

CASE NO. \_\_\_\_\_

IN THE SUPREME COURT OF ILLINOIS

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<p><b>DEANNE MAZZOCHI</b>  <b>HON. JAMES D. OREL</b></p> <p style="text-align: center;"><b>Respondents</b></p> <p style="text-align: center;">v.</p> <p><b>JEAN KACZMAREK, in her</b>  <b>Official capacity as DuPage County</b>  <b>Clerk and Election Authority</b>  <b>For DuPage County</b></p> <p style="text-align: center;"><b>Petitioner</b></p>	<p>) <b>On Motion for Supervisory Order</b>  ) <b>under Illinois Supreme Court Rule</b>  ) <b>383,</b>  )  )  ) <b>From the Circuit Court of the</b>  ) <b>Eighteenth Judicial Circuit, DuPage</b>  ) <b>County, Illinois, No. 2022 CH 220</b>  )  ) <b>The Honorable James D. Orel,</b>  ) <b>Judge Presiding</b>  )  )</p>
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**DUPAGE COUNTY CLERK’S EMERGENCY RULE 383 MOTION FOR  
SUPERVISORY ORDER CONCERNING CIRCUIT COURT’S NOVEMBER 15,  
2022 ORDER ENJOINING AND DIRECTING THE COUNTY CLERK’S  
CONDUCT AND ADMINISTRATION OF VOTE BY MAIL BALLOT  
COUNTING FOR THE NOVEMBER 8, 2022 GENERAL ELECTION**

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*Attorneys for Petitioner*  
**Jean Kaczmarek, in her Official**  
**Capacity as DuPage County Clerk and**  
**Election Authority for DuPage County**

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**E-FILED**  
11/16/2022 4:19 PM  
**CYNTHIA A. GRANT**  
**SUPREME COURT CLERK**

Defendant, Jean Kaczmarek in her official capacity as the DuPage County Clerk and the Election Authority for DuPage County (“County Clerk”), by her Special Counsel, Sean Conway, Patrick K. Bond and Mary E. Dickson, of BOND DICKSON & CONWAY, submits the County Clerk’s Emergency Rule 383 Motion for Supervisory Order Concerning the 18<sup>th</sup> Judicial Circuit Court’s November 15, 2022 Temporary Restraining Order (“TRO”) Enjoining and Directing the County Clerk’s Conduct and Administration of Vote by Mail Counting for the November 8, 2022 General Election.

## **I. INTRODUCTION**

1. This matter involves an election case and motion for temporary restraining order filed by Plaintiff, Deanne Mazzochi (“Mazzochi”), a Candidate for political Office, which raises grievances directed at the County Clerk’s conduct and administration of the November 8, 2022 General Election (the “Election”) - specifically, grievances as to the County Clerk’s ongoing counting of Vote by Mail Ballots.

2. The County Clerk filed a Combined 2-619(a)(1) Motion to Dismiss Mazzochi’s Complaint for Equitable Relief (“Complaint”) and Response to Mazzochi’s Motion for Temporary Restraining Order (“TRO”) arguing that the Circuit Court is without express statutory authority and jurisdiction to intervene and interfere with the County Clerk’s conduct and administration of the Election under well-settled precedent of this Court and the Election Code.

3. The Circuit Court (1) denied the County Clerk’s Combined 2-619(a)(1) Motion to Dismiss and Response to Mazzochi’s Motion for TRO, finding the Circuit Court has jurisdiction over this election case; (2) granted Mazzochi’s Motion for TRO,

in part; and (3) entered an Order prohibiting the County Clerk from using any signature on a Vote by Mail application in connection with validating signatures on the Vote by Mail ballot and ordered that certain ballots must be marked “Rejected,” thereby directing the County Clerk in her conduct and administration of the Election.

4. In doing so, the Circuit Court exceeded its authority and jurisdiction and has impermissibly usurped the statutory authority of the County Clerk in conducting and administering the Election – specifically, in counting of voted ballots, which process is ongoing.

5. This dispute involves a matter immediately important to the administration of justice because it is vital to our system of democratic elections that Illinois Courts refrain from intervening and interfering in election matters and usurping the role of Illinois election officials in their administration and conduct of elections, without express statutory authority.

6. Accordingly, this Court should enter a Supervisory Order immediately vacating the Circuit Court’s November 15, 2022 Order and directing the Circuit Court to dismiss Mazzochi’s Complaint for lack of authority and subject matter jurisdiction.

## **II. BACKGROUND**

7. On November 14, 2022, Mazzochi filed her Complaint in the 18<sup>th</sup> Judicial Circuit Court as well as an Emergency Motion for a TRO. *See* the Supporting Record at 001 – 045.

8. Mazzochi’s Complaint and Motion for TRO allege grievances directed at the County Clerk’s conduct and administration of the Election. *See id.*

9. Specifically, Mazzochi takes issue with the County Clerk's counting of Vote by Mail Ballots, which counting is ongoing as of the day of this filing. *See id.*

10. Lacking statutory authority or precedent, Mazzochi prematurely filed her election case in the midst of the County Clerk's ongoing counting of Vote by Mail, Provisional and Military Overseas Ballots for the Election.

11. In her Complaint and Motion for TRO, Mazzochi requests that the Circuit Court halt the County Clerk's ongoing processing of voted ballots currently being conducted by bi-partisan teams of sworn Election Judges and additionally requests the Circuit Court direct the County Clerk in her conduct and administration of the Election. *See id.*

12. On November 15, 2022, the County Clerk filed a Combined 2-619(a)(1) Motion to Dismiss and Response to Mazzochi's Motion for TRO. *See* the Supporting Record at 46-50.

13. Based on this Court's long established precedent, the County Clerk argued that Illinois courts have no express statutory authority, general equitable authority or subject matter jurisdiction to intervene and interfere with Illinois election officials, including the County Clerk, in their conduct of elections - including the counting of votes in an election prior to the declaration of Official results. *See id.*

14. Mazzochi filed no written response to the County Clerk's Combined 2-619(a)(1) Motion to Dismiss and Response to Mazzochi's Motion for TRO and has not raised any election law or jurisprudence contrary to or distinguishing the well-settled authority submitted by the County Clerk.

15. Subsequently on November 15, 2022, the Circuit Court (1) denied the County Clerk's Combined 2-619(a)(1) Motion to Dismiss and Response to Mazzochi's Motion for TRO finding the Circuit Court has jurisdiction; (2) granted Mazzochi's Motion for TRO, in part; and (3) entered a Court Order directing the Clerk in her conduct and administration of the Election regarding which Vote by Mail Ballots must be rejected. *See* the Supporting Record at 51-52.

16. Under the express authority of the Illinois Election Code, the County Clerk's conduct and administration of vote counting is ongoing and the County Clerk is authorized to pronounce her Official declaration of Election Results on or before November 29, 2022. 10 ILCS 5/18A-15(a), 22-1.

### **III. ARGUMENT**

17. It is established that “[s]ection 16 of article VI of the 1970 Constitution vests ‘General administrative and supervisory authority over all courts’ of this State in this court” and in the exercise of that authority this Court has “ordered the correction of patently erroneous action by trial judges.” *People ex rel. Phillips Petroleum Co. v. Gitchoff*, 65 Ill. 2d 249, 257, 357 N.E.2d 534, 538 (1976).

18. This Court will exercise its Supervisory Authority where the trial court enters an order beyond its authority and jurisdiction and which impermissibly usurps the lawful authority of an elected government official. *People ex rel. Daley v. Suria*, 112 Ill. 2d 26, 38, 490 N.E.2d 1288, 1293 (1986) (finding that trial court, without authority, impermissibly usurped the lawful authority of the State's Attorney).

19. Supervisory orders may issue where the normal appellate process will not afford adequate relief and the dispute involves a matter important to the administration

of justice, or intervention is necessary to keep an inferior tribunal from acting beyond the scope of its authority. *See People ex rel. Birkett v. Bakalis*, 196 Ill. 2d 510, 752 N.E.2d 1107 (2001).

20. Additionally, Supreme Court Rule 383 authorizes this Court to enter a Supervisory Order upon a motion that “is supported by explanatory suggestions.” IL R S CT Rule 383.

21. This Court should enter a Supervisory Order because the Circuit Court has acted beyond its authority and subject matter jurisdiction and has usurped the lawful authority of the County Clerk.

22. Because the Circuit Court has refused to dismiss the Complaint, the Circuit Court may continue to enter additional void orders directing the County Clerk’s conduct of the Election within Mazzochi’s premature and unauthorized election case.

23. It is well-established by this Court that “[c]ircuit courts may exercise jurisdiction over election cases only as provided by statute” and that “when a court exercises special statutory jurisdiction, that jurisdiction is limited to the language of the act conferring it, and the court has no powers from any other source.” *Bettis v. Marsaglia*, 2014 IL 117050, ¶ 14, 23 N.E.3d 351, 357 *citing* Ill. Const. art. VI, § 9; *see also, Pullen v. Mulligan*, 138 Ill. 2d 21, 561 N.E.2d 585 (1990) (“Courts have no inherent power to hear election contests, but may do so only when authorized by statute and in the manner dictated by statute.”).

24. “In the exercise of special statutory jurisdiction, if the mode of procedure prescribed by statute is not strictly pursued, no jurisdiction is conferred on the circuit court.” *Bettis*, 2014 IL 117050, ¶ 14, 23 N.E.3d at 357.

25. There is no express authority in the Election Code for the Court to intervene and resolve Mazzochi's grievances directed at the County Clerk's conduct of the Election filed in the midst of the County Clerk's ongoing counting of voted ballots and prior to the County Clerk's declaration of Official results.

26. There is no precedent or authority for the Circuit Court's ruling in its November 15, 2022 Order, which appears to be the first of its kind in the history of Illinois elections jurisprudence.

27. Section 23-20 of the Election Code expressly authorizes election contests related to the conduct of the elections and the counting or return of votes as follows:

The person desiring to contest such election shall, ***within thirty (30) days after the person whose election is contested is declared elected***, file with the clerk of the proper court a petition, in writing, setting forth the points on which he will contest the election, which petition shall be verified by affidavit in the same manner as complaints in other civil cases may be verified. Copies of such petition shall be delivered by mail to each proper clerk or board of election commissioners who is a custodian of any ballots involved in the contest. ***The petition shall allege that the petitioner voted at the election, and that he believes that a mistake or fraud has been committed in specified precincts in the counting or return of the votes for the office or proposition involved or that there was some other specified irregularity in the conduct of the election in such precincts***, and the prayer of the petition shall specify the precincts in which the recount is desired.

10 ILCS 5/23-20 (emphasis added).

28. There is no dispute that the County Clerk has not officially declared the results of the Election by Official Canvass of Results and the tabulation of voted ballots is ongoing and is being conducted within the timeframe authorized under the Election Code.

29. Accordingly, Mazzochi's Complaint directed at the County Clerk's conduct of the Election, which is ongoing, is premature under section 23-20 of the

Election Code and the Circuit Court was without express statutory authority and subject matter jurisdiction to enter its November 15, 2022 Order directing the County Clerk in her conduct and administration of the counting of votes in the Election.

30. Likewise, the Circuit Court is without subject matter jurisdiction to continue presiding over Mazzochi's premature and unauthorized Complaint.

31. Significantly, it is long established by this Court, "that an injunction will not issue out of a court of equity *for the purpose of restraining the holding of an election or in any manner directing or controlling the mode in which the same shall be conducted.*" *Payne v. Emmerson*, 290 Ill. 490, 495, 125 N.E. 329, 331 (1919) (emphasis added) (a court of equity has no jurisdiction to enjoin the Secretary of State from certifying questions of public policy to the electors); *see also, Elder v. Mall*, 350 Ill. 538, 183 N.E. 578 (1932) (a court of equity without jurisdiction over request by candidate to restrain election officials from proclaiming number of votes cast for opponent at primary and from issuing certificate of nomination).

32. "The reason is that an election is a political matter with which courts of equity have nothing to do, and that such an attempt to check the free expression of opinion, to forbid the peaceable assemblage of the people, to obstruct the freedom of elections, if successful, would result in the overthrow of all liberties regulated by law." *Payne*, 290 Ill. at 495, 125 N.E. at 331.

33. As this Court ruled in *Suria*, the Circuit Court's Order in this matter impermissibly usurps the lawful authority of the County Clerk by assuming the role of a superior Illinois election official through judicial fiat. *See generally, Suria*, 112 Ill. 2d 26, 490 N.E.2d 1288.



34. Neither Mazzochi nor the Circuit Court has cited or raised any precedent or authority holding that an Illinois court in equity has the authority or jurisdiction to restrain or direct an election official in the conduct of an election in Illinois.

35. Additionally, the normal appellate process will not afford adequate relief because every moment the County Clerk is subject to the Circuit Court's direction in this matter constitutes an irreparable abuse of judicial process and authority considering the expedient and mandatory time frame for the County Clerk to count all outstanding Vote by Mail ballots on or before November 22, 2022. 10 ILCS 5/19-8.

36. This is particularly true where the Circuit Court has refused to dismiss Mazzochi's Complaint and may enter further orders directing the County Clerk in her conduct and administration of the Election.

37. Finally, this dispute involves a matter important to the administration of justice because it is vital to our system of democratic elections that Illinois Courts exercise proper restraint in intervening in election cases and usurping the role of Illinois election officials in their administration and conduct of elections, without express statutory authority.

38. The Circuit Court's Order invites political agents of any political association to file unauthorized lawsuits in the midst of counting votes in ongoing elections hoping that an Illinois Court will assume the role of an election official and will order the counting of votes in the manner they deem fit. *Payne*, 290 Ill. at 495, 125 N.E. at 331.

39. The clear danger in allowing the Circuit Court's Order to stand is that elections will ultimately be conducted by the Courts, as opposed to duly elected or

appointed election officials, which is contrary to the design and intent of the established electoral and political process in Illinois manifest in the Illinois Constitution and Election Code.

40. This Court should enter a Supervisory Order (1) vacating the Circuit Court's November 15, 2022 Order for lack of authority and subject matter jurisdiction and (2) directing the Circuit Court to dismiss Mazzochi's Complaint for lack of authority and subject matter jurisdiction.

41. Significantly, Mazzochi is not without an express remedy to prosecute her election related grievances under the Election Code.

42. Once the County Clerk declares the Official results of the Election, Mazzochi may pursue the remedies expressly authorized under the Election Code for an election contest and assert her grievances at that time if she is so inclined.

**WHEREFORE**, the County Clerk respectfully requests that this Honorable Court enter an immediate Supervisory Order:

- A. Vacating the Circuit Court 's November 15, 2022 Order for lack of authority and subject matter jurisdiction; and
- B. Directing the Circuit Court to dismiss Mazzochi's Complaint, with prejudice, for lack of authority and subject matter jurisdiction.
- C. For any other relief this Court determines equitable and just.

Respectfully Submitted,

**JEAN KACZMAREK, DUPAGE  
COUNTY CLERK**

By: /s/ Sean Conway (electronic signature)  
Sean Conway, Special Counsel

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CASE NO. \_\_\_\_\_

## IN THE SUPREME COURT OF ILLINOIS

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<b>DEANNE MAZZOCHI</b>	)	<b>On Motion for Supervisory Order</b>
<b>HON. JAMES D. OREL</b>	)	<b>under Illinois Supreme Court Rule</b>
	)	<b>383,</b>
<b>Respondents</b>	)	
	)	
v.	)	<b>From the Circuit Court of the</b>
	)	<b>Eighteenth Judicial Circuit, DuPage</b>
<b>JEAN KACZMAREK, in her</b>	)	<b>County, Illinois, No. 2022 CH 220</b>
<b>Official capacity as DuPage County</b>	)	
<b>Clerk and Election Authority</b>	)	<b>The Honorable James Orel,</b>
<b>For DuPage County</b>	)	<b>Judge Presiding</b>
<b>Petitioner</b>		

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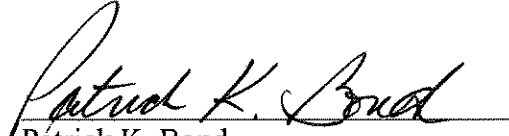
**AFFIDAVIT AUTHENTICATING THE RECORD  
PURSUANT TO ILS.CT. RULE 328**

I, Patrick K. Bond, being duly sworn on oath deposes and states as follows:

1. I am the below signed Affiant.
2. I have personal knowledge of the information contained in this Affidavit.
3. If called to testify in this matter, I would competently testify consistent with this Affidavit.
4. I am an attorney, licensed to practice law in the State of Illinois since 1986.
5. I am an appointed Special Assistant DuPage County State's Attorney, assigned to represent the DuPage County Clerk's Election Division.
6. In this capacity, I represent the DuPage County Clerk Jean Kaczmarek in the instant case.

- 7. As such, I am familiar with and can attest that the documents set forth in the Supporting Record in this Emergency Rule 383 Motion for Supervisory Order are the pleadings and order relevant to the Supreme Court's review of this emergency request.

Further Affiant Sayeth Not.

  
 Patrick K. Bond

Subscribed to and Sworn Before Me  
this 16<sup>th</sup> day of November, 2022

  
 NOTARY PUBLIC



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 Patrick K. Bond  
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CASE NO. \_\_\_\_\_

IN THE SUPREME COURT OF ILLINOIS

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<b>DEANNE MAZZOCHI</b>	)	<b>On Motion for Supervisory Order</b>
<b>HON. JAMES D. OREL</b>	)	<b>under Illinois Supreme Court Rule</b>
	)	<b>383,</b>
<b>Respondents</b>	)	
	)	
<b>v.</b>	)	<b>From the Circuit Court of the</b>
	)	<b>Eighteenth Judicial Circuit, DuPage</b>
<b>JEAN KACZMAREK, in her</b>	)	<b>County, Illinois, No. 2022 CH 220</b>
<b>Official capacity as DuPage County</b>	)	
<b>Clerk and Election Authority</b>	)	<b>The Honorable James D. Orel,</b>
<b>For DuPage County</b>	)	<b>Judge Presiding</b>
	)	
<b>Petitioner</b>	)	

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**SUPPORTING RECORD**

Complaint for Equitable Relief..... 001-009

Emergency Motion to Enforce Election Law by Temporary  
Restraining Order and Preliminary Injunction..... 010-045

DuPage County Clerk’s Combined 2-619 (a)(1) Motion to Dismiss  
Plaintiff’s Complaint for Equitable Relief and Response to Plaintiff’s  
Emergency Motion for Temporary Restraining Order. .... 046-050

Order entered November 15, 2022..... 051-052

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**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY ILLINOIS**

Deanne Mazzochi.,	)	Case No.
	)	
Plaintiff,	)	
	)	
v.	)	
	)	2022CH000220
Jean Kaczmarek, in her official capacity as	)	
DuPage County Clerk and Election Authority	)	
for DuPage County, and Jenn Ladisch	)	
Douglass,	)	
	)	
Defendants.	)	

Candice Adams  
e-filed in the 18th Judicial Circuit Court  
DuPage County  
ENVELOPE: 20288716  
2022CH000220  
FILEDATE: 11/14/2022 1:09 PM  
Date Submitted: 11/14/2022 1:09 PM  
Date Accepted: 11/14/2022 3:16 PM  
DP

**COMPLAINT FOR EQUITABLE RELIEF**

Plaintiff Deanne Mazzochi (“Mazzochi”), by and through her undersigned attorneys, for her Complaint for Equitable Relief, states as follows.

**Nature of the Case**

1. Plaintiff brings this action to stop ongoing violations of the Election Code by Defendant and to uphold the integrity of the election process within DuPage County generally, and for Illinois House of Representatives District 45 in particular. Granting the relief requested herein will ensure that the Election Code will be followed and only lawful votes will be counted. Denying the relief requested herein ensures that the DuPage County Clerk’s unlawful practices will go unchecked and the election results will be tabulated in violation of the law.

**Parties, Jurisdiction, and Venue**

2. Plaintiff Mazzochi is a resident of DuPage County and candidate for the office of Illinois State Representative for the 45<sup>th</sup> District.

3. Defendant Jean Kaczmarek, named here in her official capacity, is the duly elected DuPage County Clerk. As the DuPage County Clerk, Ms. Kaczmarek is the designated election authority for DuPage County pursuant to Section 1-3(8) of the election Code. *See* 10 ILCS 5/1-

3(8). As the election authority for DuPage County, Ms. Kaczmarek is responsible for administering the 2022 general election. The office of the DuPage County Clerk is located at 421 N. County Farm Road in Wheaton, Illinois.

4. Defendant Jenn Ladisch Douglass is a DuPage County resident, and candidate for the office of Illinois State Representative for the 45<sup>th</sup> District. Douglass and Mazzochi are the only candidates for such office. Ladisch Douglass is named solely to ensure that she has the ability to participate in this suit, as she also is also adversely impacted by the DuPage County Clerk's improper signature validation process. The DuPage County Clerk's illegal process as described in more detail below applies to all ballots, irrespective of the partisan lean, if any, of the underlying voter.

5. This Court has jurisdiction over this action, which presents a justiciable controversy between the parties, and further has jurisdiction over Defendant as the office of the DuPage County Clerk is located in this county.

6. Venue is proper because Defendants are located in this county and the facts and circumstances giving rise to this action occurred in this county.

### **Factual Background**

7. Illinois voters are permitted to vote by mail and historic numbers of Illinoisians are doing so in the 2022 general election.

8. Although mail-in ballots are still being received, the DuPage County Clerk is reporting that more than 20% of all votes cast in the 2022 general election (and more than 20% of votes cast for the election of State Representative for the 45<sup>th</sup> District) were cast by mail-in ballot.

9. Mail-in ballots present higher risks of voter fraud as compared to traditional in-person voting.



10. Given that, the Election Code mandates specific verification procedures for mail-in ballots.

11. Section 19 of the Election Code governs mail-in ballots and requires that the voter's signature on the certification envelope of the mail-in ballot be compared with the signature of the voter on file in the office of the election authority. *See* 10 ILCS 5/19-8(g). If the determination is made "***that the 2 signatures match***" and the voter is otherwise qualified to vote by mail, then "the election authority shall cast and count the ballot." *Id.* (emphasis added).

12. Article 19 of the Election Code also provides that pollwatchers "shall be permitted to observe the election judges making the signature comparison between that which is on the ballot envelope ***and that which is on the permanent voter registration record card taken from the master file.***" 10 ILCS 5/19-10 (emphasis added).

13. If the 2 signatures do not match, or other indicia of fraud exist—*e.g.*, if the ballot envelope is open or has been resealed—then the responsible parties "shall mark across the face of the certification envelope the word 'Rejected' and shall not cast or count the ballot." 10 ILCS 5-19-8(g).

14. If the ballot is rejected, the DuPage County Clerk must notify the voter of the rejection and provide the voter an opportunity to present evidence demonstrating why the ballot should be counted. 10 ILCS 5/19-8(g-5).

15. After reviewing the evidence from the voter, a panel of election judges determines whether the ballot is valid. 10 ILCS 5/19-8 (g-10).

16. Article 19 of the Election Code also incorporates Article 17 and in turn, Article 5, setting out voter verification procedures. *See* 10 ILCS 5/19-8(g) ("The procedures set forth in Articles 17 and 18 of this Code shall apply to all ballots counted under this Section [19—governing

mail-in ballots].”)

17. Article 17 requires that ballots be verified by comparing each application for ballot against the list of voters registered in that precinct. 10 ILCS 5/17-9.

18. Likewise, Article 5 requires that the signature on the in-person ballot application be compared with the signature on the registration record card as a means of identifying the voter. 10 ILCS 5/5-29.

19. Counsel speaking on behalf of the election authority confirmed that the proper process for mail-in ballot signature verification is to compare the signature on the ballot itself with the signature on the voter’s most recent voter registration.

20. Despite that, the DuPage County Clerk is not properly verifying mail-in ballots, as explained in more detail below.

21. Only electronically-scanned portions of the mail-in-ballots are being reviewed, also electronically, by the election judges for signature verification. In some cases, the mail-in ballot signatures are not being substantively verified at all. In other cases, the DuPage County Clerk is using the signature on the mail-in ballot application—*not the voter registration*—as an exemplar to verify signatures.

22. At least three individuals, including Mazzochi herself, have witnessed the verification of mail-in ballots that have signatures that do not match the voter’s registration record, where election officials subsequently “verify” the signature by comparing it to the signature that appears on the mail-in ballot application.

23. Mazzochi also personally witnessed instances where election judges determined that the signature on the mail-in ballot envelope did not match the signature that the voter used to register to vote. Rather than move immediately to the step of marking across the face of the

certification envelope the word “Rejected,” and the process set forth in subsection (g-5) of the Election Code, election judges, with the assistance of the Clerk’s staff, would look at additional electronic information, such as the vote by mail application, to “verify” the signature.

24. As a result, mail-in ballots are being verified in violation of the Election Code and counted as votes in the 2022 general election—including for the election of Illinois State House of Representatives District 45.

### **Count I – Declaratory Judgment**

25. Plaintiff incorporates the allegations of paragraphs 1 - 24 as if fully set forth herein.

26. Mazzochi brings this count pursuant to 735 ILCS 5/2-701 *et seq.*

27. An actual controversy exists between the parties concerning how mail-in ballots must be verified under Article 19 of the Election Code.

28. Declaratory judgment regarding the required process for verification of mail-in ballots will resolve the controversy.

29. Mazzochi seeks a declaration by this Court that the Election Code requires that mail-ballots be verified by comparing the signature on the mail-in ballot with the voter’s registration signature and if the 2 signatures do not match, to reject the ballot and provide the voter notice and opportunity to demonstrate why the ballot should be counted, in accordance with Article 19 of the Election Code.

WHEREFORE, Plaintiff Deanne Mazzochi respectfully requests that the Court enter a declaration as set forth above, enter an award of attorneys’ fees and costs, and grant all other appropriate relief.

**Count II – Injunctive Relief to Prevent and Redress Violations of the Election Code**

30. Plaintiff incorporates the allegations of paragraphs 1 - 29 as if fully set forth herein.

31. Mazzochi has a clear right to a full and fair election process in accordance with the Election Code.

32. Mazzochi will suffer irreparable injury if the equitable relief requested herein is not granted as unlawfully verified mail-in ballots will be counted in violation of the Election Code.

33. Mazzochi lacks an adequate remedy at law as the DuPage County Clerk is responsible for administering the 2022 general election in accordance with the Election Code, yet is refusing to comply with its mandates.

34. Mazzochi has a likelihood of success on the merits as the Election Code requires that signatures on mail-in ballots be verified using the voter's registration signature, not the signature on the mail-in ballot, and that if there is a dispute regarding the match of those 2 signatures, the process set forth in subsection (g) and (g-5) of Article 19 of the Election Code must be followed.

WHEREFORE, for the foregoing reasons, Plaintiff Deanne Mazzochi respectfully requests that the Court grant a temporary restraining order granting the following relief:

a) enjoining the DuPage County Clerk from verifying or certifying any vote by mail ballots, or at the very least vote by mail ballots processed between November 2-November 10 until such time as they can be properly verified as required by law;

b) enjoining the DuPage County Clerk from verifying any additional mail-in ballots until such time as they can be properly verified as required by law;

c) enjoining the DuPage County Clerk from presenting to any election judge reviewing vote-by-mail ballots any signature sample beyond those signatures that the voter used

to register to vote; or reaffirm the voter's registration status, which in turn were properly vetted using identification procedures set forth by law;

d) enjoining the DuPage County Clerk from destroying, discarding, or otherwise failing to preserve the following data: list of individuals who voted in-person on Election Day, all vote-by-mail ballots, including covering envelopes, all software and related logs (including metadata and time stamps), all documents, including notes, created or used by election judges in screening ballots, all documents that were in each mail-in voter's file in the Clerk's office, all documents concerning policies and procedures regarding mail-in ballot verification, documents and data related to any mail-in ballot rejection, and non-validated registration signatures disabled during the review process;

e) sequestering and preserving all mail-in ballots, so that they can be verified by lawful process in accordance with the Election Code;

f) directing the DuPage County Clerk to instruct election judges to verify mail-in ballots by comparing the signature on the mail-in ballot with the signature on the voter's registration file, as is required under the Election Code, and ensure that such procedure is being followed;

g) setting this matter for an evidentiary hearing for preliminary injunction at the earliest possible time; and

h) granting all other appropriate relief.

**Count III – Writ of Mandamus to Enforce the Election Code**

35. Plaintiff incorporates the allegations of paragraphs 1 - 34 as if fully set forth herein.

36. Mazzochi has a clear right to a full and fair election administered in accordance with the Election Code.

37. The DuPage County Clerk is the election authority, responsible for administering the 2022 general election in accordance with the Election Code.

38. The Election Code requires that mail-in ballots be verified by comparing signatures on the mail-in ballot to signatures on the voter's registration—not the mail-in ballot application.

39. The Election Code further requires that if those 2 signatures do not match, that the ballot must be rejected and the voter given an opportunity to demonstrate that the ballot should be counted.

WHEREFORE, Plaintiffs respectfully requests that the Court issue a writ of mandamus requiring that Defendant:

a. Require election judges to verify mail-in ballots by comparing the signature on the mail-in ballot with the voter's registration signature and that if such signatures do not match, to reject the ballot and provide the voter notice and opportunity to demonstrate why the ballot should be counted, in accordance with Article 19 of the Election Code;

b. Place all mail-in ballots (including those already counted) through the aforementioned verification process, as is required by the Election Code, and tabulate the results of the 2022 general election accordingly.

Dated: November 14, 2022

Respectfully submitted,

Deanne Mazzochi

By: Michael Kozlowski

Christopher Esbrook  
Michael Kozlowski  
Esbrook P.C.  
321 N. Clark Street Suite 1930  
Chicago, IL 60654  
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*Attorneys for Plaintiff*

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS**

Deanne Mazzochi.,	)	Case No. 22 CH 220
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Jean Kaczmarek, in her official capacity and DuPage County Clerk and Election Authority for DuPage County, and Jenn Ladisch Douglass,	)	
	)	
Defendants.	)	

**EMERGENCY MOTION TO ENFORCE ELECTION LAW  
BY TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiff Deanne Mazzochi (“Mazzochi”), by and through her undersigned attorneys, respectfully requests that the Court enter a temporary restraining order enjoining the DuPage County Clerk from continuing to violate the Election Code by counting improperly verified mail-in ballots in connection with the 2022 general election, and in support thereof state as follows.

**INTRODUCTION**

Plaintiff brings this suit to uphold the integrity of the election counting process within DuPage County, including for Illinois House of Representatives District 45. The DuPage County Clerk is violating the Election Code by improperly verifying mail-in ballots, resulting in improperly verified ballots being counted in the 2022 general election. Mazzochi brings this motion to stop such unlawful practices immediately, and to preserve all mail-in ballots and related documentation, so that they can be lawfully verified and counted, as required by law.

Granting this motion ensures that the Election Code will be followed and that only lawful votes will be counted. On the other hand, denying this motion ensures that Defendant’s unlawful practices will go unchecked, election results will be tabulated unlawfully, and the integrity of our election will be placed in jeopardy.



## BACKGROUND

### **A. Illinois Law Requires Specific Verification of Mail-In Ballots**

Illinois voters are permitted to cast a ballot by mail. In 2022, historic numbers of Illinois voters did so.<sup>1</sup> Mail-in ballots present higher risks of voter fraud compared to traditional in-person voting. Given that, the Election Code mandates taking certain precautions to verify the authenticity of each mail-in ballot. *See* 10 ILCS 5/19 *et seq.* The Election Code requires that the voter's signature on each mail-in ballot be verified by comparing "the voter's signature on the certification envelope of that vote by mail ballot with the signature of the voter on file in the office of the election authority." *See* 10 ILCS 5/19-8(g). So critical is the signature verification of mail-in ballots, that the Election Code expressly permits that pollwatchers "shall be permitted to observe the election judges making the signature comparison between that which is on the ballot envelope and *that which is on the permanent voter registration record card taken from the master file.*" 10 ILCS 5/19-10 (emphasis supplied). If "the 2 signatures match" and the voter is otherwise qualified to vote by mail, then "the election authority shall cast and count the ballot." 10 ILCS 5/19-8(g). If the signatures do not match, or other indicia of fraud exist (*e.g.*, the ballot envelope is open or has been resealed, or the voter is not duly registered), then the Election Code requires that the ballot be marked "Rejected." 10 ILCS 5/19-8(g). If a mail-in ballot is rejected, the DuPage County Clerk must notify the voter of rejection, state the reasons therefor, and provide an opportunity for the voter to present evidence showing why the ballot should be counted. 10 ILCS 5/19-8(g-5). After a reviewing panel of election judges hears the evidence, the panel determines whether the ballot is valid. *Id.* If valid, then it "shall be counted" and "added to the vote totals." 10 ILCS 5/19-8(g-5), (g-10).

---

<sup>1</sup> More than 20% of the votes counted in the District 45 election have been vote-by-mail (more than 8,000 votes), according to the DuPage County Clerk.

Article 17 of the Election Code, governing in-person voting, also applies to mail-in ballots. 10 ILCS 5/19-8(g) (“The procedures set forth in Articles 17 and 18 of this Code shall apply to all ballots counted under this Section [19–governing mail-in ballots].”) Article 17 requires that in-person ballots be verified by comparing each “application for ballot against the list of voters registered in that precinct . . .”. 10 ILCS 5/17-9. In verifying an in-person ballot, Article 17 of the Election Code specifically incorporates Article 5, requiring that all be provisions thereof “shall be complied with.” *Id.* In turn, Article 5 requires that the signature on the ballot application be compared “with the signature on the registration record card as a means of identifying the voter.” 10 ILCS 5/5-29.

In short, the Election Code requires that mail-in ballots be verified by comparing 1) the signature on the ballot envelope with 2) the signature on the voter’s registration record—not an alternative, *e.g.*, the signature on the mail-in ballot application. This process is not only the legally required process, but also the sensible one, because the registration signature is (in theory) verified through the presentation of sufficient identification and proof of identity, whereas the signature on the mail-in ballot application is not.

Assistant State’s attorney Conor P. McCarthy, communicating on behalf of the election authorities, confirmed the distinction between the voter’s registration signature and the one on a vote by mail application in an e-mail response to a pollwatcher’s complaints about the mail-in ballot signature verification process. To assuage the pollwatcher’s concerns, Mr. McCarthy stated that he was informed that the Clerk’s Office uses the voter’s most recent voter registration as the signature exemplar for comparison, and *not* the signature from the application to vote by mail. A true and correct copy of the email from Mr. McCarthy to pollwatcher Perkins is attached hereto as Exhibit A.1. As explained in more detail below, pollwatchers have observed the opposite: that

judges are verifying mail-in ballots by comparing the signature on the mail-in ballot to the signature on the mail-in ballot application—in violation of the Election Code. This unlawful practice has been confirmed by DuPage County Clerk staff-person, Leslie Salyers, who is the key staff-person for mail-in ballots designated by the Clerk’s office.

**B. Defendant Is Violating Illinois Election Law by Improperly Verifying Mail-In Ballots**

As detailed below and in the declarations attached hereto, multiple pollwatchers have observed the DuPage County Clerk’s office, by and through election judges, verifying mail-in ballots by comparing the signature on the ballot envelope with the signature on the application, *not the signature on the voter registration record*.

Pollwatcher and long-time attorney, Jefferson Perkins, observed the signature verification process for mail-in ballots in DuPage County on November 2 and 4, 2022. *See* Declaration of Jefferson Perkins, attached hereto as Exhibit A, ¶¶ 1-4. During that time, he observed election judges comparing the signatures on the mail-in ballot envelopes with the signatures shown on the vote-by-mail application, not the signatures on the voter registration record, to verify the ballots. *Id.* at ¶¶ 5-6. Mr. Perkins lodged a written complaint to the State’s attorney’s office, who informed him that election judges *were not* using mail-in ballot application signatures to verify mail-in ballots. *Id.* at ¶ 7 and Ex. 1 attached thereto. However, Mr. Perkins spoke with Stephanie Groenewald at the site where mail-in ballots were being processed, who informed him that election judges *were* using signatures from the mail-in ballot application to verify mail-in ballot signatures. *Id.* at ¶ 8. Indeed, Mr. Perkins observed Ms. Groenewald provide such signatures for the election judges to consider. *Id.* On November 4, 2022, Mr. Perkins observed the processing of approximately 1,000 mail-in ballots, and more than fifty (50) mail-in ballots were verified using alternative signatures, even though the election judges determined that the signature on the mail-

in ballot envelopes did not match the signature on the voter's registration. *Id.* at ¶ 6.

Another pollwatcher, Rebecca Rudolph, observed nearly identical conduct on November 7, 2022. *See* Declaration of Rebecca Rudolph, attached hereto as Exhibit B. While serving as a pollwatcher, Ms. Rudolph observed the DuPage County Clerk's signature verification process for mail-in ballots. *Id.* at ¶ 4. She observed a process by which two election judges would process a batch of ballots by comparing the signature on the mail-in ballot envelope to the voter's registration signature and flag those signatures that did not match. *Id.* The Election Code requires that if the signatures do not match "the judge or official shall mark across the face of the certification envelope the word "Rejected" and shall not cast or count the ballot." 10 ILCS 5/19-8(g).

Despite that clear directive, the DuPage County Clerk's office did not reject the ballot nor employ the voter notice process for rejected ballots, as required by the Election Code. Instead, Leslie Salyers, from the DuPage County Clerk's office, would take control over the computer workstation. Ex. B at ¶ 5. For each mail-in ballot that the election judges flagged as non-matching, election officials from the DuPage County Clerk's office would provide additional signatures for comparison, including signatures from the mail-in ballot application. *Id.* at ¶¶ 5-6. Ms. Rudolph observed at least seven (7) mail-in ballots verified as matching in that way, even though the signature on the mail-in ballot envelope did not match the signature on the voter's registration. *Id.* at ¶ 8. Leslie Salyers, who the DuPage County Clerk identified as the key staff-person for mail-in ballots, informed Ms. Rudolph that she was using signatures from the mail-in ballot application to verify mail-in ballot signatures. *Id.* at ¶ 9.

Additionally, Mazzochi observed the processing of mail-in ballots on November 9, 10, and 14, 2022. *See* Declaration of Deanne Mazzochi, attached hereto as Exhibit C, at ¶ 5. On all three days, Mazzochi observed the signature verification process where she observed—on several

occasions—the approval of mail-in ballots by comparing the signature on the mail-in ballot envelope to signatures other than those on the voter’s registration. *Id.* at ¶ 6. On November 9, 10, and 14, 2022, Mazzochi observed a process by which the election judges would electronically compare the signatures on the mail-in ballot envelopes to the signature in each voter’s registration file. *Id.* at 5(f). The election judges would notate which signatures did not match, but did not reject any ballots at that time. *Id.* Instead, staff from the DuPage County Clerk’s office would then take control over the review process and for each ballot flagged as non-matching, would bring up additional documentation (including vote-by-mail applications) for the election judges to use to verify mail-in ballot signatures. *Id.* at ¶ 5(g). On November 9, 2022, Mazzochi observed the election judge approve at least fourteen (14) mail-in ballots by comparing the signature on the mail-in ballot envelope to the signature on the vote-by-mail application, *even though the signature on the mail-in ballot envelope was flagged by the election judge as not matching the signature on the voter’s registration.* *Id.* at ¶ 7. On November 10, 2022, Mazzochi observed that at least ten (10) mail-in ballots were verified in the same way. *Id.* at ¶ 8. Mazzochi raised these issues with the DuPage County Clerk, including its special assistant State’s attorney for the election division, Pat Bond. *Id.* at ¶ 15. Mr. Bond informed Mazzochi that the process of verifying mail-in ballots using signatures other than the voter’s registration complies with the Election Code. *Id.* Mazzochi submitted her objections, in writing, to the DuPage County Clerk on November 10, 2022, but has not received any response. *Id.* at ¶ 16.

On November 14, 2022, Mazzochi observed that at least five (5) mail-in ballots were verified using the signature from vote-by-mail application, even though the signature did not match the voter’s registration record. *Id.* at ¶ 10. At no time did Mazzochi observe any election judge mark any mail-in ballot as rejected on the mail-in ballot or envelope. *Id.* at ¶ 14. Indeed, such an

option did not appear available to the election judges as the software used to validate mail-in ballots included only a drop down menu where “signature issue” could be checked. *Id.* On November 14, 2022, Mazzochi also observed the initial sorting process of mail-in ballots. *Id.* at ¶ 11. During that time, Mazzochi observed election judges discarding mail-in ballots because they lacked a postmark even though they included a United States Post Office tracking bar code. *Id.* DuPage County Clerk official Leslie Salyers informed Mazzochi that such ballots, with a barcode but no postmark, would be “discarded.” *Id.* Mazzochi also observed a mail-in ballot envelope that was torn open, sealed with blue tape, and showing a return address of 1108 N. Mayfield in Chicago, Illinois be approved through the initial sorting process, despite such clear indicia of fraud. *Id.* at ¶ 12.

### ARGUMENT

The Court should grant immediate injunctive relief to prevent and redress the unlawful practices of the DuPage County Clerk by improperly verifying mail-in ballots in violation of the Election Code. This Court may order injunctive relief to ensure that elections are lawfully held. *See Orr v. Edgar*, 283 Ill. App. 3d 1088, 1104 (1996) (citing *Political Honesty v. Illinois State Board of Elections*, 65 Ill. 2d 453, 461 (1976)). Doing so ensures that Illinois election law will be followed and all lawful votes will be counted, while denying relief ensures that that the results of the general election of 2022 in DuPage County will include unlawfully tabulated votes.

To obtain a preliminary injunction, Mazzochi must show four elements: that she has a clearly ascertained right in need of protection, will suffer irreparable injury in the absence of an injunction, that she has no adequate remedy at law, and that she has a likelihood of success on the merits. *See Somer v. Bloom Twp. Democratic Org.*, 2020 IL App (1st) 201182, ¶ 16. As explained below, Mazzochi demonstrates each of these elements entitling her to a preliminary injunction

and—at the very least—raises a fair question about the existence of her right, which is all that is necessary to sustain a temporary restraining order. *See Stocker Hinge Mfg. Co. v. Darnel Indus., Inc.*, 94 Ill. 2d 535, 41-42 (1983).

First, Mazzochi, especially as the candidate, has a clear right to a full and fair election in accordance with the Election Code. *See Jones v. McGuffage*, 921 F.Supp. 2d 888, 895 (N.D. Ill. 2013) (noting the importance of the interests of voters to cast their votes effectively, to preserve the fairness and integrity of the electoral process, and to avoid deception). In other words, Mazzochi has a clear right to have mail-in ballots verified as required by the Election Code, to ensure that the lawful electoral process is followed.

Second, Mazzochi will suffer irreparable injury in the absence of injunctive relief. As explained above and in the declarations attached hereto, the DuPage County Clerk, and election judges acting at the Clerk's direction, are violating the Election Code by unlawfully verifying mail-in ballots by comparing the signature on the ballot envelope to the signature on the mail-in ballot application. *Supra* at pp. 4-6. Additionally, the election authority is uniformly rejecting mail-in ballots that lack a postmark, even though they contain mail barcode from the United States Post Office, in violation of Section 19-8(c) of the Election Code. 10 ILCS 5/19-8(c). The result is that improperly "verified" ballots are being counted in violation of Section 19-8 of the Election Code and other ballots received the election authority are being discarded. If the DuPage County Clerk's unlawful conduct goes unchecked, more improperly mail-in ballots will be counted in violation of the Election Code, needlessly calling into question the results of the election.

Third, Mazzochi lacks an adequate remedy at law as the DuPage County Clerk is responsible for conducting the electoral process in accordance with the Election Code, but is refusing to do so. Simply put, a remedy in equity is necessitated by the lack of other legal remedy

to require the election authority to comply with the Election Code. *See Fischer v. Brombolich*, 207 Ill. App. 3d 1053, 1065 (1991) (noting that for a remedy at law to be adequate it must be clear, complete, and as practical and efficient to the ends of justice as an equitable remedy).

Fourth, Mazzochi demonstrates a likelihood of success on the merits. As demonstrated above, the Election Code requires that mail-in ballots be verified by matching the signature on mail-in ballot envelope with the signature on the voter's registration. *Supra* at pp. 2-4. No fewer than three individuals observed the DuPage County Clerk, and election judges associated therewith, verifying mail-in ballot signatures by comparing them to signatures on the mail-in ballot application, *not the voter registration information in direction contradiction of the directives of the Election Code*. *See* Ex. A (Declaration of pollwatcher J. Perkins); Ex. B (Declaration of pollwatcher R. Rudolph); and Ex. C (Declaration of D. Mazzochi). Leslie Salyers from the DuPage County Clerk's Election Division admitted to such a practice (Ex. B at ¶ 9), yet counsel for the DuPage County Clerk's office states that such a practice is not occurring (Ex. A.1) – further demonstrating that the Clerk is not certain as to its own validation procedures. In similar circumstances where a statute directs a state official to take unambiguous action, courts have entered equitable relief compelling such action. *See e.g., Read v. Sheahan*, 359 Ill. App. 3d 89, 98 (2005) (granting writ of *mandamus* requiring sheriff to appoint director of department of corrections where statute stated that “[t]he Sheriff shall appoint a Director”). The statute at issue in this case is similarly clear and unambiguous. If “the 2 signatures match” and the voter is otherwise qualified to vote by mail, then “the election authority shall cast and count the ballot.” 10 ILCS 5/19-8(g). If the signatures do not match, then the “judge or official shall” reject the ballot and the “election authority shall . . . notify” the voter and provide an opportunity to show cause as to why the ballot should not be rejected. *Id.*



In sum, the DuPage County Clerk is required to comply with the mandates of the Election Code to validate mail-in ballots to ensure that mail-in votes are being cast by the actual voters. In this election, that is not happening and the DuPage County Clerk is violating the Election Code. Rather than verifying mail-in ballots lawfully, by comparing the signature on the ballot envelope to the signature on the voter's registration, the DuPage County Clerk is "verifying" mail-in ballots by comparing the signature on the ballot envelope to the signature on the mail-in ballot application. The result is that improperly "verified" ballots are being counted in violation of Section 19-8 of the Election Code. If the DuPage County Clerk's unlawful conduct goes unchecked, more improperly verified mail-in ballots will be counted in violation of the Election Code, calling into question the results of the election.

The Court should not permit such an outcome. Instead, the Court should grant this motion and require that the DuPage County Clerk follow the Election Code by properly verifying all mail-in ballots in accordance with Section 19; further order the DuPage County Clerk to follow the procedures (both prospectively and retroactively) for signature verification for *all* signatures that the election judges initially determined did not match the signature on file before they initiated a secondary review process not contemplated by statute; and further sequester all ballots and ballot envelopes and related data associated with the vote by mail process to ensure the Election Code is being followed. *See Pearson v. Kemp*, No. 1:20-CV-4809-TCB, 2020 WL 7040582, ¶ 2 (N.D. Ga. Nov. 29, 2020) (granting temporary restraining order to preserve election data).<sup>2</sup>

### CONCLUSION

WHEREFORE, for the foregoing reasons, Plaintiff Deanne Mazzochi respectfully requests that the Court grant a temporary restraining order granting the following relief:

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<sup>2</sup> Because the Court may not have access to Westlaw, a copy of the *Pearson v. Kemp* case is attached hereto as Exhibit D.

a) enjoining the DuPage County Clerk from verifying or certifying any vote by mail ballots, or at the very least vote by mail ballots processed since November 2 until such time as they can be properly verified as required by law;

b) enjoining the DuPage County Clerk from verifying any additional mail-in ballots until such time as they can be properly verified as required by law;

c) enjoining the DuPage County Clerk from presenting to any election judge reviewing vote-by-mail ballots any signature sample beyond those signatures that the voter used to register to vote; or reaffirm the voter's registration status, which in turn were properly vetted using identification procedures set forth by law;

d) enjoining the DuPage County Clerk from destroying, discarding, or otherwise failing to preserve the following data: list of individuals who voted in-person on Election Day, all vote-by-mail ballots, including covering envelopes, all software and related logs (including metadata and time stamps), all documents, including notes, created or used by election judges in screening ballots, all documents that were in each mail-in voter's file in the Clerk's office, all documents concerning policies and procedures regarding mail-in ballot verification, documents and data related to any mail-in ballot rejection, and non-validated registration signatures disabled during the review process;

e) sequestering and preserving all mail-in ballots, so that they can be verified by lawful process in accordance with the Election Code;

f) directing the DuPage County Clerk to instruct election judges to verify mail-in ballots by comparing the signature on the mail-in ballot envelope with the signature on the voter's registration file, as is required under the Election Code, and ensure that such procedure is being followed;

g) setting this matter for an evidentiary hearing for preliminary injunction at the earliest possible time and granting Plaintiff leave to serve limited, expedited discovery in support thereof to be answered within seven (7) days; and

h) granting all other appropriate relief.

Dated: November 14, 2022

Respectfully submitted,

Deanne Mazzochi

By: Michael Kozlowski

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Attorney No. 338220

*Attorneys for Plaintiff*

## **Exhibit A**

### ***Declaration of Jefferson Perkins***

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY ILLINOIS**

Deanne Mazzochi.,	)	Case No. 22 CH 220
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Jean Kaczmarek, in her official capacity as	)	
DuPage County Clerk and Election	)	
Authority for DuPage County, and Jenn	)	
Ladisch Douglass,	)	
Defendants.	)	

**DECLARATION OF JEFFERSON PERKINS**

I, Jefferson Perkins, certify and state as follows:

1. I make the statements herein of my own personal knowledge and if called to testify as a witness in this action, I would testify as set forth herein.
  
2. I am over the age of twenty-one and an attorney registered to practice law in the state of Illinois.
  
3. I am a registered patent attorney and have been actively practicing law for more than thirty years.
  
4. During the 2022 general election, I served as a pollwatcher at 421 N. County Farm Road, Wheaton, Illinois on November 2 and 4, 2022.
  
5. While serving as a pollwatcher, I observed the signature verification process for mail-in ballots where election officials would compare the signature on the mail-in ballot to the signature in the voter's registration file. For the signatures that did not match, staff from the DuPage County Clerk's office would bring up a third signature, which was on many occasions the signature from a mail-in ballot application, to verify the mail-in ballot signature.
  
6. More often than not, mail-in ballots that were originally found to be mismatched, were verified using the signature from a mail-in ballot application. On November 4, 2022, alone,

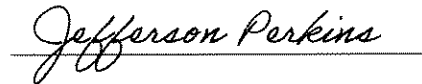
I observed approximately 1,000 mail-in ballots be processed and more than more than fifty mail-in ballots were verified even though the election judges determined that the signature on the mail-in ballot did not match the signature on the voter's registration record.

7. I lodged a written complaint with Conor P. McCarthy, an assistant state's attorney from the DuPage County Civil Bureau. Attached to this declaration as Exhibit 1 is a true and correct copy of Mr. Perkins' email to me dated November 7, 2022.

8. On November 2, 2022, I spoke with Stephanie Groenewald from the office of the DuPage County Clerk, who informed me that election judges were using signatures from the mail-in ballot application to verify mail-in ballot signatures. I observed Ms. Groenewald bring up, on the screen, such signatures for the election judges to consider.

9. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Executed on: November 13, 2022

A handwritten signature in cursive script that reads "Jefferson Perkins". The signature is written in black ink and is positioned above a horizontal line.

Jefferson Perkins

# Exhibit A.1

**From:** [jperkins@perkinsip.com](mailto:jperkins@perkinsip.com)  
**Date:** November 7, 2022 at 6:44:00 PM  
CST  
**To:** "McCarthy, Conor P."  
<[Conor.McCarthy@dupageco.org](mailto:Conor.McCarthy@dupageco.org)>, Becky  
Rudolph <[beckyrudolph5@gmail.com](mailto:beckyrudolph5@gmail.com)>  
**Subject:**RE: Pollwatcher Complaint(s)

Dear Mr. McCarthy,

The facts concerning Teresa Manzke seem plausible. But I do not agree with your description of what is going on at the DuPage County Election Authority concerning the use of other captured signatures for a voter.

Those signatures DEFINITELY include signatures scanned from VBM application forms. Including VBM applications sent in to the DuPage County Clerk's office in Fall of 2022. Stephanie Groenewald admitted this to me. Leslie Halyer admitted as much to Becky Rudolph.

We saw, with our own eyes, the use of signatures scanned from VBM application forms. You are not being told the truth. And it is a serious problem, as it allows widespread voter impersonation by people who know as little as the birth date of the legitimate voter. They sign the voter's name on the VBM application form; they sign it again on the VBM ballot envelope. And: what you do you know, they match.

The use of such unverified scanned signatures by the DuPage EA should be stopped immediately. Any such database containing such signatures should not be used in ballot signature verification.

Very truly yours

Jefferson Perkins

**From:** McCarthy, Conor P.  
<[Conor.McCarthy@dupageco.org](mailto:Conor.McCarthy@dupageco.org)>



**Sent:** Monday, November 7, 2022 5:23 PM  
**To:** [jperkins@perkinsip.com](mailto:jperkins@perkinsip.com)  
**Subject:** Pollwatcher Complaint(s)

Mr. Perkins,

I wanted to follow up with you with regards to your two complaints from last week.

Initially, you had concerns about a deceased voter receiving a vote by mail ballot. I have followed up with registrations staff and can report as follows: (1) the voter signed up to receive a vote by mail ballot via permanent VBM, (2) on 10/17/2022 the DuPage County Clerk received notification of the voters death, (3) the voters ballot was cancelled on 10/17, and (4) the voter was removed from the list as deceased. Staff confirms that no ballot was ever received from the voter.

Second, you had concerns about what specific signature exemplars are contained in the Clerk's system when matching vote by mail ballot signatures to signatures on file. In your complaint you advised that you had heard the Clerk was using signatures from the vote by mail application. I have investigated this with elections staff and the Special Assistant State's Attorney for the Clerk's elections division. I have been informed that the Clerk's Office uses a voters most recent voter registration as the signature exemplar for first comparison. In some circumstances, those signatures may be completed electronically, and therefore they may look different than a signature from a pen (due to the difference in how the stylus is picked up by the reader for example). In those circumstances, where a voter has other signatures on file as part of their previous registrations, the Clerk may have election judges review those signatures against those on the envelope. As these signature comparisons come from the voter's original registration and any subsequent updated registration, those signatures have been verified as belonging to the voter, unlike a signature

from the application to vote by mail. I believe that should resolve your concerns about the signature exemplars. If you have any questions, please feel free to contact me.

Sincerely,

*Conor P. McCarthy*

Assistant State's Attorney  
DuPage County  
Civil Bureau

CONFIDENTIALITY NOTICE: This e-mail (and attachments) contains information that belongs to the sender and may be confidential and/or protected by attorney-client or attorney work product privilege. The information is only for the intended recipient. If you are not the named or intended recipient, please do not disclose, copy, distribute, or use this information. If you have received this transmission in error, please promptly notify the sender of receipt of the e-mail and then destroy all copies of it. Receipt by unintended recipient does not waive attorney-client privilege or attorney work product privilege or any other exemption from disclosure. Thank you.

**Exhibit B**

***Declaration of Rebecca Rudolph***

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY ILLINOIS**

Deanne Mazzochi,	)	Case No. 22 CH 220
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Jean Kaczmarek, in her official capacity as	)	
DuPage County Clerk and Election	)	
Authority for DuPage County, and Jenn	)	
Ladisch Douglass,	)	
Defendants.	)	

**DECLARATION OF REBECCA RUDOLPH**

I, Rebecca Rudolph, certify and state as follows:

1. I make the statements herein of my own personal knowledge and if called to testify as a witness in this action, I would testify as set forth herein.
2. I am over the age of twenty-one.
3. During the 2022 general election, I served as a pollwatcher on November 7, 2022, between 9:00 and 10:00 a.m. at the DuPage County facility located at 421 N. County Farm Road in Wheaton, Illinois.
4. While serving as a pollwatcher, I observed the DuPage County Clerk's signature verification process for mail-in ballots. Two election judges would process a batch of ballots by comparing the signature on the mail-ballot to the voter's registration signature and flag those signatures that did not match.
5. Once the election judges completed their review of a batch of ballot signatures, an employee of the Election Division of DuPage County Clerk's office, including Leslie Salyers, would then take control over the computer.
6. For each ballot signature flagged by the election judges a non-matching, the election official would provide different signatures for purposes of verifying the identity of voter,

including signatures from the mail-in ballot applications on many occasions.

7. I observed the aforementioned practice with all 3 sets of election judges at the Facility.

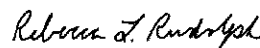
8. I observed mail-in ballots being approved even though the signature on the ballot did not match the voter's registration signature on at least seven occasions, with respect to the following voters:

- a. Vincent Brent Page;
- b. Angel Figueroa;
- c. Edward Widram Gawron;
- d. Anthony Naumoff;
- e. John Drozd;
- f. Sheela Zachariah; and
- g. Ahmadreza Alidousti.

9. On November 7, 2022, I spoke with Leslie Salyers, from the office of the DuPage County Clerk, who informed me that she was using signatures from the mail-in ballot application to verify mail-in ballot signatures.

10. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Executed on: November 13, 2022



Rebecca Rudolph

## **Exhibit C**

### ***Declaration of Deanne Mazzochi***

**IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY ILLINOIS**

Deanne Mazzochi.,	)	Case No. 22 CH 220
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Jean Kaczmarek, in her official capacity as	)	
DuPage County Clerk and Election	)	
Authority for DuPage County, and Jenn	)	
Ladisch Douglass,	)	
	)	
Defendants.	)	

**DECLARATION OF DEANNE MAZZOCHI**

I, Deanne Mazzochi, certify and state as follows:

1. I make the statements herein of my own personal knowledge and if called to testify as a witness in this action, I would testify as set forth herein.

2. I am over the age of twenty-one and currently serve as the state representative for the Illinois 47<sup>th</sup> House District. Additionally, I have been an attorney licensed to practice law in the state of Illinois for more than twenty years.

3. I am a candidate for the office of state representative of Illinois House District 45. My opponent is Jenn Ladisch Douglass. No other candidates were in the race.

4. I voted in the 2022 general election in DuPage County, Illinois.

5. On November 9, 10 and 14, 2022, I observed the signature comparison process of the vote by mail ballots received in connection with the 2022 general election. During that time, I observed the following:

- a. The election judges were performing the signature review process electronically.
- b. On a screen, the election judges typically see four quadrants, each with various

pieces of information in them. The screen, as a whole, typically displayed at least eight signature images.

- c. Each of the four quadrants can have two images associated with them. Each quadrant will correspond to information involving a vote-by-mail ballot. The top image in the quadrant is a display titled "Signature Image on File," which is the electronic image of the voter registration signature on file. The lower image is titled, "Envelope image," and an image represented to have been taken from a section of the vote-by-mail envelope delivered for the 2022 general election. Enlargements of the lower image can also be presented.
- d. Each quadrant also contains a ballot image ID number (e.g., 037-2337-0020-1), a voter registration number (e.g., 1306442), the voter's name, along with other voter and ballot information.
- e. When information is displayed in each quadrant, the election judges have the option to accept the signature or challenge it. There is a button in the software to "Mark all as verified," "move back," and "move forward," but we were informed that there was no ability to go backwards despite the apparent presence of the "move back" button.
- f. Using the election software, election judges would compare the signature on the mail-in ballot envelopes with what appeared to be signatures from the voter's registration file and would make notations on paper for those ballots where the signatures did not match. Although the election judges were lenient on what qualified as a match, they nevertheless identified between approximately three (3) and fifteen (15) ballots per batch of 300 ballots that did not match. None of the



non-matching mail-in ballots were marked rejected at that time.

- g. After the initial review by the election judges, staff from the DuPage County Clerk's office would then take control over the review process and for each ballot flagged as non-matching, would begin calling up additional documentation—including vote-by-mail applications, for the election judges to use to verify mail-in ballot signatures. Not until after this additional review would the ballot signature be designated as contested or not.
- h. The election judges were moving extremely quickly through the mail-in ballots, usually spending only seconds per ballot. Given that speed, it was difficult for me to note all discrepancies, but I recorded information as quickly and accurately as possible.

6. While observing the signature verification process on November 9, 10, and 14, 2022, I observed election judges—on several occasions—approving mail-in ballots by comparing the signature on the mail-in ballot envelope to signatures other than those on the voter's registration, as set forth in more detail below.

7. On November 9, 2022, I observed the election judges flag at least the following mail-in ballots as non-matching with the voter's registration signature, but then approve such mail-in ballots after comparing the signature on the mail in ballot envelope to other signatures, including signatures on the vote-by-mail application:

- a. Ballot Image No. 037-0126-0043-1;
- b. Ballot Image No. 037-0121-0003-1;
- c. Ballot Image No. 037-0132-0031-1;
- d. Ballot Image No. 037-1268-0019-1;

- e. Ballot Image No. 037-1430-0012-1;
- f. Ballot Image No. 037-1792-0029-1;
- g. Ballot Image No. 037-2184-0006-1; and
- h. Ballot Image No. 037-0723-0023-1.

8. In addition to the eight ballots described above, on November 9, 2022, I observed the election judges approve at least six additional mail-in ballots even though they had flagged that such mail-in ballot signatures did not match the signatures on the voter's registration.

9. On November 10, 2022, I observed the election judges flag at least the following mail-in ballots as non-matching with the voter's registration signature, but then approve such mail-in ballots after comparing the signature on the mail-in ballot envelope with other signatures not in the voter's registration file, including signatures on the vote-by-mail application:

- a. Ballot Nos. 9, 92, 132, 151, and 179 from return group AV-2482;
- b. Ballot Nos. 120 and 195 from return group AV-2484; and
- c. Ballot Nos. 63, 64, and 108 from return group AV-2488.

10. On November 14, 2022, I observed the election judges flag at least the following mail-in ballots as non-matching with the voter's registration signature, but then approve such mail-in ballots after comparing the signature on the mail-in ballot envelope with other signatures not in the voter's registration file, including signatures on the vote-by-mail application:

- a. Ballot Nos. 31, 84, and 157 from return group AV-2502
- b. Ballot Nos. 14 and 24 from return group AV-2506

11. Additionally, on November 14, 2022, I observed the election judges' initial sorting of mail-in ballots. During the initial sorting process, mail-in ballots that lacked a postmark, even if they included a United States Post Office tracking bar code, were being

uniformly rejected and placed in a large blue bin. DuPage County Clerk staff, Leslie Salyers, informed me that the ballots in the large blue bin would be discarded.

12. Additionally, on November 14, 2022, I observed a mail-in ballot envelope that was torn open and the envelope seal was covered with blue tape, showing a return address of 1108 N. Mayfield in Chicago, Illinois. Despite this obvious indicia that the ballot could have been tampered with, this ballot was approved during the initial sorting process and to my knowledge has been passed through to the signature verification process. At the time of making this affidavit, the taped mail-in ballot was still in the signature verification process.

13. Each return group of ballots consists of approximately 300 ballots or fewer.

14. At no time did I observe any election judge mark any mail-in ballot as rejected on the mail-in ballot, or envelope. In the box titled "Challenge Status," the drop down menu would merely state "signature issue."

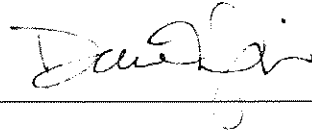
15. I objected to the process of verifying mail-in ballots by using signatures other than those contained in the voter's registration file by raising the issue with Pat Bond, who is special counsel to the DuPage County Clerk for election matters. Mr. Bond responded by informing me that the Clerk's position is that its signature verification process (as described above) is compliant with the Election Code.

16. On November 10, 2022, I submitted my objections, in writing, to the DuPage County Clerk by delivering a copy of the letter attached hereto as Exhibit 1 to Pat Bond, personally. Mr. Bond indicated at that time that he was accepting the letter on behalf of the DuPage County Clerk.

17. I have not received any response to the written objection attached hereto as Exhibit 1.

18. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Executed on: November 14, 2022

A handwritten signature in cursive script, appearing to read "Deanne", is written above a horizontal line.

Deanne Mazzochi

# **Exhibit C.1**

Deanne Marie  
**Mazzochi**

November 10, 2022

The Honorable Jean Kaczmarek  
DuPage County Clerk  
421 N. County Farm Rd.  
Wheaton, IL 60187  
*Via hand delivery and copy via e-mail*

**Re: Daily preservation of voter files and associated records; website representations**

Dear Clerk Kaczmarek:

I am writing to you regarding the following:

**I. Records, preservation and production.**

I write to formally request the preservation of the voter file and any associated poll books and signature documentation for the 45th Representative District in the State of Illinois each day, including how the file existed as of November 8, 2022, and beginning November 9, 2022 and every day thereafter, both at the start of the day and as it existed at the end of each day, and for at least the next fourteen days or until no further votes are added or modifications are made to the 2022 General Election vote totals. Every modification to the voter file or poll book that may modify an existing file or signature image should be considered to be a new and distinct file that is requested.

I further request a copy of each day's voter file, in both its original form, as well as in CSV format, and which further is in a format that is text-searchable in a manner reasonably consistent with how the records are prepared and preserved in the ordinary course of business, including how the file existed as of November 8, 2022, and beginning November 9, 2022 and every day thereafter, both at the start of the day and as it existed at the end of each day, and for at least the next fourteen days or until no further votes are added or modifications are made to the 2022 General Election vote totals.

I further request the tabulated results for each ABS update of scanned vote by mail ballots, including those created within three weeks prior to the commencement of early voting; throughout each election day period; and for at least the next fourteen days, or until no further votes are added or modifications are made to the 2022 General Election vote totals.

I further request copies of notes by election judges prepared in connection with signature review and challenges. We witnessed these being prepared by election judges yesterday. All such notes should be preserved.

If not included in the above, I further request a copy of (a) a list of all ballots requested via Vote by Mail (whether temporary or permanent); (b) a corresponding identification of the date on which the vote by mail was requested/applied for, and whether the application for vote by mail was done online, by mail, or in person; and (c) a list of all Mail ballots received by the Clerk's office for each day, including those created within three weeks prior to the commencement of early voting; throughout each election day period; and for at least the next fourteen days, or until no further votes are added or

**156 S. SUNNYSIDE AVENUE, ELMHURST, IL 60126**

*Printed by Circuits for Mazzochi*

Page 2

modifications are made to the 2022 General Election vote totals.

I further request that for each day, your office both preserve and provide lists, preferably in CSV format, of each voter registration that was created within three weeks prior to the commencement of early voting; throughout each election day period; and for at least the next fourteen days, or until no further votes are added or modifications are made to the 2022 General Election vote totals.

I further request a list from each day of the voter registrations, if any, that were switched from active to inactive; as well as voter registrations that were switched from inactive to active, and for the time period that consists of three weeks prior to the commencement of early voting; throughout each election day period; and for at least the next fourteen days, or until no further votes are added or modifications are made to the 2022 General Election vote totals.

I further request a list of all correspondence provided to the Clerk's office where mail involving a voter or proposed registered voter or ballot request or associated correspondence was presented or otherwise identified as undeliverable, or returned to sender, from the time period that consists of at least one week before any notice of Vote by Mail ballot availability; throughout each election day period; and for at least the next fourteen days, or until no further votes are added or modifications are made to the 2022 General Election vote totals.

I further request copies of any internal assessment that was done by or on behalf of the Clerk's office to ensure that the number of ballots cast match to the number of voters casting a vote. To the extent your office is unclear as to whether, e.g., a request includes or excludes information, it should be construed to be inclusive of all voting types, documents, and broadly. If it is being construed exclusively and/or narrowly, for whatever reason, please provide immediate notice of same.

I further request copies of any internal assessment that was done by or on behalf of the Clerk's office to ensure that an individual who had requested a vote by mail had not moved from the address provided on the vote by mail application at the time that the ballot was sent.

I further request copies of any internal assessment that was done by or on behalf of the Clerk's office to ensure that an individual who had requested a vote by mail was not deceased at the time that the ballot was sent.

I further request a list of each individual who requested a ballot by mail, where the ballot was sent to an address that is not in the state of Illinois, for the time period that consists of three weeks before the commencement of early voting; throughout each election day period; and for at least the next fourteen days, or until no further votes are added or modifications are made to the 2022 General Election vote totals.

If this cannot be done for the 45<sup>th</sup> Representative District individually, then I request that the entire DuPage County vote file, lists, and registration switches noted above be preserved for each day.

Under 52 U.S.C. § 20701, the 2022 General Election files I am requesting include candidates for the office of Member of the Senate and Member of the House of Representatives. You have an independent duty to retain and preserve, for a period of twenty-two months from the date of November

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*Paid for by Citizens for Menzies*

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8, 2022, “all records and papers which come into [your] possession relating to any application, registration, ... or other act requisite to voting in such election,” whether retained by you or any other document custodian. This would include not merely voting information such as I have requested above, but also ballots, envelopes, mail and e-mail correspondence, internally prepared documents, and the like. No existing electronic files may be overwritten; they shall be preserved in their original form as well as separately for any additional modifications. Please be advised that under 52 U.S.C. § 20701, “Any officer of election or custodian who willfully fails to comply with this section shall be fined not more than \$1000 or imprisoned not more than one year, or both.” Failure to comply with this and other record retention requirements relating to the election may also expose you and/or your office to civil rights claims. We thus expect you to ensure that you are compliant with all usual and customary litigation hold procedures, and ensure oversight by the DuPage County State’s Attorney’s Office regarding same.

We further request that you provide copies of policies, procedures and/or guidelines that your office prepared or applied for: (a) the inspection, verification and acceptance of Vote by Mail ballot signatures; (b) for the inspection, verification and acceptance of provisional ballots, and if different from your staff, for election judges; and (c) for the allowance of pollwatchers at the DuPage County Clerk’s office, including but not limited to, any information regarding the distance from which poll watchers would be kept from any/all ballot processing and tabulation activities.

We further request copies of all vote by mail envelopes accepted by the clerk’s office as legal votes and processed or counted in the forty fifth Illinois House legislative district; copies of any and all evidence used by election judges to verify signatures on vote by mail ballots processed or counted in the forty fifth Illinois House legislative district (*i.e.*, voter registration documentation, VBM ballot requests, ballot envelop images, etc.).

I understand that to comply with the above requests, there may be a reasonable cost involved. I am willing to accept electronic files to minimize costs, including via e-mail, Dropbox, or a secure file transfer exchange medium. If the cost for production will exceed \$250, please advise me immediately. I can be reached at [dmazzochi@rmmslegal.com](mailto:dmazzochi@rmmslegal.com), and at 312-925-3360. If you need to be provided with a storage medium in order to transfer the files, please specify the nature and type of storage medium. To the extent the cost of providing the requisite files above will exceed the amount provided above, please advise as to the Clerk’s position as to why the cost is not one that the Clerk’s office would not ordinarily incur as part of its regular and customary business to comply with the federal requirements noted above.

## **II. Continued review, uploading, and reporting of ballots.**

The current DuPage County Clerk’s website and associated election results reporting has been misleading to some members of the public. I have had several individuals contact me because they believed the election results were “final,” given the notations of 100% of precincts reporting, and they experienced confusion upon being told that the election results were still not final. They were not aware that there are still many outstanding vote by mail ballots for the district, and that the Clerk’s office has yet to count ballots that were, *e.g.*, put into drop boxes on election day, or which may continue to arrive in the mail. In the interests of transparency, the public should be informed of how many ballots in each district race are still missing and/or received but have yet to be counted for each district.

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*Paul for Citizens for Mazzochi*



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I further wish to reiterate that our poll watchers want to be present for each and every step involved with the incoming ballots that were dropped off at polling places, as well as Vote by Mail ballots that are coming in via U.S. mail, including the initial step of confirming postmarks (or being present if machine reviewed by bar code), and every step thereafter; notified of the procedure that will be followed; the number of mail deliveries per day; and all expected dates/times for review.

It is disappointing that this request has to be made in writing, but it is necessary based on events that occurred yesterday. For example:

I arrived at the start of the work day on November 9, 2022. Because of the clear closeness of the count and likelihood of outstanding ballots, I attempted to find you so that I could get a clear understanding of how your office would be handling poll watching/review issues going forward. You were not there. I asked that your staff inform you that I would like to speak to you to ensure that we were clear on the process of what would be done for the day, and gave them my cell phone number, and business cards. You were not present and never responded.

At the outset of the day, poll watchers were placed behind a barrier of tables and ropes that precluded meaningful observation of the opening of various yellow envelopes that contained vote by mail ballots. Your staff refused to state what was contained within the yellow envelopes. Your staff seemed to deliberately position themselves in such a way so that when they spoke to the election judges, poll watchers could not hear the instructions being given to the election judges by your staff. When asked what activities were taking place, your staff refused to respond with anything other than a demand that we contact Pat Bond (your attorney). Efforts to reach Mr. Bond at that time were unsuccessful.

There were reasons why the poll watchers wanted to witness the process for pulling ballots out of the yellow envelopes. *First*, without knowing the provenance of the envelopes, it was unclear what chain of custody or oversight review might be required for the yellow envelopes and/or their contents. *Second*, individual election judges, as opposed to a pair of judges from each party, were opening the yellow envelopes, writing on them, and then pulling what appeared to be vote by mail ballot envelopes from the envelopes, writing on such ballot envelopes, then putting such ballot envelopes into various blue boxes. *Third*, it was not clear if there was a protocol in place to ensure that election judges had actually signed the yellow envelopes at/across the envelopes' seal. *Fourth*, poll watchers believed that they heard questions from election judges when opening the envelopes, your staff would respond, but the instructions could not be heard because of the distance away your staff imposed on the poll watchers. *Fifth*, for example, at around 11 am, it appeared that one of the judges pulled from the set what was referred to as a "not contested" ballot, which had some kind of receipt with it, that was combined with the other ballots in the set and then placed into the box. If the local polling places had, for whatever reason, segregated or independently characterized a ballot, that segregation was seemingly lost once the ballot was placed in a box. These are just a few examples of what was witnessed.

We trust that you can understand that without either independent or bipartisan witnesses to what was being written, it was unclear that a proper chain of custody was being preserved. Indeed, after I was later able to speak with Mr. Bond about this issue (after most of this process was completed), he agreed that it was proper to have poll watchers sufficiently close to ensure that numbers were being tabulated correctly, and that the only markings being placed on the ballot envelope was an internal precinct

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Paul for by Citizens for Mazzuchini

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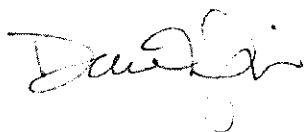
number. Yet that process was only followed later in the day for a mere 20 minutes, whereupon the work was completed without incident. However, because poll watchers were not permitted proper oversight access, please ensure that all of the yellow envelopes are preserved for further review.

Similarly, during the signature verification process that occurred shortly after 11:15 in the morning on November 9, 2011, there were multiple signatures that failed to match. The election judges had both agreed that multiple signatures looked suspicious. After the first pass through the ballots, your staff (*e.g.*, Stephanie Groenewold) would facilitate the election judges clearing the signature problems not based on a comparison of the vote by mail ballot signature to the actual voter signature on file from the voter registration, but by calling up a signature “match” from, *e.g.*, the underlying vote by mail application. Obviously, if a ballot was fraudulently requested by mail, this process will not catch a mismatch between the signature on the vote-by-mail ballot versus the original signature in the registration file. One example of a ballot signature mismatch was a person whose voter file had a different middle initial as compared to the signature on the vote by mail envelope. The mistaken middle initial was on the vote by mail application, but not on the original voter registration file. Yet it was cleared. Poll watchers witnessed multiple instances of this comparison to the vote by mail application to “clear” signatures, even though the election judges did not change their mind that the underlying signature in the voter registration file was visibly different. We object to all of these and request that these ballots be segregated for further challenge. You will be able to identify the ballot numbers that the election judges originally objected to from the notes made during the signature review. To illustrate why this is problematic, in one set of 300 ballots, there were over 20 instances where the election judges initially agreed that the signature on the mail-in ballot did not appear to match the one contained within the voter registration file. Further, your staff appeared to cross the line by encouraging the election judges to use the vote by mail application for comparison instead of the original voting files, or for ballots that were missing a proper signature in the signature box, having them accept the ballot because a different area of the ballot was signed. Concerns about the legality of this process are set forth in more detail in the letter from John Fogarty sent yesterday. Yet, this process is continuing again today, and was witnessed by multiple poll watchers.

Separately, during today’s review of provisional ballots, many ballots were passed through even though they were lacking an election judge’s signature, etc.

The above is just the start of how and why there have been serious concerns with how vote by mail ballots have been treated here in DuPage County. Please ensure that all materials are properly preserved and that your office initiates proper litigation hold procedures for all documentation relating to ballot handling and the 2022 General Election.

Sincerely,



Deanne Marie Mazzochi

**156 S. SUNNYSIDE AVENUE, ELMHURST, IL 60126**

Printed by Citizens for Mazzochi

Respectfully submitted,

*Michael Kozlowski*

Christopher J. Esbrook

Michael Kozlowski

ESBROOK P.C.

77 W. Wacker Dr. Suite 4500

Chicago, IL 60601

(312) 318-7682

[christopher.esbrook@esbrook.com](mailto:christopher.esbrook@esbrook.com)

[michael.kozlowski@esbrook.com](mailto:michael.kozlowski@esbrook.com)

Attorney No.: 338220

*Attorneys for Plaintiff*

**IN THE CIRCUIT COURT FOR THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS**

Deanne Mazzochi,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 2022CH000220
	)	
Jean Kaczmarek, in her official capacity as	)	
DuPage County Clerk and Election Authority	)	
for DuPage County, and Jean Ladisch	)	
Douglass,	)	
	)	
Defendants.	)	

**DUPAGE COUNTY CLERK’S COMBINED 2-619(a)(1) MOTION TO DISMISS  
PLAINTIFF’S COMPLAINT FOR EQUITABLE RELIEF AND RESPONSE TO  
PLAINTIFF’S EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER**

NOW COMES, Defendant, Jean Kaczmarek in her official capacity as the DuPage County Clerk (the “County Clerk”), by her Special Counsel, Sean Conway and Patrick K. Bond, of BOND DICKSON & CONWAY, and submits the County Clerk’s Combined Section 2-619(a)(1) Motion to Dismiss Plaintiff’s Complaint for Equitable Relief (“Complaint”) and Response to Plaintiff’s Emergency Motion for Temporary Restraining Order (“TRO”).

**INTRODUCTION**

This matter involves Plaintiffs’ various grievances directed at the County Clerk’s conduct and administration of the November 8, 2022 General Election (the “Election”). Without providing the Court statutory authority or Court precedent, Plaintiff has prematurely filed this action in the midst of the ongoing tabulation of vote by mail, provisional and military overseas ballots for the Election. In her Complaint and TRO, Plaintiff requests that this Court halt the County Clerk’s ongoing processing of vote by mail ballots by the bi-partisan teams of sworn Election Judges assembled and direct the County Clerk to tabulate voted ballots in a

manner she apparently has determined best suits her which is not consistent with the Election Code.

Simply put, Plaintiff's election suit directed at the County's Clerk's conduct of the Election is without statutory authority, unprecedented and premature. Accordingly, this Court is without jurisdiction over this matter and Plaintiff's Complaint must be dismissed and her Motion for a TRO must be denied.

### ARGUMENT

#### **PETITIONER'S COMPLAINT FOR EQUITABLE RELIEF DIRECTED AT THE COUNTY CLERK'S CONDUCT OF THE ELECTION IS NOT AUTHORIZED BY STATUTE OR COURT PRECEDENT AND THIS COURT IS WITHOUT JURISDICTION OVER THIS MATTER.**

It is well-established by the Illinois Supreme Court that "[c]ircuit courts may exercise jurisdiction over election cases only as provided by statute" and that "when a court exercises special statutory jurisdiction, that jurisdiction is limited to the language of the act conferring it, and the court has no powers from any other source." *Bettis v. Marsaglia*, 2014 IL 117050, ¶ 14, 23 N.E.3d 351, 357 *citing* Ill. Const. art. VI, § 9; *see also*, *Pullen v. Mulligan*, 138 Ill. 2d 21, 561 N.E.2d 585 (1990) ("Courts have no inherent power to hear election contests, but may do so only when authorized by statute and in the manner dictated by statute.").

"In the exercise of special statutory jurisdiction, if the mode of procedure prescribed by statute is not strictly pursued, no jurisdiction is conferred on the circuit court." *Bettis*, 2014 IL 117050, ¶ 14, 23 N.E.3d at 357.

Here, there is no express authority in the Election Code for the Court to resolve Plaintiff's grievances directed at the County Clerk's conduct of the Election filed in the midst of the County Clerk's ongoing tabulation of voted ballots. This would be the first Court in the

history of Illinois elections jurisprudence to find otherwise. Significantly, section 23-20 of the Election Code authorizes actions related to the conduct of the elections as follows:

The person desiring to contest such election shall, ***within thirty (30) days after the person whose election is contested is declared elected***, file with the clerk of the proper court a petition, in writing, setting forth the points on which he will contest the election, which petition shall be verified by affidavit in the same manner as complaints in other civil cases may be verified.

10 ILCS 5/23-20 (emphasis added). There is no dispute that the County Clerk has not officially declared the results of the Election by Official Canvass of Results and the tabulation of voted ballots is ongoing and is within the timeframes authorized under the Election Code.

Accordingly, Plaintiff's Complaint directed at the County Clerk's conduct of the Election, which is ongoing, is premature under section 23-20 and this Court is without statutory authority and subject matter jurisdiction to resolve Plaintiff's grievances at this time.

Significantly, it is long established by the Illinois Supreme Court, "that an injunction will not issue out of a court of equity *for the purpose of restraining the holding of an election or in any manner directing or controlling the mode in which the same shall be conducted.*" *Payne v. Emmerson*, 290 Ill. 490, 495, 125 N.E. 329, 331 (1919) (emphasis added) (holding that a court of equity has no jurisdiction to enjoin the Secretary of State from certifying questions of public policy to the electors); *see also, Elder v. Mall*, 350 Ill. 538, 183 N.E. 578 (1932) (holding that court of equity without jurisdiction over request by candidate to restrain election officials from proclaiming number of votes cast for opponent at primary and from issuing certificate of nomination.). "The reason is that an election is a political matter with which courts of equity have nothing to do, and that such an attempt to check the free expression of opinion, to forbid the peaceable assemblage of the people, to obstruct the freedom of elections, if successful, would result in the overthrow of all liberties regulated by law." *Payne*, 290 Ill. at 495, 125 N.E.

at 331. Plaintiff has provided the Court no precedent holding that a court in equity has the authority or jurisdiction to restrain or direct an election official in the conduct of an election in Illinois. Accordingly, this would be the first Court in the history of Illinois election jurisprudence to do so. This Court must decline Plaintiff's unprecedented and unauthorized invitation in this regard. If Plaintiff maintains her grievances after the county Clerk's declares the official results of the Election, Plaintiff may pursue the election related remedies expressly authorized under the Election Code. Significantly, delaying the processing of the vote by mail ballots may result in harm and disenfranchisement to vote by mail voters whose ballots cannot be processed within the statutory timeframe under the Election Code.

### CONCLUSION

For these reasons, Jean Kaczmarek, DuPage County Clerk, respectfully requests that the Court enter Orders:

- A. Dismissing Plaintiff's Complaint for Equitable relief, with prejudice, for lack of jurisdiction; and
- B. Denying Plaintiff's Motion for a Temporary Restraining Order for lack of jurisdiction; and
- C. For any other relief this Court determines equitable and just.

Respectfully Submitted,

**JEAN KACZMAREK, DUPAGE  
COUNTY CLERK**

By: /s/ Sean Conway (electronic signature)  
Sean Conway, Special Counsel

Sean Conway  
Patrick K. Bond  
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## UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

DEANNE MAZZOCHI

Plaintiff

-VS-

KACZMAREK JEAN IN HER OFFICIAL  
CAPACITY AS DUPAGE COUNTY CLERK  
AND ELECTION AUTHORITY FOR DUPAGE  
COUNTY ET AL.

Defendant

2022CH000220  
CASE NUMBER**FILED**

22 Nov 15 PM 02:38

*Candice Adams*

CLERK OF THE

18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS**ORDER**

The cause coming before the Court, the Court being fully advised in the premises, and after hearing argument from the parties, the Court finds as follows, as more fully detailed in the record:

- 1) It has subject matter jurisdiction over this controversy;
- 2) Notice was given by Plaintiff;
- 3) the Election Code does not permit the use of a signature from a mail in ballot application to validate any mail-in ballot signature in accordance with Article 19 of the Election Code; and
- 4) Use of the Vote by Mail ballot application to qualify signatures on the Vote by Mail ballot itself would be an obvious way to commit ballot fraud.
- 5) Consequently, the ruling set forth below benefits both candidates, as well as the DuPage County Clerk's Office, who is obligated to follow the statute.

Based on the foregoing and for the reasons stated on the record, Plaintiff's Motion to Enforce Election Law by Temporary Restraining Order and Preliminary Injunction is granted to the extent set forth in this order.

The DuPage County Clerk, during the Vote by Mail process, is hereby prohibited from using any signature on a Vote by Mail application in connection with validating signatures on the Vote by Mail ballot from the date and time of entry of this order in connection with the 2022 general election.

If a voter's signature on the mail-in ballot does not match the signature on the voter's registration on file with the DuPage County Clerk's office, that ballot must be segregated and marked "Rejected" as required by Article 19 of the Election Code and the Clerk shall follow the voter notification procedures set forth therein.

The DuPage County Clerk shall immediately provide a copy of this order and directive to all election judges for the 2022 general election and ensure that it is complied with.

Defendant's Motion to Dismiss is denied. This matter is set for status on November 23, 2022 at 1:30 p.m.

Submitted by: MICHAEL KOZLOWSKI

Attorney Firm: ESBROOK P.C.

DuPage Attorney Number: 338220


Attorney for: PLAINTIFF

Address: 321 N CLARK STREET, SUITE 1930

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Email : michael.kozlowski@esbrooklaw.com

Entered:  Date: 11/15/2022

JUDGE JAMES D OREL

Validation ID : DP-11152022-0238-04627

Date: 11/15/2022

CASE NO. \_\_\_\_\_

IN THE SUPREME COURT OF ILLINOIS

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<b>DEANNE MAZZOCHI</b> <b>HON. JAMES D. OREL</b>  <p style="text-align: center;"><b>Respondents</b></p> <p style="text-align: center;">v.</p> <b>JEAN KACZMAREK, in her</b> <b>Official capacity as DuPage County</b> <b>Clerk and Election Authority</b> <b>For DuPage County</b>  <p style="text-align: center;"><b>Petitioner</b></p>	) <b>On Motion for Supervisory Order</b> ) <b>under Illinois Supreme Court Rule</b> ) <b>383,</b> ) ) ) <b>From the Circuit Court of the</b> ) <b>Eighteenth Judicial Circuit, DuPage</b> ) <b>County, Illinois, No. 2022 CH 220</b> ) ) <b>The Honorable James Orel,</b> ) <b>Judge Presiding</b>
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**ORDER**

**THIS CAUSE COMING TO BE HEARD** on motion of Defendant-Petitioner for supervisory relief under Illinois Supreme Court Rule 383, due notice having been given; and the Court being fully advised in the premises,

**IT IS HEREBY ORDERED** that the motion for this Court to exercise emergency supervisory authority to vacate the November 15, 2022 Order of the Trial Court is GRANTED/DENIED.

**IT IS HEREBY ORDERED** that the motion for this Court to exercise emergency supervisory authority to order dismissal of the cause of action in the trial court is GRANTED/DENIED.

ENTER: \_\_\_\_\_  
JUSTICE

DATED: \_\_\_\_\_

Sean Conway  
Patrick K. Bond  
Mary E. Dickson  
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CASE NO. \_\_\_\_\_

## IN THE SUPREME COURT OF ILLINOIS

<b>DEANNE MAZZOCHI</b> <b>HON. JAMES D. OREL</b>  <b>Respondents</b>  <b>v.</b>  <b>JEAN KACZMAREK, in her</b> <b>Official capacity as DuPage County</b> <b>Clerk and Election Authority</b> <b>For DuPage County</b>  <b>Petitioner</b>	) <b>On Motion for Supervisory Order</b> ) <b>under Illinois Supreme Court Rule</b> ) <b>383,</b> ) ) ) <b>From the Circuit Court of the</b> ) <b>Eighteenth Judicial Circuit, DuPage</b> ) <b>County, Illinois, No. 2022 CH 220</b> ) ) <b>The Honorable James D. Orel,</b> ) <b>Judge Presiding</b> ) )
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TO: SEE SERVICE LIST

**NOTICE OF FILING**

PLEASE TAKE NOTICE that on the 16th day of November 2022, we caused to be electronically filed with the Clerk of the Supreme Court of Illinois, 200 East Capitol Avenue, Springfield, Illinois 62701, the Defendant, Jean Kaczmarek's, MOTION FOR SUPERVISORY ORDER, a copy of which, including supporting documents, is attached hereto and hereby served upon you pursuant to the service list attached hereto.

BY: /s/ Sean Conway (electronic signature)  
 Sean Conway, Special Counsel  
 for the DuPage County Clerk's Office,  
 Election Division

Sean Conway  
 ARDC#6292594  
 BOND, DICKSON & CONWAY  
 Special Counsel for the  
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**CERTIFICATE OF SERVICE**

Under penalties as provided by law pursuant to Section 1-109 of the Civil Code of Procedure, the undersigned attorney certifies that the statements set forth in this instrument are true and correct.

/s/ Sean Conway (electronic signature)  
Sean Conway

**SERVICE LIST****Served Electronically**

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**Served Via Hand Delivery**

The Honorable James Orel  
DuPage County Judicial Center  
505 N. County Farm Road, Room 2006  
Wheaton, IL 60187

