming the machine(s) were properly uploaded with BDD's specific to each different election and precinct, with images of each ballot included in the CVR to facilitate rapid reconciliation by public Board of Election ("BOE") officials with precinct Return Sheets.
9. Whether unknowingly, or by design, the Defendant's "acquiescence" to permit Plaintiff (cum Petitioners) to visually "inspect" the subject physical ballots in the manner they did (contrary Act 77 1307-1309 and OOR orders that Defendants' Solicitor had a duty to know of) was hardly an equivalent to the Honorable Courts initial order to compel production of these public documents. Had Defendants complied with the original order, substantial time and expense could have been saved by Plaintiff Marietta, the Court, and most certainly have better served the public good. Should the Honorable Court rule favorably for the Plaintiffs, and reinstitute its original order to compel for recount and inspection of the balance of the 71 precincts, and permit photographs, as ordered by PA OOR, and allowed by other Counties in the Commonwealth of Pennsylvania, satisfactory resolution of the controversy at hand could be accomplished smartly, efficiently and with the speed to meet pending primary election preparations and deadlines.
10. Had this Honorable Court been made aware of the fact that the error / discrepancy rate was 1.72%, with a 9.09% error / discrepancy in Mail-in ballots, which is well in excess of statutory requirement requiring an automatic recount for all precincts for errors / discrepancies of 0.5%, and in full possession of all relevant facts, the Honorable Courts order citing that Plaintiff Marietta (the person of interest of the original Petitioners) "did not provide prima facie evidence" would not have occurred, hence this subject motion.
11. The burden of production, and burden of persuasion, required for this Honorable Court to perfect said burdens as admitted "evidence" rests with the public officials and government Defendants, not the Plaintiffs (cum Petitioners), in assuring the public that Defendants, as duly sworn public officials and servants, administer fair and honest elections on behalf of the People.
12. The "judicial climate" fomented by partisan parties in the sixty-seven (67) Counties of the Commonwealth of Pennsylvania, and our nation, that it is incumbent upon candidates, certified

poll watchers, authorized representatives and the American people to "prove" election "discrepancies" or election fraud at each end of the spectrum, has subverted our elections, and stifled objective adjudication of statutory and common election law(s).

13. Reconsideration by this Honorable Court, and granting of the attached proposed order, would serve the public good in realigning the requirement for burden of production and proof, and remedy said subversions of election law by (potentially) partisan public officials.

STANDING

14. Plaintiff Marietta is qualified intervenor, the person of interest for which petitioners originally filed subject petitions, and a harmed party, as Republican **Candidate** for Fayette County Commissioner.
15. Further, Plaintiff Marietta has been the sole named retainer and payer of formerly assigned named attorney and counsel, Gregory Teufel, for subject petitions, with legal fees of approx. \$30,000.00 expended to date.
16. Pro Se Plaintiff Marietta has been required to reluctantly discharge former attorney Teufel (on August 26th, 2023), having exhausted his financial resources to continue paying named attorney, with no other petitioner of potential intervenor with standing having come forward to finance a licensed attorney to represent Petitioners or Plaintiffs.
17. Pro Se Plaintiff Stenstrom is a qualified intervenor for Plaintiff Marietta's as his statutory **"authorized representative,"** a friend and advisor, and is one of the constitutional People of Pennsylvania, with special expertise in election law, forensics, and fraud, beyond that expected of lay persons iaw Pa.R.C.P.

AMENDED PETITION

18. As Pro Se Plaintiff, Mr. Stenstrom may offer argument and testimony congruent with Pa.R.P.C that is not expected to exceed basic knowledge of Pennsylvania statutory election law and Common Law, but if challenged by Defendants' counsel as to whether such testimony transcends into expert witness testimony, is prepared to proffer proof, with curriculum vitae, iaw Pa.R.P.C., at the requested hearing for the subject motion.
19. Plaintiffs respectfully request the Honorable Court to amend subject petition admitting them as

both qualified intervenors, and their appearance as Pro Se Plaintiff litigants, in order to meet strident laches requirements of Pennsylvania election law, meet pending election certification requirements, and recognize Plaintiffs as only persons remaining with standing and wherewithal to submit the subject motion and collateral filings, to fully adjudicate, and justly remediate subject petitions.

RELIEF REQUESTED

20. Defendants have employed a delaying strategy to exhaust Plaintiffs financial resources and frustrate the Honorable Court, knowing that impending deadlines to complete November 7th, 2023, primary election preparations must be weighed by the Honorable Court for the public good.
21. The Defendants' Solicitor false testimony that there was only one (1) error, weighed heavily on the Court's ruling and order.
22. Whether such delaying strategy was done knowingly, or unknowingly, the Defendants, as public officials, and their Solicitor, nevertheless, have a duty to know, and Plaintiff Marietta should be awarded sanctions as permitted by law, and with the discretion of the Honorable Court, to award legal expenses (currently approx. \$30,000, not including further expenses that may emanate should requested relief be granted), and not further chill other candidates, or the People of Pennsylvania, from asserting their statutory and common law rights regarding fair and honest elections, regardless of whether errors or discrepancies were within Defendants' control.
23. Plaintiff Marietta should also be awarded the \$50 per precinct (\$300) withheld by Defendants, having provided prima facie evidence of election result errors / discrepancies.
24. Plaintiff Marietta has expended substantial expense to serve the public good and trust as a County Commissioner, and further expended \$30,000 in legal fees to date to protect the People of Fayette Counties votes, and properly assert his statutory and common law rights to assure fair and honest elections.
25. Further time and expense could be spared by simply ordering that Plaintiff Marietta be included as a Republican candidate on the November primary ballot for election as County Commissioner, which remedy the Court may find some level of precedent in Marks v Stinson (citation), or may otherwise be agreed upon by Defendants during oral arguments as a satisfactory remedy.

26. Notwithstanding the prospective, proposed aforementioned remedy, Plaintiffs have no other option than to request this Honorable Court order a full recount of all precincts, as required by statutory election law.

Respectfully submitted:



JON R. MARIETTA JR.

Date: 28 AUG 2023

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

724-880-4507



GREGORY STENSTROM

28 AUG 2023

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

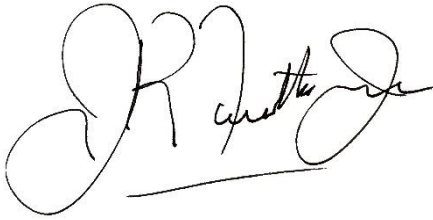
856-264-5495

EXHIBIT A

	Registered Voters	Registered Republicans	Total Ballots Cast	Republican Election Day Ballots	Republican Mail In Ballots	Republican Provisional Ballots	Total Republican Cast Ballots	Total Election Day Votes for 4 Candidates	Total Mail in Votes for 4 Candidates	Reported Undervotes
Bullskin 1	2651	1551	896	540	52	0	592	873	98	209
Recounted				540	52	0	592	865	98	
Difference (ABS)				0	0	0	0	8	0	
Bullskin-3	904	493	301	170	10	0	180	258	17	85
Recounted				170	10	0	180	258	18	
Difference (ABS)				0	0	0	0	0	1	
Connellsville	1308	714	395	206	15	0	221	349	26	67
Recounted				206	15	0	221	346	15	
Difference (ABS)				0	0	0	0	3	11	
Dunbar	582	302	183	105	6	0	111	168	12	42
Recounted				105	6	0	111	165	11	
Difference (ABS)				0	0	0	0	3	1	
Georges	1462	667	454	175	19	2	196	272	34	82
Recounted				175	19	0	194	271	30	
Difference (ABS)				0	0	2	2	1	4	
South Connellsville	1059	573	317	180	9	0	189	300	15	63
Recounted				180	9	0	189	293	15	
Difference (ABS)				0	0	0	0	7	0	
Total Reported	7966	4300	2546	1376	111	2	1489	2220	202	548
Total Recounted			1487	1376	111	0	1487	2198	187	
Difference (Absolute)			1059	0	0	2	2	22	17	
Discrepancy Percentage				0.00%	0.00%	200.00%	0.13%	1.00%	9.09%	
Total Aggregated Recount Percentage (Total Election Day + Mail-In Discrepancies / Total Ballots Canvassed)									1.72%	

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 MOTION FOR RECONSIDERATION 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: 28 AUG 2023

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

724-880-4507



GREGORY STENSTROM

28 AUG 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.

GREGORY STENSTROM

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

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

Consolidated Petitions No. 1205, 1206, 1207, 1208, 1209, 1211 of 2023, G.D

MARIETTA, et al.
Plaintiffs,
v.
FAYETTE COUNTY, PA, et. al,
Defendants

CERTIFICATE (PROOF) OF SERVICE

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

Defendants, Fayette County, PA
c/o 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: August 28th, 2023

EXHIBIT B

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:

A handwritten signature in black ink, appearing to read "Jon R. Marietta Jr.", with a horizontal line underneath.


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

A handwritten signature in black ink, appearing to read "Gregory Stenstrom", with a horizontal line underneath.

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.)

- - - - -

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

- - - - -

- - - - -
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.

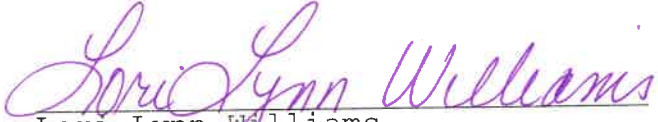

Lori Lynn Williams
Official Court Reporter

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

EXHIBIT C

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,

v.

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

Defendants.

CIVIL DIVISION

No. 1759 of 2023, G.D.

MOTIONS COURT PROCEEDINGS

Proceedings were held in the above-entitled matter before the
HONORABLE JUDGE STEVE P. LESKINEN on Thursday,
September 21, 2023, in Courtroom Number 1 of the Fayette
County Courthouse, Uniontown, Pennsylvania.

APPEARANCES:

PLAINTIFFS WERE PRO SE

NO ONE PRESENT ON BEHALF OF THE DEFENDANTS.

KATHY L. GOODWIN
OFFICIAL COURT REPORTER

P R O C E E D I N G S

ON THE RECORD

THURSDAY, SEPTEMBER 21, 2023

9:16 O'CLOCK A.M.

MOTIONS COURT PROCEEDINGS

THE COURT: Other than this election case, is there anything else for Motions Court? Is everybody else waiting for Arraignment Court at 9:30?

The remaining case for Motions Court is John R. Marietta, Jr. and Gregory Stenstrom versus Fayette County, Fayette County Board of Elections, Mark Rowan, Robert Lesnick, John Kopas and Sheryl Heid, Defendants.

Is there anyone here to present the motion?

MR. STENSTROM: Your Honor, my name is Gregory Stenstrom, and I am a Pro Se Plaintiff on the subject motion here, which is a Rule 1531 Motion for Special Relief and this is a case of an emergency injunction specific to our Breach of Fiduciary Duty case, Case 1759.

I heard you mention, Your Honor, that this is an election case. There are two separate cases here and two separate trajectories. There is the one case, which is Election Law, which Mr. Marietta--John Marietta and myself have presented pro se. We are currently waiting to hear back on a Motion for Reconsideration from the Court under the Election

Law trajectory.

The reason we are here today is specific to civil law, Breach of Fiduciary Duty and Tort regarding the actions of defendants and denying Mr. Marietta and myself our rights to address our grievances before the Court.

THE COURT: In fairness, and I don't mean to make you run a gauntlet of objections, I am sure that once the parties are served they will be making their own objections, but I don't see an attorney identification number next to your name. You are listed as an authorized representative. It doesn't say who you are an authorized representative for, and your address is listed as Chester County. So, I have a couple of questions about your standing. If you were an attorney, obviously, you could represent someone, have the ability to represent someone. Who are you the authorized representative for? So, those questions aren't going to be answered today.

Is there anyone here on behalf of any of the defendants?

MR. STENSTROM: Excuse me, Your Honor. I have—I am a pro se plaintiff.

THE COURT: Wait. I am asking first if there is anyone here on behalf of the defendants.

The other issue in the case is service, and I reviewed the transcript from your presentation to Judge Wagner last Wednesday, which is now eight days ago, and your objection

was noted at that time that the definition of a competent adult who can make service, specifically excludes any party. The only service that is alleged in this case is that Mr. Marietta gave a copy to the Election Bureau.

Now, if you want to have the Election Bureau be the only defendant, you may be able to get the sheriff to serve the Election Bureau, but as far as taking substitutive action, you have had eight days now to make proper service.

You know, again, I feel a little concerned that I am arguing the law with someone who is not a lawyer, and who may not have standing to proceed in this action. So...

MR. STENSTROM: Your Honor, Judge Wagner...

THE COURT: We will give you very limited amount of time because my video is going to start at 9:30 with Arraignment Court, and I have got 40 people to enter pleas and get sentenced today.

MR. STENSTROM: Your Honor, Judge Wagner specifically said in the same transcript that if the defendants had objections and preliminary objections, that they should proceed with the Prothonotary and file them. This is a separate 1531 action, which is an emergency motion.

THE COURT: I am not going to argue the fine points of law with you right now, sir.

MR. STENSTROM: I would like to read the

following, Your Honor.

THE COURT: Excuse me, sir. When I am talking, please stop. Okay. We don't talk over each other. My stenographer can't write it down, and I am trying to keep contained, but I don't even know why you feel you have the right to stand there, and I am sorry if it sounds like I am losing my temper, but this is more of a circus than a legal proceeding so far.

MR. STENSTROM: I appreciate...

THE COURT: And, the fact that I said that, I am upset at myself for losing my temper a little bit...

MR. STENSTROM: I understand, Your Honor.

THE COURT: ...because I don't do it very often, but I am talking. Okay.

Now, Judge Wagner said that they should file Preliminary Objections, but a prerequisite to their filing preliminary objection is them being served. Service of notice is one of the two hallmarks of due process. Defendants are not required to respond in any way, with a responsive pleading, whether it is preliminary objections or an answer to a complaint until they have been legally served. Legal service requires that the sheriff or the sheriff's deputies serve them. You have had eight days since that defect was pointed out in that proceeding in front of Judge Wagner to make service.

Have you made service on any of the defendants?

MR. STENSTROM: Your Honor, yes, we have. Your Honor, I would like to address...

THE COURT: Is there any affidavit of service that you can give me?

MR. STENSTROM: Your Honor, I have a right...

THE COURT: Please stop interrupting me. Do you have an affidavit of service to show the service was made properly under the Rules of Civil Procedure and not by a party to the proceeding, because that is now lawful service?

MR. STENSTROM: Your Honor, we have a proper certificate of service that was filed with the motion and the subject...

THE COURT: Do you have a copy of it that I can see?

MR. STENSTROM: Your Honor...

THE COURT: Because we looked in the Prothonotary's file and it was not there.

MR. STENSTROM: Your Honor, the case before the (inaudible) today and the case before you is a Rule 1531 Motion...

THE COURT: I know exactly what it is, sir.

MR. STENSTROM: A 1531 Motion—are you going to let me speak, Your Honor, or...

THE COURT: I am not going to let you drill on

about things that don't count. I asked you for an affidavit of service. Do you have a copy I can see?

MR. STENSTROM: Rule 1531, there is a certificate of service in there from the...

THE COURT: Do you have a copy I can see because we looked in the file and there wasn't an affidavit of service,

MR. STENSTROM: Your Honor, the certificate of service is included with the 1531 Motion.

THE COURT: And, it says service by John Marietta. That's the only affidavit of service I saw. The definition of "competent adult" specifically excludes parties.

MR. STENSTROM: Your Honor...

THE COURT: I mean, this is basic law.

MR. STENSTROM: ...may I address the Court with your—would it please the Court if I could address the Court and answer the first question about our standing, although that is not an issue?

THE COURT: No. No. Let's go to service because due process requires notice and an opportunity for a hearing. You have had eight days to provide notice since you first came in with this alleged emergency petition.

MR. STENSTROM: Your Honor, the Rule 1531, okay, if you are speaking of Rule 1532, a Rule 1531 Motion specifically says, "the urgent nature of a Rule 1531 Motion,"

first of all, doesn't even require a hearing or notice. It says it specifically in Rule 1531 that neither notice or a hearing is required. If the matter is so urgent in nature, the Judge could make a ruling with or without service or hearing. So, we are here today. Normally, you would provide service, and with the way that the Court works, we were trying to comply with the local law and local practices, but we contend that the—Your Honor, let me finish please. We contend that proper service was made and under Rule 1531, 1531 says that we don't even need to make service, that the hearing is—that the matter is of such urgency to the Court and to the plaintiffs, that we are not even required to do that. So, your position here that I have to provide an issue of standing or perfect service is not even covered under Rule 1531. I can pull that up and we can print it, but 1531, we could come here, have a hearing without notice, without service, and it says that right in Rule 1531, and that's the entire purpose of Rule 1531.

THE COURT: Excuse me, Mr. Stenstrom, I have been practicing law and acting as a judge for 45 years. I am very familiar with Rule 1531 and I am very familiar with the Constitution. A preliminary injunction without notice and without service on the defendants can be entered if it is not practical or possible to complete service. You have had at minimum eight days from last Wednesday until today to complete proper service, and the fact that service was not proper was

highlighted in front of Judge Wagner last Wednesday. So, you are coming in and pleading, well, I haven't had time to make service. You have had eight days to make service.

MR. STENSTROM: If it please the Court, may I respond, Your Honor?

THE COURT: No. Right now...

MR. STENSTROM: Your Honor...

THE COURT: ...I have other things to take care of...

MR. STENSTROM: Your Honor...

THE COURT: When the rules have been complied with...

MR. STENSTROM: Your Honor, they had eight days to file their preliminary objection, and Judge Wagner also said that. I will say the right to file a lawsuit pro se is one of the most sacred important rights under the Constitution, Your Honor.

THE COURT: I am not denying because it is pro se...

MR. STENSTROM: Also, members or groups or...

THE COURT: Again, sir, stop. Stop interrupting me! I am not denying it because you are pro se. I suspect that you have no standing, you are not a lawyer and you can't possibly be an authorized representative for an undisclosed

person. So, we will wait and see, but in the meantime, I am going to tell you to get it served and once you get it served on the defendants, if you want to come back here next week, possibly...

MR. STENSTROM: Your Honor, how about if we serve them right now and we could be back here in ten minutes after the Sheriff's Office serves them?

THE COURT: We have Arraignment Court today and we have 40 people coming in to enter guilty pleas and get sentenced. That video is going to start in five minutes. I don't have time to do it today, but we can shoot for Tuesday afternoon. We could start at 1:00 o'clock if you would like, but you are not going to get any hearing if between now and Tuesday you haven't had the sheriff serve the defendants you want to have to respond.

MR. STENSTROM: Your Honor, they had the same eight day opportunity. Judge Wagner specifically said they had the same eight day opportunity to file preliminary objections.

THE COURT: And, if you were an attorney, you would understand that...

MR. STENSTROM: I don't need to be an attorney...

THE COURT: Excuse me, sir. Excuse me, sir. I am the Judge and when I start talking, you stop, and that's just

basic respect, and you probably would know that if you were a lawyer, but the Constitution requires legally valid service. And legally valid service has not been accomplished in this case. If it has, you have not filed an affidavit that says that it has been. You have had eight days to provide legally valid service and you have not done it. 1:00 o'clock on Tuesday, and if you had service at that point, we will take up whatever we can at that point in time, but we want defendants to have an opportunity to respond to the allegations that are being made.

Do you plan to be here at 1:00 o'clock on Tuesday?

MR. STENSTROM: Your Honor, I plan to be here at 1:00 o'clock and every day afterwards, and I am not going away, neither is Mr. Marietta.

THE COURT: I didn't say you were.

MR. STENSTROM: Well, we have a right as pro se plaintiffs, and I am going to raise...

THE COURT: I am not saying you don't.

MR. STENSTROM: I am raising an objection here at this hearing, Your Honor, that you have denied our rights here and you denied our pro se rights and that we have perfected service, and if that was a problem, then the defendants have a responsibility to file preliminary objections...

THE COURT: Sir...

MR. STENSTROM: ...and be present.

THE COURT: ...when I start talking you stop. You have not perfected service. Look at the rules and, you know, I feel like I am arguing with a goldfish, but there is no response. If you were a lawyer, you would read the rules and see the rules...

MR. STENSTROM: I don't need to be a lawyer, Your Honor.

THE COURT: Excuse me, sir. Excuse me, sir. I am not going to allow you to interrupt me. I don't allow licensed attorneys to interrupt me and because you are a pro se party doesn't make you superior to a licensed attorney. You have not provided evidence of valid legal service.

MR. STENSTROM: And, Your Honor, you are making the argument that the defendants should be making. You are making the argument that the defendants should be making, who are not here.

THE COURT: I am not taking an advocate's position in this role, but it is my obligation to respect the Constitution. The Constitution requires legally valid service when possible, and certainly you have had eight days that it has been possible and you have ignored what you were told in Judge Wagner's courtroom that service was not valid eight days ago.

MR. STENSTROM: Judge Wagner did not rule that, Your Honor.

THE COURT: So, what was not valid eight days

ago is not valid today.

MR. STENSTROM: That was not Judge Wagner's ruling.

THE COURT: Thank you. Tuesday at 1:00 o'clock.

OFF THE RECORD.

9:29 O'CLOCK A.M.

(At this time, the above-entitled matter was concluded.)

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken stenographically by me on the hearing of the within case and that the copies are a true and correct transcript of the same.

KATHY L. GOODWIN
OFFICIAL COURT REPORTER

* * * * *

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,

v.

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

Defendants.

CIVIL DIVISION

No. 1759 of 2023, G.D.

REVISED MOTIONS COURT PROCEEDINGS

Proceedings were held in the above-entitled matter before the
HONORABLE JUDGE STEVE P. LESKINEN on Thursday,
September 21, 2023, in Courtroom Number 1 of the Fayette
County Courthouse, Uniontown, Pennsylvania.

APPEARANCES:

PLAINTIFFS WERE PRO SE

NO ONE PRESENT ON BEHALF OF THE DEFENDANTS.

KATHY L. GOODWIN
OFFICIAL COURT REPORTER

Law trajectory.

The reason we are here today is specific to civil law, Breach of Fiduciary Duty and Tort regarding the actions of defendants and denying Mr. Marietta and myself our rights to address our grievances before the Court.

THE COURT: In fairness, and I don't mean to make you run a gauntlet of objections, I am sure that once the parties are served they will be making their own objections, but I don't see an attorney identification number next to your name. You are listed as an authorized representative. It doesn't say who you are an authorized representative for, and your address is listed as Chester County. So, I have a ^{plethora} couple of questions about your standing. If you were an attorney, obviously, you could represent someone, have the ability to represent someone. Who are you the authorized representative for? So, those questions aren't going to be answered today.

Is there anyone here on behalf of any of the defendants?

MR. STENSTROM: Excuse me, Your Honor. I have—I am a pro se plaintiff.

THE COURT: Wait. I am asking first if there is anyone here on behalf of the defendants.

The other issue in the case is service, and I reviewed the transcript from your presentation to Judge Wagner last Wednesday, which is now eight days ago, and your objection

was noted at that time that the definition of a competent adult who can make service, specifically excludes any party. The only service that is alleged in this case is that Mr. Marietta gave a copy to the Election Bureau.

Now, if you want to have the Election Bureau be the only defendant, you may be able to get the sheriff to serve the Election Bureau, but as far as taking ^{Substantive} ~~substitutive~~ action, you have had eight days now to make proper service. SPC

You know, again, I feel a little concerned that I am arguing the law with someone who is not a lawyer, and who may not have standing to proceed in this action. So...

MR. STENSTROM: Your Honor, Judge Wagner...

THE COURT: We will give you very limited amount of time because my video is going to start at 9:30 with Arraignment Court, and I have got 40 people to enter pleas and get sentenced today.

MR. STENSTROM: Your Honor, Judge Wagner specifically said in the same transcript that if the defendants had objections and preliminary objections, that they should proceed with the Prothonotary and file them. This is a separate 1531 action, which is an emergency motion.

THE COURT: I am not going to argue the fine points of law with you right now, sir.

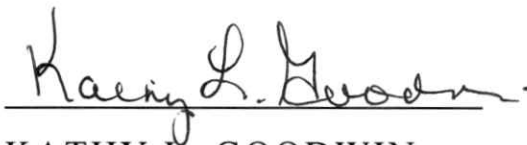
MR. STENSTROM: I would like to read the

first of all, doesn't even require a hearing or notice. It says it specifically in Rule 1531 that neither notice or a hearing is required. If the matter is so urgent in nature, the Judge could make a ruling with or without service or hearing. So, we are here today. Normally, you would provide service, and with the way that the Court works, we were trying to comply with the local law and local practices, but we contend that the—Your Honor, let me finish please. We contend that proper service was made and under Rule 1531, 1531 says that we don't even need to make service, that the hearing is—that the matter is of such urgency to the Court and to the plaintiffs, that we are not even required to do that. So, your position here that I have to provide an issue of standing or perfect service is not even covered under Rule 1531. I can ^{bring} ~~pull~~ that up and we can ^{quote} ~~print~~ it, but 1531, we could come here, have a hearing without notice, without service, and it says that right in Rule 1531, and that's the entire purpose of Rule 1531.

THE COURT: Excuse me, Mr. Stenstrom, I have been practicing law and acting as a judge for 45 years. I am very familiar with Rule 1531 and I am very familiar with the Constitution. A preliminary injunction without notice and without service on the defendants can be entered if it is not practical or possible to complete service. You have had at minimum eight days from last Wednesday until today to complete proper service, and the fact that service was not proper was

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken stenographically by me on the hearing of the within case and that the copies are a true and correct transcript of the same.



KATHY L. GOODWIN

OFFICIAL COURT REPORTER

* * * * *

EXHIBIT D

AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

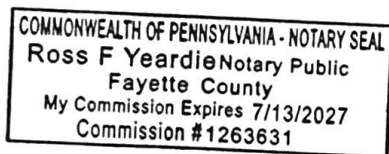
Denise Stasko (Signature)

Denise Stasko (Printed Name)

9/29/2023 (Date)

Sworn before Notary and notarized by:

Ross F. Yeardie



AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

Melanie S. Patterson (Signature)

Melanie S. Patterson (Printed Name)

9/28/23 (Date)

Sworn before Notary and notarized by:

State of Pennsylvania
County of Fayette
Mary Ann Russell

Commonwealth of Pennsylvania - Notary Seal
Mary Ann Russell, Notary Public
Washington County
My commission expires October 15, 2026
Commission number 1193851

AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

Robert B. Patterson (Signature)

ROBERT B. PATTERSON (Printed Name)

SEPT. 29, 2023 (Date)

Sworn before Notary and notarized by:

Sworn to and subscribed

before me,

this

Carol S. Bertovich
29 of Sept 2023.

Commonwealth of Pennsylvania - Notary Seal
Carol S Bertovich, Notary Public
Washington County
My commission expires February 28, 2025
Commission number 1011164

AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

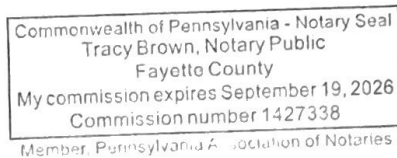
I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

Pastor Melome LeWellen (Signature)

Pastor Melome LEWELLEN (Printed Name)

9/29/2023 (Date)

Sworn before Notary and notarized by: Tracy B



AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

Patricia Diane Humbert (Signature)

Patricia Diane Humbert (Printed Name)

9/29/23 (Date)

Sworn before Notary and notarized by:

Tina M. Nicholson

Signed (or attested) before me

on

Sept 29-23

by

Tina M. Nicholson

Commonwealth of Pennsylvania - Notary Seal
Tina M. Nicholson, Notary Public
Fayette County
My commission expires February 24, 2027
Commission number 1038188
Member, Pennsylvania Association of Notaries

AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

Paul E Humbert Jr (Signature)

Paul E Humbert Jr (Printed Name)

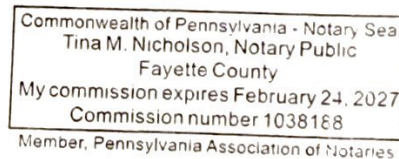
9/29/2023 (Date)

Sworn before Notary and notarized by

Tina M. Nicholson

Signed (or attested) before me

on Sept 29-23
by Tina M. Nicholson



AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

Eric Glenn Anderson (Signature)

Eric Glenn Anderson (Printed Name)

Sept 29, 2023 (Date)

Sworn before Notary and notarized by:

Commonwealth of Pennsylvania
County of Fayette

Sworn and subscribed before me this

29 day of September 2023

Patricia R. Williams

Commonwealth of Pennsylvania - Notary Seal
PATRICIA R WILLIAMS - Notary Public
Fayette County
My Commission Expires September 9, 2026
Commission Number 1179573

AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

Pecilia A. Driscoll (Signature)

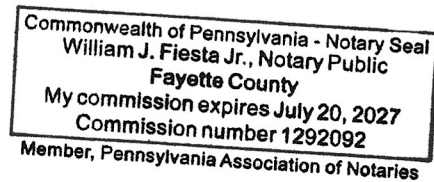
Pecilia A. Driscoll (Printed Name)

10-5-2023 (Date)

Sworn before Notary and notarized by:

William J. Fiesta Jr.

Commonwealth of Pennsylvania
County of Fayette



AFFIDAVIT

The attached transcripts produced by the Court of Common Pleas for Fayette County do not represent an accurate, or true record of the proceedings which I personally attended, in Marrietta, et al, v Fayette County, et al, Case No. 1759 2023.

I am willing to testify to refute their accuracy and provide my account of what I witnessed during the hearing for which these transcripts were created before a trier of fact.

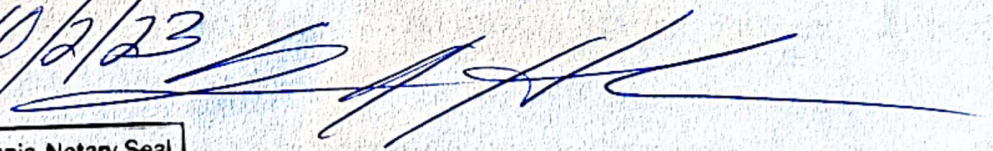
Elliott M. Mazur (Signature)

ELLIOTT M MAZUR (Printed Name)

10/2/2023 (Date)

Sworn before Notary and notarized by:

HERCIK AUTO NOTARY

10/2/23 

Commonwealth of Pennsylvania-Notary Seal
Thomas A Hercik, Notary Public
Fayette County
My Commission Expires March 27, 2027
Commission Number 1197216

000001

000091

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,

v.

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

Defendants.

CIVIL DIVISION

No. 1759 of 2023, G.D.

MOTIONS COURT PROCEEDINGS

Proceedings were held in the above-entitled matter before the
HONORABLE JUDGE STEVE P. LESKINEN on Thursday,
September 21, 2023, in Courtroom Number 1 of the Fayette
County Courthouse, Uniontown, Pennsylvania.

APPEARANCES:

PLAINTIFFS WERE PRO SE

NO ONE PRESENT ON BEHALF OF THE DEFENDANTS.

KATHY L. GOODWIN
OFFICIAL COURT REPORTER

P R O C E E D I N G S

- - - - -

ON THE RECORD

THURSDAY, SEPTEMBER 21, 2023

9:16 O'CLOCK A.M.

MOTIONS COURT PROCEEDINGS

THE COURT: Other than this election case, is there anything else for Motions Court? Is everybody else waiting for Arraignment Court at 9:30?

The remaining case for Motions Court is John R. Marietta, Jr. and Gregory Stenstrom versus Fayette County, Fayette County Board of Elections, Mark Rowan, Robert Lesnick, John Kopas and Sheryl Heid, Defendants.

Is there anyone here to present the motion?

MR. STENSTROM: Your Honor, my name is Gregory Stenstrom, and I am a Pro Se Plaintiff on the subject motion here, which is a Rule 1531 Motion for Special Relief and this is a case of an emergency injunction specific to our Breach of Fiduciary Duty case, Case 1759.

I heard you mention, Your Honor, that this is an election case. There are two separate cases here and two separate trajectories. There is the one case, which is Election Law, which Mr. Marietta--John Marietta and myself have presented pro se. We are currently waiting to hear back on a Motion for Reconsideration from the Court under the Election

Law trajectory.

The reason we are here today is specific to civil law, Breach of Fiduciary Duty and Tort regarding the actions of defendants and denying Mr. Marietta and myself our rights to address our grievances before the Court.

THE COURT: In fairness, and I don't mean to make you run a gauntlet of objections, I am sure that once the parties are served they will be making their own objections, but I don't see an attorney identification number next to your name. You are listed as an authorized representative. It doesn't say who you are an authorized representative for, and your address is listed as Chester County. So, I have a couple of questions about your standing. If you were an attorney, obviously, you could represent someone, have the ability to represent someone. Who are you the authorized representative for? So, those questions aren't going to be answered today.

Is there anyone here on behalf of any of the defendants?

MR. STENSTROM: Excuse me, Your Honor. I have—I am a pro se plaintiff.

THE COURT: Wait. I am asking first if there is anyone here on behalf of the defendants.

The other issue in the case is service, and I reviewed the transcript from your presentation to Judge Wagner last Wednesday, which is now eight days ago, and your objection

was noted at that time that the definition of a competent adult who can make service, specifically excludes any party. The only service that is alleged in this case is that Mr. Marietta gave a copy to the Election Bureau.

Now, if you want to have the Election Bureau be the only defendant, you may be able to get the sheriff to serve the Election Bureau, but as far as taking substitutive action, you have had eight days now to make proper service.

You know, again, I feel a little concerned that I am arguing the law with someone who is not a lawyer, and who may not have standing to proceed in this action. So...

MR. STENSTROM: Your Honor, Judge Wagner...

THE COURT: We will give you very limited amount of time because my video is going to start at 9:30 with Arraignment Court, and I have got 40 people to enter pleas and get sentenced today.

MR. STENSTROM: Your Honor, Judge Wagner specifically said in the same transcript that if the defendants had objections and preliminary objections, that they should proceed with the Prothonotary and file them. This is a separate 1531 action, which is an emergency motion.

THE COURT: I am not going to argue the fine points of law with you right now, sir.

MR. STENSTROM: I would like to read the

following, Your Honor.

THE COURT: Excuse me, sir. When I am talking, please stop. Okay. We don't talk over each other. My stenographer can't write it down, and I am trying to keep contained, but I don't even know why you feel you have the right to stand there, and I am sorry if it sounds like I am losing my temper, but this is more of a circus than a legal proceeding so far.

MR. STENSTROM: I appreciate...

THE COURT: And, the fact that I said that, I am upset at myself for losing my temper a little bit...

MR. STENSTROM: I understand, Your Honor.

THE COURT: ...because I don't do it very often, but I am talking. Okay.

Now, Judge Wagner said that they should file Preliminary Objections, but a prerequisite to their filing preliminary objection is them being served. Service of notice is one of the two hallmarks of due process. Defendants are not required to respond in any way, with a responsive pleading, whether it is preliminary objections or an answer to a complaint until they have been legally served. Legal service requires that the sheriff or the sheriff's deputies serve them. You have had eight days since that defect was pointed out in that proceeding in front of Judge Wagner to make service.

Have you made service on any of the defendants?

MR. STENSTROM: Your Honor, yes, we have. Your Honor, I would like to address...

THE COURT: Is there any affidavit of service that you can give me?

MR. STENSTROM: Your Honor, I have a right...

THE COURT: Please stop interrupting me. Do you have an affidavit of service to show the service was made properly under the Rules of Civil Procedure and not by a party to the proceeding, because that is now lawful service?

MR. STENSTROM: Your Honor, we have a proper certificate of service that was filed with the motion and the subject...

THE COURT: Do you have a copy of it that I can see?

MR. STENSTROM: Your Honor...

THE COURT: Because we looked in the Prothonotary's file and it was not there.

MR. STENSTROM: Your Honor, the case before the (inaudible) today and the case before you is a Rule 1531 Motion...

THE COURT: I know exactly what it is, sir.

MR. STENSTROM: A 1531 Motion—are you going to let me speak, Your Honor, or...

THE COURT: I am not going to let you drill on

about things that don't count. I asked you for an affidavit of service. Do you have a copy I can see?

MR. STENSTROM: Rule 1531, there is a certificate of service in there from the...

THE COURT: Do you have a copy I can see because we looked in the file and there wasn't an affidavit of service,

MR. STENSTROM: Your Honor, the certificate of service is included with the 1531 Motion.

THE COURT: And, it says service by John Marietta. That's the only affidavit of service I saw. The definition of "competent adult" specifically excludes parties.

MR. STENSTROM: Your Honor...

THE COURT: I mean, this is basic law.

MR. STENSTROM: ...may I address the Court with your—would it please the Court if I could address the Court and answer the first question about our standing, although that is not an issue?

THE COURT: No. No. Let's go to service because due process requires notice and an opportunity for a hearing. You have had eight days to provide notice since you first came in with this alleged emergency petition.

MR. STENSTROM: Your Honor, the Rule 1531, okay, if you are speaking of Rule 1532, a Rule 1531 Motion specifically says, "the urgent nature of a Rule 1531 Motion,"

first of all, doesn't even require a hearing or notice. It says it specifically in Rule 1531 that neither notice or a hearing is required. If the matter is so urgent in nature, the Judge could make a ruling with or without service or hearing. So, we are here today. Normally, you would provide service, and with the way that the Court works, we were trying to comply with the local law and local practices, but we contend that the—Your Honor, let me finish please. We contend that proper service was made and under Rule 1531, 1531 says that we don't even need to make service, that the hearing is—that the matter is of such urgency to the Court and to the plaintiffs, that we are not even required to do that. So, your position here that I have to provide an issue of standing or perfect service is not even covered under Rule 1531. I can pull that up and we can print it, but 1531, we could come here, have a hearing without notice, without service, and it says that right in Rule 1531, and that's the entire purpose of Rule 1531.

THE COURT: Excuse me, Mr. Stenstrom, I have been practicing law and acting as a judge for 45 years. I am very familiar with Rule 1531 and I am very familiar with the Constitution. A preliminary injunction without notice and without service on the defendants can be entered if it is not practical or possible to complete service. You have had at minimum eight days from last Wednesday until today to complete proper service, and the fact that service was not proper was

highlighted in front of Judge Wagner last Wednesday. So, you are coming in and pleading, well, I haven't had time to make service. You have had eight days to make service.

MR. STENSTROM: If it please the Court, may I respond, Your Honor?

THE COURT: No. Right now...

MR. STENSTROM: Your Honor...

THE COURT: ...I have other things to take care of...

MR. STENSTROM: Your Honor...

THE COURT: When the rules have been complied with...

MR. STENSTROM: Your Honor, they had eight days to file their preliminary objection, and Judge Wagner also said that. I will say the right to file a lawsuit pro se is one of the most sacred important rights under the Constitution, Your Honor.

THE COURT: I am not denying because it is pro se...

MR. STENSTROM: Also, members or groups or...

THE COURT: Again, sir, stop. Stop interrupting me! I am not denying it because you are pro se. I suspect that you have no standing, you are not a lawyer and you can't possibly be an authorized representative for an undisclosed

person. So, we will wait and see, but in the meantime, I am going to tell you to get it served and once you get it served on the defendants, if you want to come back here next week, possibly...

MR. STENSTROM: Your Honor, how about if we serve them right now and we could be back here in ten minutes after the Sheriff's Office serves them?

THE COURT: We have Arraignment Court today and we have 40 people coming in to enter guilty pleas and get sentenced. That video is going to start in five minutes. I don't have time to do it today, but we can shoot for Tuesday afternoon. We could start at 1:00 o'clock if you would like, but you are not going to get any hearing if between now and Tuesday you haven't had the sheriff serve the defendants you want to have to respond.

MR. STENSTROM: Your Honor, they had the same eight day opportunity. Judge Wagner specifically said they had the same eight day opportunity to file preliminary objections.

THE COURT: And, if you were an attorney, you would understand that...

MR. STENSTROM: I don't need to be an attorney...

THE COURT: Excuse me, sir. Excuse me, sir. I am the Judge and when I start talking, you stop, and that's just

basic respect, and you probably would know that if you were a lawyer, but the Constitution requires legally valid service. And legally valid service has not been accomplished in this case. If it has, you have not filed an affidavit that says that it has been. You have had eight days to provide legally valid service and you have not done it. 1:00 o'clock on Tuesday, and if you had service at that point, we will take up whatever we can at that point in time, but we want defendants to have an opportunity to respond to the allegations that are being made.

Do you plan to be here at 1:00 o'clock on Tuesday?

MR. STENSTROM: Your Honor, I plan to be here at 1:00 o'clock and every day afterwards, and I am not going away, neither is Mr. Marietta.

THE COURT: I didn't say you were.

MR. STENSTROM: Well, we have a right as pro se plaintiffs, and I am going to raise...

THE COURT: I am not saying you don't.

MR. STENSTROM: I am raising an objection here at this hearing, Your Honor, that you have denied our rights here and you denied our pro se rights and that we have perfected service, and if that was a problem, then the defendants have a responsibility to file preliminary objections...

THE COURT: Sir...

MR. STENSTROM: ...and be present.

THE COURT: ...when I start talking you stop. You have not perfected service. Look at the rules and, you know, I feel like I am arguing with a goldfish, but there is no response. If you were a lawyer, you would read the rules and see the rules...

MR. STENSTROM: I don't need to be a lawyer, Your Honor.

THE COURT: Excuse me, sir. Excuse me, sir. I am not going to allow you to interrupt me. I don't allow licensed attorneys to interrupt me and because you are a pro se party doesn't make you superior to a licensed attorney. You have not provided evidence of valid legal service.

MR. STENSTROM: And, Your Honor, you are making the argument that the defendants should be making. You are making the argument that the defendants should be making, who are not here.

THE COURT: I am not taking an advocate's position in this role, but it is my obligation to respect the Constitution. The Constitution requires legally valid service when possible, and certainly you have had eight days that it has been possible and you have ignored what you were told in Judge Wagner's courtroom that service was not valid eight days ago.

MR. STENSTROM: Judge Wagner did not rule that, Your Honor.

THE COURT: So, what was not valid eight days

ago is not valid today.

MR. STENSTROM: That was not Judge Wagner's ruling.

THE COURT: Thank you. Tuesday at 1:00 o'clock.

OFF THE RECORD.

9:29 O'CLOCK A.M.

(At this time, the above-entitled matter was concluded.)

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken stenographically by me on the hearing of the within case and that the copies are a true and correct transcript of the same.

KATHY L. GOODWIN
OFFICIAL COURT REPORTER

* * * * *

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,

v.

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

Defendants.

CIVIL DIVISION

No. 1759 of 2023, G.D.

REVISED MOTIONS COURT PROCEEDINGS

Proceedings were held in the above-entitled matter before the
HONORABLE JUDGE STEVE P. LESKINEN on Thursday,
September 21, 2023, in Courtroom Number 1 of the Fayette
County Courthouse, Uniontown, Pennsylvania.

APPEARANCES:

PLAINTIFFS WERE PRO SE

NO ONE PRESENT ON BEHALF OF THE DEFENDANTS.

KATHY L. GOODWIN
OFFICIAL COURT REPORTER

Law trajectory.

The reason we are here today is specific to civil law, Breach of Fiduciary Duty and Tort regarding the actions of defendants and denying Mr. Marietta and myself our rights to address our grievances before the Court.

THE COURT: In fairness, and I don't mean to make you run a gauntlet of objections, I am sure that once the parties are served they will be making their own objections, but I don't see an attorney identification number next to your name. You are listed as an authorized representative. It doesn't say who you are an authorized representative for, and your address is listed as Chester County. So, I have a ^{plethora} couple of questions about your standing. If you were an attorney, obviously, you could represent someone, have the ability to represent someone. Who are you the authorized representative for? So, those questions aren't going to be answered today.

Is there anyone here on behalf of any of the defendants?

MR. STENSTROM: Excuse me, Your Honor. I have—I am a pro se plaintiff.

THE COURT: Wait. I am asking first if there is anyone here on behalf of the defendants.

The other issue in the case is service, and I reviewed the transcript from your presentation to Judge Wagner last Wednesday, which is now eight days ago, and your objection

was noted at that time that the definition of a competent adult who can make service, specifically excludes any party. The only service that is alleged in this case is that Mr. Marietta gave a copy to the Election Bureau.

Now, if you want to have the Election Bureau be the only defendant, you may be able to get the sheriff to serve the Election Bureau, but as far as taking ^{Substantive} ~~substitutive~~ action, you have had eight days now to make proper service. _{SPC}

You know, again, I feel a little concerned that I am arguing the law with someone who is not a lawyer, and who may not have standing to proceed in this action. So...

MR. STENSTROM: Your Honor, Judge Wagner...

THE COURT: We will give you very limited amount of time because my video is going to start at 9:30 with Arraignment Court, and I have got 40 people to enter pleas and get sentenced today.

MR. STENSTROM: Your Honor, Judge Wagner specifically said in the same transcript that if the defendants had objections and preliminary objections, that they should proceed with the Prothonotary and file them. This is a separate 1531 action, which is an emergency motion.

THE COURT: I am not going to argue the fine points of law with you right now, sir.

MR. STENSTROM: I would like to read the

first of all, doesn't even require a hearing or notice. It says it specifically in Rule 1531 that neither notice or a hearing is required. If the matter is so urgent in nature, the Judge could make a ruling with or without service or hearing. So, we are here today. Normally, you would provide service, and with the way that the Court works, we were trying to comply with the local law and local practices, but we contend that the—Your Honor, let me finish please. We contend that proper service was made and under Rule 1531, 1531 says that we don't even need to make service, that the hearing is—that the matter is of such urgency to the Court and to the plaintiffs, that we are not even required to do that. So, your position here that I have to provide an issue of standing or perfect service is not even covered under Rule 1531. I can ^{bring} ~~pull~~ that up and we can ^{quote} ~~print~~ it, but 1531, we could come here, have a hearing without notice, without service, and it says that right in Rule 1531, and that's the entire purpose of Rule 1531.

THE COURT: Excuse me, Mr. Stenstrom, I have been practicing law and acting as a judge for 45 years. I am very familiar with Rule 1531 and I am very familiar with the Constitution. A preliminary injunction without notice and without service on the defendants can be entered if it is not practical or possible to complete service. You have had at minimum eight days from last Wednesday until today to complete proper service, and the fact that service was not proper was

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken stenographically by me on the hearing of the within case and that the copies are a true and correct transcript of the same.

Kathy L. Goodwin

KATHY L. GOODWIN

OFFICIAL COURT REPORTER

* * * * *