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October 6, 2020

Via ECF

Hon. Judge Mary Geiger Lewis
U.S. District Judge
901 Richland Street
Columbia, SC 29201

Re: South Carolina Progressive Network Education Fund v. Andino et al., 3:20-cv-03503-MGL

Dear Judge Lewis:

This firm, together with Free Speech for People and Burnette Shutt and McDaniel, represents Plaintiff South Carolina Progressive Network Education Fund in an emergency action before this Court, seeking a preliminary injunction and a temporary restraining order against the Executive Director and Commissioners of the South Carolina Election Commission to prevent them from immediately enforcing South Carolina's 30-day voter registration cutoff. Plaintiff wishes to bring the Court's attention to two federal court decisions that have been issued since the parties in this case submitted their papers.

First, at 11:30pm Eastern, the United States District Court for the District of Arizona, in *Mi Familia Vota, et al. v. Hobbs*, CV-20-01903-PHX-SPL, granted a preliminary injunction against the Arizona Secretary of State, enjoining the state "to accept all voter registration applications received by 5:00 p.m. on October 23, 2020 and process them in time for eligible voters to vote in the November 3, 2020 general election." The plaintiffs in that case filed suit against the Secretary of State on September 30, 2020, alleging that the Arizona voter registration deadline was unconstitutional as applied in the context of the COVID-19 pandemic. The facts, issues of law, and requested relief in *Mi Familia Vota* are almost indistinguishable from those in the matter before this Court, including on the issue of whether the doctrine announced in *Purcell v. Gonzalez*, 549 U. S. 1 (2006) doctrine is applicable to cases extending voter registration deadlines. Plaintiff believes that the Arizona District Court's judgment is persuasive authority in support of its motion before this Court.

Second, the Supreme Court of the United States, shortly after 8pm Eastern on October 5, stayed the enforcement of the District Court for the District of South Carolina’s preliminary injunction in *Middleton et al. v. Andino et al.*, No. 3:20-cv-1730 (D.S.C.). The preliminary injunction in that case had changed South Carolina’s election laws two weeks before voting was to start by, *inter alia*, removing the requirement that voters voting absentee have a witness sign their absentee ballots. The Supreme Court, in an order without opinion, stayed this change in the election procedures. Justice Kavanaugh, concurring, noted that the injunction had “altered election rules in the in the period close to an election” in violation of the *Purcell* doctrine. As the District of Arizona confirmed in *Mi Familia Vota*, CV-20-01903-PHX-SPL, Dkt. 35, at 4-5, and as Plaintiff noted in its proposed reply, unlike in the cases where *Purcell* is applicable, “the injunction at issue here does not involve any change at all to the actual election process,” and thus the *Purcell* doctrine is not at issue, ECF No. 28-1, at 8 (quoting *Feldman v. Ariz. Sec’y of State’s Office*, 843 F.3d 366, 368 (9th Cir. 2016)).

Sincerely,

Ananda V. Burra*
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* *pro hac vice granted*

s/ Jack E. Cohoon
Jack E. Cohoon (Fed. ID No. 9995)
Burnette Shutt and McDaniel PA

Encl.:

- (1) *Mi Familia Vota, et al. v. Hobbs*, Case No. CV-20-01903-PHX-SPL, Dkt. No. 35 (D. Ariz. Oct. 5, 2020).
- (2) *Middleton, et al. v. Andino, at al.*, 592 U. S. ____ (2020).

c. All counsel of record (*via ECF*)