

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,

vs.

CASE NO. 2006-CA-2973
Consolidated with Case No.: 2006-CA-2996

ELECTIONS CANVASSING COMMISSION
OF THE STATE OF FLORIDA, consisting of
Governor Jeb Bush, Chief Financial Officer
Tom Gallagher and State Senator Daniel Webster,
et al.,

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,

TOM GALLAGHER , CHIEF
FINANCIAL OFFICER, STATE OF FLORIDA,
and GOVERNOR JEB BUSH, and STATE
SENATOR DAN WEBSTER, as members of and
as the FLORIDA ELECTIONS CANVASSING
COMMISSION, and SUE M. COBB as SECRETARY
OF STATE, STATE OF FLORIDA, et al.,

Defendants.

DEFENDANT, SARASOTA COUNTY CANVASSING BOARD'S
ANSWER AND AFFIRMATIVE DEFENSES
TO JENNINGS FIRST AMENDED COMPLAINT

Defendant, SARASOTA COUNTY CANVASSING BOARD (“SCCB”), hereby answers the First Amended Complaint to Contest Election of Christine Jennings as follows:

1. Admitted the Election Canvassing Commission certified Vern Buchanan received 369 more votes than Christine Jennings in the election for the United States House of Representatives for Florida’s Thirteenth Congressional District. Defendant is without knowledge as the remaining allegations in the First Amended Complaint and they are therefore denied.
2. Without knowledge therefore denied.
3. Admitted Florida Statute Section 101.031(2) requires the posting of the Voters’ Bill of Rights and Responsibilities at each polling place. Defendant is without knowledge as the remaining allegations in this paragraph and they are therefore denied.

COMMON ALLEGATIONS

4. Admitted for jurisdictional purposes that this is an action to contest an election under Section 102.168, Florida Statutes.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.

14. Admitted. ES&S is a Delaware corporation headquartered in Omaha, Nebraska and registered with the Florida Department of State Division of Elections. Defendant is without knowledge as to the remaining allegations in this paragraph and they are therefore denied.
15. Admitted.
16. Admitted.
17. Admitted.
18. Admitted.
19. Without knowledge therefore denied.
20. Without knowledge therefore denied.
21. Without knowledge therefore denied.
22. Admitted Sarasota County uses the iVotronic voting system. Admitted in 2006 a proposed County Charter Amendment requiring in part that the County voting system provide a voter verified paper ballot and mandatory audits of election results was passed in Sarasota County. Defendant is without knowledge as to the remaining allegations in this paragraph and they are therefore denied.
23. Without knowledge therefore denied.
24. Without knowledge therefore denied.
25. Without knowledge therefore denied.
26. Without knowledge therefore denied.
27. Without knowledge therefore denied.
28. Without knowledge therefore denied.
29. Without knowledge therefore denied.

30. Without knowledge therefore denied.
31. Denied.
32. Without knowledge therefore denied.

COUNT I

33. Defendant restates its responses to paragraphs 1-32.
34. Without knowledge therefore denied.
35. Without knowledge therefore denied.
36. Without knowledge therefore denied.
37. Without knowledge therefore denied.
38. Defendant SCCB denies all allegations not specifically admitted herein.

AFFIRMATIVE DEFENSES

First Affirmative Defense

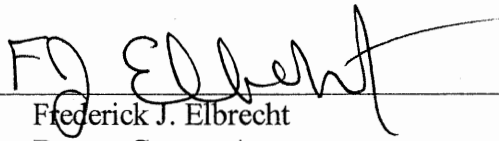
39. Defendant, SCCB, moves to dismiss the First Amended Complaint to Contest Election as against this Defendant for failure to state a cause of action. Plaintiff has alleged no wrongdoing, intentional or otherwise, on the part of SCCB. The First Amended Complaint alleges only the official acts taken by the SCCB, acts reflecting the SCCB's statutory duty to perform its role in certifying the election results contested at bar.

Second Affirmative Defense

40. Defendant, SCCB, moves to dismiss the First Amended Complaint to Contest Election as against this Defendant because SCCB is not a proper party to this action contesting a federal, multi-county election to the United States House of Representatives. As set forth in Section 102.168(4), Florida Statutes, the


“indispensable and proper party defendant” in federal, multi-county races like the race contested at bar, is the State Canvassing Commission, not a county canvassing board. Moreover, SCCB is not a party that can provide Plaintiff any relief, i.e., alter the election results certified by the State on November 20, 2006.

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Canvassing Board, consisting of Supervisor of
Elections Kathy Dent, Judge Phyllis Galen, and
Commissioner Paul Mercier

By: 
Frederick J. Elbrecht
Deputy County Attorney
Florida Bar No. 0314609

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above document has been filed with the Clerk of the Second Judicial Circuit for Leon County via facsimile (850) 922-4310 on this 15th day of December 2006, with copies forwarded via facsimile and U.S First Class Mail to all counsel of record on the attached mailing list.

By: 
Frederick J. Elbrecht
Deputy County Attorney

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Elections and Defendants, Tom Gallagher,
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Governor Jeb Bush, and Senator Dan
Webster, as members of and as the Florida
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