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

Richard Vieth, et al., Plaintiffs

: Civil Action Number 1:CV-01-2439

v.

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Commonwealth of Pennsylvania, et al.,
Defendants

FILED HARRISBURG

MAY 0 3 2002

MOTION OF TOM LINGENFELTER
CANDIDATE FOR UNITED STATES CONGRESS
IN THE EIGHTH CONGRESSIONAL DISTRICT
IN THE COMMONWEALTH OF PENNSYLVANIA
TO INTERVENE

PURSUANT TO FEDERAL RULE OF CIVL PROCEDURE 24(a) AND (b)

Petitoner, Tom Lingenfelter, respectfully move this Court for an Order allowing him to intervene in the above matter pursuant to FRCP 24 (a). Petitioner seeks to intervene in this action and participate in any oral argument that may be scheduled, for the purpose of requesting a partial stay of this Court's order of April 23, 2002 allowing the 2002 Congressional Primary to proceed even though this Court has found the redistricting of the new nineteen districts in the Commonwealth of Pennsylvania to be **unconstitutional**. In support of this Motion, the Petitioner asserts the following:

- 1. Tom Lingenfelter, has standing as a voter and a Republican candidate for the Eighth Congressional District seat, currently comprised of Bucks County and parts of Montgomery and Philadelphia Counties.
- 2. On April 8, 2002, this Court entered an Order that, inter alia, enjoined the implementation of the Commonwealth of Pennsylvania's Congressional Redistricting Law, Act 1 of 2002 and found Act 1 to be unconstitutional.
- 3. On April 17, 2002 the state legislature enacted a revised congressional reapportionment plan which was submitted to this court the following day.
- 4. The blatant partisan actions of the Commonwealth of Pennsylvania have thrown the 2002 Congressional Primary Election scheduling, administration, campaigns, and voter awareness into turmoil. The damage has already been done to candidates, voters, and

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the process, and the on going Legislative attempts to 'fix it', or in the alternative to utilize a redistricting plan which has already been found to be unconstitutional in order to hold the Congressional Primary on May 21, 2002, simply fails to meet any reasonable constitutional test for the conduct of a free and fair and constitutional election.

- 5. It is therefore apparent, that the current May 21 election date has been impaired so badly, with further injury already being contemplated, that no free and fair election could possibly be conducted at that time, nor anytime soon after. Realistic dates must be set to construct and conduct a Constitutionally sound and fair Primary election.
- 6. Based upon my electoral experience and knowledge, any date established prior to September would not under the circumstances meet a reasonable person's expectations of a free and fair election or the demands of our Constitution. I ran as a candidate for State Senate in a special election in 1993. The election was held on July 13, 1993 and there was a voter turnout of approximately 11% of the registered voters in the Senate District.
- 7. Upon information and belief, about ten (10) states currently conduct their primaries in September. By way of example, the closest state to Pennsylvania, New York, normally conducts it primary in September and in fact was conducting the New York City Mayoral Primary on September 11, 2001 and only an act of war in that very city disturbed the process.
- 8. As a concerned citizen and Congressional candidate I respectfully request that you allow me to intervene in this matter. The Petition is timely based given all the factors and prior decisions in this case. Petitioner has a direct, immediate and substantial interest in the outcome of this matter and has already been prejudiced by the proceedings in this case.
- 9. Petitioner's interest, as an actual and bona fide candidate for Congress, is not adequately represented by any existing parties to this litigation.
- 10. More harm than good will result from holding the Congressional Primary Election in conjunction with the General Primary for all other state offices on May 21, 2002, especially since the redistricting plan has already be found **unconstitutional**.
- 11. If granted intervention, the Petitioner would immediately seek legal counsel to fully participate in any hearing, conference, or oral argument set by this court, and the hearing set for May 8, 2002.
- 12. Alternatively. Petitioner seeks intervention by permission of this court pursuant to FRCP 24(b).
- 13. Granting Petitioner's motion to intervene will not delay or prejudice the adjudication

of the rights of the original parties.

WHEREFORE, Petitioner respectfully requests that this Honorable Court grant his Motion to Intervene in this action for the purposed of requesting this Court to refrain from crafting an order that would allow an unconstitutional election for Congress to proceed. Alternatively, petitioner respectfully requests that this Court grant Petitioner's intervention by permission.

Respectfully submitted,

Tom Lingenfelter, pro se

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VERIFICATION

Tom Lingenfelter hereby states that he is the Intervenor herein and verifies the statements made in the foregoing are true and correct to the best of his knowledge, information and belief, and that he understands that the statements made herein are subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsifications to authorities.

Tom Lingenfelter, Pro Se

Date May 2,02

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

RICHARD VIETH, NORMA JEAN VIETH, and SUSAN FUREY,

CIVIL NO. 1:CV-01-2439

Plaintiffs

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COMMONWEALTH OF PENNSYLVANIA, et al.,

Defendants

FILED HARRISBURG, PA

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ORDER

MARY E. D'ANDREA, CLERK

IT IS HEREBY ORDERED THAT Defendants' renewed motion for stay pending appeal of order granting declaratory judgment and injunction is GRANTED, as follows:

- (1) Upon consideration of Defendants' renewed motion for a stay, the stay is **GRANTED**. Defendants will be allowed to conduct only the 2002 Congressional elections using Act 1;
- (2) A hearing is scheduled for the purpose of determining whether Act 34 suitably remedies the constitutional violation found by this court in its order of April 8, 2002. Said hearing shall occur at 9:30 a.m. on Wednesday, May 8, 2002, in Courtroom No. 2, Ninth Floor, Federal Building, Third and Walnut Streets, Harrisburg, Pennsylvania.

SYLVIA H. RAMBO United States District Judge on behalf of the panel

Dated: April 23, 2002.

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V.

Commonwealth of Pennsylvania,

et al.,

Defendants

ORDER

IT IS HEREBY ORDERED THAT Tom Lingenfelter's motion to intervene is **GRANTED**.

United States District Judge on behalf of the panel

CERTIFICATE OF SERVICE

I, Tom Lingenfelter, Candidate for United States Congress and pro se party in this matter, hereby certify that on May 2, 2002, I caused to be served a copy of the foregoing document upon the following in the manner indicated:

VIA FAX AND FIRST CLASS MAIL

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