

**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

**REQUEST FOR RULE 1532 SPECIAL AND
SUMMARY RELIEF**

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 thirty (30) days from date of service
hereof or a judgement may be entered against you. /s/
Jon R. Marietta, Jr. & Gregory Stenstrom

REQUEST FOR RULE 1532 EMERGENCY SPECIAL AND SUMMARY RELIEF

1. Per 210 Pa. Code § 1532, Plaintiffs Special and Summary 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. This request incorporates and references the underlying petition, with all its exhibits, in the subject case.
2. The urgent nature of subject Rule 1532 Request for Special and Summary Relief before the Honorable Court is to remedy:

- a. Defendants Fayette County and Fayette County Board of Elections stated intent during public hearing on September 25th, 2023, to destroy and/or spoliage public election records and election machines used in the May 16th, 2023 primary election as a supposed function and outcome of upcoming Logic and Accuracy (L&A) testing; and also to secure Order from the Honorable Commonwealth Court for full recount of the Fayette County election.
 - b. Defendants continued denial of Plaintiffs lawful and timely requests for full recount of all ballots cast in the May 16th, 2023, primary election in Fayette County.
 - c. Defendants unlawful certification of the May 16th, 2023, primary election in Fayette County.
3. Plaintiffs requested special relief is that
- a. The election materials and evidentiary base required to accurately determine the true results of the May 16th, 2023, election be secured from destruction and spoliage and,
 - b. Defendants be ordered to permit a full recount of the Fayette County May 16th, 2023, primary election, as was required by election law, and,
 - c. This Honorable Court set aside Defendants certification of that election.
4. The only administrative inconvenience or subsequent controversy that might arise from this Honorable Court granting the requested order, is that a full recount (finally) be performed as has been required by law, and that Defendants can readily hold another public meeting to (re)certify the vote –this time in accordance with PA Sunshine laws, and with public observation and comment.

PLAINTIFFS

5. 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.

6. 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.
7. 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

8. 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.
9. 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.
10. 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

11. 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.
12. Defendants, all licensed attorneys, hold the positions:
 - a. That their integrity, by virtue alone, is unimpeachable 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.
13. 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).*
14. 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.

15. Defendants did not publish a detailed agenda and their intent to certify the election, or physically post notice, in accordance with Act 65 Pa.C.S.A. §§ 701-716, and in fact, showed malfeasant cynicism in flouting law resulting in a “public hearing” without the public being present.

REMEDY AND PRAYER FOR RELIEF

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

(Signatures next page)

Respectfully submitted,



JON R. MARIETTA JR.
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GENO GALLO.
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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 Rule 1532 Request for Special and Summary 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

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GREGORY STENSTROM

06 OCT 2023

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GENO GALLO.

Date: 06 OCT 2023

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SELF REPRESENTATION (PRO SE)

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

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**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 Rule 1532 Request for Special and Summary Relief to be properly served on the following:

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., Geno Gallo, and Gregory Stenstrom

Dated: 06 October 2023

ORDER

AND NOW, this _____ day of _____ 2023 upon consideration of the subject **RULE 1532 REQUEST FOR SPECIAL AND SUMMARY RELIEF** (231 Pa. Code § 1532), 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
