

TO THE HONORABLE JUDGE FITZWATER:

Plaintiffs files this **Emergency** Motion for Certification to the United States Court of Appeals for the Fifth Circuit or to the Supreme Court of the United States and state as follows:

1. This action involves **urgent** and complicated interpretations of the United States Constitution. Depending on an appellate court's answers to these burning constitutional questions, the extraordinarily contested and close 2000 presidential election may be decided.

2. This appears to be a case of first impression.

3. Jurisdiction is proper pursuant to Article III, Section 2, Clause 1 of the United States Constitution.

4. It is well known that the Texas Electors will vote on December 18, 2000 to cast their votes for Defendants Governor Bush and Mr. Cheney for President and Vice-President of the United States. **Time is clearly and unmistakably of the essence.**

5. The constitutional issues involved in this case are **extremely** critical to all American citizens, Republicans and Democrats alike.

6. Plaintiff and other registered voters in the State of Texas filed their complaint on November 20, 2000 in the United States District Court, Northern District of Texas, the federal district in which they and Mr. Cheney inhabit. Plaintiffs requested an **emergency** temporary restraining order, **expedited** preliminary injunction hearing, and **expedited** trial consolidated with hearing. They seek the federal judiciary's answer to the question of whether the Twelfth Amendment will be violated when the above-named Electors cast their ballots for Governor Bush and Mr. Cheney next month on December 18, 2000. Plaintiffs also requested that service be effected by the United States Marshal.

7. On November 20, 2000 this Court denied *all* relief requested by Plaintiffs.

Specifically, this Court denied their request for a temporary restraining order, hearing on a preliminary injunction, (unless the credibility of a witness was involved), and expedited trial date, before December 18, 2000 or after December 18, 2000.

8. This case is ripe for review by the appellate courts at this time because: (A) The Presidential election has already taken place, but there is still no victor; (B) Governor Bush and Mr. Cheney won the majority of the votes in Texas; (C) All 32 electors have stated they will vote for these two candidates in the Electoral College on December 18, 2000 when they meet in Austin; (D) Unless a court intervenes to determine the legitimacy of these two candidates, all 32 electoral votes will be voted in favor of Governor Bush and Mr. Cheney; (E) The 32 electoral votes will then be delivered to the United States Senate for counting; and (F) Governor Bush and Mr. Cheney may then be illegally elected as President and Vice-President of the United States.

9. This Court is provided the authority to **immediately** certify constitutional questions of great national importance to the appellate courts pursuant to Article III, Section 2 of the United States Constitution and other laws.

10. It is difficult to think of another case with greater national importance, urgency, or unresolved questions of constitutional interpretation at this time.

11. The following questions of federal constitutional law must be certified **immediately** to the U.S. Court of Appeals for the Fifth Circuit and preferably directly to the United States Supreme Court:

(A) In the Twelfth Amendment to the United States Constitution, what does the term “inhabitant” actually mean?

B. In the Twelfth Amendment to the United States Constitution, is the definition of “inhabitant” the same as a given state’s (e.g. Wyoming’s) definition of “resident?”

C. In the Twelfth Amendment to the United States Constitution, is the legal status of “inhabitant” more difficult to attain than a given state’s definition of “resident?”

D. In the Twelfth Amendment to the United States Constitution, which of the following dates determines when a candidate for President or Vice-President of the United States was an “inhabitant” of a given state:

- (1) the date the state’s electors were chosen , i.e. the date the electors pledged to vote for their party’s winning candidates,
- (2) the date early voting began,
- (3) the date of the national election, or
- (4) the date the state’s electors voted in the Electoral College?

E. How does the Twelfth Amendment to the United States Constitution govern if both candidates for President and Vice-President of the United States are “inhabitants” of the same state as the electors and those two candidates win a plurality of that state’s popular vote:

- (1) Are that state’s electors barred from casting their electoral votes for both candidates, or
- (2) Are that state’s electors barred from casting electoral votes for one candidate, but not the other,
- (3) In that event, and the electors all vote for the candidate for President and the candidate for Vice-President does not have the majority votes needed for election, or the electors all vote instead for the candidate for Vice-President and the candidate for President does not have the majority votes needed for election, what is the constitutional outcome?

F. In the scenario in E *supra*, how does the Twelfth Amendment govern if one of the

candidates dies or becomes incapacitated after the national election but before the electors cast their ballots in the Electoral College?

12. The Court does not need any further briefing or supporting materials to be filed by counsel at this time, as these questions can only be answered in an appellate court.

WHEREFORE, Plaintiffs respectfully requests this honorable Court to **immediately** certify these urgent and outcome-determinative questions involving federal constitutional law to the United States Circuit Court of Appeals for the Fifth Circuit or directly to the United States Supreme Court for an **immediate** resolution.

Respectfully submitted,

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