



U.S. ELECTION ASSISTANCE COMMISSION
1335 East West Highway, Suite 4300
Silver Spring, MD 20910

February 23, 2016

The Honorable Richard J. Leon
District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001

VIA FAX and U.S. MAIL

Your Honor,

As you know from the letter Mr. Newby and I sent the Court yesterday, February 22, 2016, we have grave concerns regarding the potential conflict of interest and failure of the Department of Justice (DOJ) to provide the defendants representation in the matter of League of Women Voters et al. v. Newby, et al., Civil Action No. 1:16-00236-RJL. Given the filings purportedly submitted on behalf of defendants and the performance of the DOJ attorney at the TRO hearing in your Court, we continue to have those concerns and do not believe that the agency will receive the full and zealous representation it deserves if the DOJ attorneys currently assigned to the matter remain on the case. Because of that, as head of the agency, I have written a letter to the Department of Justice requesting them to provide us a special counsel pursuant to 28 U.S.C. §514. Unfortunately, I believe it is safe to conclude that the request is unlikely to be honored in a timely manner given the position the DOJ has taken thus far.

It is possible that the Defendant-intervenors Secretary of State of Kansas and the Public Interest Legal Foundation would be able to provide the Court with the "full, adversarial" briefing that the Court requested in your 2016-02-23 Order denying the motion for a Temporary Restraining Order, but while the positions of the Defendant-intervenors are similar, they are not identical to those of Mr. Newby and the Commission. Therefore, if it is within the Court's jurisdiction and the Court is willing, I request that the Court permit Mr. Newby and the U.S. Election Assistance Commission to seek outside counsel to represent EAC in this matter and to require the DOJ to fund that professional service. We understand that if the Court is unable to grant this request we will rely on the Defendant-intervenors.

Thank you for the Court's consideration of this matter.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Christy McCormick".

Christy A. McCormick, Chairwoman
U.S. Election Assistance Commission