

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 330 CD 2012

VIVIETTE APPLEWHITE; WILOLA SHINHOLSTER LEE; GLORIA CUTTINO; NADINE MARSH; BEA BOOKLER; JOYCE BLOCK; HENRIETTA KAY DICKERSON; DEVRA MIREL (“ASHER”) SCHOR; THE LEAGUE OF WOMEN VOTERS OF PENNSYLVANIA; NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, PENNSYLVANIA STATE CONFERENCE; HOMELESS ADVOCACY PROJECT,

Petitioners,

v.

THE COMMONWEALTH OF PENNSYLVANIA; THOMAS W. CORBETT, IN HIS CAPACITY AS GOVERNOR; CAROL AICHELE, IN HER CAPACITY AS SECRETARY OF THE COMMONWEALTH,

Respondents.

PETITIONERS’ PRE-HEARING BRIEF AND PRE-HEARING STATEMENT

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Dated: September 24, 2012

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INTRODUCTION

The Supreme Court has directed this Court to enter a preliminary injunction barring enforcement of Act of March 14, 2012, P.L. 195, No. 18 (“Photo ID Law”), unless:

- a. “the procedures being used for deployment of the [Department of State (“DOS”) identification cards] comport with the requirement of liberal access which the General Assembly attached to the issuance of [Department of Transportation (“PennDOT”) identification cards,” and
- b. this Court is convinced that there will be “*no* voter disenfranchisement . . . for purposes of the upcoming election.”¹

The evidence will show that the actual procedures used to issue DOS identification cards do not comport with the General Assembly’s “liberal access” requirement. An injunction is required on that basis alone. In addition, the Commonwealth’s actions have been insufficient to forestall the possibility of disenfranchisement at the November elections. The evidence will show that disenfranchisement is not only possible; it is probable. An injunction is therefore required.

By entering a preliminary injunction, the Court will not be frustrating the will of the General Assembly. The Photo ID Law embodies a policy of liberal access that the General Assembly intended would permit the law to be implemented over a 7-1/2 month period. Even if the procedures to deploy the DOS card complied with the liberal access requirement, which they do not, the General Assembly did not intend that this liberal access be made available for only a few weeks. Nor is there any evidence that the General Assembly believed that so brief a period

¹ *Applewhite v. Commonwealth*, No. 71 MAP 2012, 2012 WL 4075899, at *3 (Pa. Sept. 18, 2012) (emphasis added).

could avoid disenfranchisement of qualified electors. For this reason, enjoining the Photo ID Law temporarily so that the Commonwealth can attempt to implement the will of the General Assembly is, as the Supreme Court advised, “the most judicious remedy” in the present circumstances. *Applewhite*, 2012 WL 4075899, at *3.

ARGUMENT

I. Respondents’ Procedures for Deploying the DOS Identification Card Do Not Comport with the General Assembly’s Liberal Access Requirement

The parties now agree, and the Supreme Court has held, that “the right to vote in Pennsylvania, as vested in eligible, qualified voters, is a fundamental one.” *Id.* at *1. The Supreme Court recognized that, on its face, the Photo ID Law denies that fundamental right to anyone without an acceptable photo identification, but that the General Assembly sought to cure that constitutional problem by establishing “a policy of liberal access” to a PennDOT card. *Id.* That policy is reflected in the law’s provision stating that registered voters are entitled to get a free identification card for purposes of voting by signing a statement declaring under oath that “the elector [1] does not possess proof of identification . . . and [2] requires proof of identification for voting purposes.” *Id.* at *2 (quoting Photo ID Law, § 2).

The Supreme Court ruled that the Commonwealth’s procedures for issuing PennDOT cards do not comply with the General Assembly’s “policy of liberal access.” *Id.* at *1. With respect to DOS identification cards, the Supreme Court likewise held that requiring applicants for those cards to be initially vetted through the PennDOT secure identification card procedures is contrary to the “liberal access requirement.” *Id.* at *2. The Supreme Court directed this Court to make “a present assessment of the actual availability of the alternative [DOS] identification cards on a developed record in light of the experience since the time the cards became available” less than a month ago, on August 27, 2012. *Id.* at *3. Since the record will show that

Respondents' actual procedures for issuing DOS cards include the exhaustion requirement, as well as other conditions inconsistent with liberal access, an injunction should issue.

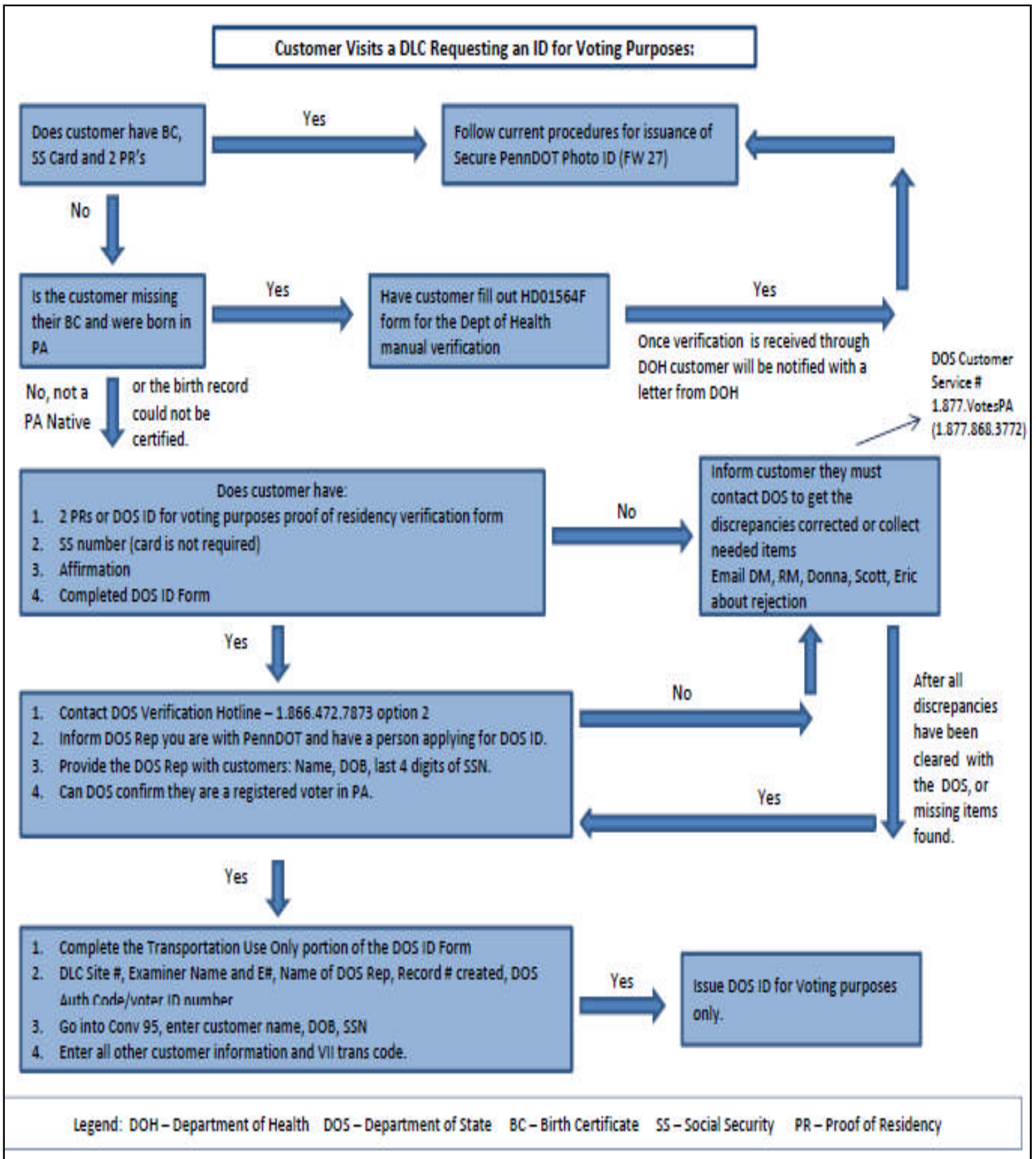
A. The Commonwealth's Exhaustion Requirements Are Unlawful and Require a Preliminary Injunction

As stated, the Supreme Court held that it is "contrary to the [Photo ID] Law's liberal access requirement" to require "applicants for a Department of State identification card [to] be initially vetted through the rigorous application process for a secure PennDOT identification card before being considered for a Department of State card." *Id.* at *2. At the July hearing, the Commonwealth said that it intended to impose this procedure on all applications for DOS cards.² As such, the Supreme Court's first question on remand effectively boils down to whether the Commonwealth has done what it said it would do. The answer is yes.

Instead of requiring a voter to sign the simple, two-point declaration envisioned by the General Assembly and the Supreme Court, the Commonwealth has adopted convoluted, burdensome, and unlawful procedures for issuing DOS cards, summarized by the Commonwealth as follows:³

² *See, e.g.*, Transcript, July 27, 2012, at 709-11 (K. Myers), 794 (J. Marks).

³ "Voter ID Process Flow" (Pet. Exh. List No. 107).



The Commonwealth's actual training materials developed since the last hearing confirm the chart's meaning: "This DOS ID process will be used for customers as a 'last resort' when all other options have been exhausted and then only when customers cannot be issued a PennDOT SECURE Photo ID."⁴ Kurt Myers of PennDOT reiterated this exhaustion requirement on the day the Commonwealth launched the DOS ID: "Please keep in mind that the DOS product is a safety net, we have been clear from day one that we first want to issue a PennDOT secure ID if possible. . . . If the customer cannot qualify for a PennDOT ID then and only then do we work to issue them a DOS ID."⁵ Even today, after the Supreme Court's decision, PennDOT's website maintains the same exhaustion requirement that the Supreme Court declared unlawful.⁶

The requirement to exhaust all other options before considering a DOS card is not a five-minute exercise, as the Commonwealth claimed during the telephone conference with the Court on September 19, 2012. For example, under the PennDOT procedures in effect until at least September 19, 2012, a Pennsylvania-born voter who could not obtain a secure PennDOT card for want of a birth certificate was forced to go through the Department of Health's ("DOH") birth record verification process, which required the applicant to leave PennDOT for "about 10 days" before making a second trip to PennDOT (if the birth record was verified by DOH) to complete the application process for a secure PennDOT card.⁷ Only if that application ultimately failed

⁴ Process for DOS (Department of State) IDs, Aug. 17, 2012 (Pet. Exh. List No. 109)

⁵ Email from K. Myers to P. Gnazzo, Aug. 28, 2012 (Pet. Exh. List No. 110).

⁶ Pa. Dep't of State, FAQ - Department of State Identification Card, *available at* http://www.portal.state.pa.us/portal/http://www.portal.state.pa.us/portal/server.pt/gateway/PTAR_GS_0_160329_1276395_0_0_18/PAVoterIDLAW-DOSVoterIDFAQ.pdf (last visited September 23, 2012) (Pet. Exh. List No. 101).

⁷ Press Release, Pa. Dep't of State, "Secretary of Commonwealth Announces Simplified Method to Obtain Photo ID for Pennsylvania-Born Voters," May 23, 2012, at

Continued on following page

would the applicant be permitted finally to apply for a DOS card.⁸ That is not the “liberal access” mandated by the General Assembly and Supreme Court.

B. The Commonwealth Has Imposed Other Requirements on a DOS Card that Violate the Liberal Access Requirement

Beyond the “exhaustion” requirement that the Supreme Court has already held unacceptable, PennDOT and the Department of State have erected multiple other barriers to obtaining a DOS card. An applicant must, among other things, provide a Social Security Number, authorize a Social Security verification process, submit to facial recognition analysis, and produce and have verified by the PennDOT clerk two separate official documents that prove the applicant’s current name and address of residency. This goes beyond the simple declaration required by the General Assembly and the Supreme Court. *Applewhite*, 2012 WL 4075899, at *1.

The obligation to provide a Social Security Number is dispensed with only if the applicant swears that he or she has never been issued a Social Security Number; there is no way for a person who has been issued a Social Security Number but does not know that number to complete the application truthfully. Applicants also are required to certify under oath that they cannot obtain a PennDOT secure identification and that they cannot obtain the documents

Continued from previous page

http://www.portal.state.pa.us;80/portal/server.pt/gateway/PTARGS_0_879406_1259092_0_0_18/rls-DOS-VoterIDupdate-052312.pdf (last visited September 23, 2012) (Pet. Exh. List No. 212).

⁸ Respondents’ recent document production suggests that beginning on or about September 20, 2012, PennDOT and DOH may try a same-day system for verifying birth records for Pennsylvania-born voters. This new system has not been tested by real applicants, and, if past is prologue, its implementation will be anything but “seamless in light of the serious operational constraints faced by the executive branch.” *Applewhite*, 2012 WL 4075899, at *3. This new procedure will do nothing for those who were already sent home by PennDOT and who may or may not be able to return. In any event, it is still not the simple affidavit required by the law’s “liberal access” policy.

necessary to obtain that secure card without paying a fee. But, as discussed above, no Pennsylvania-born voter lacking a birth certificate is able to sign this declaration without first going through the PennDOT-DOH birth record verification process. And at the end of this process, it is left to the individual PennDOT clerk to decide whether “[b]ased on the documentation and information provided, the voter identified above cannot be issued a PennDOT ID card.”⁹

Thus, the procedures used to issue the DOS card do not comply with the legislature’s “liberal access” policy. Enforcement of the Photo ID Law must be preliminarily enjoined on that basis.

II. The Commonwealth’s Actions Have Not Forestalled the Possibility of Disenfranchisement

The Supreme Court established a second mandate on remand: this Court is “obliged to enter a preliminary injunction” unless it is convinced that there will be “no voter disenfranchisement . . . for purposes of the upcoming election.” *Applewhite*, 2012 WL 4075899, at *3. The Supreme Court directed this Court to determine whether it remains convinced of its previous “predictive judgment”: whether the Commonwealth’s “efforts to educate the voting public, coupled with the remedial efforts being made to compensate for the constraints on the issuance of a PennDOT identification card, . . . [have been] sufficient to forestall the *possibility* of disenfranchisement” such that “there will be *no* voter disenfranchisement” in November. *Id.*

⁹ Request for Initial Issuance of Pa. Dep’t of State ID for Voting Purposes, *available at* http://www.portal.state.pa.us/portal/http://www.portal.state.pa.us;80/portal/server.pt/gateway/PTARGS_0_891811_1280562_0_0_18/ApplicationforDepartmentofStateVoterIDCard.pdf (last visited September 23, 2012) (Pet. Exh. List No. 105).

(emphases added).¹⁰ The evidence will show that disenfranchisement at the upcoming elections is more than possible. It is probable.

Limited Number of Cards Issued. Since the Photo ID Law was passed on March 14, 2012, and as of September 19, 2012, the Commonwealth has succeeded in issuing only 8,795 free secure PennDOT identification cards. The Commonwealth has issued only 1,005 DOS voter ID cards in the one month since those cards became available. Even if the Commonwealth issues twice or three times that number of DOS cards in the six weeks that remain before the elections, the total number of identification cards issued will pale in comparison to any of the estimates of the number of registered Pennsylvania voters without an ability to have their votes counted.

Obtaining a DOS Card is Not Easy or Assured. Petitioner Nadine Marsh's¹¹ "experience since the time the cards became available" exemplifies the "actual availability" of the DOS card. *Id.* at *3.

Just last week, Mrs. Marsh made two trips to PennDOT — each involving 80 minutes of driving — to obtain a DOS card, but each time she returned home empty handed. As of September 23, she does not have a valid voter identification, does not know when or if she will

¹⁰ The Supreme Court expressed special concern about the disenfranchisement of "some of the most vulnerable segments of our society (the elderly, disabled members of our community and the financially disadvantaged)." *Id.* at *2. The Supreme Court did not credit *any* of Respondents' arguments about provisional ballots, absentee ballots, judicial remedies after the election, or other forms of identification as being sufficient to cure the risk of disenfranchisement. Nor was the Supreme Court willing to accept the Commonwealth's "predictive judgment" or "assurances" about disenfranchisement. *Id.* at *3.

¹¹ As discussed with the Court during the September 21, 2012 telephonic hearing, Mrs. Marsh is unable to make the trip to Harrisburg to testify live due to the distance and her frailty, and the Court denied Petitioners' request to present her testimony by deposition. *See* Tr. of Hearing, Sept. 21, 2012, at 17-18. Pursuant to the Court's suggested alternative, we intend to submit a declaration from Mrs. Marsh.

be able to get one, and if she is, it will require both her and a family member to make a third 80-minute drive to get it.

Since late August, 2012, Mrs. Marsh and her family have been trying to obtain a DOS card, but Mrs. Marsh lacks two proofs of residence because she lives with someone else, has no lease, mortgage, or pay statements, and receives no other official mail at her address. Her family sent multiple emails to the Department of State asking what to do in her situation and received no reply until a third email. When Mrs. Marsh gathered what she supposedly needed, she and her family checked the hours for the nearest PennDOT facility — approximately 40 minutes away — and went on Monday, September 17, 2012. While the facility was open, the driver’s window that issues the DOS card was not, a fact that was not noted on the website they had checked. Because there was no one at the facility to issue a DOS card, they had to return the next day. After another forty-minute drive and twenty-minute wait, they spent an hour with a clerk who did not seem to understand the DOS card and had to ask her supervisor many questions. At the end of the process, PennDOT denied Mrs. Marsh’s application. Mrs. Marsh was told she would receive something from “Harrisburg” in the mail that would require her to make a third trip to PennDOT to get an identification to vote. But she was not told when that something would arrive and was warned that there is a deadline of October 9, 2012 for getting a free identification for voting. Even if she eventually succeeds on a third or fourth visit to PennDOT, this far exceeds the “liberal access” directed by the General Assembly and the Supreme Court under which Mrs. Marsh should have received a free identification card simply by signing a basic declaration that she lacks acceptable identification and needs it to vote. *Applewhite*, 2012 WL 4075899, at *1.

Mrs. Marsh's experience is not unique. Respondents produced files from 113 applicants who appear to have initially been denied DOS cards by PennDOT, sent home, and told to follow up with the Department of State. Given that only 1,005 DOS cards have been issued, it appears that under the Commonwealth's procedures for deploying the DOS card, at least 10 percent of those allowed to apply are being sent home from PennDOT without the identification needed to vote. These numbers do not include those not allowed to apply for a DOS card because they have not exhausted the secure PennDOT card process. Indeed, Respondents' internal documents suggest that as many as 25% of applicants have had issues obtaining a DOS card.

For recently registered voters, PennDOT has regularly been denying them a DOS card because the Commonwealth's procedures require that their names appear in the registration database before they will issue a DOS card, and this process takes about two to four weeks, depending on the county and how busy they are processing new and address-change registrations. Nothing in the Photo ID Law requires the Commonwealth to refuse "voting purposes only" identification until a person's name has actually been entered into the voter database. Nor is there any reason that PennDOT — which already routinely registers voters under the so-called Motor-Voter provisions of the National Voter Registration Act, 42 U.S.C. §§ 1973gg, et seq. — could not simply offer to register the voter on the spot instead of sending them home without a DOS card. Even some long-time voters are being turned away because PennDOT clerks are unable to verify registration, which upon subsequent and closer scrutiny was there all along. Regardless, of the at least 113 applicants initially denied a DOS card, the Department of State eventually confirmed approximately 70 of those applicants to be qualified for the DOS card, which demonstrates that the applicants had been erroneously rejected initially.

Lack of Time for Adequate Training for PennDOT Officials. Notwithstanding what may be good faith efforts to implement the Photo ID Law correctly in the short timeframe allotted, PennDOT representatives have not always provided accurate information to voter ID applicants, have refused to issue DOS cards for improper reasons (such as they have run out of application forms or the applicant did not have documents that were not really required), inexplicably told certain voters that no more cards would be issued for voting after October 9, and have refused to issue a free card when the clerk unilaterally decides that the voter does not really want the card for voting purposes.

Lack of Adequate Processing Capacity. The evidence will show that registered voters seeking identification have endured multi-hour wait times at PennDOT offices and have been forced to make multiple unsuccessful trips to PennDOT offices. On at least one occasion, at an otherwise open facility, no one has been available to issue DOS cards. PennDOT has not opened any facilities in those counties that have no Drivers License Centers. No mobile voter ID units have been created. And PennDOT has no plans to get elderly, disabled or financially disadvantaged voters to PennDOT facilities without charging them a fee.

Inadequate Voter Education Efforts. At the July hearing, the Commonwealth offered assurances about its planned voter education efforts. In reality, the Commonwealth's \$5 million budget for public education consists *entirely* of "federal dollars allocated by the Help American Vote Act (HAVA) . . . that would be used for educational purposes about the federal election cycle whether or not Act 18 had passed."¹² In other words, the Commonwealth is not spending any more this year than it otherwise would have to educate voters despite a sea change in

¹² Email from M. Sweeney to S. Royer, July 27, 2012, "Cost of Voter ID Law" (Pet. Exh. List No. 147).

electoral procedures. Indeed, the Commonwealth has recently cited budget constraints in refusing to undertake some of the outreach efforts promised in July.

It is also now known that the mailing to 5.9 million households discussed in July consists of a postcard that (i) provides no information — other than telling people to go to PennDOT “with supporting documentation” — about how actually to obtain an acceptable identification; (ii) fails to explain that there is a new, supposedly easier-to-obtain form of acceptable identification available at PennDOT; and (iii) is being sent out only in English.¹³ The public service announcement on the Department of State’s website fails to mention the DOS identification card at all, let alone how to obtain it. Radio advertising is not scheduled to begin until October 1, 2012; the print campaign is also largely limited to October; and the robocalls that were discussed at the July hearing will not happen until late October. No one can say that these limited education efforts so close to the election will “forestall the possibility of disenfranchisement.” *Applewhite*, 2012 WL 4075899, at *3.

* * *

Given the real difficulties that registered voters have encountered in their efforts to obtain voter identification cards — and in particular the amount of time it has frequently taken for voters to obtain the IDs — there is simply not enough time for the Commonwealth to ensure that no one will be disenfranchised by the Photo ID law for purposes of the upcoming elections. As the Supreme Court held, “assurances from government officials” are insufficient even if they are

¹³ In contrast to what has actually happened, Commonwealth witness Mr. Marks testified prospectively that this mailing would “provide information about what you need [to vote], and if you want it, here’s how you get it,” and that it would be in both English and Spanish. Transcript, July 30, 2012, at 823.

made in “good faith.” *Id.* at *3.¹⁴ There are less than thirty business days between now and the elections. For voters who live in counties where PennDOT issues voter identification only one day per week, the number of days left to obtain identification is now in the single digits. There is no basis for believing that the implementation process — which the Supreme Court concluded has “by no means been seamless in light of the serious operational constraints faced by the executive branch,” *id.* — will become any more seamless in those few remaining days. In these circumstances, a preliminary injunction is not only “the most judicious remedy.” *Id.* It is required by the Supreme Court’s ruling.

WITNESS LIST, EXHIBIT LIST, AND POTENTIAL EXPERT

Petitioners incorporate the record made during the July Hearing. In addition, attached as Exhibit 1 is the list of Petitioners’ Witnesses and/or Declarants¹⁵ who Petitioners may present. Attached as Exhibit 2 is the list of Petitioners’ Exhibits. Given the expedited and emergency nature of these proceedings and the denial of further discovery, Petitioners respectfully request

¹⁴ Indeed, no statute, regulation, or other legally binding and enforceable authority mandates creation of the DOS card or establishes the procedures by which it is being deployed. Its existence and its procedures rest entirely on assurances and whims of government officials, which the Supreme Court found unacceptable. That is not a basis to cure a constitutionally defective statute. *See, e.g., United States v. Stevens*, 130 S. Ct. 1577, 1591 (2010); *Free Speech Coalition, Inc. v. Attorney Gen.*, 677 F.3d 519, 539 n.15 (3d Cir. 2012); *Commonwealth v. Omar*, 602 Pa. 595, 609, 981 A.2d 179, 187 (2009); *Twp. of Upper St. Clair v. N.R. Porter & Assocs.*, 127 Pa. Cmwlth. 313, 316 (1989); *B & D Land & Livestock Co. v. Conner*, 534 F. Supp. 2d 891, 908 (N.D. Iowa 2008); *Cal. Oak Found. v. U.S. Forest Serv.*, No. CV-F-05-1395, 2006 WL 2454438, at *2 (E.D. Cal. Aug. 23, 2006); *P.R. Org. for Political Action v. Kusper*, 350 F. Supp. 606, 611 (N.D. Ill. 1972).

¹⁵ At the preliminary injunction stage, the Court is authorized to consider all forms of evidence, including affidavits and other hearsay that may not be admissible at a trial on the merits. *See* Pennsylvania Rule of Civil Procedure No. 1531(a) (“In determining whether a preliminary or special injunction should be granted and whether notice or a hearing should be required, the court may act on the basis of the averments of the pleadings or petition and may consider ***affidavits of parties or third persons or any other proof*** which the court may require.”) (emphasis added).

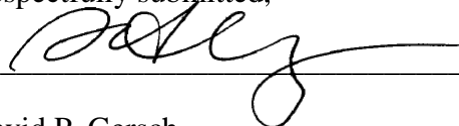
liberal leave to amend its Witness, Exhibit and Affidavit lists as necessary. In addition, Petitioners may ask the Court to consider an expert declaration based on a survey that is being completed by third-parties on September 23, 2012, the analysis of which will not be ready for submission until Thursday, September 27, 2012. This survey may be relevant to, *inter alia*, the effectiveness of the Commonwealth's "efforts to educate the voting public" and to get acceptable identification to Pennsylvania voters in order to "forestall the possibility of disenfranchisement." *Applewhite*, 2012 WL 4075899, at *3.

CONCLUSION

For the reasons herein, as well as those presented at the July and to be presented at the September 25, 2012 hearing, Petitioners' Application for Special Relief in the Nature of a Preliminary Injunction should be granted.

Dated: September 24, 2012

Respectfully submitted,



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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Viviette Applewhite; Wilola Shinholster Lee; Gloria
Cuttino; Nadine Marsh; Bea Bookler; Joyce Block;
Henrietta Kay Dickerson; Devra Mirel (“Asher”) Schor; the
League of Women Voters of Pennsylvania; National
Association for the Advancement of Colored People,
Pennsylvania State Conference; Homeless Advocacy
Project,

Petitioners,

v.

The Commonwealth of Pennsylvania; Thomas W. Corbett,
in his capacity as Governor; Carol Aichele, in her capacity
as Secretary of the Commonwealth

Respondents

Docket No. 330 MD 2012

CERTIFICATE OF SERVICE

I certify that I am this 24th day of September 2012, serving the foregoing Petitioners’ Pre-Hearing Brief and Pre-Trial Statement, upon the persons and in the manner indicated below, which service satisfies the requirement of Pa. R. A.P. 121:

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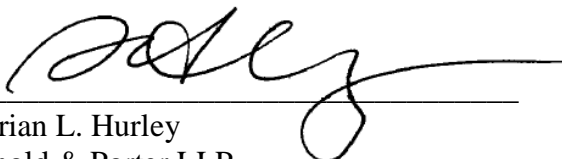
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EXHIBIT 1:

PETITIONERS' WITNESS LIST

Pursuant to Rule 212.2 of the Pennsylvania Rules of Civil Procedure, Petitioners list the following witnesses who may be called during the hearing:

Aichelle, Carole

Andrews, Brenda (by affidavit/declaration)

Bellisle, Dylan (by affidavit/declaration)

Bodie-Palmer, Brittany (by affidavit/declaration)

Brown, Tunizia (by affidavit/declaration or testimony)

Clark, Doris (by affidavit/declaration or testimony)

Cobb, Preston (by affidavit/declaration or testimony)

Curry, Daniel (by affidavit/declaration or testimony)

Dobkin, Diane (by affidavit/declaration)

Flynn, Lori (by affidavit/declaration)

Foreman, Jean (by affidavit/declaration)

Goldson, Milton (by affidavit/declaration)

Hamilton, Zeus (by affidavit/declaration or testimony)

Harlow, Ian

Hartle, Roland (by affidavit/declaration or testimony)

Hockenbury, Jessica

Hughes, Ethel (by affidavit/declaration)

Knapp, Katherine (by affidavit/declaration)

Kukowski, Theresa (by affidavit/declaration)

Lavrakas, Paul (expert)

Levine, Sue Madway (by affidavit/declaration)

Lipowicz, Slava (by affidavit/declaration)
Marks, Jonathan
Marsh, Nadine (by affidavit/declaration)
Maxton, Ashindi (by affidavit/declaration)
Moore, Cheryl Ann (by affidavit/declaration)
Myers, Kurt
Oyler, Rebecca
Pannell, Lakeisha (by affidavit/declaration or testimony)
Purdie, LaRell
Rebhorn, Emma (by affidavit/declaration)
Royer, Shannon
Scott, Benny (by affidavit/declaration or testimony)
Sharp, James (by affidavit/declaration)
Shenk, Scott
Sonntag, Dorothy (by affidavit/declaration)
Stafford, Anna (by affidavit/declaration)
Stillabower, Erik (by affidavit/declaration or testimony)
Sudler, Martha (by affidavit/declaration or testimony)
Thompson, Alice
Trice, Regina (by affidavit/declaration or testimony)
Williamson, Suzanne (by affidavit/declaration or testimony)
Wolosik, Mark (by affidavit/declaration)

Petitioners reserve the right to supplement and modify this list.

EXHIBIT 2:

PETITIONERS' EXHIBIT LIST

101. FAQ – Department of State Identification Card
102. New Department of State Voter ID
103. FAQs - Obtaining a free PennDOT Secure Photo ID Card for Voting Purposes
104. Affirmation That Voter Does Not Possess Proof of Identification for Voting Purposes
105. Request for Initial Issuance of Pennsylvania Department of State ID for Voting Purposes
106. PennDOT Internal FAQ for DOS ID
107. Voter ID Process Refresher and DOS ID Training (Aug. 17, 2012)
108. Customer Visits a DLC Requesting an ID for Voting Purposes flowchart
109. Process for DOS (Department of State) ID (Aug. 17, 2012)
110. Email from K. Myers to P. Gnazzo et al. re: A more important issue (Aug. 28, 2012)
111. Email from R. Ruman to S. Royer and M. Sweeney re: DOS ID Questions (Au. 28, 2012)
112. Email from J. Dolan to E. Kaplan et al. re: Proof of Residency Verification Form (Sept. 5, 2012)
113. Email from S. Shenk to W. Taylor et al. re: Alternative Process for Birth Records (attachment DOT_DOH Process 9.19.12.docx) (Sept. 19, 2012)
114. Screenshot of VotesPA Voter ID Resource Center, available at <http://www.votespa.com/portal/server.pt?open=514&objID=1174192&parentname=ObjMgr&parentid=1&mode=2>
115. Postcard
116. Press Release, Pa. Dep't of State, "Secretary of Commonwealth Announces New Voter ID Card" (July 20, 2012)
117. Press Release, Pa. Dep't of State, "PennDOT Issuing Free Department of State Voter ID Cards at Drivers Licensing Centers" (Aug. 27, 2012)
118. Department of State ID for Voting Purposes, Proof of Residence Verification

119. Email from R. Oyler to J. Marks et al. re: New DOS ID Verification Grid (with attachment) (Aug. 28, 2012)
120. Email from I. Harlow to S. Clemmer re: PA-Born Voters and the new DOS ID (Sept. 7, 2012)
121. Email from E. Alsvan to J. McNight et al. County numbers (with attachment) (Sept. 19, 2012)
122. Email from M. Sweeney to S. Shenk et al. re: DOS Voter Database (Aug. 30, 2012)
123. Email from E. Kaplan to S. Royer et al. re: One trip to PennDOT (Sept. 18, 2012)
124. Email from J. Pena to N. Winkler and J. Marks re: Incorrect and misleading info *still* on DoS website!!! (Sept. 17, 2012)
125. Jessica Parks, "Study Questions students' access to valid voter ID," philly.com (Sept. 20, 2012)
126. Email from S. Shenk to R. Beatty et al. re: System Updates (Sept. 16, 2012)
127. Email from S. Royer to R. Ruman and M. Sweeney re: Helping Latinos Exercise Right to Vote in PA (Sept. 12, 2012)
128. Email from S. Connolly to R. Ruman re: DRAFT Asian American Op-ED (with attachment) (Sept. 11, 2012)
129. Email from S. Royer to M. Sweeney to J. Marks re: Voter Registration: Event Request (Sept. 11, 2012)
130. Email from S. Shenk to M. Sweeney et al. re: Voter ID (with attachment) (Aug. 30, 2012)
131. Email from C. Wolpert to J. Marks re: DOS ID Card Verification Types (Aug. 28, 2012)
132. Email from J. Marks to K. Kotula and M. Sweeney re: Homeless Voter ID question (July 30, 2012)
133. Email from I. Harlow to S. Royer re: BCEL FAQs/Scripts (with attachments) (Sept. 17, 2012)
134. Email from M. Sweeney to S. Shenk et al. re: Berwick PennDOT location (Aug. 10, 2012)
135. Email from B. Dupler re: M. Sweeney and S. Royer re: Call Memorandum, Duane R. Olson (Aug. 22, 2012)

136. IDs-issued chart
137. Email from S. Royer to J. Marks and I. Harlow re: transportation (Aug. 28, 2012)
138. Letter from M. Schneider to K. Myers re: Registration of Voters at PennDOT Driver's License Centers (Sept. 10, 2012)
139. Spreadsheet, DL Center Customer Wait Times and Volumes
140. Email from J. Marks to D. Burgess et al. re: Help Desk number listed on Notice of Exception (Sept. 4, 2012)
141. VotesPA.com, Resource Center
142. Email from K. Kotula to J. Marks et al. re: Voter ID (Aug. 16, 2012)
143. DOS ID – Notice of Exception
144. Press Release, PennDOT, PennDOT Adds Thursday Evening Hours at Five Philadelphia Locations (Sept. 10, 2012)
145. Harmelin Media, 2012 General Election Media calendar
146. Voter ID matrix
147. Email from M. Sweeney to P. Dillon re: Cost of the Voter Id law (July 27, 2012)
148. Email from S. Shenk to E. Alsvan re; DOS ID (with attachment) (Aug. 27, 2012)
149. Meeting request re: DOS ID (Help Desk and Exceptions Handling) (Sept. 4, 2012)
150. Email from J. Dolan to K. Myers et al. re: DDL DOS Change (with attachment) (July 9, 2012)
151. Email from K. Mattis to J. Snader et al. re: Voter ID expenses (with attachment) (Sept. 7, 2012)
152. Email from D. Burgess to J. Marks et al. re: DOS Voter Database (Aug. 30, 2012)
153. Email from C. Wolpert to J. Marks et al. re: Exception Calls from 7:30-8:00 and 5:00-6:00 (Sept. 17, 2012)
154. DOS ID for Voting Purposes Exceptions Processing
155. Email from S. Shenk to J. Marks re: DOS ID (July 25, 2012)
156. Email from K. Kotula to J. Marks et al. re: DOS ID Card Verification Types (Aug. 27, 2012)

157. Email from I. Harlow to J. Marks re: Phone Stats (Aug. 31, 2012)
158. Email from S. Shenk to J. Marks re: DOS ID (Sept. 14, 2012)
159. Email from J. Mathis to J. Marks re: DOS ID (Sept. 16, 2012)
160. Email from C. Wolpert to T. Goril et al. re: URGENT EMAIL: Department of State ID for Voting Purposes (Aug. 28, 2012)
161. Email from B. Smotherman to S. Royer et al. re: Voter ID Call Center Plan (Sept. 19, 2012)
162. Requirements for HAVA Verification for DOS ID
163. Email from J. Marks to S. Shenk et al. re: Pdp Evertte Butcher- dl (Aug. 24, 2012)
164. Email from K. Tyson to R. Ruman et al. re: Please Confirm Message in Article (Sept. 18, 2012)
165. Email from M. Sweeney to K. Myers et al. re: Rep. Youngblood (Sept. 17, 2012)
166. Email from M. Sweeney to S. Shenk re: Voter Application (Aug. 23, 2012)
167. Email from M. Sweeney to A. Gattuso and M. Montero re: Voter ID units in State Rep offices (Aug. 30, 2012)
168. Email from B. Smotherman to C. Aichele et al re: Request for Updates: DOS Weekly Report to Governor's Office (with attachment) (Sept. 12, 2012)
169. Email from S. Shenk to M. Sweeney re: Voter Application (Aug. 23, 2012)
170. Email from M. Sweeney to M. Weglos re: Weekly Voter ID Reports (Aug. 30, 2012)
171. 8-28-12 Harmelin SIPO
172. Email from G. Blint to S. Royer et al. re: Exterior/Interior Bus Cards 3/4 (with attachment) (Aug. 13, 2012)
173. Email from G. Blint to S. Royer et al. re: For your review: Outdoor Billboards 1/4 (with attachment) (Aug. 13, 2012)
174. Email from G. Calland to S. Royer et al. re: For your review: Revised Layouts with Red (with attachment) (Aug. 14, 2012)
175. Email from S. Royer to B. Dupler re: September Senior Voter ID Event (with attachment) (Aug. 30, 2012)

176. Email from I. Harlow to K. Kotula et al re: Posters (with attachment) (Aug. 1, 2012)
177. Email from J. McKnight to R. Ruman et al. re: Power 99 Talking Points for your approval (Sept. 19, 2012)
178. Red House Radio Script 8-9-12ClientREV2.docx
179. Red HouseTVScript 8-9-12(2)ClientREV2.docx
180. 8-27-12 internal budget
181. Memo from G. Blint to S. Royer re: Voter ID Education Campaign (Sept. 20, 2012)
182. Memo from T. Fauver to PA Public Transportation Providers re: Pa Voter I.D. Law (June 22, 2012)
183. Email from D. Heisler to M. Sweeney et al. re: Berwick PennDOT and voter ID followup (Aug. 23, 2012)
184. Email from S. Shenk to PD-DL Center Supervisors et al. re: DOS ID (with attachment) (Aug. 27, 2012)
185. Email from M. Sweeney to E. Alsvan re: PennDOT complaint (Aug. 29, 2012)
186. Email from E. Kaplan to M. Sweeney et al. re: Problems with PennDOT (with attachment) (Aug. 6, 2012)
187. Letter from B. Josephs to C. Aichele re: I noticed that the Department of State . . . (Sept. 7, 2012)
188. Memo from M. Sweeney to S. Royer re: Voter ID Report: August 31 - September 14, 2012 (Sept. 14, 2012)
189. Email from J. Marks to S. Poppy et al. re: Department of State (with attachment) (Aug. 30, 2012)
190. Email from E. Alsvan to M. Sweeney re: New State ID Penalizes PA-Born Voters (Aug. 29, 2012)
191. Email from S. Clemmer to I. Harlow et al. re: PA website - Chinese form (Aug. 10, 2012)
192. Email from M. Sweeney to K. O'Donnell re: Potter County AAA Question (Sept. 12, 2012)
193. Email from M. Sweeney to K. O'Donnell re: Question for Dept of State (Aug. 15, 2012)

194. Email from K. Myers to C. Aichele re: Issuance Numbers (Aug. 30, 2012)
195. Email from S. Royer to M. Sweeney and J. Marks re: Voter Registration: Event Request (Sept. 11, 2012)
196. Email from P. Gnazzo to K. Myers et al. re: voter id woes (Sept. 19, 2012)
197. Email from E. Kaplan to J. Dolan et al. re: DOS ID Questions (Aug. 30, 2012)
198. Email from P. Geho to M. Sweeney et al. re: A more important issue (Aug. 28, 2012)
199. Email from M. Sweeney to S. Shenk et al. re: DOS Voter Database (Aug. 30, 2012)
200. Email from M. McCord to M. Sweeney re: free voter ID (Sept. 5, 2012)
201. Email from E. Chapman to M. Sweeney re: Photo ID constituent issue (Sept. 10, 2012)
202. Email from D. Martin to M. Sweeney re: Please HELP with a constituent! (Aug. 24, 2012)
203. Email from S. Shenk to M. Sweeney re: Voter ID (Aug. 30, 2012)
204. Letter from J. Dolan to M. Sudler re: You recently visited a PennDOT Drivers License Center (Aug. 31, 2012)
205. Martha Sudler birth certificate
206. Statement of Benny Scott
207. Jury Duty notice to Benny Scott
208. CCS Medical letter to Benny Scott
209. Application for Initial Identification Card for Benny Scott
210. Letter from BCEL to Benny Scott (Sept. 5, 2012)
211. SSA verification for Benny Scott
212. Press Release, Pa. Dep't of State, "Secretary of Commonwealth Announces Simplified Method to Obtain Photo ID for Pennsylvania-Born Voters" (May 23, 2012)
213. Jeremy Roebuck and Angela Couloumbis, "Montco to issue voter ID cards," philly.com (Sept. 21, 2012)

214. http://www.pacast.com/players/cmsplayer.asp?video_filename=10027_State_VoterID_English.m4v (last visited September 23, 2012)
215. Petitioners' Exhibits 1-51 from July 2012 Hearing
216. Respondents' Exhibit 1-6 from July 2012 Hearing
217. All documents under "Resolved at DOS" in Respondents' 9-20-12 production
218. All documents under "Research Not Registered" in Respondents' 9-20-12 production
219. Spreadsheet, Department of State - Card Type 15 - (8/30/2012)
220. Request for Initial Issuance of Pennsylvania Department of State ID for Voting Purposes (Aug. 14, 2012)
221. Email from J. Mathis to S. Singer re: Postcard (Sept. 20, 2012)