

No. 23–1856

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

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LIBERTARIAN NATIONAL COMMITTEE, INC.,

*Plaintiff-Appellee,*

v.

MICHAEL J. SALIBA, *et al.*,

*Defendants-Appellants.*

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On Appeal from the United States District Court  
for the Eastern District of Michigan, Southern Division  
Case No. 23-CV-11074  
The Honorable Judith E. Levy, District Judge

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**JOINT MOTION TO EXPEDITE APPEAL AND ORAL ARGUMENT**

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Defendants-Appellants Michael J. Saliba, Rafael Wolf, Greg Stempfle, Angela Thornton-Canny, Jami Van Alstine, Mary Buzuma, David Canny, and Joseph Brungardt and Plaintiff-Appellee the Libertarian Party National Committee, Inc. (collectively, "the Parties") respectfully request the Court to expedite this appeal and schedule oral argument for its session during April 29 – May 3, 2024, or at the latest, May 6 – 10, 2024. In support of this Motion, the Parties state as follows:

1. Defendants brought this appeal to challenge the entry of a Preliminary Injunction Order (RE 21), which is appropriate for an expedited hearing. Appellants contend that the preliminary injunction is broad and that the Preliminary Injunction Order incorrectly applies the Lanham Act to political speech, and therefore stifles Defendants' ability to engage in political activity such as soliciting political donations, filing campaign-finance paperwork, and disseminating political articles and information. Appellee requests an expedited hearing because the pendency of the appeal is creating uncertainty within the party at a critical time in the National Election cycle. The pendency of the appeal is also causing uncertainty in the position of the Plaintiff-Appellee's trademark rights.

2. The District Court granted Plaintiff's Motion for Preliminary Injunction on August 24, 2023, enjoining "Defendants from using the Plaintiff's federally registered trademark 'Libertarian Party' Reg No. 2,423,459." *See* Prelim. Inj., RE 21, Page ID #s 1134-1135; Prelim. Inj. Hearing Transcript, Page ID #s

1136-1164; and Opinion and Order Denying Stay Pending Appeal, Page ID #s 1235-1242. The Defendants filed a prompt appeal. *See* Notice of Appeal, RE 24, Page ID # 1166.

3. Good cause exists to expedite oral argument. *See* 6 Cir. R. 27(f). The Defendants contend they are prohibited from engaging in a wide variety of political speech and activity, which not only imposes limitations on individual liberties in daily affairs, but also threatens freedom of speech in upcoming elections. Defendants contend that the harms from the Preliminary Injunction's restrictions are therefore unquestionably irreparable. *See, e.g., Bonnell v. Lorenzo*, 241 F.3d 800, 809 (6th Cir. 2001); *Elrod v. Burns*, 427 U.S. 347, 373 (1976) ("The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.") In particular, if a decision is not rendered in this appeal as early as possible, but at the latest by late July, there will be substantial confusion as to whether the Defendants-Appellants can, without violating the injunction, submit a slate of candidates using the label of "Libertarian Party" for national, state, and local offices to the Michigan Secretary of State for the November 2024 election. Additionally, the Parties will be prejudiced in recruiting credible candidates, with both donors and potential candidates being understandably reluctant with this appeal looming. Accordingly, the public interest in clarity and choice in elections is an overwhelming concern.

4. The Parties respectfully request that the Court schedule this case for oral argument during the Court's oral argument schedule the week of April 29 – May 3, 2024, or no later than May 6 – 10, 2024<sup>1</sup>.

5. “[A]rgument will generally be expedited” in cases involving “appeals from orders denying or granting preliminary or temporary injunctions.” 6 Cir. R. 34(c)(2). An expedited oral argument is especially appropriate here because of the important constitutional issues alleged by the Defendants-Appellants, the important implications for political trademark holders as alleged by the Plaintiff-Appellee, as well as the rapidly-approaching elections and candidate submission deadline. Without expedited oral argument, these issues will remain unresolved until at least the resolution of this matter at trial, set for April 22, 2025. (Scheduling Order, ECF 36).

6. This matter is already fully briefed. *See* Appellants’ Brief, ECF 25; Appellee’s Brief, ECF 31; Appellants’ Reply Brief, ECF 34; Amicus Curiae Brief, ECF 28. Expediting oral arguments will give the Court sufficient time to review the appellate briefs, hear oral argument, and issue a ruling in time for the Parties to be clear about their status with regards to candidate nominations and the use of the

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<sup>1</sup> Counsel for the Defendants will file an updated Counsel Unavailability Form to reflect full availability for the Court’s April and May oral argument schedule concurrently with this motion.

“Libertarian Party” trademark.

7. This Court has recently granted similar requests to expedite appeals. *See Vitolo v. Guzman*, 999 F.3d 353, 358 (6th Cir. 2021); *Castillo v. Whitmer*, 823 F. App’x 413, 418 (6th Cir. 2020); *Parents Defending Education v. Olentangy Local School Dist., et al.*, Docket No. 23-03630 (6th Cir. Jul. 31, 2023).

8. Counsel for the Defendants-Appellants additionally note that law students Lilian Alexandrova and Jonathan Resnick with the University of Illinois College of Law First Amendment Clinic, who briefed the appeal and will be handling oral argument, graduate on May 11, 2024. Therefore, setting this matter for oral argument in April, and no later than May 2024, will allow Ms. Alexandrova and Mr. Resnick to participate in oral argument before they graduate.

9. As all Parties agree to this request for expedition, no prejudice will result.

### CONCLUSION

For the reasons set forth above, the Parties respectfully request that the Court expedite this appeal and schedule oral argument for late April 2024, or no later than May 2024.

Respectfully Submitted,

March 22, 2024

/s/ Lena Shapiro

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## CERTIFICATE OF COMPLIANCE

This motion complies with the requirements of Fed. R. App. P. 27(d) because the motion does not exceed 5,200 words.

This motion also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Dated: March 22, 2024

/s/ Lena Shapiro



**CERTIFICATE OF SERVICE**

I filed a true and correct copy of this brief with the Clerk of this Court via the CM/ECF system, which will notify all counsel.

Dated: March 22, 2024

/s/ Lena Shapiro