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CHAIRWOMAN

Congress of the United States

House of Representatives

COMMITTEE ON HOUSE ADMINISTRATION
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January 4, 2007

Mr. Jon S. Wheeler
Clerk of the Court
Florida First District Court of Appeal
301 S. Martin Luther King Blvd.
Tallahassee, FL 32399-1850

Re: *Christine Jennings v. Elections Canvassing Commission*, Case No. 1D07-

Dear Mr. Wheeler:

I am writing in relation to the pending case, *Christine Jennings v. Elections Canvassing Commission*, Case No. 1D07-11, and ask that this letter be filed with the Court in connection with that proceeding.

The House of Representatives has received a Notice of Contest from Christine Jennings, preserving her right to contest in the House, the certified results of Florida's 13th Congressional District election, as she is now doing under Florida law. The responsibility for evaluating any House contest falls to the House Administration Committee, which I chair. As a result, my Committee is closely following the course of the litigation now underway in Florida.

In contested House elections, the House customarily relies on state legal processes to provide a full and fair airing of contested election issues raised by the parties. This allows states the opportunity to fully discharge their Constitutional responsibility to conduct Federal elections. These state proceedings ordinarily enhance the ability of the House to evaluate the merits of any pending election contest. See *Roudebush v Hartke*, 405 U.S. 15, 92 S.Ct. 804 (1972).

It is therefore of concern that the parties have been unable to agree upon, and that, on December 29th, the lower court declined to order, the requested access to the hardware and software (including the source code) needed to test the contestant's central claim: voting machine malfunction. Now on appeal to your Court is the question of access to this evidence, which bears decisively on the

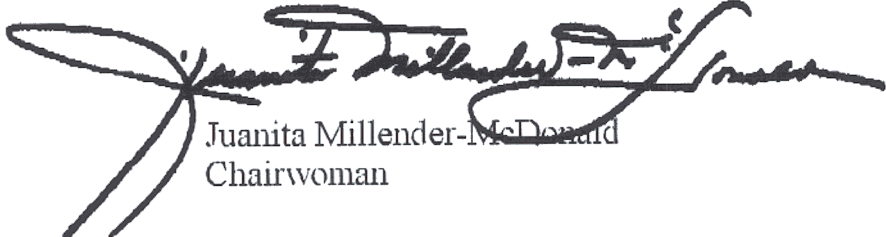
prospect of conclusively establishing who was duly elected on November 7th from this Congressional district.

My purpose here is not to express a position about the technical merits of the competing legal arguments in this evidentiary dispute. My purpose is to point out that, in evaluating an election contest in the House, the House is well served in its own deliberations by having before it a complete record. Consequently, Florida law will facilitate the evaluation of the election contest pending before the House to the extent that it provides access to relevant and critical evidence. I am confident that this can be done in a way that accommodates the valid interests of the parties, and resolution of these issues may obviate the need for the House to address them.

This election contest is, of course, a case of national importance, brought before the Court at a time of serious and mounting concern about the reliability of paperless electronic voting equipment. I am aware that the voters of Sarasota County expressed their doubts on November 7th, when they approved a requirement for voter verified paper balloting and mandatory audits.

Against this background, I am particularly concerned that the public, in Florida and nation-wide, have full confidence that the questions raised by this contest are resolved after consideration of all relevant evidence. It is with this public interest in mind, and also with due consideration for the State's and the House's proper performance of their respective constitutional duties, that I respectfully submit these views to the Court for its consideration.

Sincerely,



Juanita Millender-McDonald
Chairwoman

Cc: See attached Certificate of Service