

IN THE CHANCERY COURT OF TENNESSEE  
FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE

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HUNTER DEMSTER, EARLE J.	)	
FISHER, JULIA HILTONSMITH,	)	
GINGER BULLARD, JEFF BULLARD,	)	
ALLISON DONALD, and	)	
#UPTHEVOTE901,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Dckt. No.
	)	
TRE HARGETT, MARK GOINS	)	
WILLIAM LEE, and HERBERT	)	
SLATERY III, each in his	)	
official capacity for the State of	)	
Tennessee,	)	
	)	
Defendants.	)	

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**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

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TO THE HONORABLE CHANCELLORS OF THE CHANCERY COURT OF  
TENNESSEE FOR THE TWENTIETH JUDICIAL DISTRICT AT NASHVILLE:

The Plaintiffs, Hunter Demster, Earle J. Fisher, Julia Hiltonsmith, Ginger Bullard, Jeff Bullard, and Allison Donald (collectively, the “Individual Plaintiffs”), and the organizational Plaintiff, #UpTheVote901, through the law firm of APPERSON CRUMP PLC and Professor of Law Steven J. Mulroy, respectfully sue out this Complaint against the Defendants, Tre Hargett, Mark Goins, William Lee, and Herbert Slatery III, each Defendant in his official capacity as hereinbelow set forth, seeking declaratory and injunctive relief with respect to the State of Tennessee’s

vote-by-mail procedures during the world- and nationwide COVID-19 pandemic, and they respectfully allege the following grounds in support of the relief sought.

**I. NATURE OF THE SUIT**

1. This suit seeks declaratory and injunctive relief to expand access to vote-by-mail procedures to all registered Tennessee voters who wish to vote absentee during the COVID-19 pandemic. Plaintiffs contend that, in the midst of the COVID-19 crisis and the uncertain but growing population distribution of the novel coronavirus (the “Virus”), restricting Tennesseans’ vote-by-mail access to voters over sixty years of age, or who otherwise meet one of the other absentee-ballot qualifications enumerated under Tenn. Code Ann. § 2-6-201, would impose impermissibly burdensome conditions on the Individual Plaintiffs and others’ right to vote under the Tennessee Constitution. Furthermore, enforcing these restrictions during the pandemic would constitute one or more unlawful classifications of Tennesseans, violating of the Equal Protection Clause of the Tennessee Constitution. In the alternative, Plaintiffs contend that the only constitutionally compliant construction of certain Tennessee statutory language allows for a Tennessee-licensed physician to certify the entire population of a county “medically unable to vote” because of the danger posed by the pandemic.

2. Plaintiffs’ claims sound strictly under Tennessee state law. They assert no claims arising under or substantially related to federal law.

## II. PARTIES & STANDING

3. The Individual Plaintiffs are currently registered Tennessee voters, including both Democrats and Republicans, who wish to vote by mail rather than in person in the August 2020 and November 2020 elections because of the danger posed by the pandemic. Unless otherwise indicated, none of them are currently eligible to vote by mail in these elections, because none of them meet any of the conditions enumerated under Tenn. Code Ann. § 2-6-201.

4. As set forth below, each of the Individual Plaintiffs has an objectively reasonable fear that voting in person in the 2020 Tennessee elections would endanger his or her personal health and the health of those sharing these voters' households, by exposure to the Virus. Each is also concerned about the extent to which his or her appearance at a crowded polling location may contribute to the community spread of the Virus. They sue on behalf of themselves and all similarly situated Tennessee voters who are currently ineligible to vote by mail.

5. Plaintiff Hunter Demster is a Shelby County resident and a registered Tennessee voter. Mr. Demster wishes to vote by mail in the August 2020 and November 2020 elections because his appearing in person at a polling site would increase his personal risk of contracting or transmitting the Virus, as well as the societal risk that a clustering of persons at polling locations will precipitate another "surge" in COVID-19 cases across the state.

6. Plaintiff Rev. Earle J. Fisher, PhD., is the Pastor of Abyssinian Missionary Baptist Church in Memphis, Tennessee. Rev. Fisher wishes to vote by

mail in the August 2020 and November 2020 elections because his appearing in person at a polling site would increase his personal risk of contracting or transmitting the Virus, as well as the societal risk that a clustering of persons at polling locations will precipitate another “surge” in COVID-19 cases across the state. Furthermore, in his role as Pastor, Rev. Fisher may be called upon at any time to attend to elderly, sick, or otherwise immunocompromised members of his congregation. He reasonably fears that voting in person at a polling location would expose him to an increased and unwarranted risk of contracting the Virus, which in turn would compromise his ability to tend to members of his flock in their times of need. Rev. Fisher is also the President of Plaintiff #UpTheVote901 and in that capacity speaks for the organization.

7. Plaintiff Julia Hiltonsmith is a Shelby County resident and a registered Tennessee voter. Ms. Hiltonsmith wishes to vote by mail in the August 2020 and November 2020 elections because appearing in person at a polling site would increase her personal risk of contracting or transmitting the Virus, as well as the societal risk that a clustering of persons at polling locations will precipitate another “surge” in COVID-19 cases across the state. Furthermore, Ms. Hiltonsmith has been diagnosed with an autoimmune disorder that, according to current guidelines of medical professionals and federal and state officials, makes her especially vulnerable to the Virus. She also has regular contact with an immediate family member who, according to guidelines promulgated by medical professionals and federal and state officials, is also particularly vulnerable to the Virus.

8. Plaintiff Ginger Bullard is a Shelby County resident and a registered Tennessee voter. Ms. Bullard wishes to vote by mail in the August 2020 and November 2020 elections because her appearing in person at a polling site would increase her personal risk of contracting or transmitting the Virus, as well as the societal risk that a clustering of persons at polling locations will precipitate another “surge” in COVID-19 cases across the state. Ms. Bullard has certain medical conditions which, according to guidelines of medical professionals and state and federal officials, make her particularly vulnerable to the COVID-19 virus. She also shares a household with Plaintiff Jeff Bullard, who has a similar medical condition; she reasonably fears that voting in person during the pandemic creates an unwarranted risk of contracting COVID-19, spreading it to others including Plaintiff Jeff Bullard, or both.

9. Plaintiff Jeff Bullard is a Shelby County resident and a registered Tennessee voter. Mr. Bullard wishes to vote by mail in the August 2020 and November 2020 elections because his appearing in person at a polling site would increase his personal risk of contracting or transmitting the Virus, as well as the societal risk that a clustering of persons at polling locations will precipitate another “surge” in COVID-19 cases across the state. Mr. Bullard shares a household with Plaintiff Ginger Bullard, and he reasonably fears that her voting in person in 2020 creates an unwarranted risk that she will contract the COVID-19 virus and transmit it to him.

10. Plaintiff Allison Donald is a Shelby County resident and registered Tennessee voter. Ms. Donald wishes to vote by mail in the August 2020 and November 2020 elections because her appearing in person at a polling site would increase her personal risk of contracting or transmitting the Virus, as well as the societal risk that a clustering of persons at polling locations will precipitate another “surge” in COVID-19 cases across the state. Ms. Donald is also the Executive Director of the Center for Independent Living (the “CIL”), a Tennessee non-profit organization servicing the needs and promoting the empowerment of disabled persons. Some of the CIL’s clients suffer from medical conditions that render them especially vulnerable to the Virus. Plaintiff McDonald herself suffers from such a medical condition. She resides with two elderly parents, each of whom has a medical condition rendering him or her particularly vulnerable to the Virus. She reasonably fears that her voting in person would create an unwarranted risk that of contracting the Virus and spreading it on to others, including the CIL’s clients and Ms. Donald’s vulnerable parents.

11. Plaintiff #UpTheVote901 is Memphis-based volunteer organization devoted to educating voters and increasing voter registration and turnout. Among its membership are registered Tennessee voters who are not currently eligible to vote by mail in the August 2020 and November 2020 elections.

12. As more particularly described below, Tennessee’s current vote-by-mail restrictions, if enforced during the midst of the COVID-19 pandemic, are unjustifiably strict and will unduly burden the right to vote of certain

#UpTheVote901 members. Enforcing these restrictions during the pandemic would also have a chilling effect on voter turnout in Memphis, hampering not only #UpTheVote901's efforts to boost voter participation in the August 2020 and November 2020 elections, but also its efforts in future elections to target communities with historically low voter turnout.

13. Defendant Tre Hargett is sued in his official capacity as the Secretary of State for the State of Tennessee. As Tennessee Secretary of State, Secretary Hargett has responsibility for overseeing the administration of elections in Tennessee, and has supervisory authority over the Coordinator of Elections. This authority extends to enforcement of the eligibility restrictions to vote absentee in Tennessee.

14. Defendant Mark Goins is sued in his individual capacity as the Coordinator of Elections for the State of Tennessee. Coordinator Goins has authority over the administration of elections across Tennessee, including the authority to promulgate, rescind, and suspend regulations governing Tennessee election procedures and to instruct to county election commissions regarding election administration. The above powers and responsibilities include regulations and instructions pertaining to the eligibility to vote absentee and the processing of absentee-ballot applications and absentee ballots cast.

15. Defendant William Lee is the duly elected Governor of the State of Tennessee. He is sued in his official capacity. Governor Lee has the legal authority to issue emergency orders, and in so doing "suspend any law, order, rule or

regulation prescribing the procedures for the conduct of state business or the orders or rules or regulations of any state agency.”<sup>1</sup> This includes rules, regulations, and orders pertaining to vote-by-mail eligibility.

16. Defendant William Slattery III is sued in his official capacity as the Attorney General and Reporter for the State of Tennessee. He is named as a Defendant and served with this bill pursuant to his office’s entitlement, under Tenn. Code Ann. § 29-14-107(b), to be heard on the constitutional questions raised herein.

### **III. JURISDICTION AND VENUE**

17. This Court has jurisdiction to hear and adjudicate the claims in this bill, which challenge the as-applied constitutionality of certain Tennessee statutes, pursuant to, *inter alia*, Tenn. Code Ann. §§ 16-11-102 and 29-14-102.

18. Venue for this suit is properly laid in the Twentieth Judicial District, pursuant to Tenn. Code Ann. § 20-4-101, because all of the Defendants are Tennessee State officials having their principal business offices within the territorial boundaries of Davidson County.

### **IV. GENERAL ALLEGATIONS**

19. Tennessee, like the rest of the nation and world, presently finds itself in the throes of the most serious viral pandemic in over a century. Tennessee confirmed its first official case of COVID-19 on March 5, 2019. Now, roughly two months later, the State reports over 14,000 confirmed cases, over 1,200 related

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<sup>1</sup> Tenn. Code Ann. § 58-2-107(e)(1).



hospitalizations, and over 240 deaths of and from COVID-19,<sup>2</sup> with all of these numbers increasing.<sup>3</sup>

20. The Centers for Disease Control and Prevention (the “CDC”), has and continues to advise Americans that the Virus is primarily transmitted person to person, through respiratory droplets and when a non-infected person comes within six (6) feet of an infected person.<sup>4</sup>

21. The CDC further advises that individuals who are elderly, or who have underlying health conditions regardless of age, are at an increased risk of potentially lethal complications from the disease.<sup>5</sup>

22. Echoing the CDC, Governor Lee and the Tennessee Department of Health have and continue to advise:

The best way to prevent illness [from COVID-19] is to avoid being exposed to this virus. The virus is thought to spread mainly from person-to-person:

- Between people who are in close contact with one another (within about 6 feet).

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<sup>2</sup> *Novel Coronavirus*, Tenn. Dep’t of Health, <https://www.tn.gov/health/cedep/ncov.html> (last visited May 6, 2020).

<sup>3</sup> *See* Tenn. Dep’t of Health *supra*.

<sup>4</sup> *COVID-19 Fact Sheet*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/downloads/2019-ncov-factsheet.pdf> (last visited May 6, 2020).

<sup>5</sup> *People Who Are At Higher Risk For Severe Illness*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html> (last visited May 6, 2020).

- Through respiratory droplets produced when an infected person coughs or sneezes.

....

It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it . . . <sup>6</sup>

23. At the recommendation of distinguished medical professionals, federal, state, and local governments have implemented social-distancing guidelines in order to slow the spread of the deadly disease.

24. The situation in Tennessee has been serious enough for Governor Lee to declare a state of emergency and issue a “safer at home” order shutting down non-essential businesses and restricting general activity.<sup>7</sup> The basis for the order was the widespread medical consensus that the Virus is more readily transmissible when people congregate in private or public otherwise come within close physical proximity to one another.

25. Although Tennessee has begun to relax or modify many of these restrictions within the week preceding this filing and plans to allow many businesses to reopen, some restrictions continue—*e.g.*, restaurants are limited to fifty percent (50%) capacity.<sup>8</sup>

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<sup>6</sup> *COVID-19*, Tenn. Office of the Governor, <https://www.tn.gov/governor/covid-19/health.html> (last visited May 6, 2020).

<sup>7</sup> *Coronavirus Disease (COVID-19)*, <https://www.tn.gov/health/cedep/ncov.html> (last visited May 6, 2020).

<sup>8</sup> *See, e.g.*, Shelby County Health Directive No. 3 at p. 9 (May 4, 2020) (attached hereto as Exhibit A).

26. Indeed, as of the date of this filing, the Secretary of State's in-person customer counter remains closed,<sup>9</sup>

27. The CDC projects as a very real possibility that even if the COVID-19 pandemic subsides over the summer months, it will resurge this fall, and the resurgence may be even worse than the initial wave of infections because it would coincide with the annual flu.<sup>10</sup>

28. Other high-ranking federal health officials echo this concern, with some advocating that social distancing measures should continue through the summer.<sup>11</sup>

29. Competent medical experts and public officials advise that forcing people to congregate at polling locations in order to vote in the August 2020 and November 2020 election cycles will create an unnecessary and unjustified risk of spreading contagion. The CDC, for instance, encourages election officials across the country to implement mail-in voting methods in furtherance of its more general

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<sup>9</sup> Tenn. Sec'y State, <https://sos.tn.gov> (last visited May 6, 2020).

<sup>10</sup> Lena H. Sun, *CDC Director Warns Second Wave Of Coronavirus Likely To Be Even More Devastating*, WASHINGTON POST, (Apr. 21, 2020), <https://www.washingtonpost.com/health/2020/04/21/coronavirus-secondwave-cdcdirector/>.

<sup>11</sup> Robin Foster & E.J. Mundell, *Birx Says Social Distancing To Last Through Summer As States Start To Ease Restrictions*, U.S. NEWS & WORLD REPORT, (Apr. 27, 2020), <https://www.usnews.com/news/health-news/articles/2020-04-27/birx-says-social-distancing-to-last-through-summer-as-states-start-to-ease-restrictions>.

guidance to “minimize direct contact with other people and reduce crowd size at polling stations.”<sup>12</sup>

30. The National Conference of State Legislatures states the problem more poignantly: “Voters standing in line close to each other, handling ballots and using touch screens make for a potentially toxic stew of community transmission of the novel coronavirus (COVID-19).”<sup>13</sup>

31. Tennessee’s absentee voting laws are among the strictest in the nation. In order to vote absentee, a voter must apply for an absentee ballot and certify that he or she is either over 60 years of age; or physically unable to vote in person during early voting or election day for such reason as, *e.g.*, reason of being out of the county, a resident of a nursing home, jury service, or being a driver of a commercial vehicle.<sup>14</sup>

32. Unlike some of the minority of states that require specific excuses to vote absentee, but which include among these excuses the broad category of “medical reasons,” Tennessee requires specifically that a person citing medical reasons for voting absentee certify not only that he or she is “hospitalized, ill or

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<sup>12</sup> *Recommendations for Election Polling Locations*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html> (last visited May 7, 2020).

<sup>13</sup> *COVID-19 and Elections*, NCSL, <https://www.ncsl.org/research/elections-and-campaigns/state-action-on-covid-19-and-elections.aspx> (last visited May 7, 2020).

<sup>14</sup> Tenn. Code Ann. § 2-6-201.

physically disabled,” but also that because of such condition, the voter is “unable to appear at the person’s polling place on election day.”<sup>15</sup>

33. As a result, Tennessee is currently requiring all non-absentee-qualifying voters to vote in person for the August 2020 and November 2020 elections, regardless of whether these voters are at heightened risk to the Virus; regardless of whether they are known to be or may be carrying the Virus; regardless of any risk that they may contract the Virus from, or transmit the Virus to, other voters at their respective polling locations; regardless of any risk that they may transmit the Virus to, or contract the Virus from, any of the poll workers who, if absentee-voting requirements are not temporarily relaxed, will for two 2020 election cycles be coming into close contact with many hundreds if not thousands of voters over the course of a two-week early voting period and a twelve-hour election day; and regardless of the risk—surely substantial—that some voters, poll workers, or both will contract the Virus through election-related contact and thereafter increase the reach of community spread.

34. In response to the 2020 pandemic, at least nine states with statutory restrictions on vote-by-mail access have temporarily lifted those restrictions and provided that all of these states’ respective registered voters may vote by mail for the remainder of 2020. Tennessee is one of only seven states and the District of Columbia which have so far refused to do so.

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<sup>15</sup> Tenn. Code Ann. § 2-6-201(5).

35. At least one of the seven hold-out states, Texas, has been judicially ordered to extend vote-by-mail access to all registered Texas voters who request to vote absentee during the COVID-19 pandemic. This leaves Tennessee as one of only six, out of all fifty states and the District of Columbia, that will require their citizens to vote in person, regardless of vulnerability to the Virus.

36. Upon information and belief, there are millions of registered and potential 2020 voters in Tennessee who are at heightened vulnerability to the Virus but do not qualify to vote by mail under Tennessee's current statutory and regulatory restrictions. Without prompt corrective action by the Lee administration or court intervention, these COVID-vulnerable Tennesseans will be required to vote in person in the August 2020 and November 2020 elections unless they obtain a personal physician's note or forego their constitutional franchise.

37. The undersigned counsel has contacted Governor Lee's administration to request it take prompt corrective action to expand vote-by-mail access during the COVID-19 pandemic.<sup>16</sup> As of the date of this filing, the Lee administration has declined to respond.

38. County election commissions in Tennessee are preparing for the August election by requiring poll workers to wear masks and gloves because of fear of spreading the Virus, demonstrating that election officials believe that a significant risk of contagion will continue through at least the August 2020 election.

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<sup>16</sup> Correspondence dated May 4, 2020 (attached hereto as Exhibit B).

Notably, there is no known plan for county election officials to provide such protection to voters.

39. Furthermore, to whatever extent Tennessee's requirement for in-person voting stands as a safeguard against the possibility of voter fraud by requiring picture-ID verification at polling locations, this safeguard would be substantially diminished during the pandemic unless voters were required to remove their face coverings at polling locations, contravening express CDC guidelines.<sup>17</sup>

40. Furthermore, requiring in-person voters to remain at least six (6) feet apart would physically elongate voter lines at polling locations, likely forcing certain voters to stand in line to vote more than 100 feet (100') from the entrances to certain of these locations. This would force these waiting voters to stand in line where election officials would be unable, under the Tennessee Freedom of Speech Act, Tenn. Code Ann. § 2-7-143(b)(1)(A), to shield them from unwanted campaign advertisements and solicitations.

41. Applications to vote by absentee ballots in the August 2020 election open on May 8, 2020, with a deadline of July 30, 2020. Early voting begins July 17, 2020. Thus, time is of the essence, and this lawsuit is not premature.

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<sup>17</sup> *Recommendations Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission*, Centers for Disease Control and Transmission, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html> (last visited May 7, 2020).

**V.    GROUND  S FOR SUIT**

42. For each of the following Counts, Plaintiffs reiterate and incorporate by reference the factual allegations set forth above.

**COUNT ONE:  
IMPOSITION OF UNREASONABLY BURDENSOME CONDITION ON THE RIGHT TO VOTE, IN  
VIOLATION OF ART. I, § 5 OF THE TENNESSEE CONSTITUTION**

43. By requiring the Individual Plaintiffs, members of #UpTheVote901, and those similarly situated to continue to vote in person during early voting and Election Day for the August 2020 and November 2020 elections, Defendants are imposing an unreasonably burdensome condition on these persons' expressly fundamental right to vote under Art. I, § 5 of the Tennessee Constitution and other applicable provisions of Tennessee law.

**COUNT TWO:  
UNLAWFUL CLASSIFICATION BURDENING THE RIGHT TO VOTE,  
IN VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE TENNESSEE CONSTITUTION**

44. By allowing those voters who meet the statutorily enumerated conditions under Tenn. Code Ann. § 2-6-201 to vote by mail, but requiring the Individual Plaintiffs and members of #UpTheVote901 to vote in person for the August 2020 and November 2020 elections, Defendants are imposing an unlawful classification on such persons, burdening their fundamental right to vote and denying them equal protection of the law, in violation of Art. I, §§ 5, 8, and Art. XI, §8 of the Tennessee Constitution, as well as other applicable Tennessee law.



**COUNT THREE:  
UNLAWFUL CLASSIFICATION ON ACCOUNT OF AGE,  
IN VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE TENNESSEE CONSTITUTION**

45. By allowing voters over sixty years old to vote by mail but requiring the Individual Plaintiffs, members of #UpTheVote901, and similarly situated others to vote in person if at all during early voting and Election Day for the August 2020 and November 2020 elections, Defendants are imposing an unlawful classification burdening these persons' fundamental rights to vote and to equal protection of the law, in violation of Article I, §8 and Article XI, §8 of the Tennessee Constitution and other applicable Tennessee law.

**COUNT FOUR:  
DECLARATION OF STATUTORY RIGHTS  
UNDER TENN. CODE ANN. § 2-6-201(3)**

46. Pursuant to Tenn. Code Ann. § 2-6-201(3), Defendants Hargett and Goins currently allow a physician to file a statement with the local county election commission certifying under penalty of perjury that in the physician's judgment a voter is "medically unable to vote in person."<sup>18</sup>

47. One or more of the Individual Plaintiffs, one or more members of #UpTheVote901, or both, lack personal health insurance, have no personal physician, or for other reason find it not reasonably practicable to obtain a personal physician's note.

48. Nothing in Tennessee law expressly limits the persons whom a Tennessee-licensed physician may certify medically unable to vote. As such, there

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<sup>18</sup> *Absentee Voting*, Tenn. Sec'y of State, <https://sos.tn.gov/products/elections/absentee-voting#2> (last visited May 6, 2020).

appears to be nothing preventing or invalidating a single physician from certifying a group of voters in a particular county.

49. There is thus nothing legally preventing a qualified Tennessee physician from making certifying all voters in a particular county medically unable, because of the COVID-19 pandemic, to vote in person during the August 2020 election, the November 2020 election, any election occurring before the pandemic subsides, or any combination thereof.

50. Properly construed so as to avoid constitutional violations, Tennessee election statutes allow a Tennessee-licensed physician to certify an entire county population of voters, or some particularly vulnerable subclass thereof, as being medically unable to vote during the unique and unprecedented circumstances of the current pandemic.

51. It is a reasonable and probable inference, from the State's refusal to respond to Plaintiffs' reasonable request to extend absentee-ballot access, that Governor Lee's administration would reject Plaintiffs' interpretation of Tennessee's medical-excuse requirement for voting absentee, notwithstanding the principle of constitutional avoidance. This implies an actual and justiciable dispute between the parties as to the proper interpretation of the applicable provisions.

52. Plaintiffs are thus entitled to declaratory relief determining the constitutional interpretation of Tennessee's medical-excuse requirements for voting absentee, for the clarification and protection of their respective rights to vote under Tennessee law during the midst of a pandemic.

## V. PRAYER FOR RELIEF

53. WHEREFORE, Plaintiffs respectfully demand the following relief:

(A) That process issue compelling Defendants to answer or otherwise respond to this Complaint, and each numbered allegation therein, within the time and manner provided by law;

(B) That this case be set for an EXPEDITED HEARING, to be set at the earliest date and time practicable for the Court, regardless of whether Defendants will have filed responsive pleadings by such date and time;

(C) A judicial DECLARATION to the effect:

(a) That every registered voter in Tennessee shall be eligible, upon request, to vote absentee in the August 2020 and November 2020 elections;

(b) That any registered Tennessee voter attempting to vote absentee in the August 2020 or November 2020 election, or both, shall be considered “otherwise eligible to vote absentee” for purposes of the voter’s attestation on any voter’s affidavit form contemplated by Tenn. Code Ann. § 2-6-309(b);

(c) That, because of the Virus’s threat to individual and public safety, requiring these individual Plaintiffs and similarly situated others to vote in person for the August 2020 and November 2020 elections would impose an impermissibly burdensome condition on these individuals’ voting rights, in violation the Tennessee Constitution;

(d) That because of the Virus’s threat to individual and public safety, requiring these individual Plaintiffs and similarly situated others to vote in person for the August 2020 and November 2020 elections would constitute an improper classification burdening the fundamental right to vote under that Constitution; or in the alternative,

(e) That in the midst of the COVID-19 pandemic, Tennessee law allows a Tennessee-licensed physician to validly certify to a county election

commission that all voters in that county are medically unable to vote in person due to the pandemic; and

(D) Temporary and permanent injunctive relief PROHIBITING election administrators across the state from

(a) Denying any written or in-person absentee-ballot request for the August 2020 or November 2020 election on the basis of the applicant's not meeting one or more of the conditions enumerated in Tenn. Code Ann. § 2-6-201;

(b) Unduly delaying the review, processing, or both of any absentee-ballot request made or purporting to be made by, or lawfully on behalf of, a registered Tennessee voter;

(c) Rejecting any absentee ballot cast in the August 2020 or November 2020 election cycles on basis of the voter's not meeting one or more of the conditions enumerated under Tenn. Code Ann. § 2-6-201; and

(d) Failing to timely process any absentee ballot timely received by the deadlines provided under Tennessee Law.

(E) Such costs and attorneys' fees as the Court may award in its discretion; and

(F) Such other and further relief as the Court may deem appropriate to protect Plaintiffs' rights under the circumstances.

Respectfully submitted,

HUNTER DEMSTER, EARLE J. FISHER individually, JULIA HILTONSMITH,  
GINGER BULLARD, JEFF BULLARD, ALLISON DONALD, and Earle J. Fisher  
on behalf of #UPTHEVOTE901,

By: **APPERSON CRUMP PLC**

/s/Jacob Webster Brown

Jacob Webster Brown (36404)

Melody Dernocoeur (35108)

Bruce S. Kramer (7472)

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Memphis, Tennessee 38119

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jbrown@appersoncrump.com

/s/ Steven J. Mulroy (with permission)

Steven J. Mulroy (28831)

1 North Front Street

Memphis, Tennessee 38103

Telephone: (901) 603-8779


smulroy@memphis.edu

[ *Plaintiffs' verification pages to follow* ]

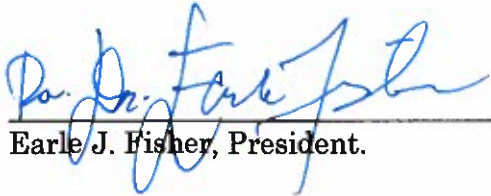


STATE OF TENNESSEE )  
 )  
COUNTY OF SHELBY )

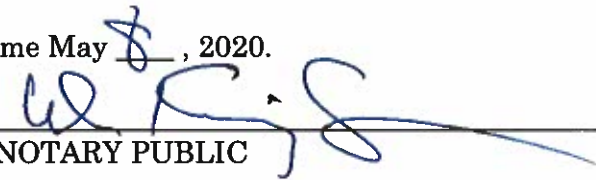
I, the undersigned, make oath that the facts and information stated in the foregoing COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF is true and accurate to the best of my knowledge and belief.

  
\_\_\_\_\_  
Rev. EARLE J. FISHER, PhD., individually; and

#UPTHEVOTE901,

By:   
\_\_\_\_\_  
Earle J. Fisher, President.

SWORN TO AND SUBSCRIBED before me May 8, 2020.

  
\_\_\_\_\_  
NOTARY PUBLIC

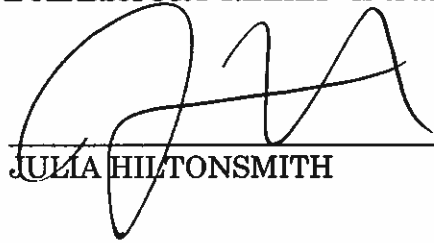
My commission expires:



000023

STATE OF TENNESSEE       )  
  )  
COUNTY OF SHELBY        )

I, the undersigned, make oath that the facts and information stated in the foregoing COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF is true and accurate to the best of my knowledge and belief.

  
\_\_\_\_\_  
JULIA HILTONSMITH

SWORN TO AND SUBSCRIBED before me May 8, 2020.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 3/2/24



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STATE OF TENNESSEE        )  
  )  
COUNTY OF SHELBY        )

I, the undersigned, make oath that the facts and information stated in the foregoing **COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** is true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
GINGER BULLARD

SWORN TO AND SUBSCRIBED before me May \_\_\_\_ , 2020.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

STATE OF TENNESSEE        )  
  )  
COUNTY OF SHELBY        )

I, the undersigned, make oath that the facts and information stated in the foregoing **COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** is true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
JEFF BULLARD

SWORN TO AND SUBSCRIBED before me May \_\_\_\_ , 2020.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

