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IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

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RICHARD VIETH, NORMA JEAN VIETH, and SUSAN FUREY,	FILED HARRISBURG
Plaintiffs,	MAR 0 1 2002
v. THE COMMONWEALTH OF PENNSYLVANIA; MARK S. SCHWEIKER, et al	MARY E. D'ANDREA, CLERK No. 1: GV 01-2439 Judge Rambo Phrograce Yohn, Judge Nygaard
Defendants.)

PLAINTIFFS' MOTION TO DIVIDE THE MARCH 11-12 HEARING

This Court will hold a hearing on March 11-12 to hear evidence relating to Plaintiffs' one-person, one-vote claim. Because of the shifting burdens relevant to such a claim as described in *Karcher v. Daggett*, 462 U.S. 725 (1983), Plaintiffs respectfully move that the Court divide the hearing between the "proof of deviations" phase and the "justification" phase.

Respectfully submitted,

REED SMITH LLP

By_

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Attorneys for Plaintiffs Richard Vieth, Norma Jean Vieth, and Susan Furey

Dated: March 1, 2002

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RICHARD VIETH, NORMA JEAN)	
VIETH, and SUSAN FUREY,)	
Plaintiffs,)	
)	
v.)	No. 1: CV 01-2439
)	Judge Rambo, Judge
THE COMMONWEALTH OF)	Yohn, Judge Nygaard
PENNSYLVANIA; MARK S.)	
SCHWEIKER, et al)	
)	
Defendants.	·)	

CERTIFICATE OF NON-CONCURRENCE

I hereby certify that that I have contacted counsel for the defendants, John Krill and J. Bart DeLone, to determine their positions regarding Plaintiffs' Motion to Divide Hearing, that I have not had a response from counsel as of the filing of this Motion; but I reasonably presume defendants will oppose this Motion.

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IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

RICHARD VIETH, NORMA JEAN VIETH et al

Plaintiffs,

v.

No. 1: CV 01-2439

THE COMMONWEALTH OF PENNSYLVANIA, et al Defendants.

Judge Nygaard, Judge Rambo Judge Yohn

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2002, I caused a true and correct copy of the foregoing document to be served upon the following counsel of record by fax transmission and first class mail, postage prepaid:

J. Bart DeLone Senior Deputy Attorney General Office of Attorney General 15th Floor Strawberry Square Harrisburg, PA 17120 John P. Krill, Jr. Julia Glencer Kirkpatrick and Lockhart LLP 240 N. Third St. Harrisburg PA 17101-1507

Counsel for Hon. Mark Schweiker, Hon. Kim Pizzingrilli, Richard Filling, and the Commonwealth of Pennsylvania

Counsel for Hon. Robert Jubelirer and Hon. Matthew Ryan

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