

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MARK BANFIELD, *et al.*,

Petitioners,

v.

PEDRO CORTES,

Respondent.

DOCKET NO. 442 M.D. 2006

PROPOSED ORDER

AND NOW, this _____ day of _____ 2009, upon consideration of
Petitioners' Motion for a Permanent Judge, IT IS HEREBY ORDERED THAT Petitioners'
Motion for Permanent Judge is GRANTED and all matters relating to this case will henceforth
be heard by Judge _____.

BY THE COURT

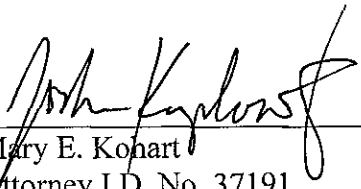
J.

Petitioners have filed this lawsuit against the Secretary of the Commonwealth of Pennsylvania contending that certain paperless electronic voting machines for he certified for use in the Commonwealth do not comply with the Pennsylvania Election Code. Petitioners have requested a wide range of documents from the Secretary and have subpoenaed documents and items from all of the vendors of electronic voting machines that are currently being used in elections in the Commonwealth. It is anticipated that a substantial discovery issues will arise from these subpoenas which will require judicial intervention. For example, one of the vendors has already filed a motion to quash and Petitioners are filing a motion to compel concurrently with this motion. Additionally, it is anticipated that complex evidentiary issues will arise once this case moves into the pre-trial and trial phases; many of these issues will likely overlap with the discovery issues. And, the Secretary has consented to this motion.

Given the complexity of the issues that will come before this Court, it is in the interest of judicial efficiency and consistency for one judge to determine pre-trial motions and discovery issues. Moreover, it is within the authority of this Court to do so under Pa. R.A.P. 3731, which states that “[e]ach matter which under the applicable law may be determined in whole or in part upon the record made before the court, and each election case shall be assigned by the President Judge to a judge, who shall be responsible for all matters in the case until such time as it is concluded by him or is at issue for argument.” Assignment of this relatively complex matter to a single judge is consistent with the Internal Operating Procedures of the Commonwealth Court. Section 125 permits “the president judge to specially assign the trial of a case within the court’s original jurisdiction to a particular judge.” As this case falls within this Court’s original jurisdiction and for the reasons stated above, such an action is appropriate.

For the foregoing reasons, Petitioners respectfully request that this Court assign this case to a permanent judge.

Dated: October 2, 2009



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CERTIFICATE OF SERVICE

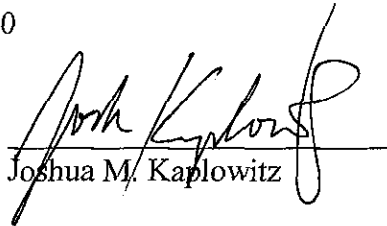
I hereby certify that on October 2, 2009, I caused a true and correct copy of Petitioners'

Motion for a Permanent Judge, to be served via electronic mail on the following:

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