

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

STATE OF MISSOURI,)
ANDREW BAILEY, in his official)
capacity as Attorney General of Missouri,)
JOHN R. ASHCROFT, in his official)
capacity as Secretary of State of Missouri,)

Plaintiffs,)
v.)
MERRICK GARLAND, in his official)
capacity as Attorney General of the United)
States,)
KRISTEN CLARKE, in her official)
capacity as United States Assistant)
Attorney General for the Civil Rights)
Division, and)
UNITED STATES DEPARTMENT OF)
JUSTICE,)

Defendants.)

**EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
OR IN THE ALTERNATIVE FOR A STAY**

Plaintiffs move for a temporary restraining order (Fed. R. Civ. P. 65), an administrative stay, or a statutory stay of agency action (5 U.S.C. § 705) against Defendants' second attempt in two elections to displace Missouri law about who may enter Missouri polling places. Absent a clearly on point statute preempting state law, Missouri has authority to run elections in the State. Missouri has exercised that authority to dictate who can and cannot be in polling locations on Election Day. None of the federal officials identified by the Federal Government on November 1

fall within the categories listed in Missouri law, and the Federal Government has not identified any authority on point that preempts Missouri's law. So absent immediate relief, Defendants will unlawfully enter Missouri polling locations on Election Day (November 5, 2024), displacing state law without clear authority. That will cause immediate, irreparable harm to Plaintiffs before this case can be adjudicated on the merits. Doc. 1-1, DOJ Press Release 24-1381, at 1-4.

Plaintiffs believe the Court can adjudicate the emergency motion without a hearing. But should this Court choose to hold a hearing on this Motion, Plaintiffs are available anytime via teleconference or in person with a few hours of notice at the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri. (Counsel are located in Jefferson City.)

If the Court grants a TRO, Plaintiffs request that it remain in effect through Election Day. In support of this Motion, Plaintiffs rely on the arguments in the accompanying Memorandum in Support of Motion for Temporary Restraining Order.

Date: November 4, 2024

Respectfully Submitted,

ANDREW BAILEY
Attorney General of Missouri

/s/ Joshua Divine
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Counsel for Plaintiff

**Admission Pending*

CERTIFICATE OF SERVICE AND COMPLIANCE

I certify that on November 4, 2024, a true and accurate copy of the foregoing document was sent via email to Sejal Jhaveri (Sejal.Jhaveri@usdoj.gov), an appellate attorney at DOJ who works on Civil Rights Division voting cases, given the time-sensitive nature of this case. I also certify that formal service will be accomplished as soon as possible.

I further certify that the foregoing document contains 2 pages, exclusive of matters designated for omission.

/s/ Joshua Divine

Counsel for Plaintiffs