UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Eugene Martin LaVergne, *et als.,* ***Plaintiffs,*** ***vs.*** **U.S. House of Representatives,** *a body politic created and constituted by Article I of the United States Constitution, as amended;* ***et als.,*** ***Defendants,*** ***and,*** **Michael Pence,** *Vice President of the United States and President of the United States Senate,* ***et als.,*** ***Interested Parties.***	**Case No. 1:17-cv-00793 CKK-CP-RDM** **Three Judge Court:** **Hon. Cornelia T. L. Pillard, C.J. (Presiding)** **Hon. Colleen Kollar-Kotelly, U.S.D.J.** **Hon. Randolph Moss, U.S.D.J.** ***Civil Action:***

Memorandum of Points and Authorities in Support of Plaintiff Eugene Martin LaVergne's Motions

Summary of Motions:

In these motions Plaintiff Eugene Martin LaVergne ("moving Plaintiff") seeks three specific forms of relief from this Three Judge Court.

First, he moves pursuant to *L.Cv.R.* 5.4(b)(2) for an Order permitting him to file and receive papers in this case electronically through the Court's Case Management / Electronic Case Files ("CM / ECF") system.

Second, he seeks an Order under 28 *U.S.C.* §2284(b)(3) (full Court review of Single Judge Action) and / or *F.R.Civ.P.* 60 vacating and declaring void the portion of Judge Kollar-Kotelly's December 21, 2017 Single District Court Judge Order [Document 80] where she, without notice, suddenly *sua sponte* DENIED WITHOUT PREJUDICE Plaintiff's pending motion for Summary Judgment.

Third, he seeks an Order under the authority of 28 *U.S.C.* §1657(a) and precedents of the United States Supreme Court cited immediately fixing an expedited briefing schedule on the pending motion for Summary Judgment and a decision on that motion from this Three Judge Court on an expedited basis.

Statement of Facts:

For purposes of these motions and this Memorandum Plaintiff Eugene Martin LaVergne shall rely upon the facts as outlined and contained in his Declaration with Exhibits dated May 28, 2018 submitted herewith.

Legal Argument:

Point I:
The Court Should Exercise its Discretion Under *L.Cv.R.* 5.4(b)(2) and Grant Leave of Court and Direct that the Clerk Issue Plaintiff an MC / ECF User Name

> The Case Management / Electronic Case Files (CM/ECF) system is the Federal Judiciary's comprehensive case management system for all bankruptcy, district and appellate courts. CM/ECF allows courts to accept filings and provides access to filed documents online. CM/ECF gives access to

> case files by multiple parties, and offers expanded search and reporting capabilities. The system also offers the ability to immediately update dockets and download documents and print them directly from the court system.

[*See* www.pacer.gov/cmecf/].

As moving Plaintiff is technically *pro se* he is required to ***file*** all papers in hard copy format at the Clerk's Office in Washington D.C. As Plaintiff lives in New Jersey, this must be done by he himself personally delivering the papers to the Clerk's Office in Washington D.C. (a 3 ½ hour trip each way), or alternatively causing delivery by private courier, commercial courier (such as FEDEx, UPS or DHL), or United States Mail. As to ***receiving*** papers from other parties and the Court or the Court Clerk, moving Plaintiff is and has been "served" with papers a variety of ways. It is submitted that to date in this case the system of requiring him to file papers in hard copy directly with the Clerk and the system of his receiving "service" of papers from other parties and the Court or the Clerk of the Court has been unreasonably expensive, resulted in delay or no service whatsoever, and as a practical matter has failed and has prejudiced him and the other Plaintiffs to an unconstitutional degree. As such, he now moves and merely asks to be treated equally with other litigants and that he be allowed, going forward, to file papers with the Clerk and to receive papers from the other parties, the Court and the Clerk of the Court through the CM / ECF System.

F.R.Civ.P. 1 provides that the rules governing practice and procedure for civil actions in the Federal District Courts "... *should be construed,*

administered, and employed by the court and the parties to secure the ***just, speedy, and inexpensive determination of every action and proceeding***." (Emphasis added). *Id.* In this regard, a civil action is commenced by "filing" a complaint with the Court. *See F.R.Civ.P.* 3. With regard to the actual mechanics of "filing", *F.R.Civ.P.* 5 addresses with more specificity the actual literal procedures for "filing" of papers with the Court and for service of papers on other parties during the course of the litigation. Generally, the "filing" of a paper with the Court is accomplished by physically delivering the actual paper or papers to be filed in hard copy form to the Clerk of the Court. *See F.R.Civ.P.* 5(d)(2)(A). However, *F.R.Civ.P.* 5(d)(3) provides in part that:

> ... [a] Court may, by local rule, allow papers to be filed, signed, or verified by electronic means that are convenient with any technical standards established by the Judicial Conference of the United States. ...

In accordance with the authority of the rule just cited, the Federal District Court for the District of Columbia District has adopted their *L.Cv.R.* 5 that provides that "... *Except as otherwise provided in this Rule 4, all documents to be filed with the Court must be filed by electronic means in a manner authorized by the Clerk.*" *See L.Cv.R.* 5:4(a). The Local Rules mandate that an attorney use the electronic CM/ECF (Pacer®) System for all filings with a few exceptions. *See L.Cv.R.* 5:4(b)(1). Conversely, a *pro se* party may not file electronically and rather *L.Cv.R.* 5:4(d) restates that a *pro*

se party who has not obtained leave "... *must serve and be served as otherwise provided in F.R.Civ.P. 5(b).*" *Id.*

However, *L.Cv.R.* 5.4(b)(2) provides that:

> (2) A *pro se* party may obtain a CM / ECF user name and password from the Clerk with leave of Court, whether leave of Court should be granted is within the discretion of the judge to whom the case is assigned. To obtain leave of Court, the pro se party must file a written motion entitled "Motion for CM/ECF User name and Password," describing the party's access to the internet, and confirming the capacity to file documents and receive filings electronically on a regular basis and establishing that he or she either has successfully completed the entire Clerk's Office on-line tutorial or has been permitted to file electronically in other Federal Courts.

[*L.Cv.R.* 5:4(b)(2)].

Therefore, a party appearing *pro se* in a civil action before the United States District Court for the District of Columbia may move pursuant to the just cited *Local Rule* to obtain a CM / ECF user name and password from the Clerk of the Court with the Court's permission. The *Local Rule states that:* "*Whether leave of Court should be granted is within the discretion of the judge to whom the case is assigned.*" *L.Cv.R.* 5:4(b)(2). In this instances, as this is a "Three Judge District Court" case, it logically follows that the decision whether leave should be granted is therefore vested only within the discretion of a majority of the full Three Judge District Court. In all circumstances, in order to obtain leave of Court, the *pro se* party must file a motion containing, among other things, a description and confirmation of the

party's technical capacity, as well as a certification that the party has **either** "... *completed the entire Clerk's Office on-line tutorial* ***or has been permitted to file electronically ion other federal courts."*** *Id.* (Emphasis added).

In this matter the moving Plaintiff has certified that he has previously been approved and allowed to file papers electronically using the CM / EFC System in the United States Court of Appeals for the Third Circuit which he has successfully done. He also has certified to his technical capacity which surely exceeds the requirements. Moreover, the Clerk's Office and other parties have inexplicably long been sending papers to be served on him at an incorrect address, something he only discovered within the last week. Lastly, the time delays and attendant costs of requiring hard copy filing caused by the Clerk's internal security measures are in practical application unfairly burdensome and contribute to unreasonable delay in notice to moving Plaintiff and his fair and equal access to the Federal Courts. For the reasons stated herein and for the reasons stated in the Declaration of Plaintiff Eugene Martin LaVergne submitted herewith, it is respectfully submitted that moving Plaintiff satisfies all of the criteria and conditions in *L.Cv.R.* 5:4(b)(2) and that as such this Three Judge District Court should grant permission for moving Plaintiff to file and receive papers electronically through the CM / ECF system.

Point II:

The Portion of Judge Kollar-Kotelly's December 21, 2017 Single District Court Judge Order [Document 80] *sua sponte* Denying Plaintiff Eugene Martin LaVergne's Pending Motion for Summary Judgment "Without Prejudice" must be Vacated and Declared Void Under 28 *U.S.C.* §2284(b)(3) and / or *F.R.Civ.P.* 60

The instant Matter a "Three Judge District Court" was convened pursuant to 28 *U.S.C.* §2284 by Order signed by the Honorable Merrick B. Garland, Chief Judge of the D.C. Circuit Court of Appeals. [Document 7].

On the morning of October 20, 2017 - and several hours before the telephonic Case Management and Status Conference held by the full three Judge District Court - the moving Plaintiff filed a formal Motion for Summary Judgment seeking final declaratory and ***final injunctive relief.*** [Document 54] & [Document 63]. Essentially in so moving Plaintiff was seeking the equivalent of proceeding in a summary manner as the facts are not in dispute (nor are they reasonably disputable) and all that is at issue are questions of law. With Chambers Permission a copy of the Summary Judgment Motion had been emailed in PDF format the previous evening to the Court, and after filing the actual Summary judgment Motion at approximately 9:15 a.m. that morning in hard copies, printed courtesy copies were also left with the Clerk who advised that they would forthwith personally carry the documents to each of the three Judge's Chambers before

the time fixed for the telephonic Case Management and Status Conference later that day.

During the telephonic Case Management and Status Conference later that day before the full thee Judge District Court, Judge Kollar-Kotelly addressed the issue of the recently filed Summary Judgment Motion and inquired whether moving Plaintiff might consider voluntarily withdrawing the Summary Judgment Motion until after certain preliminary procedural motions could be heard first. It was the hope of the Federal and certain State Defendants to first brief and argue that a prior action in Federal District Court in New Jersey in 2011 (and later on appeal) operated to "Collaterally Estop" moving Plaintiff only from proceeding here and now in this case. After this first motion was to be decided (contemplated by the end of January 2018) the Federal and State Defendants wanted to next file other procedural and jurisdictional motions regarding all Plaintiffs. Conversely, Plaintiffs wanted to proceed with the substance and the Summary Judgment Motion on the public docket as soon as possible, as this was essentially the Court proceeding and deciding the case entirely on the substance of the arguments and in a Summary Manner. The specific verbatim colloquy between Judge Kollar-Kotelly and moving Plaintiff was as follows:

> ***
>
> **JUDGE KOLLAR-KOTELLY:** *** So Mr. Eugene LaVergne, um, how do you want to handle it?
>
> **EUGENE MARTIN LaVERGNE:** ***With all due respect, your honor, I want the substance on the record. I filed my motion.*** I

> understood that it would be probably heard after the substance, uh, from our perspective and our discussion we don't need any discovery. We are going on basically documents that the Court can almost all but take judicial notice of, and then the legal conclusion based upon undisputed facts is something the Court will decide, um, but that doesn't preclude the defendants from wanting discovery, I don't know what they could possibly want, um, but that's, that's not my argument to make. ***But as far as the motion, like I say, it is filed of record. My preference would be, I'm not inclined to withdraw it. Just enter an Order staying it so that no one has to respond to it until after the procedural motions are addressed, because then they are done, then you can set a schedule and the motion is already filed. I understand the other Plaintiffs are going to join in it. Its very simple and straight forward.*** I know you haven't had a chance to read it, but there's courtesy copies that will be carried up to your Chambers at some point today.
>
> **JUDGE KOLLAR-KOTELLY:** ***Ok, that's fine, not a problem. I was just giving you an option.*** Um, alright, we will put out an Order that indicates the schedule that we have at least at this point. ...*** (Emphasis added).

[*See* May 28, 2018 Declaration of Eugene Martin LaVergne at pages 8 & 9, paragraph 9].

It was frankly understood by moving Plaintiff and the other Plaintiffs that an Order would be entered simply staying the obligation of any Defendant having to respond to the pending Summary Judgment Motion until further Order of the Court. However, when the October 20, 1017 Order memorializing the scheduling issues as discussed and agreed before and with the three Judge District Court was issued, the Order was inadvertently silent

as to the Summary Judgment Motion and was only "e-signed" by one Judge, that being Judge Kollar-Kotelly. [Document 51]

Subsequently when reviewing the Summary Judgment Motion moving Plaintiff realized that he had inadvertently omitted "Exhibit G" to the Declaration he had submitted in support of his Summary Judgment Motion. As such, under cover letter dated October 27, 2018 (sent overnight mail) moving Plaintiff transmitted a copy of "Exhibit G" to supplement the record in his motion. [Document 63] Notwithstanding having been sent by overnight mail, the cover letter and "Exhibit G" were not filed on the PACER® System by the Clerk until the morning of October 31, 2017. *See* filing stamp for [Document 63]. When the State Defendants received the notice of the electronic filing of the cover letter and "Exhibit G" on October 31, 2017, they realized that the October 20, 2017 Order failed to include a provision staying consideration of the Summary Judgment Motion as agreed to by and before the full thee Judge Court. As such, on October 31, 2017 Idaho State Deputy Attorney General Clay Smith sent moving Plaintiff an email asking Plaintiff to consent to a motion that he would be filing to stay the duty of State Defendants to respond to the Summary Judgment Motion until further Order of the Court. This was intended to address the omission in the October 20, 2017 Order. The email colloquy of October 31, 2017 was as follows:

> Mr. LaVergne - The Idaho and Washington defendants will be filing a motion to stay the duty of all State defendants to respond to your motion

> for summary judgment (ECF No. 54) until further order of court. Do you oppose the motion? Thank you.
>
> **[To which moving Plaintiff responded:]**
>
> The 3 Judge Court already orally ruled on this on the record on October 20, but did not memorialize it in any Order. As ruled, the Motion for Summary Judgment is to remain on the public docket, but the obligation of anyone to respond, and the assigning of a return date, is stayed until further Order of the Court. ***As long as the motion remains on the public docket and is stayed, I of course consent as this was technically already ordered.*** (Emphasis added)
> Thank you,
> EML
>
> **[To which Mr. Smith responded:]**
>
> Thank you for your response.

[*See* True Copy of October 31, 2017 Emails attached at "Exhibit I" to the Declaration of Eugene Martin LaVergne dated May 28, 2018].

As such, and having obtained moving Plaintiff's consent, the State Defendants filed a "Motion to State Duty to respond to Plaintiff Eugene Martin LaVergne's Motion for Summary Judgment" electronically sater that same day, October 31, 2017. [Document 60] **[*See* True Copy of Moving Papers attached at "Exhibit J" to the Declaration of Eugene Martin LaVergne dated May 28, 2018].** There was never discussion or consent to withdraw, dismiss, or deny without prejudice the pending Summary Judgment Motion. Moreover, please note that the Proofs of Service state that the Motion was mailed to Plaintiff Eugene Martin LaVergne at "53" Cedar

Avenue, West Long Branch, New Jersey, when in fact such Plaintiff lives as **543** Cedar Avenue. Moreover the Proof of Service also indicated that the papers were mailed to Plaintiff Frederick LaVergne a "313" Walnut Street, Delanco, New Jersey, when in fact he lives at **312** Walnut Street.

Thereafter, on December 21, 2017, Judge Kollar-Kotelly, acting as a single Judge District Court, rather than grant the uncontested (and consented to) motion to "Stay" consideration of the Summary Judgment motion that was pending before the Three Judge Court, unilaterally and *sua sponte* on her own entered a single District Judge Order that reads in relevant part as follows:

> - Plaintiffs' [54] Motion for Summary Judgment is DENIED WITHOUT PREJUDICE to it being refilled at a later date if and when this case proceeds to a point where the Court considers the merits of Plaintiffs" claims. State and Federal Defendants' respective [60] and [61] motions to either stay the duty to respond to Plaintiffs' motion, or to hold that motion in abeyance, are accordingly DENIED AS MOOT.

[Document 80] **[*See* True Copy of December 21, 2017 single Judge District Court Order attached at "Exhibit K" to the Declaration of Eugene Martin LaVergne dated May 28, 2018].**

Because by this point the Court, Court Clerk and all State Defendant were inexplicably mailing documents to Plaintiff addressed to the incorrect address, and since moving Plaintiff is *Pro Se* and has not yet been approved for EFiling, moving Plaintiff was not actually aware that his Summary Judgment motion in fact had been *sua sponte* "Denied Without Prejudice" by a single District Court Judge, and that the motion that he had notice of and

had consented to for a "Stay" of the Summary Judgment Motion had been "DISMISSED AS MOOT" by written Order dated December 21, 2017, until mid to late February 2018. In this regard, there can be no question but that the pending Motion for Summary Judgment was seeking ***permanent and final injunctive*** relief.

To this end, 28 *U.S.C.* §2284(b)(3) provides in relevant part as follows:

> ***
> **(b)** In any action required to be heard and determined by a district court of three judges under subsection (a) of this section ...
> ***
> **(3)** A single judge may conduct all proceedings except the trial, and enter all orders permitted by the rules of civil procedure except as provided in this subsection. He may grant a temporary restraining order on a specific finding, based on evidence submitted, that specified irreparable damage will result if the order is not granted, which order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the district court of three judges of an application for a preliminary injunction. ***A single judge shall not*** appoint a master, or order a referee, or ***hear and determine any application for a*** preliminary or ***permanent injunction*** or motion to vacate such an injunction, or enter judgment on the merits. ***Any action of a single judge may be reviewed by the full court at any time before final judgment.*** (Emphasis added).

[28 *U.S.C.* §2284(b)(3)].

Again, in the pending Summary Judgment Motion the moving Plaintiff was seeking ***final injunctive relief.*** Despite this clear fact, and despite the clear fact that the full three Judge District Court had already agreed to Order to merely "Stay" consideration of the Summary Judgment Motion pending further Order on the record on October 20, 2017, by Order dated December 21, 2017, Judge Kollar-Kotelly, acting *sua sponte,* and acting alone as a single Judge District Court, signed an Order that no one was seeking that purported to "DISMISS WITHOUT PREJUDICE" the pending Summary Judgment Motion. Such action was beyond her power as a singled Judge District Court. The clear and unambiguous terms of 28 *U.S.C.* §2284(b)(3) are unequivocal in that they admonish that: "***A single judge shall not ...hear and determine any application for a ... permanent injunction ...***"[.] (Emphasis added). Yet that is exactly what she did, and she did so after acknowledging on the record on October 20, 2017 before the Three Judge Court that moving Plaintiff would not voluntarily withdraw his Summary Judgment Motion.

Moving Plaintiff now moves pursuant to the last sentence of 28 *U.S.C.* §2284(b)(3) which provides that "... *Any action of a single judge may be reviewed by the full court at any time before final judgment*" seeking an Order from the full Three Judge Court vacating and declaring void the portions of the December 21, 2017 single District Judge Order of Judge Kollar-Kotelly that purported to summarily and *sua sponte* "DISMISS WITHOUT PREJUDICE" the pending Summary Judgment Motion. Cumulatively or

alternatively, the moving Plaintiff also moves pursuant to the authority of *F.R.Civ.P.* 60(b)(4) seeking the same requested relief. *F.R.Civ.P.* 60(b)(4) provides as follows:

> ***
> (b) *Grounds for Relief from a Final Judgment, Order or Proceeding.* On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
>
> ***
> (4) The judgment is void; ...

[*F.R.Civ.P.* 60(b)(4)].

In the present matter, as moving Plaintiff's Summary Judgment Motion seeks final permanent injunctive relief, 28 *U.S.C.* §2284(b)(3) confirms that Judge Kollar-Kotelly had no authority to take any action on that motion as a single Judge District Court. Period. As such, the portions of her December 21, 2017 Order which purport to "DISMISS WITHOUT PREJUDICE" the Summary Judgment Motion are legally void and must be declared so my this three Judge District Court.

<u>Point III:</u>
This Court Must Order Immediate and Expedited Briefing and Decide Plaintiff Eugene Martin LaVergne's Pending Motion for Summary Judgment on an Expedited Basis:

28 *U.S.C.* §1657(a) provides in relevant part to the instant motion as follows:

> (a) Notwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, **except that the court shall expedite the consideration of any action ... if good cause is shown**. For purposes of this subsection, "good cause" is shown if a right under the Constitution of the United States or a Federal Statute ... would be maintained in a factual context that indicates that a request for expedited consideration has merit. (Emphasis added).

[28 *U.S.C.* §1657(a)].

By its clear and unambiguous terms, 28 *U.S.C.* §1657(a) requires ("... ***shall*** ...") that the Court expedite the consideration of any action upon a showing of "good cause." Beyond the subjective broad common definition of what may constitute "good cause", the statute specifically defines certain circumstances where a set of facts and a legal claim are deemed to have met the "good cause" standard requiring expedited consideration, that specifically being when it is shown that "... *a right under the Constitution of the United States or a Federal Statute ... would be maintained in a factual context that indicates that a request for expedited consideration has merit.*" *Id.* Here, the claims as asserted in the Second Amended Complaint clearly satisfy the standard of "good cause" because both Federal Constitutional and Federal Statutory rights are alleged as being violated, and that as plead the factual claims clearly have merit, concomitantly meaning that the request for expedited consideration presumptively has merit under 28 *U.S.C.* §1657(a). And under such circumstances what is requested to be considered on an expedited basis - here the Summary Judgment Motion - "shall" be expedited.

Moreover, there is more than ample precedent and basic logical support for an Article III Court to Order immediate and expedited briefing and to decide substantive dispositive motions on an expedited basis (1) when a litigant's Federal Constitutional or statutory rights are at stake and continue to be violated, (2) when the proper administration of Federal elections is at issue, or (3) when the questioning of the proper and lawful exercise of Constitutional power by one of the three branches of the Federal Government is at issue. All three circumstances implicate the public interest beyond the interest of the litigants themselves, and under such circumstances - all present in this case - expedited briefing and review is ordinarily granted on the application of a party or alternatively Ordered *sua sponte* by the Court itself. *See Norman v. Reed,* 502 *U.S.* 279, 287 (1992) (Expedited review and Supreme Court Ordering Election Ballots to be changed to comply with Constitution less than 2 weeks before the Election); *Bush v. Palm Beach County Canvassing Board,* 531 *U.S.* 70 (2000) and *Bush v. Gore,* 531 *U.S.* 98 (2000) (Expedited review of Constitutionality of Florida State Election Laws in context of Federal Election). Article III Courts have not hesitated to conduct expedited review and enter appropriate preliminary injunctive relief when the Constitutionality of a law, or the lawfulness of actions of a Federal government official, are at issue. *See Youngstown Sheet & Tube Co. v. Sawyer,* 343 *U.S.* 579 (1952) (Expedited review of constitutionality of actions of Article II President in the so called "Steel Seizure Cases"); *United States v. Nixon,* 418 *U.S.* 683 (1983) (Expedited

review in the "Nixon tapes Case"); *New York Times Company v. United States,* 403 *U.S.* 713 (1971) (Expedited review in the "Pentagon Papers Case"); *Bowsher v. Synar,* 478 *U.S.* 714 (1986) (Expedited review of the constitutionality of the "Gram-Rudman Act"); *Dames & Moore v. Regan,* 453 *U.S.* 654 (1981) (Expedited review on the constitutionality of seizure of Iranian assets); and *Raines v. Byrd,* 521 *U.S.* 811 (1997) (Expedited review of the constitutionality of the "Line Item Veto").[1]

The initial Complaint in this matter was filed on April 28, 2017, 13 months ago to the day I am signing this Declaration. *See* "Exhibit B". The First Amended Complaint in this matter was filed May 9, 2017, also more than a year ago. *See* "Exhibit C". This 3 Judge Court was convened on May 18, 2017, 1 year and 10 days ago. *See* "Exhibit D". By now this matter should be pending in the United States Supreme Court or the D.C. Circuit Court of appeals.

However, instead, in a year, all that this Three Judge Court has done is conduct a single hour long telephone conference and indulged the Defendants by not requiring that they file Answers or responsive pleadings and rather permitting the filing of a motion on collateral estoppels grounds as

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[1] Although the lower Federal Courts and the Supreme Court heard and decided *Raines v. Byrd* on an expedited basis, ultimately the Supreme Court rules that the Plaintiffs there lacked Article III Standing to bring the legal challenge. The next year in *Clinton v. New York,* 524 *U.S.* 417 (1998), where the Plaintiffs with a differently plead Complaint were found to have Article III Standing, the Supreme Court declared the "Line Item Veto" unconstitutional.

to me only which motion is now demonstrated to be frivolous to a degree that *Rule* 11 sanctions are being sought. Any other further procedural motions (Standing, Ripeness, Justifiability) could be briefed by any competent third year law student in 24 hours.

This case is probably the most important case any of the three judges assigned to this Court will ever hear. Yet it is being treated as a joke and I am being ignored and disrespected. If you think it is a joke (the greatest Constitutional scholars in the nation disagree with you) then have the courage to say so. If you think the case has merit, than have the courage to say so. But doing nothing is inexcusable.

This is all the more compelling in that so called "mid-term" elections for the present 435 seats in the United States House of Representatives will be held this upcoming November 2018. If Plaintiffs are right (and they are) then again national elections will be held for what is actually a finite number of 435 Representatives that will not even equal a quorum to conduct any legislative business! Were the House of Representatives to even seek to impeach the President, there is not a Quorum to do so. This Court took an oath to uphold, preserve, protect and defend the Constitution. By taking no action this Court is shirking that oath of office.

It is presumed that the parties can "walk and chew gum" so to speak. Surely the legal mammoth that is the United States Department of Justice can brief procedural issues and respond to a Summary Judgment Motion at

the same time. Surely the same is true of each served State's Attorney General's Office.

The only fair and reasonable remedy to a year of inaction and neglect by this Three Judge District Court is to now affirmatively proceed with consideration of the pending Summary Judgment Motion, and also any procedural motions any of the Defendants want to file, all simultaneously and all on an expedited basis as per 28 *U.S.C.* §1657(a) and the plethora of cited Untied States Supreme Court Precedent supporting this request.

As moving Plaintiff is now specifically asking to have his pending Summary Judgment Motion decided on an expedited basis under the authority of 28 *U.S.C.* §1657(a), and as there can be no reasonable question or dispute that he has met the "good cause" standard as specifically articulated in 28 *U.S.C.* §1657(a) itself, it is requested that the pending Summary Judgment Motion be subject to expedited review with full opposition and reply briefing and argument and written decision to occur within 30 days of the filing of the granting of this Motion.

Conclusion:

For the foregoing reasons and authorities cited in support thereof, it is respectfully submitted that various forms of relief requested herein be **GRANTED.**

Dated: May 28, 2018

Eugene Martin LaVergne
Plaintiff *Pro Se*