

STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE

KRISTINA KARAMO; PHILIP
O'HALLORAN, MD; BRADEN
GIACOBAZZI; TIMOTHY MAHONEY;
KRISTIE WALLS; PATRICIA FARMER;
and ELECTION INTEGRITY FUND AND
FORCE,

Case No. 22-012759-AW

HON. TIMOTHY M. KENNY

Plaintiffs,

v.

JANICE WINFREY, in her official capacity
as the CLERK OF THE CITY OF DETROIT;
CITY OF DETROIT BOARD OF
ELECTION INSPECTORS, in their official
capacity,

Defendants,

v.

GWENDOLYN BABB; MATTHEW
BAKKO; ALEXANDER HOWBERT;
PRIORITIES USA; and
DETROIT/DOWNRIVER CHAPTER OF
THE A. PHILIP RANDOLPH INSTITUTE,

[Proposed] Intervenor
Defendants

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**Pro hac vice motion forthcoming*

**BRIEF IN SUPPORT OF MOTION OF GWENDOLYN BABB, MATTHEW BAKKO,
ALEXANDER HOWBERT, PRIORITIES USA, AND DETROIT/DOWNRIVER
CHAPTER OF THE A. PHILIP RANDOLPH INSTITUTE
TO INTERVENE AS DEFENDANTS**

INTRODUCTION

Proposed Intervenor Defendants Gwendolyn Babb, Matthew Bakko, Alexander Howbert, Priorities USA (“Priorities”), and the Detroit/Downriver Chapter of the A. Philip Randolph Institute (“DAPRI”) (collectively, “Proposed Intervenors”) move to intervene as defendants in this lawsuit filed by Plaintiffs Kristina Karamo, Philip O'Halloran, MD, Braden Giacobazzi, Timothy Mahoney, Kristie Walls, Patricia Farmer, and Election Integrity Fund and Force. Plaintiffs baselessly seek to disrupt the lawful acceptance and processing of absentee ballots in Detroit, threatening Proposed Intervenors’ distinct and protectable legal interests. Proposed Intervenors seek to protect their own right to vote; the right to vote of their members, constituents, and volunteers; and the advancement of organizational goals like promoting voter education and mobilization and combatting the rejection of lawfully cast absentee ballots. Proposed Intervenors’ immediate intervention to protect those interests is warranted. Counsel for Proposed Intervenors

sought the concurrence of the parties to this action, but at the time of filing, parties have not yet responded.

BACKGROUND

Proposed Intervenors are three individual absentee voters in Detroit and two non-profit voter education and mobilization organizations. As detailed below, each has a distinct interest in protecting Detroiters' right to vote absentee, which Plaintiffs seek to eviscerate.

Gwendolyn Babb is a 65-year-old resident of Detroit, Michigan. Ex. 1, Affidavit of Gwendolyn Babb ("Babb Aff.") ¶ 2. She has been a registered voter in Detroit since approximately 1975. *Id.* Due to a physical disability and limited mobility, she does not drive. *Id.* ¶ 3. Due to her age and underlying health conditions, she is at risk of severe illness due to COVID-19 and continues to practice social distancing. *Id.* Voting has always been very important to her, and she tries to vote in every election. *Id.* ¶ 5. Due to her disability, she has been on the permanent absentee voter list since 2017. *Id.* Wanting to ensure her vote is counted this year, Ms. Babb submitted her ballot more than a week before Election Day. *Id.* ¶ 6. Because of her physical limitations, her son delivered her 2022 general election absentee ballot to the clerk's office in Detroit on October 31, 2022. *Id.*

Matthew Bakko is a 37-year-old resident of Detroit, Michigan. Ex. 2, Affidavit of Matthew Bakko ("Bakko Aff.") ¶ 2. He has been registered to vote in Detroit since approximately August 2020. *Id.* ¶ 3. He has been voting absentee since 2020 because he travels for work and absentee voting ensures that he can submit his ballot if he is out of town on Election Day. *Id.* He mailed his absentee ballot for the 2022 general election on September 24, 2022, to ensure that it would arrive at the Detroit clerk's office in time. *Id.* ¶ 4.

Alexander Howbert is a 41-year-old resident of Detroit, Michigan. Ex. 3, Affidavit of Alexander Howbert ("Howbert Aff.") ¶ 2. He has been a registered voter in Detroit since 1999. *Id.*

As a small business owner and a parent of young children, he often votes absentee because it provides the flexibility to vote on his own schedule. *Id.* ¶ 3. He also sometimes travels out of Detroit for work, which is one of the reasons he is voting absentee this year. *Id.* On October 31, 2022, he picked up an absentee ballot for the November 2022 general election at his local vote center. *Id.* ¶ 4. Though he showed photo identification before being given a ballot, he did not have time to complete his ballot on the spot and plans to drop his ballot off at the drop box conveniently located one block from his house. *Id.* ¶ 4-5.

Priorities USA (“Priorities”) is a 501(c)(4) nonprofit, voter-centric progressive advocacy organization. Ex. 4, Affidavit of Guy Cecil (“Cecil Aff.”) ¶ 3. Priorities’ mission is to build a permanent infrastructure to engage Americans by persuading and mobilizing citizens around issues and elections that affect their lives. *Id.* To further this purpose, Priorities spends resources to register and turn out voters across the country, including in Michigan. *Id.* ¶ 3-4. Priorities’ efforts in Michigan involve reaching out to young voters and marginalized communities, including low-income communities and people of color, through various get-out-the-vote (“GOTV”) efforts. *Id.* ¶ 4. Part of these GOTV efforts include informing these communities about their absentee voting options and the locations of various drop boxes. *Id.* Plaintiffs’ requested relief threatens Priorities’ mission of engaging and mobilizing voters, and it will be forced to expend and divert additional funds and resources to mobilize and educate Michigan voters to combat the effects of the requested relief, at the expense of its other efforts in Michigan and in other states. *Id.* ¶ 6-8. Priorities has had a longstanding interest in absentee voting in Michigan. *Id.* ¶ 5. In 2019, it filed the lawsuit *Priorities USA v Benson*, 448 F Supp 3d 755 (D Mich, 2020), a challenge to the constitutionality of Michigan’s signature matching laws, in response to which Michigan’s Secretary of State released updated guidance around signature matching standards and cure procedures. *Id.* Plaintiffs’

requested relief directly threatens Priorities' interest in ensuring that voters who attempt to vote by absentee ballot will not have their ballots erroneously rejected. *Id.* ¶ 7.

DAPRI is the local chapter of the national 501(c)(3) nonprofit organization the A. Philip Randolph Institute. Ex. 5, Affidavit of Andrea A. Hunter ("Hunter Aff.") ¶ 3. The A. Philip Randolph Institute, founded in 1965 by A. Philip Randolph and Bayard Rustin, is the senior constituency group of the AFL-CIO. *Id.* ¶ 3. DAPRI is a membership organization, and its mission is to fight for human equality and economic justice and to seek structural changes through the American democratic process. *Id.* ¶ 3. DAPRI's members are involved in election protection, voter registration, get-out-the-vote activities, political and community education, legislative action, and labor support activities in the Detroit and Downriver areas of Michigan. *Id.* ¶ 5. Part of DAPRI's mission is to turn out voters across Detroit, and one of its strategies is to encourage voters to vote via absentee ballot, particularly working people who do not get time off to vote during business hours or on Election Day. *Id.* ¶ 8. Many of its members and constituents have limited English proficiency or disabilities that make it difficult for them to vote in person. *Id.* ¶ 9. DAPRI dedicates time and resources educating members, volunteers, and constituents about their voting options, including how and when to submit ballots in time to be counted. *Id.* ¶ 13.

ARGUMENT

Proposed Intervenors seek to intervene in this action under MCR 2.209(A) or, alternatively, under MCR 2.209(B). Those rules state, in relevant part:

(A) **Intervention of Right.** On timely application a person has a right to intervene in an action . . . (3) when the applicant claims an interest relating to the property or transaction which is the subject of the action and is so situated that disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless applicant's interest is adequately represented by existing parties.

(B) **Permissive Intervention.** On timely application a person may intervene in an action . . . (2) when an applicant's claim or defense and the main action have a question of law or fact in common.

"The rule for intervention should be liberally construed to allow intervention where the applicant's interests may be inadequately represented." *Neal v Neal*, 219 Mich App 490, 492; 557 NW2d 133 (1996); accord *State Treasurer v Bences*, 318 Mich App 146, 150; 896 NW2d 93 (2016). Because Proposed Intervenor's participation is necessary for a full and fair adjudication and resolution of this case, the Court should allow them to intervene as defendants.

A. Proposed Intervenor's should be granted intervention as a matter of right.

"Review of MCR 2.209(A)(3) reveals that the plainly expressed language promulgated by the Supreme Court provides that three elements are required to intervene by right: timely application, a showing that the representation of the applicant's interests by existing parties is or may be inadequate, and a determination whether disposition of the action may, as a practical matter, impair or impede the applicant's ability to protect his interests." *Chvala v Blackmer*, unpublished opinion of the Court of Appeals, issued January 16, 2001 (Docket No. 221317), 2001 WL 789526, p *2, citing *Oliver v State Police Dep't*, 160 Mich App 107, 115; 408 NW2d 436 (1987). Proposed Intervenor's satisfy all three elements.

1. This motion is timely.

Although Michigan courts have not defined any particular factors to analyze the timeliness of an intervention motion, the Michigan Court of Appeals has held that a motion to intervene was timely when filed "before any proceedings or discovery had been taken." *Karrip v Twp of Cannon*, 115 Mich App 726, 731; 321 NW2d 690 (1982). Moreover, because MCR 2.209 is similar to Federal Rule of Civil Procedure 24, it is proper to look to the federal courts for guidance. *D'Agostini v Roseville*, 396 Mich 185, 188; 240 NW2d 252 (1976); *Smith v Iosco Co Bd of Commr's*, unpublished opinion of the Court of Appeals, issued June 18, 1999 (Docket No.

209634), 1999 WL 33441255, p *2. The Sixth Circuit weighs the following five factors in determining whether an intervention is timely: (1) the stage of the proceedings; (2) the purpose of the intervention; (3) the length of time between when the proposed intervenor knew (or should have known) about his interest and the motion; (4) the prejudice to the original parties by any delay; and (5) any unusual circumstances militating in favor of or against intervention. *Jansen v Cincinnati*, 904 F2d 336, 340 (CA 6, 1990).

These proceedings have just begun. There has been no status conference or presentation of evidence. Defendants have not even filed their answer. No development or discovery has taken place. Proposed Intervenors are therefore positioned to participate fully throughout the entire case. Because Proposed Intervenors are requesting permission to participate from the very beginning, there is no possible delay or prejudice.

Moreover, Proposed Intervenors have a compelling interest in ensuring expeditious resolution of these disputed issues. They filed as promptly as possible upon learning about this action; they have not delayed or adopted a wait-and-see approach, and they will adhere to any scheduling order or briefing schedule issued by the Court. Thus, no party can seriously contest this motion's timeliness.

2. Proposed Intervenors have sufficient interests that may be impaired by the disposition of this case.

"The second element required by the court rule is a showing that disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest." *Prestige Community Devs v Sumpter Twp*, unpublished opinion of the Court of Appeals, issued August, 26, 1997 (Docket No. 193390), 1997 WL 33344928, p *2. The requirement is not an onerous one. See *Purnell v Akron*, 925 F2d 941, 948 (CA 6, 1991) (holding applicant need not demonstrate "that impairment will inevitably ensue from an unfavorable disposition; the would-be Proposed

Intervenors need only show that the disposition may impair or impede their ability to protect their interest”). “[C]lose cases should be resolved in favor of recognizing an interest.” *Grutter v Bollinger*, 188 F3d 394, 399 (CA 6, 1999) (interpreting analogous Federal Rule 24(a)).

Here, Plaintiffs seek to disrupt Detroit’s acceptance and processing of lawfully cast absentee ballots. For individual voter Proposed Intervenors, Plaintiffs seek to disqualify the absentee ballots they have either already voted or are planning to vote. These voters, who have relied on the ready availability of absentee voting and requested their ballots well in advance of Election Day, have a significant interest in their votes being counted. Individual voter Proposed Intervenors seek to protect their right to vote. “[T]o refuse to count and return the vote as cast [is] as much an infringement of that personal right as to exclude the voter from the polling place.” *United States v Saylor*, 322 US 385, 387-388; 64 S Ct 1101; 88 L Ed 1341 (1944).

Intervenor Priorities has a significant interest in voter education and mobilization in Michigan, including the engagement of voters who rely on absentee voting. It also has a longstanding interest in the standard for signature matching on absentee ballots, as illustrated by its 2019 lawsuit *Priorities USA v Benson*, 448 F Supp 3d 755 (D Mich, 2020). Plaintiffs’ action threatens to frustrate Priorities’ mission and divert Priorities’ resources from its typical programming to safeguard absentee voters from disenfranchisement in Michigan.

Intervenor DAPRI has a significant interest in educating its members, volunteers, and constituents about their voting options. Plaintiffs’ requested relief would disenfranchise many of its members, volunteers, and constituents, and Plaintiffs’ action threatens to divert DAPRI’s resources from its typical GOTV programming during this critical week before Election Day. See, e.g., *Democratic Nat’l Comm v Reagan*, 329 F Supp 3d 824, 841 (D Ariz, 2018) (finding standing where law “require[d] Democratic organizations . . . to retool their [get-out-the-vote] strategies

and divert [] resources”), rev’d on other grounds sub nom *Democratic Nat’l Comm v Hobbs*, 948 F3d 989 (CA 9, 2020) (en banc).

3. No current party adequately represents Proposed Intervenor’s interests.

The final requirement for intervention under MCR 2.209(A)(3) is a “showing that the representation of the applicant’s interests by existing parties is or may be inadequate.” *Oliver*, 160 Mich App at 115. The burden of demonstrating inadequate representation is “minimal.” *Karrip*, 115 Mich App at 731-732. The moving party need not “definitely establish[]” inadequate representation; mere concern suffices. *Vestevich v West Bloomfield Twp*, 245 Mich App 759, 761-762; 630 NW2d 646 (2001). And where such “concern exists, the rules of intervention should be construed liberally in favor of intervention.” *Id.* Put differently, MCR 2.209(A)(3) “is satisfied if the applicant shows that representation of his interest ‘may be’ inadequate; and the burden of making that showing should be treated as minimal.” *D’Agostini*, 396 Mich at 188-189, quoting *Trbovich v United Mine Workers*, 404 US 528, 538 n 10; 92 S Ct 630; 30 L Ed 2d 686 (1972).

Here, Proposed Intervenor cannot rely on any party to represent their interests. While Defendants have an undeniable interest in defending the actions of themselves and election officials, Proposed Intervenor has a different interest. Individual voters are interested in protecting themselves from disenfranchisement and preserving their ability to vote by absentee ballot. Priorities and DAPRI have an interest in protecting their members and constituents from disenfranchisement, supporting their missions of voter education and mobilization, and preserving their own resources from diversion as a result of Plaintiffs’ meritless and disruptive lawsuit. Plaintiffs’ requested relief would severely disrupt Proposed Intervenor’s interests in the availability of absentee voting in Detroit. Courts have “often concluded that governmental entities do not adequately represent the interests of aspiring intervenors.” *Fund for Animals v Norton*, 355 US App DC 268, 276; 322 F3d 728 (2003); accord *Citizens for Balanced Use v Mont Wilderness*

Ass'n, 647 F3d 893, 899 (CA 9, 2011), quoting *WildEarth Guardians v US Forest Serv*, 573 F3d 992, 996 (CA 10, 2009) (“[T]he government’s representation of the public interest may not be ‘identical to the individual parochial interest’ of a particular group just because ‘both entities occupy the same posture in the litigation.’”). That is the case here. Proposed Intervenor has specific interests and concerns—from protecting individual votes from being wrongfully rejected or cast aside to protecting key organizational missions of mobilizing voters who rely on absentee voting—that neither Defendants nor any other party in this lawsuit share. See *Northeast Ohio Coalition for Homeless v Blackwell*, 467 F3d 999, 1008 (CA 6, 2006) (granting intervention in voting rights case where intervenors’ interests might “potentially diverge”); *Issa v Newsom*, order of the United States District Court for the Eastern District of California, entered June 10, 2020 (Case No. 2:20-cv-01044-MCE-CKD), 2020 WL 3074351, p *3 (granting intervention to state party and party committee where state defendants’ “arguments turn on their inherent authority as state executives and their responsibility to properly administer election laws” and party’s parochial “interests are neither ‘identical’ nor ‘the same’”).

B. Alternatively, Proposed Intervenor should be granted permissive intervention.

Even if Proposed Intervenor cannot intervene as a matter of right, they should be granted permissive intervention under MCR 2.209(B)(2). That rule provides for permissive intervention where a party timely files a motion and the party’s “claim or defense and the main action have a question of law or fact in common.” MCR 2.209(B)(2). “[T]he trial court has a great deal of discretion in granting or denying [permissive] intervention.” *Mason v Scarpuzza*, 147 Mich App 180, 187; 383 NW2d 158 (1985); see also *City of Holland v Dep’t of Natural Resources*, unpublished opinion of the Court of Appeals, issued March 1, 2012 (Docket No. 302031), 2012 WL 676356, p *3. In exercising its broad discretion under this Rule, the Court must consider

whether intervention will unduly delay or prejudice the adjudication of the original parties' rights. MCR 2.209(B). Here, Proposed Intervenors' motion is timely, and granting intervention at this stage would not delay or prejudice original parties. With only seven days remaining before the election, Proposed Intervenors have an interest in prompt resolution of this action, and their intervention will not lead to delay.

CONCLUSION

For the foregoing reasons, Proposed Intervenors respectfully ask this Court to grant its motion to intervene.

Dated: November 1, 2022

Respectfully submitted,

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**Pro hac vice motion forthcoming*

PROOF OF SERVICE

Sarah Prescott certifies that on the 1st day of November 2022, she served a copy of the above document in this matter on all counsel of record and parties *in pro per* via MiFILE .

s/ Sarah S. Prescott
Sarah Prescott

Exhibit 1

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STATE OF MICHIGAN
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KRISTINA KARAMO; PHILIP
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**Pro hac vice motion forthcoming*

AFFIDAVIT OF GWENDOLYN BABB

I, Gwendolyn Babb, having been duly sworn according to law, do hereby depose and state as follows:

1. I am at least 18 years of age and have personal knowledge of the below facts, which are true and accurate to the best of my knowledge and belief.

2. I am 65 years old and a resident of Detroit, Michigan, where I have been a registered voter since approximately 1975.

3. I live with my son in a single-family home. Due to a physical disability and my limited mobility, I do not drive. I am at risk of severe illness due to COVID-19 because of my age and underlying health conditions, and I observe strict social distancing protocols. I rely on family and online services for everyday needs like grocery deliveries.

4. Because I use a cane or a walker to get around and have difficulty breathing, leaving the house always takes planning and assistance. Some days, my health conditions prevent me from leaving at all.

5. Voting is very important to me, and I try to vote in every election that I can, and I encourage my family and friends to do the same. Since 2017, I have been on the permanent absentee voter list due to my disability. I have no choice but to vote absentee.

6. My son delivered my 2022 general election absentee ballot to the clerk's office in Detroit on October 31, 2022. I submitted my ballot more than a week before Election Day because I wanted to ensure that my vote would be counted.

Gwendolyn Babb

Gwendolyn Babb

10/31/2022

Date

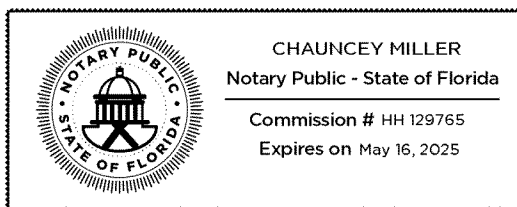
Florida Broward

Subscribed and sworn to (or affirmed) before me on this 31st day of October, 2022.

Gwendolyn Babb ID Produced Driver License

Chauncey Miller

Notary Public
Chauncey Miller



My commission expires on 05/16/2025.

Notarized online using audio-video communication

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Exhibit 2

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I, Matthew Bakko, having been duly sworn according to law, do hereby depose and state as follows:

1. I am at least 18 years of age and have personal knowledge of the below facts, which are true and accurate to the best of my knowledge and belief.

2. I am 37 years old and a resident of Detroit, Michigan, where I have been a registered voter since approximately August 2020.

3. I have been voting absentee since 2020 because it is the most accessible way to vote. I travel for work and rely on voting absentee to make sure that I can submit my ballot if I am out of town on Election Day.

4. I put my absentee ballot for the 2022 general election in the mail on September 24, 2022 because I wanted to make sure that it arrived at the Detroit clerk's office in time to be counted.

SIGNATURE PAGE FOLLOWS

Matthew Marvin Bakko

10/31/2022

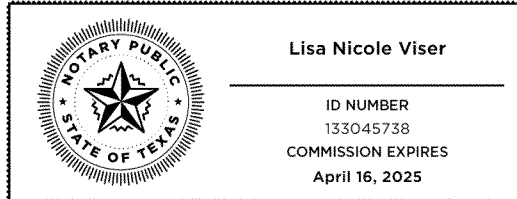
Matthew Bakko

Date

State of Texas ; County of Harris

Subscribed and sworn to (or affirmed) before me on this 31st day of October, 2022.
by Matthew Marvin Bakko

Lisa Nicole Viser



Notary Public , State of Texas

My commission expires on 04/16/2025.

Notarized online using audio-video communication

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Exhibit 3

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Case No. 22-012759-AW

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**Pro hac vice motion forthcoming*

AFFIDAVIT OF ALEXANDER HOWBERT

I, Alexander Howbert, having been duly sworn according to law, do hereby depose and state as follows:

1. I am at least 18 years of age and have personal knowledge of the below facts, which are true and accurate to the best of my knowledge and belief.

2. I am 41 years old and a lifelong resident of Detroit, Michigan, where I have been a registered voter since 1999.

3. As a small business owner and parent of young children, I often vote absentee because it provides me with flexibility to vote on my own schedule. I also sometimes travel outside of Detroit for work, which is one of the reasons I am voting absentee this year.

4. Earlier today, I picked up an absentee ballot at the Vote Center located at the Butzel Family Recreation Center, which is located just a block away from my house. I showed identification before I was given a ballot, but I did not have time to stay at the Center to fill it out.

5. I plan to drop my ballot off at the Butzel Center's drop box at my convenience, as that is the easiest way for me to vote and to ensure that my ballot is submitted before Election Day.

Alexander Howbert

Alexander Howbert

10/31/2022

Date

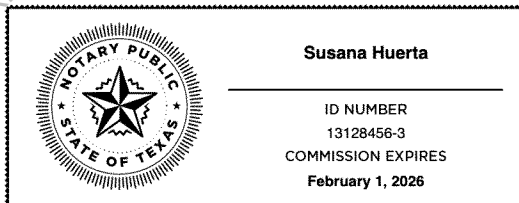
Subscribed and sworn to (or affirmed) before me on this 31st day of October, 2022.

Susana Huerta

Notary Public

Susana Huerta

Notary Public, State of Texas



My commission expires on 02/01/2026.

Notarized online using audio-video communication

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Exhibit 4

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STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE

KRISTINA KARAMO; PHILIP
O'HALLORAN, MD; BRADEN
GIACOBAZZI; TIMOTHY MAHONEY;
KRISTIE WALLS; PATRICIA FARMER;
and ELECTION INTEGRITY FUND AND
FORCE,

Plaintiffs,

v.

JANICE WINFREY, in her official capacity
as the CLERK OF THE CITY OF DETROIT;
CITY OF DETROIT BOARD OF
ELECTION INSPECTORS, in their official
capacity,

Defendants,

v.

GWENDOLYN BABB; MATTHEW
BAKKO; ALEXANDER HOWBERT;
PRIORITIES USA; and
DETROIT/DOWNRIVER CHAPTER OF
THE A. PHILIP RANDOLPH INSTITUTE,

[Proposed] Intervenor
Defendants

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**Pro hac vice motion forthcoming*

AFFIDAVIT OF GUY CECIL

I, Guy Cecil, having been duly sworn according to law, do hereby depose and state as follows:

1. I am at least 18 years of age and have personal knowledge of the below facts, which are true and accurate to the best of my knowledge and belief.

2. I am currently the Chairman of Priorities USA and have held this position since 2017. In this role, I provide strategic oversight to senior staff, raise money, and am responsible for directing the organization's overall operations, including its programing, activities, and use and allocation of funds and resources.

3. Priorities USA is a 501(c)(4) nonprofit, voter-centric, progressive advocacy and service organization. Its mission is to build a powerful progressive movement across the country, including in Michigan, through organizing and building relationships with outside groups and deploying a targeted campaign to persuade and mobilize Americans around issues and elections that affect their lives. Priorities USA advances this mission by conducting programs and engaging in activities designed to increase voter registration and turnout (i.e., mobilization) and to persuade

voters, especially young and minority voters, to participate in the political process and support progressive policies (i.e., persuasion).

4. Priorities USA's mobilization efforts in Michigan include working with and supporting organizations on the ground to educate voters on progressive policies, informing voters about their voting options, and encouraging voters to vote in each election. For example, Priorities USA is supporting local organizations to reach out to young voters and marginalized communities, including low-income communities and people of color, through various get-out-the-vote (GOTV) efforts. Part of these GOTV efforts include informing these communities of their absentee voting options and the locations of various drop boxes.

5. Priorities USA has a history of advocating for expanded protections for absentee voting in Michigan. In 2019, it filed a federal lawsuit against Secretary Benson, challenging Michigan's signature matching process at the time as unconstitutional. In response to Priorities USA's motion for preliminary injunction, Secretary Benson released updated guidance around signature matching standards and cure procedures that largely tracked Priorities USA's requested relief. I understand that Plaintiffs in this lawsuit now seek to invalidate all absentee ballots that were subject to *any* signature matching process.

6. Because Priorities USA's various programs present issues of resource allocation, a decision to spend more resources in Michigan has real consequences for what it can do in other states. Similarly, a decision to spend more resources on absentee voters to avoid disenfranchisement in Michigan means that there is less money available for voter registration and turnout in the State.

7. Any relief that is granted in this lawsuit puts Michigan voters at risk of having their absentee ballots and ballot applications rejected. The resulting suppression of absentee votes mere

days before Election Day undermines Priorities USA's mobilization and persuasion efforts, making it more difficult for Priorities USA to advance its mission.

8. Because Plaintiffs filed this dubious lawsuit within days of the Election, Priorities USA must make difficult resource allocation decisions. Unless this last-minute effort to restrict absentee voting is dismissed, Priorities USA will be forced to divert resources from its other programs in Michigan, as well as its activities in other states, and devote more resources to educating absentee voters about the possibility that absentee ballots—many of which have already been cast—will be rejected. Priorities USA will also be required to divert resources toward efforts to mobilize Michiganders to track and cure ballots already sent in the mail or placed in drop boxes, or to vote through other means (i.e. in person on Election Day) to ensure that their ballots will be counted. These efforts are no small undertaking, especially with one week until Election Day, and they will leave fewer resources available for Priorities USA's other programs. Therefore, Priorities USA also seeks intervention in this lawsuit to protect its ability to continue its work, further its mission, and choose how to allocate its resources.

Guy Henry Cecil

Guy Cecil

State of Florida

County of Broward

Subscribed and sworn to (or affirmed) before me on this 1st day of November, 2022.

Provided: Washington D.C. DRIVER LICENSE.

11/01/21022

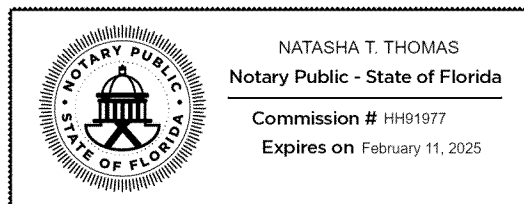
Date

Natasha T. Thomas

Notary Public Natasha T. Thomas

My commission expires on 02/11/2025.

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Exhibit 5

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STATE OF MICHIGAN
IN THE THIRD CIRCUIT COURT FOR THE COUNTY OF WAYNE

KRISTINA KARAMO; PHILIP
O'HALLORAN, MD; BRADEN
GIACOBAZZI; TIMOTHY MAHONEY;
KRISTIE WALLS; PATRICIA FARMER;
and ELECTION INTEGRITY FUND AND
FORCE,

Plaintiffs,

v.

JANICE WINFREY, in her official capacity
as the CLERK OF THE CITY OF DETROIT;
CITY OF DETROIT BOARD OF
ELECTION INSPECTORS, in their official
capacity,

Defendants,

v.

GWENDOLYN BABB; MATTHEW
BAKKO; ALEXANDER HOWBERT;
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Case No. 22-012759-AW

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**Pro hac vice motion forthcoming*

AFFIDAVIT OF ANDREA HUNTER

I, Andrea A. Hunter, hereby declare as follows:

1. I am at least 18 years of age and have personal knowledge of the below facts, which are true and accurate to the best of my knowledge and belief.
2. I am currently President of the A. Philip Randolph Institute's Detroit/Downriver Chapter, as well as President of United Steelworkers Local 1299.
3. The A. Philip Randolph Institute ("APRI") is the senior constituency group of the AFL-CIO. APRI was founded in 1965 by A. Philip Randolph and Bayard Rustin to fight for human equality and economic justice and to seek structural changes through the American democratic process. The Detroit/Downriver Chapter of APRI ("DAPRI") serves the Downriver and Detroit areas of Michigan.
4. DAPRI formed in June 2012 and now has 78 members, the majority of whom are people of color, who typically meet on a monthly basis.
5. DAPRI members are involved in election protection, voter registration, political and community education, legislative action, and labor support activities. Voting rights are central

to our efforts, and protecting them is the only way to ensure that people have an opportunity to have a say in their governments and communities.

6. Making sure that voters actually cast their ballots effectively is incredibly important to APRI and to me individually. When APRI members conduct voter engagement work, we are not only facilitating individuals' access to the ballot, but also expressing to people in our community that voting is an important way to make positive change. Since the Detroit/Downriver Chapter of APRI formed ten years ago, we have built a reputation for spreading the message of encouraging civic participation. When we assist with absentee voting, we intend to convey that voting is important to us and that it should be to our community as well.

7. Part of APRI's mission is to turn out voters across Detroit and Downriver, especially voters who may not vote without APRI's assistance. Because APRI is well known and has roots in the community, voters trust APRI to provide assistance with voting, and the same voters return to seek assistance from year to year.

8. One of the ways that APRI Detroit/Downriver fulfills its mission is through its historic involvement in encouraging individuals to vote via absentee ballot. Those individuals have included working people who do not get time off to vote during business hours or on Election Day, and who therefore choose to vote by mail or drop box.

9. Many of DAPRI's members vote by absentee ballot in Detroit, and we seek intervention in this lawsuit on their behalf. In addition to representing the interests of its dues-paying members, APRI brings this lawsuit based on its relationships with individual voters in the community, many of whom have limited English proficiency or disabilities that make it difficult for them to vote. Such individuals rely on APRI to advocate for their needs, connect them to relevant services, and facilitate their civic participation.

10. Many of the voters that APRI serves are the most vulnerable individuals in the community, and they suffer disproportionately from limited financial resources and time as well as low levels of English literacy and education. Because of these challenges, they face practical obstacles to bringing lawsuits on their own and rely on APRI to advocate for their interests.

11. Since Proposal 3 expanded the number of people eligible to absentee vote in 2018, APRI Detroit/Downriver has expanded its absentee ballot education and assistance efforts.

12. Specifically, APRI Detroit/Downriver (a) educates individuals throughout our community about their ability to apply to vote absentee; (b) provides assistance with applications; and (c) informs voters about their absentee voting options, including by posting signs to make people aware of drop box locations where they can return their ballots.

13. APRI spends time and resources educating our members, volunteers, and constituents about their voting options. Our members and volunteers must also spend time and resources on additional outreach to ensure that individual voters in the communities APRI serves know when and how to submit their ballots in time to be counted. Besides disenfranchising many of DAPRI's members, volunteers, and constituents, any relief that is granted in this lawsuit would require APRI to divert resources from its typical get-out-the-vote programming—during this last critical week before Election Day—to finding ways to cure already-cast absentee ballots and educate voters about an eleventh-hour change in the law. Therefore, APRI also seeks intervention in this lawsuit to protect its ability to continue its work, further its mission, and choose how to use its limited resources.

SIGNATURE PAGE TO FOLLOW