

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA
CIVIL DIVISION**

CHRISTINE JENNINGS, nominee of the
Democratic Party for Representative in
Congress from the State of Florida's
Thirteenth Congressional District,
Plaintiff,

Case No.: 2006 CA 2973

vs.

ELECTIONS CANVASSING COMMISSION OF
THE STATE OF FLORIDA; SARASOTA COUNTY
CANVASSING BOARD; KATHY DENT, as
SARASOTA COUNTY SUPERVISOR OF ELECTIONS;
SUE M. COBB, as SECRETARY OF STATE OF THE
STATE OF FLORIDA; DAWN K. ROBERTS, as
DIRECTOR OF THE DIVISION OF ELECTIONS OF
THE STATE OF FLORIDA; VERN BUCHANAN, as
nominee of the Republican Party for Representative in
Congress from the State of Florida's Thirteenth
Congressional District; and ELECTION SYSTEMS
& SOFTWARE, INC.,
Defendants.

ELLEN FEDDER, LANCE JONES,
ERNEST LASCHE a/k/a MIKE LASCHE,
BARBARA KLEIN, LOIS HARMES,
JOHN MINDER, DOVIE MURRAY,
JOHN MCBRIDE, SUSAN GAAR,
GARY LAMER, CHARLES CLIFTON,
Plaintiffs,

Case No.: 2006 CA 2996

vs.

TOM GALLAGHER, CHIEF
FINANCIAL OFFICER, *et al.*
Defendants.

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PLAINTIFF JENNINGS' MOTION TO STAY PROCEEDINGS

Plaintiff Christine Jennings hereby moves to stay the proceedings in her currently pending case against Defendants. A stay is warranted by significant new developments in the federal contested-election case that she has filed against Respondent Vern Buchanan in the U.S. House of Representatives.

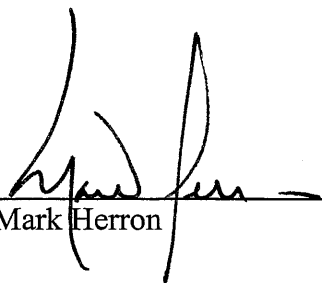
On Wednesday, May 2, 2007, the Ad Hoc Election Task Force of the Committee on House Administration passed two motions in the case of *Jennings v. Buchanan*. **First**, the Task Force voted to initiate an investigation of Florida's Thirteenth Congressional District election. **Second**, the Task Force voted (a) to authorize and direct its Chairman to secure the assistance of the Government Accountability Office (GAO), which will be asked to design and propose testing protocols to determine the reliability of the equipment that Sarasota County used in the November 2006 congressional election, taking into account recommendations by Ms. Jennings and Mr. Buchanan; (b) to require that the Task Force approve any testing protocols prior to execution by the GAO; (c) to authorize the GAO to procure such expertise and assistance from governmental or nongovernmental experts and entities as it deems necessary; and (d) to direct the GAO to report its findings to the Task Force.

Given these important new developments, Ms. Jennings respectfully asks this Court to stay these proceedings pending the House Task Force's investigation. Under Article I, Section 5 of the United States Constitution, each House of Congress "shall be the Judge of the Elections, Returns and Qualifications of its own Members." U.S. CONST. art. I, § 5, cl. 1. The House of Representatives therefore bears the ultimate constitutional responsibility to judge the disputed election in Florida's Thirteenth Congressional District. Even if the Florida courts somehow

could issue a final ruling tomorrow voiding the results of that election and declaring Ms. Jennings its rightful winner, the House of Representatives still would have the constitutional responsibility to judge this election and to determine whether Ms. Jennings or Mr. Buchanan or neither candidate is entitled to the seat as Representative in the 110th Congress from Florida's Thirteenth Congressional District. *See Morgan v. United States*, 801 F.2d 445, 447 (D.C. Cir. 1986); *McIntyre v. Fallahay*, 766 F.2d 1078, 1081 (7th Cir. 1985).

Furthermore, issues of practicality and timing weigh heavily in favor of deferring to the House investigation. As then-Judge Scalia stated in *Morgan*: "The pressing legislative demands of contemporary government have if anything increased the need for quick, decisive resolution of election controversies." 801 F.2d at 450. The House Task Force has now set in motion the process for most quickly and decisively resolving this election controversy. In so doing, the Task Force has found no compelling reason *not* to proceed immediately with a formal investigation, with assistance from the GAO and other experts and entities. That investigation necessarily will entail examining and testing the very hardware and software (including source code) that is central to the case before this Court.

Ms. Jennings therefore asks this Court to stay its proceedings pending the House Task Force's investigation. The stay she is requesting would apply to the Amended Complaint that she filed in November 2006, and she understands that the individual-voter *Fedder et al.* Plaintiffs from Case No. 2006 CA 2996, consolidated with her case in this Court, do not join in this stay motion. Ms. Jennings is filing a similar motion today in the appellate court as well. Her counsel has consulted opposing counsel and represents that they do not consent to this motion. Respondent Dent has indicated that she takes no position on this motion at this point in time but indicates that she will file a response to this motion.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this motion was furnished to the following by United States Mail, this 4th day of May, 2007:

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