

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Lynchburg Division**

**LEAGUE OF WOMEN VOTERS OF
VIRGINIA; KATHERINE D.
CROWLEY; ERIKKA GOFF; and
SEIJRA TOOGOOD,**

Plaintiffs,

v.

**VIRGINIA STATE BOARD OF
ELECTIONS; ROBERT H. BRINK,
JOHN O'BANNON, and JAMILAH D.
LECRUISE, in their official capacities as
Chairman, Vice-Chair, and Secretary of
the Virginia State Board of Elections,
respectively; and CHRISTOPHER E.
PIPER, in his official capacity as
Commissioner of the Virginia Department
of Elections,**

Defendants.

Case No. 6:20-cv-00024-NKM

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs League of Women Voters of Virginia (the "League"), Katherine D. Crowley, Erikka Goff, and Seijra Toogood, respectfully move for a preliminary injunction under Federal Rule of Civil Procedure 65(a). They do so to prevent thousands of Virginia voters, including Plaintiffs and League members, from facing disenfranchisement in Virginia's June 23 primary and any other elections affected by the spread of COVID-19 due to Virginia's absentee ballot witness requirement. This rule mandates that absentee mail ballot voters have another individual witness the voter opening their ballot envelope and have that witness sign the ballot envelope, as stated in Va. Code § 24.2-706 and § 24.2-707 and as interpreted by 1 Va. Admin. Code 20-70-

20(B). In support of their motion, Plaintiffs rely upon the accompanying Brief in Support of Plaintiffs' Motion for a Preliminary Injunction, and the attached declarations and exhibits.

Plaintiffs are likely to succeed on the merits of their claim that Virginia's witness requirement unconstitutionally burdens their right to vote in light of the COVID-19 outbreak. Because approximately one-quarter of Virginians of voting age live alone, the witness requirement means that these individuals must either break social distancing protocols and risk their health to vote, or face disenfranchisement—a burden that falls particularly hard on Virginia's senior citizens, people with disabilities, and African Americans. And the witness requirement offers little, if any, benefit to the Commonwealth's election integrity interests in light of the myriad other election integrity laws and procedures in place and the ineffectiveness of the requirement. Without preliminary relief, Plaintiffs and many thousands of other Virginia voters will face the irreparable harm of disenfranchisement. The balance of the equities and the public interest also favor granting a preliminary injunction, as doing so would support both the right of all eligible Virginians to vote and public health.

Plaintiffs therefore seek a preliminary injunction:

- (1) Prohibiting Defendants from enforcing the witness requirement (as stated in Va. Code § 24.2-706 and § 24.2-707 and as interpreted by 1 Va. Admin. Code 20-70-20(B)) for all Virginia voters for the June 23 primaries and for any and all subsequent elections in Virginia until such time as in-person interactions required by compliance with the witness requirement no longer pose a risk to public health and personal safety;
- (2) Ordering Defendants to issue guidance instructing city and county election officials to count otherwise validly cast absentee ballots that are missing a witness signature for Virginia's June 23 primary elections; and
- (3) Ordering Defendants to conduct a public information campaign informing Virginia voters about the elimination of this requirement, in coordination with city and county election officials.

Dated: April 21, 2020

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Respectfully submitted,

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* Currently Associate Status with Virginia Bar; Application for reinstatement to active status pending

** Admitted *pro hac vice*

CERTIFICATE OF SERVICE

I certify that on April 21, 2020, I served a copy of the foregoing Plaintiffs' Motion for a Preliminary Injunction on Counsel for Defendants via e-mail, as agreed to by Defendants' Counsel in writing per Federal Rule of Civil Procedure 5(b)(2)(E).

/s/ Vishal Agraharkar
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