

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

In Re:

COURT PROCEDURES FOR :
ELECTION-RELATED MATTERS :
_____ :

GENERAL ORDER 20-28

FILED
RICHARD W. NACEL
CLERK OF COURT
2020 OCT -9 AM 9:10
U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

The Court is adopting and promulgating this General Order 20-28 to codify existing practices regarding the handling of election-related matters. Since at least 2006, the Court has had in place a standing protocol regarding such matters. The protocol is designed: (1) to avoid, to the extent practicable, the possibility that a given election official will be subject to two or more potentially conflicting judicial directives with regard to election-related matters; (2) to minimize the possibility that parties may seek to use the CM/ECF case-assignment system in an effort to direct a particular matter to, or away from, a specific Judicial Officer; and (3) to enhance transparency with regard to case assignments. With a new general election occurring soon, the Court believes it prudent formally to adopt, through this General Order, that already-existing protocol, as well as address certain related issues.

Scope of Application: The protocol set forth in this General Order applies to all matters directed at, or relating to, the 2020 general election, in which both: (1) preliminary injunctive relief, including but not limited to temporary restraining orders, is sought; and (2) the matter is filed between the effective date of this Order and the date of the Presidential Inauguration (the “Relevant Time Period”). This Order refers to such matters as “Election-Related Matters.” Election-Related Matters include, without limitation, matters directed at polling place procedures, ballot tabulation procedures or methodologies, or voter registration or ballot access issues.

The Court will treat as an Election-Related Matter any matter filed during the Relevant Time Period in which the filing party has marked the filing in CM/ECF as having election-related issues. Moreover, as to any matter filed during the Relevant Time Period, and in which any form of preliminary injunctive relief is sought, the Clerk's Office will review the matter to determine whether it involves election-related issues, even if the filing is not marked as election-related on CM/ECF. If the Clerk's Office determines that a given matter raises election-related issues, the matter will be designated as an Election-Related Matter for purposes of this General Order. Finally, as to any matter filed during the Relevant Time Period, and in which any form of preliminary injunctive relief is sought, if the District Judge to whom the matter is assigned determines that it involves election-related issues, the District Judge shall inform the Clerk's Office of that fact, and the Clerk's Office will then treat the matter as an Election-Related Matter for purposes of this General Order.

Protocols for Election-Related Matters: As to any Election-Related Matter, normal CM/ECF and case management policies and procedures will be modified as follows:

1. Each Election-Related Matter will be originally assigned to a District Judge per the standard CM/ECF random-assignment process.
2. Upon assignment of an Election-Related Matter, the Clerk's Office will send an email to all Judicial Officers advising that an Election-Related Matter has been filed, and informing the Judicial Officers of: (a) the District Judge to whom the matter was assigned (the "Assigned Judge"); (b) the parties named in the suit; and (c) a brief description of the nature of the claim.
3. A deputy clerk will hand deliver the case-opening documents (e.g., a complaint or writ), and any associated filings (e.g., a motion for a temporary restraining order), to the Assigned Judge's Chambers. If chambers personnel are not available to receive the materials, the Clerk's

Office will immediately contact the Assigned Judge by telephone and email to ascertain the best mechanism for promptly delivering these filings to the Assigned Judge or the Assigned Judge's staff.

4. Any Judicial Officer who, based upon the information in the email describing the Election-Related Matter, believes that a given Election-Related Matter may relate to an earlier-filed case pending before that Judicial Officer shall contact the Assigned Judge to discuss whether the later-filed Election-Related Matter is in fact related to the earlier-filed case. For purposes of this General Order, an earlier-filed case will be deemed "pending" before a Judicial Officer even if the earlier-filed matter is currently on appeal to the Sixth Circuit Court of Appeals.

5. If the two District Judges concur that the two Election-Related Matters are related cases, the later-filed matter shall be reassigned from the Assigned Judge to the District Judge before whom the earlier-filed matter is pending.

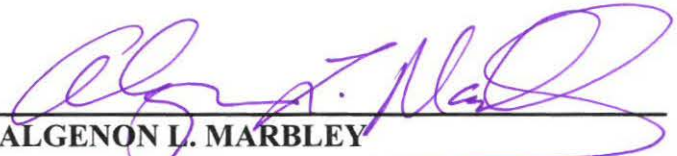
6. If the two District Judges concur that the two Election-Related Matters are *not* related cases, each matter shall remain pending before the respective District Judge to whom it is assigned.

7. If the two District Judges disagree regarding whether the two Election-Related Matters are related, the District Judges shall report the situation to the Chief Judge, who shall promptly determine whether the two Election-Related Matters are related. The Chief Judge's determination on that issue shall be final. If the Chief Judge determines that the matters are related, the matters shall be assigned to the District Judge before whom the earlier-filed matter is pending. If the Chief Judge determines that the matters are not related, each matter shall remain pending before the District Judge to whom it was assigned.

Expiration of this General Order: This General Order shall expire by its own terms at the end of the Relevant Time Period unless further extended by additional Order of this Court. Upon expiration of this General Order, the Court shall consider whether to adopt a set of protocols for future election-related matters by Local Rule.

IT IS SO ORDERED.

DATED: October 9, 2020


ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE