

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

MISSOURI STATE CONFERENCE OF THE
NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE
and LEAGUE OF WOMEN VOTERS OF
MISSOURI.

Plaintiffs,

v.

STATE OF MISSOURI; JOHN R.
ASHCROFT, in his official capacity as
Missouri Secretary of State; BOARD OF
ELECTION COMMISSIONERS FOR THE
CITY OF ST. LOUIS,

Defendants.

Case No. _____

Division: _____

PETITION FOR INJUNCTIVE AND DECLARATORY RELIEF

Plaintiffs, Missouri State Conference of the National Association for the Advancement of Colored People and League of Women Voters of Missouri, and, upon knowledge with respect to their own acts and on information and belief as to other matters, hereby allege for this petition for injunctive and declaratory relief:

INTRODUCTION

1. A special election for the City of St. Louis' Ward 28 Aldermanic vacancy is scheduled for July 11, 2017. In-person absentee voting commences on June 12, 2017.
2. Effective June 1, 2017, Missouri imposes stringent limitations on the ways that registered voters must identify themselves in order to exercise their right to vote in person.
3. The law enacting the new voting restrictions requires, by its own terms, advance notice to voters of the new rules by the Secretary of State, facilitation by the Secretary of State of

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receipt of and payment for the underlying documents necessary for voters to obtain an approved identification, preparation of an affidavit by the Department of Revenue to obtain a free nondriver's license, and issuance of free nondriver's licenses by the Department of Revenue.

4. The law enacting the new voting restrictions require by implication training of poll workers and other election officials on the new identification requirements and exceptions, the training of Department of Revenue employees on the availability of and processing procedures for free non-drivers licenses, printing of new affidavits to be used by voters without qualifying photo identification at the polls, the purchase of cameras for use at polling places, and printing of additional provisional ballots for those registered voters who will now not qualify to cast a regular ballot.

5. The statute provides that “[a]ll costs associated with the implementation of [the new identification restrictions] shall be reimbursed from the general revenue of this state by an appropriation for that purpose,” and, further that “[i]f there is not a sufficient appropriation of state funds [for these purposes], then the personal identification requirements ... shall not be enforced.”

6. As of today, \$100,000 has been appropriated to the Department of Revenue for implementation of the new law—only \$80,000 of which is from General Revenue; *no* funds have yet been appropriated to the Secretary of State for implementation responsibilities; and *no* funds have been appropriated to any other agency of the state, to the courts, or to any political subdivision to implement the new law.

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JURISDICTION AND VENUE

7. This Court maintains original subject-matter jurisdiction over this action under Sections 526.030 and 527.010 of the Missouri Revised Statutes and Missouri Rule of Civil Procedure 87.01.

8. Venue is proper in this Court because Secretary of State John R. Ashcroft maintains an office in Cole County, Missouri.

PARTIES

A. Plaintiffs

9. Plaintiff Missouri State Conference of the National Association for the Advancement of Colored People is a membership organization. The mission of NAACP is to ensure the political, educational, social, and economic equality of rights of all persons and to eliminate race-based discrimination. Its objectives include seeking enactment and enforcement of law securing civil right as well as educating person as to their rights. NAACP is a membership organization, and NAACP members reside throughout Missouri, including in St. Louis' 28th Aldermanic Ward. NAACP members who reside in Missouri are members of the Missouri State Conference.

10. Rooted in the suffrage movement that secured the right to vote for women, Plaintiff League of Women Voters has worked to foster civic engagement and enhance access to the vote since our organization was founded in 1920. The Missouri LWV works to ensure every citizen has the opportunity and information to register and exercise their right to vote. For almost 100 years, the Missouri LWV has been, and continues to be dedicated to ensuring a free, fair and accessible electoral system for all eligible citizens. Our goal is to safeguard the rights of all qualified voters—specifically those from traditionally underrepresented or underserved communities, including first-time voters, non-college youth, new citizens, minorities, seniors,

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low-income, and women – populations who stand to be disproportionately impacted by the implementation of Missouri’s new photo ID requirement, set forth in Section 115.427 of the Missouri Revised Statutes. The Missouri LWV is an active member of the Missouri Voter Protection Coalition, which works to secure the rights of voters in Missouri. Missouri LWV is a membership organization, with local chapters throughout the state. Missouri LWV members reside throughout Missouri, including members in St. Louis’ 28th Aldermanic Ward. LWV members who reside in Missouri are members of the Missouri LWV.

B. Defendants

11. Defendant State of Missouri is the entity responsible for enforcement of § 115.427, including its restrictions on the ways that registered voters must identify themselves in order to exercise their right to vote in person and provides for free non-driver’s licenses and underlying documents for voters who lack them.

12. Defendant John R. Ashcroft is the Missouri Secretary of State, the state’s chief elections official, and responsible for implementation of laws related to voting, including § 115.427, across the State.

13. Defendant Board of Election Commissioners for the City of St. Louis is the election authority for the City of St. Louis. It is responsible for enforcing election laws, including § 115.427, for the special election is scheduled for the City of St. Louis’ Ward 28 Aldermanic vacancy.

GENERAL FACTUAL ALLEGATIONS

14. Effective June 1, 2017, House Bill No. 1631 (2016) became law.

15. House Bill No. 1631 repealed the text of § 115.427 and replaced it with new text.

16. Under the newly effective provisions:

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Persons seeking to vote in a public election shall establish their identity and eligibility to vote at the polling place by presenting a form of personal identification to election officials. No form of personal identification other than the forms listed in this section shall be accepted to establish a voter's qualifications to vote. Forms of personal identification that satisfy the requirements of this section are any one of the following:

- (1) Nonexpired Missouri driver's license;
- (2) Nonexpired or nonexpiring Missouri nondriver's license;
- (3) A document that satisfies all of the following requirements:
 - (a) The document contains the name of the individual to whom the document was issued, and the name substantially conforms to the most recent signature in the individual's voter registration record;
 - (b) The document shows a photograph of the individual;
 - (c) The document includes an expiration date, and the document is not expired, or, if expired, the document expired after the date of the most recent general election; and
 - (d) The document was issued by the United States or the state of Missouri; or
- (4) Any identification containing a photograph of the individual which is issued by the Missouri national guard, the United States armed forces, or the United States Department of Veteran Affairs to a member or former member of the Missouri national guard or the United States armed forces and that is not expired or does not have an expiration date.

17. In addition to limiting the ways in which a voters must identify themselves prior to voting in person, § 115.427 imposes obligations upon the Secretary of State, the Department of Revenue, and other government agencies and entities.

18. Section 115.427 requires that:

- i. “The secretary of state shall provide advance notice of the personal identification requirements of subsection 1 of this section in a manner calculated to inform the public generally of the requirement for forms of personal identification as provided in this section. Such advance notice

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shall include, at a minimum, the use of advertisements and public service announcements in print, broadcast television, radio, and cable television media, as well as the posting of information on the opening pages of the official state internet websites of the secretary of state and governor.”

- ii. “[T]he state and all fee offices shall provide one nondriver's license at no cost to any otherwise qualified voter who does not already possess such identification and who desires the identification in order to vote.”
- iii. “This state and its agencies shall provide one copy of each of the following, free of charge, if needed by an individual seeking to obtain a form of personal identification described in subsection 1 of this section in order to vote:
 - (a) A birth certificate;
 - (b) A marriage license or certificate;
 - (c) A divorce decree;
 - (d) A certificate of decree of adoption;
 - (e) A court order changing the person's name;
 - (f) A social security card reflecting an updated name; and
 - (g) Naturalization papers or other documents from the United States Department of State proving citizenship.”
- iv. “The secretary of state shall pay any fee or fees charged by another state or its agencies, or any court of competent jurisdiction in this state or any other state, or the federal government or its agencies, in order to obtain any of the [documents in iii] from such state or the federal government.”
- v. “Any applicant who requests a nondriver's license for the purpose of voting shall not be required to pay a fee if the applicant executes a statement, under penalty of perjury, averring that the applicant does not have any other form of personal identification that meets the requirements

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of this section. The state of Missouri shall pay the legally required fees for any such applicant. The director of the department of revenue shall design a statement to be used for this purpose. The total cost associated with nondriver's license photo identification under this subsection shall be borne by the state of Missouri from funds appropriated to the department of revenue for that specific purpose.”

19. The implementation of Section 115.427 also requires training of poll workers and other election officials on the new identification requirements and exceptions, the training of Department of Revenue employees on the availability of and processing procedures for free non-drivers licenses, printing of new affidavits to be used by voters without qualifying photo identification at the polls, the purchase of cameras for use at polling places, and printing of additional provisional ballots for those registered voters who will now not qualify to cast a regular ballot.

20. Section 115.427(3) provides that “[a]ll costs associated with the implementation of this section shall be reimbursed from the general revenue of this state by an appropriation for that purpose. If there is not a sufficient appropriation of state funds, then the person identification requirements ... shall not be enforced.”

21. Currently, \$100,000 has been appropriated to the Department of Revenue for implementation of § 115.427—only \$80,000 of which is from General Revenue; *no* funds have yet been appropriated to the Secretary of State for implementation of § 115.427; and *no* funds have been appropriated to any other agency of the state, to the courts, or to any political subdivision to implement § 115.427.

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22. A bill seeking to appropriate only \$1.5 million to the Secretary of State for implementation of Section 115.427 is pending the Governor's signature, *see id.*, who has the authority to make line reductions in the requested amounts, *see Mo. Const., Art. IV, § 26*. Any appropriations under this bill will not be available until July 1, 2017.

23. The statute provides that the "total cost associated with nondriver's license photo identification under this subsection shall be borne by the state of Missouri from funds appropriated to the department of revenue for that specific purpose."

24. In Missouri, one obtains a copy of a birth certificate from the local health department or the Missouri Department of Health and Senior Services.

25. In Missouri, one obtains a copy of a death certificate from the local health department or the Missouri Department of Health and Senior Services.

26. In Missouri, a copy of a marriage license is obtained from the Recorder of Deeds in the county where the license was obtained.

27. In Missouri, a copy of a divorce decree is obtained from the Circuit Clerk in the county where the decree was granted.

28. In Missouri, a copy of a certificate of decree of adoption, if available at all, is obtained from the Circuit Clerk in the county where the decree of adoption was granted or the Missouri Department of Health and Senior Services.

29. In Missouri, a copy of a court order changing a person's name is obtained from the Circuit Clerk in the county where the order was issued.

30. Local election authorities will incur costs of implementing § 115.427, including the cost of preparing and reproducing affidavits and notices, production of additional provisional ballots

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for registered voters who will no longer be permitted to cast a regular ballot, the purchase of cameras for use at polling places, and training on the new restrictions.

31. A special election for the City of St. Louis' Ward 28 Aldermanic vacancy is scheduled for July 11, 2017.

32. In-person absentee voting, which requires that voters identify themselves in accordance with § 115.427, commences on June 12, 2017.

33. As a result of the failure of the legislature to provide a sufficient appropriation of state funds from the general revenue for the purpose of paying the costs associated with implementation of § 115.427, Plaintiffs have been and will be required to shift their resources to do for their members and the public what § 115.427 mandates that the state do.

COUNT I

Section 115.427.1 cannot be enforced pursuant to § 115.427.6(3)

34. There is not a sufficient appropriation of state funds from the general revenue of this state for the purpose of paying the costs associated with implementation of § 115.427.

35. In his budget request for FY 2018, the Secretary of State estimated that he would need over \$4,259,987 million for the advance public notice mandated by § 115.427, including approximately \$2 million for advance notice advertisements, \$2 million for direct mailing to registered voters, \$19,600 for “increased costs for provisional ballots”; and \$58,672 for an additional full time employee. He further estimated that the Secretary of State’s Office “would be responsible for an estimated \$1,000,000 in fees” to obtain underlying documents needed to obtain a qualifying photo ID for those Missourians lacking such documents.

36. The auditor’s fiscal note dated June 2, 2016 accompanying House Bill 1631 estimated that the costs for implementing the law in the first year of implementation (FY 2018) “could

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exceed” \$11 million. This includes an estimated \$1 million for advance notice advertisements; \$2.1 million for a direct mailing to registered voters; over \$1.2 million in loss revenue for issuing free birth certificates; and \$19,600 for printing provisional ballot envelopes.

37. The auditor’s fiscal note also estimated that the Department of Revenue’s costs in satisfying its responsibility for issuing free nondriver’s licenses to those voters without qualifying photo ID would be over \$600,000, including \$457,553 for the cost of the IDs and the hiring of additional staff, equipment and other expenses. The fiscal note further estimated that issuing free nondriver’s licenses would result in a revenue loss of over \$1 million in fees.

38. As Defendant Aschcroft has publicly stated, the state “won’t get free IDs to everyone who wants them before the St. Louis city special election.”

39. Section 115.427.6(3) provides: “If there is not a sufficient appropriation of state funds, then the personal identification requirements of subsection 1 of this section shall not be enforced.”

WHEREFORE Plaintiffs pray this Court:

- A. Enter declaratory judgment that the identification requirements of § 115.427.1 may not be enforced;
- B. Issue a temporary restraining order, preliminary injunction, and permanent injunction prohibiting Defendants and anyone acting in concert with them from enforcing § 115.427.1;
- C. Allowing such other and further relief as is proper under the circumstances.

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COUNT II

Section 115.427 violates Art. X, §§ 16 and 21 of the Missouri Constitution

40. Article X, §§ 16 and 21 of the Missouri Constitution prohibit the state from “requiring any new or expanded activities by counties and other political subdivisions without full state financing.”

41. Section 115.427 requires local health departments, Recorders of Deeds, and Circuit Clerks to provide a copy free of charge of certain records.

42. While § 115.427 provides that the Secretary of State shall reimburse fees paid to the courts of this state or another state as well as agencies of other states or the federal government, it does not provide for reimbursement of the costs incurred by local health departments Recorders of Deeds, and Circuit Clerks in providing copies of records as mandated.

43. Section 115.427 also imposes new responsibilities on local election authorities who will experience increased costs as a result. These responsibilities include: redrafting and reprinting poll worker instructions and substantial training for poll workers and election judges on the new requirements and procedures; implementing the new process for voters without qualifying photo IDs; implementing the new requirements for determining whether a provisional ballot is counted, including comparing signatures and processing voters who return with qualifying voter ID; and potentially photographing individuals who come to the polls without qualifying photo ID.

44. The Kansas City Board of Election Commission estimated the cost of implementation of the law in its jurisdiction at \$160,000, including \$35,000 in training, and \$100,000 in equipment, printing, and supplies.

45. Section 115.427 also does not provide for reimbursement of the costs incurred by local election authorities for the implementation of § 115.427.

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WHEREFORE Plaintiffs pray this Court:

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- B. Issue a temporary restraining order, preliminary injunction, and permanent injunction prohibiting Defendants and anyone acting in concert with them from enforcing § 115.427;
- C. Allowing such other and further relief as is proper under the circumstances.

Respectfully submitted,

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