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NATIONAL ELECTION DEFENSE  
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BLANFORD, SHARON STRAUSS,  
ANNE C. HANNA, RAPHAEL Y. RUBIN,  
ROBERT F. WERNER, SANDRA  
O'BRIEN-WERNER, THOMAS P.  
BRUNO, JR., ROGER DREISBACH-  
WILLIAMS, and JEFF R. FAUBERT,

Petitioners,

v.

KATHY BOOCKVAR, SECRETARY OF  
THE COMMONWEALTH,

Respondent.

COMMONWEALTH COURT  
OF PENNSYLVANIA

ORIGINAL JURISDICTION

Docket No.: 674 MD 2019

**PRAECIPE TO WITHDRAW MOTION FOR PRELIMINARY  
INJUNCTION WITH CONSENT FROM BOTH PARTIES**

On January 10, 2020 Petitioners in this case filed an Application for Preliminary Injunction seeking decertification of the ExpressVote XL by the Secretary of the Commonwealth. On January 22, 2020 the Secretary filed her response arguing against a preliminary injunction on the basis, *inter alia*, of concerns regarding implementation of a new system under these time constraints. Petitioners, with consent from the Secretary, hereby withdraw their Application for Preliminary Injunction. Petitioners' reasons for the withdraw follow.

Petitioners wish to ensure that all Pennsylvania voters are using legal voting systems as soon as possible and to achieve this in the most orderly and expedient manner possible. Petitioners continue to maintain that the ExpressVote XL violates the Pennsylvania Election Code and the Pennsylvania Constitution, and its continued use not only deprives Pennsylvania citizens of their right to suffrage, but also damages the integrity of the electoral system as a whole. Petitioners are confident that their concerns are well-founded and that they can win on the merits.

It is beyond doubt that 2020 is a very important election year for Pennsylvania, given its high profile as a swing state in national elections. Because of this, it is of the utmost importance to Petitioners that the ExpressVote XL is decertified before the November 2020 general election, not on a *preliminary* basis but on a *permanent* one. In an ideal world, this voting system would be replaced by

April so that the disastrous events surrounding the use of the machine in the November 5, 2019 election, and outlined in the Application for Preliminary Injunction are not replicated; however, Petitioners understand that, although administrative ease is not a basis for continuing a constitutional violation, changes can take time, and changes on a preliminary basis can be even more confusing for those indirectly affected by an order of this Court.

In light of the above, Petitioners withdraw their Application for Preliminary Injunction, and will instead seek relief in the form of a forthcoming motion for an accelerated briefing schedule and scheduling conference, setting a final pre-trial conference, or final resolution on the merits, in March 2020. Petitioners will of course endeavor to reach agreement, where possible, with the Secretary on such proposals before presenting them to the Court. Petitioners believe that this approach advances the interests of justice, conserves the Court's resources, and serves the goal of protecting the integrity of our elections.

Respectfully submitted,

**BAKER & HOSTETLER LLP**

Dated: January 24, 2020

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/s/Ronald Fein

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**CERTIFICATE OF SERVICE**

I, John Murphy, certify that on January 24, 2020, I caused a true and correct copy of the foregoing Praecipe to Withdraw Motion to be served via the Court's electronic filing system upon the following:

Secretary of the Commonwealth Kathy Boockvar  
302 North Office Building, PA 17120  
Harrisburg, PA 17120

and

Pennsylvania Office of Attorney General  
Strawberry Square  
Harrisburg, PA 17120

*/s/ John Murphy*

\_\_\_\_\_  
John Murphy