

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND**

<b>Matthan Wilson, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
v.	)	<b>Case No. CL20004252-00</b>
	)	
<b>The Virginia State Board of Elections, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MOTION FOR EMERGENCY HEARING**

The Defendants, by counsel, hereby move this Court to schedule a hearing on Wednesday September 2 or as soon thereafter as they may be heard and states the following in support thereof:

1. Defendants request that this Court act hear this matter immediately and rule as soon as possible because localities are under extreme time pressure to print ballots in order to comply with the large number of absentee ballots requests and a deadline (provided by federal law) to provide absentee ballots by September 19, 2020. Because of the unprecedented number of absentee ballot requests to date, many localities are concerned that they have insufficient time to print ballots. As a result, some localities are already sending their ballots to the ballot printing vendors.
2. These ballots that have already been printed will contain Kanye West's name because these localities acted on the status quo in which West is a qualified candidate for president.

3. The Complaint, which Defendants received after 6 p.m. on September 1st, requests that the Court order the Commonwealth Defendants to remove the name of an independent presidential candidate, Kanye West, from the list of qualified candidates.

4. The practical effect of this request is that, if the Court grants it, West's name is not qualified to be placed on Virginia's ballots for the 2020 General Election on November 3, 2020.

5. Localities must print ballots in order to meet their obligations under the law. If the localities pause their ballot printing efforts and wait to see whether or not West is disqualified and thus ineligible to appear on the ballot, they risk violating federal *and* state law enacted to protect the rights of military and overseas voters.

6. If localities continue printing ballots with the current list of qualified candidates which includes West and this Court determines that West is not a qualified candidate, the local elections officials risk having ballots that are inaccurate and contain the name of a disqualified candidate.

7. Some, like Virginia Beach, sent them prior to any knowledge of the existence of this suit. *See* Decl. of Donna Patterson, attached to accompany brief as Ex. A.

8. Though election day is not until November 3, voting begins in-person and by mail on September 19, 2020 and localities are required by both federal and state law to:

a. Mail ballots to all voters who submitted a requested for an absentee ballot prior to September 19; and

b. Have ballots available in the General Registrar's office for voters who wish to vote early in-person.

c. By ensuring that the ballots are made available to voters in these ways, the locality (and the Commonwealth) are in compliance with the Uniformed and Overseas Citizens Absentee Voting Act and the Military and Overseas Voter Empowerment Act (MOVE). Additionally, the locality will be in compliance with Virginia Code § 24.2-612.

### CONCLUSION

To mitigate as much as possible the chance that localities fail to send out the necessary ballots by September 19, the Commonwealth Defendants request that the Court grant this motion to hear this matter post haste.

Respectfully submitted,

By: /s/ Heather Hays Lockerman  
Heather Hays Lockerman  
*Senior Assistant Attorney General*

Mark R. Herring  
*Attorney General*  
Erin B. Ashwell (VSB No. 79538)  
*Chief Deputy Attorney General*  
Donald D. Anderson (VSB No. 22114)  
*Deputy Attorney General*  
Heather Hays Lockerman (VSB No. 65535)  
*Senior Assistant Attorney General*  
Office of the Attorney General  
202 North Ninth Street  
Richmond, Virginia 23219  
(804) 786-0067 – Telephone  
(804) 786-2650 – Facsimile  
hlockerman@oag.state.va.us

**CERTIFICATE OF SERVICE**

I hereby certify that on September 2, 2020, a true and accurate copy of this paper was sent via electronic mail to the following:

Aria Branch  
Marc E. Elias  
PERKINS COIE LLP  
700 Thirteenth Street, N.W., Suite 600  
Washington, D.C. 20005-3960  
ABranch@perkinscoie.com  
[MElias@perkinscoie.com](mailto:MElias@perkinscoie.com)

Jeffrey A. Breit  
Justin M. Sheldon  
Breit Cantor Grana Buckner, PLLC  
Towne Pavilion Center II  
600 22nd Street, Suite 402  
Virginia Beach, Virginia 23451  
Jeffrey@breitcantor.com  
JSheldon@breitcantor.com

By:           /s/ Heather Hays Lockerman            
Heather Hays Lockerman