

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

DSCC, DCCC, and the Iowa Democratic
Party,

No. _____

Plaintiffs,

v.

PETITION AT LAW AND EQUITY

IOWA SECRETARY OF STATE
PAUL PATE, in his official capacity; and
IOWA LEGISLATIVE COUNCIL,

Defendants.

COME NOW Plaintiffs DSCC, DCCC, and the Iowa Democratic Party (collectively, “Plaintiffs”) praying for temporary and injunctive relief restraining Defendants Iowa Secretary of State Paul Pate (“Secretary”) and Iowa Legislative Council (“Legislative Council”) (collectively, “Defendants”) from enforcing and implementing Defendants’ July 17, 2020 Emergency Election Directive (“Directive”), as well as a declaratory judgment that implementing the Directive violates the Iowa Constitution, and other relief described below, and in support thereof state the following:

STATEMENT OF THE CASE

1. On July 17, 2020, the Legislative Council approved the Directive, which the Secretary presented pursuant to Iowa Code § 47.1(2)(a). The Directive referenced presidential and gubernatorial proclamations related to COVID-19, identified Iowa Code § 47.1 as requiring the Secretary to “prescrib[e] uniform election practices and procedures” for elections in Iowa, and identified Iowa Code § 53.2(2)(a) as requiring the Secretary to “prescribe the official form for absentee ballot applications.” Ostensibly pursuant to these statutes, Section Two of the Directive purported to order county auditors to distribute to voters “only the blank Official State of Iowa Absentee Ballot Request Form . . . that is promulgated by the Secretary of State’s Office

pursuant [to] Iowa Code § 53.2(2)(a)” for the upcoming general election. Plaintiffs challenge the Directive as unconstitutional under the Iowa Constitution. The Secretary lacked the authority to issue the Directive, and the Directive will lead to the widespread confusion and disenfranchisement of voters.

JURISDICTION AND VENUE

2. This Court has jurisdiction under Iowa Code § 602.6101.

3. Venue in Polk County is proper under Iowa Code § 616.3(2) because the cause is against public officers and the cause or some part thereof arose in the county.

PARTIES

4. DSCC is the official national senatorial committee of the Democratic Party as defined and recognized by federal law. 52 U.S.C. § 30101(14). Its mission is to elect candidates of the Democratic Party to the United States Senate, including in Iowa. DSCC works to accomplish its mission across the country and in Iowa by, among other things, making expenditures for, and contributions to, Democratic candidates for U.S. Senate and assisting state parties throughout the country, including in Iowa. In 2016 (the last time there was a U.S. Senate election in Iowa), DSCC spent in excess of \$13 million to support the Democratic Senate candidate. DSCC again expects to make substantial contributions and expenditures to support the Democratic candidate for U.S. Senate in Iowa in the 2020 election, as it has done in past elections. If the Secretary’s unlawful Directive stands and the tens of thousands of lawful Iowa voters who returned preaddressed absentee ballot request forms have those forms rejected, DSCC will divert and expend additional funds and resources to ensure that those voters receive absentee ballots at the expense of other efforts in Iowa and other states. The Secretary’s Directive directly harms DSCC because it frustrates its mission and efforts to register voters and persuade and mobilize those voters to elect

Democratic candidates in Iowa. And to the extent that the Secretary's rule prevents voters from receiving absentee ballots during the COVID-19 pandemic, voters will be confused and disenfranchised, and the pool of eligible Iowa voters who can vote for Democratic candidates for U.S. Congress will necessarily be reduced. In addition, due to the Secretary's rule, DSCC will be further directly injured by decreased turnout, which will undermine its fundamental right to choose its standard bearers through a vote that accurately reflects the preferences of Democratic Party membership. Young voters and minority voters in Iowa overwhelmingly support Democratic candidates. In addition, the electorate in Linn and Johnson Counties generally supports Democratic candidates in local and statewide elections. The Secretary's rule disparately burdens those voters. If not enjoined, the Secretary's rule will directly harm the mission of DSCC.

5. DCCC is the official national congressional committee of the Democratic Party as defined and recognized by federal law. 52 U.S.C. § 30101(14). DCCC's mission is to elect Democratic candidates to the U.S. House of Representatives from across the United States, including from Iowa's four congressional districts. DCCC works to accomplish its mission by, among other things, assisting state parties throughout the country, including in Iowa. DCCC intends to expend significant resources to support Democratic candidates in 2020, including specifically in Iowa. In 2018, DCCC made millions of dollars in contributions and expenditures to persuade and mobilize voters to support congressional candidates who affiliate with the Democratic Party. For 2020, DCCC has identified districts in Iowa as targeted races, in which it will expend significant resources to support the Democratic candidates. If the Secretary's unlawful rule promulgation stands and the tens of thousands of lawful Iowa voters who returned preaddressed absentee ballot request forms have those forms rejected, DCCC will divert and expend additional funds and resources to ensure that those voters receive absentee ballots at the

expense of other efforts in Iowa and other states. The Secretary's rule directly harms DCCC because it frustrates its mission and efforts to register voters and persuade and mobilize those voters to elect Democratic candidates in Iowa. And to the extent that the Secretary's rule prevents voters from receiving absentee ballots during the COVID-19 pandemic, voters will be disenfranchised, and the pool of eligible Iowa voters who can vote for Democratic candidates for U.S. Congress will necessarily be reduced. In addition, due to the Secretary's rule, DCCC will be further directly injured by decreased turnout, which will undermine its fundamental right to choose its standard bearers through a vote that accurately reflects the preferences of Democratic Party membership. Young voters and minority voters in Iowa overwhelmingly support Democratic candidates. In addition, the electorate in Linn and Johnson Counties generally supports Democratic candidates in local and statewide elections. The Secretary's rule disparately burdens those voters. If not enjoined, the Secretary's rule will directly harm the mission of DCCC.

6. The Iowa Democratic Party ("IDP") brings this action on its own behalf and on behalf of its members who are registered voters in Iowa and reside in counties where county commissioners have sent out preaddressed absentee ballot requests and in any counties which have not done so because of the Secretary's Directive. The IDP is a political party as defined by Iowa Code § 42.3. Its purposes are (1) to bring people together to develop public policies and positions favorable to IDP members and the public generally, (2) to identify candidates who will support and defend those policies and positions, and (3) to persuade voters to cast their ballots for those candidates. The IDP has members in every county in Iowa. The Directive makes it more difficult for IDP members who plan to vote absentee to cast their ballots. The IDP must divert and expend more funds and resources than it would otherwise to combat the burdensome effects of the Directive.

7. Defendant Paul Pate is the Iowa Secretary of State and is named in his official capacity. He is the chief election official, the state commissioner of elections, and the state registrar of voters of Iowa. *See* Iowa Code §§ 47.1(1)-(3), 47.7(1). His responsibilities include setting forth “uniform election practices and procedures” and other responsibilities as proscribed by Iowa Code § 47.1(1)-(3).

8. Defendant Iowa Legislative Council is an administrative arm of the Iowa legislature. *See Brown v. Iowa Legislative Council*, 490 N.W.2d 551, 552 (Iowa 1992). It is responsible for, among other things, preparing reports for the general assembly and recommending changes to legislative rules. *See* Iowa Code § 2.42. The Legislative Council is also responsible for approving the Secretary’s use of emergency powers to conduct an election. HF 2486 § 2(a).

FACTUAL ALLEGATIONS

A. COVID-19 is causing an enormous uptick in absentee voting and imposing unprecedented burdens on voters and elections officials alike.

9. The novel coronavirus (“COVID-19”) has upended life across Iowa and the United States. Recognizing the serious risks of irreparable harm that forcing voters to potentially expose themselves to the virus by voting in-person could cause, the Secretary strongly urged Iowans to vote absentee in the June 2, 2020 primary (the “June Primary”), advising that “[t]he safest way to vote will be by mail.” The Secretary himself sent out absentee ballot request forms to all active Iowa voters, unsolicited.

10. Since the June primary, the pandemic has gotten much worse in Iowa. As of August 30, Iowa had reported over 64,000 confirmed cases of COVID-19, and over 1,000 residents had died from the virus. Since early July, the average new case count has hovered around 500 residents per day, with no signs of abatement any time soon. Over the past week, it has often been above

that. August 26 alone saw 1,258 new cases reported in Iowa. *One out of every 51* Iowa residents have now tested positive for COVID-19.

11. In total, more than 79% of votes were cast by absentee ballot for the June Primary—nearly twice the absentee voter turnout as compared to any past statewide election. For comparison, 21.2% of votes in Iowa were cast by absentee ballot during the 2000 general election, 41.3% of votes were cast by absentee ballot in the 2016 general election, and 40.5% of votes were cast by absentee ballot in the 2018 general election. The November election, which will be a general election in a presidential election year—the type of election which historically sees higher turnout than all others—is anticipated to see an even greater surge in Iowa voters seeking to participate, and because of the virus, extraordinary numbers of them will seek to vote absentee.

12. Thus, elections officials across the state are planning for a November election that sees vast and expansive increases in the number of voters seeking to exercise their right to vote absentee to avoid contracting, or inadvertently spreading, the virus.

B. Iowa voters have long had a right to vote absentee, which they exercise by first submitting an application to their county auditor.

13. Since 1990, all Iowa voters have the right to vote absentee. Iowa Code § 53.2(1)(a). To exercise that right, a voter must successfully apply to vote absentee by submitting an application to their county auditor in advance of each election.

14. The deadline for submitting an absentee ballot application is 5 p.m. ten days before a general election. Iowa Code § 53.2(1)(b) (adopting by reference voter registration deadline at Iowa Code § 48A.9(1)). This year, that deadline falls on October 24, 2020.

15. If voters fail to submit an absentee ballot application by the deadline for doing so or if they submit an application with missing or incorrect information that is not cured before the October 24 deadline, they will be prohibited from voting absentee.

16. Iowa law is clear that no specific form is required to make a written application for an absentee ballot: “[I]f a registered voter submits an application on a sheet of paper no smaller than three by five inches in size that includes all of the information required in this section, the prescribed form is not required.” Iowa Code § 53.2(2)(a).

17. The Secretary is required to prescribe “a form for absentee ballot applications,” but nothing in the statute permits him to prescribe the *only* form. *Id.* (emphasis added).

18. The information that must be on the application that the voter submits to the auditor includes their date of birth, permanent address, and voter verification number. *Id.* § 53.2(4)(a).

19. The voter verification number is an Iowa driver’s license or non-operator identification number, or the Voter PIN (collectively, the “ID Number”). Iowa Code § 53.2(4)(c). Voter PINs are issued to those who do not have an Iowa-issued driver’s license or non-operator ID and are printed on a Voter Identification Card (“Voter ID Card”).

20. Voter ID Cards were first mailed to voters in December 2017, and thereafter to new registrants only. Thus, a voter who received their Voter PIN years ago may not even be aware that they received it or be able to easily find it.

21. County auditors who have processed absentee ballot requests for years report that voters regularly fail to provide their voter verification number on these applications, not because there is anything nefarious going on, but because they often do not know what number they are supposed to include or how to find it, include an incorrect number such as a social security number, or they transpose or otherwise inaccurately transcribe individual digits.

22. For decades, when a voter submitted an application that was missing any of the requisite information or included incorrect information, county auditors were directed to use “the best means available” to fill in missing information or correct incorrect information. County

auditors often used the voter registration database (also known as “I-Voters”) to look up the information enabling them to expeditiously issue the ballot.

23. As a result, Iowa voters are not used to receiving inquiries or correspondence from their auditors once they submit an absentee ballot request form—except perhaps some form of confirmation that the application was received.

24. Iowa voters’ experiences and settled expectations have almost exclusively been that they submit the form to their auditor’s office, and that is it. They have successfully requested an absentee ballot and can expect that one will be mailed to them in time to vote it and return it for the coming election.

25. In June of this year, after Iowa had already held its primary election, the legislature enacted HF 2643, which prohibited auditors from using the “best means available” to correct information when they receive an application that is missing or has incorrect information. County auditors must now follow a set of prescribed steps to contact the voter. HF 2643 § 124; Iowa Code § 53.2(4)(b).

26. The legislature, however, did *not* change Iowa Code § 53.2(2)(a), which still states that an application need not be on any particular form and must only comply with the required dimensions and contains the required information. Iowa Code § 53.2(2)(a). The law as amended also does *not* prohibit auditors from sending applications with preaddressed information to voters.

27. In prior elections, county auditors have sent out absentee ballot request forms to registered voters with pre-populated information. Moreover, non-profits and non-governmental organizations sometimes send absentee ballot request forms to voters, including some forms with pre-populated information. There have been no reported incidents of fraud associated with these

mailings or even allegations of fraud. In fact, these mailings have never been a point of litigation, controversy, or public debate in prior years.

28. Sending absentee ballot request forms falls within the counties' superior "home rule" authority to conduct its own election so long as the processes utilized do not conflict with state statutes. Iowa Const. art. III, § 39A; Iowa Code § 331.301(1).

C. Consistent with Iowa law, several Iowa county auditors made the decision to distribute preaddressed absentee ballot request forms to all active, registered voters in their counties.

29. Concerned, based on their past experience that voters often make mistakes in filling out the forms, and that the unprecedented pressures imposed by the pandemic on elections officials as well as the U.S. Postal Service ("USPS") would make the back and forth communications required by the new law impossible to conduct fast enough to ensure that lawful voters were not effectively prohibited from voting absentee, multiple county auditors made the choice to mail absentee ballot request forms to active, lawful voters in advance of the November election, directing voters who wished to exercise their right to vote absentee to review those forms for accuracy, sign them under penalty of law, and return them to request an absentee ballot.

30. On July 2, the Linn County Auditor Joel Miller first informed the public and the Secretary that he was planning to distribute absentee ballot request forms that contained certain pre-populated information to each active, registered voter in Linn County. Johnson County Auditor Travis Weipert and Woodbury County Auditor Patrick Gill subsequently followed suit. Together, Linn, Johnson, and Woodbury Counties are home to approximately 15% of Iowa's population, or roughly 296,202 of Iowa's active registered voters.

31. The three auditors collectively sent more than 200,000 preaddressed request forms to their counties' active voters, and to date, they have collectively received more than 65,000 signed request forms in response.

32. At no point has the Secretary taken legal action to stop the auditors from mailing preaddressed forms, and his publicly stated rationale for the legal bases for Directive has changed repeatedly.

D. After these counties announced their intention to send preaddressed forms, the Secretary purported to forbid it, first by relying on the public records act, and then abandoning that explanation in favor of the exercise of his “emergency” authority.

33. On July 6, 2020, the Secretary, for the first time, purported to forbid the county auditors from sending out absentee ballot request forms to voters that included preaddressed information. In an email sent by his office, the Secretary claimed that the counties could not send out absentee ballot request forms that included the Voter ID field preaddressed on the grounds that the Voter ID field “is considered a confidential record per Iowa Code §22.7.72–73.”

34. Iowa law exempts the ID Number and Voter PIN from public disclosure requirements of the Iowa Open Records Act. *See* Iowa Code §22.7.72–73.

35. But in sending out the preaddressed applications, the counties were not responding to Open Records Act requests. Moreover, they were sending the preaddressed information directly to the registered voter to whom it relates. The Secretary does the same thing when he mails a Voter PIN to voters, which he does whenever someone without a driver's license or non-operator ID registers to vote.

36. The auditors were accordingly unpersuaded by the Secretary's argument and informed the Secretary that they intended to go ahead with sending out the preaddressed absentee ballot requests.

37. The Secretary then proceeded to issue an Emergency Election Directive (the “Directive”) on July 17, which purported to forbid the auditors from sending out preaddressed absentee ballot request forms.

38. The Directive was ostensibly issued pursuant to the Secretary’s general powers to “prescribe uniform election practices and procedures.” Iowa Code § 47.1. The Directive did not expressly invoke the Secretary’s emergency power, but it was presented to the Legislative Council for approval, as is statutorily required of “emergency” changes to election procedures. *Id.* § 47.1(2)(a). Regardless of the purported source of authority to issue the Directive, the Secretary did not rely on the Open Records Act explanation that the Secretary had previously given to the auditors.

39. On July 17, the Linn County Auditor immediately informed the Secretary that he intended to start mailing the preaddressed absentee ballot request forms to active registered voters in Linn County on July 20, and he encouraged the Secretary to obtain a court order if he believed there was a legal basis to stop the mailing. The Secretary declined to seek judicial relief, even though the Republican National Committee subsequently requested that he do so.

E. The Republicans sue county auditors, seeking to invalidate absentee ballot request forms that have already been returned to county election officials.

40. After waiting nearly a month to take any action, during which time tens of thousands of voters signed and returned absentee ballot request forms to the Linn County, Johnson County, and Woodbury County auditors, the Republican National Committee and other Republican plaintiffs filed lawsuits in district court against the Linn County and Johnson County auditors on August 10, 2020, and the Woodbury County auditor on August 14, 2020. In each case, they sought a temporary injunction ordering each auditor to follow the Directive and other “immediate remedial measures.”

41. Plaintiffs DSCC and DCCC attempted to intervene in Linn County and Johnson County, but their motions to intervene were denied. In Linn County, Plaintiffs DSCC and DCCC sought emergency interlocutory appeal, which was also denied. In Woodbury County, different plaintiffs representing the interests of Woodbury County voters were allowed to intervene for the limited purpose of discussing relief, not whether Secretary's directive was lawful. The parties here have not addressed the merits of the Directive's legality in any other proceeding, the claims presented have not been squarely raised in any other proceeding, and there is no final judgment in any other proceeding. Indeed, the district court in Linn County held that "neither Defendant nor any other county auditor (to the Court's knowledge) challenged the directive as unconstitutional in a court proceeding." Order for Temporary Injunction at 7. The Woodbury County ruling also did not address constitutional claims.

42. On August 27, 2020, the Linn County judge granted the Republican plaintiffs' requested injunction against the Linn County auditor. The injunction requires, among other things, the invalidation of more than 50,000 signed and lawfully returned ballot request forms. On August 28, 2020, the Woodbury County judge did the same. On September 9, 2020, the Johnson County judge will hold a hearing on the Republican plaintiffs' requested injunction.

43. The court's ruling has created turmoil. Against the backdrop of COVID-19 and a state still recovering from a major windstorm on August 10,¹ Linn and Woodbury County officials now have to attempt to contact all registered voters to inform them that they cannot use the preaddressed request forms already sent by the auditor. They also have to attempt to contact all registered voters who returned the preaddressed request forms to inform them they must disregard the confirmation postcard and submit a new absentee ballot request form. The auditors will

¹ As of August 27, phone lines were still out in some parts of Iowa because of the derecho.

inevitably be unable to contact many registered voters, and of those who do learn of the change, many will be confused by this abrupt policy shift and will likely choose not to vote—or will be unable to do so.

F. The Directive is Unlawful and Unconstitutional.

44. The auditors’ use of preaddressed absentee ballot request forms was entirely lawful under the Iowa Code and the Iowa Constitution. *See* Iowa Code § 53.2.

45. The Directive conflicts with county auditors’ expressly granted home rule authority to “conduct elections” and protect the “rights . . . safety, health, . . . and convenience” of the counties’ residents. Iowa Const. art. IV, § 39A; Iowa Code §§ 333.301(1), 331.505(1), (2).

46. The Directive conflicts with county auditors’ statutorily granted authority to “solicit” and “request” absentee ballot requests from a voter “in the course of his or her employment.” Iowa Code § 53.7.

47. The Directive further conflicts with county auditors’ statutorily protected right to solicit and accept “preaddressed” absentee ballot requests. Iowa Code § 53.2(2)(b), (c) (expressly authorizing “preaddressed” ABRs so long as they do not direct the ballot to be delivered somewhere other than the voter’s address).

48. The Secretary does not have statutory authority to prohibit county election officials from sending preaddressed absentee ballot request forms to active, registered voters, nor is he allowed to prohibit voters from using those forms if they so choose.

49. As discussed above, under Iowa Code § 53.2(2)(a), the Secretary must “prescribe a form for absentee ballot applications,” but he is *not* allowed to make that form mandatory. Instead, registered voters can submit an application any way they choose, so long as it is “on a

sheet of paper no smaller than three by five inches in size” and “includes all of the information required” by statute. *Id.*

50. Further, the statute lists the circumstances under which election officials can dispute or reject an absentee ballot request form. *See, e.g.,* Iowa Code § 53.2(5) (allowing commissioner to dispute an application if there is a question about validity of voter’s signature). Use of a preaddressed request form is not listed as a reason for invalidation.

51. The Secretary’s Directive upsets the balance struck by the General Assembly between protecting the right to vote and ensuring the security of elections.

52. The Secretary’s Directive burdens voters and therefore the pool of voters who can vote for Democratic candidates. The Directive requires voters to undertake additional, burdensome steps to receive an absentee ballot which are not justified by any law or state interest. Voters who ultimately do not receive absentee ballots will be confused, and many may believe that they may not vote in-person. Others who may want to then vote in-person will be unable to because of work, school, childcare, disabilities, health, or other issues, or unwilling to risk their health and lives due to the ongoing pandemic. These voters will be disenfranchised. The impact is especially great on particular groups of voters, including first-time, young, minority, and poor voters, who often have less flexible schedules, reduced ability to get time off of work or school, more limited access to transportation, less familiarity or comfort with election rules, such as the ability to vote in person after not receiving a requested absentee ballot, and other barriers to voting.

53. The Directive is therefore also unconstitutional because it violates the Iowa Constitution, including Article II, Section 1 (recognizing the right to vote), Article I, Section 6 (equal protection), Article I, Section 7 (liberty of speech), and Article I, Section 9 (procedural due process).

54. Petitioners thus bring this petition to prevent widespread disenfranchisement caused by the Secretary's erroneous interpretation of Iowa law and unconstitutional actions.

CAUSES OF ACTION

COUNT I

Violation of Article III, Section 39A of the Iowa Constitution (Home Rule):

55. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

56. Article III, Section 39A of the Iowa Constitution and implementing statutes grant all counties "home rule authority" to conduct their elections in a manner not inconsistent with the laws of the General Assembly. *See* Iowa Code § 331.301(a); *id.* § 331.505(1) and (2).

57. The laws of the General Assembly do not prohibit counties from sending voters preaddressed absentee ballot requests.

58. The Directive is not a law of the General Assembly, and the Iowa Constitution does not allow delegation of lawmaking authority to the Secretary or the Legislative Council.

59. Thus, the Directive exceeds the Defendants' statutory authority.

COUNT II

Violation of Article I, Section 9, and Article II, Section 1, of the Iowa Constitution (Procedural and Substantive Due Process; Right to Vote):

60. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

61. The Iowa Constitution provides that all adult residents "shall be entitled to vote at all elections," Article II, § 1, except for those disqualified by Article II, Section 5.

62. Article I, Section 9 of the Iowa Constitution provides that "no person shall be deprived of life, liberty, or property, without due process of law."

63. The Directive imposes a substantial burden on a fundamental constitutional rights of voters in Linn, Johnson, and Woodbury County and Plaintiffs, and it is not narrowly tailored to serve a compelling government interest, as described above.

64. The Directive threatens to deprive voters and Plaintiffs of a protected liberty interest, without providing procedural due process, as described above.

65. Thus, the Directive is unconstitutional under Article I, Section 9, and Article II, Section 1, of the Iowa Constitution.

COUNT III

Violation of Article I, Section 6, and Article II, Section 1, of the Iowa Constitution (Equal Protection and Privileges and Immunities; Right to Vote):

66. Plaintiffs reallege and incorporate by reference all prior paragraphs of this Complaint and the paragraphs in the counts below as though fully set forth herein.

67. The Iowa Constitution provides that all adult residents “shall be entitled to vote at all elections,” Article II, § 1, except for those disqualified by Article II, Section 5.

68. Article I, Section 6 of the Iowa Constitution provides that “[a]ll laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.”

69. Voters have a statutory right to receive a ballot if they have complied with Iowa Code § 53.2(2)(a), regardless of how they received the absentee ballot request form. But the Directive ultimately results in similarly situated voters being treated differently based on whether they receive blank or preaddressed absentee ballot request forms, without an adequate basis for doing so, as described above.

70. Thus, the Directive is unconstitutional under Article I, Section 6, and Article II, Section 1, of the Iowa Constitution.

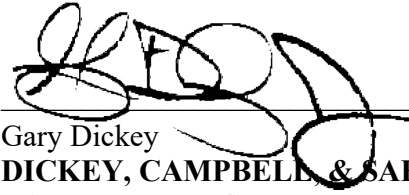
RELIEF SOUGHT

71. WHEREFORE, Plaintiffs respectfully request that this Court enter the following relief against the Defendants:

- A. Entering a temporary and permanent injunction requiring the Secretary to withdraw the Directive and to immediately inform all auditors that to the extent the Directive forbid them from sending out or accepting preaddressed absentee ballot requests, it is withdrawn and cannot be given any effect;
- B. An order declaring that Secretary Pate did not have the authority to issue the Directive;
- C. An order declaring that Secretary Pate did not have the authority to issue the Directive;
- D. An order declaring that the Directive is unconstitutional;
- E. An order declaring that all preaddressed absentee ballot request forms that were returned are not inherently invalid and directing county auditors to process them;
- F. An order enjoining the Secretary, his respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them from implementing, enforcing, or giving any effect to the Directive;
- G. An order awarding Plaintiffs their costs, disbursements, and reasonable attorneys' fees incurred in bringing this action pursuant; and
- H. Such other and further relief as the Court deems just and proper.

Dated: August 31st, 2020

Respectfully submitted



Gary Dickey
DICKEY, CAMPBELL & SAHAG
LAW FIRM, PLC
301 East Walnut, Suite 1
Des Moines, Iowa 50309
Tel: (515) 288-5008 Fax: (515) 288-5010
gary@iowajustice.com

Marc Erik Elias (*pro hac vice*)
Christopher J. Bryant (*pro hac*)
PERKINS COIE, LLP
700 Thirteenth Street, N.W., Suite 600
Washington, D.C. 20005-3960
Telephone: (202) 654-6200
Facsimile: (202) 654-6211
melias@perkinscoie.com
cbryant@perkinscoie.com

Kevin J. Hamilton (*pro hac vice*)
Amanda J. Beane (*pro hac vice*)
Nitika Arora (*pro hac vice*)
PERKINS COIE, LLP
PERKINS COIE, LLP
1201 Third Avenue, Suite 4900
Seattle, W.A. 98101-3099
Telephone: (206) 359-8000
Facsimile: (206) 359-9000
khamilton@perkinscoie.com
abeane@perkinscoie.com
narora@perkinscoie.com
hhyatt@perkinscoie.com

Matthew J. Mertens (*pro hac vice pending*)
PERKINS COIE, LLP
1120 NW Couch Street, 10th Floor
Portland, O.R. 97209-4128
MMertens@perkinscoie.com

Counsel for the Plaintiffs