

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

ORGANIZATION FOR BLACK  
STRUGGLE, ST. LOUIS A. PHILIP  
RANDOLPH INSTITUTE, GREATER  
KANSAS CITY A. PHILIP RANDOLPH  
INSTITUTE, NATIONAL COUNCIL OF  
JEWISH WOMEN ST. LOUIS  
SECTION, and MISSOURI FAITH  
VOICES,

*Plaintiffs,*

v.

JOHN R. ASHCROFT,  
in his official capacity as the Missouri  
Secretary of State, and

GREENE COUNTY CLERK'S OFFICE;  
JACKSON COUNTY ELECTION  
BOARD; ST. CHARLES COUNTY  
ELECTION AUTHORITY; and ST.  
LOUIS COUNTY BOARD OF  
ELECTIONS, and all others similarly  
situated,

*Defendants.*

No. 2:20-cv-4184

**MOTION TO CERTIFY DEFENDANT CLASS OF 116 LOCAL ELECTION  
AUTHORITIES UNDER FEDERAL RULE OF CIVIL PROCEDURE 23 OR IN THE  
ALTERNATIVE, JOINDER OF 116 LOCAL ELECTION AUTHORITIES**

Plaintiffs Organization for Black Struggle, the St. Louis A. Philip Randolph Institute, the Greater Kansas City A. Philip Randolph Institute, National Council of Jewish Women St. Louis, and Missouri Faith Voices Plaintiffs respectfully request this Court certify under Federal Rule of

Civil Procedure 23 a Defendant Class of all 116 local election authorities in Missouri or, in the alternative, joinder of the same

Plaintiffs in this action seek immediate relief for the thousands of Missouri voters who will attempt to vote on a date or at a location other than their Election Day polling site, voters who vote by mail or absentee ballot (“remote ballot”) in the November 2020 general election, but who will face severe or insurmountable burdens to casting a ballot that will count. Plaintiffs’ seek to vindicate their voting rights through this Court, and a defendant class certification of local election authorities in this case will ensure the consistent constitutional application, implementation, and enforcement of Missouri law throughout the state.

Plaintiffs’ rights, as well as Plaintiffs’ members and Missouri voters’ right to vote and to have their votes treated equally under the law, is impaired or totally eclipsed by proposed Defendant class. The defendant class’s enforcement of different requirements for submitting absentee and mail ballot applications and ballots, rejection of Missouri voters’ absentee and mail ballots for errors that are immaterial to the voters’ qualifications to vote in Missouri, and the burdensome requirements Plaintiffs’ must meet to correct any deficiencies in their ballots in order for proposed defendant class’ to count them form the basis of this action.

Plaintiffs propose a defendant class of Missouri’s 116 local election authorities, represented by the Greene County Clerk’s Office, Jackson County Election Board, St. Charles County Election Authority, and St. Louis County Board of Elections. Missouri’s 116 local authorities receive and process requests for absentee and mail ballots, MO. REV. STAT. § 115.279; § 115.302; are responsible for accepting or rejecting requests for absentee and mail ballots, § 115.297(2), § 115.302; send mail and absentee ballots, § 115.284; § 115.302(12); review absentee and mail ballots, determining which ones are counted and which are rejected, §

115.299, § 115.302(18); and could provide pre-rejection notice and an opportunity to cure errors in mail or absentee ballots, see § 115.043.

The proposed defendant class meets Rule 23(a)'s numerosity, commonality, typicality, and adequacy of representation requirements as well as all independent basis required to be met under Rule 23(b) and thus certification of the defendant class is appropriate, as detailed in Plaintiffs' Suggestions in Support of Defendant Class Certification. Plaintiffs' have requested certification because joinder of 116 local election authorities is impracticable, particularly given the timeline of this case. The same questions of law and fact apply to all class members for each of Plaintiffs' claims against the proposed defendant class and, as such, a class action involving the proposed defendant class is the most effective and efficient method to resolve the matters presented in this case. Defendants and their counsel will adequately and zealously represent the respective classes, as they have in other voting rights cases involving Missouri's local election authorities. Defendant class representatives, the Greene County Clerk's Office, Jackson County Election Board, St. Charles County Election Authority, and St. Louis County Board of Elections represent equally both major political parties and serve both urban and rural election authorities, and thus represent the interest of Missouri's 116 local election authorities.

The issues raised by Plaintiffs in this case and the determinations this Court will make affect the counting of Missouri voters' ballots in the November 2020 election, which is occurring in the midst of a worldwide pandemic. As was made clear during Missouri's August 4, 2020 primary election, the issues raised here affect thousands of voters, and involve complex issues of voting law and administration, and involve multiple claims. One court decision that controls all members of the proposed defendant class is the most efficient and fair manner to proceed given the hundreds of thousands (if not more) affected voters in Missouri's 116 local election

authorities. Concentrating the litigation in this forum makes sense given the nature of the claim and that the Secretary of State is also serving as a Defendant.

### CONCLUSION

For the foregoing reasons, and those detailed specifically in Plaintiffs' Suggestions in Support of Motion to Certify Defendant Class of 116 Local Election Authorities under Federal Rule of Civil Procedure 23 or in the Alternative, Joinder Of 116 Local Election Authorities, Plaintiffs' respectfully request this Court grant Plaintiffs Motion for a Certification of a Defendant Class or in the Alternative, Joinder of All 116 Local Election Authorities.).

Dated: September 17, 2020

Naila Awan\*  
Kathryn C. Sadasivan\*  
DĒMOS  
80 Broad Street, Fl 4  
New York, NY 10014  
Telephone: (212) 485-6065  
nawan@demos.org  
kasadasivan@demos.org

Chiraag Bains\*  
DĒMOS  
740 6th Street NW, 2nd Floor  
Washington, DC 20001  
Telephone: (202) 864-2746  
cbains@demos.org

Ezra Rosenberg\*  
Ryan Snow\*  
LAWYERS' COMMITTEE FOR CIVIL  
RIGHTS UNDER LAW  
1500 K Street NW  
Suite 900  
Washington, DC 20005  
(202) 662-8600 (tel.)  
(202) 783-0857 (fax)  
erosenberg@lawyerscommittee.org  
rsnow@lawyerscommittee.org

Respectfully submitted,  
/s/ Anthony E. Rothert  
Anthony Rothert, #44827  
Jessie Steffan, #64861  
Kayla Deloach, #72424  
ACLU OF MISSOURI FOUNDATION  
906 Olive Street, Suite 1130  
St. Louis, MO 63101  
Telephone: (314) 652-3114  
Facsimile: (314) 652-3112  
arothert@aclu-mo.org  
jsteffan@aclu-mo.org  
kdeloach@aclu-mo.org

Denise Lieberman\*, #47013  
MISSOURI VOTER PROTECTION  
COALITION  
6047 Waterman Blvd.  
St. Louis, MO 63112  
Telephone: (314) 780-1833  
denise@movpc.org  
denise@deniselieberman.com

\* Motion for Admission *Pro Hac Vice*  
pending

