

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

AMERICA FIRST POLICY INSTITUTE, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official
capacity as President of the United States *et al.*,

Defendants.

Case No. 2:24-cv-00152-Z

DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully submit this notice of supplemental authority to inform the Court of a decision issued yesterday by the United States District Court for the Eastern District of Missouri that denied a motion for a preliminary injunction in a matter closely analogous to this one. *See Ashcroft, et al. v. Biden*, No. 4:24-cv-1062, ECF No. 68 (E.D. Mo., Oct. 30, 2024). A copy of the decision is attached to this Notice. *See Attach. A.*

Like Plaintiffs here, the plaintiffs in *Ashcroft* sought a preliminary injunction to stop the implementation of Executive Order 14019 across the federal government. *Id.* at 2. Like a number of the Plaintiffs here, the plaintiffs in *Ashcroft* included local and State election officials. *Id.* And the harm those plaintiffs alleged was analogous to the harm Plaintiffs claim here: namely, that implementation of the Executive Order would impose “costs and expenses upon States and local election officials” and undermine “public confidence” in the election. *Id.* at 4. The district court concluded that these allegations were insufficient to establish that plaintiffs had “standing to seek a preliminary injunction.” *Id.* at 4-7.

As the court detailed, “[a]lthough President Biden signed the [Executive Order] in March 2021 . . . [p]laintiffs ha[d] produced only nonspecific and speculative allegations of increased compliance costs,” but they did not clearly show any such burdens because, among other reasons, they did not

identify any “measurable increase in voter registrations” in their respective areas. *Id.* at 5-6. Rather, the Court observed, plaintiffs only “predict[ed] . . . increased costs, and [] provide[d] nothing specific or concrete to support those predictions.” *Id.* Further, the court explained that plaintiffs “also [did] not clearly show . . . a causal connection between any action taken pursuant to the [Executive Order] and an increase in costs.” *Id.* at 6.

These conclusions are informative because, as Defendants explained previously, Plaintiffs’ submissions here likewise fail to “trace some specific agency activities implementing the Executive Order to a materially burdensome increase in registrations.” Defs’ MTD Reply, ECF No. 69 at 4. Their submissions—like the *Ashcroft* plaintiffs’ submissions—offer only generalized speculation of potential harms rather than a concrete showing of burden. *Id.* at 4-5. Those types of allegations were insufficient for a preliminary injunction in *Ashcroft*, and they are likewise insufficient here.

Dated: October 31, 2024

Respectfully submitted,

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