

CHARLOTTE SCHOOL *of* LAW CIVIL RIGHTS CLINIC

Jason Huber, Faculty Supervisor | 1300 South Boulevard | Suite K | Charlotte, North Carolina 28203  
jhuber@charlottelaw.edu | 704-971-8381

February 4, 2014

Patricia S. Connor

Clerk, United States Court of Appeals for the Fourth Circuit

1100 East Main Street

Richmond, Virginia 23219

Re: Pisano, et al. v. Strach, et al.

Record No. 13-1368

Notice of Supplemental Authority

Dear Clerk Connor:

Pursuant to Federal Rule of Appellate Procedure 28(j) and Local Rule 28(e), I am writing to supplement the Appellants' Reply Brief filed on July 5, 2013.

In *Pisano, et al. v. Strach, et al.* the Appellants wage a First and Fourteenth Amendment challenge to North Carolina's deadline by which new political parties must submit their nominating signature petitions to the North Carolina Board of Elections. On appeal, the plaintiffs challenge the district court's order denying plaintiffs' Federal Rule of Civil Procedure Rule 56(d) request for additional discovery and its order granting the defendants summary judgment. (Reply at 1-4.)

On July 3, 2013, this court decided *Marie M. McCray v. Maryland Department of Transportation, Maryland Transit Administration*, Record Number 13-1215. There, the plaintiff/appellant challenged the district court's order granting the defendant/appellee's motion to dismiss her Americans with Disabilities Act claim prior to permitting her to engage in any discovery and despite the fact that she filed a Rule 56(d) declaration identifying the material she needed to discover.

Similarly here, the district court abused its discretion when it denied the plaintiffs' Rule 56(d) discovery request. Therefore, this Court should reverse and remand this matter in order to provide the parties a reasonable opportunity for discovery.

On the merits, the following decision from the Eleventh Circuit Court of Appeals and the New Mexico District Court issued after briefing may be of assistance to the court in resolving this appeal: *Green Party of Georgia v. Georgia*, 2014 Westlaw 30742 (11<sup>th</sup> Cir. Jan. 6, 2014) (State's

Patricia S. Connor  
February 3, 2014  
Page Two

interest in limiting ballot access in presidential elections are of a lesser weight); *Constitution Party of New Mexico v. Dianna J. Duran*, Civil Action No. 1:12cv-325 (D.N.M. Dec. 9, 2013) (<http://www.ballot-access.org/wp-content/uploads/2013/12/new-mexico-victory2.pdf>) (April petition deadline for a new party is unconstitutional).

Respectfully Submitted,

/s/ Jason Huber  
Counsel for Appellants

cc: Robert Bastress, Esq.  
Susannah P. Holloway, Esq

