

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

THOMAS CURTIN, et al.,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF ELECTIONS,
et al.,

Defendants.

Civil Action No.

1:20-cv-00546 (RDA/IDD)

**BRIEF OF *AMICUS CURIAE* NEW VIRGINIA MAJORITY, MAYA CASTILLO
MORRISON, AND ADAM MORRISON IN OPPOSITION TO PLAINTIFFS'
MOTION FOR A PRELIMINARY INJUNCTION**

INTRODUCTION

Plaintiffs’ motion proceeds on the audacious theory that the expansion of the right to vote in a non-discriminatory way, so as to protect the safety of voters during a pandemic, can somehow deny and dilute Plaintiffs’ votes. To further their claims, Plaintiffs rely on unsubstantiated speculation as to what may happen if more people vote by mail, including the discredited hobgoblin of widespread voter fraud, and novel legal theories that render settled principles of constitutional law virtually unrecognizable. Indeed, the relief that Plaintiffs request – limiting absentee voting to only those “disabled” or “ill” – would itself severely burden or disenfranchise many voters during this public health crisis. *Amici* New Virginia Majority, Maya Castillo Morrison, and Adam Morrison therefore submit this brief in opposition to Plaintiffs’ Motion for Preliminary Injunction and urge this Court to reject Plaintiffs’ claims in their entirety.

No court has ever ruled that ameliorative state action like that described in this case constitutes a violation of the constitutional right to vote, let alone when Plaintiffs’ evidence of harm is so flimsy. To the contrary, the case law is legion that only placing burdens on the right to vote, not lifting burdens as Defendants have done here, may constitute a constitutional violation. Nor does Plaintiffs’ Election Clause claim fare any better. Clear Supreme Court precedent puts the lie to that claim.

At bottom, the fallacy in Plaintiffs’ arguments is made apparent when viewed from the perspective of the *amici*:

- The harmful impact of restricting access to absentee ballots, as Plaintiffs would have it, on the resources of New Virginia Majority, which has been expending enormous effort on explaining to fearful voters how the Defendants’ expansion of absentee

ballot eligibility permits them to vote with the peace of mind that they are reducing their risk of contracting COVID-19;

- the impact on Maya Castillo Morrison, who, because of her chronic immunodeficiency, is frightened to vote in person, but does not qualify as “disabled” or “ill” under Plaintiffs’ constrained interpretation of Virginia’s law; and
- the impact on Adam Morrison, Maya’s loving husband, who is rightly concerned that his voting in person could endanger his wife or other voters or poll workers.

Ultimately, no Virginia voter is stopped from voting – by absentee ballot or in person – under Defendants’ interpretation of the “reason 2A” excuse for absentee voting. Defendants’ action here, permitting some voters to vote absentee who could not do so before, does not infringe on Plaintiffs’ constitutional rights. A comparison of the real burdens on voters should relief be granted in this case with Plaintiffs’ theoretical, speculative, and unsubstantiated fears leads to only one conclusion: this Court should deny the pending motion for preliminary injunction.

**INTEREST OF AMICI CURIAE NEW VIRGINIA MAJORITY, MAYA CASTILLO,
AND ADAM EVERETT MORRISON**

Plaintiff New Virginia Majority Educational Fund (NVM) is a non-profit group that uses mass organizing, leadership development, and strategic communications to champion the voices of communities of color, women, college students, working people, LGBTs, and youth. NVM has visited over one million voters and has trained hundreds of organizers and volunteer leaders. Declaration of Tram Nguyen ¶ 5. The organization has trained hundreds of poll monitors and staffed regional command centers to respond to citizens’ questions about voter eligibility and voting requirements, including those related to the absentee voting process. *Id.*

After the Virginia Department of Elections and local registrars issued guidance confirming that all voters may vote by absentee ballot in the June 23, 2020 primary election,

NVM staff members began undertaking efforts to inform Virginia voters that they may vote by absentee ballot even if they are not currently disabled or ill. *Id.* ¶ 12. Based on that guidance, NVM staff members have encouraged voters who prefer to vote at home for the upcoming primary election to use the “2A” excuse related to illness or disability, which is being challenged in this litigation, to request an absentee ballot. *Id.* ¶ 13. Specifically, they have informed Virginia voters that they can request an absentee ballot for the upcoming primary election even if they are not ill or disabled, to the best of their knowledge. *Id.* ¶ 14.

If the Plaintiffs in this case are successful in enjoining the use of the “reason 2A” method of requesting an absentee ballot for the upcoming primary election, New Virginia Majority’s resources will have been wasted. *Id.* ¶ 18. The countless voters who have been advised by New Virginia Majority staff members that they can request an absentee ballot using the “reason 2A” excuse are at risk of having their absentee ballot applications or absentee ballots rejected for the upcoming primary election. *Id.* Ultimately, these voters are at risk of being disenfranchised and NVM staff would have to re-educate the public about the new absentee voting requirements and the fact that many voters who are not ill or disabled will have to vote in person if they want to exercise their right to vote in the upcoming primary election. *See id.* ¶ 18-19.

Amici Maya Castillo Morrison and Adam Morrison will be disenfranchised in the upcoming primary election, if relief is granted Plaintiffs, because they are not disabled or ill but voting in person is not a viable option for them. *See* Castillo Decl. ¶¶ 20-23; Morrison Decl. ¶¶ 18-22. The Morrisons live together with their children in Fairfax County, where they are regular voters. Castillo Decl. ¶ 4; Morrison Decl. ¶ 4. *Amici* Maya Castillo Morrison has had lupus since she was 20 and has experienced other health issues over the past several years. Castillo Decl. ¶¶ 5-6. As a result, she has a compromised immune system and is considered particularly

at risk with respect to COVID-19. *Id.* ¶ 7. Despite sheltering in place and following all of the relevant CDC recommendations, she experienced symptoms consistent COVID-19 in late April and tested positive for the virus shortly thereafter. *Id.* ¶¶ 9-14. Her husband, Adam, who has asthma, experienced similar symptoms but was not able to get tested due to a lack of available testing; he thinks he likely contracted COVID-19 because he was not socially distancing from his wife at the time she tested positive. Morrison Decl. ¶¶ 5, 11-13.

Maya Castillo Morrison's symptoms, which were severe, persisted for quite a while and got progressively worse before her condition improved. *Id.* ¶¶ 16, 20. Breathing was very difficult for her and she eventually contracted pneumonia. *Id.* At one point, her husband Adam stayed up at night to make sure she was still breathing, and he was evaluating what hospital he should take her to if her condition deteriorated any further. *Id.* ¶ 17; Morrison Decl. ¶ 15. Thankfully, the Morrises' condition has improved; Adam is no longer sick and Maya is on the mend and is starting to work from home again. Castillo Decl. ¶ 18; Morrison Decl. ¶ 16. Maya anticipates being in fine health by the time the upcoming primary arrives. Castillo Decl. ¶ 19.

Due to Maya Castillo Morrison's compromised immune system, both she and Adam are concerned about the possibility of contracting COVID-19 again and do not feel comfortable leaving the house. Castillo Decl. ¶ 18; Morrison Decl. ¶ 16. Voting in person in the upcoming primary is not a viable option for the Morrises due to the significant risks involved. Castillo Decl. ¶ 20; Morrison Decl. ¶ 18. They are concerned because their polling place is a school where many people enter and leave, and where there may be five or more volunteer poll workers. *Id.* They are also concerned that some poll workers and voters may not follow all of the CDC guidelines with respect to social distancing, disinfecting voting materials every time, etc.

Castillo Decl. ¶ 20. Adam is concerned that if he goes to the polling place without Maya, he could bring COVID-19 home and infect her or their children. Morrison Decl. ¶ 22.

Since voting in person imposes a grave risk on their health (and Maya's in particular), the Morrisons want to vote in the upcoming primary election at home by absentee ballot and are at risk of being disenfranchised in the upcoming primary election if they cannot legally do so.

Castillo Decl. ¶¶ 21-23; Morrison Decl. ¶¶ 19-21

ARGUMENT

I. PLAINTIFFS HAVE NO RIGHT TO A PRELIMINARY INJUNCTION THAT PREVENTS MANY VIRGINIANS FROM VOTING SAFELY DURING THE COVID-19 PANDEMIC

Plaintiffs' claim that their First and Fourteenth Amendment right to vote is violated by Defendants' *expanding* the class of voters who are eligible to vote by absentee ballot during the pandemic turns settled principles of constitutional law inside-out. There is no precedent supporting Plaintiffs' argument that making it *easier* for many voters to cast a ballot somehow unconstitutionally denies or dilutes the votes of individuals whose ability to vote is unaffected. Plaintiffs' entire case is based on speculative and unsubstantiated claims of imminent injury that render injunctive relief inappropriate. *See, e.g., Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991) (observing that the required irreparable harm cannot be "remote or speculative") (quoting *Tucker Anthony Realty Corp. v. Schlesinger*, 888 F.2d 969, 975 (2d Cir. 1989)). Indeed, the relief that Plaintiffs request will increase the burdens on voters such as the individual *amici*, thereby tilting the balance of the equities decidedly away from Plaintiffs.

The controlling authority for right-to-vote claims, *Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Burdick v. Takushi*, 504 U.S. 428 (1992), protects against unnecessary restrictions on the right to vote. Courts must apply the *Anderson-Burdick* test, which applies a sliding scale that

balances the burden the state's restriction places on the right to vote against the state's interest justifying that burden. *See Lee v. Va. State Bd. of Elections*, 843 F.3d 592, 605-06 (4th Cir. 2016) ("severe" restrictions on the right to vote "must be narrowly drawn to advance a state interest of compelling importance," but that a reasonable, nondiscriminatory restriction on voting rights is justified by a State's "important regulatory interests."); *see also Greidinger v. Davis*, 988 F.2d 1344, 1352 (4th Cir.1993) ("If a substantial burden [on plaintiff's right to vote] exists... the restrictions on the right to vote must serve a compelling state interest and be narrowly tailored to serve that state interest.").

Here, Plaintiffs allege that there are two "burdens" placed on their right to vote. The first is so-called "disenfranchisement" resulting from election officials' purported inability to process an expected increase in the number of absentee ballots cast. The second is "vote dilution" caused by alleged widespread voter fraud, which Plaintiffs hypothesize would be made more prevalent by the facilitation of additional absentee voting. Plaintiffs' argument that these burdens amount to vote denial renders *Anderson-Burdick* virtually unrecognizable because their analysis begins with the *easing* of burdens on voting by Virginia officials, not with the *imposing* of any burden placed on voting by the state. Plaintiffs' claim is therefore novel because *Anderson-Burdick* and their progeny have been applied *only* to enjoin state laws or procedures that have the effect of *restricting* the right to vote or limiting access to the ballot.¹ No court

¹ *See, e.g., Greidinger v. Davis*, 988 F.2d 1344, 1354 (4th Cir. 1993) (holding the public disclosure of voters' Social Security Numbers on their voter records "substantially burdened" the right to vote); *Doe v. Walker*, 746 F. Supp. 2d 667, 681-82 (D. Md. 2010) (absentee ballot deadline violates right to vote because it results in the rejection of ballots and concluding "there is no reason to believe that voter fraud will increase" by extending the deadline); *see also Dem. Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1321-22 (11th Cir. 2019) (finding absentee ballot statute imposes "at least a serious burden" on voters and fails to satisfy *Anderson-Burdick*); *Ne. Ohio Coal. For Homeless v. Husted*, 696 F.3d 530, 593 (6th Cir. 2012); *Mullins v. Cole*, 218 F. Supp. 3d 488, 493 (S.D. W.Va. 2016) (finding a "severe" burden where "the ease of registering

applying the *Anderson-Burdick* doctrine has even hinted that the U.S. Constitution can be used to enjoin state action that *increases* access to the ballot.

A. Plaintiffs’ Right to Vote Is Not Burdened Under Defendants’ Plan

Plaintiffs’ constitutional claims are fundamentally flawed because they fail to recognize that Defendants’ policy of permitting all voters to apply for an absentee ballot is not a “restriction” on voting rights at all – instead, it expands access to the voting process. In an attempt to circumvent that roadblock, Plaintiffs strain to transmogrify the *easing* of burdens into the *imposition* of burdens. They do so by positing a series of arguments that bear no relation to reality or reason. First, relying on predictions emanating from an attenuated series of hypothetical events, they argue that the USPS and election officials will not be able to handle the expected increase in absentee ballots. *See, e.g.*, Dkt. 4 at 8, 15 (referring to an April election in Wisconsin). But Wisconsin’s experience was the result of a series of events that are not present in Virginia, including the Wisconsin legislature’s decision to reverse the Governor’s decision to postpone the April 7 election, as well a flurry of judicial decisions and reversals from Wisconsin and federal courts that repeatedly changed election rules relating to absentee voting until the day before the election. The factual circumstances in Virginia – in particular the June 23 primary date – render hypotheticals based on the very different Wisconsin scenario inapt.

Plaintiffs then argue that the fact the Legislature decided not to expand eligibility for absentee voting until November “establishes disenfranchisement harm as a matter of law.” Dkt. 4 at 16. What “matter of law” Plaintiffs are referring to is lost on the reader, as there is none. To

to vote using the online registration system has been denied to over 4,500 Cabell County residents”); *Common Cause N.Y. v. Brehm*, --- F. Supp. 3d ----, 2020 WL 122589, at *25, *30 (S.D.N.Y. Jan. 10, 2020) (finding New York’s “prohibition on providing the inactive list burdens its voters” and does not withstand scrutiny under *Anderson-Burdick*).

the contrary, the Legislature’s failure to expand eligibility for absentee voting for the June 23 election in the midst of the pandemic might have constituted a violation of the right to vote of Virginians such as the individual *amici* had Defendants not intervened.

Next, Plaintiffs argue that it is Defendants’ burden to prove that the “burden... posed by COVID-19” is greater than the “burdens” associated with “practicing the recommended safeguards for engaging in essential activities” when voting in person, *see* Dkt. 4 at 16-17. Common sense dictates that a state is not limited to a single way of expanding the ability to vote in a time of emergency. A state may both facilitate expanded access to absentee ballots and take reasonable steps to protect the safety of those voting in public. One measure is not exclusive of the other for purposes of complying with the Constitution.

Finally, straining credulity even more, Plaintiffs argue that because Defendants should have permitted “persons specially at risk” to vote by absentee ballot, allowing others to access the absentee voting process somehow violates *Anderson-Burdick*. *See* Dkt. 4 at 18. The absurdity of this theory is borne out by its application to *amici*. Defendants seem to suggest that maybe *amici* Maya Castillo Morrison could vote absentee in compliance with the Constitution if she is deemed “specially at risk,” but neither her husband *amici* Adam Morrison nor her coworker at *amici* NVM, Tram Nguyen, can permissibly do so. *Compare* Castillo ¶ 25; *with* Morrison Decl. ¶ 14; Nguyen Decl. ¶ 3.

Ultimately, Defendants’ interpretation of “reason 2A” is far less burdensome than the remedy Plaintiffs would have this Court order – which would reduce access to absentee ballots under “reason 2A” to only those voters who are disabled or ill. Defendants’ absentee voting regime for the upcoming primary election is plainly “reasonable” and “nondiscriminatory,” thereby satisfying the *Anderson-Burdick* test.

B. Plaintiffs' Votes Are Not "Diluted" By Defendants' Plan

Plaintiffs' claim that their votes will be diluted if more people vote by absentee ballot starts from a completely faulty factual premise. There is no basis in fact to support Plaintiffs' fundamental claim of widespread absentee ballot fraud. Indeed, the overwhelming evidence is to the contrary. Recent, on-point authority supports the conclusion that Defendants' extension of eligibility for absentee voting under the circumstances of the pandemic is a legitimate interest that easily outweighs Plaintiffs' untenable claim.

1. Plaintiffs Have Produced No Cognizable Evidence of Fraud

Plaintiffs' claim of "vote dilution" is based on the unsubstantiated speculation that increased absentee ballots will increase the likelihood of voter fraud. There is absolutely no evidence of this. Plaintiffs do not cite to a single instance in which a Virginia voter was convicted for having committed voter fraud, let alone absentee ballot fraud. *See, e.g.*, Dkt. 4 at 6-7 (citing a single indictment from 2018, an investigation in 2016, and an unsuccessful criminal conspiracy in 2004).

Nor is there evidence nationwide. Indeed, there is a growing trend for states to expand the ability of voters to cast absentee ballots. Even before the pandemic, five states had been conducting elections totally by mail: Colorado, Hawaii, Oregon, Utah, and Washington. Most other states had already entirely eliminated any excuse requirement to vote by mail, even in the absence of a public health crisis.² There is no hint that this widespread move toward voting-by-mail has led to an increase in voter fraud.

² National Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options* (Apr. 24, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (34 states and Washington, D.C., offer "no-excuse" absentee/mailed ballot voting).

These facts notwithstanding, Plaintiffs' briefing peddles the myth of voter fraud, which has been echoed by others pressing for laws that would make it more difficult for to vote by mail. Noteworthy in this regard is the Heritage Foundation report, upon which Plaintiffs stake their entire theory. That report and its author have been thoroughly discredited, including in federal court. The report is based on the research of Hans von Spakovsky, a senior legal fellow at The Heritage Foundation, who testified about non-citizen voting in a Kansas federal court using some of the same research contained in the report. The court gave "little weight to Mr. von Spakovsky's opinion and report because they are premised on several misleading and unsupported examples of noncitizen voter registration" and determined that due to his "myriad misleading statements, coupled with his publicly stated preordained opinions about this subject matter" he was "an advocate" and not "an objective expert witness." *Fish v. Kobach*, 309 F. Supp. 3d 1048, 1082 (D. Kan. 2018), *aff'd sub nom. Fish v. Schwab*, No. 18-3133, 2020 WL 2050644 (10th Cir. Apr. 29, 2020).

In any event, rather than support Plaintiffs' theory that elections have been "riddled with examples of voter fraud," *see* Dkt. 4 at 6, the Heritage Foundation report actually demolishes that conclusion. In the 29 "no-excuse" absentee ballot states, the Heritage Foundation report finds only one documented fraud case for every 2.4 million persons; in the other states, the report documents one fraud case for every 740,000 persons.³

2. Defendants Have A Legitimate Interest Justifying Their Plan

In a case bearing significant similarities to the facts and legal argument made by Plaintiffs here, a federal court district court recently rejected an *Anderson/Burdick* challenge to

³ Steve Mulroy, *The 'Voter Fraud' Fraud*, The Hill, Apr. 25, 2020, <https://thehill.com/opinion/civil-rights/494649-the-voter-fraud-fraud>.

Nevada’s decision to implement an all-mail election for its primary this year because of COVID-19. *Paher v. Cegavske*, 2020 WL 2089813, at *11-12 (D. Nev. Apr. 30, 2020). Plaintiff moved for a preliminary injunction based on their claim “that an all-mail election strips voter-fraud-prevention safeguards and unconstitutionally violates Plaintiffs’ right to vote due to purported vote dilution.” *Id.* at *1. The district court rejected the plaintiffs’ claim that strict scrutiny applied. *Id.* at *7. It further found that Nevada “implemented the Plan to protect the health and safety of Nevada’s voters and to safeguard the voting franchise,” crediting officials’ desire to “maintain a high level of access to the ballot, while protecting the safety of voters and poll workers [-who belong to groups who are at high risks for severe illness from COVID-19].” *Id.* at *2, *7. The court found that “Plaintiffs cannot demonstrate a burden upon their voting rights, only an imposition upon their preference for in-person voting—as opposed to mail-in voting, where ballots are mailed to voters.” *Id.* at *7. The court also dismissed the plaintiffs’ claims of voter fraud because the state’s existing protections against voter fraud remained intact: “Plaintiffs’ overarching theory that having widespread mail-in votes makes the Nevada election more susceptible to voter fraud seems unlikely where the Plan essentially maintains the material safeguards to preserve election integrity.” *Id.* Finally, the district court found that other voters would be disenfranchised if they could not vote by mail:

Moreover, although Plaintiffs cloak their preference in a claim of voter disenfranchisement ... Defendants may equally claim that voters will be disenfranchised. For example, if the Plan is not implemented voters worried about risks to their health or unsure about how to obtain an absentee ballot may very well be discouraged from exercising the right to vote all together. Additionally, as Defendants also point out, under the Plan, Plaintiffs may—if they choose to exercise their preference for in-person voting—vote in person on election day at a county wide polling center regardless of their precinct per NRS §§ 293.3072–.3075... The Court therefore concludes that Nevada’s interests, reflected by the Secretary in implementing the Plan, far outweigh the burdens placed on Plaintiffs’ right to vote.

Id. On these bases, the court found that the plaintiffs claim should be rejected. *Id.* at *11-12.

C. Defendants’ Plan Does Not Violate the Elections Clause

Plaintiffs argue that because the Elections Clause provides that the “times, places and manner of holding elections . . . shall be prescribed in each state by the legislature thereof,” U.S. Const., Article I, § 4, cl. 1, only state legislatures can decide on the “manner” of holding elections. The Supreme Court has firmly rejected that proposition.

As the Court has consistently held, the term “legislature,” as used in Article I, § 4, cl. 1 includes not only legislatures like the General Assembly of Virginia, but also “any manner other than that in which the constitution of the State ha[s] provided that laws shall be enacted.” *Arizona State Legislature v. Arizona Independent Redistricting Comm.*, 135 S. Ct. 2652, 2667 (2015) (holding that a voter initiative which transferred authority for Congressional redistricting from the Legislature to a redistricting commission did not violate the Elections Clause). Specifically, the Elections Clause neither “requires nor excludes [] participation” of the governor or any other state body with delegated authority to execute orders, rules or regulations to carry out federal congressional elections. *Smiley v. Holm*, 285 U.S. 355, 386 (1932) (holding that the Governor’s veto of a Congressional redistricting plan passed by the Legislature did not violate the Elections Clause).

The inquiry then is whether Defendants have been delegated the authority by state constitution or statute to take the steps challenged by Plaintiffs. They clearly have been. First, the Governor’s Amended Executive Order 56, including its directive that the Department of Elections prescribe procedures “to assist in ensuring the safety and well-being of election officials, officers of election, and voters” is consistent with Va. Code Ann. § 24.2-603.1. This section of the Virginia code provides that:

In the event of a state of emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44... the Governor may postpone an election by executive order in areas affected by the emergency to a date, notwithstanding the provisions of § 24.2-682, not to exceed 14 days from the original date of the election...

Va. Code Ann. § 24.2-603.1. This section further provides that “[t]he State Board [of Elections] shall prescribe appropriate procedures to implement this section.” *Id.*

Notably, Paragraph 6 of Amended Executive Order 56 was significantly expanded and explicitly directs the Department of Elections as follows:

Pursuant to § 24.2-603.1 of the Code of Virginia, the Department of Elections shall prescribe appropriate procedures to implement the provisions of this section. **The Department of Elections shall also prescribe procedures in accordance with the Centers for Disease Control and Prevention and Virginia Department of Health to assist in ensuring the safety and well-being of election officials, officers of election, and voters.** The Department of Elections shall partner with the Virginia Department of Health and the Virginia Medical Reserve Corps to train election officials on **preventive actions to reduce the risk of exposure to COVID-19** and to provide support at polling locations.

Amended Exec. Order 56 (emphasis added). Finally, the State Board of Elections acted within its delegated legislative authority, as it has the express authority to “prescribe appropriate forms and records for the registration of voters, conduct of elections, and implementation of this title, which shall be used throughout the Commonwealth.” Va. Code Ann. § 24.2-105, amended by 2020 Virginia Laws Ch. 719 (H.B. 1210).

Defendants’ actions are therefore consistent with Elections Clause and in compliance with their statutory mandate.

D. The Right to Vote of People Like Individual Amici Will Be Denied If Plaintiffs’ Relief Is Granted

If the Court orders Plaintiffs’ requested relief and restricts access to absentee voting, *amici* Maya Castillo Morrison and Adam Morrison will be disenfranchised in the upcoming

primary election because they are not disabled or ill, but voting in person is not a viable option for them, due to Ms. Castillo's compromised immune system. *See* Castillo Decl. ¶¶ 20-23; Morrison Decl. ¶¶ 18-22. In the face of this concrete imminent injury to the individual amici should relief be granted to Plaintiffs, the balance of the equities and the public interest do not favor Plaintiffs' motion in the slightest.

CONCLUSION

For the foregoing reasons, *amici* urge the Court to deny Plaintiffs' motion for a preliminary injunction.

Dated: May 20, 2020

Respectfully submitted,

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