
**SUPREME COURT
OF THE
STATE OF CONNECTICUT**

S.C. 20486

**MARY FAY, THOMAS GILMER,
JUSTIN ANDERSON AND JAMES GRIFFIN**
Plaintiffs - Appellants

v.

**DENISE MERRILL
SECRETARY OF THE STATE**
Defendant – Appellee

APPENDIX PART ONE

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PART ONE

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* the draft judgment file is being included as a placeholder. The judgment file will be substituted upon execution



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Attorney/Firm: MURTHA CULLINA LLP (040248)

E-Mail: cmoody@murthalaw.com Logout

[HHD-CV20-6130532-S](#) **FAY, MARY Et Al v. MERILL, DENISE**

Prefix/Suffix: [none]

Case Type: M90

File Date: 07/21/2020

Return Date: 07/21/2020

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Information updated as of: 07/28/2020

Case Information

Case Type: M90 - Misc - All other

Court Location: Hartford JD

List Type: No List Type

Trial List Claim:

Last Action Date: 07/28/2020 (The "last action date" is the date the information was entered in the system)

Disposition Information

Disposition Date: 07/22/2020

Disposition: JUDGMENT WITHOUT TRIAL FOR DEFENDANT

Judge or Magistrate: HON THOMAS MOUKAWSHER

Party & Appearance Information

Party	No Fee Party	Party Category	Party Type
P-01 MARY FAY Attorney: MURTHA CULLINA LLP (040248) ! NEW 280 TRUMBULL STREET HARTFORD, CT 06103		Plaintiff	Person
P-02 THOMAS GILMER Attorney: MURTHA CULLINA LLP (040248) ! NEW 280 TRUMBULL STREET HARTFORD, CT 06103		Plaintiff	Person
P-03 JUSTIN ANDERSON Attorney: MURTHA CULLINA LLP (040248) ! NEW 280 TRUMBULL STREET HARTFORD, CT 06103		Plaintiff	Person
P-04 JAMES GRIFFIN Attorney: MURTHA CULLINA LLP (040248) ! NEW 280 TRUMBULL STREET HARTFORD, CT 06103		Plaintiff	Person
D-01 DENISE MERILL Attorney: ALAYNA MICHELLE STONE (436022) ! NEW AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106		Defendant	Person
Attorney: MAURA BRIDGET MURPHY-OSBORNE (423915) ! NEW AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106			

Attorney: MICHAEL KENNETH SKOLD (431228)
 AG-SPECIAL LITIGATION
 165 CAPITOL AVE 5TH FLR
 HARTFORD, CT 06106

File Date: 07/21/2020

Viewing Documents on Civil, Housing and Small Claims Cases:

If there is an in front of the docket number at the top of this page, then the file is electronic (paperless).

- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.* For more information on what you can view in all cases, view the [Electronic Access to Court Documents Quick Card](#).
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- An Affidavit of Debt is not available publicly over the internet on small claims cases filed before October 16, 2017.*

*Any documents protected by law Or by court order that are Not open to the public cannot be viewed by the public online And can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them.

Motions / Pleadings / Documents / Case Status				
Entry No	File Date	Filed By	Description	Arguable
	07/21/2020	D	APPEARANCE Appearance	
	07/21/2020	D	APPEARANCE Appearance	
	07/21/2020	D	APPEARANCE Appearance	
100.30	07/21/2020	P	SUMMONS	No
100.31	07/21/2020	P	COMPLAINT	No
100.32	07/21/2020	P	PROPOSED ORDER - TEMPORARY/EX PARTE	No
100.33	07/21/2020	P	REQUEST FOR WAIVER OF BOND	No
100.34	07/21/2020	P	CONTINUATION OF PARTIES	No
101.00	07/21/2020	P	MOTION FOR TEMPORARY INJUNCTION	Yes
102.00	07/21/2020	P	CERTIFICATE of Practice Book Section 17-56 Notice	No
103.00	07/21/2020	D	AFFIDAVIT	No
104.00	07/21/2020	D	AFFIDAVIT	No
105.00	07/22/2020	C	MEMORANDUM OF DECISION RESULT: Order 7/22/2020 HON THOMAS MOUKAWSHER	No
186.00	07/22/2020	C	JUDGMENT WITHOUT TRIAL FOR DEFENDANT RESULT: HON THOMAS MOUKAWSHER	No
187.00	07/28/2020	P	DRAFT JUDGMENT FILE	No

Scheduled Court Dates as of 07/27/2020				
HHD-CV20-6130532-S - FAY, MARY Et Al v. MERILL, DENISE				
#	Date	Time	Event Description	Status
No Events Scheduled				

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SUMMONS - CIVIL

JD-CV-1 Rev. 2-20
C.G.S. §§ 51-346, 51-347, 51-349, 51-350, 52-45a, 52-48, 52-259;
P.B. §§ 3-1 through 3-21, 8-1, 10-13

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STATE OF CONNECTICUT
SUPERIOR COURT
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Instructions are on page 2.

- Select if amount, legal interest, or property in demand, not including interest and costs, is LESS than \$2,500.
- Select if amount, legal interest, or property in demand, not including interest and costs, is \$2,500 or MORE.
- Select if claiming other relief in addition to, or in place of, money or damages.

TO: Any proper officer

By authority of the State of Connecticut, you are hereby commanded to make due and legal service of this summons and attached complaint.

Address of court clerk (Number, street, town and zip code) 95 Washington Street, Hartford, CT 06106		Telephone number of clerk (860) 548 - 2700	Return Date (Must be a Tuesday)
<input checked="" type="checkbox"/> Judicial District	G.A. Number: _____	At (City/Town) Hartford	Case type code (See list on page 2) Major: M Minor: 90

For the plaintiff(s) enter the appearance of:

Name and address of attorney, law firm or plaintiff if self-represented (Number, street, town and zip code) Murtha Cullina LLP		Juris number (if attorney or law firm) 040248
Telephone number (860) 240 - 6000	Signature of plaintiff (if self-represented)	
The attorney or law firm appearing for the plaintiff, or the plaintiff if self-represented, agrees to accept papers (service) electronically in this case under Section 10-13 of the Connecticut Practice Book. <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		E-mail address for delivery of papers under Section 10-13 of the Connecticut Practice Book (if agreed) pdas@murthalaw.com

Parties	Name (Last, First, Middle Initial) and address of each party (Number; street; P.O. Box; town; state; zip; country, if not USA)	
First plaintiff	Name: Fay, Mary Address: 83 Craigmoor Road, West Hartford, CT 06107	P-01
Additional plaintiff	Name: Gilmer, Thomas Address: 216 Neck Road, Madison, CT 06443	P-02
First defendant	Name: Merrill, Denise, Secretary of the State Address: Office of the Secretary of the State, 165 Capitol Avenue, Hartford, CT 06106	D-01
Additional defendant	Name: Address:	D-02
Additional defendant	Name: Address:	D-03
Additional defendant	Name: Address:	D-04
Total number of plaintiffs: 4		Total number of defendants: 1
<input checked="" type="checkbox"/> Form JD-CV-2 attached for additional parties		

Notice to each defendant

1. **You are being sued.** This is a summons in a lawsuit. The complaint attached states the claims the plaintiff is making against you.
2. To receive further notices, you or your attorney must file an *Appearance* (form JD-CL-12) with the clerk at the address above. Generally, it must be filed on or before the second day after the Return Date. The Return Date is not a hearing date. You do not have to come to court on the Return Date unless you receive a separate notice telling you to appear.
3. If you or your attorney do not file an *Appearance* on time, a default judgment may be entered against you. You can get an *Appearance* form at the court address above, or on-line at <https://jud.ct.gov/webforms/>.
4. If you believe that you have insurance that may cover the claim being made against you in this lawsuit, you should immediately contact your insurance representative. Other actions you may take are described in the Connecticut Practice Book, which may be found in a superior court law library or on-line at <https://www.jud.ct.gov/pb.htm>.
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The court staff is not allowed to give advice on legal matters.

Date 07/20/2020	Signed (Sign and select proper box) <input checked="" type="checkbox"/> Commissioner of Superior Court <input type="checkbox"/> Clerk	Name of person signing Proloy K. Das
If this summons is signed by a Clerk: a. The signing has been done so that the plaintiff(s) will not be denied access to the courts. b. It is the responsibility of the plaintiff(s) to ensure that service is made in the manner provided by law. c. The court staff is not permitted to give any legal advice in connection with any lawsuit. d. The Clerk signing this summons at the request of the plaintiff(s) is not responsible in any way for any errors or omissions in the summons, any allegations contained in the complaint, or the service of the summons or complaint.		<i>For Court Use Only</i> File Date
I certify I have read and understand the above:	Signed (Self-represented plaintiff)	Date
		Docket Number

**CIVIL SUMMONS
CONTINUATION OF PARTIES**
JD-CV-2 Rev. 9-12

STATE OF CONNECTICUT
SUPERIOR COURT

First named Plaintiff *(Last, First, Middle Initial)*

Fay, Mary

First named Defendant *(Last, First, Middle Initial)*

Merrill, Denise, Secretary of the State

Additional Plaintiffs

Name <i>(Last, First, Middle Initial, if individual)</i>	Address <i>(Number, Street, Town and Zip Code)</i>	CODE
Anderson, Justin	157 West Road, Salem, CT 06420	03
Griffin, James	134 Boy Street, Bristol, CT 06010	04
		05
		06
		07
		08
		09
		10
		11
		12
		13

Additional Defendants

Name <i>(Last, First, Middle Initial, if individual)</i>	Address <i>(Number, Street, Town and Zip Code)</i>	CODE
		05
		06
		07
		08
		09
		10
		11

	12	FOR COURT USE ONLY - File Date
	13	
	14	
		Docket number

CIVIL SUMMONS-Continuation

RETURN DATE:

MARY FAY, THOMAS GILMER, JUSTIN ANDERSON, AND JAMES GRIFFIN	:	SUPERIOR COURT
	:	
	:	JUDICIAL DISTRICT OF HARTFORD
v.	:	
	:	AT HARTFORD
	:	
DENISE MERRILL, SECRETARY OF THE STATE	:	JULY 20, 2020

**PETITION AND COMPLAINT PURSUANT TO
GENERAL STATUTES SECTIONS 9-329a, 52-29, AND 52-471**

NOW COME the Plaintiffs, Mary Fay, Thomas Gilmer, Justin Anderson, and James Griffin, by and through counsel, and for their Petition and Complaint state as follows:

INTRODUCTION

The Plaintiffs are four candidates for the office of Representative in the United States Congress and are on the ballot for the August 11, 2020 primary election. The instant action is being brought to protect the integrity of the election.

The Secretary of the State's Application for Absentee Ballot for the August 11, 2020 primary election, which has been mailed to all Connecticut voters, uses the COVID-19 pandemic to unconstitutionally impose effectively no-excuse absentee voting. However, the Connecticut Constitution does not permit no-excuse absentee voting and entrusts the electorate to define the scope of absentee voting through constitutional amendment. The Constitution further assigns to the Legislature the obligation of implementing the will of the electorate. Neither the Secretary of the State

nor the Governor has the constitutional authority to prescribe, expand, or alter the rules governing absentee ballot voting. There is no pandemic exception to the Connecticut Constitution. The Application for Absentee Ballot that the Secretary has prepared for the August 11, 2020 primary election should be rescinded and the Secretary should be enjoined from issuing absentee ballots for COVID-19 reasons on July 21, 2020 until this Court has had an opportunity to issue a decision in this matter.

JURISDICTION

1. This petition and complaint is presented and brought pursuant to General Statutes §§ 9-329a, 52-29, and 52-471.

PARTIES

2. Plaintiff Mary Fay is an elector and a candidate for United States Representative for the 1st Congressional District in Connecticut.

3. Plaintiff Thomas Gilmer is an elector and a candidate for United States Representative for the 2nd Congressional District in Connecticut.

4. Plaintiff Justin Anderson is an elector and a candidate for United States Representative in the 2nd Congressional District in Connecticut.

5. Plaintiff James Griffin is an elector and a candidate for United States Representative in the 1st Congressional District in Connecticut.

6. Defendant Denise Merrill is the Secretary of the State of Connecticut and by virtue of her office, the commissioner of elections with general supervisory authority over elections in the State of Connecticut. Defendant Merrill is an “election official” under General Statutes § 9-329a. Defendant Merrill is named solely in her official capacity.

FACTS

7. On August 11, 2020, Connecticut will hold its congressional primary elections as well as its presidential preference primaries.
8. The Plaintiffs are candidates in the August 11, 2020 primaries being held in the First and Second Congressional Districts.
9. In late June 2020, citing Governor Lamont's Executive Order No. 7QQ and General Statutes § 9-3, Secretary Merrill issued an Application for Absentee Ballot for the August 11, 2020 primaries that unconstitutionally and erroneously expands absentee voting in Connecticut and allows all voters to vote by absentee ballot. A copy of the Application for Absentee Ballot is attached hereto as Exhibit A.
10. Merrill's preparation and issuance of the Application for Absentee Ballot for the August 11, 2020 primary constitutes a "ruling of an election official." See Arciniega v. Feliciano, 329 Conn. 293, 303 (2018).
11. In the Application for Absentee Ballot, Secretary Merrill unconstitutionally and erroneously determined that all eligible voters may use "COVID-19 ... as a valid reason for requesting [an absentee] ballot."
12. Article Sixth, Section 5 of the Connecticut Constitution protects the right to vote in secret.
13. Article Sixth, Section 7 of the Connecticut Constitution provides that voting must be done in person and limits the use of absentee voting to circumstances where a person is unable to appear due to one of the limited reasons set forth therein.
14. Specifically, Article Sixth, Section 7 of the state Constitution provides:

The general assembly may provide by law for voting in the choice of any officer to be elected or upon any question to be voted on at

an election by qualified voters of the state who are unable to appear at the polling place on the day of election because of absence from the city or town of which they are inhabitants or because of sickness or physical disability or because the tenets of their religion forbid secular activity.

15. The Connecticut Supreme Court has long recognized that any attempt to expand absentee voting must comply with the state Constitution. See Opinion of Judges of the Supreme Court, 30 Conn. 591 (1862) (declaring that statute providing for Civil War soldiers to vote by absentee ballot was unconstitutional necessitating constitutional amendment).

16. In order to implement absentee voting as set forth in Article Sixth, Section 7, the legislature enacted General Statutes § 9-135 (a), in which it specifically enumerated six categories of electors who are eligible to vote by absentee ballot:

Any elector eligible to vote at a primary or an election and any person eligible to vote at a referendum may vote by absentee ballot if he or she is unable to appear at his or her polling place during the hours of voting for any of the following reasons: (1) His or her active service with the armed forces of the United States; (2) his or her absence from the town of his or her voting residence during all of the hours of voting; (3) his or her illness; (4) his or her physical disability; (5) the tenets of his or her religion forbid secular activity on the day of the primary, election or referendum; or (6) the required performance of his or her duties as a primary, election or referendum official, including as a town clerk or registrar of voters or as staff of the clerk or registrar, at a polling place other than his or her own during all of the hours of voting at such primary, election or referendum.

17. Only the General Assembly is permitted to alter state law implementing absentee voting as limited by the state Constitution.

18. Only the electorate can expand the use of absentee ballots in Connecticut through amendment of the state Constitution.

19. Neither the Governor nor the Secretary of the State has the constitutional

authority to expand the use of absentee ballots.

20. In the November 2014 election, the electorate was presented with a proposed amendment to the state Constitution that would have removed restrictions on absentee ballot use and authorized the General Assembly to expand the use of absentee ballots, which the electorate rejected.

21. On March 10, 2020, Governor Lamont issued a declaration of public health and civil preparedness emergencies, proclaiming a state of emergency throughout the State of Connecticut in response to the COVID-19 pandemic.

22. On May 20, 2020, Governor Lamont issued Executive Order No. 7QQ which, *inter alia*, purported to modify General Statutes § 9-135 to state that an eligible elector may “vote by absentee ballot for the August 11, 2020 primary election if he or she is unable to appear at his or her polling place during the hours of voting because of the sickness of COVID-19.” A copy of Governor Lamont’s Executive Order No. 7QQ is attached hereto as Exhibit B.

23. Executive Order No. 7QQ further stated: “For purposes of this modification, a person shall be permitted to lawfully state he or she is unable to appear at a polling place because of COVID-19 if, at the time he or she applies for or casts an absentee ballot for the August 11, 2020 primary election, there is no federally approved and widely available vaccine for prevention of COVID-19.”

24. Executive Order No. 7QQ is unconstitutional because Article Sixth, Section 7 expressly commits the prescription of absentee voting procedure to the General Assembly – not to the Governor.

25. Executive Order No. 7QQ is unconstitutional because it broadens the

use of absentee ballots, in contravention of the strict reasons for which absentee ballots may be used in Connecticut elections as set forth in Article Sixth, Section 7.

26. There is no COVID-19 exception in the Connecticut Constitution.

27. In late June 2020, Secretary Merrill released the Application for Absentee Ballot for Connecticut's August 11, 2020 congressional primaries and the presidential preference primary.

28. Secretary Merrill mailed the Application for Absentee Ballot to all voters in Connecticut.

29. Secretary Merrill added to the Application for Absentee Ballot a new seventh category for absentee voting – "COVID-19."

30. Secretary Merrill listed this new category first on the list of reasons for obtaining an absentee ballot and further encouraged all voters to select this reason by highlighting and bolding it to make it distinct from the other six reasons listed from General Statutes § 9-135:

Section II. – Statement of Applicant

I, the undersigned applicant, believe that I am eligible to vote at the primary indicated above. Pursuant to Executive Order No. 7QQ, I expect to be unable to appear at the polling place during the hours of voting and hereby apply for an absentee ballot: (check only one)

- COVID-19 ► **All voters are able to check this box, pursuant to Executive Order 7QQ** ◀
- My active service in the Armed Forces of the United States
- My absence from the town during all of the hours of voting
- My illness
- My religious tenets forbid secular activity on the day of the election, primary or referendum
- My duties as a primary, election or referendum official at a polling place other than my own during all of the hours of voting
- My physical disability

31. Secretary Merrill's decision not to limit the reasons for obtaining an absentee ballot to those set forth by the Legislature in General Statutes § 9-135 was a ruling of an election official.

32. Secretary Merrill's decision to expand absentee voting based on Executive Order No. 7QQ, rather than limit absentee voting in accordance with the restrictions set forth by the Legislature in General Statutes § 9-135, was a ruling of an election official.

33. Secretary Merrill's broadening of the use of absentee voting in Connecticut through the Application for Absentee Ballot violates the Connecticut Constitution because:

a. The Secretary of the State lacks the constitutional authority to alter the parameters of who is entitled to vote by absentee ballot; and

b. The reasons that electors may vote by absentee ballot are strictly limited by the Connecticut Constitution and can only be expanded by the electorate.

34. Executive Order No. 7QQ included two conditions under which a person could obtain an absentee ballot due to COVID-19:

a. The elector must certify that he or she "is unable to appear at a polling place because of COVID-19"; and

b. "[T]here is no federally approved and widely available vaccine for prevention of COVID-19."

35. Secretary Merrill's decision to add a new category called "COVID-19" and her failure to include the restrictions contained in Executive Order No. 7QQ concerning that reason – i.e. the voter being unable to appear and the unavailability of a vaccine – constitutes a ruling of an election official.

36. In allowing all voters to vote by absentee ballot, Secretary Merrill ignored the important qualification in Executive Order No. 7QQ that "a person shall be

permitted to lawfully state he or she is unable to appear at a polling place because of COVID-19 if, at the time he or she applies for or casts an absentee ballot for the August 11, 2020 primary election, there is no federally approved and widely available vaccine for prevention of COVID-19.”

37. Article Sixth, Section 7 of the state Constitution limits the use of absentee ballots to “qualified voters of the state who are unable to appear at the polling place on the day of election because of absence from the city or town of which they are inhabitants or because of sickness or physical disability or because the tenets of their religion forbid secular activity.”

38. The Application for Absentee Ballot expands the use of absentee ballots for reasons beyond those specifically prescribed in Article Sixth, Section 7 of the state Constitution.

39. Through the Application for Absentee Ballot, Secretary Merrill has violated Article Sixth, Section 7 of the state Constitution.

**THE PLAINTIFFS ARE AGGRIEVED BY
THE APPLICATION FOR ABSENTEE BALLOT**

40. Each of the Plaintiffs is aggrieved by the Application for Absentee Ballot.

41. Voters and candidates have a constitutional right to a fair election.

42. Every voter has a right under the United States Constitution to have his or her vote fairly counted without it being debased or diluted by improperly or illegally cast votes. An individual’s right to vote is infringed if his or her vote is cancelled by an unlawfully cast vote. See Anderson v. United States, 417 U.S. 211, 227 (1974); Gray v. Sanders, 372 U.S. 368, 380 (1963); Baker v. Carr, 369 U.S. 186, 208 (1962).

43. A candidate has standing to assert his or her own constitutional rights as

well as the constitutional rights of the voters. See Bush v. Gore, 531 U.S. 98, 104 (2000); Anderson v. Celebrezze, 460 U.S. 780, 788 (1983); Walgren v. Board of Selectmen of Town of Amherst, 519 F.2d 1364 n.1 (1st Cir. 1975)

44. Plaintiff Mary Fay is aggrieved as an elector and as a candidate, specifically based on the right to have votes counted equally and not be diluted by votes that are unlawfully cast in contravention of Article Sixth, Section 7 of the state Constitution, as well as her constitutional right to a fair and honest election.

45. Plaintiff Thomas Gilmer is aggrieved as an elector and as a candidate, specifically based on the right to have votes counted equally and not be diluted by votes that are unlawfully cast in contravention of Article Sixth, Section 7 of the state Constitution, as well as his constitutional right to a fair and honest election.

46. Plaintiff Justin Anderson is aggrieved as an elector and as a candidate, specifically based on the right to have votes counted equally and not be diluted by votes that are unlawfully cast in contravention of Article Sixth, Section 7 of the state Constitution, as well as his constitutional right to a fair and honest election.

47. Plaintiff James Griffin is aggrieved as an elector and as a candidate, specifically based on the right to have votes counted equally and not be diluted by votes that are unlawfully cast in contravention of Article Sixth, Section 7 of the state Constitution, as well as his constitutional right to a fair and honest election.

COUNT ONE: CHALLENGE TO RULING OF ELECTION OFFICIAL PURSUANT TO GENERAL STATUTES § 9-329a

48. The Plaintiffs restate all allegations contained in Paragraphs 1 through 47 hereof as if fully rewritten herein.

49. The Plaintiffs are electors and candidates for the office of United States

Representative in the United States Congress.

50. The Plaintiffs are aggrieved by a ruling of the Secretary of the State in connection with the August 11, 2020 primary election for Representative in the United States Congress.

51. The Absentee Ballot Application prepared by the Secretary of the State is inconsistent with:

- a. General Statutes § 9-135;
- b. Executive Order No. 7QQ; and
- c. Article Sixth, Section 7 of the Connecticut Constitution.

COUNT TWO: DECLARATORY JUDGMENT

52. The Plaintiffs restate all allegations contained in Paragraphs 1 through 51 hereof as if fully rewritten herein.

53. The Plaintiffs seek a judicial determination that the Application for Absentee Ballot is unconstitutional because it conflicts with Article Sixth, Section 7 of the state Constitution and is erroneous because it is based on an improper interpretation of Executive Order No. 7QQ and General Statutes § 9-135.

54. There is an actual bona fide and substantial question in dispute and substantial uncertainty of legal relations that requires resolution.

55. There is no other forum of proceeding that can provide the Plaintiffs with timely redress.

COUNT THREE: INJUNCTIVE RELIEF

56. The Plaintiffs restate all allegations contained in Paragraphs 1 through 55 hereof as if fully rewritten herein.

57. The Plaintiffs seek an ex parte prohibitory injunction precluding Defendant Merrill from issuing absentee ballots for COVID-19 reasons on July 21, 2020 until this Court has had an opportunity to issue a decision in this matter.

58. The Plaintiffs seek an ex parte mandatory injunction requiring Defendant Merrill to recall any copies of the Application for Absentee Ballot already mailed or distributed to any Connecticut voters and any absentee ballots issued for COVID-19 reasons on July 21, 2020.

59. If no such injunctions issue, the Plaintiffs will suffer irreparable harm.

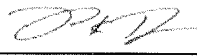
60. The Plaintiffs have no other adequate remedy at law.

WHEREFORE, the Plaintiffs pray for judgment as follows:

- (i) That Secretary Merrill's Application for Absentee Ballot be rescinded;
- (ii) A declaration that the Application for Absentee Ballot is unconstitutional because it conflicts with Article Sixth, Section 7 of the state Constitution and is erroneous because it is based on an improper interpretation of Executive Order No. 7QQ and General Statutes § 9-135;
- (iii) A ex parte prohibitory injunction precluding Defendant Merrill from mailing or distributing absentee ballots for COVID-19 reasons on July 21, 2020;
- (iv) A ex parte mandatory injunction requiring Defendant Merrill to recall any copies of the Application for Absentee Ballot already mailed or distributed to any Connecticut voters and any absentee ballots issued for COVID-19 reasons on July 21, 2020; and
- (v) Such other relief as this Court determines to be just and equitable.

PLAINTIFFS,

MARY FAY, THOMAS GILMER, JUSTIN
ANDERSON, AND JAMES GRIFFIN

By 

Proloy K. Das, Esq.
pdas@murthalaw.com
Matthew A. Ciarleglio, Esq.
mciarleglio@murthalaw.com

Murtha Cullina LLP
280 Trumbull Street, 12th Floor
Hartford, Connecticut 06103
Telephone: 860.240.6000
Facsimile: 860.240.6150
Juris No. 040248

Their Attorneys

CERTIFICATION PURSUANT TO GENERAL STATUTES SECTION 9-329a

This is to certify that a copy of the foregoing Petition and Complaint has been sent by first-class mail or delivered to the State Elections Enforcement Commission on this 20th day of July, 2020, at the following address:

State Elections Enforcement Commission
20 Trinity Street
Suite 101, Suite 301
Hartford, CT 06106


By  _____
Proloy K. Das, Esq.
Commissioner of the Superior Court

EXHIBIT A

APPLICATION FOR ABSENTEE BALLOT

You are receiving this application for an absentee ballot because, due to COVID-19, the Secretary of the State has sent an application to every eligible voter in the state. Pursuant to Executive Order 7QQ, COVID-19 may be used as a valid reason for requesting a ballot.

Section I. – Applicant’s Information

Name: _____ Date of Birth _____

Home Address: _____ Zip Code _____
(Number, Street, Town)

Telephone No. _____ E-mail Address _____

Mailing Address: _____

(Use only if the mailing address is different from the address above.)

Date of Primary AUGUST 11, 2020 Republican ____ Democratic ____

Section II. – Statement of Applicant

I, the undersigned applicant, believe that I am eligible to vote at the primary indicated above. Pursuant to Executive Order No. 7QQ, I expect to be unable to appear at the polling place during the hours of voting and hereby apply for an absentee ballot: *(check only one)*

- COVID-19 ► **All voters are able to check this box, pursuant to Executive Order 7QQ** ◀
- My active service in the Armed Forces of the United States
- My absence from the town during all of the hours of voting
- My illness
- My religious tenets forbid secular activity on the day of the election, primary or referendum
- My duties as a primary, election or referendum official at a polling place other than my own during all of the hours of voting
- My physical disability

Section III. – Applicant’s Declaration

I declare, under the penalties of false statement in absentee balloting, that the above statements are true and correct, and that I am the applicant named above. *(Sign your legal name in full. If you are unable to write, you may authorize some one to write your name and the date in the spaces provided, followed by the word “by” and the signature of the authorized person. Such person must also complete section IV below.)*

Signature of Applicant: _____ Date Signed: _____

Section IV. – Declaration of person providing assistance *(Completed by any person who assists with completion of application)*

I sign this application under penalties of false statement in absentee balloting.

Signature: _____ Printed Name: _____ Tel. No: _____

Residence Address: _____

SPECIAL INSTRUCTIONS

Connecticut law allows you to receive an absentee ballot if you cannot appear at your assigned polling place on primary day because of active service in the Military, absence from the town during all of the hours of voting, illness, religious tenets forbid secular activity on the day of the primary, duties as a primary official at a polling place other than your own during all of the hours of voting, or physical disability. The State of Connecticut, via Executive Order 7QQ, as interpreted by the Secretary of the State pursuant to CGS §9-3, has determined (1) that having a pre-existing illness allows you to vote by absentee ballot because your pre-existing illness would prevent you from appearing at your designed polling place or (2) that absent a widely available vaccine, the existence of the COVID-19 virus allows you to vote by absentee ballot if you so choose for your own safety. To receive your absentee ballot please complete and sign this application (be sure to check “Illness” for reason (1) or “COVID-19” for reason (2) above) and return it to your Town Clerk using the enclosed postage prepaid envelope. Your absentee ballot will be mailed to you. If you do not receive your absentee ballot within one week contact your local Town Clerk's office.

For Municipal Clerk’s Use		
Outer Envelope Serial No.		
Date Forms Issued		
Check ▶	Mailed to Applicant <input type="checkbox"/>	Given to Applicant Personally <input type="checkbox"/>
Pol. Subdivision		Voting District No.

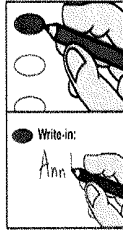
STEP 1

MARK YOUR ABSENTEE BALLOT

Completely fill in the oval next to your choice(s) using a black pen.

To vote for a candidate whose name is not on the ballot: Fill in the oval to the left of "Write-in" and print the name clearly in the box.

If you make a mistake while marking your ballot do not cross out. Instead call your local Town Clerk's office to make arrangements to receive a replacement ballot

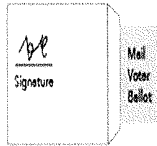


STEP 2

COMPLETE THE INNER ENVELOPE

Insert the voted ballot into the inner envelope (marked B) and seal the envelope.

Sign your name and date the envelope.



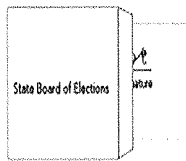
STEP 3

MAIL OR HAND-DELIVER YOUR BALLOT

Place completed inner envelope into the larger mailing envelope (marked C).

Mail the envelope or hand-deliver the envelope to the Town Clerk of your city or town.

Your Town Clerk must receive your absentee ballot by 8:00 p.m. on Election Day.



NOTE: WHEN SEALING ENVELOPES PLEASE DO NOT LICK ENVELOPE TO SEAL. USE AN ALTERNATIVE METHOD SUCH AS A SPONGE OR WET CLOTH TO MOISTEN THE CLOSE TAB.

- Any elector who has returned an absentee ballot and who finds he is able to vote in person shall proceed before ten o'clock a.m. on election, primary or referendum day to the municipal clerk's office and request that his ballot be withdrawn. The municipal clerk shall mark the ballot "rejected". The municipal clerk shall give the elector a signed statement directed to the moderator of the voting district in which the elector resides stating that the elector has withdrawn his absentee ballot and may vote in person.
- No absentee ballot shall be rejected as a marked ballot unless, in the opinion of the moderator, it was marked for the purpose of providing a means of identifying the voter who cast it.
- Any (1) person who executes an absentee ballot for the purpose of informing any other person how he votes, or procures any absentee ballot to be prepared for such purpose, (2) municipal clerk or moderator, elector appointed to count any absentee ballot or other person who wilfully attempts to ascertain how any elector marked his absentee ballot or how it was cast, (3) person who unlawfully opens or fills out, except as provided in section 9-140a with respect to a person unable to write, any elector's absentee ballot signed in blank, (4) person designated under section 9-140a who executes an absentee ballot contrary to the elector's wishes, or (5) person who wilfully violates any provision of chapter 145, shall be guilty of a class D felony.
- A person is guilty of false statement in absentee balloting when he intentionally makes a false written statement in or on or signs the name of another person to the application for an absentee ballot or the inner envelope accompanying any such ballot, which he does not believe to be true and which statement or signature is intended to mislead a public servant in the performance of his official function.

EXHIBIT B

STATE OF CONNECTICUT

BY HIS EXCELLENCY

NED LAMONT

EXECUTIVE ORDER NO. 7QQ

**PROTECTION OF PUBLIC HEALTH AND SAFETY DURING COVID-19 PANDEMIC
AND RESPONSE – SAFE VOTING DURING STATEWIDE PRIMARY**

WHEREAS, on March 10, 2020, I issued a declaration of public health and civil preparedness emergencies, proclaiming a state of emergency throughout the State of Connecticut as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and Connecticut; and

WHEREAS, pursuant to such declaration, I have issued forty-three (43) executive orders to suspend or modify statutes and to take other actions necessary to protect public health and safety and to mitigate the effects of the COVID-19 pandemic; and

WHEREAS, COVID-19 is a respiratory disease that spreads easily from person to person and may result in serious illness or death; and

WHEREAS, the World Health Organization has declared the COVID-19 outbreak a pandemic; and

WHEREAS, to reduce the spread of COVID-19, the United States Centers for Disease Control and Prevention (CDC) and the Connecticut Department of Public Health (DPH) recommend implementation of community mitigation strategies to slow transmission of COVID-19, including cancellation of gatherings of ten people or more and social distancing in smaller gatherings; and

WHEREAS, the risk of severe illness and death from COVID-19 is higher for individuals who are 60 or older and for those who have chronic health conditions; and

WHEREAS, public health experts have determined that it is possible to transmit COVID-19 even before a person shows symptoms and through aerosol transmission; and

WHEREAS, a statewide primary election is scheduled for August 11, 2020, to select candidates for various state offices and for the 2020 federal presidential election; and

WHEREAS, a significant portion of poll workers and volunteers are 60 or older; and

WHEREAS, because elderly registered voters consistently demonstrate the highest rate of voter turnout, providing an alternative to in-person voting could be particularly helpful in reducing the risk of transmission during voting among this population; and

WHEREAS, public health experts have indicated that persons infected with COVID-19 may not show symptoms, and transmission or “shedding” of the coronavirus that causes COVID-19 may be most virulent before a person shows any symptoms; and

WHEREAS, the CDC has recommended that people with mild symptoms consistent with COVID-19 be assumed to be infected with the disease; and

WHEREAS, public health experts have recommended that, to prevent transmission of COVID-19, and in light of the risk of asymptomatic transmission and a significant rate of false negative tests, everyone should assume they can be carrying COVID-19 even when have received a negative test result or do not have symptoms; and

WHEREAS, secure and tamper-proof drop boxes manufactured specifically for the purpose of voting offer a safe and secure way for voters to deliver absentee ballots to election officials without in-person interactions that could increase the risk of transmission of COVID-19; and

WHEREAS, absentee voting offers a proven method of secure voting that reduces the risk of transmission of COVID-19 by allowing individuals to vote by mail and by reducing the density of in-person voting at polling places; and

WHEREAS, upon a proclamation that a civil preparedness emergency exists, section 28-9(b) of the Connecticut General Statutes authorizes the modification or suspension in whole or in part by executive order of any statute or regulation or requirement or part thereof that conflicts with the efficient and expeditious execution of civil preparedness functions or the protection of public health; and

WHEREAS, the General Assembly is not in session, there is no announced schedule to reconvene in special session, and no committee hearings have been scheduled to take up any business; and

WHEREAS, the drafting, circulation and review of new or amended regulations is hindered by the limited access to information technology resources and source documents for state employees involved in such processes, the majority of whom continue to work from home to mitigate the transmission of COVID-19, and therefore it is not possible to both follow the requirements of the Uniform Administrative Procedures Act respond efficiently and expeditiously to the COVID-19 pandemic and mitigate its effects;

NOW, THEREFORE, I, NED LAMONT, Governor of the State of Connecticut, by virtue of the authority vested in me by the Constitution and the laws of the State of Connecticut, do hereby **ORDER AND DIRECT**:

- 1. Absentee Voting Eligibility During COVID-19 Pandemic.** Section 9-135 of the Connecticut General Statutes is modified to provide that, in addition to the enumerated eligibility criteria set forth in subsection (a) of that statute, an eligible elector may vote by absentee ballot for the August 11, 2020 primary election if he or she is unable to appear at his or her polling place during the hours of voting because of the sickness of

COVID-19. For purposes of this modification, a person shall be permitted to lawfully state he or she is unable to appear at a polling place because of COVID-19 if, at the time he or she applies for or casts an absentee ballot for the August 11, 2020 primary election, there is no federally approved and widely available vaccine for prevention of COVID-19. It shall not constitute a misrepresentation under subsection (b) of Section 9-135 of the General Statutes for any person to communicate the provisions of this modification to any elector or prospective absentee ballot applicant.

2. **Notice of Modification Required on Inner Envelope.** Section 9-137 of the Connecticut General Statutes is modified to provide that it shall not constitute a false statement for an elector to represent his or her eligibility to vote by absentee ballot pursuant to the modifications of Section 9-135 in Section 1 of this order, and the inner envelope described in Section 9-137 shall contain a notice describing the modification in Section 1 of this order.
3. **Authority for Secretary of the State to Modify Absentee Ballot Applications, Envelopes, and Printed Materials Regarding Eligibility.** Notwithstanding any provision of Title 9 of the Connecticut General Statutes or any other law or regulation to the contrary, the Secretary of the State shall be authorized to modify any required notice, statement, or description of the eligibility requirements for voting by absentee ballot on any printed, recorded, or electronic material in order to provide accurate information to voters about the modifications to absentee voter eligibility and related requirements of this order.
4. **Authority to Issue Absentee Ballots.** Section 9-140(g) of the Connecticut General Statutes is modified and suspended to permit the municipal clerk to use a third party mailing vendor that has been approved and selected by Secretary of the State to fulfill the municipal clerk's duties to mail absentee voting sets for the August 11, 2020 primary election. All other requirements of Section 9-140(g) continue to apply.
5. **Modification of Requirement that Absentee Ballots be Returned by Mail or In Person.** Section 9-140b(c) of the Connecticut General Statutes is modified to provide that the term "mailed" shall include the act of depositing an absentee ballot for the August 11, 2020 primary in a secure drop box designated by the town clerk for that purpose in accordance with instructions to be provided by the Secretary of the State. All other requirements of Section 9-140b(c) continue to apply.
6. **Clarification that Commissioner Orders Issued Pursuant to the Governor's Executive Orders Are Not Regulations Subject to the UAPA.** Section 4-166(16) of the Connecticut General Statutes is modified to clarify that the definition of a regulation does not include any amendment or repeal of an existing regulation and any directive, rule, guidance, or order issued by a Commissioner or Department Head pursuant to a Governor's Executive Order during the existing civil preparedness and public health

emergency and any renewal or extension thereof. Notwithstanding Sections 4-166 to 189, inclusive, of the Connecticut General Statutes, any Commissioner or Department Head, as permitted or directed by any such Governor's executive order, may modify or suspend any regulatory requirements adopted by the Commissioner or Department Head that they deem necessary to reduce the spread of COVID-19 and to protect the public health. This section applies to all orders that have been issued since the declaration of public health and civil preparedness emergencies on March 10, 2020 and for the duration of the public health and civil preparedness emergency, including any period of renewal of such emergency declaration.


Unless otherwise specified herein, this order shall take effect immediately and remain in effect for the duration of the public health and civil preparedness emergency, unless earlier modified, extended or terminated.

Dated at Hartford, Connecticut, this 20th day of May, 2020.

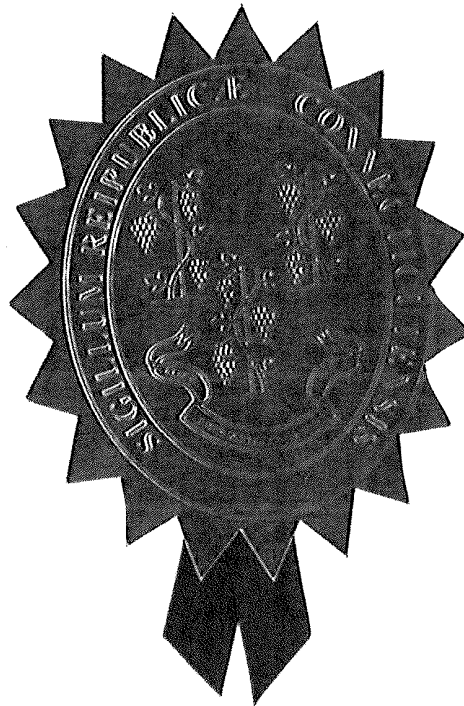


Ned Lamont
Governor

By His Excellency's Command



Denise W. Merrill
Secretary of the State



DOCKET NO.: HHD CV 20-6130532 S	:	SUPERIOR COURT
	:	
MARY FAY	:	
	:	JUDICIAL DISTRICT OF
v.	:	HARTFORD
	:	
DENISE MERILL	:	JULY 22, 2020

Memorandum of Decision

May the executive branch of government allow absentee ballots permitted under our state constitution “because of sickness” to be used “because of COVID-19 sickness”? Must the sickness referred to in Article Sixth, Section 7 of the Connecticut Constitution be the sickness of the individual seeking to vote by absentee ballot or is the existence of a raging global pandemic enough?

The words matter first. Neither this court nor the Executive Branch may change the text of the Connecticut Constitution nor may they ignore it. Focusing on the text means looking at the words—without evidence of how they have been applied –and giving them their ordinary meaning whenever that meaning is clear.

When we do this the court can’t avoid that the words say nothing more than “because of sickness” in the relevant part. Significantly, where the absentee ballots are allowed by the same article and section for “absence” or “religion” the language is more specific to the applicant. Absence must be—with emphasis added— from “the town of which *they* are inhabitants”. The religious tenets must be the tenets of “*their*” religion. It wouldn’t have been hard for this section to say “their sickness”. That would have

settled the matter. Indeed, the plaintiffs say similar language did so in a Texas case. But that's not what it says here. So while the other grounds for absentee ballots all tie the right to the person, the sickness ground does not explicitly do so.

Was it an oversight? Was it loose drafting? Did the author assume we would think it meant "their sickness"? We don't know. And we shouldn't care. Unless the words can't be made sense of, all that matters is what the words say, not what anyone would have us believe they say.

Given that the constitution says "because of sickness" not "because of their sickness" this case isn't really about vindicating the words of the constitution. Instead, this case is about is vindicating what many people have long thought those words meant and about vindicating how the words have been applied over time by the General Assembly. Everybody knows—the plaintiffs say—that historically you can't get an absentee ballot just because *other* people are sick. You have to be sick yourself.

But that's not enough. Courts should not interpret the boundaries of a constitutional provision based on the extent of its use. They must interpret those boundaries based on the words that authorize the action. A party granted authority by a law may use the power granted fully or partly. The use doesn't demark the limit. What matters is that they may not exceed the power granted. Here that power has not been exceeded merely because it is not the applicant's sickness that is specifically referred to.

But does this mean the absentee ballot rules are pointless because there is always "sickness" out there? Is saying "sickness" is enough tantamount to saying that anyone can have an absentee ballot anytime?

It isn't. The established tools for reading laws—the canons of construction—make that clear. Under them, interpretations leading to absurd results are impermissible. An interpretation that makes a law pointless to pass is absurd.

So while adding the word “their” to “sickness” isn't permissible, interpreting the word “sickness” to mean any sickness anywhere any time is equally impermissible because it would have made this law pointless to pass.

Has the executive branch crossed the line into absurdity by allowing absentee ballots “because of sickness” to include “because of the sickness, COVID-19”? It hardly seems so. What has been done is far from saying the law means any sickness, anywhere, anytime. After all, COVID-19 is today in a class by itself.

The court can take judicial notice about that. COVID-19 is the scourge of the earth. It is a sickness of a lethality and ubiquity unknown for a hundred years. According to the state's official website it has killed to date over 4,406 Connecticut residents.¹ The National Archives show that this number is almost exactly the same number of Connecticut residents— 4,496— killed in World War I, World War II, Korea, and Vietnam combined.² It took collectively around 15 years of war to kill those residents. It has taken COVID-19 around six months to kill almost the same number of us.

¹ <https://portal.ct.gov/Coronavirus>.

² World War II: (3,558), <https://www.archives.gov/research/military/ww2/navy-casualties/connecticut>; <https://www.archives.gov/research/military/ww2/army-casualties/connecticut>. Korea (326), <https://www.archives.gov/files/research/military/korean-war/casualty-lists/ct-alpha.pdf>. Vietnam (612), <https://www.archives.gov/files/research/military/vietnam-war/casualty-lists/ct-alpha.pdf>.

So it can be said with some confidence that the executive branch has not so broadly interpreted the constitutional language as to make it meaningless. Instead, the governor and the secretary of state have confined the interpretation to include a sickness of a nearly unique character. One so rare. One so grievous as to mean—we can hope—that we will not see its like again for another hundred years.

It matters that this is what the executive branch has done. We are not dealing with an absurd exercise of power, and we do not have to contemplate every potential interpretation that might offend the constitution. Suffice it to say that cold and flu season wouldn't be enough. Those circumstances would leave the exception of absentee balloting swallowing the rule of in-person voting. This is a far case from that.

It matters also that this action was taken during a state of emergency. That emergency gave Governor Lamont extraordinary power by virtue of General Statutes §28-9(b)(1), which authorized him to “modify...any statute...in conflict with...the public health.” He has modified the statute that would otherwise apply here —General Statutes §9-135— to include, “because of the sickness of COVID-19”.

The plaintiffs say Governor Lamont had no authority to modify this statute because the constitution gives the authority to legislate about absentee ballots to the General Assembly. This is not, say the plaintiffs, a general assault on the emergency power statute, but a special case because of the specific reference here to the General Assembly.

But there are specific references to the General Assembly's power to legislate throughout the Connecticut Constitution, including with regard to the authority over

local governments, education, elections in general, corporations and a host of other things. This claim therefore can only be something that the plaintiffs have neither pleaded nor argued: a claim that the governor has not the power to modify the statute under his emergency powers. With the plaintiffs eschewing making this claim and no reason for the court to independently hold the General Assembly powerless to delegate power in an emergency, the court need not consider this claim further—especially since the General Assembly also retained in the emergency law the power to block the governor’s acts under it whenever it chooses.

Secretary of State Merrill has used this modification to govern her actions. Since the constitution permits that modification, it and the modified statute permit Secretary of State Merrill’s action.

The relief sought is denied because the secretary of state acted within her authority. Yet Merrill cites other grounds too.

Merrill says the court has no subject matter jurisdiction under the election contest statutes. But, at a minimum, the court has jurisdiction under General Statutes §52-29, the declaratory judgment statute. Therefore, even if the state is right about those statutes, the court can hear it under this statute.

Merrill also said the congressional candidates who brought this suit have no standing because they aren’t aggrieved by the actions they challenge. But Merrill tries to treat them as only making a claim indistinguishable from that of an ordinary voter when these are not ordinary voters. They are candidates for office with direct interests at stake and with immediate conduct—encouraging or discouraging absentee ballots—hanging in

the balance. They are aggrieved enough to have standing to sue. They are rightly trying to sort this out now to remove a cloud over what happens next.

For these reasons, the court rejected a challenge to its subject matter jurisdiction at the outset of the hearing.

Merrill says the plaintiffs waited too long and that this long wait would prejudice her if the court ordered her to stand down. Given the result on the merits, this claim being dependent on prejudice is moot because the plaintiff will get no relief.

Finally, Merrill argues this action is barred because of the prior pending action doctrine. There was an action almost identical to this one brought directly in the Connecticut Supreme Court. It has been dismissed, and, while there is a reconsideration motion pending, no binding authority or persuasive rationale calls for its application here. This action is not barred by the prior pending action doctrine.

This action fails on its merits as a matter of law because Merrill's challenged action was constitutional. Both parties agreed the case would live or die by this ruling. Consequently, the court and the parties deemed it was hearing the parties on the merits.

Judgment will enter for the defendant.

BY THE COURT

434447

Moukawsher, J.



STATE OF CONNECTICUT

SUPREME COURT
APPELLATE COURT

CAROLYN C. ZIOGAS
CHIEF CLERK

231 CAPITOL AVENUE
HARTFORD, CT 06106

SUSAN C. REEVE
DEPUTY CHIEF CLERK

TEL. (860) 757-2200

July 23, 2020

Re: HHD CV20-6130532-S, *Mary Fay et al. v. Denise Merrill*

Dear Counsel of Record:

Today, Chief Justice Richard A. Robinson granted your Application for Certification of Immediate Expedited Appeal by the Chief Justice pursuant to Connecticut General Statute § 52-265a, which was filed on July 22, 2020, in the above captioned matter. This expedited appeal shall be filed on or before July 27, 2020. The following briefing schedule has been established:

- The brief of the plaintiffs' is due electronically at 5:00 p.m. on Tuesday, July 28, 2020;
- The brief of the state-appellee is due electronically at 5:00 p.m. on Friday, July 31, 2020, and
- A reply brief, if any, is due electronically at 12:00 p.m. on Tuesday, August 4, 2020.
- No motions for extension of time will be granted.

The parties are directed to address the following issues in their briefs: (1) the extent to which the plaintiffs are aggrieved by Executive Order No. 7QQ and the defendant's issuance of the applications for absentee ballots; and (2) the appropriate remedy, including whether the issue of aggravement may limit the scope of relief that can be granted to the primary election in which the plaintiffs are candidates.

Oral argument will be held via Microsoft Teams on Thursday, August 6, 2020, at 9:30 a.m.

Very truly yours,

/S/
René L. Robertson
Assistant Clerk-Appellate

Notice sent: July 23, 2020
Hon. Thomas G. Moukawsher
Clerk, Superior Court, HHD-CV20-6130532-S
Counsel of Record
Governor Ned Lamont
State Elections Enforcement Commission

200027

APPEAL **JOINT APPEAL** **CROSS APPEAL** **AMENDED APPEAL** **CORRECTED FORM**

JD-SC-33 Rev. 7-16

P.B. Sections 3-8, 60-7, 60-8, 62-7, 62-8, 63-3, 63-4, 63-10

C.G.S. Sections 31-301b, 51-197f, 52-470

All appeals must be filed electronically unless an exemption from the requirements of electronic filing has been granted or you are an incarcerated self-represented party. For further information about e-filing or this form, see the Appeal Instructions, form JD-SC-34.

To Supreme Court To Appellate Court

Name of case (State full name of case)

FAY, MARY Et Al v. MERILL, DENISE

Type of appellate matter

Appeal

Trial Court History	Tried to Court	Trial court location 95 WASHINGTON STREET Hartford CT 06106		
	Trial court judges being appealed HON. THOMAS G. MOUKAWSHER	List all trial court docket numbers, including location prefixes HHD-CV-20-6130532-S		
	All other trial court judges who were involved with the case	Judgment for (Where there are multiple parties, specify those for whom judgment was rendered) DENISE MERILL		
	Date of judgment(s) or decision(s) being appealed 07/22/2020	Date of issuance of notice on any order on any motion that would render judgment ineffective	Date for filing appeal extended to	
	Case type Civil	For Juvenile Cases <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Order of Temporary Custody		
	For Civil/Family Case Types, Major/Minor code: M90	<input type="checkbox"/> Other _____		

Appeal	Appeal filed by (Party name(s)) MARY FAY Continued			
	From (the action that constitutes the appealable judgment or decision) Judgment in favor of the Defendant			
	If this appeal is taken by the State of Connecticut, provide the name of the judge who granted permission to appeal and the date of the order			
	Statutory Basis for Appeal to Supreme Court C.G.S. 52-265a			
	By (Signature of counsel of record) ▶ 418609	Telephone number 860-240-6000	Fax number 860-240-6150	Juris number (If applicable) 418609

Appearance	Type name and address of counsel of record filing this appellate matter (This is your appearance; see Practice Book Section 62-8) MURTHA CULLINA LLP 280 TRUMBULL STREET HARTFORD CT 06103	E-mail address cmoody@murthalaw.com
	"X" one if applicable <input type="checkbox"/> Counsel or self-represented party who files this appeal will be deemed in addition to counsel of record who appeared in the trial court. <input type="checkbox"/> Counsel or self-represented party who files this appeal is appearing in place of:	
	Name of counsel of record	Juris number (If applicable)

Certification	I certify that a copy of the appeal form I am filing will immediately be delivered to each other counsel of record and I have included their names, addresses, e-mail addresses and telephone and facsimile numbers; the appeal form has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and the appeal form complies with all applicable rules of appellate procedure in accordance with Practice Book Sections 62-7 and 63-3.	
	Date to be delivered 07/27/2020	If this appeal is a criminal or habeas corpus matter, I certify that a copy of this appeal form will immediately be delivered to the Office of the Chief State's Attorney Appellate Bureau. Date to be delivered _____
	If you have an exemption from e-filing under Practice Book Section 60-8, attach a list with the name, address, e-mail address, telephone number, and facsimile number of each counsel of record and the address where the copy was delivered.	Signed (Counsel of record) ▶ 418609

Required Documents	To be filed with the Appellate Clerk within ten days of the filing of the appeal, if applicable. See Practice Book Section 63-4.	
	1. Preliminary Statement of the Issues 2. Court Reporter's Acknowledgment or Certificate that no transcript is necessary 3. Docketing Statement	4. Statement for Preargument Conference (form JD-SC-28A) 5. Constitutionality Notice 6. Sealing Order form, if any

Entry Fee Paid No Fees Required Fees, Costs, and Security waived by Judge (enter Judge's name below)

Court Use Only
Date and time filed

Judge

Date waived

Print Form**Reset Form**

Appeal Form (continued)

CASE NAME:

FAY, MARY Et Al v. MERILL, DENISE

Parties & Appearances

PARTY/PARTIES INITIATING THE APPEAL

MARY FAY

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Email: cmoody@murthalaw.com

THOMAS GILMER

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JUSTIN ANDERSON

Juris: 040248 MURTHA CULLINA LLP
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Phone: (860) 240-6000 Fax: (860) 240-6150
Email: cmoody@murthalaw.com

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HARTFORD, CT 06103
Phone: (860) 240-6000 Fax: (860) 240-6150
Email: cmoody@murthalaw.com

ALL OTHER PARTIES AND APPEARANCES

DENISE MERILL - Judgment For

Juris: 423915 MAURA BRIDGET MURPHY-OSBORNE
AG-SPECIAL LITIGATION
165 CAPITOL AVE 5TH FLR
HARTFORD, CT 06106
Phone: (860) 808-5020 Fax: (860) 808-5347
Email: maura.murphyosborne@ct.gov

Juris: 431228 MICHAEL KENNETH SKOLD
AG-SPECIAL LITIGATION
165 CAPITOL AVE 5TH FLR
HARTFORD, CT 06106
Phone: (860) 808-5020 Fax: (860) 808-5347
Email: michael.skold@ct.gov

Juris: 436022 ALAYNA MICHELLE STONE
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165 CAPITOL AVE 5TH FLR
HARTFORD, CT 06106
Phone: (860) 808-5020 Fax: (860) 808-5347
Email: alayna.stone@ct.gov

ADDITIONAL SERVICE INFORMATION

Clerk of the Superior Court, 95 Washington Street, Hartford, CT 06106

STATE OF CONNECTICUT

S.C. 20486

MARY FAY, THOMAS GILMER,
JUSTIN ANDERSON, AND JAMES
GRIFFIN

v.

DENISE MERRILL, SECRETARY OF
THE STATE

SUPREME COURT

STATE OF CONNECTICUT

JULY 28, 2020

DOCKETING STATEMENT

Pursuant to Practice Book § 63-4(a)(3), the Plaintiffs-Appellants hereby submit this docketing statement:

A. Parties, Counsel of Record, and Persons with Interest in the Appeal:

1. Plaintiffs/Appellants:

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2. Plaintiffs/Appellants Trial and Appellate Counsel:

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3. Defendant/Appellees:

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4. Defendant/Appellees Trial and Appellate Counsel:

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5. Notice Parties

a. State Elections Enforcement Commission
20 Trinity Street
Suite 101, Suite 301
Hartford, CT 06106

b. Governor Ned Lamont
210 Capitol Avenue
Hartford, CT 06106
c/o Office of the Attorney General
165 Capitol Avenue
Hartford, CT 06106

- B. There are no pending appeals to the Supreme Court or Appellate Court that arise from substantially the same controversy as this case or that involve issues closely related to those presented by this appeal.

- C. There were no exhibits filed with the trial court.
- D. This is not a criminal case.

PLAINTIFFS-APPELLANTS,
MARY FAY, THOMAS GILMER,
JUSTIN ANDERSON AND JAMES GRIFFIN

By /s/ Proloy K. Das
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CERTIFICATE OF SERVICE

Pursuant to Practice Book § 62-7(b), the undersigned certifies that: (1) on July 28, 2020, a copy of the foregoing document was delivered by electronic mail to the counsel of record and self-represented parties listed below; (2) the foregoing document does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law; and (3) the foregoing document complies with all applicable rules of appellate procedure.

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