

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

SENATOR DOMINIC PILEGGI,	:
REPRESENTATIVE MICHAEL TURZAI, AND	:
LOUIS B. KUPPERMAN,	:
	: CIVIL ACTION
Plaintiffs,	:
	: No. _____
v.	:
	:
CAROL AICHELE, IN HER OFFICIAL	:
CAPACITY AS SECRETARY OF THE	:
COMMONWEALTH OF PENNSYLVANIA,	:
	:
Defendant.	:

**PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER,
PRELIMINARY AND PERMANENT INJUNCTION,
AND FOR CONVENING OF THREE-JUDGE PANEL**

Pursuant to Federal Rule of Civil Procedure 65 and 28 U.S.C. § 2284, Plaintiffs, Senator Dominic Pileggi, Representative Michael Turzai, and Louis B. Kupperman (collectively, "Plaintiffs"), by and through their attorneys, Blank Rome LLP and Eckert Seamans Cherin & Mellot, LLC, hereby move this Court for a temporary restraining order, preliminary and permanent injunction, and for the convening of a three-judge panel.

As more fully explained in the accompanying Memorandum of Law, which is incorporated herein by reference, an imminent threat to the constitutional rights of Pennsylvania voters necessitates immediate injunctive attention of the variety requested. State legislative boundaries established by Pennsylvania's 2001 Legislative Reapportionment

Plan are constitutionally deficient. Yet, the prospect that those boundaries will be used in the primary elections currently scheduled for April 24, 2012, now confronts voters in this Commonwealth. If the elections are held on that basis, violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution will result.

Plaintiffs have commenced this suit to prevent Defendant, the Secretary of the Commonwealth, from administering those primary elections – or any elections occurring in 2012 – under a decade-old and infirm state legislative reapportionment plan. Unless the Secretary of the Commonwealth is enjoined and restrained as requested herein, Plaintiffs will suffer an irreparable deprivation of their constitutional rights; so too will millions of Pennsylvania voters. In support of this Motion, Plaintiffs state:

1. To prevent the breach of the federally protected constitutional right of suffrage by a state actor within the meaning of 42 U.S.C. § 1983, Plaintiffs seek immediate injunctive relief and have contemporaneously filed a Verified Complaint (“Complaint”) against Defendant Carol Aichele (“Defendant”), in her official capacity as Secretary of the Commonwealth of Pennsylvania.

2. The Complaint seeks only injunctive relief. The allegations, count and prayer for relief contained within the Complaint, and all exhibits attached to the Complaint, are incorporated herein by reference as if fully set forth herein.

3. Plaintiffs request that a temporary restraining order issue from this Court, followed, after notice and a hearing, by a preliminary and permanent injunction enjoining Defendant from calling, holding, supervising or certifying any forthcoming elections in the

Commonwealth of Pennsylvania using Pennsylvania's 2001 Legislative Reapportionment Plan.

4. Plaintiffs have satisfied the four-part test for granting a temporary restraining order and, following notice and a hearing, a preliminary injunction:

- a. Plaintiffs have a reasonable probability of success on the merits;
- b. Plaintiffs will be immediately and irreparably injured if the requested relief is delayed or denied;
- c. Defendant will not suffer greater harm if the Court grants the requested relief than Plaintiffs will suffer if the Court denies it; and
- d. Granting preliminary relief is in the public interest in that Defendant's actions will place the rights of Pennsylvania voters at risk of being undermined and harmed irreparably.

5. Pursuant to 28 U.S.C. § 2284(a), Plaintiffs further request that this action, which "is filed challenging the constitutionality of . . . the apportionment of any statewide legislative body," be heard and determined by a district court of three judges.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order in the form attached hereto, that:

- a. Temporarily restrains and enjoins Defendant, the Secretary of the Commonwealth of Pennsylvania, from calling, holding, supervising or certifying the April 24, 2012, primary elections – or any other elections in 2012 – on the basis of the 2001 Legislative Reapportionment Plan;
- b. Sets a date and time for the preliminary injunction hearing;

- c. Orders Plaintiffs' attorneys or any agents designated by Plaintiffs to serve process on Defendant;
- d. Grants such other and further relief to which the Plaintiffs may show themselves entitled; and
- e. Allows this Court to retain jurisdiction over this matter.

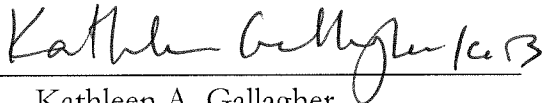
Plaintiffs respectfully request the Court hear oral argument on this motion.

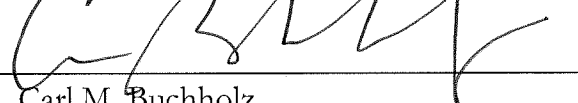
Dated: February 3, 2012

Respectfully submitted,

**ECKERT SEAMANS
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