

2020 WL 6605985

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United States District Court, W.D.  
Michigan, Southern Division.

ELECTION INTEGRITY  
FUND, et al., Plaintiffs,  
v.  
CITY OF LANSING and  
City of Flint, Defendants.

No. 1:20-cv-950

|  
Signed 10/02/2020

#### Attorneys and Law Firms

[Erick G. Kaardal](#), Mohrman Kaardal & Erickson PA, Minneapolis, MN, [Ian Alexander Northon](#), Rhoades McKee P.C., Grand Rapids, MI, for Plaintiffs.

[Christopher M. Trebilcock](#), [Vincent Christopher Sallan](#), Clark Hill PLC, Detroit, MI, [F. Joseph Abood](#), Heather Elizabeth Sumner, Gregory Stephen Venker, Office of the City Attorney, Lansing, MI, for Defendant City of Lansing.

[Christopher M. Trebilcock](#), [Vincent Christopher Sallan](#), Clark Hill PLC, Detroit, MI, for Defendant City of Flint.

#### **ORDER DENYING MOTION FOR TEMPORARY RESTRAINING ORDER AND ESTABLISHING BRIEFING SCHEDULE**

[Paul L. Maloney](#), United States District Judge

\*1 This matter is before the Court on Plaintiffs' motion for a temporary restraining order (ECF No. 5). Plaintiffs' lawsuit alleges that Defendants City of Lansing and City of Flint have received election grants from the Center for Tech and Civil Life ("CTCL") in violation of federal law.

The decision to grant or deny a temporary restraining order falls within the discretion of a district court. *See Ohio Republican Party v. Brunner*, 543 F.3d 357, 361 (6th Cir. 2008) ("The district court's decision to grant a temporary restraining order, when appealable, is reviewed by this court for abuse of discretion."). The court must consider each

of four factors: (1) whether the moving party demonstrates a strong likelihood of success on the merits; (2) whether the moving party would suffer irreparable injury without the order; (3) whether the order would cause substantial harm to others; and (4) whether the public interest would be served by the order. *Ohio Republican Party*, 543 F.3d at 361 (quoting *Northeast Ohio Coalition for Homeless and Service Employees Int'l Union v. Blackwell*, 467 F.3d 999, 1009 (6th Cir. 2006)). The four factors are not prerequisites that must be met, but are interrelated concerns that must be balanced together. *See Northeast Ohio Coalition*, 467 F.3d at 1009. For the first two factors, the probability of success on the merits that a plaintiff must show is inversely proportional to the degree of irreparable harm that the plaintiff would suffer if a temporary restraining order is not issued. *Id.*

The Court finds that Plaintiffs have not met their burden.

First, Plaintiffs have not demonstrated a strong likelihood of success on the merits of their claim. Plaintiffs' complaint and motion allege that the Cities' receipt of grants from CTCL violates the Constitution, the Help America Vote Act, 52 U.S.C. § 20901, *et seq.*, and the National Voters Registration Act, 52 U.S.C. § 20501, *et seq.* But Plaintiffs never identify language in any of those laws that explicitly prohibits cities from accepting private grants to administer elections. On the Court's review, no such explicit prohibition exists. Therefore, at this stage, Plaintiffs have not shown a substantial likelihood of success on the merits.

Moreover, Plaintiffs have failed to show irreparable harm that will befall them before Defendants have an opportunity to respond. *See Fed. R. Civ. P. 65(b)(1)(A)*. In their motion, Plaintiffs allege that they will be harmed on November 3, 2020 if their chosen candidates do not prevail, but they do not allege that there is any ongoing use of the grants that causes them immediate, irreparable harm.

Accordingly, Plaintiffs' motion for a temporary restraining order must be denied. While Plaintiffs requested only a temporary restraining order and not a preliminary injunction, the Court recognizes the denial of a preliminary injunction on this technical ground would likely result in Plaintiffs simply recaptioning and refiling their motion. Therefore, the Court will construe Plaintiffs' motion as one for a preliminary injunction. Because the normal briefing schedule would not permit the Court to resolve the matter before the relief requested becomes moot, the Court will expedite the motion

for injunctive relief. *See* W.D. Mich. LCivR 7.1(e) and 7.2(c).  
Therefore,

**\*2 IT IS HEREBY ORDERED** that Plaintiffs must serve a copy of their complaint (ECF No. 1), a copy of their motion for a temporary restraining order (ECF No. 5), and a copy of this Order on Defendants. A proof of service must be filed with this Court no later than Monday, October 5, 2020 at 5:00 p.m.

**IT IS FURTHER ORDERED** that Defendants must file a response to the motion for a preliminary injunction no later than Tuesday, October 13, 2020, by 5:00 p.m.

**IT IS SO ORDERED.**

**All Citations**

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