

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

**JEFFERSON COUNTY COMMISSION;
PATRICIA NOLAND, *as an individual
and behalf of all others similarly situated*;
and DALE MANUEL, *as an individual and
behalf of all others similarly situated*,**

Plaintiffs, and

THORNTON COOPER,

Intervening Plaintiff,

v.

**Civil Action No. 2:11-CV-989
(KING, BAILEY, BERGER)**

**NATALIE E. TENNANT, *in her capacity as
the Secretary of State*; EARL RAY TOMBLIN,
*in his capacity as the Chief Executive Officer
of the State of West Virginia*; JEFFREY
KESSLER, *in his capacity as the Acting
President of the Senate of the West Virginia
Legislature*; and RICHARD THOMPSON, *in
his capacity as the Speaker of the House of
Delegates of the West Virginia Legislature*,**

Defendants.

NOTICE OF APPEAL

Notice is hereby given that Defendants, Natalie E. Tennant, in her capacity as the Secretary of State West Virginia; Earl Ray Tomblin, in his capacity as the Chief Executive Officer of the State of West Virginia; Jeffrey Kessler, in his capacity as the President of the Senate of the West Virginia Legislature; and Richard

Thompson, in his capacity as the Speaker of the House of Delegates of the West Virginia Legislature, by their respective undersigned Counsel, hereby appeal to the Supreme Court of the United States, pursuant to 28 U.S.C. § 1253 from this Court's Memorandum Opinion and Order Dated January 3, 2012 [Doc. 65], as amended January 4, 2012 [Docs. 67, 68], and further modified by Order Denying Defendants' Emergency Motion for a Stay of Judgment Pending Appeal [Doc. 74].

Senate President Kessler and House Speaker Thompson hereby appeal the aforesaid orders in their entirety. Governor Tomblin and Secretary Tennant join in this appeal insofar as it seeks reversal of the interim remedy imposed by Majority.¹

¹Governor Tomblin joined in the Emergency Motion to Stay before the three-judge panel and the Emergency Application for Stay submitted to the Chief Justice of the United States insofar as they sought reversal of the interim remedies imposed by the Majority. On January 20, 2012, the Supreme Court of the United States entered an Order granting the stay. [Doc. 78] Governor Tomblin joins in the appeal insofar as it seeks reversal of the interim remedy imposed by the Majority. Governor Tomblin, however, takes no position on the constitutionality of Senate Bill 1008 and will not join the appeal on that basis. Secretary Tennant joined in the two previous requests for a stay and joins in this appeal insofar as it seeks reversal of the interim remedy imposed by Majority. Secretary Tennant, however, remains neutral on the merits of the constitutionality of Senate Bill 1008 case and does not join in an appeal on that basis. The stay and the question of the remedy will resolve election conduct procedural issues - which is the Secretary's responsibility - while the appeal will decide the legal issues - which are not her responsibility.

**RICHARD THOMPSON, in his
capacity as the Speaker of the
West Virginia House of Delegates**

By Counsel

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**JEFFREY KESSLER, in his
capacity as President of the West
Virginia State Senate**

By Counsel

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**EARL RAY TOMBLIN, in his
capacity as the Chief Executive
Officer of the State of West
Virginia**

By Counsel

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**NATALIE E. TENNANT, in her
capacity as the Secretary of State**

By Counsel

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CERTIFICATE OF SERVICE

I, Anthony J. Majestro, do hereby certify that on January 27, 2012, I electronically filed the forgoing **NOTICE OF APPEAL** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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