

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

OHIO DEMOCRATIC PARTY, ET AL.,

Plaintiffs,

-v-

FRANK LAROSE, in his official capacity as Ohio  
Secretary of State.

Defendant.

CASE NO. 20 CV 4997

JUDGE STEPHEN L MCINTOSH

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**PLAINTIFFS' MEMORANDUM IN OPPOSITION TO THE MOTION TO INTERVENE  
BY DONALD J. TRUMP FOR PRESIDENT, INC., THE OHIO REPUBLICAN PARTY,  
THE REPUBLICAN NATIONAL COMMITTEE, AND THE NATIONAL REPUBLICAN  
CONGRESSIONAL COMMITTEE**

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Plaintiffs Ohio Democratic Party and Jay Michael Houlahan (collectively, "Plaintiffs") respectfully submit this memorandum in opposition to the Motion to Intervene of Donald J. Trump for President, Inc., the Ohio Republican Party, the Republican National Committee, and the National Republican Congressional Committee (collectively, the "Proposed Intervenors"). Plaintiffs oppose the Motion to Intervene because (1) the same principles that factored into the Court's August 19, 2020 denial of a motion for leave to file brief of amici curiae warrant denial of the Proposed Intervenors' motion, and (2) the Proposed Intervenors failed to meet the threshold for intervention.

**ARGUMENTS**

**I. The Same Principles That Factored Into The Court's Denial Of A Motion For Leave To File Brief Of Amici Curiae Warrant Denial Of The Proposed Intervenors' Motion To Intervene.**

The principles that factored into the Court's denial of a Motion for Leave to File Brief of Amici Curiae are equally applicable to the Proposed Intervenors' Motion to Intervene. *See* Court's

August 19, 2020 Decision and Entry on Election Cybersecurity Experts and Voting Rights Organizations Motion for Leave to File Brief of Amici Curiae.

The Court rejected the brief of Amici Curiae on the grounds that: (1) time is of the essence and it is necessary for this matter to move forward expeditiously; (2) the brief was not necessary for a just resolution of the matter; and (3) the Court did not believe it needed any additional information from the Amici Curiae to make its decision. *Id.* at 2.

These principles apply with equal force to Proposed Intervenors' Motion to Intervene. Time is still of the essence in this case. And given that that briefing on Plaintiffs' Motion for Preliminary Injunction and Defendant's Motion to Dismiss had finished before the Proposed Intervenors expressed any interest in participating in this case—a delay the Proposed Intervenors did not even attempt to justify—it is too late for the Proposed Intervenors to provide the Court with any additional information for its decision on the motions. Moreover, the Proposed Intervenors seek to simply incorporate Defendant's arguments by reference. This indicates that the Proposed Intervenors, like the Amici Curiae, do not have any unique information or arguments that are necessary for the Court to consider for a just resolution of this matter.

Accordingly, for the same reasons that the Court denied the Motion for Leave to File Brief of Amici Curiae, the Court should deny the Proposed Intervenors' Motion to Intervene.

## **II. The Proposed Intervenors Failed To Meet The Threshold For Intervention.**

The Court should deny the Motion to Intervene for the additional reason that the Proposed Intervenors failed to meet the threshold for allowing parties to intervene in an ongoing action under either Civ.R. 24(A) or Civ.R.24(B). Plaintiffs certainly agree with the Proposed Intervenors that political parties have an interest in litigation concerning election administration. *See Prop. Interv. Memo* at 3. But the Proposed Intervenors' decision to wait to file their motion to intervene until

*after* the parties finished briefing the two most important motions for this election-related matter (the motion for preliminary injunction and motion to dismiss) renders their motion to intervene untimely. The Proposed Intervenor's argue that their motion is not untimely because the Court "has not set a hearing on ODP's or Secretary LaRose's motions" (*id.*), but the Court previously indicated in a status conference that an evidentiary hearing and oral argument likely would not be necessary for this case as it presents a question of statutory interpretation. Further, the Proposed Intervenor's failed to demonstrate how their position in this matter, which they indicated is identical to Defendant LaRose's, is not already adequately represented by the Ohio Attorney General's office which represents Defendant LaRose. Thus, the Proposed Intervenor's failed to meet the threshold for intervention.

### **CONCLUSION**

For these reasons, the Court should deny the Proposed Intervenor's Motion to Intervene.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was electronically filed using the Court's e-Filing system, which will send a copy of the foregoing to all counsel of record. Additionally, a true and accurate copy of the foregoing was served on August 19, 2020 upon the following via electronic mail:

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/s/ Derek S. Clinger  
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