

Case No. 4-22-0090

**IN THE APPELLATE COURT OF ILLINOIS
FOR THE FOURTH DISTRICT**

ROBERT GRAVES and KIM GRAVES, as Parents and Guardian of K.G.; et al.)	
)	Sangamon County
)	Circuit Court No: 2021 CH 500003
v.)	
)	
JAY ROBERT PRITZKER, in His Official Capacity as Governor of Illinois; et al.)	
)	

**MOTION FOR LEAVE TO FILE PREVIOUSLY-SUBMITTED PLEADINGS
FOR INTERLOCUTORY APPEAL AS OF RIGHT**

NOW COME the below Defendant-Appellants who are named parties in *Austin v. CUSD 300*, Sangamon County Court Case 2021 CH 500002, and *Allen v. Bd. of Ed. of North MAC CUSD #4*, Sangamon County Court Case 2021 CH 50007, and in response to this Court's Order of February 8, 2022, seek leave to file their previously-submitted pleadings for interlocutory appeal as of right or, at a minimum, their Memoranda in Support of Interlocutory Appeal, for the following reasons:

1. On February 7, 2022, the Defendant-Appellants filed Notices of Interlocutory Appeal with the Circuit Court and Petitions for Appeal as a matter of right pursuant to Supreme Court Rule 307(a)(1) and (d). In support thereof, and as set forth in Rule 307(d), Defendant-Appellants submitted Records and Memoranda of Support.

2. The Defendant-Appellants request that this Court reverse and vacate the February 4, 2022 Temporary Restraining Order entered by the circuit court, as do the State Defendants.

3. However, Defendant-Appellants assert that the Temporary Restraining Order should be vacated as to Defendant-Appellants, even if this Court finds that the

Temporary Restraining Order was properly entered as to the State Defendants.

4. The grounds for the relief requested by *Allen* Defendant-Appellant Board of Education of Belvidere Community Unit School District #100 (“Belvidere”) are unique to Belvidere for various reasons not addressed by the State Defendants. In part, Belvidere is seeking relief relating to the erroneous denial of Belvidere’s motion for substitution of judge as a matter of right, and the effect of that denial on the validity of the February 4, 2022 Temporary Restraining Order. Specifically, because the motion for substitution of judge was erroneously denied, the Temporary Restraining Order was improperly entered and is a nullity.

5. As to all Defendant-Appellants, the February 4, 2022 Temporary Restraining Order restrains “Defendants” broadly. Defendant-Appellants seek relief from this Order in their role as Boards of Education of school districts responsible for the premises and students in their districts (*Austin*) and as employers (*Allen*). Defendant-Appellants’ interests in these capacities differ from the interests of the State Defendants. Defendant-Appellants’ legal obligations in these areas differ from those of the State Defendants. The legal relationship between Defendant-Appellants and Plaintiff-Appellees is not coextensive with the State’s interests. Thus, their Petitions for Interlocutory Appeal seek relief from the restraints of the TRO as to their authority as Boards of Education and employers. Defendant-Appellants’ interests are set forth in detail in the *Austin* and *Allen* Memoranda submitted on February 7, 2022.

6. Defendant-Appellants submitted supporting records as required by Rule 307 and because Defendant-Appellants filed these interlocutory appeals in their own right, independently from other Appellants. For administrative ease, Defendant-

Appellants would adopt the record of the State Defendants, withdraw their submitted records in *Austin* and *Allen*, and as needed update record cites in their Memoranda, if the Court determines withdrawal of the record to be procedurally appropriate.

Respectfully submitted for *Allen v. Bd. of Ed. of North MAC CUSD #4*, Case No. 4-22-0094,

BOARD OF EDUCATION OF BELVIDERE
COMMUNITY UNIT SCHOOL DISTRICT #100

By: /s/ Dawn M. Hinkle
One of Defendant's Attorneys

By: /s/ Abigail C. Rogers
One of Defendant's Attorneys

Respectfully submitted for *Austin v. CUSD 300*,
Case No. 4-22-0092,

BOARDS OF EDUCATION OF: ADDISON SCHOOL DISTRICT #4; BARRINGTON COMMUNITY UNIT SCHOOL DISTRICT #220; BELVIDERE COMMUNITY UNIT SCHOOL DISTRICT #100; COMMUNITY HIGH SCHOOL DISTRICT #128 (VERNON HILLS); COMMUNITY UNIT SCHOOL DISTRICT #200 (WHEATON); COMMUNITY UNIT SCHOOL DISTRICT #300 (CARPENTERSVILLE); DUPAGE HIGH SCHOOL DISTRICT #88; GENEVA COMMUNITY UNIT SCHOOL DISTRICT #304; HINSDALE COMMUNITY CONSOLIDATED SCHOOL DISTRICT #181; HUNTLEY COMMUNITY UNIT SCHOOL DISTRICT #158; INDIAN PRAIRIE COMMUNITY UNIT SCHOOL DISTRICT #204; INDIAN SPRINGS SCHOOL DISTRICT #109; LINCOLNSHIRE-PRAIRIE VIEW SCHOOL DISTRICT 103; LOCKPORT TOWNSHIP HS DISTRICT #205; MCHENRY COMMUNITY CONSOLIDATED SCHOOL DISTRICT #15; MINOOKA COMMUNITY CONSOLIDATED SCHOOL DISTRICT #201; NAPERVILLE COMMUNITY UNIT SCHOOL DISTRICT #203;

PALOS COMMUNITY CONSOLIDATED
SCHOOL DISTRICT #118; SCHOOL DISTRICT
#45 DUPAGE COUNTY; ST. CHARLES
COMMUNITY UNIT SCHOOL DISTRICT #303;
WARREN TOWNSHIP HIGH SCHOOL
DISTRICT #121; WAUCONDA SCHOOL
DISTRICT #118; AND WOODLAND
COMMUNITY CONSOLIDATED SCHOOL
DISTRICT #50

By: /s/ Abigail C. Rogers
One of Defendants' Attorneys

By: /s/ Dawn M. Hinkle
One of Defendants' Attorneys

Dawn M. Hinkle
Abigail C. Rogers
Lisa R. Callaway
Engler Callaway Baasten & Sraga, LLC
2215 York Road, Suite 400
Oak Brook, Illinois 60523
(630) 313-4750
dhinkle@ecbslaw.com
arogers@ecbslaw.com
lcallaway@ecbslaw.com

IN THE APPELLATE COURT OF ILLINOIS
FOR THE FOURTH DISTRICT

ROBERT GRAVES and KIM GRAVES, as Parents and Guardian of K.G.; et al.)	Sangamon County
)	Circuit Court No: 2021-CH-500003
v.)	
JAY ROBERT PRITZKER, in His Official Capacity as Governor of Illinois; et al.)	

ORDER

THIS CAUSE COMING TO BE HEARD on motion of Defendant-Appellant BOARD OF EDUCATION OF BELVIDERE COMMUNITY UNIT SCHOOL DISTRICT #100 and of Defendant-Appellants BOARDS OF EDUCATION OF: ADDISON SCHOOL DISTRICT #4; BARRINGTON COMMUNITY UNIT SCHOOL DISTRICT #220; BELVIDERE COMMUNITY UNIT SCHOOL DISTRICT #100; COMMUNITY HIGH SCHOOL DISTRICT #128 (VERNON HILLS); COMMUNITY UNIT SCHOOL DISTRICT #200 (WHEATON); COMMUNITY UNIT SCHOOL DISTRICT #300 (CARPENTERSVILLE); DUPAGE HIGH SCHOOL DISTRICT #88; GENEVA COMMUNITY UNIT SCHOOL DISTRICT #304; HINSDALE COMMUNITY CONSOLIDATED SCHOOL DISTRICT #181; HUNTLEY COMMUNITY UNIT SCHOOL DISTRICT #158; INDIAN PRAIRIE COMMUNITY UNIT SCHOOL DISTRICT #204; INDIAN SPRINGS SCHOOL DISTRICT #109; LINCOLNSHIRE-PRAIRIE VIEW SCHOOL DISTRICT 103; LOCKPORT TOWNSHIP HS DISTRICT #205; MCHENRY COMMUNITY CONSOLIDATED SCHOOL DISTRICT #15; MINOOKA COMMUNITY CONSOLIDATED SCHOOL DISTRICT #201; NAPERVILLE COMMUNITY UNIT

SCHOOL DISTRICT #203; PALOS COMMUNITY CONSOLIDATED SCHOOL DISTRICT #118; SCHOOL DISTRICT #45 DUPAGE COUNTY; ST. CHARLES COMMUNITY UNIT SCHOOL DISTRICT #303; WARREN TOWNSHIP HIGH SCHOOL DISTRICT #121; WAUCONDA SCHOOL DISTRICT #118; AND WOODLAND COMMUNITY CONSOLIDATED SCHOOL DISTRICT #50 for Leave to File Pleadings for Interlocutory Appeal of Sangamon County Case 2021 CH 500002 and Sangamon County Case 2021 CH 500007, due notice having been given; and the Court being fully advised;
IT IS HEREBY ORDERED that the motion is GRANTED / DENIED.

ENTER:

JUSTICE

JUSTICE

JUSTICE

DATED: _____

Dawn M. Hinkle
Abigail C. Rogers
Lisa R. Callaway
Engler Callaway Baasten & Sraga, LLC
2215 York Road, Suite 400
Oak Brook, Illinois 60523
(630) 313-4750
dhinkle@ecbslaw.com
arogers@ecbslaw.com
lcallaway@ecbslaw.com

IN THE APPELLATE COURT OF ILLINOIS
FOR THE FOURTH DISTRICT

ROBERT GRAVES and KIM GRAVES, as)
Parents and Guardian of K.G.; et al.) Sangamon County
) Circuit Court No: 2021 CH 500003
v.)
)
JAY ROBERT PRITZKER, in His Official)
Capacity as Governor of Illinois; et al.)

**NOTICE OF FILING
MOTION FOR LEAVE TO FILE PREVIOUSLY-SUBMITTED PLEADINGS
FOR INTERLOCUTORY APPEAL AS OF RIGHT**

PLEASE TAKE NOTICE that on February 9, 2022, I electronically filed with the Appellate Court of Illinois for the Fourth District, Defendant-Appellants' MOTION FOR LEAVE TO FILE PREVIOUSLY-SUBMITTED PLEADINGS FOR INTERLOCUTORY APPEAL AS OF RIGHT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted for *Allen v. Bd. of Ed. of North MAC CUSD #4*, Case No. 4-22-0094,

BOARD OF EDUCATION OF BELVIDERE
COMMUNITY UNIT SCHOOL DISTRICT #100

By: /s/ Dawn M. Hinkle
One of Defendant's Attorneys

By: /s/ Abigail C. Rogers
One of Defendant's Attorneys

Respectfully submitted for *Austin v. CUSD 300*, Case No. 4-22-0092,

BOARDS OF EDUCATION OF: ADDISON SCHOOL DISTRICT #4; BARRINGTON COMMUNITY UNIT SCHOOL DISTRICT #220; BELVIDERE COMMUNITY UNIT SCHOOL DISTRICT #100;

COMMUNITY HIGH SCHOOL DISTRICT #128 (VERNON HILLS); COMMUNITY UNIT SCHOOL DISTRICT #200 (WHEATON); COMMUNITY UNIT SCHOOL DISTRICT #300 (CARPENTERSVILLE); DUPAGE HIGH SCHOOL DISTRICT #88; GENEVA COMMUNITY UNIT SCHOOL DISTRICT #304; HINSDALE COMMUNITY CONSOLIDATED SCHOOL DISTRICT #181; HUNTLEY COMMUNITY UNIT SCHOOL DISTRICT #158; INDIAN PRAIRIE COMMUNITY UNIT SCHOOL DISTRICT #204; INDIAN SPRINGS SCHOOL DISTRICT #109; LINCOLNSHIRE-PRAIRIE VIEW SCHOOL DISTRICT 103; LOCKPORT TOWNSHIP HS DISTRICT #205; MCHENRY COMMUNITY CONSOLIDATED SCHOOL DISTRICT #15; MINOOKA COMMUNITY CONSOLIDATED SCHOOL DISTRICT #201; NAPERVILLE COMMUNITY UNIT SCHOOL DISTRICT #203; PALOS COMMUNITY CONSOLIDATED SCHOOL DISTRICT #118; SCHOOL DISTRICT #45 DUPAGE COUNTY; ST. CHARLES COMMUNITY UNIT SCHOOL DISTRICT #303; WARREN TOWNSHIP HIGH SCHOOL DISTRICT #121; WAUCONDA SCHOOL DISTRICT #118; AND WOODLAND COMMUNITY CONSOLIDATED SCHOOL DISTRICT #50

By: /s/ Abigail C. Rogers
One of Defendants' Attorneys

By: /s/ Dawn M. Hinkle
One of Defendants' Attorneys

Dawn M. Hinkle
Abigail C. Rogers
Lisa R. Callaway
Engler Callaway Baasten & Sraga, LLC
2215 York Road, Suite 400
Oak Brook, Illinois 60523
(630) 313-4750
dhinkle@ecbslaw.com
arogers@ecbslaw.com
lcallaway@ecbslaw.com

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on February 9, 2022, I electronically filed the foregoing Appearance with the Clerk of the Circuit Court for the Seventh Judicial Circuit, Sangamon County, Illinois, by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, are a registered service contact on the Odyssey eFileIL system, and thus will be served via that system. As a courtesy, that participant was served by sending a copy from my e-mail address to the e-mail addresses of record indicated below on February 9, 2022.

By: /s/ Abigail C. Rogers
One of Defendants' Attorneys

Counsel for Plaintiffs Matthew Allen, et al.:

Thomas DeVore, Jeanie Leitschuh
tom@silverlakelaw.com; jeanie@silverlakelaw.com

Counsel for Defendants Illinois Department of Public Health, Dr. Ngozi Ezike, Illinois State Board of Education, Dr. Carmen I. Ayala, and Governor Jay Robert Pritzker:

Thomas Verticchio, Laura Bautista, Isaac Freilich Jones, Gretchen Helfrich, Jeffrey Van Dam
CivilAppeals@ilag.gov; Carson.Griffis@ilag.gov; Leigh.Jahnig@ilag.gov;
thomas.verticchio@ilag.gov; laura.bautista@ilag.gov; isaac.freilichjones@ilag.gov;
gretchen.helfrich@ilag.gov; jeffrey.vandam@ilag.gov; Darren.Kinhead@ilag.gov

Counsel for Defendant Board of Education of Decatur School District #61 and Counsel for Carthage Elementary School District No. 317; Hamilton County Community Unit School District No. 10; Hononegah Community High School District No. 207; Jacksonville School District No. 117; Jersey Community Unit School District No. 100; Mattoon Community Unit School District No. 2; Patoka CUSD #100; Porta Community Unit School District No. 202; Prairie Central Community Unit School District No. 8; Ramsey Community Unit School District No. 204; Schuyler-Industry Community Unit School No. 5; Trico Community Unit School District No. 176:

Luke M. Feeney, Brandon K. Wright, Amanda Dolorus Jean
lfeeney@millertracy.com; bwright@millertracy.com; ajeane@millertracy.com

Counsel for Defendants Board of Education of City of Chicago School District #299, Board of Education of Community Unit School District #308, Board of Education of Plainfield School District #202, and Board of Education of Mascoutah Community Unit District #19 and Counsel for City of Chicago School District 299, Community Unit District 308, Community Unit High School 99, Lombard District 44, Macomb Community Unit

District 185, Maine Township High District 207, Mascoutah Community Unit District 19, New Lenox School District 122, Plainfield District 202, Township High School District 214, U-46, Wesclin Community Unit District 3, Township HS SD #211:

William R. Pokorny, Shelli A. Anderson, Jennifer A. Smith, Dana Fattore Crumley, Nicki Bazer, Scott Metcalf, Melissa Sobota, Koga Ndikum-Moffor
wrp@franczek.com; sla@franczek.com; jas@franczek.com; dfc@franczek.com;
nbb@franczek.com; srm@franczek.com; mls@franczek.com; knm@franczek.com;

Counsel for Defendant Board of Education of Eureka CUSD #140 and Counsel for Eureka Community Unit District #140, Metamora Community Consolidated School District #1, and Metamora Township High School District #122:

Jay E. Greening, Robert B. McCoy, Jeffrey J. Gaster
jay.greening@mhtlaw.com; robert.mccoy@mhtlaw.com; jeffrey.gaster@mhtlaw.com

Counsel for Defendants Board of Education of Arlington Heights School District #25, Board of Education of Crystal Lake Community Consolidated School District #47, Board of Education of Waterloo Community Unit School District #5 and Counsel for Triad CUSD #2, Antioch CCSD #34, Arlington Heights SD #25, Cary Comm. Consolid. SD #26, Comm. High SD #117, Community High SD #155, Crystal Lake Comm. Consolid. SD #47, Marion CUSD #2, Mount Prospect SD #57, Prairie Grove Community School District #46, Waterloo CUSD #5:

Rob Swain, Stephanie Jones
rob@krihaboucek.com; stephanie@krihaboucek.com

Counsel for Defendant Board of Education of Cumberland Community Unit School District #77 and Counsel for Valley View CUSD #365U, Cumberland CUSD #77:

John M. O'Driscoll, Kathleen M. Gibbons, Natacia De Leon
jodriscoll@tresslerllp.com; kgibbons@tresslerllp.com; sdeleon@tresslerllp.com

Counsel for Defendants Board of Education of North Mac Community Unit School District #34, Board of Education of Jasper County Community Unit District #1, Board of Education of Yorkville Community Unit School District #115, Board of Education of Marion Community Unit School District #2, and Board of Education of Triad Community Unit School District #2 and Counsel for Superintendent Jay Goble, North MAC CUSD #34, and Yorkville CUSD #115, Woodstock CUSD #200:

Jason T Manning, C. Frazier Satterly, Katherine A. LaRosa
jmanning@hlerk.com; fsatterly@hlerk.com; klarosa@hlerk.com

Counsel for Defendant Board of Education of Roanoke Benson Community Unit School District #60 and Counsel for Brimfield CUSD #309, Dunlap CUSD#323, Elwood CCSD #203, Erie CUSD #1, Germantown Hills SD #69, Limestone Comm. High SD #310,

Morton CUSD #709, River Bend CUSD #2, Riverview Comm. Consolid. SD #2, Roanoke Benson CUSD #60, West Central CUSD #235:

Randall W. Slade, Alice McElroy

randall.slade@francomoroney.com; alice.mcelroy@francomoroney.com

Counsel for Defendant Board of Education of Staunton Community Unit School District #6 and Counsel for Central A&M CUSD #21, Herscher CUSD #2, Medinah SD #11, Rockridge CUSD #300, South Central CUSD #401, St. Anne Comm. Consolid. SD #256, Straunton Community Unit School District #6, United CUSD #304:

Susan Nicholas

Dennis Weedman

Hailey Golds

snicholas@robbins-schwartz.com

nlamprinakos@robbins-schwartz.com

hgolds@robbins-schwartz.com

dweedman@robbins-schwartz.com

Counsel for Ball Chatham CUST #5, Bluford CUSD #318, Jasper County Comm. SD #1, Bond County Comm. SD #2, Mt. Pulaski CUSD #23, Carrollton Comm. SD #1, Central CUSD #3, Pikeland CUSD #10, Odin Public SD #772, Patoka CUSD #100, Prairie Hill Consolid. SD #133, Valmeyer CUSD #3, Payson CUSD #1, Quincy SD #172, Winnebago CUSD #323, Gifford Comm. Consolid. SD #188, El Paso-Gridley CUSD #11, Carlyle CUSD #1, Teutopolis CUSD #50, Hiawatha Comm. SD #426, and Mendon CUSD #4:

Charles A. LeMoine

CLeMoine@dykema.com

Counsel for Carlinville CUSD #1:

Merry Rhoades

Christine Self

mrhoades@tuethkeeney.com

cself@tuethkeeney.com

Counsel for Glenview CCSD #34:

James Petrunaro

Paulette Petretti

Adam Dauksas

jpetrunaro@edlawyer.com

ppetretti@edlawyer.com

adauksas@edlawyer.com

Counsel for Pleasant Hill CUSD #3:

H. Allen Yow

ayow@rblawyers.net

Counsel for Burbank SD #111

Petrarca Gleason
Jennifer Schwendeder
jschwendener@petrarcagleason.com

Klein Thrope
Mallory Milluzzi
mamilluzzi@ktjlaw.com
Counsel for Channahon SD #17, Worth SD #127

Mickes O'Toole
Melanie Renken
mrenken@mickesotoole.com
Counsel for Consolidated High SD #230, Homer CCSD #33C, Illini West High SD #307

John Troy
jtroy@mchs.net
Counsel for Minooka Community HS District #111

Walter Zukowski
walt@zukowskilaw.com
Counsel for The Board of Education of Lisbon Comm. Consolid. SD #90

Counsel for Amicus Illinois Federation of Teachers:

John T. Shapiro, Dylan Smith, D. Richard Self
jshapiro@freeborn.com; dsmith@freeborn.com; rself@freeborn.com

Counsel for Intervenors Edwardsville Education Association, IEA-NEA; Edwardsville School Service Personnel Association, IEA-NEA; Triad Education Association, IEA-NEA; Triad Educational Support Personnel Association, IEA-NEA; Triad Custodial, Maintenance & Utility Association, IEA-NEA:

Loretta K. Haggard, Natalie J. Teague
lkh@scwattorney.com; njt@scwattorney.com

Other Parties Served:

gbarrows@decatur.legal
lziebell@lavellelaw.com