

[J-89-2007]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

MICHAEL A. NUTTER : No. 5 EAP 2007
: :
: Appeal from the Order of the
v. : Commonwealth Court entered on April 2,
: 2007 at No. 2304 CD 2006 Reversing the
JOHN DOUGHERTY, DWIGHT EVANS, : Order entered on December 13, 2006, in
CHAKA FATTAH, JONATHAN SAIDEL, : the Court of Common Pleas of
AND CITY OF PHILADELPHIA : Philadelphia County, Civil Division, at No.
: 1516 April Term 2006
: :
APPEAL OF: CHAKA FATTAH : ARGUED: October 15, 2007

MICHAEL A. NUTTER : No. 6 EAP 2007
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: Appeal from the Order of the
v. : Commonwealth Court entered on April 2,
: 2007 at No. 2375 CD 2006 Reversing the
JOHN DOUGHERTY, DWIGHT EVANS, : Order entered on December 13, 2006, in
CHAKA FATTAH AND CITY OF : the Court of Common Pleas of
PHILADELPHIA : Philadelphia County, Civil Division, at No.
: 1516 April Term 2006
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APPEAL OF: CHAKA FATTAH : ARGUED: October 15, 2007

MICHAEL A. NUTTER : No. 7 EAP 2007
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: Appeal from the Order of the
v. : Commonwealth Court entered on April 2,
: 2007 at No. 2304 CD 2006 Reversing the
JOHN DOUGHERTY, DWIGHT EVANS, : Order entered on December 13, 2006, in
CHAKA FATTAH, JONATHAN SAIDEL, : the Court of Common Pleas of
AND CITY OF PHILADELPHIA : Philadelphia County, Civil Division, at No.
: 1516 April Term 2006
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APPEAL OF: JOHN DOUGHERTY : ARGUED: October 15, 2007

MICHAEL A. NUTTER : No. 8 EAP 2007
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v. : Appeal from the Order of the
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JOHN DOUGHERTY, DWIGHT EVANS, : Commonwealth Court entered on April 2,
CHAKA FATTAH AND JONATHAN : 2007 at No. 2361 CD 2006 Reversing the
SAIDEL : Order entered on December 13, 2006, in
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APPEAL OF: JOHN DOUGHERTY : ARGUED: October 15, 2007

MICHAEL A. NUTTER : No. 9 EAP 2007
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v. : Appeal from the Order of the
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JOHN DOUGHERTY, DWIGHT EVANS, : Commonwealth Court entered on April 2,
CHAKA FATTAH AND CITY OF : 2007 at No. 2375 CD 2006 Reversing the
PHILADELPHIA : Order entered on December 13, 2006, in
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APPEAL OF: JOHN DOUGHERTY : ARGUED: October 15, 2007

DISSENTING OPINION

CHIEF JUSTICE CAPPY

DECIDED: December 28, 2007

I respectfully dissent. I have no quibble with the manner in which the majority sets forth the law regarding the preemption doctrine. Like Judge Colins opined in the decision below, however, I disagree with the majority's application of the law in the circumstances of this case. See Nutter v. Dougherty, 921 A.2d 44, 67 (Pa. Commw. 2007) (Colins, J. concurring and dissenting).

The majority opinion rests much of its conclusion on the silence of the General Assembly with regard to campaign contributions. Nevertheless, I conclude that silence in

this case speaks volumes. As Judge Colins pointed out, the Legislature has addressed the field of campaign contributions comprehensively in the Election Code, 25 P.S. §§ 3241-3260b. See Nutter, 921 A.2d at 67-68. By not addressing limits on campaign contributions in these same provisions, the Legislature reflected its intent **not** to provide for such limitations.

Furthermore, I share similar concerns to those raised by Judge Colins that the natural consequence of the majority's opinion today will be the "balkanization of the Election Code," since any locality will be free to adopt its own campaign financing regulations. Id. at 68. An inconsistent approach with regard to campaign finance limits among the various local entities would lead to confusion in the campaign rules, and, more importantly, completely undermine the uniformity the Election Code seeks to promote.

For these reasons, I must dissent.

Mr. Justice Fitzgerald joins this dissenting opinion.