

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

JAMES CARSON & ERIC LUCERO,
Plaintiffs,

v.

STEVE SIMON, Secretary of State of
the State of Minnesota, in his official
capacity,

Defendant.

and

ROBERT LAROSE, TERESA
MAPLES, MARY SANSOM, GARY
SEVERSON, & MINNESOTA
ALLIANCE FOR RETIRED
AMERICANS EDUCATIONAL
FUND,

Intervenor-Defendants.

Case No. 0:20-cv-02030-NEB-TNL

PLAINTIFFS' MOTION FOR INJUNCTION PENDING APPEAL

Plaintiffs, James Carson and Eric Lucero, respectfully move the Court for an injunction during the pendency of Plaintiffs' appeal to the Eighth Circuit, enjoining Defendant, Steve Simon, from permitting ballots that arrive at polling places after 8:00 p.m. on Election Day to be counted in the November 3, 2020 presidential election. The Defendant's stated policy of counting late ballots violates Article II of the U.S. Constitution and 3 U.S.C. § 1 and will impose irreparable harm on Plaintiffs by diluting their votes and threatening their ability to participate in the electoral college. The balance of equities and public interest support an injunction to protect all voters in Minnesota and to preserve the integrity of the statewide vote.

Plaintiffs respectfully request that the Rule 65(c) bond amount, if any be required, be set at one dollar, as the “injunction will cause no harm” to Defendant. *Northshor Experience, Inc. v. City of Duluth*, 442 F. Supp. 2d 713, 723 (D. Minn. 2006) (declining to impose a bond in a constitutional case); *Bukaka, Inc. v. Cty. of Benton*, 852 F. Supp. 807, 813 (D. Minn. 1993) (same).

Plaintiffs respectfully request expedited handling of this motion due to the imminent election and statutory ballot-receipt deadline of 8:00 p.m., November 3, 2020. Given the exigencies of this case, Plaintiffs respectfully request a ruling by **noon on Thursday, October 15, 2020**, so they may, if necessary, seek timely relief from the Eighth Circuit.

The bases of this motion are set forth fully in the accompanying Memorandum. For reasons stated there, the Court should grant the motion.

Date: October 12, 2020

Respectfully submitted,

NATHAN M. HANSEN
(MN Bar 0328017)
2440 Charles Street North
Suite 242
North St. Paul, MN 55109
Phone: (651) 704-9600
Fax: (651) 704-9604

/s/ Danyll W. Foix
DANYLL W. FOIX
(MN Bar 0285390)
DAVID B. RIVKIN**
ANDREW M. GROSSMAN*
RICHARD B. RAILE*
BAKER & HOSTETLER LLP
1050 Connecticut Ave., N.W.
Suite 1100
Washington, D.C. 20036
Phone: (202) 861-1596
Fax: (202) 861-1783
dfoix@bakerlaw.com
Attorneys for Plaintiffs

*admitted *pro hac vice*

** *pro hac vice* motion pending