

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

League of Women Voters of Ohio, et al.,	:	
	:	Case No. 2:20-cv-01638
Plaintiffs,	:	
	:	Judge Michael H. Watson
v.	:	
	:	Chief Magistrate Judge Deavers
Frank LaRose, in his official capacity as	:	
Secretary of State of Ohio,	:	
	:	
Defendant.	:	

**MOTION TO INTERVENE OF PROPOSED INTERVENOR-DEFENDANT, OHIO
REPUBLICAN PARTY**

The Ohio Republican Party ("ORP") hereby moves to intervene as a Defendant in this action. The ORP moves to intervene as a matter of right under Federal Rule of Civil Procedure 24(a)(2) or, in the alternative, to intervene by permission under Federal Rule of Civil Procedure 24(b)(1). If granted permission to intervene under either provision, the ORP has attached a proposed Answer to the Plaintiffs' Amended Complaint.

The attached memorandum in support more fully sets forth the reasons underlying this motion.

Respectfully submitted,

/s/ Anne Marie Sferra

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MEMORANDUM IN SUPPORT

The Ohio Republican Party ("ORP") moves this Court to intervene as a defendant in the above-captioned action which challenges Amended Substitute House Bill 197 of the 133rd Ohio General Assembly ("H.B. 197"), which governs the timing and process of Ohio's 2020 primary election. The ORP opposes Plaintiff's: (1) requested relief to set a date for the primary election beyond the April 28, 2020 date set by H.B. 197; (2) claim to extend Ohio's voter registration deadline until 30 days prior to the date on which 2020 primary election is set to conclude; and (3) request that boards of elections mail to every registered elector who has not voted "a primary ballot for each party with candidates on the ballot . . . with instructions to cast only one ballot." (See Amended Complaint, Request for Relief, subsection (b).)

The General Assembly has the legal authority to set the date for Ohio's 2020 primary election and it did so. The ORP has a substantial interest in upholding H.B. 197, as duly enacted by the General Assembly, as it provides certainty to all involved with the election process, including the ORP's members (especially those who have not yet voted in the 2020 primary election) and primary candidates, and ensures that Ohio's primary election will be timely completed to allow the ORP to meaningfully participate in the Republican National Convention. For these reasons and those set forth below, the ORP seeks to intervene in the instant action to represent and protect its interests.

ARGUMENT

I. The Ohio Republican Party Should be Permitted to Intervene as of Right.

A court must permit intervention on timely application by anyone: (1) who "claims an interest relating to the property or transaction that is subject of the action," and (2) whose interest may be "impair[ed] or impede[d]" by disposition of the action, unless "existing parties adequately

represent that interest." Fed. R. Civ.P. 24(a)(2). This Rule has been "broadly construed in favor of potential intervenors, who must be permitted to intervene if: "1) the application was timely filed; 2) the applicant possesses a substantial legal interest in the case; 3) the applicant's ability to protect its interest will be impaired without intervention; and 4) the existing parties will not adequately represent the applicant's interest." *Ohio State Conference of NAACP v. Husted*, 588 F. App'x 488, 490 (6th Cir. 2014) (citation omitted). ORP meets each of these requirements for intervention as of right.

A. The ORP's motion is timely.

The ORP's Motion to Intervene is timely. Plaintiffs filed their Amended Complaint on March 31, 2020. This motion is filed on April 2, 2020. Given that the lawsuit is in its early stages, the ORP's intervention will not delay the proceedings or prejudice any party.¹

B. The ORP has a substantial legal interest in the subject matter of this action.

The ORP has a substantial legal interest in the subject matter of this case. As a "major political party" within the meaning of R.C. 3501.01(F)(1), the ORP has substantial legal interests, both organizational and associational, in this litigation concerning the timing and process of voting in Ohio's 2020 primary election. Similar to the interests of the Ohio Democratic Party, the ORP's legal interests include nominating candidates for local, state, and federal offices, and electing members to the ORP's central committee. The ORP also has hundreds of thousands of members who are expected to vote in the 2020 primary election and it is believed that a large percentage of them have not yet voted.

Accordingly, the ORP has substantial legal interests in the subject matter of this case.

¹ If permitted to intervene, the ORP intends to file its response to the motion for a temporary restraining order by 3:00 p.m. today.

C. Intervention is necessary to protect the ORP's interest.

The third consideration for intervention is whether the potential intervenor's interest will be impaired without intervention. A potential intervenor "must show only that impairment of its substantial legal interest is possible if intervention is denied." *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1247 (6th Cir. 1997). This burden is "minimal." *Id.*

Because there is no proposed date for the 2020 primary election in the Amended Complaint, the disposition of this case may impact the ORP's ability to have its delegates seated at the 2020 Republican National Convention. This is an interest of great import to the ORP.

D. The existing parties do not have the same interests as the ORP and do not adequately represent the ORP's interests.

Regarding the fourth consideration for intervention, a potential intervenor does not need to establish that the existing parties' representation will in fact be inadequate, but only that it may be inadequate. *Davis v. Lifetime Capital, Inc.*, 560 F. App'x 477, 495 (6th Cir. 2014) ("The proposed intervenor need only show that there is a potential for inadequate representation.").

No other party represents the ORP's members or candidates and no other party has an interest in ensuring that Ohio's 2020 presidential primary election concludes in time to allow its delegates to meaningfully participate at the 2020 Republican National Convention. As such, the ORP's interests are inadequately represented by the existing parties. Thus, the ORP satisfies this minimal burden.

II. Alternatively, the ORP should be Allowed to Intervene Permissively.

If the Court determines that the ORP does not have a right to intervene in this action, the ORP seeks permission to intervene under Rule 24(b)(1)(B), which permits intervention on timely motion by anyone who "has a claim or defense that shares with the main action a common question of law or fact." Fed.R.Civ.P. 24(b)(1)(B). This rule, which is to be construed liberally,

does not include the same requirements as intervention as of right. *Meyer Goldberg, Inc. v. Goldberg*, 717 F.2d 290, 294 (6th Cir. 1983). As set forth above, the ORP's motion is timely.

Like the State (and the Ohio Democratic Party), the ORP seeks to defend the General Assembly's extension of voting through April 28, 2020. Thus, the ORP "has a claim or defense that shares with the main action a common question of law or fact."

As such, the ORP should be allowed to intervene in this action by permission of the Court.

CONCLUSION

For the foregoing reasons, Proposed Intervenor-Defendant, Ohio Republican Party, requests that its motion be granted, and that it be permitted to intervene in the instant action.

Respectfully submitted,

/s/ Anne Marie Sferra

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CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2020, I caused a true and correct copy of the foregoing document to be served upon all counsel of record registered with the Court's ECF system, by electronic service via the Court's ECF transmission facilities.

/s/ Anne Marie Sferra
Anne Marie Sferra (0030855)