

IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS

Jill Reardon, et al., Plaintiffs. v. Ohio Secretary of State Frank LaRose, Defendant.	Case No. _____ COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF
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Plaintiffs, Judith Brachman and Jill Reardon, for its Complaint against the Ohio Secretary of State, allege as follows:

PARTIES

1. Plaintiffs are registered electors of Franklin County, Ohio who are over the age of sixty-five years and eligible to vote in the March 17, 2020 Presidential Primary Election. See, Exhibit A, Affidavit of Judith Brachman; Exhibit B, Affidavit of Jill Reardon.
2. Plaintiffs have not yet voted in the March 17, 2020 Presidential Primary Election but want, and had intended, to vote in-person at their assigned polling location on Election Day.
3. Defendant Ohio Secretary of State is the Chief Election Officer of Ohio and is statutorily-charged with “such powers and duties relating to . . . the conduct of elections as are prescribed in Title XXXV [35] of the Revised Code.” R.C. 3501.04.

JURISDICTION AND VENUE

4. This court has jurisdiction over the subject matter of this action.
5. Venue is proper in this court, because Plaintiffs are residents of Franklin County and a substantial part of the real and immediate harm faced by Plaintiffs is in Franklin County.

FACTS AND BACKGROUND

6. The date of the March 17, 2020 Presidential Primary Election is established by Ohio law. See R.C. 3501.01(E)(2).
7. In order to receive an absentee ballot by mail for the March 17, 2020 Presidential Primary Election, an elector needed to submit an application to the board of elections of the county in which the individual is registered to vote by noon on Saturday, March 14, 2020. See R.C. 3509.03(D).
8. In-person absentee voting for the March 17, 2020 Presidential Primary Election ended at 2:00 p.m. on March 16, 2020.
9. In order to vote in the March 17, 2020 Presidential Primary Election, Plaintiffs would be required to vote in-person at their assigned polling location on Election Day either by entering the polling location or voting curbside. See Ohio Secretary of State Directive 2020-05.
10. Ohio Governor Mike DeWine has declared a state of emergency due to the pandemic caused by the Coronavirus/COVID-19 disease and the threat that the diseases poses to the health of Ohioans.
11. On March 16, 2020, Ohio Governor Mike DeWine and the Ohio Department of Health issued an order prohibiting gatherings of more than fifty people and advising those age sixty-five years or older to “self-quarantine.”
12. Pursuant to the Executive Order issued by Ohio Governor Mike DeWine and the Ohio Department of Health, Plaintiffs have been advised to “self-quarantine.”

13. Plaintiffs are two individuals who are over the age of 65, and are therefore members of a population that the Ohio Department of Health has identified as “vulnerable” to the risks posed by the COVID-19 virus.
14. Plaintiffs have not yet voted in the 2020 primary election and are therefore faced with the choice of voting, and exposing themselves to a potentially deadly virus, or not exercising their constitutional right to vote.
15. In order to stop the spread of the potentially deadly, and as-yet incurable, COVID-19, Ohio Governor Mike DeWine and Ohio Secretary of State Frank LaRose have recommended that the March 17, 2020 Presidential Primary Election be postponed until June 2, 2020.
16. As a result of the Executive Order and recommendation, Plaintiffs fear that if they travel to their assigned polling location on Election Day and vote in the March 17, 2020 Presidential Primary Election they may contract, and then spread the COVID-19 virus.
17. Ohio’s primary election is conducted pursuant to statute.
18. Ohio Revised Code Sections 3501.01, 3509.03, 3511.11, 3509.08, 3505.181, 3509.06, 3513.21, 3513.22, and 3517.10 combine to set forth all of the deadlines that apply to Ohio’s 2020 primary election.
19. If they are enforced, Plaintiffs’ constitutional right to vote will be infringed upon.

VIOLATIONS OF LAW

20. Plaintiffs incorporate paragraphs 1 through of this Complaint as is fully set forth herein.
21. The conduct alleged herein will deprive Plaintiffs of their rights with respect to voting as guaranteed by the First and Fourteenth Amendment of the United States Constitution.

22. Unless enjoined, the requirement of Ohio Revised Code Section 3501.01(E)(2) that Ohio's 2020 Presidential Primary Election be held on March 17, 2020, will infringe upon Plaintiffs' First and Fourteenth Amendment rights by preventing them from casting their votes.
23. Unless enjoined, the requirement of Ohio Revised Code Section 3509.03(D) that all early in-person absentee ballots be requested by noon on Saturday March 13, 2020, will collectively infringe upon rights secured by the First and Fourteenth Amendment.
24. Unless enjoined, the requirement of Ohio Revised Code Section 3511.11 that all Uniformed Overseas Citizens Absentee Voting Act ("UOCAVA") ballots be submitted by 12:01 a.m. March 17, 2020 will collectively infringe upon rights secured by the First and Fourteenth Amendment.
25. Unless enjoined, the deadline in Ohio Revised Code Section 3509.08 that applies to those unforeseeably hospitalized will collectively infringe upon rights secured by the First and Fourteenth Amendment.
26. Unless enjoined, the requirements of Ohio Revised Code Section 3505.181(B)(7) and Ohio Revised Code Sections 3509.06(D)(3), which combine to set a deadline of March 24, 2020 by which a voter may cure an otherwise deficient absentee ballot in accordance with law will collectively infringe upon rights secured by the First and Fourteenth Amendment.
27. Unless enjoined, Ohio Revised Code Sections 3513.21 and Ohio Revised Code Sections 3513.22, which govern the unofficial and official canvass of the election will collectively infringe upon rights secured by the First and Fourteenth Amendment.

28. Unless enjoined, Ohio Revised Code Section 3517.10's deadline by which candidates must submit a post-primary campaign finance report will collectively infringe upon rights secured by the First and Fourteenth Amendment.
29. Further, the conduct alleged herein violates numerous provisions of Ohio law, including but not limited to R.C. 3503.01, 3503.011, and Article V, Section 1 of the Ohio Constitution.
30. Absent injunctive relief, Plaintiffs will suffer irreparable harm. Plaintiffs have no adequate remedy at law.

WHEREFORE: Plaintiffs respectfully request a temporary restraining order and preliminary injunction as set forth in the attached proposed order.

Respectfully submitted,

Respectfully submitted,

/s/ Diane Menashe

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