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CIVIL  
DISTRICT COURT

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2020-0877 DIVISION C

SECTION 10

THE COUNCIL OF THE CITY OF NEW ORLEANS; COUNCILMEMBER JASON ROGERS WILLIAMS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER HELENA MORENO, IN HER INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JOSEPH I. GIARRUSSO III, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JAY H. BANKS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER KRISTIN GISLESON PALMER, IN HER INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JARED C. BROSETT, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER CYNDI NGUYEN, IN HER INDIVIDUAL AND OFFICIAL CAPACITY

VERSUS

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS THE SECRETARY OF STATE OF THE STATE OF LOUISIANA, AND SANDRA WILSON, IN HER OFFICIAL CAPACITY AS THE ORLEANS PARISH REGISTRAR OF VOTERS

FILED: \_\_\_\_\_

DEPUTY CLERK

VERIFIED PETITION FOR TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION, PERMANENT INJUNCTION, AND DECLARATORY JUDGMENT

The Council of the City of New Orleans respectfully files this Verified Petition for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction, and Declaratory Judgment and, in support, respectfully alleges as follows:

PARTIES

1.

The Council of the City of New Orleans (the "City Council") is the governing authority of Orleans Parish, a political subdivision of the State of Louisiana operating under a pre-1974 home rule charter. Pursuant to Home Rule Charter Sec. 4-403(2), the City Council has the juridical capacity to employ its own counsel and to sue and be sued. See *Council of City of New Orleans v. Sewerage & Water Bd. of New Orleans*, 2005-384 (La. App. 4 Cir. 7/12/06), 936 So. 2d 862, vacated as moot on other grounds 2006-C-1989 (La. 4/11/07), 953 So. 2d 798.

2.

Plaintiffs Jason Rogers Williams, Helena N. Moreno, Joseph I. Giarrusso III, Jay H. Banks, Kristin Gisleon Palmer, Jared C. Brossett, and Cyndi Nguyen, all appearing herein in their official and individual capacities, are the seven duly elected members of the City Council. Each is a person of the full age of majority and domiciled in Orleans Parish. Plaintiffs own property and pay taxes in Orleans Parish.

3.

Defendant R. Kyle Ardoin, named herein in his official capacity, is the Secretary of State of the State of Louisiana and a person of the full age of majority domiciled in East Baton Rouge Parish. The Secretary of State is the chief election official for the State of Louisiana.

4.

Defendant Sandra Wilson, named herein in her official capacity, is the Registrar of Voters for Orleans Parish and a person of the full age of majority domiciled in Orleans Parish.

#### JURISDICTION AND VENUE

5.

This Court has jurisdiction under La. Code Civ. Proc. art. 3601, *et seq.*, to render injunctive relief. This Court has jurisdiction under La. Code Civ. Proc. art. 1871, *et seq.*, to adjudicate any question of construction or validity arising under an instrument, statute, ordinance, contract, or franchise and to issue a declaration of rights, status, or other legal relations thereunder.

6.

Venue is proper in this Court pursuant to La. R.S. 13:5104(A).

#### STANDING

7.

As the governing authority of Orleans Parish and the elected representatives of every citizen of Orleans Parish, the City Council and its members have standing to represent the interests of the citizens of New Orleans and efforts that impinge upon the fundamental rights of voters.

8.

The Secretary of State has implemented a policy based on Section 18:1308(B) of the Election Code that impacts where and how the Registrar may collect the influx of mail-in ballots

anticipated during the COVID-19 pandemic. The Secretary's policy restricting absentee ballot drop off to the business office locations of the Registrar of Voters in each parish unfairly affects Orleans Parish and unduly burdens Orleans Parish voters.

9.

Orleans Parish has a population of nearly 400,000 and only two branch offices for ballot drop-off: City Hall and the Algiers Courthouse. According to the Secretary of State's website, the Registrar in Evangeline Parish (population 34,000) has *three branch offices*. Neighboring Jefferson Parish – which is similar in size to New Orleans – offers three locations where voters may deposit completed absentee ballots. Ascension Parish, with less than a third of the population of New Orleans, offers two offices where mail-in ballots can be dropped off. Lafourche Parish, with a quarter of the population of New Orleans, offers two drop off locations, including at the Lafourche Parish Library.

10.

The consolidation of ballot drop boxes at fewer locations means that absentee voters – who are generally elderly, disabled, or suffering from the effects of COVID-19 – must travel increased distances, face longer wait times, and encounter larger crowds to vote. In high population parishes, consolidation also increases population density per drop-off location, which leads to an increased possibility of disease transmission. Collectively, these disparities constitute an undue burden on the fundamental rights of Orleans Parish voters.

11.

In addition to an undue restraint on the right to vote, this illegal policy will have a budgetary impact in terms of the resources required to handle the influx of votes at the consolidated collection sites. As a result of the consolidation, the City may be forced to employ resources to handle the influx of traffic and congestion at the consolidated drop-off locations. The City may also be forced to expend resources responding to COVID-19 spikes that result from increased traffic at the consolidated drop-off locations.

12.

The staffing of drop-off locations – and the resources needed to address the secondary effects, such as congestion, traffic, and security – will have a budgetary impact on both the State and the City. Furthermore, similar efforts in other states have subjected statewide elected officials to successful litigation over voter suppression, resulting in adverse judgments. Given the

facial unreasonableness of the Secretary's position, there is a distinct possibility of meritorious litigation, which would adversely affect the public fisc. Accordingly, the individual Council plaintiffs have standing as taxpayers to enjoin the actions of the Secretary and the Registrar.

### BACKGROUND FACTS

#### *The COVID-19 Pandemic and Its Impact of Voting*

13.

Since the first presumptive case of novel coronavirus in Louisiana was announced on March 9, 2020, the COVID-19 pandemic has ravaged the State and, in particular, its largest and most important city.

14.

Louisiana remains under a gubernatorially declared state of emergency. *See* 135 JBE 2020, Renewal of State of Emergency, COVID-19 Public Health Emergency. New Orleans remains under a state of emergency declared by Mayor LaFoya Cantrell. *See* C.D.C. No. 2020-02449, Div. F.

15.

As of October 13, more than 170,000 Louisiana citizens have contracted COVID-19. More than 5,400 people have died. There have been 588 deaths in Orleans Parish alone.

16.

The COVID-19 pandemic has been particularly devastating to poor communities and to persons of color. In New Orleans, which is roughly 60 percent African American, COVID-19 deaths in the Black community have outpaced White deaths at a rate of three to one. *See* Jessica Williams, "For this New Orleans councilmember, coronavirus isn't a statistic. He's lost nearly 20 people." *The Advocate*, Sept. 21, 2020.

17.

The COVID-19 pandemic has severely damaged the Louisiana economy. Many businesses, schools, churches, and public institutions remain unable to safely reopen due to concerns over virus transmission.

18.

The COVID-19 pandemic has profoundly affected the manner in which Louisianans vote. The highly contagious nature of the coronavirus makes traditional in-person polling methods far less safe for vulnerable populations – particularly for elections with high turnouts.

19.

Fears over the virus have driven a record number of absentee ballots. Compared to the 80,000 absentee ballots requested in 2016, the Secretary of State has received more than 195,000 requests for 2020. See Danny Monteverde, “Louisiana seeing a record number of absentee ballots, but drop off points remain limited.” WWLTV, October 9, 2020. Secretary Ardoin recently told WWL-TV that “a significant amount” of requests came from Orleans Parish. *Id.* There have been more than 20,000 requests for absentee ballots in Orleans Parish.

20.

Recognizing both the record number of absentee votes and the unprecedented significance of the 2020 presidential election, the City Council supported efforts to make absentee voting as safe and accessible as possible.

21.

For example, the City Council coordinated with the Registrar of Voters, various nonprofit organizations, and the New Orleans Pelicans to secure the Smoothie King Center as an early voting site that will ensure appropriate social distancing.

22.

As part of its efforts to eliminate voting barriers, the Council also has worked to support efforts by the Registrar of Voters to develop and staff satellite locations throughout the City where voters can safely and securely return completed absentee ballots to the Registrar without relying upon the U.S. Postal Service (see paragraphs 32-40, *infra*) or traveling to Registrar’s downtown business offices, which are inconvenient for many citizens and increase the possibility of transmitting or being exposed to COVID-19.

23.

As part of the City’s due diligence, Council Vice President Helena Moreno reached out to the First Assistant Secretary of State Nancy Landry on September 28 to confirm the acceptable methods for collection of completed absentee ballots.

24.

Deputy Landry informed Councilmember Moreno that collection of absentee ballots would only be permitted at the business offices of the Orleans Parish Registrar of Voters.

25.

On October 8, 2020, the Secretary wrote a letter to the City Council reaffirming his insistence that Orleans Parish voters will be required to drop off absentee ballots at the office of the Registrar of Voters. *See* Exhibit A, October 8 Letter from Secretary Ardoin.

26.

In his letter, the Secretary averred that the Louisiana Election Code – specifically La. R.S. 18:1308(B) – “does not authorize registrars to accept hand-delivered ballots at location other than their offices.” He proffered no other reason or justification for rejecting the City’s safe and commonsense approach.

27.

The Secretary’s policy is based upon a reading of La. R.S. 18:1308(B) that impermissibly augments the plain language of the statute with requirements that do not exist and that needlessly burden the right to vote. Section 18:1308(B) makes no reference of the “office” of the registrar. Rather, the statutory language of Section 18:1308(B) requires only that an absentee ballot be “**returned to the registrar by the United States Postal Service, a commercial courier, or hand delivery.**”

28.

The Secretary’s attempt to insert an “office” requirement in Section 18:1308(B) is inconsistent with other provisions of the Election Code, which specify certain activities that must take place at the “registrar’s office.” *See* La. R.S. 18:1308(A)(1)(c) (permitting an “immediate family member” of the voter to “pick up the necessary instructions, certificate, ballot, and envelope at the registrar’s office”).

29.

On October 9, the City Council wrote the Secretary to correct the Secretary’s incorrect interpretation of La. R.S. 18:1308(B) and to clarify any potential misunderstandings.

30.

On October 12, the Secretary responded with a terse letter reaffirming his interpretation of the Election Code. Once again, he proffered no other reason for rejecting the City’s safe and commonsense approach.

31.

Upon information and belief, but for the Secretary's unreasonable interpretation of La. R.S. 18:1308(B), the Registrar of Voters is ready, willing, and able to collect absentee ballots at locations other than her office and can do so without undermining the security of the electoral process.

*The Deterioration of Public Confidence in the Post Office*

32.

The need for a robust option for in-person delivery of absentee ballots has been exacerbated by the unprecedented politicizing and precarious operational position of the U.S. Postal Service in connection with the 2020 presidential election.

33.

Throughout the run-up to Election Day, the President of the United States has made numerous public statements intended to cast doubt on the competency of the Postal Service and the integrity of mail-in balloting.

34.

In conjunction with his criticisms of mail-in voting, the President has blocked efforts to fund the Postal Service and has imposed fiscal reforms that may hamper the ability of the Postal Service to timely deliver mail-in ballots.

35.

In April 2020, the Washington Post reported that the President blocked a provision in the federal CARES Act that would have provided billions of dollars in COVID-related financial aid to the Postal Service.

36.

It was also widely reported that on July 10, 2020, the Postal Service circulated two internal memoranda announcing major changes in Postal Service Policy under the auspices of cutting costs. One memorandum prohibited the use of overtime, which is frequently used to ensure that mail is sorted and delivered each day. The second memorandum directed mail carriers to ensure that all trucks depart on time each day – even if it means that mail might be left unsorted on docks or in the mailroom floor.

37.

On July 25, 2020, the Postal Service introduced the expedited to Street/Afternoon Sortation pilot initiative, requiring mail trucks to leave that their scheduled times and mail sorting to stop at the scheduled end of the work day, even if the day's mail is not completely sorted or loaded.

38.

In late July, the Postal Service sent Secretary Ardoin a letter warning that certain requirements and deadlines in the Louisiana Election Code “appear to be incongruous with the Postal Service’s delivery standards.” See Exhibit B. He warned that **“to the extent that the mail is to be used to transmit ballots to and from voters, there is a significant risk, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, yet not be returned in time to be counted.”**

39.

On August 14, 2020, multiple news agencies reported that the Postal Service was planning to decommission 671 letter sorting machines, representing 20 percent of its sorting capacity. In the face of massive public backlash against this announcement, the Postal Service issued a statement on August 18 announcing that it would not implement operational changes until after Election Day. Despite this purported moratorium, however, an August 19 report from KUOW in Washington indicated that 40 percent of letter sorting machines in the Seattle area already had been dismantled.

40.

Regardless of whether the changes at the Postal Service represent needed financial reforms or a concerted attempt at voter suppression, the political weaponization of mail delivery has eroded public trust in the Postal Service to an unprecedented degree. It is therefore likely that many Orleans Parish absentee voters – 20,000 at present count – will elect to personally deliver their mail into the possession of the Registrar – rather than risk the possibility that their ballot will be left sitting on a sorting room floor.



*The Secretary's Efforts to Undermine Early Voting*

41.

Even if it were not based upon a plain misreading of La. R.S. 18:1308(B), the Secretary's policy regarding absentee ballots is an arbitrary and capricious attempt to erect barriers to voter access.

42.

The Secretary can articulate no reasonable legal or factual justification for restricting the delivery of completed absentee ballots to the two business offices of the Registrar.

43.

Placing a completed ballot directly into the custody of the Registrar – even at a satellite location – is a faster, safer, and more secure way of delivering ballots than using the Postal Service as an intermediary. Delivery of a completed ballot to a satellite facility – as opposed to a drop-off box outside City Hall – does not increase the risk of voting fraud.

44.

While the Secretary's policy is not consistent with the statutory language of Section 18:1308(B), it is consistent with the attacks on mail-in voting and with the Secretary's recent efforts to curtail the availability of mail-in voting during the 2020 election.

45.

A federal court in the Middle District of Louisiana recently issued an injunction against Secretary Ardoin that blocked his efforts to curtail absentee voting during the presidential election. *See Harding v. Edwards*, --- F. Supp. 3d ---, 2020 WL 5543769 (M.D. La. Sept. 16, 2020).

46.

The ruling castigated the Secretary's "failure to provide accommodation for pandemic-affected voters" as an unconstitutional burden on citizens' right to vote. 2020 WL 5543769 at \*19.

47.

The federal court also noted that Secretary Ardoin had failed to provide "a scintilla of evidence" that expanding mail-in voting would increase the possibility of voter fraud. 2020 WL 5543769 at \*10.

48.

The Secretary's efforts to curtail the collection of voter ballots are also consistent with a broader strategy of voter suppression employed by election officials nationwide aimed at making it more difficult to return completed mail-in ballots.

49.

On October 8, 2020, a federal district court in the Northern District of Ohio enjoined the Ohio Secretary of State from implementing a policy that would require Ohio voters to return completed mail-in ballots to the offices of their county election board. See *A. Phillip Randolph Institute of Ohio v. LaRose*, --- F. Supp. 3d ---, 2020 WL 590980 (N.D. Ohio Oct. 8, 2020).

50.

Notably, the policy struck down in Ohio was based on a virtually identical misreading of a provision in the Ohio election code that is virtually identical to La. R.S. 18:1308(B). Like Secretary Ardoin, the Ohio Secretary of State asserted that a statute permitting voters to deliver their ballot to the chief county election official mandated collection at the business offices of the county election board. That reading was rejected as "unreasonable" and "internally inconsistent." See *Ohio Democratic Party v. LaRose*, No. 20AP-432 (Ohio Ct. App. 10<sup>th</sup> Dist. Oct. 7, 2020).

#### REQUEST FOR DECLARATORY RELIEF

51.

Plaintiffs incorporate and restate the allegations in paragraphs 1 through 50 as if set forth fully herein *in extenso*.

52.

According to his correspondence to the City Council, the Secretary's policy of prohibiting satellite ballot collection arises from La. R.S. 18:1308(B), which he interprets to mandate the return of completed ballots at the business office of the Registrar of Voters.

53.

The Secretary's interpretation of Section 18:1308(B) imports words and requirements that do not exist in the statute and, therefore, constitutes an arbitrary and capricious action that serves on to impose additional barriers to those seeking to vote.

54.

Plaintiffs seek a declaration that La. R.S. 18:1308(B) does not impose a requirement that mail-in ballots be physically returned to the business office or principal place of business of a Parish register. Rather, compliance with the statute may be achieved by any means reasonably calculated to place ballots safely in the custody of the Registrar of Voters, including secure drop boxes and in-person delivery to deputy registers at such satellite offices as the Registrar may designate.

**REQUEST FOR INJUNCTIVE RELIEF**

55.

Plaintiffs incorporate and restate the allegations in paragraphs 1 through 54 as if set forth fully herein *in extenso*.

56.

Plaintiffs seek an order temporarily, preliminarily, and permanently enjoining the Secretary of State from imposing his arbitrary, capricious, and unlawfully narrow interpretation of La. R.S. 18:1308(B) within Orleans Parish and from implementing any policy that directs or orders the Registrar to limit her collection of absentee ballots to those physically delivered to City Hall and the Algiers Courthouse.

57.

Plaintiffs seek a order temporarily, preliminarily, and permanently enjoining the Registrar of Voters from adopting or implementing any collection policy based solely upon the Secretary's arbitrary, capricious, and unlawfully narrow interpretation of La. R.S. 18:1308(B).

58.

Plaintiff s aver that the actions of the Secretary and the Registrar impinge upon the constitutionally protected right to vote. Accordingly no showing of irreparable harm is required to obtain preliminary injunctive relief.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiffs pray that, after due proceedings be had, this Court grant judgment in favor plaintiffs and against the defendants as follows:

- (a) Render a judgment declaring the Secretary's interpretation of La. R.S. 18:1308(B) arbitrary and capricious and further declaring (a) that La. R.S. 18:1308(B) does not impose a requirement that mail-in ballots be physically returned to the business office

- or principal place of business of a Parish register and (b) that compliance with the statute may be achieved by any means reasonably calculated to place ballots safely in the custody of the Registrar of Voters, including secure drop boxes and in-person delivery to deputy registers at such satellite locations as the Registrar may designate.
- (b) Render judgments temporarily, preliminarily and permanently enjoining the Secretary of State from imposing his arbitrary, capricious, and unlawfully narrow interpretation of La. R.S. 18:1308(B) within Orleans Parish and from implementing any policy that directs or orders the Registrar to limit her collection of absentee ballots to those physically delivered to City Hall and the Algiers Courthouse.
- (c) Render judgments temporarily, preliminarily, and permanently enjoining the Registrar of Voters from adopting or implementing any collection policy based solely upon the Secretary's arbitrary, capricious, and unlawfully narrow interpretation of La. R.S. 18:1308(B).
- (d) Render such other relief as the Court may deem appropriate.

Respectfully submitted,



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TELEPHONE: (504) 658-9800

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**[SERVICE INSTRUCTIONS ON FOLLOWING PAGE]**

**PLEASE SERVE**

Secretary of State R. Kyle Ardoin  
8585 Archives Avenue  
Baton Rouge, Louisiana 70809

Registrar of Voters Sandra Wilson  
1300 Perdido Street, Room 1W24  
New Orleans, Louisiana 70112

Attorney General Jeff Landry  
1885 North Third Street  
Baton Rouge, Louisiana 70802

SECRETARY OF STATE FILED  
STATE OF LOUISIANA

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R. KYLE ARIDON  
SECRETARY OF STATE

P.O. Box 94125  
BAYON ROUGE, LA 70804-9125  
CIVIL DISTRICT COURT

October 8, 2020

New Orleans City Council  
1300 Perdido Street  
Second Floor West  
New Orleans, LA 70112

Dear New Orleans City Council Members:

I write to express my concern over your recent letter, which does not reflect the efforts my office has made to make safe, secure and honest voting as easy as possible and accessible to all of Louisiana's registered voters. The fact of the matter is, it has never been easier to vote in Louisiana, and we are doing all that we can to ensure voters can confidently cast their votes in the midst of a global pandemic.

I have urged all registrars of voters to accept hand-delivered absentee ballots outside of but on the premises of their offices. To be clear, the law, which you referred to as "artificial restraint," does not authorize registrars to accept hand-delivered ballots at locations other than their offices.

To allow for drop-off sites at locations other than registrars' offices would be in direct contradiction of the Election Code (see La R.S. 18:1308(B)). The law specifically does not allow voted ballots to be left at unstaffed drop-off locations.

Our office has worked harder than ever to give voters options during this election. In addition to the current curbside delivery site allowances:

- Current law allows voters to drop off their absentee ballot at their registrar's office prior to the November 2, 4:30pm deadline.
- Early voting has been expanded to ten days, and I'm proud that the Orleans Parish Registrar of Voters was able to work with the Orleans Parish government to use the Smoothie King Center as an early voting site.
- We have worked with the United States Postal Service and the Postmaster General to address the issues that occurred in the July election in Orleans Parish.



- My office is supplying every early voting site and every precinct in the state with personal protective equipment (PPE) for commissioners, masks for voters, hand sanitizer, cleaning supplies, and social distancing signage to ensure the health and safety of commissioners and voters.

My staff has spoken to and worked with New Orleans City Council Vice President Moreno and explained the legal prohibition surrounding additional drop-off sites. The Secretary of State only has the authority provided for by existing law, and drop-off sites at locations other than registrars' offices are not authorized in current law. I have been more than willing to work with the parish governing authorities to ensure the voters of Orleans Parish can cast their votes safely and securely and make the necessary accommodations within the scope of the law. I am beyond disappointed that the council has decided to ignore in their letter the information we have already provided to them.


Respectfully,



Kyle Ardoin  
Secretary of State

Cc: Mayor Latoya Cantrell

THOMAS J. MARSHALL  
GENERAL COUNSEL  
AND EXECUTIVE VICE PRESIDENT

 UNITED STATES  
POSTAL SERVICE

July 29, 2020

Honorable Kyle Ardoin  
Louisiana Secretary of State  
P.O. Box 94125  
Baton Rouge, LA 70804-9125

Dear Secretary Ardoin:

Re: Deadlines for Mailing Ballots

With the 2020 General Election rapidly approaching, this letter follows up on my letter dated May 29, 2020, which I sent to election officials throughout the country. That letter highlighted some key aspects of the Postal Service's delivery processes. The purpose of this letter is to focus specifically on the deadlines for requesting and casting ballots by mail. In particular, we wanted to note that, under our reading of Louisiana's election laws, certain deadlines for requesting and casting mail-in ballots are incongruous with the Postal Service's delivery standards. This mismatch creates a risk that ballots requested near the deadline under state law will not be returned by mail in time to be counted under your laws as we understand them.

As I stated in my May 29 letter, the two main classes of mail that are used for ballots are First-Class Mail and USPS Marketing Mail, the latter of which includes the Nonprofit postage rate. Voters must use First-Class Mail (or an expedited level of service) to mail their ballots and ballot requests, while state or local election officials may generally use either First-Class Mail or Marketing Mail to mail blank ballots to voters. While the specific transit times for either class of mail cannot be guaranteed, and depend on factors such as a given mailpiece's place of origin and destination, most domestic First-Class Mail is delivered 2-5 days after it is received by the Postal Service, and most domestic Marketing Mail is delivered 3-10 days after it is received.

To account for these delivery standards and to allow for contingencies (e.g., weather issues or unforeseen events), the Postal Service strongly recommends adhering to the following timeframe when using the mail to transmit ballots to domestic voters:

- **Ballot requests:** Where voters will both receive and send a ballot by mail, voters should submit their ballot request early enough so that it is received by their election officials at least 15 days before Election Day at a minimum, and preferably long before that time.
- **Mailing blank ballots to voters:** In responding to a ballot request, election officials should consider that the ballot needs to be in the hands of the voter so that he or she has adequate time to complete it and put it back in the mail stream so that it can be processed and delivered by the applicable deadline. Accordingly, the Postal Service recommends that election officials use First-Class Mail to transmit blank ballots and allow 1 week for delivery to voters. Using Marketing Mail will result in slower delivery times and will increase the risk that voters will not receive their ballots in time to return them by mail.

475 L'ENFANT PLAZA SW  
WASHINGTON DC 20260-1100

(b)(6); (b)(3); 39

Fax: 202-269-6981

(b)(6); (b)(3); 39 USC

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- **Mailing completed ballots to election officials:** To allow enough time for ballots to be returned to election officials, domestic voters should generally mail their completed ballots at least one week before the state's due date. So, if state law requires ballots to be returned by the day before Election Day, voters should mail their ballots no later than Monday, October 26.

Under our reading of your state's election laws, as in effect on July 27, 2020, certain state-law requirements and deadlines appear to be incompatible with the Postal Service's delivery standards and the recommended timeframe noted above. As a result, to the extent that the mail is used to transmit ballots to and from voters, there is a significant risk that, at least in certain circumstances, ballots may be requested in a manner that is consistent with your election rules and returned promptly, and yet not be returned in time to be counted.

Specifically, it appears that a completed ballot must be received by the day before Election Day to be counted. If that understanding is correct, we accordingly recommend, as noted above, that voters who choose to mail their ballots do so no later than Monday, October 26. However, it further appears that state law generally permits voters to request a ballot as late as 4 days before the election. If a voter submits such a request at or near that deadline, and if the requested ballot is transmitted to the voter by mail, there is a significant risk that the ballot will not reach the voter before Election Day, and accordingly that the voter will not be able to use the ballot to cast his or her vote. Even if a voter receives a ballot before Election Day, there is a significant risk that the voter will not have sufficient time to complete and mail the completed ballot back to election officials in time for it to arrive by the state's return deadline. That risk is exacerbated by the fact that the law does not appear to impose a time period by which election officials must transmit a ballot to the voter in response to a request.

To be clear, the Postal Service is not purporting to definitively interpret the requirements of your state's election laws, and also is not recommending that such laws be changed to accommodate the Postal Service's delivery standards. By the same token, however, the Postal Service cannot adjust its delivery standards to accommodate the requirements of state election law. For this reason, the Postal Service asks that election officials keep the Postal Service's delivery standards and recommendations in mind when making decisions as to the appropriate means used to send a piece of Election Mail to voters, and when informing voters how to successfully participate in an election where they choose to use the mail. It is particularly important that voters be made aware of the transit times for mail (including mail-in ballots) so that they can make informed decisions about whether and when to (1) request a mail-in ballot, and (2) mail a completed ballot back to election officials.

We remain committed to sustaining the mail as a secure, efficient, and effective means to allow citizens to participate in the electoral process when election officials determine to utilize the mail as a part of their election system. Ensuring that you have an understanding of our operational capabilities and recommended timelines, and can educate voters accordingly, is important to achieving a successful election season. Please reach out to your assigned election mail coordinator to discuss the logistics of your mailings and the services that are available as well as any questions you may have. A list of election mail coordinators may be found on our website at: <https://about.usps.com/election-mail/political/election-mail-coordinators.pdf>.

We hope the information contained in this letter is helpful, and please let me know if you have any questions or concerns.

Sincerely,

(b)(6), (b)(3), 39 USC 410 (c)(2)

Thomas J. Marshall

**FILED**  
CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA  
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NO. \_\_\_\_\_ DIVISION \_\_\_\_\_ CIVIL SECTION \_\_\_\_\_  
DISTRICT COURT \_\_\_\_\_

THE COUNCIL OF THE CITY OF NEW ORLEANS; COUNCILMEMBER JASON ROGERS WILLIAMS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER HELENA MORENO, IN HER INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JOSEPH I. GIARRUSSO, III, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JAY H. BANKS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER KRISTIN GISLESON PALMER, IN HER INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JARED C. BROSETT, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER CYNDI NGUYEN, IN HER INDIVIDUAL AND OFFICIAL CAPACITY

VERSUS

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS THE SECRETARY OF STATE OF THE STATE OR LOUISIANA, AND SANDRA WILSON, IN HER OFFICIAL CAPACITY AS ORLEANS PARISH REGISTRAR OF VOTERS

FILED: \_\_\_\_\_ DEPUTY CLERK

VERIFICATION OF PETITION

STATE OF LOUISIANA/PARISH OF ORLEANS

Before me, the undersigned notary, duly commissioned and qualified in and for the parish aforesaid, personally came and appeared Helena N. Moreno, personally known to me, who, being duly sworn, deposed and stated as follows:

1. My name is Helena N. Moreno. I am over 18 years old, and I am fully competent to make this verification.
2. I am the Vice President of the Council of the City of New Orleans.
3. I have read the foregoing Verified Petition for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction, and Declaratory Judgment (the "Petition") and I am familiar with the facts alleged therein.
4. All of the Information contained in the Petition is true and correct to the best of my knowledge, information, and belief.

  
HELENA N. MORENO

SWORN TO AND SUBSCRIBED  
before me on this 13<sup>th</sup> day of October, 2020.

  
Adam J. Swensek, La. Bar No. 30751  
Notary Public, Lifetime Commission

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS  
STATE OF LOUISIANA

NO. 2020-08772      DIVISION "C"      DOCKET NO.

THE COUNCIL OF THE CITY OF NEW ORLEANS; ET AL

VERSUS

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS THE SECRETARY OF  
STATE OF THE STATE OF LOUISIANA, AND SANDRA WILSON, IN HER OFFICAL  
CAPACITY AS THE ORLEANS PARISH REGISTRAR OF VOTRES

This matter will come before the Court for hearing on the 21<sup>st</sup> day of **October, 2020** at **9:00 a.m.** in Division "C" on an application for a preliminary injunction and/or a dissolution or modification of a temporary restraining order, and/or a dissolution or modification of a preliminary injunction.

**ORDER**

**IT IS ORDERED**, that the application in this matter is to be heard upon the verified pleadings and/or supporting affidavits. A copy of this order shall be served upon the defendant in conformity with C.C.P. 3609.

**IT IS FURTHER ORDERED** that the applicant for the preliminary injunction file their affidavits not later than seventy-two (72) hours prior to hearing, and that the defendant in rule file their affidavits not less than twenty-four (24) hours prior to hearing.

New Orleans, Louisiana, this 14<sup>th</sup> day of **October, 2020**.

  
JUDGE

Rachael D. Johnson  
Judge - Division "B"

A TRUE COPY

  
DEPUTY CLERK CIVIL DISTRICT COURT  
PARISH OF ORLEANS  
STATE OF LA

CIVIL DISTRICT COURT FOR THE PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 2020-08772 DIVISION C

2020 OCT 14 PM 1:50  
SECTION 10

CIVIL  
DISTRICT COURT

THE COUNCIL OF THE CITY OF NEW ORLEANS; COUNCILMEMBER JASON ROGERS WILLIAMS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER HELENA MORENO, IN HER INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JOSEPH I. GIARRUSSO, III, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JAY H. BANKS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER KRISTIN GISLESON PALMER, IN HER INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER JARED C. BROSETT, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; COUNCILMEMBER CYNDI NGUYEN, IN HER INDIVIDUAL AND OFFICIAL CAPACITY

VERSUS

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS THE SECRETARY OF STATE OF THE STATE OF LOUISIANA, AND SANDRA WILSON, IN HER OFFICIAL CAPACITY AS ORLEANS PARISH REGISTRAR OF VOTERS

FILED: \_\_\_\_\_

DEPUTY CLERK

ORDER

CONSIDERING THE FOREGOING Verified Petition for Temporary Restraining Order, Preliminary Injunction, Permanent Injunction, and Declaratory Judgment filed herein by the Council of the City of New Orleans and its seven members:

IT IS ORDERED that a Temporary Restraining Order be and hereby is issued as of this 14<sup>th</sup> day of October, 2020 at 3:30 clock p.m, which Order shall remain effective until the earlier to occur of (i) ten (10) days from the date of issuance of this order, unless continued by the Court for good cause shown or (ii) the date and time at which the Court rules on the preliminary injunction requested by Plaintiffs.

This temporary restraining order shall be effective against the Louisiana Secretary of State R. Kyle Ardoin and Orleans Parish Registrar of Voters Sandra Wilson, together with his officers, agents, employees, deputies, and any persons acting on their behalf. The Secretary of State and the Registrar of Voters are hereby temporarily restrained from implementing and enforcing policies predicated atop the interpretation of La. R.S. 18:1308(B), as more fully set forth in his October 8 letter to the City Council, that would prevent the Registrar from collecting absentee ballot at locations other than at her business offices. This Order is being granted without

VERIFIED

2020-08772  
"C-10"

notice and hearing to protect the voting rights of vulnerable Orleans Parish residents until a hearing may be had.

IT IS FURTHER ORDERED that plaintiffs are not required to furnish security as a condition to the issuance of this Temporary Restraining Order.

IT IS FURTHER ORDERED that defendants appear and show cause on the 21<sup>st</sup> day of October 2020 at 9 o'clock a.m why a preliminary injunction should not be issued and granted as prayed for by Plaintiffs.

IT IS FURTHER ORDERED that the application for preliminary injunction shall be heard on the basis of verified pleadings and supporting affidavits Plaintiffs shall provide any supporting affidavits not less than \_\_\_ hours before the hearing. Defendants shall provide any supporting affidavits not less than \_\_\_ hours before the hearing.

OCT 14 2020

PLEASE SERVE

Secretary of State R. Kyle Ardoin  
8585 Archives Avenue  
Baton Rouge, Louisiana 70809

Registrar of Voters Sandra Wilson  
1300 Perdido Street, Room 1W24  
New Orleans, Louisiana 70112

Attorney General Jeff Landry  
1885 North Third Street  
Baton Rouge, Louisiana 70802

*Rachael Johnson*  
Rachael D. Johnson  
Judge - Division "B"

A TRUE COPY

*T. J. [Signature]*  
DEPUTY CLERK CIVIL DISTRICT COURT  
PARISH OF ORLEANS  
STATE OF LA

VERIFIED