

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

ANGELA CRAIG and JENNY  
WINSLOW DAVIES,

Plaintiffs-Appellees,

v.

STEVE SIMON, in his official capacity as  
Minnesota Secretary of State,

Case No. 20-3126

Defendant

and

TYLER KISTNER,

Intervenor-  
Defendant-Appellant

**UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF U.S. HOUSE  
OF REPRESENTATIVES AS *AMICUS CURIAE* IN OPPOSITION TO  
APPELLANT’S EMERGENCY MOTION FOR ADMINISTRATIVE STAY  
AND STAY PENDING APPEAL**

The United States House of Representatives (“House”) respectfully seeks leave to file the accompanying *amicus curiae* brief in support of Appellees’ opposition to the Appellant’s motion for administrative stay and stay pending appeal. All of the parties to this case have authorized us to state that they do not oppose this filing.

The House has a compelling interest in this case, which implicates the House’s institutional interest in preserving the uniformity and integrity of the elections of its Members. The Constitution vests Congress with expansive authority over Congressional elections. The Elections Clause provides that “[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; *but the Congress may at any time by Law make or alter such Regulations[.]*” Art. I, § 4, cl. 1 (emphasis added). Article I, section 5 further directs that “the House shall be the Judge of the Elections, Returns and Qualifications of its own Members.” Art. I, § 5, cl. 1.

In an exercise of this authority, Congress established a uniform election day (“Election Day”) for House elections to fall on “the Tuesday next after the 1st Monday in November, in every even numbered year.” 2 U.S.C. § 7. The principle of uniformity in Section 7 reflects the House’s interest in having a full slate of Members ready to undertake their work—and represent the views of their constituents—at the commencement of each new Congress. By its plain terms, Section 7 preempts Minnesota Statute § 204B.13, which would require an election to occur in February—three months after the uniform Election Day and more than a month after the beginning of the new Congress—because of the death of a major party candidate. The district court’s order enjoining Minnesota from applying Section 204B.13 was correct, and the House has a strong interest in supporting the relief ordered by the district court. The House believes its brief will be of considerable assistance to this Court.

For the foregoing reasons, this motion should be granted.

Dated: October 16, 2020

Respectfully submitted,

*/s/ Douglas N. Letter*

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\* Attorneys for the Office of General Counsel for the U.S. House of Representatives, including any counsel specially retained by the Office of General Counsel, are “entitled, for the purpose of performing the counsel’s functions, to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof without compliance with any requirements for admission to practice before such court.” 2 U.S.C. § 5571(a).