

NO. 14-3877

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

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**Ohio State Conference of the National Association for the  
Advancement of Colored People, *et al.*,**

Plaintiffs-Appellees,

v.

**Jon Husted, *et al.*,**

Defendants-Appellants.

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Appeal from the United States District Court  
for the Southern District of Ohio, Case No. 2:14-cv-00404

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**Motion of Intervenor-Appellant, The Ohio General Assembly,  
for Leave to File Brief, *Instante***

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The Ohio General Assembly (the “**General Assembly**”) respectfully moves this Court for leave to file, *instanter*, its merit brief in this appeal from the district court’s September 4, 2014 preliminary injunction order (the “**PI Order**”). (Mem. Op. and Order at 70-71, RE 72). In further support of this motion, the General Assembly states as follows:

### **ARGUMENT**

The Ohio Secretary of State and Ohio Attorney General filed a joint notice of appeal of the district court’s PI Order on September 5, 2014 (“3877 Appeal”). (RE 73). That same day, the General Assembly filed its second motion to intervene<sup>1</sup> in the district court for purposes of appealing the PI Order. (RE 74). The district court granted the General Assembly’s intervention for purposes of appeal on September 8, 2014. (RE 75). The General Assembly filed its separate appeal of the PI Order just over an hour later on September 8, 2014 (“3881 Appeal”). (RE 76). At the same time, the Secretary of State and the Attorney General filed a motion to expedite the 3877 Appeal.

Since the General Assembly appealed from the same PI Order, the next day, on September 9, 2014, the General Assembly filed a motion to consolidate the 3881 Appeal with the 3877 Appeal and to have the same expedited

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<sup>1</sup> The General Assembly previously moved to intervene in the district court for purposes of participating in the merits of Plaintiffs’ motion for a preliminary injunction, which the district court denied on July 30, 2014. (RE 48).

briefing schedule set as in the 3877 Appeal. As that motion indicated, consolidation would avoid unnecessarily creating multiple appellate records, duplication of effort, and most importantly, the possibility of inconsistent rulings should the two appeals be assigned to different Panels of this Court.

On September 11, 2014, this Court granted a request for expedited briefing in the 3877 Appeal. The briefing schedule requires Appellants to submit merits briefs by September 15, 2014. As of the filing of this motion, however, the General Assembly's motion to consolidate remains pending.

Out of respect for the Court's accelerated briefing schedule in the 3877 Appeal, the General Assembly respectfully requests leave of Court to file its merit brief in the 3877 Appeal *instanter* while its motion to consolidate remains pending. This way, the General Assembly will not disrupt the briefing schedule while the Court continues to consider its motion to consolidate.

This relief is necessary to ensure that the General Assembly is able to fully participate in this expedited appeal, since a decision in the 3877 Appeal will impact the General Assembly's 3881 Appeal from the same PI Order.

For these reasons, the General Assembly respectfully requests leave to file its merits brief in the 3877 Appeal, and that its merits brief be deemed timely filed as of the date of this motion.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that the foregoing was filed electronically on the Court's electronic case filing system on September 15, 2014. Notice will be served by operation of the Court's filing system. Copies of the filing are available on the Court's system.

/s/ Patrick T. Lewis  
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