

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ROBERT DASCOLA,

Plaintiff,

vs.

Case No. 2:14-cv-11296-LPZ-RSW
Hon. Lawrence P. Zatkoff
Magistrate Judge R. Steven Whalen

CITY OF ANN ARBOR and JACQUELINE
BEAUDRY, ANN ARBOR CITY CLERK,

Defendants.

Thomas Wieder (P33228)
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Office of the City Attorney
Stephen K. Postema (P38871)
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**PLAINTIFF'S MOTION FOR EXPEDITED CONSIDERATION OF
PLAINTIFF'S POST-JUDGMENT MOTION
FOR ADDITIONAL INJUNCTIVE RELIEF**

For his Motion, Plaintiff states:

1. This matter concerns Defendants' mailing of approximately 400 defective ballots to absentee voters in Ann Arbor's Third Ward for the August 5, 2014 primary election.
2. The ballots were defective, because they failed to list Plaintiff as a candidate for the office of Third Ward Council Member.

3. Defendant City Clerk has mailed to these voters new ballots which correct the defect in the original one and has urged voters to use those ballots instead of the defective ones.

4. A number of the defective ballots have been returned to the Clerk.

5. Plaintiff's Post-Judgment Motion asks this Court to permanently enjoin Defendants from counting any votes cast for Third Ward Council Member on those defective ballots, while allowing votes for other offices to be counted.

6. Defendants have not stated if they will count such votes cast on defective ballots in cases where the voter does not return a correct replacement ballot.

7. It is important that this matter be decided promptly, so that voters who sent in defective ballots know if their Third Ward votes will be counted, or if they will have to complete and send in a new, correct ballot to attain that result.

8. Unless this matter is decided promptly, Plaintiff may be irreparably harmed by the counting of votes on defective ballots which did not contain his name.

9. Should this matter remain undecided until Election Day, just four weeks away, it could cause considerable confusion in counting the votes and may prompt additional litigation that would delay the seating of the newly-elected Council Member.

10. Plaintiff's counsel has spoken with Defendants' counsel, and Defendants' counsel concurs in the granting of this Motion.

WHEREFORE, Plaintiff respectfully asks the Court to grant his Motion for Expedited Consideration, issue a compact briefing schedule, and render a decision in this matter as soon as possible.

/s/ Thomas F. Wieder
Thomas F. Wieder (P33228)
Attorney for Plaintiff

Dated: July 8, 2014

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**BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR EXPEDITED
CONSIDERATION OF PLAINTIFF'S POST-JUDGMENT MOTION
FOR ADDITIONAL INJUNCTIVE RELIEF**

Plaintiff's Motion for Post-Judgment Relief addresses the question of which absentee ballots sent out by Defendant City Clerk will be counted for the race for Third Ward Council Member which will be decided on August 5, 2014.

It is important for absentee voters to know as soon as possible whether the original, defective ballots which some of them have returned will be counted, or if they will need to send in a second, correct ballot.

Deciding this matter as soon as possible will avoid uncertainty for elections officials, candidates and voters, and prevent unnecessary confusion on Election Day.

Courts have not hesitated to expedite consideration of election cases, as in U.S. Student Ass'n v. Land, 585 F.Supp.2d 925 (E.D. Mich 2008). This Court should do the same.

/s/ Thomas F. Wieder
Thomas F. Wieder (P33228)
Attorney for Plaintiff

Dated: July 8, 2014

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2014, I electronically filed the foregoing document with the Clerk of the Court using the ECF System which will send notice of such filing to the following: Stephen K. Postema and Abigail Elias.

/s/ Thomas F. Wieder
Attorney for Plaintiff