

**U.S. District Court Northern District of Indiana [LIVE]
USDC Northern Indiana (Hammond)
CIVIL DOCKET FOR CASE #: 2:08-cv-00287-JVB**

Curley et al v. Lake County Board of Elections and Registration
et al

Assigned to: Judge Joseph S Van Bokkelen

Case in other court: Lake County Superior Court,
45D02-0810-PL-190

Cause: 28:1441 Petition for Removal- Civil Rights Act

Date Filed: 10/03/2008

Jury Demand: None

Nature of Suit: 441 Civil Rights: Voting

Jurisdiction: Federal Question

Plaintiff

John B Curley

*as Chairman of the Lake County Indiana
Republican Central Comitee and as a
registered voter*

represented by

David M Brooks

Bruner Brooks Koch Sorg & Gerkin
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*LEAD ATTORNEY
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Plaintiff

Jim B Brown
*as member of the Lake County Board of
Elections and Registration and as a
registered voter*

represented by **David M Brooks**
(See above for address)
LEAD ATTORNEY
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Peggy Jo Stamper
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R Lawrence Steele
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Shannon D Landreth
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Timothy R Sendak
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V.

Defendant

**Lake County Board of Elections and
Registration**

represented by **Frederick T Work**
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Defendant

Honorable Thomas Philpot
not individually but as Lake County Clerk

represented by **Gabriel A Fuentes PHV**
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V.

Movant

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Movant

Roosevelt Phillips

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Jonathan Weisglass PHV
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Movant

Mary Aaron

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Movant

Service Employees International Union

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Movant

**Indiana State Conference of National
 Association for the Advancement of
 Colored People Branches**

represented by **Barry A Macey**
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 LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

Jonathan Weisglass PHV
 (See above for address)
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 PRO HAC VICE
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Date Filed	#	Docket Text
10/02/2008	<u>1</u>	COMPLAINT filed in Lake Superior court, their case number 45D02-0810-PL-190, against Lake County Board of Elections and Registration, Honorable Thomas Philpot, filed by John B Curley, Jim B Brown.(mc) (Entered: 10/03/2008)
10/02/2008	<u>11</u>	MOTION for Temporary Restraining Order filed in Lake Superior Court under case number 45D02-0810-PL-190 by Plaintiffs John B Curley, Jim B Brown. (mc) (Entered: 10/03/2008)
10/03/2008	<u>2</u>	NOTICE OF REMOVAL by Lake County Board of Elections and Registration, filed by Lake County Board of Elections and Registration. (Attachments: # <u>1</u> Complaint, # <u>2</u> Motion for TRO, # <u>3</u> Other State Court documents, # <u>4</u> Civil Cover Sheet)(mc) (Entered: 10/03/2008)
10/03/2008	3	NOTICE of Hearing: with in-court-hearing regarding TRO to be held on 10/3/2008 at 02:00 PM (CST)at Hammond before Judge Joseph S Van Bokkelen.(imr) (Entered: 10/03/2008)
10/03/2008	<u>4</u>	NOTICE of Appearance by Barry A Macey on behalf of Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches (Macey, Barry) (Entered: 10/03/2008)
10/03/2008	<u>5</u>	Proposed MOTION to Intervene by Intervenor Defendants Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Macey, Barry) (Entered: 10/03/2008)
10/03/2008	<u>6</u>	BRIEF in Support of <u>5</u> Proposed MOTION to Intervene filed by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Attachments: # <u>1</u> Affidavit Balanoff Declaration, # <u>2</u> Affidavit Bolling Declaration)(Macey, Barry) (Entered: 10/03/2008)
10/03/2008	<u>7</u>	Proposed MOTION To Enjoin Pending State Court Proceedings, Declare State Court TRO Void, and Enjoin Plaintiffs from Enforcing Void TRO by Intervenor Defendants Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Macey, Barry) (Entered: 10/03/2008)
10/03/2008	<u>8</u>	Proposed ANSWER to <u>1</u> Complaint by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches.(Macey, Barry) (Entered: 10/03/2008)
10/03/2008	<u>9</u>	Proposed MOTION to Expedite <i>Motion for Leave to Intervene</i> by Intervenor Defendants Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees

		International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Macey, Barry) (Entered: 10/03/2008)
10/03/2008	<u>10</u>	<i>Proposed ANSWER to <u>1</u> Complaint Memorandum in Opposition to Motion for Temporary Restraining Order and Preliminary Injunction</i> by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches.(Macey, Barry) (Entered: 10/03/2008)
10/03/2008	<u>12</u>	STATE COURT RECORD RECEIVED on 10/03/2008 at 3:20 (CST). Lake Superior Court Case No. 45D02-0810-PL-00190. This record is maintained on paper in the court's files and is not available in electronic format. (rmn) (Entered: 10/03/2008)
10/03/2008	<u>13</u>	(VACATED PER DE <u>20</u>) TEMPORARY RESTRAINING ORDER signed by Judge, Lake Superior Court, Civil Division, Room No. 2 and submitted with STATE COURT RECORD RECEIVED on 10/03/2008 at 3:20 (CST) see DE <u>12</u> . (rmn) Modified on 10/8/2008 to mark vacated (mc). (Entered: 10/03/2008)
10/03/2008	14	MOTION HEARING held on 10/3/2008 before Judge Joseph S Van Bokkelen re <u>11</u> MOTION for Temporary Restraining Order filed by John B Curley, Jim B Brown, Plfs appeared by atty David Brooks, Timothy R Sendak and Peggy Stamper. Dfts appeared by atty Frederick Work, Gabriel A Fuentes and Terrance J Truax. Barry A Macey appeared for Movants/Intervenor Defts. Issue of whether this Court has jurisdiction discussed. Argument presented by both sides. Defts move to admit State Court Order issued today by Judge Hawkins and ask that the order be vacated. Atty Frederick Work moves orally to admitt Attys Fuentes and Truax Pro Hac Vice, granted. State Court Certified record is provided to the Court for filing, ptys move for admittance as noted on the record at 3:20 p.m., CST; granted. Recess taken. Conference hld in Chambers with cnsl. Hearing resumes in open Court. Ptys agree that no additional voting locations will be opened through the close of day, Thursday, October 9, 2008. Ptys have until noon on Wednesday, 10/8/08 to file briefs re: Court's subject matter jurisdiction and any other briefs. Motion Hearing continued for 10/9/2008 09:00 AM in US District Court – Hammond before Judge Joseph S Van Bokkelen.) (Court Reporter Julie Churchill–Mickley.) (imr) (Entered: 10/06/2008)
10/06/2008	<u>15</u>	APPENDIX to <u>5</u> Proposed MOTION to Intervene, <u>6</u> Brief in Support, <i>and In Opposition To Plaintiffs' Motion For Temporary Restraining Order</i> by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Attachments: # <u>1</u> Declaration of Aaron, # <u>2</u> Declaration of Arkush, # <u>3</u> Declaration of Macri, # <u>4</u> Declaration of Peterson, # <u>5</u> Declaration of Phillips, # <u>6</u> Declaration of Stringer, # <u>7</u> Declaration of Taggares, # <u>8</u> Declaration of Ventura)(Macey, Barry) (Entered: 10/06/2008)
10/06/2008	<u>16</u>	CERTIFICATE OF SERVICE by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches (Macey, Barry) (Entered: 10/06/2008)
10/07/2008	17	NOTICE of Hearing: Telephone Conference set for 10/7/2008 12:00 PM (CST) in US District Court – Hammond before Judge Joseph S Van Bokkelen. Court will initiate the call.(imr) (Entered: 10/07/2008)
10/07/2008	<u>18</u>	Emergency MOTION to Vacate <i>TRO</i> by Plaintiffs John B Curley, Jim B Brown. (Attachments: # <u>1</u> Exhibit A – Part 1, # <u>2</u> Exhibit A – Part 2, # <u>3</u> Exhibit A – Part 3, # <u>4</u> Exhibit A – Part 4, # <u>5</u> Exhibit A – Part 5, # <u>6</u> Exhibit A – Part 6, # <u>7</u> Exhibit A – Part 7, # <u>8</u> Exhibit A – Part 8, # <u>9</u> Exhibit A – Part 9, # <u>10</u> Exhibit A – Part 10, # <u>11</u> Exhibit A – Part 11, # <u>12</u> Exhibit A – Part 12, # <u>13</u> Exhibit A – Part 13, # <u>14</u> Exhibit A – Part 14, # <u>15</u> Exhibit A – Part 15, # <u>16</u> Exhibit A – Part 16, # <u>17</u> Exhibit A – Part 17)(Stamper, Peggy) (Entered: 10/07/2008)
10/07/2008	19	TELEPHONE CONFERENCE held on 10/7/2008, at 12:00 noon, before Judge Joseph S Van Bokkelen. Pla appeared by atty Peggy Jo Stamper, David Brooks. Larry Steele informs the Court that he will be entering his appearance on behalf of plfs. Dft appeared by atty Terrence J. Truax, Gabriel Fuentes, Frederick T Work. MOTION to Intervene filed by Service Employees International Union, Linda Peterson, Indiana State Conference of National Association for the Advancement of Colored People

		Branches, Mary Aaron, Roosevelt Phillips, GRANTED. Discussion hld regarding the order that was entered on 10/6/08 by Circuit Court Judge Arredondo. Court vacates at 12:45 p.m. on 10/7/08, Judge Arredondo's October 6, 2008 order for reasons to be stated in a written order to be issued today, with copies to be delivered by USM to Circuit Court Clerk and Circuit Court Judge Lorenzo Arredondo. Parties agree to extend briefing schedule to Thursday, October 9, 2008 at 12:00 noon because of the health issues involving plf's cnsl Timothy Sendack. Briefing schedule on subject matter jurisdiction is extended until 12:00 noon on 10/9/08. Hearing re: TRO is now reset to 10/10/2008 at 09:00 AM at US District Court – Hammond) (Court Reporter Julie Churchil–Mickley.) (imr) (Entered: 10/07/2008)
10/07/2008	<u>20</u>	ORDER GRANTING <u>18</u> Motion to Vacate Circuit Court's 10/6/08 TRO and orders the Lake County Circuit Court to STAY any proceedings in cause 45C01–0810–PL–256 insofar as they interfere with this Court's judisdiction, authority and power over this case. The Court further orders that the USM immediately serve a copy of this Order upon Lake County Circuit Court, Lake County Circuit Court Clerk and Lake County Board of Elections and Registration. Signed by Judge Joseph S Van Bokkelen on 10/7/08. (certified copies: USM) (mc) (Entered: 10/07/2008)
10/07/2008	<u>21</u>	BRIEF : <i>Other – Court Reporter's transcript of the TRO hearing in State court held on the 3rd day of October.</i> (Stamper, Peggy) (Entered: 10/07/2008)
10/07/2008	<u>22</u>	MOTION to Remand to State Court <i>filed by Intervenor Defendants</i> by Movants Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Macey, Barry) (Entered: 10/07/2008)
10/07/2008	<u>23</u>	MEMORANDUM in Support of <u>22</u> MOTION to Remand to State Court <i>filed by Intervenor Defendants</i> filed by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Macey, Barry) (Entered: 10/07/2008)
10/07/2008	<u>24</u>	MOTION to Expedite <i>Motion To Remand filed by Intervenor Defendants</i> by Movants Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Macey, Barry) (Entered: 10/07/2008)
10/08/2008	<u>25</u>	NOTICE of Appearance by R Lawrence Steele on behalf of John B Curley, Jim B Brown (Steele, R) (Entered: 10/08/2008)
10/08/2008	<u>26</u>	NOTICE by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches <i>of Intervenor–Defendants' Request for Judicial Notice</i> (Macey, Barry) (Entered: 10/08/2008)
10/08/2008	27	APPLICATION for Attorney Terrence J Truax to Appear Pro Hac Vice on behalf of Thomas R Philpot ; Receipt #2213037. (mc) (Entered: 10/08/2008)
10/08/2008	28	APPLICATION for Attorney Gabriel A Fuentes to Appear Pro Hac Vice on behalf of Thomas R Philpot ; Receipt #2213037. (mc) (Entered: 10/08/2008)
10/08/2008	<u>29</u>	NOTICE of Appearance by Terrence J Truax PHV on behalf of Honorable Thomas Philpot (mc) (Entered: 10/09/2008)
10/08/2008	<u>30</u>	NOTICE of Appearance by Gabriel A Fuentes PHV on behalf of Honorable Thomas Philpot (mc) (Entered: 10/09/2008)
10/09/2008	<u>31</u>	MEMORANDUM OF LAW re <u>2</u> Notice of Removal. (Work, Frederick) (Entered: 10/09/2008)
10/09/2008	<u>32</u>	MOTION to Vacate <u>20</u> Order on Motion to Vacate,, <i>and Memorandum in Support Thereof</i> by Defendants Lake County Board of Elections and Registration, Honorable Thomas Philpot. (Work, Frederick) (Entered: 10/09/2008)
10/09/2008	<u>33</u>	RESPONSE to Motion re <u>22</u> MOTION to Remand to State Court <i>filed by Intervenor Defendants , with Certificate of Service</i> , filed by John B Curley, Jim B Brown. (Stamper, Peggy) (Entered: 10/09/2008)

10/09/2008	<u>34</u>	NOTICE of Appearance by Shannon D Landreth on behalf of John B Curley, Jim B Brown (Landreth, Shannon) (Entered: 10/09/2008)
10/09/2008	<u>35</u>	SUPPLEMENT <i>Supplemental Memorandum In Opposition To Plaintiffs' Motion For Temporary Restraining Order</i> filed by Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union, Indiana State Conference of National Association for the Advancement of Colored People Branches. (Macey, Barry) (Entered: 10/09/2008)
10/09/2008	<u>36</u>	BRIEF in Support of <u>11</u> MOTION for Temporary Restraining Order filed by John B Curley, Jim B Brown. (Landreth, Shannon) (Entered: 10/09/2008)
10/09/2008	<u>37</u>	Joint MOTION for Leave to File <i>Instanter Oversized Memorandum of Law in Opposition to Plaintiffs' Motion for Temporary Restraining Order</i> by Defendants Lake County Board of Elections and Registration, Honorable Thomas Philpot. (Attachments: # <u>1</u> Joint Memorandum of Law in Opposition to Plaintiffs' Motion for Temporary Restraining Order, # <u>2</u> Exhibits to Joint Memorandum)(Work, Frederick) (Entered: 10/09/2008)
10/09/2008	38	APPLICATION for Attorney Jonathan Weisglass to Appear Pro Hac Vice on behalf of Intervenor-Defendants ; Receipt #2213049. (mc) (Entered: 10/09/2008)
10/09/2008	39	APPLICATION for Attorney Maryann Parker to Appear Pro Hac Vice on behalf of Intervenor-Defendant Service Employees International Union ; Receipt #2213047. (mc) (Entered: 10/09/2008)
10/09/2008	40	ORDER granting 28 Application to Appear Pro Hac Vice of Attorney Gabriel A Fuentes PHV for Honorable Thomas Philpot. Signed by Magistrate Judge Andrew P Rodovich on 10/9/08. (mc) (Entered: 10/09/2008)
10/09/2008	41	ORDER granting 27 Application to Appear Pro Hac Vice of Attorney Terrence J Truax PHV for Honorable Thomas Philpot. Signed by Magistrate Judge Andrew P Rodovich on 10/9/08. (mc) (Entered: 10/09/2008)
10/09/2008	42	ORDER granting 38 Application to Appear Pro Hac Vice of Attorney Jonathan Weisglass PHV for Linda Peterson, Roosevelt Phillips, Mary Aaron, Service Employees International Union and Indiana State Conference of National Association for the Advancement of Colored People Branches. Signed by Magistrate Judge Andrew P Rodovich on 10/9/08. (mc) (Entered: 10/09/2008)
10/09/2008	43	ORDER granting 39 Application to Appear Pro Hac Vice of Attorney Maryann Parker PHV for Service Employees International Union. Signed by Magistrate Judge Andrew P Rodovich on 10/9/08. (mc) (Entered: 10/09/2008)
10/09/2008	44	(THIS ENTRY WAS MADE IN ERROR) ORDER GRANTING <u>24</u> Motion to Compel Discovery. Response to be filed by plaintiff by 11/12/2008. Signed by Magistrate Judge Paul R Cherry on 10/9/08. (mc) Modified on 10/9/2008 (mc). (Entered: 10/09/2008)
10/09/2008	45	ORDER granting <u>37</u> Joint MOTION for Leave to File Instanter Oversized Memorandum of Law in Opposition to Plaintiffs' Motion for Temporary Restraining Order by Defendants Lake County Board of Elections and Registration, Honorable Thomas Philpot is GRANTED. NO PDF attached. (imr) (Entered: 10/09/2008)