

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

THE OHIO ORGANIZING COLLABORATIVE, et al.	)	
	)	
Plaintiffs,	)	Civil Action No. 2:15cv1802
	)	
v.	)	Judge Watson
	)	
JON HUSTED, et al.	)	Magistrate Judge Kemp
	)	
Defendants.	)	<b>NOTICE OF RELATED CASE</b>
	)	<b>FILED PURSUANT TO S.D.</b>
	)	<b>OHIO CIV. R. 3.1(b)</b>

On May 8, 2015, Plaintiffs the Ohio Organizing Collaborative, Jordan Isern, Carol Biehle, and Bruce Butcher (“Plaintiffs”) filed a Complaint and Civil Cover Sheet in this case (“pending case” or “instant case”). (See Document Nos. 1 and 1-1 respectively). The Civil Cover Sheet, Section VIII, indicates that there is a related case assigned to Judge Algenon L. Marbley and Magistrate Judge Terrence P. Kemp in the matter of the *Northeast Ohio Coalition for the Homeless, et al. v. Husted, et al.*, Case No. 2:06-cv-896 (“NEOCH case”). Plaintiffs notify this Court that the pending case and the NEOCH case are related, pursuant to S.D. Ohio Civ. R. 3.1(b), which states as follows:

(b) Related Cases. An initiating party shall identify on the civil cover sheet or other form provided by the Clerk any previously filed case or cases in the District that the party knows or believes to be related. After the initial filing of a case, any party may call to the Court’s attention any related case(s) by filing a notice of related case(s). For purposes of this Rule, civil cases may be deemed related by the Court if they:

- (1) Arise from the same or substantially identical transaction, happening or event; or
- (2) Call for a determination of the same or substantially identical question of law or fact; or
- (3) Would entail a substantial duplication of effort and expense by the Court and the parties if heard by different Judges; or
- (4) Seek relief that could result in a party's being subject to conflicting orders of this Court.

The pending case and the NEOCH case relate to each other for each of the four reasons contemplated by S.D. Ohio Civ. R. 3.1(b). The NEOCH case, similar to the pending case, pertains, in large part, to challenges to restrictions on voting and electoral processes that were implemented by the Ohio General Assembly. Additionally, Secretary of State Jon Husted is a named defendant, in his official capacity, in both cases.

In the instant case, Plaintiffs challenge many of the same new restrictions on absentee and provisional voting enacted by S.B. 205 and S.B. 216 that the Plaintiffs in NEOCH seek to challenge. Plaintiffs in both cases allege that the restrictions violate the First, Fourteenth, and Fifteenth Amendments to the United States Constitution and Section 2 of the Voting Rights Act. Specifically in the instant case, the Complaint challenges: additional categories of information a voter must provide; the inadequate post-election period in which a voter may cure a failure to provide proof of identify or an error on an absentee ballot form; prohibiting election officials from completing on a voter's behalf the information required on the provisional and absentee ballot forms; unlike voters casting absentee ballots, a voter casting a provisional ballot is not notified of deficiencies on the affirmation form or given an opportunity to correct errors on the form after casting a provisional ballot; and the unequal treatment of wrong precinct/right polling place provisional voters based on whether

the polling place uses a unified poll book. Plaintiffs allege that the new requirements regarding provisional and absentee ballots unconstitutionally abridge, burden, and/or deny the voting rights of persons casting ballots. (Document 1, ¶¶124, 126, 129, 148, 150, 151, 152, 153, and 165).

These same or substantially identical issues are also presented in the NEOCH case. On October 30, 2014, plaintiffs in the NEOCH case filed a Motion for Leave to File a Second Supplemental Complaint, which is pending. (NEOCH case, Case No. 2:06-cv-896, Document No. 429). The Motion states that, “The Second Supplemental Complaint that Plaintiffs now seek to file challenges S.B. 205 and S.B. 216. The proposed complaint details the events giving rise to the passage of the above two bills, as well as specific provisions in the new statutes that will increase the risk that ballots cast by absentee and provisional voters will be rejected.” (*Id.* at p. 4). The Judge in the NEOCH case is well acquainted with Ohio’s absentee and provisional voting laws, which have been at issue in one way or another since the original NEOCH Complaint was filed in the 2006.

Specifically, the plaintiffs in the NEOCH case make allegations that overlap with the allegations in the pending case. In the NEOCH case, the Motion states that the new statutory provisions in S.B. 205 and S.B. 216:

- Require boards of elections to now reject absentee and provisional ballots on the basis of technical and immaterial errors or omissions, or mismatches with the SVR database—such as errors in month and/or day of a voter’s date of birth, signature or ID—even when the information sought is otherwise verifiable and the voter’s identity is not in question.
- For absentee voters, create a period to cure errors that is shorter than the period for timely submitting ballots (and shorter than the period within which one might receive notice of any errors).

- For provisional-ballot voters, shorten the period for correcting ID issues and provide no opportunity to correct any other errors.
- Create the risk of disparate treatment of “right location, wrong precinct” provisional voters from county to county, based on whether a board of elections chooses to combine its poll books at multiple-precinct locations.
- Make no provision for counting “wrong polling place” ballots where precinct officials fail to affirm they told the affected voters their ballots would not be counted, even though such a provision now exists for counting “right location, wrong precinct” ballots.
- Repeal a provision of Ohio law that protected the right to vote of those individuals who do not have any of the permitted forms of identification and unable to provide a SSN-4.

*(Id.* at p. 4).

For these reasons, the pending case and NEOCH case arise from several of the same events, call for a determination of substantially identical questions of law or fact, would entail a substantial duplication of effort and expense by the Court and the parties if heard by different Judges, and seek relief that could result in a party being subject to a conflicting order of this Court. Accordingly, Plaintiffs respectfully provide notice to this Honorable Court of the related NEOCH case.

Respectfully submitted,

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\* Motion for Admission *Pro Hac Vice*  
forthcoming

**Certificate of Service**

I hereby certify that the foregoing was electronically filed with the U.S. District Court, Southern District of Ohio, on May 12, 2015 and served upon all parties of record via the court's electronic filing system.

Further, I hereby certify that the foregoing was served, on May 12, 2015 upon the following via electronic mail:

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Section Chief, Constitutional Offices Section  
Office of Attorney General Mike DeWine

/s/ Donald J. McTigue  
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