

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

SOUTH CAROLINA PROGRESSIVE
NETWORK EDUCATION FUND,

Plaintiff,

v.

MARCI ANDINO, in her official capacity as
Executive Director of the South Carolina
State Election Commission; JOHN WELLS,
in his official capacity as Chair of the South
Carolina State Election Commission; and
JOANNE DAY, CLIFFORD J. EDLER,
LINDA MCCALL and SCOTT MOSLEY, in
their official capacities as members of the
South Carolina State Election Commission,

Defendants.

Case No. 3:20-cv-03503-MGL

PLAINTIFF'S MOTION FOR LEAVE TO FILE A REPLY

Plaintiff seeks leave of the Court to file a short reply brief, attached, attaching a supplemental declaration from Plaintiff's executive director, in further support of its motion for a preliminary injunction and temporary restraining order in this matter. Plaintiff filed its complaint and a motion for a TRO/preliminary injunction on October 2, 2020. Dkt. Nos. 1, 2. The Court ordered expedited briefing of the motion and ordered Defendants, the Executive Director and members of the State Election Commission, to respond by noon on October 5. Dkt. No. 11. Defendants filed their opposition timely. Dkt. No. 23. The Court cancelled previously scheduled oral argument on this motion on October 5. Dkt. No. 27. Pursuant to Local Rule 7.07, Plaintiff seeks leave of the Court to address some of the misstatements in Defendants' opposition and clarifying the record and the legal tests. Plaintiff believes that such a filing would help

clarify some of the issues before the Court, especially on a matter of such public policy importance.

Defendants have both mischaracterized the dominant strain of the law on the *Anderson-Burdick* test and have misrepresented the factual record, particularly the evidence introduced by Plaintiff of the efforts it has taken to register voters during the COVID-19 pandemic, and the very recent change in its ability to carry out registrations in South Carolina. Plaintiff's supplemental declaration provides updated information about its voter registration efforts in the last few days. Further, Defendants have misstated the relevant tests for determining standing in analogous situations, including in the context of the COVID-19 pandemic. Finally, Defendants have sought to apply inapposite language from *Purcell* to Plaintiff's claim, which Plaintiff wishes to address.

Plaintiff contacted counsel for Defendants regarding their position on this reply by email shortly before 6 p.m. today, but has not yet received a response. Given the emergency nature of the relief sought, Plaintiff respectfully seeks leave of the Court to submit the attached 9 page Reply and four paragraph supplemental declaration from Mr. Bursey into the record now.

Dated: Columbia, SC
October 5, 2020

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**Motions for admission pro hac vice granted
**Motions for admission pro hac vice pending
***Motions for admission pro hac vice forthcoming*