

IN THE
ILLINOIS SUPREME COURT

LESLIE COLLAZO, DANIEL BEHR, JAMES	)	Direct Appeal from the
KIRCHNER, CARL KUNZ, CAMAXTLE “MAX”	)	Circuit Court of the
OLIVO, JUVANDY RIVERA, NANCY	)	Seventh Judicial Circuit,
RODRIGUEZ, TERRY NGUYEN LE, JOHN	)	Sangamon County, Illinois
ZIMMERS, RON ANDERMANN, CARLOS)	
GONZALEZ, ASHLEY JENSEN, TERESA)	
ALEXANDER, and DONALD PUCKETT,)	
)	
<i>Plaintiffs-appellees,</i>	)	No. 2024 CH 0032
v.)	
)	
EMANUEL “CHRIS” WELCH, <i>in his official</i>	)	The Honorable
<i>capacity as Speaker of the Illinois House of</i>	)	GAIL NOLL,
<i>Representatives and his individual capacity,</i>	)	Circuit Judge presiding
<i>Intervening defendant-appellant,</i>)	
)	
THE ILLINOIS STATE BOARD OF)	
ELECTIONS, CASANDRA B. WATSON, <i>in her</i>)	
<i>official capacity as Chair of the Illinois State</i>)	
<i>Board of Elections; LAURA K. DONAHUE, in</i>)	
<i>her official capacity as Vice Chair of the Illinois</i>)	
<i>State Board of Elections; JENNIFER M.</i>)	
BALLARD CROFT, CRISTINA D. CRAY,)	
TONYA L. GENOVESE, CATHERINE S.)	
MCCRORY, RICK S. TERVEN, SR., and JACK)	
VRETT, <i>in their official capacities as Members of</i>)	
<i>the Illinois State Board of Elections; and</i>)	
KWAME RAOUL, <i>in his official capacity as</i>)	
<i>Attorney General of the State of Illinois,</i>)	
)	
<i>Defendants.</i>)	

**UNOPPOSED MOTION TO PLACE APPEAL
ON AN ACCELERATED DOCKET**

Intervening defendant-appellant, EMANUEL “CHRIS” WELCH, in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity, respectfully moves this Court, pursuant to Illinois Supreme Court Rule

311(b), for an order expediting this appeal. This motion is unopposed by plaintiffs-appellees. Defendants Illinois State Board of Elections, its members, and Attorney General Raoul will not be parties to the appeal, and therefore also do not object.

Defendant-appellant Welch respectfully requests this Court enter an order directing the circuit court to prepare the record on appeal by June 20, 2024 and setting the following briefing schedule: defendant-appellant's opening brief due by June 24, 2024 and plaintiffs-appellees' response brief due July 8, 2024. For purpose of expediency, defendant-appellant agrees to waive filing a reply brief. The also parties on appeal agree to waive oral argument. In support of this motion, defendant-appellant attaches a supporting record and states the following.

BACKGROUND

This appeal concerns the constitutionality of Public Act 103-0586, specifically *as applied* to plaintiffs-appellants. (SR001) The trial court below held Public Act 103-0586 violated Article III, Section 1 of the Illinois Constitution as applied to plaintiffs-appellees. (SR420)

Plaintiffs-appellees (after this lawsuit was filed) filed nomination papers with the Illinois State Board of Elections to be candidates for seats in the General Assembly. Plaintiff-appellees filed their papers as the slated nominee for office by the respective legislative or representative committee of their major political party after no person filed nominating papers to seek their party's nomination in the March 2024 primary election. The lack of primary candidates created vacancies in nomination for the respective seats. Plaintiff-appellees now seek to fill those vacancies in nomination

as candidates for office through a procedure provided by section 8-17 of the Illinois Election Code (10 ILCS 5/8-17).

Public Act 103-0586, however, recently repealed this procedure. The Act passed both Houses of the General Assembly on May 2, 2024, and was sent to the Governor by the Senate on the same day. The next day, May 3, 2024, the Governor signed the Act into law. The Act became effective immediately.¹

Specific to this appeal, Public Act 103-0586 removed the procedure in section 8-17 of the Illinois Election Code (10 ILCS 5/8-17) that provided the following when a vacancy in nomination for a seat in the General Assembly occurs when no candidate runs for the nomination in the primary election:

[T]he legislative or representative committee of the party [may] nominate[] a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election. Vacancies in nomination occurring under this Article shall be filled by the appropriate legislative or representative committee in accordance with the provisions of Section 7-61 of this Code. (SR4)

As a result, as of May 3, 2024, the Election Code no longer permits legislative and representative committees of the Republican and Democratic Parties to fill vacancies in nomination for seats in the General Assembly if no candidate ran in the primary.

On May 10, 2024, plaintiffs-appellees filed a complaint against the Illinois State Board of Elections, the individual board members, and the Attorney General.

¹ See, the General Assembly's Website for Bill Status on Public Act 103-0586 at <https://ilga.gov/legislation/BillStatus.asp?DocNum=2412&GAID=17&DocTypeID=SB&LegID=147311&SessionID=112&SpecSess=&Session=&GA=103> (last visited June 13, 2024)

(SR001) The complaint alleged Public Act 103-0586 violated Article III, Section 1 of the Illinois Constitution which provides that every United State citizen the age of 18 or older and who has been a resident of Illinois for 30 days proceeding any election “shall have the right to vote in such election.” Ill. Const. (1970), art. III, § 1. The complaint alleged that, applying strict scrutiny review, Public Act 103-0586 as applied to plaintiffs violated their right to vote. (SR007)

The trial court denied plaintiff’s Motion for Temporary Restraining Order on May 17, 2024. On May 21, 2024, the trial court granted intervening-defendant Welch leave to intervene in his official capacity as Speaker of the Illinois House of Representative and his individual capacity as Democratic Township Committeeman of Proviso Township in Cook County. (See, SR003. These ruling were recorded on a Zoom hearing and will be part of the report on proceeding that has been requested be prepared)

On May 23, 2024, following a hearing the day before, the trial court entered a preliminary injunction that enjoined defendants Illinois State Board of Elections and Defendant Attorney General Raoul from “rejecting Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17.” (SR086-87)

The trial court set a hearing on the merits for June 3, 2024. Intervening defendant Welch filed a section 2-619.1 Motion to Dismiss (735 ILCS 5/2-619.1) that argued the circuit court lacked jurisdiction because the electoral boards created by the Election Code, rather than the trial court, had original jurisdiction over the validity of nominating papers. The circuit court would only have jurisdiction over

plaintiffs' allegations after administrative review following completion of the process for challenging nominating papers set forth in the Election Code. Welch also argued rational basis review, rather than strict scrutiny, applied to plaintiffs' complaint, and that Public Act 103-0586 survives rational basis review. (SR262-77)

The Attorney General filed a Motion for Summary Judgment arguing rational basis, rather than strict scrutiny, was the proper analysis and the Public Act 103-0586 survives rational basis review. The Attorney General also argued he was not a proper party for injunctive relief. (SR379-395)

Plaintiffs filed a Motion for Summary Judgment arguing the Act, as applied to them, does not survive strict scrutiny because it changed the nomination process in the middle of an election cycle. (SR278-378)

On June 3, 2024, the trial court held a hearing. The court first heard arguments on Welch's Motion to Dismiss. After argument, and the court denied the motion finding the Court had jurisdiction. The trial court then heard argument on plaintiffs and the Attorney General's cross motions for summary judgment. Following argument, the court took those motions under advisement.

On June 5, 2024, the court issued an order holding as follows:

Declaratory and injunctive relief is entered as follows: The revisions to 10 ILCS 5/8-17 contained in P.A. 103-0586 are unconstitutional as applied to Plaintiffs in the November 2024 general election because the application of the amendment to Plaintiffs during the 2024 election cycle impermissibly burdens their right to vote and to have their names placed on the November ballot. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken.

The law, which became effective on May 3, 2024, as applied to Plaintiffs in the on-going 2024 election cannot reasonably be construed in a manner that would preserve its validity. The Court is cognizant that it must avoid unnecessary declarations that a statute is unconstitutional; however, here the Plaintiffs bring a constitutional challenge to the application of the revisions to Section 5/8-17 in the midst of the 2024 election cycle. The finding of unconstitutionality is necessary to the Court's decision, and there is no alternative grounds upon which the decision can rest. Attorney General Raoul is a named defendant in this matter; therefore, separate notice under Illinois Supreme Court Rule 19 is not required. (SR430-31)

On the basis of this constitutional finding, the court ordered the following injunctive relief:

Defendant State Board of Elections and Defendant Board members are hereby enjoined from applying the provisions of Illinois Public Act No. 103-0586 which revise 10 ILCS 5/8-17 to eliminate the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election and from otherwise using the revisions to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot. (SR431)

On June 10, intervening defendant-appellant Welch filed a notice of direct appeal to this Court from the circuit court's order under Illinois Supreme Court Rule 302(a)(1). (SR432) On June 12, 2024, this Court's Clerk's office received and filed the notice of appeal received from the circuit clerk. Defendants-Appellants also requested that the circuit court prepare the record on appeal and the court reporter to prepare the report of proceedings as soon as possible in anticipation of this motion.

DISCUSSION

Given the seriousness of the issues raised by this case and the urgency associated with resolving the questions presented by it, intervening defendant-appellant Welch respectfully requests the Court enter an order expediting the disposition of this appeal.

Counsel for plaintiffs-appellees has authorized the undersigned counsel to state that plaintiffs-appellees do not oppose this motion.

CONCLUSION

WHEREFORE, intervening defendant-appellant EMANUEL “CHRIS” WELCH, in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity, respectfully requests the Court enter an order directing the circuit court to prepare the record on appeal by June 20, 2024 and entering the following briefing schedule: brief due by June 24, 2024 and plaintiffs-appellees’ response brief due July 8, 2024. For purpose of expediency, defendant-appellant agrees to waive filing a reply brief. The also parties agree to waive oral argument.

Respectfully submitted,

EMANUEL “CHRIS” WELCH

By: /s/ Michael J. Kasper
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Emanuel “Chris” Welch*

STATE OF ILLINOIS)
)
 COUNTY OF COOK)

CERTIFICATE OF FILING AND PROOF OF SERVICE

I, Adam R. Vaught, attorney for intervening defendant-appellant Emanuel “Chris” Welch, certify that I certify that on June 13, 2024, I electronically filed the foregoing Unopposed Motion to Place Appeal on an Accelerated Docket with the Clerk of the Court for the Supreme Court of Illinois, by using the Odyssey eFileIL system.

I further certify that the other participants in this appeal, named below, are registered service contacts on the Odyssey eFileIL system, and that they will thus be served by the Odyssey eFileIL system, with a courtesy copy transmitted by e-mail on June 13, 2024.

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Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct.

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AFFIDAVIT OF MICHAEL J. KASPER

Now comes affiant, Michael J. Kasper, and being duly sworn upon his oath hereby deposes and states as follows.

1. I have firsthand knowledge of the matters contained herein, and, if called to testify, could do so competently.
2. I am an attorney of record for intervening defendant-appellant in this matter.
3. This supporting record is in support of movant's Unopposed Motion to Place Appeal on an Accelerated Docket.
4. The materials contained in this supporting record are true and correct copies of pleadings on file, in Direct Appeal from the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois No. 2024 CH 0032, Collazo, et al. v. Illinois State Board of Elections, et. al.

Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct.

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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
 SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, DANIEL BEHR, JAMES
 KIRCHNER, *and* CARL KUNZ,

Plaintiffs,

v.

Case No. 2024CH000032

THE ILLINOIS STATE BOARD OF
 ELECTIONS; CASANDRA B. WATSON, *in*
her official capacity as Chair of the
Illinois State Board of Elections; LAURA
 K. DONAHUE, *in her official capacity as*
Vice Chair of the Illinois State Board of
Elections; JENNIFER M. BALLARD CROFT,
 CRISTINA D. CRAY, TONYA L. GENOVESE,
 CATHERINE S. MCCRORY, RICK S.
 TERVEN, SR., *and* JACK VRETT, *in their*
official capacities as Members of the
Illinois State Board of Elections; *and*
 KWAME RAOUL, *in his official capacity*
as Attorney General of the State of
Illinois,

Defendants.

**Complaint for Declaratory and
 Injunctive Relief**

Introduction

1. This complaint seeks to prevent enforcement of provisions of P.A. 103-0586 as applied to Plaintiffs in the November 2024 general election.
2. P.A. 103-0586 changes the rules for filling vacancies on the ballot in the general election for a political party's candidate in a race for General Assembly. It purports to be effective immediately, thus eliminating a process of filling vacancies on the 2024 general election ballot while that process is ongoing.

3. Plaintiffs are prospective candidates for office who seek to file petitions to appear on the ballot for the November 2024 general election. P.A. 103-0586 prevents them from appearing on the November ballot even though they began that process prior to the enactment of P.A. 103-0586, and the deadline to complete that process has not expired.

4. The elimination of the process for filling vacancies on the ballot in the general election for a political party's candidate in a race for General Assembly set forth in P.A. 103-0586, as applied to Plaintiffs seeking to fill vacancies for General Assembly races on the November 2024 general election ballot, is an unconstitutional violation of their right to gain access to the ballot.

Parties

5. Plaintiff Collazo is a prospective candidate for the 8th Representative District. She resides in Chicago, Illinois.

6. Plaintiff Behr is a prospective candidate for the 57th Representative District. He resides in Northbrook, Illinois.

7. Plaintiff Kirchner is a prospective candidate for the 13th Legislative District. He resides in Chicago, Illinois.

8. Plaintiff Kunz is a prospective candidate for the 31st Representative District. He resides in Hickory Hills, Illinois.

9. All Plaintiffs have been designated by either the Republican Representative Committee (Collazo, Behr, Kunz) or the Republican Legislative Committee

(Kirchner) to fill vacancies in nomination for their respective Representative or Legislative Districts.

10. Defendant Watson is the Chair of the Illinois State Board of Elections. She is sued in her official capacity.

11. Defendant Donahue is the Vice Chair of the Illinois State Board of Elections. She is sued in her official capacity.

12. Defendants Ballard Croft, Cray, Genovese, McCrory, Terven, and Vrett are members of the Illinois State Board of Elections. They are sued in their official capacity.

13. Defendant Illinois State Board of Elections and Defendants Watson, Donahue, Ballard Croft, Cray, Genovese, McCrory, Terven, and Vrett, as Chair, Vice Chair, and Members of the Illinois State Board of Elections respectively, are tasked with certifying the results of primary and general elections in the State, and determining whether each candidate has met the qualifications for appearing on the ballot. The Board of Elections maintains an office in Springfield, Illinois.

14. Defendant Raoul is the Attorney General of the State of Illinois. As Attorney General, he is tasked with enforcing the laws of the State. He is sued in his official capacity. He maintains an office in Springfield, Illinois.

Jurisdiction and Venue

15. This Court has subject matter jurisdiction because this matter challenges a provision of the Illinois Election Code under the Illinois Constitution.

16. This Court has personal jurisdiction over Defendants because they maintain offices in the State of Illinois.

17. This “action is brought against the State or any of its officers, employees, or agents acting in an official capacity . . . seeking declaratory or injunctive relief against a[] State statute . . . based on an alleged violation of the Constitution of the State of Illinois,” and as such venue is proper in the County of Sangamon. 735 ILCS 5/2-101.5.

18. Venue is further proper in the County of Sangamon because all Defendants maintain offices there. 735 ILCS 5/2-101.

Facts

19. Until last week, the Illinois Election Code provided that “if there was no candidate for the nomination of the party in the primary,” the “legislative or representative committee of the party” could “nominate[] a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election,” following the process outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023).

20. Section 7-61 states that, where a political party did not nominate any candidate for a particular office in the primary election, and no person was nominated as a write-in candidate for such office, “a vacancy in nomination shall be filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number

of signatures required for an established party candidate for that office within 75 days after the day of the general primary.” 10 ILCS 5/7-61.

21. The 2024 Illinois primary election was held on March 19, 2024. June 3, 2024, is 75 days from March 19, 2024. Thus, Section 7-61 of the Election Code gave a potential candidate seeking to fill a vacancy on the November 2024 general election ballot by being designated by the appropriate committee of a political party from March 19, 2024, to June 3, 2024, to complete that process.

22. At the time P.A. 103-0586 was enacted on May 3, 2024, at least a dozen people, including Plaintiffs, were pursuing candidacy under the process set forth in Section 7-61 of the Election Code.

23. Plaintiff Collazo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024.

24. Plaintiff Behr was designated to fill the vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024.

25. Plaintiff Kirchner was designated to fill the vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024.

26. Plaintiff Kunz was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024.

27. In each Legislative or Representative District in which Plaintiffs seek to fill a vacancy, the name of no Republican Party candidate was printed on the general primary ballot, and no person was nominated as a write-in candidate for such office.

28. Illinois Senate Bill 2412 was enacted on May 3, 2024, as P.A. 103-0586 and purports to be effectively immediately.

29. P.A. 103-0586, among other things, strikes the provision in 10 ILCS 5/8-17 allowing the party committees to nominate a candidate to fill a vacancy as outlined in 10 ILCS 5/7-61. 10 ILCS 5/8-17 now reads in relevant part, “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.”

30. SB 2412 was a dormant bill seeking to amend the Children and Family Services Act, when on May 1, 2024, its entire text was removed and replaced, and it was passed by the House; on May 2, 2024, it was passed by the Senate; and on May 3, 2024, it was signed by the governor.

31. Thus, two thirds of the way through Section 7-61’s 75-day process to fill vacancies on the general election ballot, the State, in a matter of hours, amended the Election Code by enacting P.A. 103-0586, and prohibited Plaintiffs from using that process to place their names on the November 2024 general election ballot.

32. Plaintiff Behr attempted to file his nomination petition on May 2, 2024, one day prior to Governor Pritzker’s signing of P.A. 103-0586 into law on May 3, 2024. Although the Board was required to stay open until 5:00 PM on the last day for filing, per 10 ILCS 5/1-4—which, because of the enactment of P.A. 103-0586, would

have been May 2—the Board closed at 4:30 PM. Plaintiff Behr’s petition was filed at 8:41 AM the following morning.

33. Plaintiffs Collazo, Kirchner, and Kunz have not yet filed their petitions for candidacy with the Board of Elections.

34. Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot solely because of the enactment of P.A. 103-0586.

35. At least one candidate who was designated to fill a vacancy in nomination by a political party’s representative committee and who filed their nomination petition prior to the enactment of P.A. 103-0586 on May 3, 2024, will appear on the November 2024 general election ballot.

Count I
P.A. 103-0586 violates Plaintiffs’ right to vote set forth in
Article III, section 1, of the 1970 Illinois Constitution.

36. The allegations contained in all the preceding paragraphs are realleged as though set forth fully herein.

37. Article III, section 1, of the 1970 Illinois Constitution guarantees the right to vote to every United States citizen of at least 18 years of age who has been a permanent resident of Illinois for at least 30 days preceding any election.

38. “Legislation that affects *any* stage of the election process implicates the right to vote.” *Tully v. Edgar*, 171 Ill. 2d 297, 307 (1996) (emphasis in original). Thus, “the right to vote is implicated by legislation that restricts a candidate’s effort to gain access to the ballot.” *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977).

39. But for P.A. 103-0586, Plaintiffs would comport with the provisions of 10 ILCS 5/8-17 (2023) and 10 ILCS 5/7-61 and stand as candidates for office in the November election.

40. Plaintiffs were all designated to fill the vacancies in nomination by their respective Representative or Legislative Committees prior to the enactment of P.A. 103-0586.

41. P.A. 103-0586 removed the provisions of 10 ILCS 5/8-17 that would allow Plaintiffs to gain access to the ballot, after that process had already begun.

42. P.A. 103-0586 impairs the rights of suffrage exercised by Plaintiffs and others in the 2024 general election by restricting Plaintiffs' efforts to gain access to the ballot by changing the rules in the middle of that process.

43. "When the means used by a legislature to achieve a legislative goal impinge upon a fundamental right, the court will examine the statute under the strict scrutiny standard." *Tully*, 171 Ill. 2d at 304.

44. The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990).

45. The elimination of the process of filling ballot vacancies used by Plaintiffs set forth in P.A. 103-0586 does not advance a compelling state interest in preventing Plaintiffs from accessing the ballot in the November 2024 general election.

46. The provision of P.A. 103-0586 eliminating the process of filling ballot vacancies used by Plaintiffs is not necessary to achieve the legislation's goal.

47. Nor are the provision of P.A. 103-0586 eliminating the process of filling ballot vacancies used by Plaintiffs the least restrictive means available to attain the legislation's goal.

48. The fact that P.A. 103-0586 would prohibit Plaintiffs from accessing the November 2024 general election ballot using the process set forth in Section 7-61 of the Election Code as it existed prior to the enactment of P.A. 103-0586, but would permit other candidates to be listed on the November 2024 general election ballot who completed the process set forth in Section 7-61 of the Election Code prior to P.A. 103-0586's enactment is sufficient to show that P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny.

49. P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny analysis and, thus, unconstitutionally restricts Plaintiffs' fundamental rights to suffrage by negating their efforts to gain access to the ballot.

50. Plaintiffs need immediate relief from the revisions to 10 ILCS 5/8-17 in order to lawfully comply with the June 3, 2024, deadline to file their nomination petitions with the Illinois State Board of Elections.

Request For Relief

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Issue a temporary restraining order and preliminary injunction, later to be made a permanent injunction, restraining and enjoining Attorney General Raoul and the Illinois State Board of Elections from applying P.A. 103-0586's revisions to 10 ILCS 5/8-17 to Plaintiffs with respect to the November 2024 general election;

B. Issue a temporary restraining order and preliminary injunction prohibiting the Illinois State Board of Elections from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17;

C. Enter a declaratory judgment that P.A. 103-0586's revisions to 10 ILCS 5/8-17 are void as applied to Plaintiffs' efforts to appear on the ballot in the November 2024 general election;

D. Award Plaintiffs their costs and attorneys' fees; and

E. Grant such further relief this Court deems just, proper, and equitable.

May 10, 2024

Respectfully submitted,

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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, DANIEL BEHR, JAMES
KIRCHNER, *and* CARL KUNZ,

Plaintiffs,

v.

Case No. 2024-CH-000032

THE ILLINOIS STATE BOARD OF
ELECTIONS; CASANDRA B. WATSON, *in*
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CATHERINE S. MCCRORY, RICK S.
TERVEN, SR., *and* JACK VRETT, *in their*
official capacities as Members of the
Illinois State Board of Elections; *and*
KWAME RAOUL, *in his official capacity*
as Attorney General of the State of
Illinois,

Defendants.

**Emergency Motion for
Temporary Restraining Order
and Preliminary Injunction**

Plaintiffs Leslie Collazo, Daniel Behr, James Kirchner, and Carl Kunz seek an emergency temporary restraining order and preliminary injunction prohibiting Defendants, the Attorney General and the Illinois State Board of Elections, from enforcing P.A. 103-0586 against Plaintiffs and from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586. They seek this motion on an emergency basis to give them time to obtain signatures and submit their nomination petitions before the June 3, 2024, deadline set forth in 10 ILCS 5/7-61.

Facts

Until May 3, 2024, the Election Code provided a means for the state’s political parties to fill a vacancy on the general election ballot if no candidate had run for a General Assembly seat up for election during the primary election (a process generally known as “slating”). Section 8-17 of the Election Code (2023) provided that “the legislative or representative committee of the party” could “nominate[] a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election,” using the procedures outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023). These procedures required the prospective candidates to gather ballot signatures on nomination petitions and submit them to the Illinois State Board of Elections, just like any other would-be candidates. 10 ILCS 5/7-61.

The 2024 Illinois primary election was held on March 19, 2024. So the 75-day process to fill vacancies in nomination using the slating process began on March 19, 2024, and was to end on June 3, 2024. Compl. ¶ 21.

And multiple such slating processes were underway when Public Act 103-0586 was signed into law. Compl. ¶ 22. No Republican had filed to run for the March primary for the 8th, 31st, or 57th Representative Districts, or for the 13th Legislative District, by the March 19 primary, and no person was nominated as a write-in candidate for those offices, so the respective Republican Representative and Legislative Committees designated Plaintiffs to fill those vacancies. Compl. ¶ 27.

Plaintiff Collazo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024. Compl. ¶ 23. Plaintiff Behr was designated to fill the vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024. Compl. ¶ 24. Plaintiff Kirchner was designated to fill the vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024. Compl. ¶ 25. Plaintiff Kunz was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024. Compl. ¶ 26. Each candidate then began canvassing for the necessary petition signatures to obtain ballot access in the November 2024 election, under the then-existing law.

But on May 3, 2024—long after the process had started but well before the June 3, 2024, deadline for filing nominating petitions under 10 ILCS 5/8-17—the law was abruptly amended when Illinois Senate Bill 2412 was enacted as P.A. 103-0586, which purports to be effective immediately. Compl. ¶ 28. That new legislation, among other things, strikes the provision in 10 ILCS 5/8-17 allowing the party committees to nominate a candidate to fill a vacancy as outlined in 10 ILCS 5/7-61; 10 ILCS 5/8-17 now provides, in relevant part, that “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.”

SB 2412 was a dormant bill seeking to amend the Children and Family Services Act, when on May 1, 2024, its entire text was removed and replaced, and it was passed by the House; on May 2, 2024, it was passed by the Senate; and on May 3, 2024, it was signed by the governor. Compl. ¶ 30; *Bill Status of SB2412*, Illinois General Assembly.¹

Plaintiff Behr filed his nomination petition on May 3, 2024, at 8:41 AM, the same day P.A. 103-0586 was enacted into law. Compl. ¶ 32. Plaintiffs Collazo, Kirchner, and Kunz have not yet filed their petitions for candidacy with the Board of Elections. Compl. ¶ 33. At least one candidate who was designated to fill a vacancy in nomination by a political party's representative committee and who filed their nomination petition prior to the enactment of P.A. 103-0586 on May 3, 2024, will appear on the November 2024 general election ballot. Compl. ¶ 35. Plaintiffs, however, will not be able to fill the vacancies on the November 2024 general election ballot solely because of the enactment of P.A. 103-0586. Compl. ¶ 34.

Plaintiffs brought this lawsuit challenging the revision to 10 ILCS 5/8-17 as unconstitutional as applied to them, seeking to prohibit Defendants from relying on P.A. 103-0586 to keep them off the November 2024 general election ballot. Compl. ¶¶ 1, 4, 50.

¹ <https://ilga.gov/legislation/billstatus.asp?DocNum=2412&GAID=17&GA=103&DocTypeID=SB&LegID=147311&SessionID=112&SpecSess=> (last visited May 10, 2024)

Legal Standard

To obtain a temporary restraining order and preliminary injunction, a plaintiff:

must establish that he possesses: (1) a certain and clearly ascertainable right which needs protection; (2) he will suffer irreparable injury without the protection of the injunction; (3) there is no adequate remedy at law for the injury; and (4) plaintiff is likely to be successful on the merits. (Citation omitted.) The fourth element need not be satisfied if the subject of the injunction is property which may be destroyed or if the plaintiff seeks only to preserve the status quo until the ultimate issue is decided.

People ex rel. Stony Island Church of Christ v. Mannings, 156 Ill. App. 3d 356, 361 (1st Dist. 1987); *cf. Rhoads v. Village of Bolingbrook*, 130 Ill. App. 3d 981, 983 (3rd Dist. 1985); *Blue Cross Association v. 666 North Lake Shore Drive Associates*, 100 Ill. App. 3d 647, 650-51 (1st Dist. 1981).

Argument

A. **Plaintiffs have a certain and clearly ascertainable right that needs protection.**

Plaintiffs have a certain and clearly ascertainable right that needs protection. Plaintiffs sought to be listed as candidates on the November 2024 general election ballot through the slating process set forth in 10 ILCS 5/8-17.

Their efforts implicate the right to vote, which Article III, section 1, of the 1970 Illinois Constitution guarantees to every United States citizen of at least 18 years of age who has been a permanent resident of Illinois for at least 30 days preceding any election. The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990). “Legislation that affects any stage of the election process implicates the right to vote.” 307. Thus, “the right

to vote is implicated by legislation that restricts a candidate's effort to gain access to the ballot." *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977). "[B]allot access is a substantial right and not likely to be denied." *Nolan v. Cook County Officers Electoral Board*, 329 Ill. App. 3d 52, 55 (1st Dist. 2002) (quote and citation omitted).

After the Illinois primary election on March 19, 2024, Plaintiffs each sought to be listed on the November 2024 general election ballot through the slating process set forth in 10 ILCS 5/8-17. Plaintiffs were entitled to use the process under Section 8-17 because in each Legislative or Representative District in which they seek to fill a vacancy, the name of no Republican Party candidate was printed on the general primary ballot, and no person was nominated as a write-in candidate for such office. And prior to the enactment of P.A. 103-0586, Plaintiffs were each designated to fill the vacancies in nomination by their respective Representative or Legislative Committees.

Illinois Senate Bill 2412 was enacted on May 3, 2024, as P.A. 103-0586 and purports to be effective immediately. P.A. 103-0586, among other things, strikes the provision in 10 ILCS 5/8-17 allowing the party committees to nominate a candidate to fill a vacancy as outlined in 10 ILCS 5/7-61. Section 8-17 now states in relevant part: "[I]f there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election." 10 ILCS 5/8-17 (2024). When P.A. 103-0586 was enacted, Plaintiffs had not yet submitted their nomination papers to the Board of Elections because they

were in the process of gathering the required signatures. Thus, P.A. 103-0586 will prohibit Plaintiffs from using the slating process set forth in 10 ILCS 5/8-17 (2023) and 10 ILCS 5/7-61 to place their names on the November 2024 general election ballot.

B. Plaintiffs will suffer irreparable injury without the protection of the injunction.

Without a temporary restraining order and preliminary injunction, Plaintiffs will suffer an irreparable injury because Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot solely because of the enactment of P.A. 103-0586. Article III, section 1, of the 1970 Illinois Constitution protects a candidate's right to gain access to the ballot.

C. Plaintiffs have no adequate remedy at law for their injuries.

There is no adequate remedy at law for the injury Plaintiffs will suffer by being unable to appear on the November 2024 general election ballot. Monetary damages are inadequate to compensate Plaintiffs for the loss of the ability to appear as candidates on the November 2024 general election ballot. Once the election passes, Plaintiff's opportunity to appear as candidates for the November 2024 election is gone forever.

D. Plaintiffs have a likelihood of success on the merits of their case.

Plaintiffs are likely to win on the merits of this case because P.A. 103-0586 strips them of their fundamental right to gain access to the November 2024 general election ballot and the legislation cannot overcome the appropriate constitutional scrutiny to do so.

The right to vote is a fundamental constitutional right. *Fumarolo*, 142 Ill. 2d at 74, that is implicated by legislation that restricts a candidate’s effort to gain access to the ballot, *Tully*, 171 Ill. at 307. “When the means used by a legislature to achieve a legislative goal impinge upon a fundamental right, the court will examine the statute under the strict scrutiny standard.” *Tully*, 171 Ill. 2d at 304.

Thus, P.A. 103-0586, as applied to Plaintiffs’ efforts to gain access to the November 2024 general election ballot as candidates, is subject to strict scrutiny.

To satisfy strict scrutiny, legislation must: (1) advance a compelling state interest; (2) be necessary to achieve the legislation’s asserted goal; and (3) be the least restrictive means available to attain the legislation’s goal. *Tully*, 171 Ill. 2d at 311 (citing *Fumarolo*, 142 Ill. 2d at 90). P.A. 103-0586, as applied to Plaintiffs, fails on all three counts.

First, eliminating the process of filling ballot vacancies by slating to prevent Plaintiffs from accessing the ballot as candidates in the November 2024 general election does not advance a compelling state interest. The state has an interest in providing free and fair elections, and enacting legislation in the middle of a well-established process for candidates to appear on the ballot, allowing some candidates to access the ballot and prohibiting others, is clearly contrary to the interest in providing free and fair elections. Indeed, to the extent that keeping *any* candidate off the ballot is a legitimate governmental interest—i.e., “to reduce the electoral process to manageable proportions by confining ballot positions to a relatively small number of candidates”—that interest is served by the signature requirement

Plaintiffs are in the process of satisfying. *Heabler v. Municipal Officers Electoral Board of the Village of Lakemoor*, 338 Ill. App. 3d 1059, 1062 (2nd Dist. 2003).

Second, the provision of P.A. 103-0586 eliminating the process of filling ballot vacancies by slating in the November 2024 general election is not necessary to achieve the legislation's goal. The slating process had already started for the November 2024 general election at the time P.A. 103-0586 went into effect.

Whatever P.A. 103-0586's goal, it certainly cannot be met by eliminating a process for candidates to appear on the ballot in the middle of that process, prohibiting some candidates from accessing the ballot while allowing others.

Third, the provision of P.A. 103-0586 eliminating the slating process is not the least restrictive means available to attain the legislation's goal. Eliminating the slating process for the November 2024 general election *after* that process has already started is not the least restrictive means to obtain P.A. 103-0586. Indeed, because P.A. 103-0586 purports to go into effect in the middle of that slating process for the November 2024 general election, the law inadequately and unequally eliminates that process because it would permit any candidate using the slating process for the November 2024 general election who had submitted their nomination papers to the Board of Elections prior to the law's enactment to appear on the ballot, while prohibiting any candidates, such as Plaintiffs, who had begun the process but had not yet submitted the nomination papers to the Board of Elections at the time P.A. 103-0586 went into effect. *See Graves v. Cook Cty. Republican Party*, 2020 IL App (1st) 181516, P62 (holding that a political party by-

law, enacted during a primary election, was not necessary or narrowly tailored). The legislature's goal could have been achieved in a manner that would not impinge on the fundamental right to vote by enacting it to apply to elections after the November 2024 general election, rather than enacting P.A. 103-0586 to go into effect in the middle of the slating process.

P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny analysis and, thus, unconstitutionally restricts Plaintiffs' fundamental rights to suffrage by negating their efforts to gain access to the ballot.

Granting Plaintiffs' motion for a temporary restraining order and preliminary injunction would only preserve the status quo—allowing Plaintiffs to complete the slating process to be listed as candidates on the November 2024 general election ballot—by prohibiting Defendants from enforcing P.A. 103-0586's elimination of the slating process for November 2024 general election ballot and prohibiting Defendants from using P.A. 103-0586 as a basis for denying Plaintiffs the ability to appear on the November 2024 general election ballot.

Plaintiffs, therefore, meet the four required steps to obtain a temporary restraining order and preliminary injunction.

WHEREFORE, Plaintiffs respectfully request that this Court enter the following relief:

A. Issue a temporary restraining order and preliminary injunction restraining and enjoining Attorney General Raoul and the Illinois State Board of Elections from

applying P.A. 103-0586's revisions to 10 ILCS 5/8-17 to Plaintiffs with respect to the November 2024 general election;

B. Issue a temporary restraining order and preliminary injunction prohibiting the Illinois State Board of Elections from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17;

C. Grant such further relief this Court deems just, proper, and equitable.

May 13, 2024

Respectfully submitted,

/s/ Jeffrey M. Schwab
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Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, DANIEL BEHR, JAMES
KIRCHNER, *and* CARL KUNZ,

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS; CASANDRA B. WATSON, *in*
her official capacity as Chair of the
Illinois State Board of Elections; LAURA
K. DONAHUE, *in her official capacity as*
Vice Chair of the Illinois State Board of
Elections; JENNIFER M. BALLARD CROFT,
CRISTINA D. CRAY, TONYA L. GENOVESE,
CATHERINE S. MCCRORY, RICK S.
TERVEN, SR., *and* JACK VRETT, *in their*
official capacities as Members of the
Illinois State Board of Elections; *and*
KWAME RAOUL, *in his official capacity*
as Attorney General of the State of
Illinois,

Defendants.

Case No.

**Emergency Motion for
Temporary Restraining Order
and Preliminary Injunction**

Plaintiffs Leslie Collazo, Daniel Behr, James Kirchner, and Carl Kunz seek an emergency temporary restraining order and preliminary injunction prohibiting Defendants, the Attorney General and the Illinois State Board of Elections, from enforcing P.A. 103-0586 against Plaintiffs and from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586. They seek this motion on an emergency basis to give them time to obtain signatures and submit their nomination petitions before the June 3, 2024, deadline set forth in 10 ILCS 5/7-61.

Facts

Until May 3, 2024, the Election Code provided a means for the state’s political parties to fill a vacancy on the general election ballot if no candidate had run for a General Assembly seat up for election during the primary election (a process generally known as “slating”). Section 8-17 of the Election Code (2023) provided that “the legislative or representative committee of the party” could “nominate[] a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election,” using the procedures outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023). These procedures required the prospective candidates to gather ballot signatures on nomination petitions and submit them to the Illinois State Board of Elections, just like any other would-be candidates. 10 ILCS 5/7-61.

The 2024 Illinois primary election was held on March 19, 2024. So the 75-day process to fill vacancies in nomination using the slating process began on March 19, 2024, and was to end on June 3, 2024. Compl. ¶ 21.

And multiple such slating processes were underway when Public Act 103-0586 was signed into law. Compl. ¶ 22. No Republican had filed to run for the March primary for the 8th, 31st, or 57th Representative Districts, or for the 13th Legislative District, by the March 19 primary, and no person was nominated as a write-in candidate for those offices, so the respective Republican Representative and Legislative Committees designated Plaintiffs to fill those vacancies. Compl. ¶ 27.

Plaintiff Collazo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024. Compl. ¶ 23. Plaintiff Behr was designated to fill the vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024. Compl. ¶ 24. Plaintiff Kirchner was designated to fill the vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024. Compl. ¶ 25. Plaintiff Kunz was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024. Compl. ¶ 26. Each candidate then began canvassing for the necessary petition signatures to obtain ballot access in the November 2024 election, under the then-existing law.

But on May 3, 2024—long after the process had started but well before the June 3, 2024, deadline for filing nominating petitions under 10 ILCS 5/8-17—the law was abruptly amended when Illinois Senate Bill 2412 was enacted as P.A. 103-0586, which purports to be effective immediately. Compl. ¶ 28. That new legislation, among other things, strikes the provision in 10 ILCS 5/8-17 allowing the party committees to nominate a candidate to fill a vacancy as outlined in 10 ILCS 5/7-61; 10 ILCS 5/8-17 now provides, in relevant part, that “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.”

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Plaintiff Behr filed his nomination petition on May 3, 2024, at 8:41 AM, the same day P.A. 103-0586 was enacted into law. Compl. ¶ 32. Plaintiffs Collazo, Kirchner, and Kunz have not yet filed their petitions for candidacy with the Board of Elections. Compl. ¶ 33. At least one candidate who was designated to fill a vacancy in nomination by a political party's representative committee and who filed their nomination petition prior to the enactment of P.A. 103-0586 on May 3, 2024, will appear on the November 2024 general election ballot. Compl. ¶ 35. Plaintiffs, however, will not be able to fill the vacancies on the November 2024 general election ballot solely because of the enactment of P.A. 103-0586. Compl. ¶ 34.

Plaintiffs brought this lawsuit challenging the revision to 10 ILCS 5/8-17 as unconstitutional as applied to them, seeking to prohibit Defendants from relying on P.A. 103-0586 to keep them off the November 2024 general election ballot. Compl. ¶¶ 1, 4, 50.

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Legal Standard

To obtain a temporary restraining order and preliminary injunction, a plaintiff:

must establish that he possesses: (1) a certain and clearly ascertainable right which needs protection; (2) he will suffer irreparable injury without the protection of the injunction; (3) there is no adequate remedy at law for the injury; and (4) plaintiff is likely to be successful on the merits. (Citation omitted.) The fourth element need not be satisfied if the subject of the injunction is property which may be destroyed or if the plaintiff seeks only to preserve the status quo until the ultimate issue is decided.

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Argument

A. **Plaintiffs have a certain and clearly ascertainable right that needs protection.**

Plaintiffs have a certain and clearly ascertainable right that needs protection. Plaintiffs sought to be listed as candidates on the November 2024 general election ballot through the slating process set forth in 10 ILCS 5/8-17.

Their efforts implicate the right to vote, which Article III, section 1, of the 1970 Illinois Constitution guarantees to every United States citizen of at least 18 years of age who has been a permanent resident of Illinois for at least 30 days preceding any election. The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990). “Legislation that affects *any* stage of the election process implicates the right to vote.” 307. Thus, “the right

to vote is implicated by legislation that restricts a candidate's effort to gain access to the ballot." *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977). "[B]allot access is a substantial right and not likely to be denied." *Nolan v. Cook County Officers Electoral Board*, 329 Ill. App. 3d 52, 55 (1st Dist. 2002) (quote and citation omitted).

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were in the process of gathering the required signatures. Thus, P.A. 103-0586 will prohibit Plaintiffs from using the slating process set forth in 10 ILCS 5/8-17 (2023) and 10 ILCS 5/7-61 to place their names on the November 2024 general election ballot.

B. Plaintiffs will suffer irreparable injury without the protection of the injunction.

Without a temporary restraining order and preliminary injunction, Plaintiffs will suffer an irreparable injury because Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot solely because of the enactment of P.A. 103-0586. Article III, section 1, of the 1970 Illinois Constitution protects a candidate's right to gain access to the ballot.

C. Plaintiffs have no adequate remedy at law for their injuries.

There is no adequate remedy at law for the injury Plaintiffs will suffer by being unable to appear on the November 2024 general election ballot. Monetary damages are inadequate to compensate Plaintiffs for the loss of the ability to appear as candidates on the November 2024 general election ballot. Once the election passes, Plaintiff's opportunity to appear as candidates for the November 2024 election is gone forever.

D. Plaintiffs have a likelihood of success on the merits of their case.

Plaintiffs are likely to win on the merits of this case because P.A. 103-0586 strips them of their fundamental right to gain access to the November 2024 general election ballot and the legislation cannot overcome the appropriate constitutional scrutiny to do so.

The right to vote is a fundamental constitutional right. *Fumarolo*, 142 Ill. 2d at 74, that is implicated by legislation that restricts a candidate’s effort to gain access to the ballot, *Tully*, 171 Ill. at 307. “When the means used by a legislature to achieve a legislative goal impinge upon a fundamental right, the court will examine the statute under the strict scrutiny standard.” *Tully*, 171 Ill. 2d at 304.

Thus, P.A. 103-0586, as applied to Plaintiffs’ efforts to gain access to the November 2024 general election ballot as candidates, is subject to strict scrutiny.

To satisfy strict scrutiny, legislation must: (1) advance a compelling state interest; (2) be necessary to achieve the legislation’s asserted goal; and (3) be the least restrictive means available to attain the legislation’s goal. *Tully*, 171 Ill. 2d at 311 (citing *Fumarolo*, 142 Ill. 2d at 90). P.A. 103-0586, as applied to Plaintiffs, fails on all three counts.

First, eliminating the process of filling ballot vacancies by slating to prevent Plaintiffs from accessing the ballot as candidates in the November 2024 general election does not advance a compelling state interest. The state has an interest in providing free and fair elections, and enacting legislation in the middle of a well-established process for candidates to appear on the ballot, allowing some candidates to access the ballot and prohibiting others, is clearly contrary to the interest in providing free and fair elections. Indeed, to the extent that keeping *any* candidate off the ballot is a legitimate governmental interest—i.e., “to reduce the electoral process to manageable proportions by confining ballot positions to a relatively small number of candidates”—that interest is served by the signature requirement

Plaintiffs are in the process of satisfying. *Heabler v. Municipal Officers Electoral Board of the Village of Lakemoor*, 338 Ill. App. 3d 1059, 1062 (2nd Dist. 2003).

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Whatever P.A. 103-0586's goal, it certainly cannot be met by eliminating a process for candidates to appear on the ballot in the middle of that process, prohibiting some candidates from accessing the ballot while allowing others.

Third, the provision of P.A. 103-0586 eliminating the slating process is not the least restrictive means available to attain the legislation's goal. Eliminating the slating process for the November 2024 general election *after* that process has already started is not the least restrictive means to obtain P.A. 103-0586. Indeed, because P.A. 103-0586 purports to go into effect in the middle of that slating process for the November 2024 general election, the law inadequately and unequally eliminates that process because it would permit any candidate using the slating process for the November 2024 general election who had submitted their nomination papers to the Board of Elections prior to the law's enactment to appear on the ballot, while prohibiting any candidates, such as Plaintiffs, who had begun the process but had not yet submitted the nomination papers to the Board of Elections at the time P.A. 103-0586 went into effect. *See Graves v. Cook Cty. Republican Party*, 2020 IL App (1st) 181516, P62 (holding that a political party by-

law, enacted during a primary election, was not necessary or narrowly tailored). The legislature's goal could have been achieved in a manner that would not impinge on the fundamental right to vote by enacting it to apply to elections after the November 2024 general election, rather than enacting P.A. 103-0586 to go into effect in the middle of the slating process.

P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny analysis and, thus, unconstitutionally restricts Plaintiffs' fundamental rights to suffrage by negating their efforts to gain access to the ballot.

Granting Plaintiffs' motion for a temporary restraining order and preliminary injunction would only preserve the status quo—allowing Plaintiffs to complete the slating process to be listed as candidates on the November 2024 general election ballot—by prohibiting Defendants from enforcing P.A. 103-0586's elimination of the slating process for November 2024 general election ballot and prohibiting Defendants from using P.A. 103-0586 as a basis for denying Plaintiffs the ability to appear on the November 2024 general election ballot.

Plaintiffs, therefore, meet the four required steps to obtain a temporary restraining order and preliminary injunction.

WHEREFORE, Plaintiffs respectfully request that this Court enter the following relief:

A. Issue a temporary restraining order and preliminary injunction restraining and enjoining Attorney General Raoul and the Illinois State Board of Elections from

applying P.A. 103-0586's revisions to 10 ILCS 5/8-17 to Plaintiffs with respect to the November 2024 general election;

B. Issue a temporary restraining order and preliminary injunction prohibiting the Illinois State Board of Elections from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17;

C. Grant such further relief this Court deems just, proper, and equitable.

May 10, 2024

Respectfully submitted,

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Attorneys for Plaintiffs

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS CHANCERY DIVISION**

LESLIE COLLAZO, et al.)	
)	
Plaintiffs,)	
)	
v.	)	No. 2024 CH 0032
)	
THE ILLINOIS STATE BOARD OF	)	Hon. Gail Noll,
ELECTIONS, et al.	)	Judge presiding.
)	
Defendants.)	

PETITION TO INTERVENE

NOW COMES Petitioner, Emanuel “Chris” Welch, by and through his attorneys, Michael Kasper and Adam Vaught, and pursuant to 735 ILCS 5/2-408, moves this Honorable Court for permission to intervene in the above-captioned matter as a Defendant in his official and personal capacities. In support of this Petition, Petitioner states as follows:

1. Petitioner Welch is the Speaker of the Illinois House of Representatives, Chair of Democrats for the Illinois House, a legislative caucus committee¹ registered with the Illinois State Board of Elections, and Democratic Township Committeeperson of Proviso Township in Cook County.

2. On May 3, 2024, the Illinois General Assembly, in which Petitioner is the presiding officer of the House of Representatives, passed Senate Bill 2412. In the House of Representatives, the bill passed by a vote of 67-4, and in the Senate the bill passed by a 35-3 vote.² The Governor signed the bill into law as Public Act 103-586 (the “Act”), and it became effective upon his signature.

¹ Legislative caucus committees are a type of political party committee under the Illinois Election Code. 10 ILCS 5/10-1.8(c).

² In the House, 40 members voted “present”; in the Senate, 18.

3. The provisions of the Act challenged by Plaintiffs amend the Illinois Election Code to eliminate a political process allowing political party officials (County, Township and/or Ward committeepersons depending on the location of the district) to nominate candidates of their political party to appear on the ballot in the General Election for legislative offices despite the fact that no one sought the party's nomination in the primary election. *Id.* This process is known as filling a vacancy in nomination. 10 ILCS 5/7-61.

4. In the 2024 General Primary election, the Democratic Party failed to nominate candidates in 21 representative districts and 4 legislative (Senate) districts. The Republican Party failed to nominate candidates in 45 representative districts and 8 legislative (Senate) Districts.

5. On May 10, 2024, Plaintiffs filed the Complaint in this case and moved for a Temporary Restraining Order enjoining the enforcement of the provisions of the Act while the case is pending. This Court denied the Motion for a Temporary Restraining Order on May 17, 2024. Plaintiffs have also moved for a Preliminary Injunction also seeking to enjoin enforcement of the provisions of the Act, which is scheduled for hearing on May 21, 2024.

6. In their Complaint, Plaintiffs do not contest the constitutionality of the *substance* of the legislation, but only challenge the constitutionality of the *timing* of General Assembly's decision to pass the bill when it did. In other words, Plaintiffs concede that the provisions of the Act will be effective for all elections held after the 2024 General Election, but challenge only the General Assembly's authority to enact the provisions at a time when it would be applicable to the 2024 General Election.

7. Section 2-408 of the Code of Civil Procedure provides:

Intervention. (a) Upon timely application anyone shall be permitted as of right to intervene in an action . . . when the representation of the applicant's

interest by existing parties is or may be inadequate and the applicant will or may be bound by an order or judgment in the action;

* * *

(b) Upon timely application anyone may in the discretion of the court be permitted to intervene in an action . . . when an applicant's claim or defense and the main action have a question of law or fact in common.

735 ILCS 5/2-408.

8. In reviewing a petition to intervene, a court considers “whether the petition to intervene is timely, whether the petitioner’s interest is sufficient, and whether that interest is being adequately represented by someone else in the lawsuit.” *Flood v. Richey*, 2016 IL App (4th) 150594, ¶ 15. If these three elements are met, intervention “shall” be granted. 735 ILCS 5/2-408.

9. The petition is timely. The Complaint was filed on May 10, 2024 and this Petition was filed just ten days later. Other than the denial of the Motion for a Temporary Restraining Order, no substantive action has been taken on the case. Indeed, the current Defendants have not yet responded to the Complaint.

10. Petitioner should be permitted to intervene as of right because he possesses a sufficient interest in this litigation which is not adequately represented without their participation. None of the current Defendants are members of the General Assembly, whose authority is being directly challenged. In this regard, this case is substantially similar to *Building Owner’s and Managers Ass’n v. Chicago Bd. of Elections*, 2024 IL App (1st) 240417, ¶ 22, where the Appellate Court found that the circuit court abused its discretion in denying the City of Chicago’s petition to intervene to defend a referendum passed by the Chicago City Council,

despite the fact that the City's election commission was a named defendant. Similarly, here petitioner Welch should be permitted to intervene even though the State Board of Elections is a named defendant.

11. The current Defendants will not adequately represent Petitioner's interests because they are members of the Executive Branch (the Board of Elections, and the Members of the Board of Elections and the Attorney General), not the legislative branch.

12. Petitioner also has an interest in this litigation in his capacity as Democratic Township Committeeperson, who prior to the enactment of the Act, were statutorily required to play a role in the process of filling a vacancy in nomination. 10 ILCS 5/8-6; 8-17; 7-61 (2023). Petitioner believes that candidates for legislative office should not ever be required to seek the blessing of party leaders (like him) before being permitted to run for legislative office.

13. Petitioner also has an interest in this litigation in his capacity as Chair of his legislative caucus committee, where he is responsible for recruiting, supporting and helping elect candidates for the General Assembly. Petitioner believes that candidates for legislative office seeking support from their legislative caucus committees should not ever be required to seek the blessing of party leaders before being permitted to run for legislative office.

14. Petitioner will be irreparably harmed if he is not permitted to intervene and seek protection from this Court because the legislative power challenged in the Complaint cannot be defended and validated unless his is permitted to intervene. Petitioner will also be irreparably be harmed if he is not permitted to intervene because, if Plaintiffs succeed, he will once again be required to participate in the process of filling vacancies in nomination that was repealed by the Act. Finally, Petitioner will also be irreparably harmed because his ability to recruit, support and help elect candidates through his legislative caucus committee would be restricted and limited by

giving party leaders a veto over potential legislative candidates.

15. Petitioner's rights are directly at issue in this litigation, which Petitioner seeks to join as Defendant.

16. "Intervention statutes are remedial in nature and should be construed liberally to allow a person to protect an interest jeopardized by pending litigation to which he is not a party or to avoid relitigation in another suit of issues which are being litigated in a pending suit." *City of Chicago v. John Hancock Mut. Ins. Co.*, 127 Ill.App.3d 140, 143 (1st Dist. 1984), quoting *Bredberg v. City of Wheaton*, 24 Ill.2d 612, 623 (1962).

17. Alternatively, the Court, in its discretion, should permit Petitioner to intervene.

18. Permissive intervention lies in the sound discretion of the court. "Under the intervention statute, a direct interest in the suit need not be shown but the applicant must have an enforceable or recognizable right and more than a general interest in the subject matter." *Maiter v. Chicago Bd. of Educ.*, 82 Ill.2d 373, 382 (1982).

19. Moreover, Petitioner's interests in this action are greater than that of the general public because he is the presiding officer of the Illinois House of Representatives, the constitutional authority of which is being directly challenged. He also has more than a general interest in the subject matter because he will be directly affected by the Court's ruling in his capacities as Township Committeeperson and legislative caucus committee chair.

20. A copy of Petitioner's proposed Opposition to Plaintiffs' Motion for Preliminary Injunction is attached hereto as Exhibit A.

WHEREFORE, Petitioner, Emanuel “Chris” Welch, prays that this Honorable Court grant him leave to intervene as Defendant in this matter.

Respectfully submitted,
Emanuel “Chris” Welch

/s/ Michael J. Kasper
Michael J. Kasper

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avaught@hinshawlaw.com

CERTIFICATE OF FILING & SERVICE

I, Michael J. Kasper, hereby certify that, on the 20th day of May, 2024, I caused a true and correct copy of the foregoing Petition to Intervene to be electronically filed via the Odyssey eFile Illinois filing system with the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois, and caused same to be served upon all attorneys of record and interested parties, as shown, causing a copy of same to be sent via email transmission to each via email addresses as shown:

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/s/ Michael J. Kasper

Michael J. Kasper

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**Plaintiffs' Exhibits in Support of
Their Motion for Preliminary Injunction**

Plaintiffs submit the following attached exhibits in support of their Motion for Preliminary Injunction:

Exhibit A: Declaration of Leslie Collazo

Exhibit B: Declaration of Daniel Behr

Exhibit C: Declaration of James Kirchner

Exhibit D: Declaration of Carl Kunz

May 20, 2024

Respectfully submitted,

/s/ Jeffrey M. Schwab
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Attorneys for Plaintiffs

Exhibit A

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Leslie Collazo

I, Leslie Collazo, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 8th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 8th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 650 signatures from qualified voters in the 8th Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

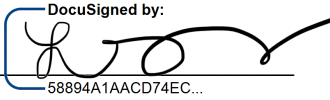
Signed: 

Exhibit B

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Daniel Behr

I, Daniel Behr, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Northbrook, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 57th Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024 before more than 100 people at a prominent location in the 57th Representative District with media invited and informed of the proceedings.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 57th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect a minimum of 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. At the time of passage and signing of SB 2412/PA 103-0586, I had gathered in excess of 700 signatures. Had I known that I would have had to file my petitions by the date that PA 103-0586 was became effective (May 3, 2024), I would have obtained many more signatures, as my goal was to file with the maximum number of 1500 signatures.

8. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

9. Seeing that passage in the Senate the following day was imminent, I scrambled to gather my petitions and other nominating papers, and my campaign staff drove down to Springfield from Northbrook and attempted to file with the Illinois Board of Elections on May 2, 2024, arriving at approximately 4:40 PM. However, the Board closed at 4:30 PM and my agent was unable to file my petition

on May 2. An agent had earlier in the day requested that the Board remain open until 5:00 PM to accommodate my filing, but that request was denied. My petition was filed with the Board at 8:41 AM on May 3, 2024.

10. I rushed to file my nomination papers on May 2, 2024, because of the sudden introduction and imminent approval of P.A. 103-0586. Because I had to rush to file my petitions on such short notice, I was unable to include over 200 signatures that had been obtained by friends and volunteers in time to drive with them to Springfield for filing.

11. I was and remain concerned that the passage of P.A. 103-0586 would prevent me from appearing on the November 2024 General Election ballot as the Republican candidate for the Office.

12. Without the threat of P.A. 103-0586 preventing my candidacy, I would not have attempted to file my petition on May 2 and ultimately on May 3, 2024. I would have spent more time obtaining signatures, working up until the June 3rd deadline that existed before the passage P.A. 103-0586, to insulate my petition for candidacy before the Board of Elections from any challenge.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024


Signed:  _____

Exhibit C

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of James Kirchner

I, James Kirchner, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Chicago, Illinois.

3. I am a Republican candidate for the office of State Senator for the 13th Legislative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 13th Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

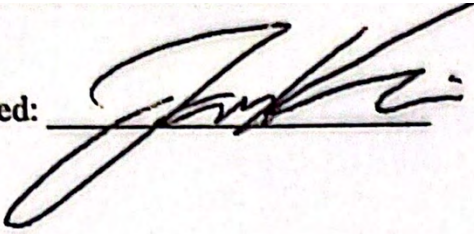
Signed: 

Exhibit D

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Carl R. Kunz

I, Carl R. Kunz, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Hickory Hills, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 31st Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 31st Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 500 signatures from qualified voters in the 31st Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024

Signed: 

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS CHANCERY DIVISION**

LESLIE COLLAZO, et al.)	
)	
Plaintiffs,)	
)	
v.	)	No. 2024 CH 0032
)	
THE ILLINOIS STATE BOARD OF	)	Hon. Gail Noll, presiding.
ELECTIONS, et al.)	
)	
Defendants.)	

**INTERVENING DEFENDANT WELCH ’S MEMORANDUM IN OPPOSITION TO
PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

Intervening Defendant Emanuel “Christopher” Welch, in his capacity as Speaker of the Illinois House of Representatives, as Chair of Democrats for the Illinois House and as Democratic Committeeperson for Proviso Township, respectfully requests this Court deny Plaintiffs’ Motion for a Preliminary Injunction. In support, he states as follows:

Introduction.

For decades, Illinois election laws have allowed political party bosses (County, Township and Ward Committeepersons) to exercise a complete veto, in certain circumstances, over which candidates could, and could not, seek their party’s nomination to run for a seat in the Illinois General Assembly. This was one of only a few remaining vestiges of the proverbial “smoke filled rooms” where political party honchos (both Democrats and Republicans) met in private and hand-picked who could run for public office.

One need look no further than *Smith v. Cherry*, 489 F.2d 1098 (7th Cir. 1973) to see how ripe this system could be for chicanery. In that case, Democratic Party bosses orchestrated a plan where one candidate (who would appeal to the party’s primary voters), would run in the

primary election, and if nominated, would withdraw in favor of a different candidate picked by the district's ward committeemen. *Id.*

Finally, the General Assembly decided to eliminate this outdated process, which is known as filling a vacancy in nomination, and allow voters to decide who will represent their political party in the General Election. On May 3, 2024, the General Assembly passed Senate Bill 2412 by a vote of 67-4 in the House and 35-3 in the Senate. The Governor signed the bill into law as Public Act 103-586.¹

Plaintiffs filed their Complaint a week later and have moved for a Preliminary Injunction “prohibiting” the State Board of Elections from “denying” the petitions that that either have, or will, file with the Board.

Filling Vacancies in Nomination.

Under Illinois law, candidates seeking to represent established political parties (Democrats and Republicans) in the General Assembly must first seek their party's nomination in the primary election. 10 ILCS 5/8-8. Primary election candidates qualify for the ballot by submitting nominating petitions signed by a sufficient number of primary election voters from their district; 1,000 for the Senate, and 500 for the House. *Id.* Candidates file their petitions no later than 106 days prior to the March primary election and may begin gathering petition signatures 90 days earlier. 10 ILCS 5/8-9; 8-8. In practical terms, this means the nomination process begins in early September of odd numbered years, when candidates seeking their party's nomination may begin gathering petition signatures.

If the candidate who prevails in the primary election becomes unable to continue on to the general election, through death or withdrawal, local political party leaders may designate

¹ 40 Representatives and 18 Senators voted “present.”

someone to fill the unforeseen vacancy in nomination. 10 ILCS 5/8-17. Prior to enactment of the Act, a vacancy in nomination also arose, and could also be filled by designation by the party bosses, even where no one bothered to run in the party's primary election. This year, no candidate sought the Democratic Party's nomination in 21 House districts and 4 Senate districts, and no candidate sought the Republican Party's nomination in 45 House and 8 Senate Districts.

The Act eliminates only the ability of party bosses to appoint someone to appear on the general election ballot where no candidate bothered to run in the primary election. The Act, quite logically and reasonably, retains the ability to fill a vacancy in nomination where the candidate who prevailed in the primary election cannot go on to the general election. *Id.*; 10 ILCS 5/7-61.

Plaintiff's Complaint

Plaintiffs are four candidates who chose not to run in their party's primary election, but instead have been designated by their political party bosses to appear on the general election ballot, effectively bypassing voters in the primary election. Comp. ¶ 5-8. Plaintiffs filed a single count Complaint alleging that the Act violates their right to vote (although no Plaintiff alleged that he or she is a voter) provided for in Article III, Section 1 of the Illinois Constitution. Comp. ¶ 45-49.

In furtherance of their Complaint, Plaintiffs have moved for a preliminary injunction. The preliminary injunction should be denied because Plaintiffs do not have a clearly ascertained right to bypass the primary election and nonetheless appear on the general election ballot without the possibility of any intraparty opposition. Plaintiffs will also not suffer irreparable harm if the preliminary injunction is denied because there is not only an adequate, but an exclusive, remedy available to them through the well-established Board of Elections objection process. Plaintiffs, finally, do not have a likelihood of success on the merits because they have no constitutional

right to appear on the ballot through this outdated, insider process that the General Assembly has finally removed.

Argument.

A. Preliminary Injunction Standard

To succeed on a motion for a preliminary injunction, a plaintiff must show “(1) a clearly ascertained right in need of protection, (2) irreparable injury in the absence of an injunction, (3) no adequate remedy at law, and (4) a likelihood of success on the merits of the case.” *Mohanty v. St. John Heart Clinic, S.C.*, 225 Ill. 2d 52, 62 (2006). For each element, “the plaintiff must raise a ‘fair question’ that each of the elements is satisfied.” *Guns Save Life, Inc. v. Raoul*, 2019 IL App (4th) 190334, ¶ 38. However, “[m]ere opinion, conclusion, or belief will not suffice.” *Id.* “If these elements are met, then the court must balance the hardships and consider the public interests involved.” *Id.* Here, Plaintiffs motion for a preliminary injunction should be denied because Plaintiffs cannot satisfy any of the four requisite elements.

B. Strict Scrutiny Does Not Apply As Plaintiffs Have No Constitutional Right to Appear on the Ballot Through the Post-Primary Appointment Process.

Before the Court on Friday, May 17, 2024, Plaintiffs conceded that the Act is constitutional in substance. They have no objection to the Board’s implementation of the Act going forward in future elections. Instead, their objection is solely that it applies to them today. This concession demonstrates that their Complaint is not really about voters’ right to vote — how could the Act violate voters’ rights to vote in 2024, but not violate those same voters’ rights in 2026 or 2028? Instead, this concession demonstrates that this case is really about ballot access – plaintiffs’ own ability to appear on the ballot through this appointment process.

Plaintiffs misstate the applicable legal standard because while restrictions on the right to vote are subject to strict scrutiny (*Fumarolo v. Chicago Bd. of Educ.*, 142 Ill.2d 54, 73 (1990)),

ballot access statutes are not subject to strict scrutiny. Instead, courts avoid such a stringent standard because “[a]s a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process.” *Storer v. Brown*, 415 U.S. 724, 730 (1974). The fact that a state's system creates hurdles which tend to limit the field ... does not require that regulations be narrowly tailored to advance a compelling state interest. *Bullock v. Carter*, 405 U.S. 134, 143 (1972).

When reviewing a challenge to a state's election related laws, a court must weigh “the character and magnitude of the asserted injury to the rights protected” against “the precise interests put forward by the State as justifications for the burden imposed by its rule.” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). In applying this standard, courts must also consider “the extent to which [the State's] interests make it necessary to burden the plaintiff's rights.” *Id.* A “severe” restriction must be “narrowly drawn to advance a state interest of compelling importance.” *Norman v. Reed*, 502 U.S. 279, 289 (1992). But “reasonable, nondiscriminatory restrictions” are generally justified by the state's “important regulatory interests.” *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768, 773 (7th Cir.1997). This standard applies to challenges to Illinois petition related laws. *Nader v. Keith*, 2004 U.S. Dist. LEXIS 16660 (N. D. Ill. 2004), *aff'd* 937 F.2d 415 (“the mere fact that a state's system creates hurdles which tend to limit the field of candidates from which voters can choose by itself does not require that regulations be narrowly tailored to advance a compelling state interest.”).

For example, Plaintiffs claim that the Act must use the “least restrictive means available” to achieve the statute’s goal of regulating ballot access. Comp. ¶ 47. What then to make of the petition signature requirements? Candidates appointed through this process are required to submit the same number of petition signatures as candidates seeking to run in the primary

election – 1,000 for the Senate and 500 for the House. 10 ILCS 5/7-61. If Plaintiff's are correct that ballot access statutes are subject to strict scrutiny and therefore must use "the least restrictive means", then any petition requirement greater than one signature (the least restrictive number) would be unconstitutional.

Similarly, Plaintiffs' citation to *Tully v. Edgar*, 171 Ill.2d 291 (1996) is misplaced. Prior to 1996, University of Illinois Trustees were elected by voters at the November general election, including in 1994. *Id.* at 300. In 1995, *after* the trustees were elected by Illinois voters, the General Assembly passed a law literally throwing them out of office in the middle of the terms to which the voters had elected them so that the Governor could replace them with his own appointments. *Id.* In that case, Plaintiffs claimed that the statute removing the elected trustees violated their right to vote because it "nullifies the result of a valid election and effectively removes the trustees whom the citizens elected to serve." *Id.* at 305. Not surprisingly, the Supreme Court agreed with plaintiffs, concluding:

It strains logic to suggest that the right to vote *is* implicated by legislation that prohibits a citizen from casting a vote or from having that vote counted, but *is not* implicated by legislation that, in effect, deprives that same vote of its natural and intended effect.

Id. at 306 (emphasis in original). In other words, the Court held that a law removing elected officials from office after the voters had spoken violated those voters' right to vote. In contrast, here the Act allows voters to speak instead of party bosses and the Act is not cutting short terms after voters have spoken in the election. The whole point of the Act is to ensure that voters have the opportunity to speak without having to first seek the blessing of party bosses.

Nor can it be reasonably argued that Act imposes a "severe" restriction on Plaintiffs' ballot access. Requiring Plaintiffs, who seek to represent an established political party in the general election, to first prevail in their party's primary election is hardly a new idea. Candidates

throughout the nation have pursued this very path for well over one hundred years. It is worth noting, also, that none of the Plaintiffs have explained why they chose not to participate in their party's primary election. They, of course, could have done so. They just chose not to.

As a result, the State's interest in supporting the primary election process, rather than this outdated, backroom process should survive any level of scrutiny.

C. Plaintiffs Will Not Suffer Irreparable Harm Without a Preliminary Injunction Because They Have a Complete Remedy Through the Board of Elections Objection Process.

All candidates for the General Assembly, including Plaintiffs, must file their nomination papers with the State Board of Elections. 10 ILCS 5/8-9. All nomination papers filed with the Board are deemed valid unless a voter files an objection challenging the sufficiency of the nomination papers. 10 ILCS 5/10-8. In this case, the Board has accepted filings by at least two candidates purporting to fill vacancies in nomination through this appointment process, one on the same day that the Act became effective.² The Board has given no indication that it will not accept petitions going forward.

The Election Code provides an administrative process for challenging the sufficiency of candidate's nomination papers. 10 ILCS 5/10-10. As Plaintiffs point out, the deadline to submit nomination papers filling vacancies in nomination is June 3, 2024. One Plaintiff has already filed, and the others assert their intentions to do so. Comp. ¶ 33-34. The deadline for voters to file objections to those candidacies is June 8, 2024. 10 ILCS 5/10-8. If the nomination papers have a sufficient number of signatures on their face (in election parlance, are in "apparent conformity") and no one objects to Plaintiffs' nomination papers by the June 8 deadline, their names will appear on the ballot. If, on the other hand, the candidate's nomination papers are

² <https://www.elections.il.gov/ElectionOperations/CandidatesFiled.aspx>

determined to have an insufficient number of signatures, then their candidacies will be invalid and the Board will not need to reach the question raised in this Complaint. If an objection is raised regarding the application of the Act to Plaintiffs' (or any other candidates') filings, then the Board will take up that question. Any party dissatisfied with the Board decision may seek judicial review in the circuit court within five days of the Board's decision. 10 ILCS 5/10-10.1.

The Supreme Court has recognized that the objection and judicial review process set forth in the Election Code is an exclusive remedy. In *Lara v. Schneider*, 75 Ill.3d 63 (1979), a candidate whose name was removed from the ballot by an electoral board sought leave to file a complaint for a writ of mandamus in the Supreme Court seeking an order that his name be printed on the ballot. The Supreme Court denied the petitioner's request, concluding that: "*Mandamus* is, of course, not a permissible substitute for direct appeal." *Id.* at 64. In denying the mandamus request, the Court noted that "petitioner here had time to and did seek review of the electoral board action in the circuit court of Cook County..." The Supreme Court has reiterated that decision in *Jackson v. Board of Election Commissioners for the City of Chicago, et al.*, 2012 IL 111928, ¶¶99-104; *see also Russo v. Village of Winfield*, 331 Ill.App.3d 111 (2nd Dist., 2002)("[a]n action for a writ of *mandamus* is therefore insufficient to vest the trial court's jurisdiction to review the merits of the electoral board's decision."). Here too, if Plaintiffs are dissatisfied with the Board's determination, they will have every right to seek judicial review.

Although styled as a Complaint for an injunction, what Plaintiffs really seek here is a writ of mandamus. In their prayer for relief Plaintiffs ask for an order "*prohibiting* the Illinois State Board of Elections from *denying* Plaintiffs nomination papers..." Comp., p. 10 (emphasis added). Requesting an order "prohibiting" the Board from "denying" their petitions is the same as seeking an order forcing the Board to accept the petitions. As *Lara* and *Jackson-Hicks*

establish, however, the only proper remedy is judicial review of an adverse ruling, if any, from the Board of Elections.

Moreover, neither injunctive relief nor mandamus should be a substitute for judicial review of an electoral board decision. Section 10-10.1 of the Election Code contains unique jurisdictional and timing requirements. First, the party seeking judicial review must file the petition within only five days of the board's decision. 10 ILCS 5/10-10.1. The petitioner must serve the petition by registered or certified mail, as opposed to issuing a summons. *Id.* Next, that Section requires the circuit court to conduct a hearing on the petition within 30 days and to issue its decision "promptly." *Id.* These provisions obviously further the urgency with which ballot related questions must be resolved because the election is always approaching. Complaints for injunctions or writs of mandamus, on the other hand, have no such constraints. As a result, the administrative and judicial review process set forth in the Election Code is the more efficient and expeditious method for resolving ballot related questions. Plaintiffs have an adequate remedy through that process.

D. Plaintiffs Do Not Have a Likelihood of Success on the Merits Because the Act Furthers the State's Interest in Regulating the Election Process and Providing Fair Elections.

In addition to Democrats and Republicans, Illinois election laws allow candidates to run as independent candidates in the general election and allows voters to form new political parties to field candidates in the general election as an alternative to the candidates nominated by the two established parties. 10 ILCS 5/10-2; 10-3. The purpose of these laws is to allow voters dissatisfied with the established parties' nominees to field alternative candidates in the general election. *Anderson v. Celebrezze*, 460 U.S 780, 791 (1983). However, "this disaffected 'group'

will rarely if ever be a cohesive or identifiable group until a few months before the election.”
Id., quoting *Williams v. Rhodes*, 393 U.S. 23, 33 (1968).

Prior to the Act, the vacancy in the nomination process effectively stifled the opportunity for voters to support either independent or third-party candidates. Both independent and new party candidates must file their nomination papers no later than 134 days prior to the general election. 10 ILCS 5/10-6. This year, that date is June 24, 2024. In the ordinary course, if a group of voters is dissatisfied with the winner of their party’s primary election, they have more than three months to organize, identify a candidate, and file the necessary nomination papers with the Board in order to qualify for the general election ballot.

If, however, the same group of voters is dissatisfied with the person chosen by the party bosses through the vacancy in nomination process, they have to do the same amount of work in just three weeks. As Plaintiffs recognize, under the vacancy in nomination process, chosen candidates have to file their nomination papers no later than June 3, 2024. Voters dissatisfied with that selection have only three weeks until the June 24, 2024, deadline for independent and new party filings. Not only that, but they have to file *three times* more petition signatures than candidates who run in the primary election or are chosen by party leaders to fill vacancies in nomination: 3,000 for the Senate and 1,500 for the House. 10 ILCS 5/10-3.

This explains then why party leaders may decide to forego their own primary election – it happened 78 times this year alone (25 Democrats, 52 Republicans). It effectively allows them to stifle dissent and avoid the risk of dissatisfied party members leaving the party to support an independent or new party candidate. For example, if the Democrats nominated a candidate in the primary election, dissatisfied party voters, seeking perhaps a more progressive choice, might flee the party to support a more progressive independent or new party alternative in the general

election. The Republicans may make the same calculation to prevent a more or less conservative independent or new party candidate. Needless to say, the appearance of a third alternative on the general election ballot is a threat to one of the major party nominees.

If, however, the party bosses wait to nominate a candidate on June 3, then the risks of an independent or new party faction arising is diminished, if not entirely eliminated. Lacking time to field an alternative candidate, the dissatisfied voters' choices are limited to supporting their party's nominee or, probably less appealingly, support the other major party's candidate.

By eliminating this post-primary selection process, the Act thus has the effect of encouraging, rather than limiting, alternative choices. The Act is non-discriminatory – it applies to Democrats and Republicans equally. While there are more Republican vacancies this year, it could be the opposite in the next election cycle. The State also has an important interest in providing voters more, rather than fewer, ways to pursue alternative voices. This is especially true here, where prior to the Act, the prospect of fielding an independent or new party alternative existed on paper, but not in reality.

Conclusion.

WHEREFORE, Petitioner, Emanuel “Chris” Welch, prays that this Honorable Court deny Plaintiff’s Motion for a Preliminary Injunction.

Respectfully submitted,
Emanuel “Chris” Welch

/s/ Michael J. Kasper _____

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**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

LESLIE COLLAZO, <i>et al.</i> ,)	
)	
Plaintiffs,)	
	)	Case No. 24 CH 32
v.)	
	)	Hon. Gail Noll
ILLINOIS STATE BOARD OF ELECTIONS,)	
<i>et al.</i> ,)	
)	
Defendants,)	
)	

**DEFENDANT KWAME RAOUL’S
RESPONSE TO PLAINTIFFS’ MOTION FOR PRELIMINARY INJUNCTION**

Defendant Kwame Raoul, the Illinois Attorney General, files this Response to Plaintiffs’ Motion for Preliminary Injunction and states the following:

INTRODUCTION

Plaintiffs bring an as-applied challenge to a recent amendment to the Election Code that repeals language providing for a post-primary procedure to slate candidates for established political parties. On May 3, 2024, the Governor signed Public Act 103-0586 (“the Act”). The Act contained three main parts. The only portion that is at issue here is the third main part, which of P.A. 103-0586 amends Section 8-17 of the Election Code. The prior version of Section 8-17, provided that when, where an established political party has a vacancy on the ballot following the primary because no one ran in the primary, the legislative or representative committee of the party may nominate a candidate to fill the vacancy. 10 ILCS 5/8-17 (2023). The nominee must then gather sufficient signatures in accordance with Section 7-61 of the Election Code. *Id.* The nominee must then file the proper papers with the Illinois State Board of Elections (“ISBE”) within 75 days of the primary (in this case, by June 3, 2024). *Id.* P.A. 103-0586 removes the language from Section 8-17 providing for this procedure.

Plaintiffs are individuals nominated by the Republican Party following the primary who wish to utilize Section 8-17's old procedure for filling ballot vacancies. They challenge P.A. 103-0586's removal of Section 8-17's post-primary slating procedure for ballot vacancies for established parties. Plaintiffs claim that this amendment violates Article III, section 1 of the Illinois Constitution and seek an injunction preventing the Illinois State Board of Elections (the "Board") from denying the Plaintiffs' nominating petitions for the November 2024 general election based on P.A. 103-0586. Plaintiffs now seek a preliminary injunction to that effect.

Plaintiffs are not entitled to a preliminary injunction. They have not presented a fair question that P.A. 103-0586 is unconstitutional. P.A. 103-0586 is a reasonable and non-discriminatory legislative enactment and therefore satisfies the *Anderson-Burdick* test, which is the proper analysis apply. Plaintiffs therefore have not established a likelihood of success on the merits. Additionally, an injunction in this case would violate the public interest because courts should not prevent the General Assembly from repealing its own laws and then order the General Assembly to reinsert the repealed language back into the statute. Consequently, the motion for preliminary injunction should be denied.

LEGAL STANDARD

The purpose of a preliminary injunction is to preserve the status quo until a decision on the merits can be entered. *Scheffel & Co., P.C. v. Fessler*, 356 Ill. App. 3d 308, 313 (5th Dist. 2005). "A preliminary injunction is an extreme remedy that should be used only where an emergency exists and serious harm would result if the injunction is not issued." *Id.* To obtain a preliminary injunction, plaintiffs must demonstrate that: (1) they possess an ascertainable right in need of protection; (2) they will suffer irreparable harm without the protection of an injunction; (3) they

have no adequate remedy at law; (4) they are likely to be successful on the merits of their action; and (5) the benefits of granting the injunction outweigh the injury to defendants. *Id.*

Irreparable harm does not mean injury that is beyond repair or beyond compensation in damages; it denotes transgressions of a continuing nature. *SSA Foods, Inc. v. Giannotti*, 105 Ill. App. 3d 424, 428 (1st Dist. 1982). Generally, an available remedy at law is considered adequate if it is concise, complete, and would provide the same practical and efficient resolution as the equitable remedy would provide. *Diamond Sav. & Loan Co. v. Royal Glen Condo. Ass'n*, 173 Ill. App. 3d 431, 435 (2d Dist. 1988). To show a likelihood of success on the merits, a party must lead the court to believe that it will probably be entitled to the relief requested if the proof sustains the party's allegations. *Oscar George Electric Co. v. Metro. Fair & Exposition Auth.*, 104 Ill. App. 3d 957, 966 (1st Dist. 1982).

ARGUMENT

I. Plaintiffs seek a mandatory injunction.

As an initial matter, while Plaintiffs frame their requested relief as a negative injunction, it is really a mandatory injunction. Plaintiffs frame their requested relief as the Court enjoining the Board from “applying P.A. 103-0586’s revisions to 10 ILCS 5/8-14 to Plaintiffs with respect to the November 2024 general election.” (Mot. for Prelim. Inj. at 11). However, P.A. 103-0586 does not require anything of the Board that the Court can stop it from doing. The Act deleted language from the Election Code, removing a procedure that Plaintiffs wish to access. Thus, Plaintiffs request that the Court *reinsert* the deleted language from the Election Code and require the Board to utilize a now-defunct procedure. As discussed below, this would be improper. Further, Plaintiffs essentially request that the Court force ISBE the Board to place them on the ballot contrary to P.A. 103-0586’s amendment to the Election Code, provided there is not a separate reason they do not qualify to be slated. This is a mandatory, not negative, injunction.

Mandatory injunctions in particular are extraordinary remedies and not favored by the courts. *Town of Cicero v. Metro. Water Reclamation Dist. Of Greater Chicago*, 2012 IL App (1st) 112161 ¶ 40. A mandatory injunction “will be issued only in cases of extreme, serious, great or urgent necessity.” *Id.* at ¶ 46 (quoting 43A C.J.S. *Injunctions* § 13 (2004)). Plaintiffs’ requested relief should be analyzed with this framework in mind.

II. The Court should apply intermediate, not strict, scrutiny to Plaintiffs’ as-applied claim.

Plaintiffs argue that the Court should apply strict scrutiny to their as-applied challenge. Plaintiffs primarily rely on *Tully v. Edgar*, 171 Ill. 2d 297 (1996), wherein the Illinois Supreme Court stated that legislation that affects any stage of the election process implicates the right to vote. *Id.* at 307. However, *Tully* does not hold that *any* law that implicates the right to vote is subject to strict scrutiny. Instead, our Supreme Court applied strict scrutiny in *Tully* because the law at issue did not simply impair the right to vote—it “obliterate[d] its effect.” *Id.*

Indeed, one year after *Tully*, our Supreme Court explained that a critical fact influencing its analysis in *Tully* was that the law in question was enacted *after* the election, *i.e.*, after the trustee plaintiffs were elected, and removed them from office. *East St. Louis Fed’n of Teachers, Local 1220 v. East St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 414 (1997) (discussing *Tully*, 171 Ill. 2d at 312). And in so doing, the Court in *East St. Louis* found that a legislative scheme that was enacted *before* the relevant election did not violate the fundamental right to vote. *Id.* at 415.

Here, there is no retroactive effect. This issue is far more like the one in *East St. Louis* than in *Tully*. Plaintiffs could have all run in their respective primaries had they so chosen. The voters could have voted for these plaintiffs had they run in their respective primaries, and the voters will continue to be able to vote for candidates in future primaries if they so choose. Accordingly, the

right to vote has not been obliterated or nullified. Instead, an extra procedure for slating candidates outside of the primary process has simply been repealed from the Election Code.

Moreover, as the United States Supreme Court has reiterated, not every law that implicates the right to vote is subject to strict scrutiny. Federal courts subject regulations of the electoral process to a “flexible standard,” *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768, 773 (7th Cir. 1997), known as the *Anderson-Burdick* standard. See *Burdick v. Takushi*, 504 U.S. 428 (1992), and *Anderson v. Celebrezze*, 460 U.S. 789 (1983); see also *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 190, 202-03 (2008) (opinion of Stevens, J.) (applying *Anderson-Burdick* standard to regulation of voting procedures); *id.* at 204-05 (Scalia, J., concurring in the judgment) (same).

Under the *Anderson-Burdick* standard, courts must weigh the “character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments...’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule.’” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. 789 (1983)). If an electoral regulation imposes a “severe” restriction on First or Fourteenth Amendment rights, strict scrutiny applies. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997). If, on the other hand, the State has imposed “reasonable, nondiscriminatory restrictions on these rights...the [S]tate’s important regulatory interests will generally be sufficient to justify the regulations.” *Libertarian Party*, 108 F.3d at 773 (citing *Burdick*, 504 U.S. at 434); see also *Timmons*, 520 U.S. at 358.

Illinois courts often apply federal standards in election cases. *Rudd v. Lake Cnty. Electoral Bd.*, 2016 IL App (2d) 160649 ¶ 13. In the years following *Tully*, Illinois courts have continued to apply the *Anderson-Burdick* test in election cases. See, e.g., *Oettle v. Guthrie*, 2020 IL App (5th) 190306 ¶¶ 11-14; *Qualkinbush v. Skubisz*, 357 Ill. App. 3d 594, 604-05 (1st Dist. 2005); *Green Party v. Henrichs*, 355 Ill. App. 3d 445, 447 (3d Dist. 2005). The *Anderson-Burdick* test makes

sense in these case. If Plaintiffs were correct that strict scrutiny applies simply because the right to vote is implicated, then almost every provision of the Election Code would be subject to strict scrutiny. And if that were the case then that could lead to unending challenges to constitutionality of multiple provisions of the Election Code. For instance, any election law requiring a minimum number of signatures to gain ballot access could be challenged because requiring one fewer signature than would arguably be a less restrictive means of ensuring that citizens within a given ward or municipality endorse a given candidate for office. Of course, this standard extreme result should not come to pass. While the burden on the right to vote is not minimal in this case, it is also not obliterated or otherwise nullified. Relatedly, the Act is nondiscriminatory because it applies equally to all established parties. Therefore, Court should follow the *Anderson-Burdick* framework to determine the proper level of scrutiny.

III. P.A. 103-0586 satisfies *Anderson-Burdick*.

As discussed, this Court should apply the *Anderson-Burdick* framework. Also as discussed, under this standard, if the State has imposed “reasonable, nondiscriminatory restrictions on these rights... the [S]tate’s important regulatory interests will generally be sufficient to justify the regulations.” *Libertarian Party*, 108 F.3d at 773 (citing *Burdick*, 504 U.S. at 434). This is similar to intermediate scrutiny. “To withstand intermediate scrutiny, the legislative enactment must be substantially related to an important governmental interest.” *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 208 (2008). Here, the important governmental interest is to prevent political insiders from having control over which candidates are slated and to ensure that the voters—and only the voters—make this determination. P.A. 103-0586 is clearly substantially related to that important interest.

There is little doubt that the General Assembly has the power to repeal the post-primary slating procedure at issue here. Plaintiffs bring an as-applied, not a facial, challenge. In doing so,

Plaintiffs tacitly admit that their problem is not in the substance of P.A. 103-0586, but instead with its timing. If the post-primary slating procedure from Section 8-17 had been repealed in December of this year instead of May, then its constitutionality would be unquestionable. Indeed, it is “axiomatic that one legislature cannot bind a future legislature.” *A.B.A.T.E. of Ill. V. Quinn*, 2011 IL 110611, ¶ 34. The policies enacted by the General Assembly “are inherently subject to revision and repeal.” *Jones v. Mun. Emples. Annuity & Ben. Fund of Chi.*, 2016 IL 119618 ¶ 39 (internal quotation marks omitted). Because P.A. 103-0586 merely repealed a provision of the Election Code and did not implement any new requirements for candidates, there is no question that this is well within the power of the legislature.

Plaintiffs’ only real argument against P.A. 103-0586 is its timing, *i.e.*, that it was enacted in the middle of an election cycle. But Plaintiffs do not cite any authority indicating that the timing of an amendment to the Election Code is determinative. The closest they come is *Graves v. Cook Cty. Republican Party*, 2020 IL App (1st) 181516. But *Graves* dealt with a change to political party bylaws, *id.* at ¶ 6, not a change to the Election Code. The plaintiff in *Graves* had already submitted his nomination papers to the Chicago Board of Elections and then prevailed in the subsequent election. *Id.* at ¶¶ 5, 7. However, a change to the party bylaws threatened to disqualify him from office. *Id.* at ¶ 8. Most importantly, the change in bylaws would have effectively given the political party a veto over the voters’ choice—a power they lack under the Election Code. *Id.* at ¶ 77. Here, the issue is a change to the Election Code that does not serve to override the will of the voters. *Graves* is entirely distinguishable.

Moreover, P.A. 103-0586 did not stop any of the Plaintiffs from running for office or otherwise disqualify someone already chosen by the voters. As discussed, they each could have run in their respective primaries. That they did not do so does not mean that they should be entitled

to a process where political insiders hand-select them to be their party's nominees after the primary has passed. Additionally, there are still ample opportunities for them to run for office: they can still run for office as an independent candidate, form a new political party, or run as a write-in candidate. There is not a fair question that P.A. 103-0586 is unconstitutional, and the motion for preliminary injunction should be denied in this case.

IV. The balance of hardships favors denying injunctive relief.

The court should also deny the motion because the potential harm to the defendants here outweighs any benefits of granting an injunction. Before an injunction can issue, courts must balance the hardships of the parties and consider the public interests involved. *JL Props. Grp., LLC v. Pritzker*, 2021 IL App (3d) 200305, ¶ 57. This test requires the court to determine the relative inconvenience to the parties and whether the burden upon the requesting party if an injunction does not issue outweighs the burden to the opposing party if an injunction does issue. *Guns Save Life, Inc. v. Raoul*, 2019 IL App (4th) 190334, ¶ 64. In other words, "Plaintiffs are...required to show in the trial court that they would suffer more harm without an injunction than defendants will suffer with it." *Id.* Courts also consider the effect of the injunction on the public. *Id.*

Here, an injunction would run counter to the public interest because it would require this Court to tell the General Assembly that is not allowed to repeal its own laws. But as discussed, it is "axiomatic that one legislature cannot bind a future legislature." *A.B.A.T.E.*, 2011 IL 110611, ¶ 34. The policies enacted by the General Assembly "are inherently subject to revision and repeal." *Jones*, 2016 IL 119618 ¶ 39.

As for the Plaintiffs' hardship, while they frame this case as an effort to protect the right to vote this is not actually the case. In reality, Plaintiffs they are trying to create a right to the continuation of the now-defunct version of Section 8-17. But there is no right to the continuation

of an existing law. *New Hights Recovery & Power, LLC v. Bowers*, 347 Ill. App. 3d 89, 96 (1st Dist. 2004). “Our supreme court has held there is no vested right in the mere continuation of a law and the legislature has an ongoing right to amend a statute.” *Id.* (citing *Premier Prop. Mgmt. Inc. v. Chavez*, 191 Ill. 2d 101, 109 (2000)). Moreover, as discussed, the Plaintiffs could have run in the primary and they still can seek nomination as an independent candidate or new party candidate or attempt a write-in campaign. The balance of hardships and the public interest clearly favor denying the motion for preliminary injunction.

CONCLUSION

Plaintiffs do not have a likelihood of success on the merits. P.A. 103-0586 easily satisfies the *Anderson-Burdick* test because it is a reasonable, nondiscriminatory legislative enactment substantially related to the important state interest of ensuring that the voters, not political insiders, choose nominees for the general election. Therefore, Plaintiffs have not raised a fair question that their as-applied challenge to P.A. 103-0586’s constitutionality will succeed. Moreover, granting Plaintiffs relief in this case would require a mandatory injunction reinserting repealed language into the Election Code. This would violate the public interest because the General Assembly undoubtedly may repeal its own laws.

WHEREFORE, the Defendant Kwame Raoul respectfully requests that this Honorable Court deny Plaintiffs’ Motion for Preliminary Injunction.

KWAME RAOUL
Attorney General
State of Illinois

Respectfully Submitted,

/s/ Hal Dworkin
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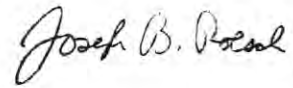
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MAY 23 2024

**IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

38

Clerk of the
Circuit Court



LESLIE COLLAZO, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 THE ILLINOIS STATE BOARD OF)
 ELECTIONS, et al.,)
)
 Defendants.)

Case No.: 24-CH-32

PRELIMINARY INJUNCTION

This case came before the Court on May 22, 2024 for hearing on Plaintiffs’ Emergency Motion for Temporary Restraining Order and Preliminary Injunction, as it relates to Plaintiffs’ request for a preliminary injunction.¹ Notice was given. The Court, being fully advised, for reasons stated of record, finds that Plaintiffs, who are prospective candidates for seats in the Illinois General Assembly, have met their burden of establishing that they are entitled to preliminary injunctive relief prohibiting Defendant Illinois State Board of Elections and Defendant Kwame Raoul from rejecting Plaintiffs’ nomination petitions for the November 2024 general election based on Public Act 103-0586’s revisions to 10 ILCS 5/8-17. Specifically, the Court finds as follows:

A. Section 5/8-17 of the Election Code addresses ballot vacancies in races for seats in the General Assembly. Until May 3, 2024, 10 ILCS 5/8-17 provided in relevant part as follows:

In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary) or decline the nomination or should the nomination for any other reason become vacant, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no**

¹ On May 17, 2024, the Court denied Plaintiffs’ request for a temporary restraining order.

candidate for the nomination of the party in the primary, except as otherwise provided in this Code, no candidate of that party for that office may be listed on the ballot at the general election, unless the legislative or representative committee of the party nominates a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election. Vacancies in nomination occurring under this Article shall be filled by the appropriate legislative or representative committee in accordance with the provisions of Section 7-61 of this Code. In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6.

(emphasis added). This case arises out of Public Act 103-0586 (effective 5/3/2024) which amended Section 5/8-17. After P.A. 103-0586, Section 5/8-17 now provides in relevant part as follows:

In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary), decline the nomination, or withdraw the candidate's name from the ballot prior to the general election, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.** In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6 or as provided in Section 25-6, as applicable.

(emphasis added).

B. For each seat at issue here, there was no candidate for the nomination of the Republican party in the March 2024 primary election. Plaintiffs were in the course of availing themselves of the legislative or representative committee nomination process contained in Section 5/8-17 at the time P.A. 103-0586 amended the statute on May 3, 2024 to delete the language relating to that process for races in which there was no candidate for nomination of a party in the primary.

C. Plaintiffs have shown that they have a clearly ascertainable right in need of protection. The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right and “has determined that the right to vote is implicated by legislation that restricts a

candidate's effort to gain access to the ballot.” *Tully v. Edgar*, 171 Ill.2d 297, 306-07 (1996) (citing *Anderson v. Schneider*, 67 Ill.2d 165, 172–73 (1977)).

D. Plaintiffs have shown a fair question on likelihood of success on the merits. Plaintiffs do not contend that the General Assembly cannot amend Section 5/8-17 to remove the slating process for races in which there was no candidate for nomination of the party in the primary. Rather, they assert that the application of the amendment to them during the 2024 election cycle violates their right to vote and to have their names placed on the November ballot. The question before the Court is whether the General Assembly’s exercise of its power to completely eliminate one avenue for ballot access during an election cycle impermissibly burdens the right to vote. As stated in open court, at this stage, applying relevant case law, the Court believes that the challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote, and therefore, the proper standard is strict scrutiny. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken place, precludes Plaintiffs from having their names placed on the November ballot under any statutorily available method. Under the strict scrutiny standard, “the court must conclude that the means employed by the legislature to achieve a stated goal were necessary to advance a compelling state interest,” and further, “the statute must be narrowly tailored, that is, the legislature must use the least restrictive means consistent with the attainment of the legislative goal.” *Tully*, 171 Ill.2d at 304–05 (citing *Fumarolo v. Chicago Board of Education*, 142 Ill.2d 54, 73 (1990)). Given the circumstances of this case, Plaintiffs have shown a fair question of likelihood of success on the merits on the issue of whether P.A. 103-0586 as applied to the Plaintiffs in the 2024 election cycle fails a strict scrutiny analysis. The Court further finds that Plaintiffs have shown a fair question of likelihood of success on the merits even if the less stringent *Anderson-Burdick* standard urged by Defendants applies.

Under *Anderson-Burdick*, when a state election law provision imposes only reasonable, nondiscriminatory restrictions on the rights of voters, the State's important interest in regulating elections is generally sufficient to justify the restrictions. However, to withstand *Anderson-Burdick* scrutiny, the statute must not be arbitrary or discriminatory.

E. Plaintiffs have shown that they will suffer irreparable harm if a preliminary injunction does not issue given that the deadline for filing their nomination petitions under the law as it existed prior to P.A. 103-0586 would be June 3, 2024. If Plaintiffs' nomination petitions are rejected based on P.A. 103-0586's revisions to 10 ILCS 5/8-17, they will lose the opportunity to run as party candidates in the 2024 general election. Additionally, the timing of the amendment, which occurred after the March primary election, precludes Plaintiffs from having their names placed on the November ballot under any of the statutorily available routes to ballot access.

F. Plaintiffs have shown that they have no adequate remedy at law.

G. The balance of equities and public interest weigh in favor of a preliminary injunction. The ballots for the November 2024 general election are not certified until August. Allowing Plaintiffs to participate in the election process while awaiting resolution of this case does not present a substantial hardship. In contrast, absent preliminary injunctive relief, Plaintiffs will lose the opportunity to run as party candidates for the seats in question in the November 2024 general election and will be foreclosed from having their names printed on the ballot.

THEREFORE, it is hereby ordered:

1. Plaintiffs' Emergency Motion for Temporary Restraining Order and Preliminary Injunction is ALLOWED, in part.

2. Defendant State Board of Elections and Defendant Kwame Raoul are preliminarily enjoined from rejecting Plaintiffs' nomination petitions for the November 2024 general election

based on P.A. 103-0586's revisions to 10 ILCS 5/8-17. The Emergency Motion is denied in all other respects.

3. This Preliminary Injunction shall remain in full force and effect pending resolution of this case on the merits unless sooner modified or dissolved.

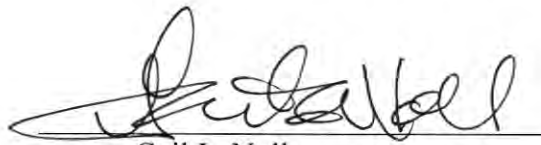
4. Bond is waived for good cause shown.

5. This Preliminary Injunction is entered at 9:00 a.m. on May 23, 2024.

6. The matter is set for final hearing on Plaintiffs' Complaint for Declaratory and Injunctive Relief at 1:30 p.m. on June 3, 2024.

THE CLERK IS DIRECTED TO FORWARD A COPY OF THIS ORDER TO COUNSEL OF RECORD.

Date: May 23, 2024

A handwritten signature in black ink, appearing to read 'Gail L. Noll', written over a horizontal line.

Gail L. Noll
Circuit Judge

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**Plaintiffs’ Emergency Motion to Join Additional Plaintiffs and to Amend
the Complaint and Motion for Summary Judgment *Instanter***

Plaintiffs move to add additional plaintiffs—Camaxtle “Max” Olivo, Juvandy Rivera, Nancy Rodriguez, Terry Nguyen Le, John Zimmers, Ron Andermann, Carlos Gonzalez, Ashley Jensen, Teresa Alexander, Donald Puckett—and to amend their Complaint and Motion for Summary Judgment *Instanter* to include these additional plaintiffs under 735 ILCS 5/2-407 and 735 ILCS 5/2-616(a).

Since the May 22, 2024, hearing on Plaintiffs’ motion for preliminary injunction, numerous other potential candidates, who would also be prevented from accessing the ballot, approached Plaintiffs’ counsel to join the lawsuit. These parties are similarly situated to Plaintiffs and seek the same relief that Plaintiffs seek here.

Attached to this motion, are a proposed First Amended Complaint (Exhibit 1) and a proposed Plaintiffs’ Amended Combined Motion for Summary Judgment and Permanent Injunction, Statement of Facts, and Memorandum of Law (Exhibit 2) that simply add the additional plaintiffs and do not change any other facts or legal claims.

Because the factual situations of these potential plaintiffs are substantially similar to Plaintiffs and the application of P.A. 103-0586 would similarly affect these potential plaintiffs in the same manner as Plaintiffs, Plaintiffs request that the Court grant the motion.

The Code of Civil Procedure provides that “new parties may be added . . . at any stage of the cause, before or after judgment, as the ends of justice may require and on terms which the court may fix.” 735 ILCS 5/2-407. Further, the Code provides “[a]t any time before final judgment amendments may be allowed on just and reasonable terms, introducing any party who ought to have been joined as plaintiff or defendant” 735 ILCS 5/2-616(a).

Leave to amend should be “liberally granted.” *Dickens v. Fifth Third Mortg. Co.*, 2020 IL App (1st) 190943-U, ¶ 11; *Avila v. Chi. Transit Auth.*, 2021 IL App (1st) 190636, ¶ 56 (“leave to amend should generally be granted freely”). In applying its discretion on leave to amend, a court considers four factors: “whether the proposed amendment would cure a defect in the pleadings, whether the defendant would be prejudiced by the amendment, whether the proposed amendment is timely, and whether the plaintiff had previous opportunities to amend her pleadings.” *Dickens*, 2020 IL App (1st) 190943-U, ¶ 11.

Plaintiffs meet all four factors. The complaint is not defective, but its initial scope did not include all persons entitled to relief who are identically situated on the relevant facts. Permitting amendment with additional parties promotes judicial economy and efficiency by keeping similarly situated plaintiffs all in one case.

Defendants will not be prejudiced by the amendment. The legal arguments remain the same and facts the additional plaintiffs are substantially the same as Plaintiff and arise from the same application of the Act. Like Plaintiffs, additional plaintiffs sought to use the slating process to be listed as candidates on the 2024 general election ballot, were nominated before the Act went into effect, and will be prevented from appearing on the ballot because of the Act.

Further, Plaintiffs' counsel informed counsel for the Attorney General, the Board of Elections and its members, and Intervenor of their intention to file this motion, and no party objected to this motion.

Finally, this is Plaintiffs' first request to amend, and it is timely. Plaintiffs have acted with diligence. They brought this case on behalf of the four candidates who had begun the process but had not yet submitted the nomination papers to the Board of Elections at the time P.A. 103-0586 went into effect. The Court has not yet ruled on any dispositive motions. And although the parties filed such motions on Wednesday, May 29, 2024, and the Court set a hearing date of June 3, 2024, the addition of plaintiffs does not alter the arguments to those motions and should not alter that schedule.

WHEREFORE, Plaintiffs respectfully request that this Court enter the following relief:

A. Issue an order adding Camaxtle "Max" Olivo, Juvandy Rivera, Nancy Rodriguez, Terry Nguyen Le, John Zimmers, Ron Andermann, Carlos Gonzalez, Ashley Jensen, Teresa Alexander, and Donald Puckett as plaintiffs to this action;

B. Grant Plaintiffs to leave to file the First Amended Complaint and Plaintiffs' Amended Combined Motion for Summary Judgment and Permanent Injunction, Statement of Facts, and Memorandum of Law, attached to this motion; and

C. Grant such further relief this Court deems just, proper, and equitable. amend their complaint and motion for summary judgment *instanter*, as attached.

May 30, 2024

Respectfully submitted,

/s/ Jeffrey M. Schwab

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Attorneys for Plaintiffs

Plaintiffs' Emergency Motion to Join Additional Plaintiffs and
to Amend the Complaint and Motion for Summary Judgment *Instante*

Exhibit 1

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, DANIEL BEHR, JAMES
KIRCHNER, CARL KUNZ, CAMAXTLE
“MAX” OLIVO, JUVANDY RIVERA, NANCY
RODRIGUEZ, TERRY NGUYEN LE, JOHN
ZIMMERS, RON ANDERMANN, CARLOS
GONZALEZ, ASHLEY JENSEN, TERESA
ALEXANDER, *and* DONALD PUCKETT,

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS; CASANDRA B. WATSON, *in*
her official capacity as Chair of the
Illinois State Board of Elections; LAURA
K. DONAHUE, *in her official capacity as*
Vice Chair of the Illinois State Board of
Elections; JENNIFER M. BALLARD CROFT,
CRISTINA D. CRAY, TONYA L. GENOVESE,
CATHERINE S. MCCRORY, RICK S.
TERVEN, SR., *and* JACK VRETT, *in their*
official capacities as Members of the
Illinois State Board of Elections; *and*
KWAME RAOUL, *in his official capacity*
as Attorney General of the State of
Illinois,

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**First Amended Complaint for
Declaratory and Injunctive Relief**

Introduction

1. This complaint seeks to prevent enforcement of provisions of P.A. 103-0586 as applied to Plaintiffs in the November 2024 general election.
2. P.A. 103-0586 changes the rules for filling vacancies on the ballot in the general election for a political party’s candidate in a race for General Assembly. It

purports to be effective immediately, thus eliminating a process of filling vacancies on the 2024 general election ballot while that process is ongoing.

3. Plaintiffs are prospective candidates for office who seek to file petitions to appear on the ballot for the November 2024 general election. P.A. 103-0586 prevents them from appearing on the November ballot even though they began that process prior to the enactment of P.A. 103-0586, and the deadline to complete that process has not expired.

4. The elimination of the process for filling vacancies on the ballot in the general election for a political party's candidate in a race for General Assembly set forth in P.A. 103-0586, as applied to Plaintiffs seeking to fill vacancies for General Assembly races on the November 2024 general election ballot, is an unconstitutional violation of their right to gain access to the ballot.

Parties

5. Plaintiff Collazo is a prospective candidate for the 8th Representative District. She resides in Chicago, Illinois.

6. Plaintiff Behr is a prospective candidate for the 57th Representative District. He resides in Northbrook, Illinois.

7. Plaintiff Kirchner is a prospective candidate for the 13th Legislative District. He resides in Chicago, Illinois.

8. Plaintiff Kunz is a prospective candidate for the 31st Representative District. He resides in Hickory Hills, Illinois.

9. Plaintiff Olivo is a prospective candidate for the 1st Representative District. He resides in Chicago, Illinois.
10. Plaintiff Rivera is a prospective candidate for the 3rd Representative District. He resides in Chicago, Illinois.
11. Plaintiff Rodriguez is a prospective candidate for the 4th Representative District. She resides in Chicago, Illinois.
12. Plaintiff Nguyen Le is a prospective candidate for the 13th Representative District. He resides in Chicago, Illinois.
13. Plaintiff Zimmers is a prospective candidate for the 19th Representative District. He resides in Chicago, Illinois.
14. Plaintiff Andermann is a prospective candidate for the 53rd Representative District. He resides in Arlington Heights, Illinois.
15. Plaintiff Gonzalez is a prospective candidate for the 1st Legislative District. He resides in Lyons, Illinois.
16. Plaintiff Jensen is a prospective candidate for the 31st Legislative District. She resides in Winthrop Harbor, Illinois.
17. Plaintiff Alexander is a prospective candidate for the 50th Representative District. She resides in North Aurora, Illinois.
18. Plaintiff Puckett is a prospective candidate for the 43rd Representative District. He resides in Elgin, Illinois.

19. All Plaintiffs have been designated by either the Republican Representative Committee (Collazo, Behr, Kunz, Olivo, Rivera, Rodriguez, Nguyen Le, Zimmers, Andermann, Alexander, Puckett) or the Republican Legislative Committee (Kirchner, Gonzalez, Jensen) to fill vacancies in nomination for their respective Representative or Legislative Districts.

20. Defendant Watson is the Chair of the Illinois State Board of Elections. She is sued in her official capacity.

21. Defendant Donahue is the Vice Chair of the Illinois State Board of Elections. She is sued in her official capacity.

22. Defendants Ballard Croft, Cray, Genovese, McCrory, Terven, and Vrett are members of the Illinois State Board of Elections. They are sued in their official capacity.

23. Defendant Illinois State Board of Elections and Defendants Watson, Donahue, Ballard Croft, Cray, Genovese, McCrory, Terven, and Vrett, as Chair, Vice Chair, and Members of the Illinois State Board of Elections respectively, are tasked with certifying the results of primary and general elections in the State, and determining whether each candidate has met the qualifications for appearing on the ballot. The Board of Elections maintains an office in Springfield, Illinois.

24. Defendant Raoul is the Attorney General of the State of Illinois. As Attorney General, he is tasked with enforcing the laws of the State. He is sued in his official capacity. He maintains an office in Springfield, Illinois.

Jurisdiction and Venue

25. This Court has subject matter jurisdiction because this matter challenges a provision of the Illinois Election Code under the Illinois Constitution.

26. This Court has personal jurisdiction over Defendants because they maintain offices in the State of Illinois.

27. This “action is brought against the State or any of its officers, employees, or agents acting in an official capacity . . . seeking declaratory or injunctive relief against a[] State statute . . . based on an alleged violation of the Constitution of the State of Illinois,” and as such venue is proper in the County of Sangamon. 735 ILCS 5/2-101.5.

28. Venue is further proper in the County of Sangamon because all Defendants maintain offices there. 735 ILCS 5/2-101.

Facts

29. Until last week, the Illinois Election Code provided that “if there was no candidate for the nomination of the party in the primary,” the “legislative or representative committee of the party” could “nominate[] a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election,” following the process outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023).

30. Section 7-61 states that, where a political party did not nominate any candidate for a particular office in the primary election, and no person was nominated as a write-in candidate for such office, “a vacancy in nomination shall be

filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number of signatures required for an established party candidate for that office within 75 days after the day of the general primary.” 10 ILCS 5/7-61.

31. The 2024 Illinois primary election was held on March 19, 2024. June 3, 2024, is 75 days from March 19, 2024. Thus, Section 7-61 of the Election Code gave a potential candidate seeking to fill a vacancy on the November 2024 general election ballot by being designated by the appropriate committee of a political party from March 19, 2024, to June 3, 2024, to complete that process.

32. At the time P.A. 103-0586 was enacted on May 3, 2024, at least a dozen people, including Plaintiffs, were pursuing candidacy under the process set forth in Section 7-61 of the Election Code.

33. Plaintiff Collazo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024.

34. Plaintiff Behr was designated to fill the vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024.

35. Plaintiff Kirchner was designated to fill the vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024.

36. Plaintiff Kunz was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024.

37. Plaintiff Olivo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 1st Representative District on April 5, 2024.

38. Plaintiff Rivera was designated to fill the vacancy in nomination by the Republican Representative Committee for the 3rd Representative District on April 2, 2024.

39. Plaintiff Rodriguez was designated to fill the vacancy in nomination by the Republican Representative Committee for the 4th Representative District on April 2, 2024.

40. Plaintiff Nguyen Le was designated to fill the vacancy in nomination by the Republican Representative Committee for the 13th Representative District on April 2, 2024.

41. Plaintiff Zimmers was designated to fill the vacancy in nomination by the Republican Representative Committee for the 19th Representative District on April 5, 2024.

42. Plaintiff Andermann was designated to fill the vacancy in nomination by the Republican Representative Committee for the 53rd Representative District on April 14, 2024.

43. Plaintiff Gonzalez was designated to fill the vacancy in nomination by the Republican Representative Committee for the 1st Legislative District on April 2, 2024.

44. Plaintiff Jensen was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Legislative District on April 2, 2024.

45. Plaintiff Alexander was designated to fill the vacancy in nomination by the Republican Representative Committee for the 50th Representative District on May 13, 2024.

46. Plaintiff Puckett was designated to fill the vacancy in nomination by the Republican Representative Committee for the 43rd Representative District on April 20, 2024.

47. In each Legislative or Representative District in which Plaintiffs seek to fill a vacancy, the name of no Republican Party candidate was printed on the general primary ballot, and no person was nominated as a write-in candidate for such office.

48. Illinois Senate Bill 2412 was enacted on May 3, 2024, as P.A. 103-0586 and purports to be effectively immediately.

49. P.A. 103-0586, among other things, strikes the provision in 10 ILCS 5/8-17 allowing the party committees to nominate a candidate to fill a vacancy as outlined in 10 ILCS 5/7-61. 10 ILCS 5/8-17 now reads in relevant part, “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.”

50. SB 2412 was a dormant bill seeking to amend the Children and Family Services Act, when on May 1, 2024, its entire text was removed and replaced, and it was passed by the House; on May 2, 2024, it was passed by the Senate; and on May 3, 2024, it was signed by the governor.

51. Thus, two thirds of the way through Section 7-61's 75-day process to fill vacancies on the general election ballot, the State, in a matter of hours, amended the Election Code by enacting P.A. 103-0586, and prohibited Plaintiffs from using that process to place their names on the November 2024 general election ballot.

52. Plaintiff Behr attempted to file his nomination petition on May 2, 2024, one day prior to Governor Pritzker's signing of P.A. 103-0586 into law on May 3, 2024. Although the Board was required to stay open until 5:00 PM on the last day for filing, per 10 ILCS 5/1-4—which, because of the enactment of P.A. 103-0586, would have been May 2—the Board closed at 4:30 PM. Plaintiff Behr's petition was filed at 8:41 AM the following morning.

53. Plaintiffs Collazo, Kirchner, Kunz, Olivo, Rivera, Rodriguez, Nguyen Le, Zimmers, Andermann, Gonzalez, Jensen, Alexander, and Puckett have not yet filed their petitions for candidacy with the Board of Elections.

54. Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot solely because of the enactment of P.A. 103-0586.

55. At least one candidate who was designated to fill a vacancy in nomination by a political party's representative committee and who filed their nomination petition

prior to the enactment of P.A. 103-0586 on May 3, 2024, will appear on the November 2024 general election ballot.

Count I
P.A. 103-0586 violates Plaintiffs' right to vote set forth in
Article III, section 1, of the 1970 Illinois Constitution.

56. The allegations contained in all the preceding paragraphs are realleged as though set forth fully herein.

57. Article III, section 1, of the 1970 Illinois Constitution guarantees the right to vote to every United States citizen of at least 18 years of age who has been a permanent resident of Illinois for at least 30 days preceding any election.

58. "Legislation that affects *any* stage of the election process implicates the right to vote." *Tully v. Edgar*, 171 Ill. 2d 297, 307 (1996) (emphasis in original). Thus, "the right to vote is implicated by legislation that restricts a candidate's effort to gain access to the ballot." *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977).

59. But for P.A. 103-0586, Plaintiffs would comport with the provisions of 10 ILCS 5/8-17 (2023) and 10 ILCS 5/7-61 and stand as candidates for office in the November election.

60. Plaintiffs were all designated to fill the vacancies in nomination by their respective Representative or Legislative Committees prior to the enactment of P.A. 103-0586.

61. P.A. 103-0586 removed the provisions of 10 ILCS 5/8-17 that would allow Plaintiffs to gain access to the ballot, after that process had already begun.

62. P.A. 103-0586 impairs the rights of suffrage exercised by Plaintiffs and others in the 2024 general election by restricting Plaintiffs' efforts to gain access to the ballot by changing the rules in the middle of that process.

63. "When the means used by a legislature to achieve a legislative goal impinge upon a fundamental right, the court will examine the statute under the strict scrutiny standard." *Tully*, 171 Ill. 2d at 304.

64. The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990).

65. The elimination of the process of filling ballot vacancies used by Plaintiffs set forth in P.A. 103-0586 does not advance a compelling state interest in preventing Plaintiffs from accessing the ballot in the November 2024 general election.

66. The provision of P.A. 103-0586 eliminating the process of filling ballot vacancies used by Plaintiffs is not necessary to achieve the legislation's goal.

67. Nor are the provision of P.A. 103-0586 eliminating the process of filling ballot vacancies used by Plaintiffs the least restrictive means available to attain the legislation's goal.

68. The fact that P.A. 103-0586 would prohibit Plaintiffs from accessing the November 2024 general election ballot using the process set forth in Section 7-61 of the Election Code as it existed prior to the enactment of P.A. 103-0586, but would permit other candidates to be listed on the November 2024 general election ballot who completed the process set forth in Section 7-61 of the Election Code prior to

P.A. 103-0586's enactment is sufficient to show that P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny.

69. P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny analysis and, thus, unconstitutionally restricts Plaintiffs' fundamental rights to suffrage by negating their efforts to gain access to the ballot.

70. Plaintiffs need immediate relief from the revisions to 10 ILCS 5/8-17 in order to lawfully comply with the June 3, 2024, deadline to file their nomination petitions with the Illinois State Board of Elections.

Request For Relief

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Issue a temporary restraining order and preliminary injunction, later to be made a permanent injunction, restraining and enjoining Attorney General Raoul and the Illinois State Board of Elections from applying P.A. 103-0586's revisions to 10 ILCS 5/8-17 to Plaintiffs with respect to the November 2024 general election;

B. Issue a temporary restraining order and preliminary injunction prohibiting the Illinois State Board of Elections from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17;

C. Enter a declaratory judgement that P.A. 103-0586's revisions to 10 ILCS 5/8-17 are void as applied to Plaintiffs' efforts to appear on the ballot in the November 2024 general election;

D. Award Plaintiffs their costs and attorneys' fees; and

E. Grant such further relief this Court deems just, proper, and equitable.

May 30, 2024

Respectfully submitted,

/s/ Jeffrey M. Schwab

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Attorneys for Plaintiffs

Plaintiffs' Emergency Motion to Join Additional Plaintiffs and
to Amend the Complaint and Motion for Summary Judgment *Instante*

Exhibit 2

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**Plaintiffs' Amended Combined Motion for Summary Judgment and
Permanent Injunction, Statement of Facts, and Memorandum of Law**

Motion

Plaintiffs Leslie Collazo, Daniel Behr, James Kirchner, Carl Kunz, Camaxtle “Max” Olivo, Juvandy Rivera, Nancy Rodriguez, Terry Nguyen Le, John Zimmers, Ron Andermann, Carlos Gonzalez, Ashley Jensen, Teresa Alexander, and Donald Puckett move for summary judgment against Defendants, the Illinois State Board of Elections and the Attorney General, and Intervenor-Defendant Emanuel “Chris” Welch under 735 ILCS 5/2-1005. Plaintiffs also move for a permanent injunction prohibiting Defendants from applying the provision of Illinois Public Act No. 103-0586 that eliminates the slating process for General Assembly elections as a basis for denying Plaintiffs’ nomination petitions for the November 2024 general election, and from otherwise using that provision to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot.

Plaintiffs' Statement of Facts

A. P.A. 103-0586's Amendment to the Illinois Election Code

1. For decades, the Illinois Election Code provided a means for the state's political parties to fill a vacancy on the general election ballot where no candidate had run a primary election candidate for a General Assembly seat up for election (a process generally known as "slating"). 10 ILCS 5/8-17 (2023).

2. Until recently, the Election Code provided that "the legislative or representative committee of [a political] party" could "nominate[] a candidate to fill [such a] vacancy in nomination within 75 days after the date of the general primary election," using the procedures outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023).

3. Those procedures required that "[i]f the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was nominated as a write-in candidate for such office," the vacancy could be filled by slating. The prospective candidates, once designated by the appropriate committee, must gather voters' signatures on nomination petitions and submit them to the Illinois State Board of Elections, just like any other would-be candidates. 10 ILCS 5/7-61.

4. On May 3, 2024, Illinois Senate Bill 2412 was enacted as P.A. 103-0586. *Bill Status of SB2412*, Illinois General Assembly.¹

1

<https://www.ilga.gov/legislation/billstatus.asp?DocNum=2412&GAID=17&GA=103&>

5. That new legislation, among other things, strikes the provision in 10 ILCS 5/8-17 that allowed party committees to slate a general-election candidate for State Representative and State Senate as outlined in 10 ILCS 5/7-61. Instead, 10 ILCS 5/8-17 now provides, in relevant part, that “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.” The legislation purports to be effective immediately. *Full Text of SB2412*, Illinois General Assembly.²

6. By eliminating the provision in 10 ILCS 5/8-17 allowing slating while keeping intact the text of 10 ILCS 5/7-61, the Act immediately eliminates the slating process for General Assembly races but allows slating in other races. *Id.*

7. This legislation came about through the notorious “gut and replace” procedure well known to observers of the Illinois General Assembly. SB 2412 was a dormant bill that would have amended the Children and Family Services Act until, on May 1, 2024, its entire text was removed and replaced with the anti-slating provisions. It was passed by the House that same day, passed by the Senate the next day (May 2), and signed by the governor the day after that (May 3). *Bill Status of SB2412*, Illinois General Assembly.

[DocTypeID=SB&LegID=147311&SessionID=112&SpecSess=](#) (last visited May 29, 2024).

²

<https://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=112&GA=103&DocTypeId=SB&DocNum=2412&GAID=17&LegID=147311&SpecSess=&Session=> (last visited May 29, 2024).

B. Plaintiffs seek to be listed as candidates for the 2024 general election using the process under 10 ILCS 5/8-17 and 10 ILCS 5/7-61.

8. The 2024 Illinois primary election was held on March 19, 2024. *Schedule of Future Elections*, Illinois Board of Elections.³

9. Under the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 in effect at that time, the 75-day process to fill vacancies in nomination through the slating process began that same day and was to end on June 3, 2024. The Act, enacted and effective May 3, 2024, went into effect after the slating process had begun, but before the June 3, 2024, filing deadline.

a. Plaintiff Leslie Collazo – 8th Representative District

10. No Republican filed to run in the March 19, 2024, primary election for the 8th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁴

11. Plaintiff Collazo is seeking to fill the Republican vacancy in nomination for the 8th Representative District under the process set forth in the versions of 10

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<https://www.elections.il.gov/NewDocDisplay.aspx?%2fM0cs48zOKVZyk9eAbpEoxjoGz9b5YaGE%2bEuf7JVd2Tlx2Mybp2RbacEJVh848tnFOLoTd3G4cRsCxSj%2bcrL1MmhG9QsYgJ9ifsBkt0LQDHPgTikai%2bSw%2fIoUwIYexDwJVzxKmV1ygnKHlgH%2fVU7BWagSiPTO0SPdInB2yk31mQ6lkqdZ0pQ%3d%3d> (last visited May 29, 2024).

4

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=zeMhE7Thq8AAevIiBoVVuQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment.

Declaration of Leslie Collazo, ¶5, Exhibit A. The Republican Representative Committee for the 8th Representative District designated her to fill the vacancy in nomination on April 7, 2024. *Id.* ¶4. Plaintiff Collazo then began collecting signatures of Republican voters in the 8th Representative District for her nomination petition. *Id.* ¶6.

12. When P.A. 103-0586 went into effect on May 3, Plaintiff Collazo had not yet filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

13. Only one candidate, La Shawn Ford, ran in the March 29, 2024, Democratic primary for 8th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁵ Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁶

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=I9Rl8zYzSqBPMN22oZGJRA%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

b. Plaintiff Daniel Behr – 57th Representative District

14. No Republican filed to run for the March 2024 primary election for the 57th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁷

15. Plaintiff Behr is seeking to fill the Republican vacancy in nomination for the 57th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Daniel Behr, ¶5, Exhibit B. The Republican Representative Committee for the 57th Representative District designated him to fill the vacancy in nomination on March 19, 2024. *Id.* ¶4. Plaintiff Behr then began collecting signatures of Republican voters in the 57th Representative District for his nomination petition. *Id.* ¶6.

16. After finding out about SB 2412 when it passed the House on May 1, 2024, Plaintiff Behr scrambled to put together his nomination petition. He sent an agent from Northbrook to Springfield, where the agent attempted to file his petition with the Illinois Board of Elections on May 2, 2024, arriving at approximately 4:40 p.m. *Id.* ¶¶ 8-9. The Board closed at 4:30 p.m., however, so his agent was unable to file his petition that day. *Id.* ¶9. Earlier in the day, an agent of Behr had requested that

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=aF3QHlbFazn%2fI3M0mxVaOQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3a tac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

the Board remain open until 5:00 p.m. to accommodate his filing, but that request was denied. *Id.* ¶9.

17. Plaintiff Behr filed his nomination petition at 8:41 a.m. the next day, May 3, 2024—the same day P.A. 103-0586 was enacted into law. *Id.* ¶9.

18. Without the threat of P.A. 103-0586 preventing Plaintiff Behr’s candidacy, he would not have attempted to file his petition on May 2, 2024, and ultimately on May 3, 2024. *Id.* ¶12. He would have spent more time obtaining signatures, working up until the June 3, 2024, deadline to insulate his petition for candidacy from any challenge before the Board of Elections. *Id.* ¶12.

19. Only one candidate, Tracy Katz Muhl, ran in the March 29, 2024, Democratic primary for 57th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁸

20. Currently, the website of the Board of Elections lists Ms. Katz Muhl as the Democratic candidate and Plaintiff Behr as the Republican candidate for the 57th Representative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁹

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR2Cfb7mGVsUhY5%2f8M4vtZyk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=tZOmz8ZzgXgdcenGiSiKiA%3d%3d&Status=P2wRQXkiF0o%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

c. Plaintiff James Kirchner – 13th Legislative District

21. No Republican filed to run in the March primary for the 13th Legislative District, and no person was nominated as a write-in candidate for that office.

Candidate List General Primary – 3/19/2024, Illinois State Board of Elections.¹⁰

22. Plaintiff Kirchner is seeking to fill the Republican vacancy in nomination for the 13th Legislative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of James Kirchner, ¶5, Exhibit C. The Republican Legislative Committee for the 13th Legislative District designated him to fill the vacancy on April 18, 2024. *Id.* ¶4. Plaintiff Kirchner then began collecting signatures of Republican voters in the 8th Representative District for his nomination petition. *Id.* ¶6.

23. When P.A. 103-0586 went into effect on May 3, 2024, Plaintiff Kirchner had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

24. Only one candidate, Robert Peters, ran in the March 29, 2024, Democratic primary for 13th Legislative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹¹ Currently, the website of the Board of Elections

¹⁰

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=dPAXH%2beT4pE6TCbR3Av%2fpw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹¹

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=XmLrbPr2rU0jTLF%2f7%2fJHNA%3d%3d> (last visited May 29, 2024).

lists him as the only candidate for the 13th Legislative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹²

d. Plaintiff Carl Kunz – 31st Representative District

25. No Republican filed to run in the March primary for the 31st Representative District, and no person was nominated as a write-in candidate for that office.

Candidate List General Primary – 3/19/2024, Illinois State Board of Elections.¹³

26. Plaintiff Kunz is seeking to fill the Republican vacancy in nomination for the 31st Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Chris Kunz, ¶5, Exhibit D. The Republican Representative Committee for the 31st Representative District designated him to fill the vacancy in nomination on April 7, 2024. *Id.* ¶4. After being designated, Plaintiff Kunz began collecting signatures of Republican voters in the 8th Representative District for his nomination petition. *Id.* ¶6.

¹²

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=ANNcUH%2b3wyFPziS7iBWAYQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹³

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=3I7dBOU9LZr63O6ODv6Bmw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

27. When P.A. 103-0586 went into effect on May 3, 2024, Plaintiff Kunz had not yet filed his nomination petition for candidacy with the Illinois Board of Elections.

Id. ¶10.

28. Two candidates ran in the March 29, 2024, Democratic primary for 31st Representative District: Michael Crawford defeated Mary Flowers. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹⁴ Currently, the website of the Board of Elections lists Crawford as the only candidate for the 31st Representative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹⁵

e. Plaintiff Camaztle “Max” Olivo – 1st Representative District

29. No Republican filed to run in the March 19, 2024, primary election for the 1st Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.¹⁶

¹⁴

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FRwfnukmFiAy%2bbw26pdUB0bw%3d> (last visited May 29, 2024).

¹⁵

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=y3gTaW7hEnJ1aBz3cuul8w%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹⁶

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=rUgUgGpZfqlvTXcGdKTTSg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

30. Plaintiff Olivo is seeking to fill the Republican vacancy in nomination for the 1st Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Camaztle "Max" Olivo, ¶5, Exhibit E. The Republican Representative Committee for the 1st Representative District designated him to fill the vacancy in nomination on April 5, 2024. *Id.* ¶4. Plaintiff Olivo then began collecting signatures of Republican voters in the 1st Representative District for his nomination petition. *Id.* ¶6.

31. When P.A. 103-0586 went into effect on May 3, Plaintiff Olivo had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

32. Only one candidate, Aaron M. Ortiz, ran in the March 29, 2024, Democratic primary for 1st Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹⁷ Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹⁸

¹⁷

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

¹⁸

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=HKVNpyOAQ4LduWC%2b11pH%2fQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

f. Plaintiff Juvandy Rivera – 3rd Representative District

33. No Republican filed to run in the March 19, 2024, primary election for the 3rd Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.¹⁹

34. Plaintiff Rivera is seeking to fill the Republican vacancy in nomination for the 3rd Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Juvandy Rivera, ¶5, Exhibit F. The Republican Representative Committee for the 3rd Representative District designated him to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Rivera then began collecting signatures of Republican voters in the 3rd Representative District for his nomination petition. *Id.* ¶6.

35. When P.A. 103-0586 went into effect on May 3, Plaintiff Rivera had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

36. Only one candidate, Eva-Dina Delgado, ran in the March 29, 2024, Democratic primary for 3rd Representative District. *Election Results 2024 General*

¹⁹

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=6nL0uuStZni8ntJr8Xi%2baQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

Primary, Illinois State Board of Elections.²⁰ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.²¹

g. Plaintiff Nancy Rodriguez – 4th Representative District

37. No Republican filed to run in the March 19, 2024, primary election for the 4th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.²²

38. Plaintiff Rodriguez is seeking to fill the Republican vacancy in nomination for the 4th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Nancy Rodriguez, ¶5, Exhibit G. The Republican Representative Committee for the 4th Representative District designated her to fill the vacancy in

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

21

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=PcBV1XCfIGzGLnxKOfhZxg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

22

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=QN4eJ6W4k%2b3z3%2fLUzPFc7w%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

nomination on April 2, 2024. *Id.* ¶4. Plaintiff Rodriguez then began collecting signatures of Republican voters in the 4th Representative District for her nomination petition. *Id.* ¶6.

39. When P.A. 103-0586 went into effect on May 3, Plaintiff Rodriguez had not yet filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

40. Two candidates ran in the March 29, 2024, Democratic primary for 4th Representative District: Lilian Jimenez defeated Kirk J. Ortiz. *Election Results 2024 General Primary*, Illinois State Board of Elections.²³ Thus, the Board of Elections website currently lists Lilian Jimenez as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.²⁴

h. Plaintiff Terry Nguyen Le – 13th Representative District

41. No Republican filed to run in the March 19, 2024, primary election for the 13th Representative District, and no person was nominated as a write-in candidate

²³

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

²⁴

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=AvoVVFwNZViBbuP7bBDfGg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.²⁵

42. Plaintiff Nguyen Le is seeking to fill the Republican vacancy in nomination for the 13th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Terry Nguyen Le, ¶5, Exhibit H. The Republican Representative Committee for the 13th Representative District designated him to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Nguyen Le then began collecting signatures of Republican voters in the 13th Representative District for his nomination petition. *Id.* ¶6.

43. When P.A. 103-0586 went into effect on May 3, Plaintiff Nguyen Le had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

44. Only one candidate, Hoan Huynh, ran in the March 29, 2024, Democratic primary for 13th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.²⁶ Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general

²⁵

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=dPAXH%2beT4pHktjZIM4UHFQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3a tac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

²⁶

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.²⁷

i. Plaintiff John Zimmers – 19th Representative District

45. No Republican filed to run in the March 19, 2024, primary election for the 19th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.²⁸

46. Plaintiff Zimmers is seeking to fill the Republican vacancy in nomination for the 19th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of John Zimmers, ¶5, Exhibit I. The Republican Representative Committee for the 19th Representative District designated him to fill the vacancy in nomination on April 5, 2024. *Id.* ¶4. Plaintiff Zimmers then began collecting signatures of Republican voters in the 19th Representative District for his nomination petition. *Id.* ¶6.

²⁷

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=ANNcUH%2b3wyEQL5Xu64tAPg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

²⁸

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=84vzC6KQN7mOgOerw8MhAg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

47. When P.A. 103-0586 went into effect on May 3, Plaintiff Zimmers had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.*

¶10.

48. Only one candidate, Lindsey Lapointe, ran in the March 29, 2024, Democratic primary for 19th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.²⁹ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³⁰

j. Plaintiff Ron Andermann – 53rd Representative District

49. No Republican filed to run in the March 19, 2024, primary election for the 53rd Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.³¹

²⁹

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

³⁰

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=2%2bJQAKeSI46NC7zszafkJA%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

³¹

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=DVICa3zcXp1SIvrgFJBYmg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

50. Plaintiff Andermann is seeking to fill the Republican vacancy in nomination for the 53rd Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Ron Andermann, ¶5, Exhibit J. The Republican Representative Committee for the 53rd Representative District designated him to fill the vacancy in nomination on April 14, 2024. *Id.* ¶4. Plaintiff Andermann then began collecting signatures of Republican voters in the 53rd Representative District for his nomination petition. *Id.* ¶6.

51. When P.A. 103-0586 went into effect on May 3, Plaintiff Andermann had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

52. Only one candidate, Mark L. Walker, ran in the March 29, 2024, Democratic primary for 19th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.³² Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³³

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR2Cfb7mGVsUhY5%2f8M4vtZyk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=tZOmz8ZzgXjYJZMg%2fott6w%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

k. Plaintiff Carlos Gonzalez – 1st Legislative District

53. No Republican filed to run in the March 19, 2024, primary election for the 1st Legislative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.³⁴

54. Plaintiff Gonzalez is seeking to fill the Republican vacancy in nomination for the 1st Legislative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Carlos Gonzalez, ¶5, Exhibit K. The Republican Representative Committee for the 1st Legislative District designated him to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Gonzalez then began collecting signatures of Republican voters in the 1st Legislative District for his nomination petition. *Id.* ¶6.

55. When P.A. 103-0586 went into effect on May 3, Plaintiff Gonzalez had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

56. Only one candidate, Javier Loera Cervantes, ran in the March 29, 2024, Democratic primary for 1st Legislative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.³⁵ Thus, the Board of Elections website

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=rUgUgGpZfqmZGQKj9QnEyg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

³⁵

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2b>

currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³⁶

1. Plaintiff Ashley Jensen – 31st Legislative District

57. No Republican filed to run in the March 19, 2024, primary election for the 31st Legislative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.³⁷

58. Plaintiff Jensen is seeking to fill the Republican vacancy in nomination for the 31st Legislative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Ashley Jensen, ¶5, Exhibit L. The Republican Representative Committee for the 31st Legislative District designated her to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Jensen then began collecting signatures of Republican voters in the 31st Legislative District for her nomination petition. *Id.* ¶6.

[uidMSDY%3d&OfficeType=XmLrbPr2rU0jTLF%2f7%2fJHNA%3d%3d](#) (last visited May 29, 2024).

³⁶

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=HKVNpyOAAQ4J62hFuY3RhHg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

³⁷

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=3I7dBOU9LZrwMEgrWF7rg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

59. When P.A. 103-0586 went into effect on May 3, Plaintiff Jensen had not yet filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

60. Only one candidate, Mary Edly-Allen, ran in the March 29, 2024, Democratic primary for 31st Legislative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.³⁸ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³⁹

m. Plaintiff Teresa Alexander – 50th Representative District

61. No Republican filed to run in the March 19, 2024, primary election for the 50th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁴⁰

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=XmLrbPr2rU0jTLF%2f7%2fJHNA%3d%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=y3gTaW7hEnIL%2bMoH2p1E9Q%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=DVICa3zcXp0iyHHD30AnDw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

62. Plaintiff Alexander is seeking to fill the Republican vacancy in nomination for the 50th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Teresa Alexander, ¶5, Exhibit M. The Republican Representative Committee for the 50th Representative District designated her to fill the vacancy in nomination on May 13, 2024. *Id.* ¶4. Plaintiff Alexander then began collecting signatures of Republican voters in the 50th Representative District for her nomination petition. *Id.* ¶6.

63. When P.A. 103-0586 went into effect on May 3, Plaintiff Alexander had not yet been designated to fill the vacancy in the 50th Representative District and had not filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

64. Only one candidate, Barbara Hernandez, ran in the March 29, 2024, Democratic primary for 50th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁴¹ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁴²

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FRwfnukmFiAy%2bbw26pdUB0bw%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huqvbsiUWA%3d&OfficeID=AvoVVFwNZViFaRyizdx35w%3d%3d&Status=P2wRQXk>

n. Plaintiff Donald Puckett – 43rd Representative District

65. No Republican filed to run in the March 19, 2024, primary election for the 43rd Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁴³

66. Plaintiff Puckett is seeking to fill the Republican vacancy in nomination for the 43rd Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Donald Puckett, ¶5, Exhibit N. The Republican Representative Committee for the 43rd Representative District designated him to fill the vacancy in nomination on April 20, 2024. *Id.* ¶4. Plaintiff Puckett then began collecting signatures of Republican voters in the 43rd Representative District for his nomination petition. *Id.* ¶6.

67. When P.A. 103-0586 went into effect on May 3, Plaintiff Puckett had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

68. Only one candidate, Anna Moeller, ran in the March 29, 2024, Democratic primary for 43rd Representative District. *Election Results 2024 General Primary*,

[iFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1](#) (last visited May 29, 2024).

⁴³

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=E5xug6YIjHg1D62XqY1FOg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

Illinois State Board of Elections.⁴⁴ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁴⁵

Memorandum of Law

Summary Judgment Standard

Summary judgment is appropriate “if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” 735 ILCS 5/2-1005(c). Inferences may be drawn from undisputed facts, and summary judgment should be denied only where reasonable persons could draw divergent inferences from the undisputed facts. *Pyne v. Witmer*, 129 Ill. 2d 351, 358 (1989). General assertions unsupported by any evidentiary facts are insufficient to raise a triable issue as against uncontroverted evidentiary matter. *Purdy Co. of Illinois v. Transportation Ins. Co.*, 209 Ill. App. 3d 519, 529 (1st Dist. 1991).

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FRwfnukmFiAy%2bbw26pdUB0bw%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=PcBV1XCflGwyMxQSywvLkA%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

Argument

“To be entitled to a permanent injunction, the party seeking the injunction must demonstrate (1) a clear and ascertainable right in need of protection, (2) that he or she will suffer irreparable harm if the injunction is not granted, and (3) that no adequate remedy at law exists.” *Swigert v. Gillespie*, 2012 IL App (4th) 120043, P27.

I. Plaintiffs are entitled to a permanent injunction.

A. Plaintiffs have a certain and clearly ascertainable right that needs protection.

For the same reasons set forth in their motion for preliminary injunction, Plaintiffs have a certain and clearly ascertainable right that needs protection. Plaintiffs sought to fill a vacancy as Republican candidates on the November 2024 general election ballot through the slating process set forth in 10 ILCS 5/8-17. With the exception of Plaintiff Alexander, at the time the respective Republican committees nominated them, the Election Code permitted plaintiffs to use the slating process. SOF 1-5, 11, 16, 22, 26, 30, 34, 38, 42, 46, 50, 54, 58, 62, 66. The enforcement of P.A. 103-0586 against Plaintiffs in this election would deprive them of their ability to use the slating process to fill a vacancy for the Republican candidates in the respective districts for an office in the General Assembly on the 2024 general election ballot. SOF 12, 17, 23, 27, 31, 35, 39, 43, 47, 51, 55, 59, 63, 67.

B. Plaintiffs will suffer irreparable injury without the protection of the injunction.

For the same reasons set forth in their motion for preliminary injunction, Plaintiffs will suffer an irreparable injury without a permanent injunction.

“[I]rreparable harm occurs only where the remedy at law is inadequate; that is,

where monetary damages cannot adequately compensate the injury, or the injury cannot be measured by pecuniary standards. *Best Coin-Op, Inc. v. Old Willow Falls Condominium Asso.*, 120 Ill. App. 3d 830, 834 (1st Dist. 1983). Because of the Act, Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot. Once the election passes, Plaintiffs' opportunity to appear as candidates for the November 2024 election will be gone forever, and monetary damages will not be able to compensate Plaintiffs for that lost opportunity.

C. Plaintiffs have no adequate remedy at law for their injuries.

There is no adequate remedy at law for the injury Plaintiffs would suffer from being unable to appear on the November 2024 general election ballot. Again, monetary damages are inadequate.

II. The application of the Act to prevent Plaintiffs from using the slating process to fill vacancies in General Assembly races on the 2024 general election ballot violates their constitutional right to access the ballot, protected as part of the right to vote.

The elimination of the slating process for General Assembly candidates in the middle of the 2024 election season violates Plaintiffs' constitutional right to access the ballot, protected as part of the right to vote under Article III, Section 1 of the Illinois Constitution.

The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990). "Legislation that affects any stage of the election process implicates the right to vote." *Tully v. Edgar*, 171 Ill. 2d 297, 307 (1996) (emphasis in original). Thus, "the right to vote is implicated

by legislation that restricts a candidate’s effort to gain access to the ballot.” *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977). “[T]he rights of candidates and those of voters ‘do not lend themselves to neat separation’; each statute affecting a candidate has some effect on the voter.” *Anderson*, 67 Ill. 2d at 174 (citation omitted). “[V]oters can assert their preferences only through candidates or parties or both. . . . The right of a party or an individual to a place on a ballot is entitled to protection and is intertwined with the rights of voters.” *Anderson*, 67 Ill. 2d 165, 175 (quoting *Lubin v. Panish*, 415 U.S. 709, 716 (1974)). “The right to vote is heavily burdened if that vote may be cast only for one of two parties at a time when other parties are clamoring for a place on the ballot.” *Lubin*, 415 U.S. at 716.

A. The Act as applied to Plaintiffs for the 2024 general election is subject to strict scrutiny.

The right to vote is a fundamental constitutional right, *Fumarolo*, 142 Ill. 2d at 74, and is implicated by legislation that restricts a candidate’s effort to gain access to the ballot, *Tully*, 171 Ill. at 307. When a statute impinges on a fundamental right, courts must subject the statute to strict scrutiny. *Tully*, 171 Ill. 2d at 304; *see also Nolan v. Cook County Officers Electoral Board*, 329 Ill. App. 3d 52, 55 (1st Dist. 2002) (“[B]allot access is a substantial right and not likely to be denied.”) (quote and citation omitted).

In *Tully*, the legislature passed a law replacing the existing nine elected trustees of the University of Illinois and providing that that the university’s trustees would thereafter be appointed by the governor. 171 Ill. 2d at 303-04. The Court applied

strict scrutiny to the provision removing the elected trustees from office midterm and found it unconstitutional because it nullified the votes cast by citizens and thereby undermined and destroyed the integrity of the vote. *Id.* at 307, 311. The Court did not, however, apply strict scrutiny to the provision changing the Board of Trustees from an elected body to an appointed one. *Id.* at 313. The reason the Court in *Tully* applied strict scrutiny to one aspect of the law, but not the other was timing: where the law generally changed how trustees would be selected in the future, strict scrutiny did not apply; but where the law attempted to remove trustees who had already been elected, strict scrutiny applied.

Timing is relevant to the Court's analysis in this case as well. Here, plaintiffs do not challenge the Act's elimination of the slating process for General Assembly candidates in *future* elections. Rather, they object to the Act's elimination of the slating process for General Assembly races while that process was already underway in the *current* election—during the 75 days after the primary election when potential candidates could be nominated to fill their party's vacancies on the general election ballot by obtaining the required number of signatures and submitting their petitions to the Board of Elections. The elimination of slating in the middle of that process would ensure that no Republican candidate would appear on the ballot in Plaintiffs' districts and mostly likely would mean that only one candidate would appear on the general election ballot in those districts.

Contrary to Defendants' arguments, *Tully* cannot be distinguished on the basis that it involved a change in the law that occurred after an election had already

taken place rather than in the middle of the process. *Tully*'s application of strict scrutiny would not have been different if the attempt to nullify the votes for trustees had happened in the middle of the election. Again, the right to vote is intertwined with the right of a candidate to access the ballot, *see Anderson*, 67 Ill. 2d at 175, so it makes no difference for the application of strict scrutiny whether the Act attempted to remove candidates from the ballot after they had completed the process to access the ballot, or whether the Act removed the process for accessing the ballot in middle of that process. Either way, voters lose their right to have their votes counted. *Tully*, 171 Ill. 2d at 306.

Where the courts have not applied strict scrutiny to challenges to changes in the Election Code, the timing issue in *Tully* has not been present. For example, in *East St. Louis Fed'n of Teachers, Local 1220 v. East St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 414 (1997), a Financial Oversight Panel used existing law to remove school board members from office for disobeying a valid order from the panel. The Court found that the plaintiff's challenge to the existing law did not warrant strict scrutiny because it did not implicate the timing issues in *Tully* because the change in the law took place after the election. *Id.* Similarly, *East St. Louis* did not involve the timing issue present here: a change in the law in the middle of the ballot-access process.

Thus, P.A. 103-0586, as applied to Plaintiffs' efforts to gain access to the November 2024 general election ballot as candidates, is subject to strict scrutiny.

B. The Act as applied to Plaintiffs for the 2024 general election does not satisfy strict scrutiny analysis.

To satisfy strict scrutiny, legislation must: (1) advance a compelling state interest; (2) be necessary to achieve the legislation's asserted goal; and (3) be the least restrictive means available to attain the legislation's goal. *Tully*, 171 Ill. 2d at 311 (citing *Fumarolo*, 142 Ill. 2d at 90). P.A. 103-0586, as applied to Plaintiffs, fails on all three counts.

1. The Act as applied to Plaintiffs for the 2024 general election does not advance a compelling government interest.

Applying the Act's elimination of slating to keep Plaintiffs off the November 2024 general election would not advance a compelling state interest. It does not advance the interest the government has asserted to defend the Act: ensuring that voters, rather than political insiders, determine who appears on the ballot.

Indeed, if the Act is enforced against Plaintiffs, voters won't have a choice of a Republican in the general election for those General Assembly district races. Plaintiffs and the Republican Party would be prevented from placing a candidate on the ballot at all. SOF 10, 13, 14, 19, 20, 21, 24, 25, 28, 29, 32, 33, 36, 37, 40, 41, 44, 45, 48, 49, 52, 53, 56, 57, 60, 61, 64, 65, 68. And it's very likely that voters would have only one candidate on the ballot in the relevant districts, unless an independent or third-party candidate runs—a path plaintiffs would be prevented from using for two reasons: because they are Republicans who are prevented from running as independent or third-party candidates in the general election after voting in the Republican primary election; and because the requirements and the

time remaining make doing so practically impossible. *See* 10 ILCS 5/7-43; 5/10-2; 5/10-3.

Further, in twelve of the fourteen districts at issue in this case, keeping Plaintiffs off the ballot would mean that voters had *no* role in selecting the candidates who appear on the general election ballot. That's because in those districts no Republican candidates ran in the primary, and only one candidate ran in the Democratic primary. SOF 10, 13, 14, 19, 20, 21, 24, 25, 28, 29, 32, 33, 36, 37, 40, 41, 44, 45, 48, 49, 52, 53, 56, 57, 60, 61, 64, 65, 68. Enforcing the Act against Plaintiffs in those districts would likely mean that voters in those districts only ever had one candidate for those offices to vote for in the primary and general elections—and thus effectively had no choice at all.

Enforcing the Act as to Plaintiffs in this election would mean voters would have fewer candidates to choose from; enjoining the Act as to Plaintiffs in this election would mean that voters have more candidates to choose from. Applying the Act against Plaintiffs to prevent them from accessing their ballot in the 2024 general election not only does not advance the government's asserted interest but would thwart that interest.

2. The Act as applied to Plaintiffs for the 2024 general election is not necessary to achieve the asserted goal.

Applying the Act against Plaintiffs in the 2024 election is not necessary to achieve the Act's asserted goal. As shown above, doing so would not achieve the Act's asserted goal at all, so it could not be necessary to achieve that goal. Further, it is simply not necessary for the State to change the rules in the middle of the

ballot access process after candidates and political parties had already relied on the slating process.

3. The Act as applied to Plaintiffs for the 2024 general election is not the least restrictive means to achieve the government’s goal.

Eliminating the slating process for the November 2024 general election after that process has already started is not the least restrictive means to achieve the Act’s goal. The least restrict means would be for the Act to affect future elections so that all potential candidates and political parties would know in advance the options for obtaining ballot access and plan and act accordingly. *See Graves v. Cook Cty. Republican Party*, 2020 IL App (1st) 181516, P62 (holding that a political party by-law, enacted during a primary election, was not necessary or narrowly tailored).

P.A. 103-0586, as applied to Plaintiffs for the 2024 general election, fails strict scrutiny analysis and thus unconstitutionally restricts Plaintiffs’ fundamental rights to suffrage by negating their efforts to gain access to the ballot.

C. The Act as applied to Plaintiffs for the 2024 general election does not satisfy the *Anderson-Burdick* test.

Even under the intermediate scrutiny that Defendants and Intervenor assert applies—which it does not—the Court should still find that the Act applied to Plaintiffs in the 2024 general election violates their constitutional rights. Under the scrutiny asserted by Defendants and Intervenor—known as the *Anderson-Burdick* test, *see Anderson v. Celebrezze*, 460 U.S. 789 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992)—when election provisions impose only “reasonable, nondiscriminatory restrictions” upon the First and Fourteenth amendment rights of voters, the State’s

important regulatory interests are generally sufficient to justify the restrictions. *Green Party v. Henrichs*, 355 Ill. App. 3d 445, 447 (3d Dist. 2005).

Applying the Act against Plaintiffs for the 2024 general election is not “substantially related to an important governmental interest.” *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 208 (2008). As explained above, applying the Act to Plaintiffs in the 2024 general election would undermine the State’s purported interest—in preventing political insiders from having control over which candidates are slated and to ensure that the voters make this determination—because it would ensure that voters have less choice and political insiders have more control over which candidates are on the ballot. *See* Section B.1.

Further, applying the Act to prevent Plaintiffs from accessing the ballot in the 2024 general election is discriminatory and unreasonable. It’s unreasonable and discriminatory to change the slating process in the middle of that process, when Plaintiffs had relied on it to access the ballot and are attempting to comply with it. And applied to Plaintiffs, the Act ensures that voters have less choice in the 2024 election. *See* Section B.1.

When restrictions on the constitutional rights of potential candidates are discriminatory and unreasonable—as they are here—such restrictions must be “narrowly drawn to advance a state interest of compelling importance.” *Green Party*, 355 Ill. App. 3d at 447. In other words, they must satisfy strict scrutiny. And as explained above, applying the Act to Plaintiffs to prevent them from using the

slating process to access the 2024 general election ballot as Republican candidates for General Assembly elections fails strict scrutiny. *See* Section B.

D. The Act as applied to Plaintiffs for the 2024 general election is fatally underinclusive and is therefore unconstitutional.

There's a final reason that the Act, as applied to Plaintiffs, is unconstitutional under both strict scrutiny and intermediate scrutiny: The Act only ends the slating process for races for the General Assembly and therefore is underinclusive to the government's purported purpose. *Joelner v. Vill. of Wash. Park*, 508 F.3d 427, 433 (7th Cir. 2007) (finding an underinclusive regulatory scheme failed both strict and intermediate scrutiny). The purported government interest in preventing political insiders from having control over which candidates on the ballot and to ensure that the voters make this determination is undermined by the fact that the Act only eliminates slating for *General Assembly* races. *See Rubin v. Coors Brewing Co.*, 514 U.S. 476, 489 (1995) (holding that "exemptions and inconsistencies bring into question the purpose of the [regulation].") And it was the General Assembly that passed the Act—to be effective upon enactment—in two days, ensuring that it would go into effect in the middle of the slating process for the 2024 general election. SOF 4, 7.

Conclusion

For these reasons, Plaintiffs respectfully ask this Court for summary judgment, including (a) a declaratory judgment that the revisions to 10 ILCS 5/8-17 in P.A. 103-0586, as applied to Plaintiffs for the 2024 general election, violate their constitutional right to access the ballot protected by Article III, section 1, of the

1970 Illinois Constitution; (b) a permanent injunction against Defendants preventing them from enforcing the Act against Plaintiffs, including using the provision of the Act that eliminates the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision prevent Plaintiffs' names from being listed as candidates on the November 2024 general election ballot; and (c) such further relief as this Court deems just, proper, and equitable.

May 30, 2024

Respectfully submitted,

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Attorneys for Plaintiffs

Exhibit A

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Leslie Collazo

I, Leslie Collazo, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 8th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 8th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 650 signatures from qualified voters in the 8th Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

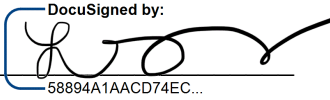
Signed: 

Exhibit B

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Daniel Behr

I, Daniel Behr, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Northbrook, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 57th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024 before more than 100 people at a prominent location in the 57th Representative District with media invited and informed of the proceedings.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 57th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect a minimum of 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. At the time of passage and signing of SB 2412/PA 103-0586, I had gathered in excess of 700 signatures. Had I known that I would have had to file my petitions by the date that PA 103-0586 was became effective (May 3, 2024), I would have obtained many more signatures, as my goal was to file with the maximum number of 1500 signatures.

8. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

9. Seeing that passage in the Senate the following day was imminent, I scrambled to gather my petitions and other nominating papers, and my campaign staff drove down to Springfield from Northbrook and attempted to file with the Illinois Board of Elections on May 2, 2024, arriving at approximately 4:40 PM. However, the Board closed at 4:30 PM and my agent was unable to file my petition

on May 2. An agent had earlier in the day requested that the Board remain open until 5:00 PM to accommodate my filing, but that request was denied. My petition was filed with the Board at 8:41 AM on May 3, 2024.

10. I rushed to file my nomination papers on May 2, 2024, because of the sudden introduction and imminent approval of P.A. 103-0586. Because I had to rush to file my petitions on such short notice, I was unable to include over 200 signatures that had been obtained by friends and volunteers in time to drive with them to Springfield for filing.

11. I was and remain concerned that the passage of P.A. 103-0586 would prevent me from appearing on the November 2024 General Election ballot as the Republican candidate for the Office.

12. Without the threat of P.A. 103-0586 preventing my candidacy, I would not have attempted to file my petition on May 2 and ultimately on May 3, 2024. I would have spent more time obtaining signatures, working up until the June 3rd deadline that existed before the passage P.A. 103-0586, to insulate my petition for candidacy before the Board of Elections from any challenge.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024


Signed:  _____

Exhibit C

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of James Kirchner

I, James Kirchner, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Chicago, Illinois.

3. I am a Republican candidate for the office of State Senator for the 13th Legislative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 13th Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

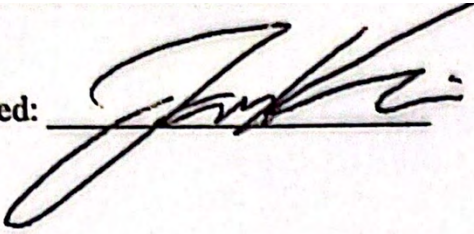
Signed: 

Exhibit D

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Carl R. Kunz

I, Carl R. Kunz, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Hickory Hills, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 31st Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 31st Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 500 signatures from qualified voters in the 31st Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024

Signed: 

Exhibit E

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Camaxtle "Max" Olivo

I, Camaxtle "Max" Olivo, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 1st Representative District ("the Office").
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 1st Representative District on April 5, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 1st Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:

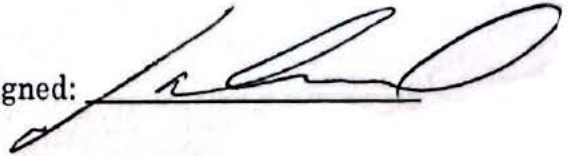
A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned over a horizontal line.

Exhibit F

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Juvandy Rivera

I, Juvandy Rivera, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 3rd Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy by the Republican Representative Committee for the 3rd Representative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 3rd Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024, to file my nomination papers.

8. At the time of passage and signing of SB 2412/P.A. 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that P.A. 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after the language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may have been in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:

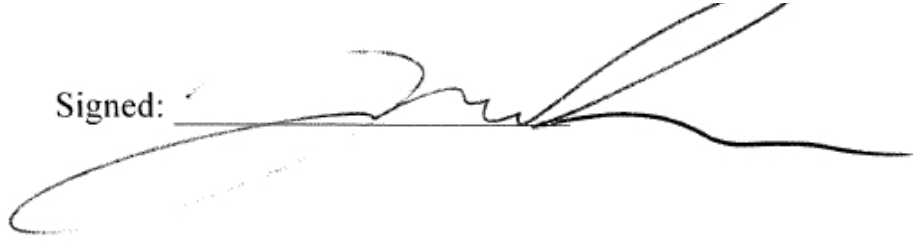
A handwritten signature in black ink, consisting of several fluid, overlapping strokes. The signature starts with a large, sweeping loop on the left side, followed by a series of smaller, connected loops and lines that extend towards the right, ending in a long, horizontal tail stroke.

Exhibit G

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Nancy Rodriguez

I, Nancy Rodriguez, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 4th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 4th Representative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 4th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024


Signed: 

Exhibit H

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Terry Nguyen Le

I, Terry Nguyen Le, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 13th Representative District ("the Office").
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 13th Representative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 13th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would

be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 the
stated to be on information and belief and as to such matters the
undersigned certifies as aforesaid that he verily believes the same to
true.

Executed May 28, 2024

Signed: _____

A handwritten signature in black ink, appearing to be a stylized 'R' or similar character, written over a horizontal line.

Exhibit I

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of John Zimmers

I, John Zimmers, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Chicago, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 19th Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 19th Representative District on April 5, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 19th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:

JOHN ZIMMERS
dotloop verified
05/29/24 9:16 AM CDT
Y7S-NFHF-SNG0-XN9Z

Exhibit J

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Ronald E. Andermann

I, Ronald E. Andermann, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Arlington Heights, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 53rd Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 53rd Representative District on April 14, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 53rd Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 29, 2024


Signed: 

Exhibit K

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Carlos Gonzalez

I, Carlos Gonzalez, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Lyons, Illinois.

3. I am a Republican candidate for the office of State Senator for the 1st Legislative District ("the Office").

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 1st Legislative District on April 2, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 1st Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Legislative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:



Carlos A. Gonzalez

Exhibit L

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Ashley Jensen

I, Ashley Jensen, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Winthrop Harbor, Illinois.
3. I am a Republican candidate for the office of State Senator for the 31st Legislative District ("the Office").
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 31st Legislative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.
6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters

in the 31st Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Legislative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed: _____

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be the name of the undersigned.

Exhibit M

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Teresa L. Alexander

I, Teresa L. Alexander, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in North Aurora, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 50th Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 50th Representative District on May 13, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 50th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In seeking appointment to fill the vacancy in nomination and embarking on my candidacy, I relied on having until June 3, 2024 to obtain appointment to fill the vacancy in nomination and file my nomination papers. At present, my campaign has gathered approximately 700 signatures from qualified voters in the 50th Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not been appointed to fill the vacancy in nomination and gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have sought appointment by the designated committee and obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 2, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet been appointed to fill the vacancy in nomination and filed my nomination petition for candidacy with the Illinois Board of Elections.

11. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

12. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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.

SR203

4

Executed May 29, 2024

Signed: Teresa Alexander

130769

Exhibit N

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Donald P. Puckett

I, Donald P. Puckett, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Elgin, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 43rd Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 43rd Representative District on April 20, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 43rd Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 600 signatures from qualified voters in the 43rd Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, gathering the required signatures, and the

preparation and submission of my nomination petition to the Board of Elections will have been in vain.

12. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 29, 2024

Signed: Donald Puckett

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**Plaintiffs' Combined Motion for Summary Judgment and Permanent
Injunction, Statement of Facts, and Memorandum of Law**

Motion

Plaintiffs Leslie Collazo, Daniel Behr, James Kirchner, and Carl Kunz move for summary judgment against Defendants, the Illinois State Board of Elections and the Attorney General, and Intervenor-Defendant Emanuel "Chris" Welch under 735 ILCS 5/2-1005. Plaintiffs also move for a permanent injunction prohibiting Defendants from applying the provision of Illinois Public Act No. 103-0586 that eliminates the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election, and from otherwise using that provision to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot.

Plaintiffs' Statement of Facts

A. P.A. 103-0586's Amendment to the Illinois Election Code

1. For decades, the Illinois Election Code provided a means for the state's political parties to fill a vacancy on the general election ballot where no candidate had run a primary election candidate for a General Assembly seat up for election (a process generally known as "slating"). 10 ILCS 5/8-17 (2023).

2. Until recently, the Election Code provided that "the legislative or representative committee of [a political] party" could "nominate[] a candidate to fill [such a] vacancy in nomination within 75 days after the date of the general primary election," using the procedures outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023).

3. Those procedures required that "[i]f the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was nominated as a write-in candidate for such office," the vacancy could be filled by slating. The prospective candidates, once designated by the appropriate committee, must gather voters' signatures on nomination petitions and submit them to the Illinois State Board of Elections, just like any other would-be candidates. 10 ILCS 5/7-61.

4. On May 3, 2024, Illinois Senate Bill 2412 was enacted as P.A. 103-0586. *Bill Status of SB2412*, Illinois General Assembly.¹

1

<https://www.ilga.gov/legislation/billstatus.asp?DocNum=2412&GAID=17&GA=103&>

5. That new legislation, among other things, strikes the provision in 10 ILCS 5/8-17 that allowed party committees to slate a general-election candidate for State Representative and State Senate as outlined in 10 ILCS 5/7-61. Instead, 10 ILCS 5/8-17 now provides, in relevant part, that “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.” The legislation purports to be effective immediately. *Full Text of SB2412*, Illinois General Assembly.²

6. By eliminating the provision in 10 ILCS 5/8-17 allowing slating while keeping intact the text of 10 ILCS 5/7-61, the Act immediately eliminates the slating process for General Assembly races but allows slating in other races. *Id.*

7. This legislation came about through the notorious “gut and replace” procedure well known to observers of the Illinois General Assembly. SB 2412 was a dormant bill that would have amended the Children and Family Services Act until, on May 1, 2024, its entire text was removed and replaced with the anti-slating provisions. It was passed by the House that same day, passed by the Senate the next day (May 2), and signed by the governor the day after that (May 3). *Bill Status of SB2412*, Illinois General Assembly.

[DocTypeID=SB&LegID=147311&SessionID=112&SpecSess=](#) (last visited May 29, 2024).

²

<https://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=112&GA=103&DocTypeId=SB&DocNum=2412&GAID=17&LegID=147311&SpecSess=&Session=> (last visited May 29, 2024).

B. Plaintiffs seek to be listed as candidates for the 2024 general election using the process under 10 ILCS 5/8-17 and 10 ILCS 5/7-61.

8. The 2024 Illinois primary election was held on March 19, 2024. *Schedule of Future Elections*, Illinois Board of Elections.³

9. Under the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 in effect at that time, the 75-day process to fill vacancies in nomination through the slating process began that same day and was to end on June 3, 2024. The Act, enacted and effective May 3, 2024, went into effect after the slating process had begun, but before the June 3, 2024, filing deadline.

a. Plaintiff Leslie Collazo – 8th Representative District

10. No Republican filed to run in the March 19, 2024, primary election for the 8th Representative District, and no person was nominated as a write-in candidate for that office. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁴

11. Plaintiff Collazo is seeking to fill the Republican vacancy in nomination for the 8th Representative District under the process set forth in the versions of 10

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<https://www.elections.il.gov/NewDocDisplay.aspx?%2fM0cs48zOKVZyk9eAbpEoxjoGz9b5YaGE%2bEuf7JVd2Tlx2Mybp2RbacEJVh848tnFOLoTd3G4cRsCxSj%2bcrL1MmhG9QsYgJ9ifsBkt0LQDHPgTikai%2bSw%2fIoUwIYexDwJVzxKmV1ygnKHlgH%2fVU7BWagSiPTO0SPdInB2yk31mQ6lkqdZ0pQ%3d%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=zeMhE7Thq8AAevIiBoVVuQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment.

Declaration of Leslie Collazo, ¶5, Exhibit A. The Republican Representative Committee for the 8th Representative District designated her to fill the vacancy in nomination on April 7, 2024. *Id.* ¶4. Plaintiff Collazo then began collecting signatures of Republican voters in the 8th Representative District for her nomination petition. *Id.* ¶6.

12. When P.A. 103-0586 went into effect on May 3, Plaintiff Collazo had not yet filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

13. Only one candidate, La Shawn Ford, ran in the March 29, 2024, Democratic primary for 8th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁵ Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁶

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=I9Rl8zYzSqBPMN22oZGJRA%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

b. Plaintiff Daniel Behr – 57th Representative District

14. No Republican filed to run for the March 2024 primary election for the 57th Representative District, and no person was nominated as a write-in candidate for that office. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁷

15. Plaintiff Behr is seeking to fill the Republican vacancy in nomination for the 57th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Daniel Behr, ¶5, Exhibit B. The Republican Representative Committee for the 57th Representative District designated him to fill the vacancy in nomination on March 19, 2024. *Id.* ¶4. Plaintiff Behr then began collecting signatures of Republican voters in the 57th Representative District for his nomination petition. *Id.* ¶6.

16. After finding out about SB 2412 when it passed the House on May 1, 2024, Plaintiff Behr scrambled to put together his nomination petition. He sent an agent from Northbrook to Springfield, where the agent attempted to file his petition with the Illinois Board of Elections on May 2, 2024, arriving at approximately 4:40 p.m. *Id.* ¶¶ 8-9. The Board closed at 4:30 p.m., however, so his agent was unable to file his petition that day. *Id.* ¶9. Earlier in the day, an agent of Behr had requested that

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=aF3QHlbFazn%2fI3M0mxVaOQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3a tac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

the Board remain open until 5:00 p.m. to accommodate his filing, but that request was denied. *Id.* ¶9.

17. Plaintiff Behr filed his nomination petition at 8:41 a.m. the next day, May 3, 2024—the same day P.A. 103-0586 was enacted into law. *Id.* ¶9.

18. Without the threat of P.A. 103-0586 preventing Plaintiff Behr’s candidacy, he would not have attempted to file his petition on May 2, 2024, and ultimately on May 3, 2024. *Id.* ¶12. He would have spent more time obtaining signatures, working up until the June 3, 2024, deadline to insulate his petition for candidacy from any challenge before the Board of Elections. *Id.* ¶12.

19. Only one candidate, Tracy Katz Muhl, ran in the March 29, 2024, Democratic primary for 57th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁸

20. Currently, the website of the Board of Elections lists Ms. Katz Muhl as the Democratic candidate and Plaintiff Behr as the Republican candidate for the 57th Representative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁹

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR2Cfb7mGVsUhY5%2f8M4vtZyk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9hu vqbsiUWA%3d&OfficeID=tZOmz8ZzgXgdcenGiSiKiA%3d%3d&Status=P2wRQXkiF oo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUj Eg7Y4yklgT1> (last visited May 29, 2024).

c. Plaintiff James Kirchner – 13th Legislative District

21. No Republican filed to run in the March primary for the 13th Legislative District, and no person was nominated as a write-in candidate for that office.

Election Results 2024 General Primary, Illinois State Board of Elections.¹⁰

22. Plaintiff Kirchner is seeking to fill the Republican vacancy in nomination for the 13th Legislative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of James Kirchner, ¶5, Exhibit C. The Republican Legislative Committee for the 13th Legislative District designated him to fill the vacancy on April 18, 2024. *Id.* ¶4. Plaintiff Kirchner then began collecting signatures of Republican voters in the 8th Representative District for his nomination petition. *Id.* ¶6.

23. When P.A. 103-0586 went into effect on May 3, 2024, Plaintiff Kirchner had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

24. Only one candidate, Robert Peters, ran in the March 29, 2024, Democratic primary for 13th Legislative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹¹ Currently, the website of the Board of Elections

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=dPAXH%2beT4pE6TCbR3Av%2fpw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹¹

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=XmLrbPr2rU0jTLF%2f7%2fJHNA%3d%3d> (last visited May 29, 2024).

lists him as the only candidate for the 13th Legislative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹²

d. Plaintiff Carl Kunz – 31st Representative District

25. No Republican filed to run in the March primary for the 31st Representative District, and no person was nominated as a write-in candidate for that office.

Election Results 2024 General Primary, Illinois State Board of Elections.¹³

26. Plaintiff Kunz is seeking to fill the Republican vacancy in nomination for the 31st Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Chris Kunz, ¶5, Exhibit D. The Republican Representative Committee for the 31st Representative District designated him to fill the vacancy in nomination on April 7, 2024. *Id.* ¶4. After being designated, Plaintiff Kunz began collecting signatures of Republican voters in the 8th Representative District for his nomination petition. *Id.* ¶6.

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=ANNcUH%2b3wyFPziS7iBWAYQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹³

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=3I7dBOU9LZr63O6ODv6Bmw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

27. When P.A. 103-0586 went into effect on May 3, 2024, Plaintiff Kunz had not yet filed his nomination petition for candidacy with the Illinois Board of Elections.

Id. ¶10.

28. Two candidates ran in the March 29, 2024, Democratic primary for 31st Representative District: Michael Crawford defeated Mary Flowers. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹⁴ Currently, the website of the Board of Elections lists Crawford as the only candidate for the 31st Representative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹⁵

Memorandum of Law

Summary Judgment Standard

Summary judgment is appropriate “if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” 735 ILCS 5/2-1005(c). Inferences may be drawn from undisputed facts, and summary judgment should be denied only where reasonable persons could draw divergent inferences from the undisputed facts. *Pyne v. Witmer*, 129 Ill. 2d 351, 358

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FRwfnukmFiAy%2bbw26pdUB0bw%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9hu vqbsiUWA%3d&OfficeID=y3gTaW7hEnJ1aBz3cuul8w%3d%3d&Status=P2wRQXki Foo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fU jEg7Y4yklgT1> (last visited May 29, 2024).

(1989). General assertions unsupported by any evidentiary facts are insufficient to raise a triable issue as against uncontroverted evidentiary matter. *Purdy Co. of Illinois v. Transportation Ins. Co.*, 209 Ill. App. 3d 519, 529 (1st Dist. 1991).

Argument

“To be entitled to a permanent injunction, the party seeking the injunction must demonstrate (1) a clear and ascertainable right in need of protection, (2) that he or she will suffer irreparable harm if the injunction is not granted, and (3) that no adequate remedy at law exists.” *Swigert v. Gillespie*, 2012 IL App (4th) 120043, P27.

I. Plaintiffs are entitled to a permanent injunction.

A. Plaintiffs have a certain and clearly ascertainable right that needs protection.

For the same reasons set forth in their motion for preliminary injunction, Plaintiffs have a certain and clearly ascertainable right that needs protection. Plaintiffs sought to fill a vacancy as Republican candidates on the November 2024 general election ballot through the slating process set forth in 10 ILCS 5/8-17. At the time the respective Republican committees nominated them, the Election Code permitted plaintiffs to use the slating process. SOF 1-5, 11, 16, 23, 28. The enforcement of P.A. 103-0586 against Plaintiffs in this election would deprive them of their ability to use the slating process to fill a vacancy for the Republican candidates in the respective districts for an office in the General Assembly on the 2024 general election ballot. SOF 12, 18, 24, 29.

B. Plaintiffs will suffer irreparable injury without the protection of the injunction.

For the same reasons set forth in their motion for preliminary injunction, Plaintiffs will suffer an irreparable injury without a permanent injunction. “[I]rreparable harm occurs only where the remedy at law is inadequate; that is, where monetary damages cannot adequately compensate the injury, or the injury cannot be measured by pecuniary standards. *Best Coin-Op, Inc. v. Old Willow Falls Condominium Asso.*, 120 Ill. App. 3d 830, 834 (1st Dist. 1983). Because of the Act, Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot. Once the election passes, Plaintiffs’ opportunity to appear as candidates for the November 2024 election will be gone forever, and monetary damages will not be able to compensate Plaintiffs for that lost opportunity.

C. Plaintiffs have no adequate remedy at law for their injuries.

There is no adequate remedy at law for the injury Plaintiffs would suffer from being unable to appear on the November 2024 general election ballot. Again, monetary damages are inadequate.

II. The application of the Act to prevent Plaintiffs from using the slating process to fill vacancies in General Assembly races on the 2024 general election ballot violates their constitutional right to access the ballot, protected as part of the right to vote.

The elimination of the slating process for General Assembly candidates in the middle of the 2024 election season violates Plaintiffs’ constitutional right to access the ballot, protected as part of the right to vote under Article III, Section 1 of the Illinois Constitution.

The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990). “Legislation that affects any stage of the election process implicates the right to vote.” *Tully v. Edgar*, 171 Ill. 2d 297, 307 (1996) (emphasis in original). Thus, “the right to vote is implicated by legislation that restricts a candidate’s effort to gain access to the ballot.” *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977). “[T]he rights of candidates and those of voters ‘do not lend themselves to neat separation’; each statute affecting a candidate has some effect on the voter.” *Anderson*, 67 Ill. 2d at 174 (citation omitted). “[V]oters can assert their preferences only through candidates or parties or both. . . . The right of a party or an individual to a place on a ballot is entitled to protection and is intertwined with the rights of voters.” *Anderson*, 67 Ill. 2d 165, 175 (quoting *Lubin v. Panish*, 415 U.S. 709, 716 (1974)). “The right to vote is heavily burdened if that vote may be cast only for one of two parties at a time when other parties are clamoring for a place on the ballot.” *Lubin*, 415 U.S. at 716.

A. The Act as applied to Plaintiffs for the 2024 general election is subject to strict scrutiny.

The right to vote is a fundamental constitutional right, *Fumarolo*, 142 Ill. 2d at 74, and is implicated by legislation that restricts a candidate’s effort to gain access to the ballot, *Tully*, 171 Ill. at 307. When a statute impinges on a fundamental right, courts must subject the statute to strict scrutiny. *Tully*, 171 Ill. 2d at 304; see also *Nolan v. Cook County Officers Electoral Board*, 329 Ill. App. 3d 52, 55 (1st Dist.

2002) (“[B]allot access is a substantial right and not likely to be denied.”) (quote and citation omitted).

In *Tully*, the legislature passed a law replacing the existing nine elected trustees of the University of Illinois and providing that that the university’s trustees would thereafter be appointed by the governor. 171 Ill. 2d at 303-04. The Court applied strict scrutiny to the provision removing the elected trustees from office midterm and found it unconstitutional because it nullified the votes cast by citizens and thereby undermined and destroyed the integrity of the vote. *Id.* at 307, 311. The Court did not, however, apply strict scrutiny to the provision changing the Board of Trustees from an elected body to an appointed one. *Id.* at 313. The reason the Court in *Tully* applied strict scrutiny to one aspect of the law, but not the other was timing: where the law generally changed how trustees would be selected in the future, strict scrutiny did not apply; but where the law attempted to remove trustees who had already been elected, strict scrutiny applied.

Timing is relevant to the Court’s analysis in this case as well. Here, plaintiffs do not challenge the Act’s elimination of the slating process for General Assembly candidates in *future* elections. Rather, they object to the Act’s elimination of the slating process for General Assembly races while that process was already underway in the *current* election—during the 75 days after the primary election when potential candidates could be nominated to fill their party’s vacancies on the general election ballot by obtaining the required number of signatures and submitting their petitions to the Board of Elections. The elimination of slating in

the middle of that process would ensure that no Republican candidate would appear on the ballot in Plaintiffs' districts and mostly likely would mean that only one candidate would appear on the general election ballot in those districts.

Contrary to Defendants' arguments, *Tully* cannot be distinguished on the basis that it involved a change in the law that occurred after an election had already taken place rather than in the middle of the process. *Tully's* application of strict scrutiny would not have been different if the attempt to nullify the votes for trustees had happened in the middle of the election. Again, the right to vote is intertwined with the right of a candidate to access the ballot, *see Anderson*, 67 Ill. 2d at 175, so it makes no difference for the application of strict scrutiny whether the Act attempted to remove candidates from the ballot after they had completed the process to access the ballot, or whether the Act removed the process for accessing the ballot in middle of that process. Either way, voters lose their right to have their votes counted. *Tully*, 171 Ill. 2d at 306.

Where the courts have not applied strict scrutiny to challenges to changes in the Election Code, the timing issue in *Tully* has not been present. For example, in *East St. Louis Fed'n of Teachers, Local 1220 v. East St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 414 (1997), a Financial Oversight Panel used existing law to remove school board members from office for disobeying a valid order from the panel. The Court found that the plaintiff's challenge to the existing law did not warrant strict scrutiny because it did not implicate the timing issues in *Tully* because the change in the law took place after the election. *Id.* Similarly, *East St.*

Louis did not involve the timing issue present here: a change in the law in the middle of the ballot-access process.

Thus, P.A. 103-0586, as applied to Plaintiffs' efforts to gain access to the November 2024 general election ballot as candidates, is subject to strict scrutiny.

B. The Act as applied to Plaintiffs for the 2024 general election does not satisfy strict scrutiny analysis.

To satisfy strict scrutiny, legislation must: (1) advance a compelling state interest; (2) be necessary to achieve the legislation's asserted goal; and (3) be the least restrictive means available to attain the legislation's goal. *Tully*, 171 Ill. 2d at 311 (citing *Fumarolo*, 142 Ill. 2d at 90). P.A. 103-0586, as applied to Plaintiffs, fails on all three counts.

1. The Act as applied to Plaintiffs for the 2024 general election does not advance a compelling government interest.

Applying the Act's elimination of slating to keep Plaintiffs off the November 2024 general election would not advance a compelling state interest. It does not advance the interest the government has asserted to defend the Act: ensuring that voters, rather than political insiders, determine who appears on the ballot.

Indeed, if the Act is enforced against Plaintiffs, voters won't have a choice of a Republican in the general election for those General Assembly district races. Plaintiffs and the Republican Party would be prevented from placing a candidate on the ballot at all. SOF 10, 13, 15, 20, 22, 25, 27. And it's very likely that voters would have only one candidate on the ballot in the relevant districts, unless an independent or third-party candidate runs—a path plaintiffs would be prevented

from using for two reasons: because they are Republicans who are prevented from running as independent or third-party candidates in the general election after voting in the Republican primary election; and because the requirements and the time remaining make doing so practically impossible. *See* 10 ILCS 5/7-43; 5/10-2; 5/10-3.

Further, in three of the four districts at issue in this case, keeping Plaintiffs off the ballot would mean that voters had *no* role in selecting the candidates who appear on the general election ballot. That's because in those districts no Republican candidates ran in the primary, and only one candidate ran in the Democratic primary. SOF 10, 13, 15, 20, 22, 25, 27. Enforcing the Act against Plaintiffs in those districts would likely mean that voters in those districts only ever had one candidate for those offices to vote for in the primary and general elections—and thus effectively had no choice at all.

Enforcing the Act as to Plaintiffs in this election would mean voters would have fewer candidates to choose from; enjoining the Act as to Plaintiffs in this election would mean that voters have more candidates to choose from. Applying the Act against Plaintiffs to prevent them from accessing their ballot in the 2024 general election not only does not advance the government's asserted interest but would thwart that interest.

2. The Act as applied to Plaintiffs for the 2024 general election is not necessary to achieve the asserted goal.

Applying the Act against Plaintiffs in the 2024 election is not necessary to achieve the Act's asserted goal. As shown above, doing so would not achieve the

Act's asserted goal at all, so it could not be necessary to achieve that goal. Further, it is simply not necessary for the State to change the rules in the middle of the ballot access process after candidates and political parties had already relied on the slating process.

3. The Act as applied to Plaintiffs for the 2024 general election is not the least restrictive means to achieve the government's goal.

Eliminating the slating process for the November 2024 general election after that process has already started is not the least restrictive means to achieve the Act's goal. The least restrict means would be for the Act to affect future elections so that all potential candidates and political parties would know in advance the options for obtaining ballot access and plan and act accordingly. *See Graves v. Cook Cty. Republican Party*, 2020 IL App (1st) 181516, P62 (holding that a political party by-law, enacted during a primary election, was not necessary or narrowly tailored).

P.A. 103-0586, as applied to Plaintiffs for the 2024 general election, fails strict scrutiny analysis and thus unconstitutionally restricts Plaintiffs' fundamental rights to suffrage by negating their efforts to gain access to the ballot.

C. The Act as applied to Plaintiffs for the 2024 general election does not satisfy the *Anderson-Burdick* test.

Even under the intermediate scrutiny that Defendants and Intervenor assert applies—which it does not—the Court should still find that the Act applied to Plaintiffs in the 2024 general election violates their constitutional rights. Under the scrutiny asserted by Defendants and Intervenor—known as the *Anderson-Burdick* test, *see Anderson v. Celebrezze*, 460 U.S. 789 (1983); *Burdick v. Takushi*, 504 U.S.

428 (1992)—when election provisions impose only “reasonable, nondiscriminatory restrictions” upon the First and Fourteenth amendment rights of voters, the State’s important regulatory interests are generally sufficient to justify the restrictions.

Green Party v. Henrichs, 355 Ill. App. 3d 445, 447 (3d Dist. 2005).

Applying the Act against Plaintiffs for the 2024 general election is not “substantially related to an important governmental interest.” *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 208 (2008). As explained above, applying the Act to Plaintiffs in the 2024 general election would undermine the State’s purported interest—in preventing political insiders from having control over which candidates are slated and to ensure that the voters make this determination—because it would ensure that voters have less choice and political insiders have more control over which candidates are on the ballot. *See* Section B.1.

Further, applying the Act to prevent Plaintiffs from accessing the ballot in the 2024 general election is discriminatory and unreasonable. It’s unreasonable and discriminatory to change the slating process in the middle of that process, when Plaintiffs had relied on it to access the ballot and are attempting to comply with it. And applied to Plaintiffs, the Act ensures that voters have less choice in the 2024 election. *See* Section B.1.

When restrictions on the constitutional rights of potential candidates are discriminatory and unreasonable—as they are here—such restrictions must be “narrowly drawn to advance a state interest of compelling importance.” *Green Party*, 355 Ill. App. 3d at 447. In other words, they must satisfy strict scrutiny. And as

explained above, applying the Act to Plaintiffs to prevent them from using the slating process to access the 2024 general election ballot as Republican candidates for General Assembly elections fails strict scrutiny. *See* Section B.

D. The Act as applied to Plaintiffs for the 2024 general election is fatally underinclusive and is therefore unconstitutional.

There's a final reason that the Act, as applied to Plaintiffs, is unconstitutional under both strict scrutiny and intermediate scrutiny: The Act only ends the slating process for races for the General Assembly and therefore is underinclusive to the government's purported purpose. *Joelner v. Vill. of Wash. Park*, 508 F.3d 427, 433 (7th Cir. 2007) (finding an underinclusive regulatory scheme failed both strict and intermediate scrutiny). The purported government interest in preventing political insiders from having control over which candidates on the ballot and to ensure that the voters make this determination is undermined by the fact that the Act only eliminates slating for *General Assembly* races. *See Rubin v. Coors Brewing Co.*, 514 U.S. 476, 489 (1995) (holding that "exemptions and inconsistencies bring into question the purpose of the [regulation].") And it was the General Assembly that passed the Act—to be effective upon enactment—in two days, ensuring that it would go into effect in the middle of the slating process for the 2024 general election. SOF 4, 7.

Conclusion

For these reasons, Plaintiffs respectfully ask this Court for summary judgment, including (a) a declaratory judgment that the revisions to 10 ILCS 5/8-17 in P.A. 103-0586, as applied to Plaintiffs for the 2024 general election, violate their

constitutional right to access the ballot protected by Article III, section 1, of the 1970 Illinois Constitution; (b) a permanent injunction against Defendants preventing them from enforcing the Act against Plaintiffs, including using the provision of the Act that eliminates the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision prevent Plaintiffs' names from being listed as candidates on the November 2024 general election ballot; and (c) such further relief as this Court deems just, proper, and equitable.

May 29, 2024

Respectfully submitted,

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Attorneys for Plaintiffs

Exhibit A

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Leslie Collazo

I, Leslie Collazo, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 8th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 8th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 650 signatures from qualified voters in the 8th Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

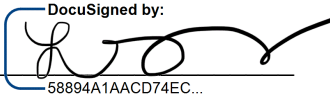
Signed: 

Exhibit B

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Daniel Behr

I, Daniel Behr, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Northbrook, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 57th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024 before more than 100 people at a prominent location in the 57th Representative District with media invited and informed of the proceedings.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 57th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect a minimum of 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. At the time of passage and signing of SB 2412/PA 103-0586, I had gathered in excess of 700 signatures. Had I known that I would have had to file my petitions by the date that PA 103-0586 was became effective (May 3, 2024), I would have obtained many more signatures, as my goal was to file with the maximum number of 1500 signatures.

8. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

9. Seeing that passage in the Senate the following day was imminent, I scrambled to gather my petitions and other nominating papers, and my campaign staff drove down to Springfield from Northbrook and attempted to file with the Illinois Board of Elections on May 2, 2024, arriving at approximately 4:40 PM. However, the Board closed at 4:30 PM and my agent was unable to file my petition

on May 2. An agent had earlier in the day requested that the Board remain open until 5:00 PM to accommodate my filing, but that request was denied. My petition was filed with the Board at 8:41 AM on May 3, 2024.

10. I rushed to file my nomination papers on May 2, 2024, because of the sudden introduction and imminent approval of P.A. 103-0586. Because I had to rush to file my petitions on such short notice, I was unable to include over 200 signatures that had been obtained by friends and volunteers in time to drive with them to Springfield for filing.

11. I was and remain concerned that the passage of P.A. 103-0586 would prevent me from appearing on the November 2024 General Election ballot as the Republican candidate for the Office.

12. Without the threat of P.A. 103-0586 preventing my candidacy, I would not have attempted to file my petition on May 2 and ultimately on May 3, 2024. I would have spent more time obtaining signatures, working up until the June 3rd deadline that existed before the passage P.A. 103-0586, to insulate my petition for candidacy before the Board of Elections from any challenge.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024


Signed:  _____

Exhibit C

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of James Kirchner

I, James Kirchner, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Chicago, Illinois.

3. I am a Republican candidate for the office of State Senator for the 13th Legislative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 13th Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

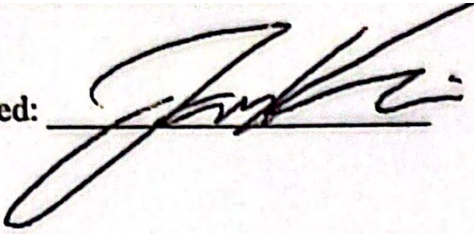
Signed: 

Exhibit D

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Carl R. Kunz

I, Carl R. Kunz, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Hickory Hills, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 31st Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 31st Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 500 signatures from qualified voters in the 31st Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024

Signed: 

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
 SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, DANIEL BEHR, JAMES
 KIRCHNER, CARL KUNZ, CAMAXTLE
 "MAX" OLIVO, JUVANDY RIVERA, NANCY
 RODRIGUEZ, TERRY NGUYEN LE, JOHN
 ZIMMERS, RON ANDERMANN, CARLOS
 GONZALEZ, ASHLEY JENSEN, TERESA
 ALEXANDER, *and* DONALD PUCKETT,

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
 ELECTIONS; CASANDRA B. WATSON, *in*
her official capacity as Chair of the
Illinois State Board of Elections; LAURA
 K. DONAHUE, *in her official capacity as*
Vice Chair of the Illinois State Board of
Elections; JENNIFER M. BALLARD CROFT,
 CRISTINA D. CRAY, TONYA L. GENOVESE,
 CATHERINE S. MCCRORY, RICK S.
 TERVEN, SR., *and* JACK VRETT, *in their*
official capacities as Members of the
Illinois State Board of Elections; *and*
 KWAME RAOUL, *in his official capacity*
as Attorney General of the State of
Illinois,

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**First Amended Complaint for
 Declaratory and Injunctive Relief**

Introduction

1. This complaint seeks to prevent enforcement of provisions of P.A. 103-0586 as applied to Plaintiffs in the November 2024 general election.
2. P.A. 103-0586 changes the rules for filling vacancies on the ballot in the general election for a political party's candidate in a race for General Assembly. It

purports to be effective immediately, thus eliminating a process of filling vacancies on the 2024 general election ballot while that process is ongoing.

3. Plaintiffs are prospective candidates for office who seek to file petitions to appear on the ballot for the November 2024 general election. P.A. 103-0586 prevents them from appearing on the November ballot even though they began that process prior to the enactment of P.A. 103-0586, and the deadline to complete that process has not expired.

4. The elimination of the process for filling vacancies on the ballot in the general election for a political party's candidate in a race for General Assembly set forth in P.A. 103-0586, as applied to Plaintiffs seeking to fill vacancies for General Assembly races on the November 2024 general election ballot, is an unconstitutional violation of their right to gain access to the ballot.

Parties

5. Plaintiff Collazo is a prospective candidate for the 8th Representative District. She resides in Chicago, Illinois.

6. Plaintiff Behr is a prospective candidate for the 57th Representative District. He resides in Northbrook, Illinois.

7. Plaintiff Kirchner is a prospective candidate for the 13th Legislative District. He resides in Chicago, Illinois.

8. Plaintiff Kunz is a prospective candidate for the 31st Representative District. He resides in Hickory Hills, Illinois.

9. Plaintiff Olivo is a prospective candidate for the 1st Representative District. He resides in Chicago, Illinois.
10. Plaintiff Rivera is a prospective candidate for the 3rd Representative District. He resides in Chicago, Illinois.
11. Plaintiff Rodriguez is a prospective candidate for the 4th Representative District. She resides in Chicago, Illinois.
12. Plaintiff Nguyen Le is a prospective candidate for the 13th Representative District. He resides in Chicago, Illinois.
13. Plaintiff Zimmers is a prospective candidate for the 19th Representative District. He resides in Chicago, Illinois.
14. Plaintiff Andermann is a prospective candidate for the 53rd Representative District. He resides in Arlington Heights, Illinois.
15. Plaintiff Gonzalez is a prospective candidate for the 1st Legislative District. He resides in Lyons, Illinois.
16. Plaintiff Jensen is a prospective candidate for the 31st Legislative District. She resides in Winthrop Harbor, Illinois.
17. Plaintiff Alexander is a prospective candidate for the 50th Representative District. She resides in North Aurora, Illinois.
18. Plaintiff Puckett is a prospective candidate for the 43rd Representative District. He resides in Elgin, Illinois.

19. All Plaintiffs have been designated by either the Republican Representative Committee (Collazo, Behr, Kunz, Olivo, Rivera, Rodriguez, Nguyen Le, Zimmers, Andermann, Alexander, Puckett) or the Republican Legislative Committee (Kirchner, Gonzalez, Jensen) to fill vacancies in nomination for their respective Representative or Legislative Districts.

20. Defendant Watson is the Chair of the Illinois State Board of Elections. She is sued in her official capacity.

21. Defendant Donahue is the Vice Chair of the Illinois State Board of Elections. She is sued in her official capacity.

22. Defendants Ballard Croft, Cray, Genovese, McCrory, Terven, and Vrett are members of the Illinois State Board of Elections. They are sued in their official capacity.

23. Defendant Illinois State Board of Elections and Defendants Watson, Donahue, Ballard Croft, Cray, Genovese, McCrory, Terven, and Vrett, as Chair, Vice Chair, and Members of the Illinois State Board of Elections respectively, are tasked with certifying the results of primary and general elections in the State, and determining whether each candidate has met the qualifications for appearing on the ballot. The Board of Elections maintains an office in Springfield, Illinois.

24. Defendant Raoul is the Attorney General of the State of Illinois. As Attorney General, he is tasked with enforcing the laws of the State. He is sued in his official capacity. He maintains an office in Springfield, Illinois.

Jurisdiction and Venue

25. This Court has subject matter jurisdiction because this matter challenges a provision of the Illinois Election Code under the Illinois Constitution.

26. This Court has personal jurisdiction over Defendants because they maintain offices in the State of Illinois.

27. This “action is brought against the State or any of its officers, employees, or agents acting in an official capacity . . . seeking declaratory or injunctive relief against a[] State statute . . . based on an alleged violation of the Constitution of the State of Illinois,” and as such venue is proper in the County of Sangamon. 735 ILCS 5/2-101.5.

28. Venue is further proper in the County of Sangamon because all Defendants maintain offices there. 735 ILCS 5/2-101.

Facts

29. Until last week, the Illinois Election Code provided that “if there was no candidate for the nomination of the party in the primary,” the “legislative or representative committee of the party” could “nominate[] a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election,” following the process outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023).

30. Section 7-61 states that, where a political party did not nominate any candidate for a particular office in the primary election, and no person was nominated as a write-in candidate for such office, “a vacancy in nomination shall be

filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number of signatures required for an established party candidate for that office within 75 days after the day of the general primary.” 10 ILCS 5/7-61.

31. The 2024 Illinois primary election was held on March 19, 2024. June 3, 2024, is 75 days from March 19, 2024. Thus, Section 7-61 of the Election Code gave a potential candidate seeking to fill a vacancy on the November 2024 general election ballot by being designated by the appropriate committee of a political party from March 19, 2024, to June 3, 2024, to complete that process.

32. At the time P.A. 103-0586 was enacted on May 3, 2024, at least a dozen people, including Plaintiffs, were pursuing candidacy under the process set forth in Section 7-61 of the Election Code.

33. Plaintiff Collazo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024.

34. Plaintiff Behr was designated to fill the vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024.

35. Plaintiff Kirchner was designated to fill the vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024.

36. Plaintiff Kunz was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024.

37. Plaintiff Olivo was designated to fill the vacancy in nomination by the Republican Representative Committee for the 1st Representative District on April 5, 2024.

38. Plaintiff Rivera was designated to fill the vacancy in nomination by the Republican Representative Committee for the 3rd Representative District on April 2, 2024.

39. Plaintiff Rodriguez was designated to fill the vacancy in nomination by the Republican Representative Committee for the 4th Representative District on April 2, 2024.

40. Plaintiff Nguyen Le was designated to fill the vacancy in nomination by the Republican Representative Committee for the 13th Representative District on April 2, 2024.

41. Plaintiff Zimmers was designated to fill the vacancy in nomination by the Republican Representative Committee for the 19th Representative District on April 5, 2024.

42. Plaintiff Andermann was designated to fill the vacancy in nomination by the Republican Representative Committee for the 53rd Representative District on April 14, 2024.

43. Plaintiff Gonzalez was designated to fill the vacancy in nomination by the Republican Representative Committee for the 1st Legislative District on April 2, 2024.

44. Plaintiff Jensen was designated to fill the vacancy in nomination by the Republican Representative Committee for the 31st Legislative District on April 2, 2024.

45. Plaintiff Alexander was designated to fill the vacancy in nomination by the Republican Representative Committee for the 50th Representative District on May 13, 2024.

46. Plaintiff Puckett was designated to fill the vacancy in nomination by the Republican Representative Committee for the 43rd Representative District on April 20, 2024.

47. In each Legislative or Representative District in which Plaintiffs seek to fill a vacancy, the name of no Republican Party candidate was printed on the general primary ballot, and no person was nominated as a write-in candidate for such office.

48. Illinois Senate Bill 2412 was enacted on May 3, 2024, as P.A. 103-0586 and purports to be effectively immediately.

49. P.A. 103-0586, among other things, strikes the provision in 10 ILCS 5/8-17 allowing the party committees to nominate a candidate to fill a vacancy as outlined in 10 ILCS 5/7-61. 10 ILCS 5/8-17 now reads in relevant part, “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.”

50. SB 2412 was a dormant bill seeking to amend the Children and Family Services Act, when on May 1, 2024, its entire text was removed and replaced, and it was passed by the House; on May 2, 2024, it was passed by the Senate; and on May 3, 2024, it was signed by the governor.

51. Thus, two thirds of the way through Section 7-61's 75-day process to fill vacancies on the general election ballot, the State, in a matter of hours, amended the Election Code by enacting P.A. 103-0586, and prohibited Plaintiffs from using that process to place their names on the November 2024 general election ballot.

52. Plaintiff Behr attempted to file his nomination petition on May 2, 2024, one day prior to Governor Pritzker's signing of P.A. 103-0586 into law on May 3, 2024. Although the Board was required to stay open until 5:00 PM on the last day for filing, per 10 ILCS 5/1-4—which, because of the enactment of P.A. 103-0586, would have been May 2—the Board closed at 4:30 PM. Plaintiff Behr's petition was filed at 8:41 AM the following morning.

53. Plaintiffs Collazo, Kirchner, Kunz, Olivo, Rivera, Rodriguez, Nguyen Le, Zimmers, Andermann, Gonzalez, Jensen, Alexander, and Puckett have not yet filed their petitions for candidacy with the Board of Elections.

54. Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot solely because of the enactment of P.A. 103-0586.

55. At least one candidate who was designated to fill a vacancy in nomination by a political party's representative committee and who filed their nomination petition

prior to the enactment of P.A. 103-0586 on May 3, 2024, will appear on the November 2024 general election ballot.

Count I
P.A. 103-0586 violates Plaintiffs' right to vote set forth in
Article III, section 1, of the 1970 Illinois Constitution.

56. The allegations contained in all the preceding paragraphs are realleged as though set forth fully herein.

57. Article III, section 1, of the 1970 Illinois Constitution guarantees the right to vote to every United States citizen of at least 18 years of age who has been a permanent resident of Illinois for at least 30 days preceding any election.

58. "Legislation that affects *any* stage of the election process implicates the right to vote." *Tully v. Edgar*, 171 Ill. 2d 297, 307 (1996) (emphasis in original). Thus, "the right to vote is implicated by legislation that restricts a candidate's effort to gain access to the ballot." *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977).

59. But for P.A. 103-0586, Plaintiffs would comport with the provisions of 10 ILCS 5/8-17 (2023) and 10 ILCS 5/7-61 and stand as candidates for office in the November election.

60. Plaintiffs were all designated to fill the vacancies in nomination by their respective Representative or Legislative Committees prior to the enactment of P.A. 103-0586.

61. P.A. 103-0586 removed the provisions of 10 ILCS 5/8-17 that would allow Plaintiffs to gain access to the ballot, after that process had already begun.

62. P.A. 103-0586 impairs the rights of suffrage exercised by Plaintiffs and others in the 2024 general election by restricting Plaintiffs' efforts to gain access to the ballot by changing the rules in the middle of that process.

63. "When the means used by a legislature to achieve a legislative goal impinge upon a fundamental right, the court will examine the statute under the strict scrutiny standard." *Tully*, 171 Ill. 2d at 304.

64. The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990).

65. The elimination of the process of filling ballot vacancies used by Plaintiffs set forth in P.A. 103-0586 does not advance a compelling state interest in preventing Plaintiffs from accessing the ballot in the November 2024 general election.

66. The provision of P.A. 103-0586 eliminating the process of filling ballot vacancies used by Plaintiffs is not necessary to achieve the legislation's goal.

67. Nor are the provision of P.A. 103-0586 eliminating the process of filling ballot vacancies used by Plaintiffs the least restrictive means available to attain the legislation's goal.

68. The fact that P.A. 103-0586 would prohibit Plaintiffs from accessing the November 2024 general election ballot using the process set forth in Section 7-61 of the Election Code as it existed prior to the enactment of P.A. 103-0586, but would permit other candidates to be listed on the November 2024 general election ballot who completed the process set forth in Section 7-61 of the Election Code prior to

P.A. 103-0586's enactment is sufficient to show that P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny.

69. P.A. 103-0586, as applied to Plaintiffs, fails strict scrutiny analysis and, thus, unconstitutionally restricts Plaintiffs' fundamental rights to suffrage by negating their efforts to gain access to the ballot.

70. Plaintiffs need immediate relief from the revisions to 10 ILCS 5/8-17 in order to lawfully comply with the June 3, 2024, deadline to file their nomination petitions with the Illinois State Board of Elections.

Request For Relief

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Issue a temporary restraining order and preliminary injunction, later to be made a permanent injunction, restraining and enjoining Attorney General Raoul and the Illinois State Board of Elections from applying P.A. 103-0586's revisions to 10 ILCS 5/8-17 to Plaintiffs with respect to the November 2024 general election;

B. Issue a temporary restraining order and preliminary injunction prohibiting the Illinois State Board of Elections from denying Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17;

C. Enter a declaratory judgement that P.A. 103-0586's revisions to 10 ILCS 5/8-17 are void as applied to Plaintiffs' efforts to appear on the ballot in the November 2024 general election;

D. Award Plaintiffs their costs and attorneys' fees; and

E. Grant such further relief this Court deems just, proper, and equitable.

May 31, 2024

Respectfully submitted,

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Attorneys for Plaintiffs

**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS CHANCERY DIVISION**

LESLIE COLLAZO, et al.)	
)	
Plaintiffs,)	
)	
v.	)	No. 2024 CH 0032
)	
THE ILLINOIS STATE BOARD OF	)	Hon. Gail Noll, presiding.
ELECTIONS, et al.)	
)	
Defendants.)	

**INTERVENING DEFENDANT WELCH 'S SECTION 2-619.1
MOTION TO DISMISS**

Intervening Defendant Emanuel "Christopher" Welch, respectfully moves to dismiss the Plaintiffs' Complaint pursuant to Section 2-619.1 of the Illinois Code of Civil Procedure (735 ILCS 5/2-619.1) submits arguments for dismissal pursuant to Section 2-619(a)(1) and Section 2-615 of the Illinois Code of Civil Procedure (735 ILCS 5/2-619(a)(1); 615). In support thereof, he states as follows:

Introduction

Public Act 103-586 repealed an Election Code process allowing local political party officials (county, township and ward committeepersons) to choose a candidate to run in the General Election where no one sought the party's nomination for a seat in the General Assembly in the primary election. P.A. 103-586; 10 ILCS 5/8-17. This year, no candidate sought the Democratic Party's nomination in 21 House districts and 4 Senate districts, and no candidate sought the Republican Party's nomination in 45 House and 8 Senate Districts, which would have permitted local party leaders to choose their party's candidate in 78 of the 138 (56%) legislative elections this year.

Plaintiffs are four (of the potential 78) candidates who chose not to run in their party's primary election, but instead have been chosen by their political party bosses to appear on the general election ballot, effectively bypassing voters in the primary election. Comp. ¶ 5-8. Plaintiffs filed a single count Complaint alleging that the Act violates their right to vote (although no Plaintiff alleged that he or she is a voter) provided for in Article III, Section 1 of the Illinois Constitution. Comp. ¶ 45-49. Intervenor-Defendant Welch moves to dismiss the Complaint.

Argument

A. Motion to Dismiss Standards.

The standards of review on a motion to dismiss are well established. A section 2-615 motion to dismiss tests the legal sufficiency of a complaint. *Vitro v. Mihelcic*, 209 Ill. 2d 76, 81 (2004). "In other words, the defendant in such a motion is saying, 'So what? The facts the plaintiff has pleaded do not state a cause of action against me.'" *Winters v. Wangler*, 386 Ill. App. 3d 788, 792 (2008). Under section 2-615, a court must determine "whether the allegations in the complaint, viewed in the light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief may be granted." *Doe-3 v. McLean County Unit District No. 5 Board of Directors*, 2012 IL 112479, ¶ 16. To survive a section 2-615 motion to dismiss, a "plaintiff must allege facts sufficient to bring a claim within a legally recognized cause of action." *Tedrick v. Community Resource Center, Inc.*, 235 Ill. 2d 155, 161 (2009). "In ruling on a section 2-615 motion, the court only considers (1) those facts apparent from the face of the pleadings, (2) matters subject to judicial notice, and (3) judicial admissions in the record." *Reynolds v. Jimmy John's Enterprises, LLC*, 2013 IL App (4th) 120139, ¶ 25.

A section 2-619 motion to dismiss admits the sufficiency of the complaint but asserts a defense outside the complaint that defeats it. *King v. First Capital Financial Services Corp.*, 215

Ill. 2d 1, 12 (2005). “Section 2–619(a)(1) permits a trial court to dismiss a claim for lack of subject-matter jurisdiction.” *R.L. Vollintine Const., Inc. v. Illinois Capital Dev. Bd.*, 2014 IL App (4th) 130824, ¶ 23.

When ruling on motions under section 2-615 and section 2-619, a court must accept as true all well-pleaded facts, as well as any reasonable inferences that may arise from them. *Doe ex rel. Ortega-Piron v. Chicago Board of Education*, 213 Ill. 2d 19, 28 (2004). Nevertheless, a court cannot rely on mere conclusions unsupported by specific facts. *Pooh-Bah Enterprises, Inc. v. County of Cook*, 232 Ill. 2d 463, 473 (2009). Because Defendant Welch’s Section 2-619 argument addresses this Court’s subject matter jurisdiction, this motion will address that argument first.

B. Plaintiffs’ Complaint Should be Dismissed Pursuant to Section 2-619(a)(1) of the Code of Civil Procedure Because this Court Lacks Subject Matter Jurisdiction.

For well over one-hundred years, the Supreme Court has dictated that “[a] circuit court does not have original jurisdiction over objections to nomination papers.” *Cinkus v. Stickney Mun. Officers Elec. Bd.*, 228 Ill.2d 200, 209 (2008); *Dilcher v. Schorik*, 207 Ill. 528, 529 (1904). Instead, “the legislature has vested the electoral boards, and not the courts, with original jurisdiction to hear such disputes.” *Cinkus*, 228 Ill.2d at 209; citing *Geer v. Kadera*, 173 Ill. 2d 398, 407 (1996); 10 ILCS 5/10-9 (designating electoral boards “for the purpose of hearing and passing upon the objector's petition”).

Article VI, Section 9 of the Illinois Constitution provides that “Circuit Courts shall have original jurisdiction of all justiciable matters except ... Circuit Courts shall have such power to review administrative action as provided by law.” Ill. Const. 1970, art. VI, § 9 (emphasis added). The Constitution “does not, however, confer any right to judicial review of final administrative decisions. The courts of this state are only empowered to review administrative actions ‘as

provided by law.” *People ex rel. Madigan v. Illinois Commerce Comm'n*, 2014 IL 116642, ¶ 9, quoting, Ill. Const. 1970, art. VI, § 6 (appellate court), § 9 (circuit court). The Illinois Supreme Court “views an electoral board as an administrative agency.” *Cooke v. Illinois State Bd. of Elections*, 2021 IL 125386, ¶ 49. The Supreme Court has stated a circuit court’s jurisdiction of an administrative decision is dependent upon strict compliance with procedures provided by the legislature.

When the legislature has, through law, prescribed procedures for obtaining judicial review of an administrative decision, a court is said to exercise “special statutory jurisdiction” when it reviews an administrative decision pursuant to the statutory scheme. Special statutory jurisdiction is limited to the language of the act conferring it. A court has no powers from any other source. A party seeking to invoke a court's special statutory jurisdiction must therefore comply strictly with the procedures prescribed by the statute. If the mode of procedure prescribed by statute is not strictly pursued, no jurisdiction is conferred on the court to review it. *Illinois Commerce Comm'n*, 2014 IL 116642, ¶ 9 (internal citations omitted)

The Constitution provides “[a] State Board of Elections shall have general supervision over the administration of the registration and election laws throughout the State. The General Assembly by law shall determine the size, manner of selection and compensation of the Board. Ill. Const. (1970), art III, § 5; *Cooke*, 2021 IL 125386, ¶ 48. The Constitution also provides “the General Assembly by law shall define permanent residence for voting purposes, insure secrecy of voting and the integrity of the election process, and facilitate registration and voting by all qualified persons.” *Id.* § 6.

Electoral Boards are administrative bodies created by the General Assembly in the Election Code for the sole purpose of conducting “administrative proceedings” regarding whether or not candidates’ nomination papers are valid, and whether their names should appear on the ballot. 10 ILCS 5/10-9; 10. The Code provides:

The electoral board shall take up the question as to whether or not the . . . nomination papers or petitions are in proper form, and whether or not they

were filed within the time and under the conditions required by law, . . .and in general shall decide whether or not the certificate of nomination or nominating papers or petitions on file are valid or whether the objections thereto should be sustained.

10 ILCS 5/10-10.

This Court should dismiss the Complaint for lack of subject matter jurisdiction because although the Complaint is styled as an “as applied” constitutional challenge to the recent legislative amendment to Section 8-17 of the Election Code, it is really an order seeking to preempt Plaintiffs’ expected objections to their nomination papers. “An ‘as-applied’ challenge requires a party to show that the statute violates the constitution as the statute applies to him.” *People by Foxx v. Agpawa*, 2018 IL App (1st) 171976, ¶ 32. The statute, however, has not yet been applied to any Plaintiff. Plaintiffs are all potential legislative candidates who have either filed, or express an intention to file, nomination papers with the Defendant Board to appear on the ballot in the November general election. The Defendant Board has already accepted, and counsel for the Board has stated that it will continue to accept any other, nomination papers filed on or before the June 3, 2024 deadline. And Plaintiffs Collazo, Koons and Krichner have yet to even file nomination papers as of the date of the filing of this motion. Plaintiffs are thus bringing an “as applied” challenge to a law that has not been applied to them.

Once Plaintiffs have filed their nomination papers, they become subject to the objection process set forth in Section 10-8 of the Election Code. 10 ILCS 5/10-8. In their prayer for relief, Plaintiffs seek an order from this Court “prohibiting” the Board from “denying” their petitions on the basis of the Act. In other words, Plaintiffs are asking this Court to prospectively order the Board to overrule any objections to their’ nomination papers even before they are filed. Granting this relief would violate the Supreme Court’s repeated directive that it is electoral boards, and not the circuit court, that has original jurisdiction to pass upon the validity of candidate nomination papers. Moreover, for reasons stated in greater detail below, it is not even within the Board’s

power to grant the relief to three of the four Plaintiffs (Collazo, Kirchner, Koons) because the Board is not the electoral board that would determine the validity of their nomination papers.

An additional jurisdictional problem with this purported “as applied” challenge are further demonstrated by the fact that other candidates (not plaintiffs here) may still file nomination papers before the June 3 deadline. What then is the Board to do with objections to those candidates? It is axiomatic that any relief from this Court would apply only to these plaintiffs:

If a plaintiff prevails in an as-applied claim, he may enjoin the objectionable enforcement of the enactment only against himself, while a successful facial attack voids the enactment in its entirety and in all applications. *Napleton v. Village of Hinsdale*, 229 Ill.2d 296, 306 (2008).

If Plaintiffs prevail in this Court, then the Board will be in a situation where it will be forced to overrule any objection over which it had jurisdiction to any of Plaintiffs’ nomination papers. What then becomes of the objector’s right to seek judicial review of the Board’s decision under Section 10-10.1 of the Election Code? The objector, whomever that may be, is not a party to this case and is statutorily entitled to the Board’s resolution of his or her objector’s petition and the right to seek judicial review.

Still more complicating is the fact that, because plaintiffs bring an “as applied” challenge instead of facial challenge, the objection process will apply, unfettered, to any other candidates who file pursuant to this process before the June 3 deadline. The Board will not be constrained by this Court’s ruling in objections to those candidates, and in fact, could result in decisions inconsistent or even directly contrary to this Court’s decision. That is precisely why the Supreme Court has long upheld the legislature’s decision to vest original jurisdiction to determine the validity of nomination papers with electoral boards, and not the circuit court.

This Court thus lacks jurisdiction to address this “as applied” challenge because neither the Board, nor anyone else, has applied the Act to them as of yet. The Board has accepted nomination papers from the only Plaintiff who has presented them, and has indicated that it will accept them from any other candidate (including the other Plaintiffs) who may timely present them. As a result, none of the Plaintiffs have had the Act “applied” to them. So, in reality, what Plaintiffs are seeking here, is an order to prevent anyone from *attempting* to apply the Act to them. This renders their Complaint premature, for several reasons:

1. Plaintiffs who have not filed nomination papers may decide not to;
2. Any Plaintiffs who do file nomination papers may not draw an objection;
3. Objections to three of the four plaintiffs will be heard by an electoral Board different from the Defendant Board;
4. Any objections may disqualify Plaintiffs on other grounds (such as an insufficient number of signatures);
5. The Board, if it reaches an objection made pursuant to the Act, may overrule any such objections to all candidates;
6. The Board may overrule the objection to some Plaintiffs, such as any who filed nomination papers prior to the effective date of the Act, and sustain the objections to other Plaintiffs (such as those filing after the Act’s effective date), meaning the Act was “applied” to some, but not all, Plaintiffs;
7. Any Plaintiffs to whom the Board “applies” the Act could be restored to the ballot pursuant to the judicial review process provided for in the Election Code.

Not only has the Supreme Court recognized that electoral boards, not courts, have original jurisdiction to hear challenges to nomination papers, but the Supreme Court has also recognized that the Election Code’s objection and judicial review process is an exclusive remedy. *Lara v. Schneider*, 75 Ill.3d 63 (1979)(candidate removed from the ballot sought leave mandamus to restore his name to the ballot). In *Lara*, the Supreme Court denied the petitioner’s *mandamus* request, concluding that: “*Mandamus* is, of course, not a permissible substitute for direct appeal.” *Id.* at 64. The Supreme Court has reiterated that decision in *Jackson v. Board of Election Commissioners for the City of Chicago, et al.*, 2012 IL 111928, ¶¶99-104; *see also Russo v. Village of Winfield*, 331 Ill.App.3d 111 (2nd Dist., 2002)(“[a]n action for a writ

of *mandamus* is therefore insufficient to vest the trial court's jurisdiction to review the merits of the electoral board's decision.”). Here too, if Plaintiffs are dissatisfied with the Board’s determination, they will have every right to seek judicial review.

The Court should recognize this case for what it is: an attempt to preemptively resolve an anticipated objection to their nomination papers. What Plaintiffs seek here is an order “*prohibiting* the Illinois State Board of Elections from *denying* Plaintiffs nomination papers...” Comp., p. 10 (emphasis added). This is precisely the relief an objector seeks in an objection with the Board: an order *denying* the candidate’s nomination papers. What Plaintiffs are really seeking from this Court is an order prohibiting the Board from ruling against them in a future objection. Not only is such an order premature, it is unfair to any future objector who is not a party to this case.

Moreover, neither injunctive relief nor mandamus should be a substitute for judicial review of an electoral board decision. Section 10-10.1 of the Election Code contains unique jurisdictional and timing requirements. First, the party seeking judicial review must file the petition within only five days of the board’s decision. 10 ILCS 5/10-10.1. The petitioner must serve the petition by registered or certified mail, as opposed to issuing a summons. *Id.* Next, that Section requires the circuit court to conduct a hearing on the petition within 30 days and to issue its decision “promptly.” *Id.* These provisions obviously further the urgency with which ballot related questions must be resolved because the election is always approaching. Complaints for injunctions or writs of mandamus, on the other hand, have no such constraints. This is precisely why the Supreme Court has recognized that the administrative and judicial review process set forth in the Election Code is an original and exclusive remedy to resolve which candidates will, and will not, appear on the ballot. *Cinkus*, 228 Ill. 2d at 209 (“A circuit court does not have

original jurisdiction over objections to nomination papers. The legislature has vested the electoral boards, and not the courts, with original jurisdiction to hear such disputes.”)

The Election Code establishes a process for expeditious, orderly, and, importantly, consistent resolution of challenges to candidates’ nomination papers. Candidates such as Bill Clinton, Barack Obama, Donald Trump, Joe Biden, and countless other federal, state, and local candidates, have all been subject to this process when their nomination papers were challenged. These Plaintiffs should be no different. The circuit court will not have jurisdiction over the issues raised in the Complaint until the administrative process provided by the Election Code has been exhausted and a party files for administrative review. The Complaint should be dismissed for lack of subject matter jurisdiction.

- C. This Court should dismiss Plaintiffs Collazo, Kunz, and Kircher from this lawsuit because their petitions will not be reviewed by Defendant Board.

This Court should dismiss Plaintiffs Collazo, Kunz, and Kircher from this lawsuit because although all General Assembly candidates file their nomination papers with the Defendant Board, the Board does not resolve objections to all candidates nomination papers. Section 10-9 of the Election Code sets forth which electoral board (based on the geography of the district) will adjudicate any objections to a candidate’s nomination papers. 10 ILCS 5/10-9. In this case, the State Board of Elections makes up the appropriate electoral board in only Representative District 57 (Plaintiff Behr), because it is the only district at issue in the Complaint with territory in more than one county. 10 ILCS 5/10-9. Both Representative Districts 8 (Collazo) and Representative District 31 (Kunz) contain territory within the City of Chicago, and therefore any objections to those Plaintiffs’ nomination papers would be heard by Municipal

Officers Electoral Board for the City of Chicago. *Id.*¹ Legislative District 13 (Kircher) contains territory exclusively within the City of Chicago, and therefore any objections to Plaintiff Kirchner's nomination papers would also be heard by Municipal Officers Electoral Board for the City of Chicago. *Id.*² In other words, the Defendant Board can neither *deny* nor *affirm* three of the four Plaintiffs' nomination papers because it lacks statutory authority to even take up the question. Even if this Court were to grant the relief Plaintiffs request — that the Defendant Board be prohibited from “denying” their nomination papers — that will not afford three of the four Plaintiffs the relief they seek. This Chicago Electoral Board would, in turn, not be bound by any decision from this Court. Plaintiffs Collazo, Kunz, and Kircher have therefore failed to state a claim against Defendants.

Plaintiffs' proposed Amended Complaint exacerbates the jurisdictional problem. In their proposed Amended Complaint, Plaintiffs seek to add the following additional plaintiffs:

1st Representative District: Camaxtle "Max" Olivo.

3rd Representative District: Juvandy Rivera.

4th Representative District: Nancy Rodriguez.

13th Representative District: Terry Nguyen Le.

19th Representative District: John Zimmers.

53rd Representative District: Ron Andermann.

1st Legislative District: Carlos Gonzalez.

¹ <https://www.elections.il.gov/ElectionOperations/2022StateRepresentativeDistrictMaps.aspx> (last visited May 29, 2024). Illinois courts may take judicial notice of facts that are readily verifiable by referring to sources of indisputable accuracy, including governmental websites. *People v. Johnson*, 2021 IL 125738, ¶ 54 (last visited May 29, 2024).

² <https://www.elections.il.gov/ElectionOperations/2022StateSenateDistrictMaps.aspx> (last visited May 29, 2024).

The Defendant Board will consider objections to *none* of these candidates. Instead, the Chicago Board of Elections would consider any objections filed in the 1st, 3rd, 4th and 13th Representative Districts. The Cook County Officers Electoral Board would be the electoral board taking up objections filed in the 53rd Representative District and the 1st Legislative District. 10 ILCS 5/10-9(2.5); 9(6).

As a result, *three* different electoral boards (Defendant State Board, City of Chicago, and Cook County) will adjudicate any challenges to Plaintiffs' and proposed Plaintiffs' nomination papers. Two of the boards are not parties to this case. The Defendant State Board will adjudicate objections concerning only three of the total eleven potential plaintiffs. As result, even if ordered to by this Court, the Defendant Board cannot provide most of the Plaintiffs the relief they seek – a place on the ballot. Instead, each candidate, like every other candidate for public office in the State, will first have to go through the administrative process that the Supreme Court has directed is the exclusive process. This Court should let that process play out as it does in every other election and dismiss the Complaint.

D. Plaintiffs Have No Constitutional Right to Appear on the Ballot Through the Post-Primary Appointment Process, and as result, Their Complaint Should be Dismissed Pursuant to Section 2-615 of the Code of Civil Procedure.

Plaintiffs' Complaint should be dismissed because they have no constitutional right to have their names appear on the ballot through the post-primary appointment process recently repealed by the legislature. Plaintiffs allege they are “prospective candidates” designated to fill vacancies in nomination by their relevant Republican committees. Comp., ¶ 5-9. Plaintiffs sole count, however, alleges P.A. 103-0586 violates Plaintiffs' *right to vote* set forth in Article III, section 1, of the 1970 Illinois Constitution. But the rights of voters are not necessarily the same as the rights of candidates.

The Supreme Court has repeatedly recognized that “[t]hough ballot access is a substantial right, that right is circumscribed by the legislature's authority to regulate elections.” *Corbin v. Schroeder*, 2021 IL 127052, ¶ 38; *Jackson-Hicks v. East St. Louis Bd. of Elec. Comm’rs*, 2015 IL 118929, ¶ 32. In both of those cases, the Supreme Court disqualified candidates whose nomination papers contained fewer petition signatures than the statutory minimum. *Corbin*, 2021 IL 127052, ¶ 46; *Jackson-Hicks*, 2015 IL 118929, ¶ 44. In both cases, the Supreme Court required strict, rather than substantial, compliance with the minimum signature threshold. *Id.*

These cases demonstrate that while ballot access is a substantial right, it is not a fundamental right. Had the Supreme Court believed that ballot access was a fundamental right, it would have applied strict scrutiny to these election related laws. The Court did not do so in either case. Strict scrutiny, of course, requires the State to use the least restrictive means possible to achieve its goal, as Plaintiffs urge this Court to hold here. Compl. ¶ 47. If Plaintiffs are correct, then the Supreme Court made the wrong decision in both *Corbin* and *Jackson-Hicks* because substantial compliance would have been less restrictive than strict compliance.

Like all ballot access plaintiffs, Plaintiffs here are trying to conflate their ballot access claim with a voting rights claim. Plaintiffs are incorrect. Illinois courts have long rejected this contention. *See Patton v. Illinois State Bd. of Elections*, 2018 IL App (1st) 180425-U:

We reject Patton's suggestion that the circuit court's finding that his nominating petitions were invalid under section 8-8 of the Election Code implicates a fundamental right and the application of strict scrutiny.

In fact, the Appellate Court has specifically rejected the very argument that Plaintiffs make here: that the Supreme Court’s decision in *Tully v. Edgar*, 171 Ill.2d 291 (1996), dictates that any law impacting the right to vote should be subjected to strict scrutiny. *See Gercone v. Cook County Officers Elec. Bd.*, 2022 IL App. (1st) 220724, ¶ 54:

Courts have nevertheless drawn a distinction between laws that *impinge* on the right to vote, and are thus subject to strict scrutiny, and laws that merely *affect* the right to vote, and are therefore only subject to rational basis analysis.

citing *Puffer Hefty School Dist. No. 69 v. DuPage County Regional Bd. of School Trustees; Orr v. Edgar*, 298 Ill. App. 3d 432, 437 (1st 1998). This is equally applicable to laws that have the effect, like this one, of narrowing the field of candidates who will appear on the ballot. *Nader v. Keith*, 2004 U.S. Dist. LEXIS 16660 (N. D. Ill. 2004), *aff'd* 937 F.2d 415 (“the mere fact that a state's system creates hurdles which tend to limit the field of candidates from which voters can choose by itself does not require that regulations be narrowly tailored to advance a compelling state interest.”); see also *Bullock v. Carter*, 405 U.S. 134, 143 (1972) (“The fact that a state's system creates hurdles which tend to limit the field ... does not require that regulations be narrowly tailored to advance a compelling state interest.”).

The Supreme Court itself has subsequently limited its holding in *Tully*. In 1997, the Court stated that in *Tully* the harm to voters was “the act in question violated the electorate's right to vote, in that it nullified the voters' choice by eliminating, midterm, the right of the elected officials to serve out the balance of their terms.” *E. St. Louis Fed'n of Teachers, Local 1220, Am. Fed'n of Teachers, AFL-CIO v. E. St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 414 (1997). In this case, however, no vote has been cast for any candidate nor has anyone been elected—including in the primary because not a single person sought the primary nomination in any of Plaintiffs’ districts. The voters effectively abdicated an interest in voting for a Republican candidate when no one sought the nomination in the primary. The true parties at interest here are therefore not the voters, but the local party bosses and potential candidates.

In weighing Illinois ballot access laws, the U.S. Supreme Court has recognized that a “severe” restriction on ballot access must be “narrowly drawn to advance a state interest of compelling importance (*Norman v. Reed*, 502 U.S. 279, 289 (1992)), but “reasonable,

nondiscriminatory restrictions” are generally justified by the state's “important regulatory interests.” *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768, 773 (7th Cir.1997).

Turning to the Act, it cannot be said to be a severe restriction on ballot access. It applies equally to vacancies in nomination for seats in the General Election for both the Democratic and Republican parties. Each Plaintiff could have, but chose not to, run in the primary election. In fact, not a single voter in each of Plaintiffs’ district filed nomination papers to run in the Republican primary, which is why Plaintiffs are now seeking to be slated to file a vacancy in nomination. None of the Plaintiffs have asserted that they are unable to run as independent or new party candidates, but even if they cannot, they can certainly run as write-in candidates. 10 ILCS 5/17-16.1.

Instead, the Act imposes a reasonable restriction on ballot access. Any candidate seeking to carry an established party’s banner in the general election must first prevail in the party’s primary election and run the risk that their party’s voters may choose someone else. This not only ensures that a party’s primary voters, not party bosses, will have the ultimate say in who represents the party in the general election, but it also gives voters dissatisfied with the results of the primary election a real chance to organize an alternative in the form of an independent or third-party candidate. 10 ILCS 5/10-2; 10-3.

Prior to the Act, the vacancy in the nomination process effectively stifled the opportunity for voters to support either independent or third-party candidates. Both independent and new party candidates must file their nomination papers no later than 134 days prior to the general election. 10 ILCS 5/10-6. This year, that date is June 24, 2024. In the ordinary course, if a group of voters is dissatisfied with the winner of their party’s primary election, they have more than three months to organize, identify a candidate, and file the necessary nomination papers with the Board in order to qualify for the general election ballot.

If, however, the same group of voters is dissatisfied with the person chosen by the party bosses through the vacancy in nomination process, they have to do the same amount of work in just three weeks. As Plaintiffs recognize, under the vacancy in nomination process, chosen candidates have to file their nomination papers no later than June 3, 2024. Voters dissatisfied with that selection have only three weeks until the June 24, 2024, deadline for independent and new party filings. Not only that, but they have to file *three times* more petition signatures than candidates who run in the primary election or are chosen by party leaders to fill vacancies in nomination: 3,000 for the Senate and 1,500 for the House. 10 ILCS 5/10-3. By eliminating this post-primary selection process, the Act thus has the effect of encouraging, rather than limiting, alternative choices. Giving voters a realistic opportunity to consider independent and third-party candidates can hardly be called unreasonable.

The Act is non-discriminatory – it applies to Democrats and Republicans equally. While there are more Republican vacancies this year, it could be the opposite in the next election cycle. While Plaintiffs may decry the Act as some sort of political dirty trick, that does not make the Act unconstitutional. In upholding an Illinois law that had the effect of disqualifying a candidate, the 7th Circuit Court of appeals noted that “[p]olitics is a rough-and-tumble game, where hurt feelings and thwarted ambitions are a necessary part of robust debate.” *Jones v. Markiewicz-Qualkenbush*, 892 F.3d 935, 939 (7th Cir. 2018). The Court went on, through Judge Easterbrook, to say that “[i]t is impossible to imagine the judiciary attempting to decide when a politically retaliatory step goes ‘too far’ without displacing the people's right to govern their own affairs and making the judiciary just another political tool for one faction to wield against its rivals.” *Id.* Finally, the Court concluded “[t]he price of political dirty tricks must be collected at the ballot box rather than the courthouse.” *Id.*

This case is assuredly a ballot access case rather than a voter rights case. Plaintiffs seek *exactly* the same thing that the plaintiffs sought in *Corbin*, *Jackson-Hicks*, and all these other cases: to have their names appear on the ballot. This case impacts the right to vote in *exactly* the same way as the challenged laws did in all of those cases: it narrows the field of candidates appearing on the ballot. In *Corbin*, the Supreme Court concluded: “[t]hough we remain cognizant that ballot access is a substantial right, we believe the best safeguard of that right is fidelity to the Election Code ...” *Corbin*, 2021 IL 127052, ¶ 46. This Court should follow the Supreme Court’s lead and show the same fidelity to the Election Code.

III. Conclusion.

WHEREFORE, Petitioner, Emanuel “Chris” Welch, prays that this Honorable Court grant his Motion to Dismiss, dismiss the Complaint with prejudice, and provide such other relief as may be just and proper.

Respectfully submitted,
Emanuel “Chris” Welch

/s/ Michael J. Kasper

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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
 SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**Plaintiffs' Amended Combined Motion for Summary Judgment and
 Permanent Injunction, Statement of Facts, and Memorandum of Law**

Motion

Plaintiffs Leslie Collazo, Daniel Behr, James Kirchner, Carl Kunz, Camaxtle
 “Max” Olivo, Juvandy Rivera, Nancy Rodriguez, Terry Nguyen Le, John Zimmers,
 Ron Andermann, Carlos Gonzalez, Ashley Jensen, Teresa Alexander, and Donald
 Puckett move for summary judgment against Defendants, the Illinois State Board
 of Elections and the Attorney General, and Intervenor-Defendant Emanuel “Chris”
 Welch under 735 ILCS 5/2-1005. Plaintiffs also move for a permanent injunction
 prohibiting Defendants from applying the provision of Illinois Public Act No. 103-
 0586 that eliminates the slating process for General Assembly elections as a basis
 for denying Plaintiffs’ nomination petitions for the November 2024 general election,
 and from otherwise using that provision to prevent Plaintiffs from being listed as
 candidates on the November 2024 general election ballot.

Plaintiffs' Statement of Facts

A. P.A. 103-0586's Amendment to the Illinois Election Code

1. For decades, the Illinois Election Code provided a means for the state's political parties to fill a vacancy on the general election ballot where no candidate had run a primary election candidate for a General Assembly seat up for election (a process generally known as "slating"). 10 ILCS 5/8-17 (2023).

2. Until recently, the Election Code provided that "the legislative or representative committee of [a political] party" could "nominate[] a candidate to fill [such a] vacancy in nomination within 75 days after the date of the general primary election," using the procedures outlined in Section 7-61 of the Election Code. 10 ILCS 5/8-17 (2023).

3. Those procedures required that "[i]f the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was nominated as a write-in candidate for such office," the vacancy could be filled by slating. The prospective candidates, once designated by the appropriate committee, must gather voters' signatures on nomination petitions and submit them to the Illinois State Board of Elections, just like any other would-be candidates. 10 ILCS 5/7-61.

4. On May 3, 2024, Illinois Senate Bill 2412 was enacted as P.A. 103-0586. *Bill Status of SB2412*, Illinois General Assembly.¹

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<https://www.ilga.gov/legislation/billstatus.asp?DocNum=2412&GAID=17&GA=103&>

5. That new legislation, among other things, strikes the provision in 10 ILCS 5/8-17 that allowed party committees to slate a general-election candidate for State Representative and State Senate as outlined in 10 ILCS 5/7-61. Instead, 10 ILCS 5/8-17 now provides, in relevant part, that “if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.” The legislation purports to be effective immediately. *Full Text of SB2412*, Illinois General Assembly.²

6. By eliminating the provision in 10 ILCS 5/8-17 allowing slating while keeping intact the text of 10 ILCS 5/7-61, the Act immediately eliminates the slating process for General Assembly races but allows slating in other races. *Id.*

7. This legislation came about through the notorious “gut and replace” procedure well known to observers of the Illinois General Assembly. SB 2412 was a dormant bill that would have amended the Children and Family Services Act until, on May 1, 2024, its entire text was removed and replaced with the anti-slating provisions. It was passed by the House that same day, passed by the Senate the next day (May 2), and signed by the governor the day after that (May 3). *Bill Status of SB2412*, Illinois General Assembly.

[DocTypeID=SB&LegID=147311&SessionID=112&SpecSess=](#) (last visited May 29, 2024).

²

<https://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=112&GA=103&DocTypeId=SB&DocNum=2412&GAID=17&LegID=147311&SpecSess=&Session=> (last visited May 29, 2024).

B. Plaintiffs seek to be listed as candidates for the 2024 general election using the process under 10 ILCS 5/8-17 and 10 ILCS 5/7-61.

8. The 2024 Illinois primary election was held on March 19, 2024. *Schedule of Future Elections*, Illinois Board of Elections.³

9. Under the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 in effect at that time, the 75-day process to fill vacancies in nomination through the slating process began that same day and was to end on June 3, 2024. The Act, enacted and effective May 3, 2024, went into effect after the slating process had begun, but before the June 3, 2024, filing deadline.

a. Plaintiff Leslie Collazo – 8th Representative District

10. No Republican filed to run in the March 19, 2024, primary election for the 8th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁴

11. Plaintiff Collazo is seeking to fill the Republican vacancy in nomination for the 8th Representative District under the process set forth in the versions of 10

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<https://www.elections.il.gov/NewDocDisplay.aspx?%2fM0cs48zOKVZyk9eAbpEoxjoGz9b5YaGE%2bEuf7JVd2Tlx2Mybp2RbacEJVh848tnFOLoTd3G4cRsCxSj%2bcrL1MmhG9QsYgJ9ifsBkt0LQDHPgTikai%2bSw%2floUwIYexDwJVzxKmV1ygnKHlghazVVU7BWagSiPTO0SPdInB2yk31mQ6lkqdZ0pQ%3d%3d> (last visited May 29, 2024).

4

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=zeMhE7Thq8AAevIiBoVVuQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment.

Declaration of Leslie Collazo, ¶5, Exhibit A. The Republican Representative Committee for the 8th Representative District designated her to fill the vacancy in nomination on April 7, 2024. *Id.* ¶4. Plaintiff Collazo then began collecting signatures of Republican voters in the 8th Representative District for her nomination petition. *Id.* ¶6.

12. When P.A. 103-0586 went into effect on May 3, Plaintiff Collazo had not yet filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

13. Only one candidate, La Shawn Ford, ran in the March 29, 2024, Democratic primary for 8th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁵ Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁶

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=I9Rl8zYzSqBPMN22oZGJRA%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

b. Plaintiff Daniel Behr – 57th Representative District

14. No Republican filed to run for the March 2024 primary election for the 57th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁷

15. Plaintiff Behr is seeking to fill the Republican vacancy in nomination for the 57th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Daniel Behr, ¶5, Exhibit B. The Republican Representative Committee for the 57th Representative District designated him to fill the vacancy in nomination on March 19, 2024. *Id.* ¶4. Plaintiff Behr then began collecting signatures of Republican voters in the 57th Representative District for his nomination petition. *Id.* ¶6.

16. After finding out about SB 2412 when it passed the House on May 1, 2024, Plaintiff Behr scrambled to put together his nomination petition. He sent an agent from Northbrook to Springfield, where the agent attempted to file his petition with the Illinois Board of Elections on May 2, 2024, arriving at approximately 4:40 p.m. *Id.* ¶¶ 8-9. The Board closed at 4:30 p.m., however, so his agent was unable to file his petition that day. *Id.* ¶9. Earlier in the day, an agent of Behr had requested that

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=aF3QHlbFazn%2fI3M0mxVaOQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3a tac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

the Board remain open until 5:00 p.m. to accommodate his filing, but that request was denied. *Id.* ¶9.

17. Plaintiff Behr filed his nomination petition at 8:41 a.m. the next day, May 3, 2024—the same day P.A. 103-0586 was enacted into law. *Id.* ¶9.

18. Without the threat of P.A. 103-0586 preventing Plaintiff Behr’s candidacy, he would not have attempted to file his petition on May 2, 2024, and ultimately on May 3, 2024. *Id.* ¶12. He would have spent more time obtaining signatures, working up until the June 3, 2024, deadline to insulate his petition for candidacy from any challenge before the Board of Elections. *Id.* ¶12.

19. Only one candidate, Tracy Katz Muhl, ran in the March 29, 2024, Democratic primary for 57th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁸

20. Currently, the website of the Board of Elections lists Ms. Katz Muhl as the Democratic candidate and Plaintiff Behr as the Republican candidate for the 57th Representative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁹

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR2Cfb7mGVsUhY5%2f8M4vtZyk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=tZOmz8ZzgXgdcenGiSiKiA%3d%3d&Status=P2wRQXkiF0o%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

c. Plaintiff James Kirchner – 13th Legislative District

21. No Republican filed to run in the March primary for the 13th Legislative District, and no person was nominated as a write-in candidate for that office.

Candidate List General Primary – 3/19/2024, Illinois State Board of Elections.¹⁰

22. Plaintiff Kirchner is seeking to fill the Republican vacancy in nomination for the 13th Legislative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of James Kirchner, ¶5, Exhibit C. The Republican Legislative Committee for the 13th Legislative District designated him to fill the vacancy on April 18, 2024. *Id.* ¶4. Plaintiff Kirchner then began collecting signatures of Republican voters in the 8th Representative District for his nomination petition. *Id.* ¶6.

23. When P.A. 103-0586 went into effect on May 3, 2024, Plaintiff Kirchner had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

24. Only one candidate, Robert Peters, ran in the March 29, 2024, Democratic primary for 13th Legislative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹¹ Currently, the website of the Board of Elections

¹⁰

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=dPAXH%2beT4pE6TCbR3Av%2fpw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfgozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹¹

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=XmLrbPr2rU0jTLF%2f7%2fJHNA%3d%3d> (last visited May 29, 2024).

lists him as the only candidate for the 13th Legislative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹²

d. Plaintiff Carl Kunz – 31st Representative District

25. No Republican filed to run in the March primary for the 31st Representative District, and no person was nominated as a write-in candidate for that office.

Candidate List General Primary – 3/19/2024, Illinois State Board of Elections.¹³

26. Plaintiff Kunz is seeking to fill the Republican vacancy in nomination for the 31st Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Chris Kunz, ¶5, Exhibit D. The Republican Representative Committee for the 31st Representative District designated him to fill the vacancy in nomination on April 7, 2024. *Id.* ¶4. After being designated, Plaintiff Kunz began collecting signatures of Republican voters in the 8th Representative District for his nomination petition. *Id.* ¶6.

¹²

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=ANNcUH%2b3wyFPziS7iBWAYQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹³

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=3I7dBOU9LZr63O6ODv6Bmw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

27. When P.A. 103-0586 went into effect on May 3, 2024, Plaintiff Kunz had not yet filed his nomination petition for candidacy with the Illinois Board of Elections.

Id. ¶10.

28. Two candidates ran in the March 29, 2024, Democratic primary for 31st Representative District: Michael Crawford defeated Mary Flowers. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹⁴ Currently, the website of the Board of Elections lists Crawford as the only candidate for the 31st Representative District for the November 5, 2024, General Election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹⁵

e. Plaintiff Camaztle “Max” Olivo – 1st Representative District

29. No Republican filed to run in the March 19, 2024, primary election for the 1st Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.¹⁶

¹⁴

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FRwfnukmFiAy%2bbw26pdUB0bw%3d> (last visited May 29, 2024).

¹⁵

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=y3gTaW7hEnJ1aBz3cuul8w%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

¹⁶

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=rUgUgGpZfqlvTXcGdKTTsg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

30. Plaintiff Olivo is seeking to fill the Republican vacancy in nomination for the 1st Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Camaztle "Max" Olivo, ¶5, Exhibit E. The Republican Representative Committee for the 1st Representative District designated him to fill the vacancy in nomination on April 5, 2024. *Id.* ¶4. Plaintiff Olivo then began collecting signatures of Republican voters in the 1st Representative District for his nomination petition. *Id.* ¶6.

31. When P.A. 103-0586 went into effect on May 3, Plaintiff Olivo had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

32. Only one candidate, Aaron M. Ortiz, ran in the March 29, 2024, Democratic primary for 1st Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.¹⁷ Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.¹⁸

¹⁷

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

¹⁸

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=HKVNpyOAQ4LduWC%2b11pH%2fQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

f. Plaintiff Juvandy Rivera – 3rd Representative District

33. No Republican filed to run in the March 19, 2024, primary election for the 3rd Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.¹⁹

34. Plaintiff Rivera is seeking to fill the Republican vacancy in nomination for the 3rd Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Juvandy Rivera, ¶5, Exhibit F. The Republican Representative Committee for the 3rd Representative District designated him to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Rivera then began collecting signatures of Republican voters in the 3rd Representative District for his nomination petition. *Id.* ¶6.

35. When P.A. 103-0586 went into effect on May 3, Plaintiff Rivera had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

36. Only one candidate, Eva-Dina Delgado, ran in the March 29, 2024, Democratic primary for 3rd Representative District. *Election Results 2024 General*

¹⁹

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=6nL0uuStZni8ntJr8Xi%2baQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

Primary, Illinois State Board of Elections.²⁰ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.²¹

g. Plaintiff Nancy Rodriguez – 4th Representative District

37. No Republican filed to run in the March 19, 2024, primary election for the 4th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.²²

38. Plaintiff Rodriguez is seeking to fill the Republican vacancy in nomination for the 4th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Nancy Rodriguez, ¶5, Exhibit G. The Republican Representative Committee for the 4th Representative District designated her to fill the vacancy in

²⁰

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

²¹

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=PcBV1XCfIGzGLnxKOfhZxg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

²²

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=QN4eJ6W4k%2b3z3%2fLUzPFc7w%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

nomination on April 2, 2024. *Id.* ¶4. Plaintiff Rodriguez then began collecting signatures of Republican voters in the 4th Representative District for her nomination petition. *Id.* ¶6.

39. When P.A. 103-0586 went into effect on May 3, Plaintiff Rodriguez had not yet filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

40. Two candidates ran in the March 29, 2024, Democratic primary for 4th Representative District: Lilian Jimenez defeated Kirk J. Ortiz. *Election Results 2024 General Primary*, Illinois State Board of Elections.²³ Thus, the Board of Elections website currently lists Lilian Jimenez as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.²⁴

h. Plaintiff Terry Nguyen Le – 13th Representative District

41. No Republican filed to run in the March 19, 2024, primary election for the 13th Representative District, and no person was nominated as a write-in candidate

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

²⁴

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=AvoVVFwNZViBbuP7bBDfGg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.²⁵

42. Plaintiff Nguyen Le is seeking to fill the Republican vacancy in nomination for the 13th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Terry Nguyen Le, ¶5, Exhibit H. The Republican Representative Committee for the 13th Representative District designated him to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Nguyen Le then began collecting signatures of Republican voters in the 13th Representative District for his nomination petition. *Id.* ¶6.

43. When P.A. 103-0586 went into effect on May 3, Plaintiff Nguyen Le had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

44. Only one candidate, Hoan Huynh, ran in the March 29, 2024, Democratic primary for 13th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.²⁶ Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=dPAXH%2beT4pHktjZIM4UHFQ%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3a tac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

²⁶

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.²⁷

i. Plaintiff John Zimmers – 19th Representative District

45. No Republican filed to run in the March 19, 2024, primary election for the 19th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.²⁸

46. Plaintiff Zimmers is seeking to fill the Republican vacancy in nomination for the 19th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of John Zimmers, ¶5, Exhibit I. The Republican Representative Committee for the 19th Representative District designated him to fill the vacancy in nomination on April 5, 2024. *Id.* ¶4. Plaintiff Zimmers then began collecting signatures of Republican voters in the 19th Representative District for his nomination petition. *Id.* ¶6.

²⁷

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=ANNcUH%2b3wyEQL5Xu64tAPg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

²⁸

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=84vzC6KQN7mOgOerw8MhAg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

47. When P.A. 103-0586 went into effect on May 3, Plaintiff Zimmers had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.*

¶10.

48. Only one candidate, Lindsey Lapointe, ran in the March 29, 2024, Democratic primary for 19th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.²⁹ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³⁰

j. Plaintiff Ron Andermann – 53rd Representative District

49. No Republican filed to run in the March 19, 2024, primary election for the 53rd Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.³¹

²⁹

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR4Fu5cxamu0awn%2bLrIqClxk%3d> (last visited May 29, 2024).

³⁰

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=2%2bJQAKeSI46NC7zszafkJA%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

³¹

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=DVICa3zcXp1SIvrgFJBYmg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

50. Plaintiff Andermann is seeking to fill the Republican vacancy in nomination for the 53rd Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Ron Andermann, ¶5, Exhibit J. The Republican Representative Committee for the 53rd Representative District designated him to fill the vacancy in nomination on April 14, 2024. *Id.* ¶4. Plaintiff Andermann then began collecting signatures of Republican voters in the 53rd Representative District for his nomination petition. *Id.* ¶6.

51. When P.A. 103-0586 went into effect on May 3, Plaintiff Andermann had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

52. Only one candidate, Mark L. Walker, ran in the March 29, 2024, Democratic primary for 19th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.³² Thus, the Board of Elections website currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³³

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FR2Cfb7mGVsUhY5%2f8M4vtZyk%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=tZOmz8ZzgXjYJZMg%2fott6w%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

k. Plaintiff Carlos Gonzalez – 1st Legislative District

53. No Republican filed to run in the March 19, 2024, primary election for the 1st Legislative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.³⁴

54. Plaintiff Gonzalez is seeking to fill the Republican vacancy in nomination for the 1st Legislative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Carlos Gonzalez, ¶5, Exhibit K. The Republican Representative Committee for the 1st Legislative District designated him to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Gonzalez then began collecting signatures of Republican voters in the 1st Legislative District for his nomination petition. *Id.* ¶6.

55. When P.A. 103-0586 went into effect on May 3, Plaintiff Gonzalez had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

56. Only one candidate, Javier Loera Cervantes, ran in the March 29, 2024, Democratic primary for 1st Legislative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.³⁵ Thus, the Board of Elections website

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=rUgUgGpZfqmZGQKj9QnEyg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

³⁵

<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2b>

currently lists him as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³⁶

1. Plaintiff Ashley Jensen – 31st Legislative District

57. No Republican filed to run in the March 19, 2024, primary election for the 31st Legislative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.³⁷

58. Plaintiff Jensen is seeking to fill the Republican vacancy in nomination for the 31st Legislative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Ashley Jensen, ¶5, Exhibit L. The Republican Representative Committee for the 31st Legislative District designated her to fill the vacancy in nomination on April 2, 2024. *Id.* ¶4. Plaintiff Jensen then began collecting signatures of Republican voters in the 31st Legislative District for her nomination petition. *Id.* ¶6.

[uidMSDY%3d&OfficeType=XmLrbPr2rU0jTLF%2f7%2fJHNA%3d%3d](#) (last visited May 29, 2024).

³⁶

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=HKVNpyOAAQ4J62hFuY3RhHg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

³⁷

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=3I7dBOU9LZrwMEgrWF7rg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4yklgT1> (last visited May 29, 2024).

59. When P.A. 103-0586 went into effect on May 3, Plaintiff Jensen had not yet filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

60. Only one candidate, Mary Edly-Allen, ran in the March 29, 2024, Democratic primary for 31st Legislative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.³⁸ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.³⁹

m. Plaintiff Teresa Alexander – 50th Representative District

61. No Republican filed to run in the March 19, 2024, primary election for the 50th Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁴⁰

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=XmLrbPr2rU0jTLF%2f7%2fJHNA%3d%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=y3gTaW7hEnIL%2bMoH2p1E9Q%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=DVICa3zcXp0iyHHD30AnDw%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

62. Plaintiff Alexander is seeking to fill the Republican vacancy in nomination for the 50th Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Teresa Alexander, ¶5, Exhibit M. The Republican Representative Committee for the 50th Representative District designated her to fill the vacancy in nomination on May 13, 2024. *Id.* ¶4. Plaintiff Alexander then began collecting signatures of Republican voters in the 50th Representative District for her nomination petition. *Id.* ¶6.

63. When P.A. 103-0586 went into effect on May 3, Plaintiff Alexander had not yet been designated to fill the vacancy in the 50th Representative District and had not filed her nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

64. Only one candidate, Barbara Hernandez, ran in the March 29, 2024, Democratic primary for 50th Representative District. *Election Results 2024 General Primary*, Illinois State Board of Elections.⁴¹ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁴²

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FRwfnukmFiAy%2bbw26pdUB0bw%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=AvoVVFwNZViFaRyizdx35w%3d%3d&Status=P2wRQXk>

n. Plaintiff Donald Puckett – 43rd Representative District

65. No Republican filed to run in the March 19, 2024, primary election for the 43rd Representative District, and no person was nominated as a write-in candidate for that office. *Candidate List General Primary – 3/19/2024*, Illinois State Board of Elections.⁴³

66. Plaintiff Puckett is seeking to fill the Republican vacancy in nomination for the 43rd Representative District under the process set forth in the versions of 10 ILCS 5/8-17 and 10 ILCS 5/7-61 that were in effect until the Act's enactment. Declaration of Donald Puckett, ¶5, Exhibit N. The Republican Representative Committee for the 43rd Representative District designated him to fill the vacancy in nomination on April 20, 2024. *Id.* ¶4. Plaintiff Puckett then began collecting signatures of Republican voters in the 43rd Representative District for his nomination petition. *Id.* ¶6.

67. When P.A. 103-0586 went into effect on May 3, Plaintiff Puckett had not yet filed his nomination petition for candidacy with the Illinois Board of Elections. *Id.* ¶10.

68. Only one candidate, Anna Moeller, ran in the March 29, 2024, Democratic primary for 43rd Representative District. *Election Results 2024 General Primary*,

[iFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1](#) (last visited May 29, 2024).

⁴³

<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=rfZ%2buidMSDY%3d&OfficeID=E5xug6YIjHg1D62XqY1FOg%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

Illinois State Board of Elections.⁴⁴ Thus, the Board of Elections website currently lists her as the only candidate for that district for the November 2024 general election. *Candidate List General Election – 11/5/2024*, Illinois State Board of Elections.⁴⁵

Memorandum of Law

Summary Judgment Standard

Summary judgment is appropriate “if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” 735 ILCS 5/2-1005(c). Inferences may be drawn from undisputed facts, and summary judgment should be denied only where reasonable persons could draw divergent inferences from the undisputed facts. *Pyne v. Witmer*, 129 Ill. 2d 351, 358 (1989). General assertions unsupported by any evidentiary facts are insufficient to raise a triable issue as against uncontroverted evidentiary matter. *Purdy Co. of Illinois v. Transportation Ins. Co.*, 209 Ill. App. 3d 519, 529 (1st Dist. 1991).

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<https://www.elections.il.gov/ElectionOperations/ElectionVoteTotals.aspx?ID=rfZ%2buidMSDY%3d&OfficeType=TPsWaFcg2f%2bZHFrYI%2b6FRwfnukmFiAy%2bbw26pdUB0bw%3d> (last visited May 29, 2024).

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<https://www.elections.il.gov/ElectionOperations/CandidateList.aspx?ElectionID=9huvqbsiUWA%3d&OfficeID=PcBV1XCflGwyMxQSywvLkA%3d%3d&Status=P2wRQXkiFoo%3d&BallotGroup=kfqozmMO1fA%3d&QueryType=xF443FTCAJbIL3atac%2fUjEg7Y4ykgT1> (last visited May 29, 2024).

Argument

“To be entitled to a permanent injunction, the party seeking the injunction must demonstrate (1) a clear and ascertainable right in need of protection, (2) that he or she will suffer irreparable harm if the injunction is not granted, and (3) that no adequate remedy at law exists.” *Swigert v. Gillespie*, 2012 IL App (4th) 120043, P27.

I. Plaintiffs are entitled to a permanent injunction.

A. Plaintiffs have a certain and clearly ascertainable right that needs protection.

For the same reasons set forth in their motion for preliminary injunction, Plaintiffs have a certain and clearly ascertainable right that needs protection. Plaintiffs sought to fill a vacancy as Republican candidates on the November 2024 general election ballot through the slating process set forth in 10 ILCS 5/8-17. With the exception of Plaintiff Alexander, at the time the respective Republican committees nominated them, the Election Code permitted plaintiffs to use the slating process. SOF 1-5, 11, 16, 22, 26, 30, 34, 38, 42, 46, 50, 54, 58, 62, 66. The enforcement of P.A. 103-0586 against Plaintiffs in this election would deprive them of their ability to use the slating process to fill a vacancy for the Republican candidates in the respective districts for an office in the General Assembly on the 2024 general election ballot. SOF 12, 17, 23, 27, 31, 35, 39, 43, 47, 51, 55, 59, 63, 67.

B. Plaintiffs will suffer irreparable injury without the protection of the injunction.

For the same reasons set forth in their motion for preliminary injunction, Plaintiffs will suffer an irreparable injury without a permanent injunction.

“[I]rreparable harm occurs only where the remedy at law is inadequate; that is,

where monetary damages cannot adequately compensate the injury, or the injury cannot be measured by pecuniary standards. *Best Coin-Op, Inc. v. Old Willow Falls Condominium Asso.*, 120 Ill. App. 3d 830, 834 (1st Dist. 1983). Because of the Act, Plaintiffs will not be able to fill the vacancies on the November 2024 general election ballot. Once the election passes, Plaintiffs' opportunity to appear as candidates for the November 2024 election will be gone forever, and monetary damages will not be able to compensate Plaintiffs for that lost opportunity.

C. Plaintiffs have no adequate remedy at law for their injuries.

There is no adequate remedy at law for the injury Plaintiffs would suffer from being unable to appear on the November 2024 general election ballot. Again, monetary damages are inadequate.

II. The application of the Act to prevent Plaintiffs from using the slating process to fill vacancies in General Assembly races on the 2024 general election ballot violates their constitutional right to access the ballot, protected as part of the right to vote.

The elimination of the slating process for General Assembly candidates in the middle of the 2024 election season violates Plaintiffs' constitutional right to access the ballot, protected as part of the right to vote under Article III, Section 1 of the Illinois Constitution.

The Illinois Supreme Court has recognized that the right to vote is a fundamental constitutional right, essential to our system of government. *Fumarolo v. Chicago Board of Education*, 142 Ill. 2d 54, 74 (1990). "Legislation that affects any stage of the election process implicates the right to vote." *Tully v. Edgar*, 171 Ill. 2d 297, 307 (1996) (emphasis in original). Thus, "the right to vote is implicated

by legislation that restricts a candidate’s effort to gain access to the ballot.” *Id.*, citing *Anderson v. Schneider*, 67 Ill. 2d 165, 172-73 (1977). “[T]he rights of candidates and those of voters ‘do not lend themselves to neat separation’; each statute affecting a candidate has some effect on the voter.” *Anderson*, 67 Ill. 2d at 174 (citation omitted). “[V]oters can assert their preferences only through candidates or parties or both. . . . The right of a party or an individual to a place on a ballot is entitled to protection and is intertwined with the rights of voters.” *Anderson*, 67 Ill. 2d 165, 175 (quoting *Lubin v. Panish*, 415 U.S. 709, 716 (1974)). “The right to vote is heavily burdened if that vote may be cast only for one of two parties at a time when other parties are clamoring for a place on the ballot.” *Lubin*, 415 U.S. at 716.

A. The Act as applied to Plaintiffs for the 2024 general election is subject to strict scrutiny.

The right to vote is a fundamental constitutional right, *Fumarolo*, 142 Ill. 2d at 74, and is implicated by legislation that restricts a candidate’s effort to gain access to the ballot, *Tully*, 171 Ill. at 307. When a statute impinges on a fundamental right, courts must subject the statute to strict scrutiny. *Tully*, 171 Ill. 2d at 304; *see also Nolan v. Cook County Officers Electoral Board*, 329 Ill. App. 3d 52, 55 (1st Dist. 2002) (“[B]allot access is a substantial right and not likely to be denied.”) (quote and citation omitted).

In *Tully*, the legislature passed a law replacing the existing nine elected trustees of the University of Illinois and providing that that the university’s trustees would thereafter be appointed by the governor. 171 Ill. 2d at 303-04. The Court applied

strict scrutiny to the provision removing the elected trustees from office midterm and found it unconstitutional because it nullified the votes cast by citizens and thereby undermined and destroyed the integrity of the vote. *Id.* at 307, 311. The Court did not, however, apply strict scrutiny to the provision changing the Board of Trustees from an elected body to an appointed one. *Id.* at 313. The reason the Court in *Tully* applied strict scrutiny to one aspect of the law, but not the other was timing: where the law generally changed how trustees would be selected in the future, strict scrutiny did not apply; but where the law attempted to remove trustees who had already been elected, strict scrutiny applied.

Timing is relevant to the Court's analysis in this case as well. Here, plaintiffs do not challenge the Act's elimination of the slating process for General Assembly candidates in *future* elections. Rather, they object to the Act's elimination of the slating process for General Assembly races while that process was already underway in the *current* election—during the 75 days after the primary election when potential candidates could be nominated to fill their party's vacancies on the general election ballot by obtaining the required number of signatures and submitting their petitions to the Board of Elections. The elimination of slating in the middle of that process would ensure that no Republican candidate would appear on the ballot in Plaintiffs' districts and mostly likely would mean that only one candidate would appear on the general election ballot in those districts.

Contrary to Defendants' arguments, *Tully* cannot be distinguished on the basis that it involved a change in the law that occurred after an election had already

taken place rather than in the middle of the process. *Tully*'s application of strict scrutiny would not have been different if the attempt to nullify the votes for trustees had happened in the middle of the election. Again, the right to vote is intertwined with the right of a candidate to access the ballot, *see Anderson*, 67 Ill. 2d at 175, so it makes no difference for the application of strict scrutiny whether the Act attempted to remove candidates from the ballot after they had completed the process to access the ballot, or whether the Act removed the process for accessing the ballot in middle of that process. Either way, voters lose their right to have their votes counted. *Tully*, 171 Ill. 2d at 306.

Where the courts have not applied strict scrutiny to challenges to changes in the Election Code, the timing issue in *Tully* has not been present. For example, in *East St. Louis Fed'n of Teachers, Local 1220 v. East St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 414 (1997), a Financial Oversight Panel used existing law to remove school board members from office for disobeying a valid order from the panel. The Court found that the plaintiff's challenge to the existing law did not warrant strict scrutiny because it did not implicate the timing issues in *Tully* because the change in the law took place after the election. *Id.* Similarly, *East St. Louis* did not involve the timing issue present here: a change in the law in the middle of the ballot-access process.

Thus, P.A. 103-0586, as applied to Plaintiffs' efforts to gain access to the November 2024 general election ballot as candidates, is subject to strict scrutiny.

B. The Act as applied to Plaintiffs for the 2024 general election does not satisfy strict scrutiny analysis.

To satisfy strict scrutiny, legislation must: (1) advance a compelling state interest; (2) be necessary to achieve the legislation's asserted goal; and (3) be the least restrictive means available to attain the legislation's goal. *Tully*, 171 Ill. 2d at 311 (citing *Fumarolo*, 142 Ill. 2d at 90). P.A. 103-0586, as applied to Plaintiffs, fails on all three counts.

1. The Act as applied to Plaintiffs for the 2024 general election does not advance a compelling government interest.

Applying the Act's elimination of slating to keep Plaintiffs off the November 2024 general election would not advance a compelling state interest. It does not advance the interest the government has asserted to defend the Act: ensuring that voters, rather than political insiders, determine who appears on the ballot.

Indeed, if the Act is enforced against Plaintiffs, voters won't have a choice of a Republican in the general election for those General Assembly district races. Plaintiffs and the Republican Party would be prevented from placing a candidate on the ballot at all. SOF 10, 13, 14, 19, 20, 21, 24, 25, 28, 29, 32, 33, 36, 37, 40, 41, 44, 45, 48, 49, 52, 53, 56, 57, 60, 61, 64, 65, 68. And it's very likely that voters would have only one candidate on the ballot in the relevant districts, unless an independent or third-party candidate runs—a path plaintiffs would be prevented from using for two reasons: because they are Republicans who are prevented from running as independent or third-party candidates in the general election after voting in the Republican primary election; and because the requirements and the

time remaining make doing so practically impossible. *See* 10 ILCS 5/7-43; 5/10-2; 5/10-3.

Further, in twelve of the fourteen districts at issue in this case, keeping Plaintiffs off the ballot would mean that voters had *no* role in selecting the candidates who appear on the general election ballot. That's because in those districts no Republican candidates ran in the primary, and only one candidate ran in the Democratic primary. SOF 10, 13, 14, 19, 20, 21, 24, 25, 28, 29, 32, 33, 36, 37, 40, 41, 44, 45, 48, 49, 52, 53, 56, 57, 60, 61, 64, 65, 68. Enforcing the Act against Plaintiffs in those districts would likely mean that voters in those districts only ever had one candidate for those offices to vote for in the primary and general elections—and thus effectively had no choice at all.

Enforcing the Act as to Plaintiffs in this election would mean voters would have fewer candidates to choose from; enjoining the Act as to Plaintiffs in this election would mean that voters have more candidates to choose from. Applying the Act against Plaintiffs to prevent them from accessing them ballot in the 2024 general election not only does not advance the government's asserted interest but would thwart that interest.

2. The Act as applied to Plaintiffs for the 2024 general election is not necessary to achieve the asserted goal.

Applying the Act against Plaintiffs in the 2024 election is not necessary to achieve the Act's asserted goal. As shown above, doing so would not achieve the Act's asserted goal at all, so it could not be necessary to achieve that goal. Further, it is simply not necessary for the State to change the rules in the middle of the

ballot access process after candidates and political parties had already relied on the slating process.

3. The Act as applied to Plaintiffs for the 2024 general election is not the least restrictive means to achieve the government’s goal.

Eliminating the slating process for the November 2024 general election after that process has already started is not the least restrictive means to achieve the Act’s goal. The least restrict means would be for the Act to affect future elections so that all potential candidates and political parties would know in advance the options for obtaining ballot access and plan and act accordingly. *See Graves v. Cook Cty. Republican Party*, 2020 IL App (1st) 181516, P62 (holding that a political party by-law, enacted during a primary election, was not necessary or narrowly tailored).

P.A. 103-0586, as applied to Plaintiffs for the 2024 general election, fails strict scrutiny analysis and thus unconstitutionally restricts Plaintiffs’ fundamental rights to suffrage by negating their efforts to gain access to the ballot.

C. The Act as applied to Plaintiffs for the 2024 general election does not satisfy the *Anderson-Burdick* test.

Even under the intermediate scrutiny that Defendants and Intervenor assert applies—which it does not—the Court should still find that the Act applied to Plaintiffs in the 2024 general election violates their constitutional rights. Under the scrutiny asserted by Defendants and Intervenor—known as the *Anderson-Burdick* test, *see Anderson v. Celebrezze*, 460 U.S. 789 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992)—when election provisions impose only “reasonable, nondiscriminatory restrictions” upon the First and Fourteenth amendment rights of voters, the State’s

important regulatory interests are generally sufficient to justify the restrictions. *Green Party v. Henrichs*, 355 Ill. App. 3d 445, 447 (3d Dist. 2005).

Applying the Act against Plaintiffs for the 2024 general election is not “substantially related to an important governmental interest.” *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 208 (2008). As explained above, applying the Act to Plaintiffs in the 2024 general election would undermine the State’s purported interest—in preventing political insiders from having control over which candidates are slated and to ensure that the voters make this determination—because it would ensure that voters have less choice and political insiders have more control over which candidates are on the ballot. *See* Section B.1.

Further, applying the Act to prevent Plaintiffs from accessing the ballot in the 2024 general election is discriminatory and unreasonable. It’s unreasonable and discriminatory to change the slating process in the middle of that process, when Plaintiffs had relied on it to access the ballot and are attempting to comply with it. And applied to Plaintiffs, the Act ensures that voters have less choice in the 2024 election. *See* Section B.1.

When restrictions on the constitutional rights of potential candidates are discriminatory and unreasonable—as they are here—such restrictions must be “narrowly drawn to advance a state interest of compelling importance.” *Green Party*, 355 Ill. App. 3d at 447. In other words, they must satisfy strict scrutiny. And as explained above, applying the Act to Plaintiffs to prevent them from using the

slating process to access the 2024 general election ballot as Republican candidates for General Assembly elections fails strict scrutiny. *See* Section B.

D. The Act as applied to Plaintiffs for the 2024 general election is fatally underinclusive and is therefore unconstitutional.

There's a final reason that the Act, as applied to Plaintiffs, is unconstitutional under both strict scrutiny and intermediate scrutiny: The Act only ends the slating process for races for the General Assembly and therefore is underinclusive to the government's purported purpose. *Joelner v. Vill. of Wash. Park*, 508 F.3d 427, 433 (7th Cir. 2007) (finding an underinclusive regulatory scheme failed both strict and intermediate scrutiny). The purported government interest in preventing political insiders from having control over which candidates on the ballot and to ensure that the voters make this determination is undermined by the fact that the Act only eliminates slating for *General Assembly* races. *See Rubin v. Coors Brewing Co.*, 514 U.S. 476, 489 (1995) (holding that "exemptions and inconsistencies bring into question the purpose of the [regulation].") And it was the General Assembly that passed the Act—to be effective upon enactment—in two days, ensuring that it would go into effect in the middle of the slating process for the 2024 general election. SOF 4, 7.

Conclusion

For these reasons, Plaintiffs respectfully ask this Court for summary judgment, including (a) a declaratory judgment that the revisions to 10 ILCS 5/8-17 in P.A. 103-0586, as applied to Plaintiffs for the 2024 general election, violate their constitutional right to access the ballot protected by Article III, section 1, of the

1970 Illinois Constitution; (b) a permanent injunction against Defendants preventing them from enforcing the Act against Plaintiffs, including using the provision of the Act that eliminates the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision prevent Plaintiffs' names from being listed as candidates on the November 2024 general election ballot; and (c) such further relief as this Court deems just, proper, and equitable.

May 31, 2024

Respectfully submitted,

/s/ Jeffrey M. Schwab

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Attorneys for Plaintiffs

Exhibit A

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Leslie Collazo

I, Leslie Collazo, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 8th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 8th Representative District on April 7, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 8th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 650 signatures from qualified voters in the 8th Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

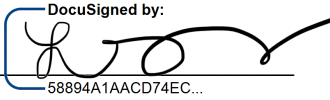
Signed: 

Exhibit B

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Daniel Behr

I, Daniel Behr, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Northbrook, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 57th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 57th Representative District on March 19, 2024 before more than 100 people at a prominent location in the 57th Representative District with media invited and informed of the proceedings.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 57th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect a minimum of 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. At the time of passage and signing of SB 2412/PA 103-0586, I had gathered in excess of 700 signatures. Had I known that I would have had to file my petitions by the date that PA 103-0586 was became effective (May 3, 2024), I would have obtained many more signatures, as my goal was to file with the maximum number of 1500 signatures.

8. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

9. Seeing that passage in the Senate the following day was imminent, I scrambled to gather my petitions and other nominating papers, and my campaign staff drove down to Springfield from Northbrook and attempted to file with the Illinois Board of Elections on May 2, 2024, arriving at approximately 4:40 PM. However, the Board closed at 4:30 PM and my agent was unable to file my petition

on May 2. An agent had earlier in the day requested that the Board remain open until 5:00 PM to accommodate my filing, but that request was denied. My petition was filed with the Board at 8:41 AM on May 3, 2024.

10. I rushed to file my nomination papers on May 2, 2024, because of the sudden introduction and imminent approval of P.A. 103-0586. Because I had to rush to file my petitions on such short notice, I was unable to include over 200 signatures that had been obtained by friends and volunteers in time to drive with them to Springfield for filing.

11. I was and remain concerned that the passage of P.A. 103-0586 would prevent me from appearing on the November 2024 General Election ballot as the Republican candidate for the Office.

12. Without the threat of P.A. 103-0586 preventing my candidacy, I would not have attempted to file my petition on May 2 and ultimately on May 3, 2024. I would have spent more time obtaining signatures, working up until the June 3rd deadline that existed before the passage P.A. 103-0586, to insulate my petition for candidacy before the Board of Elections from any challenge.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024


Signed:  _____

Exhibit C

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of James Kirchner

I, James Kirchner, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Chicago, Illinois.

3. I am a Republican candidate for the office of State Senator for the 13th Legislative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 13th Legislative District on April 18, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 13th Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 18, 2024

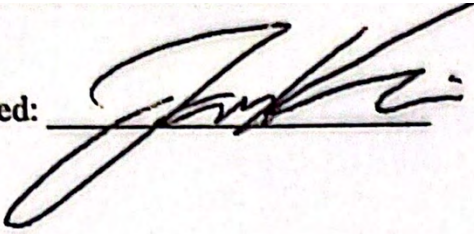
Signed: 

Exhibit D

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Carl R. Kunz

I, Carl R. Kunz, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Hickory Hills, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 31st Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 31st Representative District on April 7, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 31st Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 500 signatures from qualified voters in the 31st Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since

the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 19, 2024

Signed: 

Exhibit E

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Camaxtle "Max" Olivo

I, Camaxtle "Max" Olivo, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 1st Representative District ("the Office").
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 1st Representative District on April 5, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 1st Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:

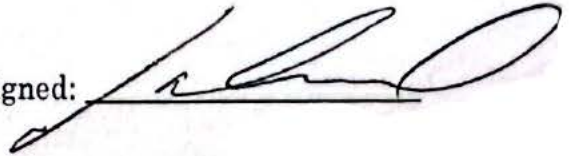
A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Exhibit F

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Juvandy Rivera

I, Juvandy Rivera, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 3rd Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy by the Republican Representative Committee for the 3rd Representative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 3rd Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024, to file my nomination papers.

8. At the time of passage and signing of SB 2412/P.A. 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that P.A. 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after the language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may have been in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:

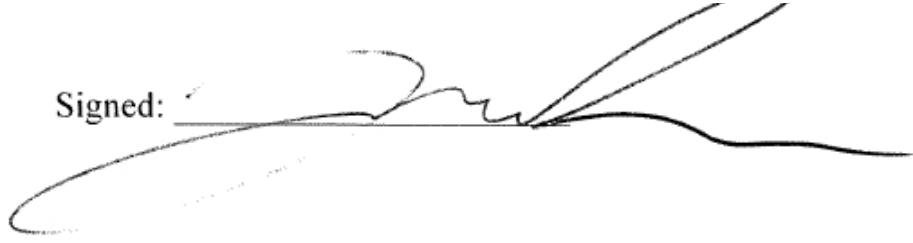
A handwritten signature in black ink, consisting of several fluid, overlapping strokes. The signature starts with a large, sweeping loop on the left side, followed by a series of smaller, more intricate loops and lines that extend towards the right. The overall appearance is that of a cursive or semi-cursive signature.

Exhibit G

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Nancy Rodriguez

I, Nancy Rodriguez, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 4th Representative District (“the Office”).
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 4th Representative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 4th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024


Signed: 

Exhibit H

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Terry Nguyen Le

I, Terry Nguyen Le, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Chicago, Illinois.
3. I am a Republican candidate for the office of Representative in the General Assembly for the 13th Representative District ("the Office").
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 13th Representative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 13th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would

be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 the
stated to be on information and belief and as to such matters the
undersigned certifies as aforesaid that he verily believes the same to
true.

Executed May 28, 2024

Signed:

A handwritten signature in black ink, consisting of a stylized, cursive letter 'P' followed by a horizontal line.

Exhibit I

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of John Zimmers

I, John Zimmers, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Chicago, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 19th Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 19th Representative District on April 5, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 19th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:

JOHN ZIMMERS
dotloop verified
05/29/24 9:16 AM CDT
Y7S-NFHF-SNG0-XN9Z

Exhibit J

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Ronald E. Andermann

I, Ronald E. Andermann, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Arlington Heights, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 53rd Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no person was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 53rd Representative District on April 14, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 53rd Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly office late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 29, 2024

Signed: Ronald E. Ardeman

Exhibit K

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS,
et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Carlos Gonzalez

I, Carlos Gonzalez, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Lyons, Illinois.

3. I am a Republican candidate for the office of State Senator for the 1st Legislative District ("the Office").

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 1st Legislative District on April 2, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 1st Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Legislative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed:



Carlos A. Gonzalez

Exhibit L

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Ashley Jensen

I, Ashley Jensen, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.
2. I reside in Winthrop Harbor, Illinois.
3. I am a Republican candidate for the office of State Senator for the 31st Legislative District ("the Office").
4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Legislative Committee for the 31st Legislative District on April 2, 2024.
5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.
6. Upon being designated by the Republican Legislative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters

in the 31st Legislative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 1000 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 1000 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. When P.A. 103-0586 was signed by Governor Pritzker, I momentarily paused collecting signatures because I was concerned that my efforts would be in vain since the Act purported to eliminate the process for appearing on the General Election ballot that I was in the process of undertaking.

12. I have since resumed the collecting of signatures for my nomination petition, but because of the passage of P.A. 103-0586, I have had more difficulty obtaining volunteers to help me collect signatures, as the effort may be in vain.

13. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Legislative Committee, attempting to raise money for my campaign, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

14. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 28, 2024

Signed: _____

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be the name of the undersigned.

Exhibit M

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Teresa L. Alexander

I, Teresa L. Alexander, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in North Aurora, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 50th Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 50th Representative District on May 13, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 50th Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In seeking appointment to fill the vacancy in nomination and embarking on my candidacy, I relied on having until June 3, 2024 to obtain appointment to fill the vacancy in nomination and file my nomination papers. At present, my campaign has gathered approximately 700 signatures from qualified voters in the 50th Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not been appointed to fill the vacancy in nomination and gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have sought appointment by the designated committee and obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 2, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet been appointed to fill the vacancy in nomination and filed my nomination petition for candidacy with the Illinois Board of Elections.

11. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, gathering the required signatures, and the preparation and submission of my nomination petition to the Board of Elections will have been in vain.

12. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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.

SR374

4

Executed May 29, 2024

Signed: Teresa Alexander

130769

Exhibit N

IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

Declaration of Donald P. Puckett

I, Donald P. Puckett, declare as follows:

1. I am a United States citizen of at least 18 years of age. If called to testify at trial or deposition, I would testify as follows.

2. I reside in Elgin, Illinois.

3. I am a Republican candidate for the office of Representative in the General Assembly for the 43rd Representative District (“the Office”).

4. The name of no Republican Party candidate for the Office was printed on the 2024 Primary ballot, and no Republican was nominated as a write-in candidate for the Office at the 2024 Primary Election. I was designated to fill that vacancy in nomination by the Republican Representative Committee for the 43rd Representative District on April 20, 2024.

5. I am seeking to fill the vacancy in nomination under the process set forth in 10 ILCS 5/8-17 and 10 ILCS 5/7-61, as they existed prior to the passage, and effective date, of Illinois Senate Bill 2412/Public Act 103-0586.

6. Upon being designated by the Republican Representative Committee to fill the vacancy in nomination for the Office, I began collecting signatures of Republican voters in the 43rd Representative District, as required by 10 ILCS 5/8-17 and 10 ILCS 5/7-61. Per the statute as it existed when I was designated to fill the vacancy, I must collect 500 valid petition signatures, which needed to be filed by June 3, 2024, which is 75 days following the primary.

7. In embarking on my candidacy, I relied on having until June 3, 2024 to file my nomination papers. At present, my campaign has gathered approximately 600 signatures from qualified voters in the 43rd Representative District.

8. At the time of passage and signing of SB 2412/PA 103-0586, I had not gathered the minimum number of petition signatures. However, had I known that I would have had to file my petitions by the date that PA 103-0586 was enacted (May 2, 2024), I would have obtained a minimum of 500 valid petition signatures, and would have filed them by that date, rather than by June 3rd, as I had planned.

9. I found out about the language in SB 2412 that purports to eliminate the filling of vacancies for General Assembly offices late in the day on May 1, 2024, after that language was passed by the House.

10. At the time P.A. 103-0586 went into effect on May 3, 2024, I had not yet filed my nomination petition for candidacy with the Illinois Board of Elections.

11. I am concerned that my candidacy will be challenged due to the enactment of P.A. 103-0586 and that my significant efforts in obtaining the designation from the Republican Representative Committee, gathering the required signatures, and the

preparation and submission of my nomination petition to the Board of Elections will have been in vain.

12. Without an injunction preventing the application of P.A. 103-0586 to my ability to appear as a Republican candidate for the Office on the November 2024 General Election ballot, I will suffer injury in the form of lost time and money attempting to access the ballot through a vacancy-filling process that was permissible when I was designated to fill the vacancy, and I will suffer further injury as my right to appear on the ballot is infringed. In addition, without a timely injunction, I effectively lose time to campaign, including raising money for my campaign, as the issue of whether my candidacy will be permitted under the law is clouded.

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 May 29, 2024

Signed: Donald Puckett

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

LESLIE COLLAZO, <i>et al.</i> ,)	
)	
Plaintiffs,)	
	)	Case No. 24 CH 32
v.)	
	)	Hon. Gail Noll
ILLINOIS STATE BOARD OF ELECTIONS,)	
<i>et al.</i> ,)	
)	
Defendants.)	
)	

**DEFENDANT ATTORNEY GENERAL
KWAME RAOUL'S MOTION FOR SUMMARY JUDGMENT**

INTRODUCTION

Plaintiffs bring an as-applied challenge to a recent amendment to the Election Code that repeals language providing for a post-primary procedure to slate candidates for established political parties. On May 3, 2024, the Governor signed Public Act 103-0586 (the “Act”), which has three main parts. The only portion that is at issue here is the third main part, which amends Section 8-17 of the Election Code. The prior version of Section 8-17 provided that when an established political party has a vacancy on the ballot following the primary because no one ran in the primary, the legislative or representative committee of the party may nominate a candidate to fill the vacancy. 10 ILCS 5/8-17 (2023). The nominee would then need to gather sufficient signatures in accordance with Section 7-61 of the Election Code (which is fewer than if they sought to run as independent or third-party candidates) and file the proper papers with the Illinois State Board of Elections (the “Board”) within 75 days of the primary (in this case, by June 3, 2024). *Id.* The Act removes the language from Section 8-17 providing for this procedure.

Plaintiffs are individuals who were nominated by the Republican Party following the primary and who wish to use Section 8-17’s old procedure for filling ballot vacancies. They challenge the Act’s removal of Section 8-17’s post-primary slating procedure for ballot vacancies for established parties. Plaintiffs claim that the Act as amended—and as applied specifically to them—violates Article III, section 1 of the Illinois Constitution because it was enacted and went into effect during the 75-day signature process. And so they seek to enjoin the Board from denying the Plaintiffs’ nominating petitions for the November 2024 general election based on the Act.

On May 23, 2024, the Court entered a preliminary injunction in this matter, finding that Plaintiffs have presented a fair question as to whether the Act is unconstitutional as applied to them. Defendant AG Raoul agrees that the underlying facts are not in dispute and therefore the

only question is whether Plaintiffs or Defendants are entitled to judgment as a matter of law. And while the Court found that there is fair question that Plaintiffs would prevail on their claims, as a matter of law they should not. As discussed in Defendant AG Raoul's response to Plaintiff's motion for a preliminary injunction, the Act should be analyzed under the *Anderson-Burdick* test, not strict scrutiny. The Act passes the *Anderson-Burdick* test because it is a reasonable and non-discriminatory legislative enactment. Additionally, an injunction in this case would violate the public interest because courts should not prevent the General Assembly from repealing its own laws and then order the General Assembly to reinsert the repealed language back into the statute. Consequently, Defendant AG Raoul is entitled to judgment as a matter of law.

BACKGROUND

On May 3, 2024, the Governor signed the Act into law, which became effective immediately.¹ Relevant here, the Act amended Section 8-17 of the Election Code, removing language that had provided a process under which, when an established political party has a vacancy on the ballot following the primary because no one ran in the primary, the legislative or representative committee of the party could nominate a candidate to fill the vacancy.² 10 ILCS 5/8-17 (2023). Governor Pritzker and fellow Democrats framed the Act as an ethics measure that would take "backroom deals" out of the equation when choosing candidates.³ Governor Pritzker

¹ Bill Status of SB2412, 103rd General Assembly, ILLINOIS GENERAL ASSEMBLY, *available at* <https://ilga.gov/legislation/billstatus.asp?DocNum=2412&GAID=17&GA=103&DocTypeID=SB&LegID=147311&SessionID=112&SpecSess=> (last visited May 28, 2024).

² *See* Public Act 103-0586, ILLINOIS GENERAL ASSEMBLY, *available at* <https://ilga.gov/legislation/publicacts/fulltext.asp?Name=103-0586> (last visited May 28, 2024).

³ Sfondeles, Tina, *Pritzker signs bill requiring legislative candidates to run in primaries – Republicans call it 'stealing an election'*, CHICAGO SUN TIMES (May 3, 2024 2:28 CDT) *available at* <https://chicago.suntimes.com/elections/2024/05/03/pritzker-signs-slating-election-bill-candidates-primaries-republicans-stealing-election> (last visited May 24, 2024).

also noted that the Act increases transparency by making sure some small group of people in a smoke-filled room are not making the choice of who goes on the ballot.⁴

Plaintiffs are individuals who were nominated by the Republican Party following the primary and who wish to use Section 8-17's old procedure for filling ballot vacancies. Leslie Collazo is a prospective candidate for the 8th Representative District. (Compl. ¶ 5). The 8th Representative District is located in Chicago and entirely within Cook County.⁵ Daniel Behr is a prospective candidate for the 57th Representative District. (Compl. ¶ 6). The 57th Representative District is located within both Lake and Cook Counties.⁶ James Kirchner is a prospective candidate for the 13th Legislative District. (Compl. ¶ 7). The 13th Legislative District is located in Chicago and entirely within Cook County.⁷ Carl Kunz is a prospective candidate for the 31st Representative District. (Compl. ¶ 8). The 31st Representative District is located in Chicago and entirely within Cook County.⁸ According to the 2020 census, Cook County's population exceeds 5 million people.⁹ All four plaintiffs have been designated by either the Republican Representative Committee or the Republican Legislative Committee to fill vacancies in nomination for their respective Representative or Legislative Districts following the primary. (Compl. ¶ 9).

⁴ Hancock, Peter & Meisel, Hannah, *Illinois ends post-primary candidate slating*, MUDDY RIVER NEWS (May 7, 2024) available at <https://muddyrivernews.com/politics/illinois-ends-post-primary-candidate-slating/20240507094559/> (last visited May 24, 2024).

⁵ See 2021-2022 Illinois Blue Book at 58, ILLINOIS SECRETARY OF STATE available at https://www.ilsos.gov/publications/illinois_bluebook/legdistrictmaps.pdf (last visited May 28, 2024); see also *Legislative Maps*, CHICAGO BOARD OF ELECTION COMMISSIONERS available at <https://chicagoelections.gov/districts-maps/legislative-maps> (last visited May 29, 2024) (listing the General Assembly Districts within the Chicago Board of Elections' jurisdiction).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Cook County, Illinois, U.S. CENSUS BUREAU, available at https://data.census.gov/profile/Cook_County,_Illinois?g=050XX00US17031 (last visited May 28, 2024).

LEGAL STANDARD

Illinois law provides that summary judgment shall be rendered without delay if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. 735 ILCS 5/2-1005(c); *Petrovich v. Share Health Plan of Illinois, Inc.*, 188 Ill. 2d 17, 30-31 (1999); *Cramer v. Insurance Exchange Agency*, 174 Ill. 2d 513, 530 (1996); *Purtill v. Hess*, 111 Ill. 2d 229, 240-44 (1986). A defendant may move for summary judgment “at any time,” even before filing an answer. 735 ILCS 5/2-1005(b); *Y-Not Project, Ltd. v. Fox Waterway Agency*, 2016 IL App (2d) 150502 ¶ 55.

In determining whether to grant summary judgment, the court must consider all of the presented evidence and construe it strictly against the movant and liberally in favor of the nonmovant. *Largosa v. Ford Motor Co.*, 303 Ill. App. 3d 751, 753 (1st Dist. 1999); *Boldini v. Owens Corning*, 318 Ill. App. 3d 1167, 1170 (4th Dist. 2001). “The mere existence of some alleged factual dispute will not defeat an otherwise properly supported motion[;] there must be no genuine issue of material fact.” *Continental Cas. Co. v. Coregis Ins. Co.*, 316 Ill. App. 3d 1052, 1062 (1st Dist. 2000).

ARGUMENT

Summary judgment is appropriate here because the material facts are not in dispute and Defendant AG Raoul is entitled to a judgment as a matter of law. There is no dispute that the General Assembly passed the Act and that the Governor signed it into law on May 3, 2024. The Act, in part, amends Section 8-17 of the Election Code. There is also no dispute that Plaintiffs were designated by either the Republican Representative Committee or the Republican Legislative Committee to fill vacancies for the Republican Party on the ballot in their respective districts under the then-existing version of Section 8-17 and are currently seeking placement on the ballot under

the now-repealed procedure set out in Section 8-17. Finally, the locations of the districts at issue are a matter of public record that the Court may therefore take judicial notice of. *See Metzger v. Brotman*, 2021 IL App (1st) 201218, ¶ 29. These are the only material facts in this case.

Consequently, this case only presents legal issues and there is no reason to delay entering judgment as a matter of law. This motion for summary judgment contains five parts. Part I explains that the relief Plaintiffs seek is a mandatory injunction and that the Court should analyze Plaintiffs' claims with this framework in mind. Part II explains that the proper standard to apply in this case is the *Anderson-Burdick* test, not strict scrutiny. Part III explains why the Act satisfies the *Anderson-Burdick* test. Part IV explains that entering an injunction in this case, which is the only relief sought, is against the public interest. Part V explains that Plaintiffs Collazo, Kirchner, and Kunz are not entitled to injunctive relief because they have not named a necessary party. Finally, Part VI explains that even if an injunction is entered, it should not be entered against the Attorney General because the Attorney General does not certify ballots or otherwise determine what candidates appear on the ballot.

I. Plaintiffs seek a mandatory injunction.

While Plaintiffs frame their requested relief as a negative injunction, it is really a mandatory injunction. Plaintiffs frame their requested relief as the Court enjoining the Board from “applying P.A. 103-0586’s revisions to 10 ILCS 5/8-14 to Plaintiffs with respect to the November 2024 general election.” (Compl. at 9). However, the Act does not require anything of the Board that the Court can stop it from doing. The Act deleted language from the Election Code, removing a procedure that Plaintiffs wish to access. Thus, Plaintiffs request that the Court *reinsert* the deleted language from the Election Code and require the Board to use a now-defunct procedure. As discussed below, this would be improper. Further, Plaintiffs essentially request that the Court force the Board to place them on the ballot contrary to the Act’s amendment to the Election Code,

provided there is not a separate reason that they do not qualify to be slated. This is a mandatory, not a negative, injunction.

Mandatory injunctions are extraordinary remedies and not favored by the courts. *Town of Cicero v. Metro. Water Reclamation Dist. of Greater Chicago*, 2012 IL App (1st) 112161 ¶ 40. A mandatory injunction “will be issued only in cases of extreme, serious, great or urgent necessity.” *Id.* at ¶ 46 (quoting 43A C.J.S. *Injunctions* § 13 (2004)). Moreover, statutes enjoy a strong presumption of constitutionality. *Rowe v. Raoul*, 2023 IL 129248 ¶ 20. “A party challenging the constitutionality of a statute bears the heavy burden of clearly establishing a constitutional violation.” *Id.* Plaintiffs’ requested relief should be analyzed with this framework in mind.

II. Plaintiffs’ as-applied challenge warrants less than strict scrutiny under either *Tully* or *Anderson-Burdick*.

Plaintiffs claim that the Court should apply strict scrutiny to their as-applied challenge. In their motion for preliminary injunction and at oral argument on that motion, Plaintiffs primarily relied on *Tully v. Edgar*, 171 Ill. 2d 297 (1996), wherein the Illinois Supreme Court stated that legislation that affects any stage of the election process implicates the right to vote. *Id.* at 307. However, *Tully* does not hold that *any* law that implicates the right to vote is subject to strict scrutiny. Instead, our Supreme Court applied strict scrutiny in *Tully* because the law at issue did not simply impair the right to vote—it “obliterate[d] its effect.” *Id.*

Indeed, one year after *Tully*, our Supreme Court explained that a critical fact influencing its analysis in *Tully* was that the law in question was enacted *after* the election, *i.e.*, after the trustee plaintiffs were elected, and removed them from office. *East St. Louis Fed’n of Teachers, Local 1220 v. East St. Louis Sch. Dist. No. 189 Fin. Oversight Panel*, 178 Ill. 2d 399, 414 (1997) (discussing *Tully*, 171 Ill. 2d at 312). And in so doing, the Court in *East St. Louis* found that a

legislative scheme that was enacted *before* the relevant election did not violate the fundamental right to vote. *Id.* at 415.

At oral argument for the preliminary injunction, Plaintiffs seemed to agree that *Tully* does not stand for the proposition that any restriction that implicates the right to vote calls for strict scrutiny. Instead, they allege that strict scrutiny is applicable in this case specifically. While the Court agreed with Plaintiffs for the purpose of entering a preliminary injunction, there is a lack of authority to support this proposition. This case is far more like *East St. Louis* than *Tully*. In *Tully*, the rules were not changed “in the middle of the game”: the game had already been played and the outcome determined when the rules were changed. *See East St. Louis Fed’n of Teachers, Local 1220*, 178 Ill. 2d at 414 (1997) (discussing *Tully*, 171 Ill. 2d at 312). This is why the right to vote was considered “obliterated” and why strict scrutiny applied. Not so here. Plaintiffs’ ability to access the ballot has not been obliterated. They all could have run in their respective primaries. The declarations they provided in support of their motion for preliminary injunction provide no explanation as to why they decided not to do so. Seemingly, they attempted to perform an end-run around their primary voters to use the post-primary slating procedure without any scrutiny from those voters. But there is no right to the continuation of an existing law. *New Hights Recovery & Power, LLC v. Bowers*, 347 Ill. App. 3d 89, 96 (1st Dist. 2004). “Our supreme court has held there is no vested right in the mere continuation of a law and the legislature has an ongoing right to amend a statute.” *Id.* (citing *Premier Prop. Mgmt. Inc. v. Chavez*, 191 Ill. 2d 101, 109 (2000)).

Moreover, as the United States Supreme Court has reiterated, not every law that implicates the right to vote is subject to strict scrutiny. Federal courts subject regulations of the electoral process to a “flexible standard,” *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768, 773 (7th Cir. 1997), known as the *Anderson-Burdick* standard. *See Burdick v. Takushi*, 504 U.S. 428 (1992),

and *Anderson v. Celebrezze*, 460 U.S. 789 (1983); *see also Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 190, 202-03 (2008) (opinion of Stevens, J.) (applying *Anderson-Burdick* standard to regulation of voting procedures); *id.* at 204-05 (Scalia, J., concurring in the judgment) (same).

Under the *Anderson-Burdick* standard, courts must weigh the “character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments...’ against ‘the precise interests put forward by the State as justifications for the burden imposed by its rule.’” *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. 789 (1983)). If an electoral regulation imposes a “severe” restriction on First or Fourteenth Amendment rights, strict scrutiny applies. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997). If, on the other hand, the State has imposed “reasonable, nondiscriminatory restrictions on these rights...the [S]tate’s important regulatory interests will generally be sufficient to justify the regulations.” *Libertarian Party*, 108 F.3d at 773 (citing *Burdick*, 504 U.S. at 434); *see also Timmons*, 520 U.S. at 358.

Illinois courts routinely apply federal standards in election cases. *Rudd v. Lake Cnty. Electoral Bd.*, 2016 IL App (2d) 160649 ¶ 13. In the years following *Tully*, Illinois courts have continued to apply the *Anderson-Burdick* test in election cases. *See, e.g., Oettle v. Guthrie*, 2020 IL App (5th) 190306 ¶¶ 11-14; *Qualkinbush v. Skubisz*, 357 Ill. App. 3d 594, 604-05 (1st Dist. 2005); *Green Party v. Henrichs*, 355 Ill. App. 3d 445, 447 (3d Dist. 2005). While each of these cases were brought under different constitutional provisions than the present case, each one arguably implicated the right to vote. It is therefore telling that none of these cases cited *Tully* or applied strict scrutiny. Instead, they applied the *Anderson-Burdick* test. In any event, *Tully* is consistent with the *Anderson-Burdick* test because strict scrutiny still would have applied in *Tully* under it in light of the right to vote being “obliterated.” *See Tully*, 171 Ill. 2d at 307.

If strict scrutiny applies simply because the right to vote is implicated, then almost every provision of the Election Code could be subject to strict scrutiny. That could in turn lead to unending challenges to the constitutionality of multiple provisions of the Election Code. For instance, any election law requiring a minimum number of signatures to gain ballot access could be challenged because fewer signatures would arguably be a less restrictive means of ensuring that citizens within a given ward or municipality endorse a given candidate for office. Of course, this extreme result should not come to pass. While the burden on the right to vote is not minimal in this case, it is also not obliterated or otherwise nullified. Moreover, the Act is nondiscriminatory because it applies equally to all established parties and to all candidates who have not filed their paperwork with the Board after the Act was passed. Therefore, the Court should follow the *Anderson-Burdick* framework to determine the proper level of scrutiny.

III. The Act survives constitutional scrutiny here because it is substantially related to an important regulatory interest.

Under the *Anderson-Burdick* framework, if the State has imposed “reasonable, nondiscriminatory restrictions on these rights... the [S]tate’s important regulatory interests will generally be sufficient to justify the regulations.” *Libertarian Party*, 108 F.3d at 773 (citing *Burdick*, 504 U.S. at 434). This is similar to intermediate scrutiny. “To withstand intermediate scrutiny, the legislative enactment must be substantially related to an important governmental interest.” *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 208 (2008). Here, the important governmental interest is to prevent political insiders from having control over which candidates are slated and to ensure that the voters—and only the voters—make this determination.¹⁰ The Act is clearly substantially related to that important interest. More importantly, it reasonably achieves

¹⁰ See *supra* notes 3 & 4.

that goal and, as discussed above, is nondiscriminatory; it applies equally to all established parties and to all candidates who have not filed their paperwork with the Board after the Act was passed.

There is little doubt that the General Assembly has the power to repeal the post-primary slating procedure at issue here. Plaintiffs bring an as-applied, not a facial, challenge, tacitly admitting that their problem is not with the substance of the Act, but with its timing. Indeed, they admitted as much at oral argument for their motion for preliminary injunction.

If the post-primary slating procedure from Section 8-17 had been repealed in December of this year instead of May, then its constitutionality would be unquestionable. Indeed, it is “axiomatic that one legislature cannot bind a future legislature.” *A.B.A.T.E. of Ill. V. Quinn*, 2011 IL 110611, ¶ 34. The policies enacted by the General Assembly “are inherently subject to revision and repeal.” *Jones v. Mun. Emples. Annuity & Ben. Fund of Chi.*, 2016 IL 119618 ¶ 39 (internal quotation marks omitted). Because the Act merely repealed a provision of the Election Code and did not implement any new requirements for candidates, there is no question that this is well within the power of the legislature.

Plaintiffs’ only real argument against the Act is its timing, *i.e.*, that it was enacted in the middle of an election cycle. But Plaintiffs do not cite any authority indicating that the timing of an amendment to the Election Code is determinative. As discussed, the rules in *Tully* were not changed in the middle of an election cycle, but instead after the election, effectively overriding the will of the voters. *Tully*, 171 Ill. 2d at 312.

The closest Plaintiffs come is their citation to *Graves v. Cook Cty. Republican Party*, 2020 IL App (1st) 181516, in their motion for preliminary injunction. But *Graves* dealt with a change to political party bylaws, *id.* at ¶ 6, not a change to the Election Code. The plaintiff in *Graves* had already submitted his nomination papers to the Chicago Board of Elections and then prevailed in

the subsequent election. *Id.* at ¶¶ 5, 7. However, a change to the party bylaws threatened to disqualify him from office. *Id.* at ¶ 8. Most importantly, the change in bylaws would have effectively given the political party a veto over the voters' choice—a power they lack under the Election Code. *Id.* at ¶ 77. Here, the change to the Election Code at issue does not serve to override the will of the voters. Quite the opposite, it ensures that the voters select the candidates through a primary election. *Graves* is entirely distinguishable.

Moreover, the Act did not stop any of the Plaintiffs from running for office or otherwise disqualify someone already chosen by the voters. Each Plaintiff could have run in their respective primaries, and their declarations provide no explanation as to why they did not. That they did not do so does not mean that they are entitled to a process where political insiders hand-select them to be their party's nominees after the primary has passed and do so while gathering less signatures than independent or third-party candidates. The Act is constitutional as a matter of law, and the Court should therefore enter judgment in favor of Defendants and dismiss Plaintiffs' claim.

IV. The balance of hardships favors denying injunctive relief.

The Court should also enter judgment in favor of Defendants because the potential harm of the only relief sought in this case—a permanent injunction—to the Defendants here outweighs any benefit of granting an injunction. Before an injunction can issue, courts must balance the hardships of the parties and consider the public interests involved. *JL Props. Grp., LLC v. Pritzker*, 2021 IL Ap (3d) 200305, ¶ 57. This test requires the court to determine the relative inconvenience to the parties and whether the burden upon the requesting party if an injunction does not issue outweighs the burden to the opposing party if an injunction does issue. *Guns Save Life, Inc. v. Raoul*, 2019 IL App (4th) 190334, ¶ 64. In other words, "Plaintiffs are...required to show in the

trial court that they would suffer more harm without an injunction than defendants will suffer with it.” *Id.* Courts also consider the effect of the injunction on the public. *Id.*

Here, an injunction would run counter to the public interest because it would require this Court to tell the General Assembly that it is not allowed to repeal its own laws. But as discussed, it is “axiomatic that one legislature cannot bind a future legislature.” *A.B.A.T.E.*, 2011 IL 110611, ¶ 34. The policies enacted by the General Assembly “are inherently subject to revision and repeal.” *Jones*, 2016 IL 119618 ¶ 39.

As for the Plaintiffs’ hardship, while they frame this case as an effort to protect the right to vote, this is not actually the case. In reality, Plaintiffs are trying to create a right to the continuation of the now-defunct version of Section 8-17, whereby candidates could gain access to the ballot as an established party candidate without running in a primary election or obtaining enough signatures to run as an independent or third-party candidate. But as previously discussed, there is no right to the continuation of an existing law. *New Hights Recovery & Power, LLC v.*, 347 Ill. App. 3d at 96. “Our supreme court has held there is no vested right in the mere continuation of a law and the legislature has an ongoing right to amend a statute.” *Id.* (citing *Premier Prop. Mgmt. Inc. v.*, 191 Ill. 2d at 109). Moreover, as discussed, the Plaintiffs could have run in the primary. The balance of hardships and the public interest clearly favor declining to enter permanent injunctive relief and instead favor entering judgment in favor of Defendants.

V. The Court lacks jurisdiction to enter an injunction in favor of Plaintiffs Collazo, Kirchner, and Kunz because they have not joined the Chicago Board of Elections, which is a necessary party to their claims.

Plaintiffs Collazo, Kirchner, and Kunz are not entitled to an injunction because they have not joined all indispensable parties to this action. The failure to join a necessary party may be raised at any time. *Victor Twp. Drainage Dist. 1 v. Lundeen Family Farm P’ship*, 2014 IL App (2d) 140009 ¶ 39. “This is so because due process requires the joinder of all indispensable parties

to an action; as a result an order entered without jurisdiction over a necessary party is void.” *Id.* (citations omitted). A necessary party is one whose presence in a lawsuit is required for any of three reasons: (1) to protect an interest which the absentee has in the subject matter which would be materially affected by a judgment entered in his absence; (2) to reach a decision to protect the interests of those who are before the court; or (3) to enable the court to make a complete determination of the controversy. *Id.*

Here, the necessary party is the Chicago Board of Elections. This is because the Election Code provides that challenges to the candidacies for the General Assembly in districts located entirely counties with a population of 3,000,000 or more must be heard by the local county election board, unless the district is wholly or partially within the jurisdiction of a municipal election board, in which case the municipal election board hears the challenge. 10 ILCS 5/10-9(2.5). As previously discussed, the districts that Collazo, Kirchner, and Kunz are running in all are located at least partially within the municipality of Chicago and are entirely within Cook County – a county with a population of more than 3,000,000 residents. Any challenge to their candidacies therefore would be heard by the Chicago Board of Elections, making this an entity that would need to be enjoined (should Plaintiffs prevail) for the Court to make a complete determination of the controversy.¹¹ It is also not clear that Sangamon County would be the proper venue to hear a case wherein the

¹¹ Defendant Raoul is also aware that Plaintiffs may seek leave to amend their complaint to add additional plaintiffs. Based on counsel’s representation about the districts each of the new plaintiffs is running for office in, each of these Plaintiffs would have the same issue because their districts are either in Chicago or suburban Cook County, meaning that pursuant to 10 ILCS 5/10-9(2.5) either the Chicago Board of Elections or the Cook County Board of Elections is a necessary party to adjudicate their claims.

Chicago Board of Elections is a named defendant. Plaintiffs Collazo, Kirchner, and Kunz have therefore not joined a necessary party to this action and are not entitled to injunctive relief.

VI. Even if an injunction issues, it should not be entered against the Attorney General.

Finally, to the extent that the Court enters a permanent injunction in this matter, it should not be entered against the Attorney General. Defendant AG Raoul does not dispute that he is an appropriate party to this lawsuit given his statutory duty to enforce the Election Code under the Attorney General Act. 15 ILCS 205/4. Nor does he dispute that he is an appropriate party in this litigation given the State Board of Elections' neutrality in this matter and his role in defending the constitutionality of statutes he believes are not constitutionality unfirm. *See* S. Ct. R. 19.

However, the Attorney General's status as an appropriate defendant does not mean that it is appropriate to enter an injunction against the Attorney General in this matter. The Attorney General does not determine who appears on a ballot for the General Assembly; nominating petitions are submitted to the Board. 10 ILCS 5/8-9. As Plaintiffs acknowledge in their Complaint, the State Board of Elections is responsible for determining whether a candidate has met the qualifications for appearing on the ballot. (Compl. at ¶ 13). Specifically, Section 10-14 of the Election Code provides that the Board certifies the name of each candidate whose nomination papers have been filed with it and then directs local county clerks to place those candidates' names on the official ballots for the general election. 10 ILCS 5/10-14. And as discussed, the Section 10-9(2.5) of Election Code provides that the Chicago Board of Elections that would hear challenges to Collazo, Kirchner, and Kunz's nomination papers. Because Section 10-14 of the Election Code gives the Board this power, the Board therefore also has the power to prevent a candidate's name

from being placed on the ballot if the nomination papers are not valid. *Druck v. Ill. State Bd. Of Elections*, 387 Ill. App. 3d 144, 155 (1st Dist. 2008).

Neither the Election Code nor the Attorney General Act authorizes the Attorney General to certify a candidate's name for the ballot or prevent a candidate from appearing on the ballot. Indeed, at no point do Plaintiffs allege that the Attorney General has this power; they only allege that he was named as a defendant because he is generally tasked with enforcing the laws of the State. (Compl. at ¶ 14). Accordingly, an injunction against the Attorney General is neither necessary nor appropriate in this case. Therefore, to the extent that the Court enters an injunction in this case, the Attorney General respectfully requests that injunction only be applied to the parties that the Election Code empowers to determine which candidates appear on the ballot.

CONCLUSION

P.A. 103-0586 easily satisfies the *Anderson-Burdick* test because it is a reasonable, nondiscriminatory legislative enactment substantially related to the important state interest of ensuring that the voters, not political insiders, choose nominees for the general election. Therefore, P.A. 103-0586 is constitutional. Moreover, granting Plaintiffs relief in this case would require a mandatory injunction reinserting repealed language into the Election Code. This would violate the public interest because the General Assembly undoubtedly may repeal its own laws. Additionally, Plaintiffs Collazo, Kirchner, and Kunz are not entitled to injunctive relieve because they have not named the Chicago Board of Elections as a party, which is a necessary party to this action. Finally, even if an injunction is issued in this case, there is no basis to enter an injunction against Attorney General Raoul.

WHEREFORE, the Defendant Attorney General Raoul respectfully requests that this Honorable Court enter summary judgment in his favor and against Plaintiffs.

Respectfully Submitted,

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**IN THE CIRCUIT COURT FOR THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS CHANCERY DIVISION**

LESLIE COLLAZO, et al.)	
)	
Plaintiffs,)	
)	
v.	)	No. 2024 CH 0032
)	
THE ILLINOIS STATE BOARD OF	)	Hon. Gail Noll, presiding.
ELECTIONS, et al.)	
)	
Defendants.)	

**INTERVENING DEFENDANT WELCH’S RESPONSE TO PLAINTIFFS’ COMBINED
MOTION FOR SUMMARY JUDGMENT AND PERMANENT INJUNCTION**

Intervening Defendant Emanuel “Christopher” Welch, respectfully responds to Plaintiffs’ Combined Motion for Summary Judgment and Permanent Injunction. In support, he states as follows:

Response

On May 28, 2024, Plaintiffs filed their Combined Motion for Summary Judgment and Permanent Injunction. On the same day, Defendant Welch filed his Section 2-619.1 Motion to Dismiss and Defendant Raoul filed his Motion for Summary Judgment. After reviewing Plaintiffs’ motion, Defendant Welch takes the position that the arguments to be made in response to Plaintiffs’ motion have already been raised in Defendants’ motions. In the interest of conserving the Court’s time in preparing for this expedited hearing, Defendant Welch incorporates the arguments made in his motion and Defendant Raoul’s motion in response to Plaintiffs’ Combined Motion arguments.

Specially, Defendant Welch incorporates the following arguments in response to the argument raised in Plaintiffs’ motion.

To Plaintiffs' Mot. Arg. I (at 11-12) that Plaintiffs are entitled to an injunction:

- Def. Welch's Motion to Dismiss Arg. B (at 3-9) that this Court lacks subject matter jurisdiction over Plaintiffs' Complaint;
- Def. Welch's Motion to Dismiss Arg. C (at 9-11) This Court should dismiss Plaintiffs Collazo, Kunz, and Kircher from this lawsuit because their nomination papers will not be reviewed by Defendant Board;
- Def. Raoul's Motion for Summary Judgment Arg. IV (at 11-12) that the balance of hardships favors denying injunctive relief.

To Plaintiffs' Mot. Arg. II.A. (at 13-16) that strict scrutiny applies:

- Def. Welch's Motion to Dismiss Arg. D (at 11-16) that Plaintiffs do not have a constitutional right to appear on the ballot through the post primary appointment process;
- Def. Raoul's Motion for Summary Judgment Arg. II (at 6-11) that Plaintiffs' as applied challenge requires less than strict scrutiny.

To Plaintiffs' Mot. Arg. II.B (at 16-20) that strict scrutiny was not met:

- Def. Welch's Motion to Dismiss Arg. D (at 11-16) that Plaintiffs do not have a constitutional right to appear on the ballot through the post primary appointment process;
- Def. Raoul's Motion for Summary Judgment Arg. III (at 9-11) that the Act survives strict scrutiny.

To Plaintiffs' Mot. Arg. II.C (at 18-20) that the Act does not satisfy the *Anderson-Burdick* test

and Plaintiff's Mot. Arg. II.D (at 20) that the Act is underinclusive:

- Def. Welch's Motion to Dismiss Arg. D (at 11-16) that Plaintiffs do not have a constitutional right to appear on the ballot through the post primary appointment process;
- Def. Raoul's Motion for Summary Judgment Arg. II (at 6-11) that Plaintiffs' as applied challenge requires less than strict scrutiny.

Conclusion

WHEREFORE, Intervening Defendant Emanuel “Chris” Welch prays that this Honorable Court deny Plaintiffs’ Combined Motion, grant his Motion to Dismiss, dismiss the Complaint with prejudice, and provide such other relief as may be just and proper.

Respectfully submitted,
Emanuel “Chris” Welch

/s/ Michael J. Kasper

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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS

LESLIE COLLAZO, et al.

Plaintiffs,

v.

THE ILLINOIS STATE BOARD OF
ELECTIONS, et al.

Defendants.

Case No. 2024-CH-000032

Honorable Judge Gail Noll

**Plaintiffs' Combined Response to Defendant Kwame Raoul's Motion for
Summary Judgment and Intervening Defendant's Motion to Dismiss**

Defendant Attorney General Kwame Raoul has filed a motion for summary judgment, and Intervening Defendant Chris Welch has filed a motion to dismiss. The parties agree that the underlying facts are not in dispute. Raoul Mot. 1; Welch Mot. 3 (“When ruling on motions under section 2-615 and section 2-619, a court must accept as true all well-pleaded facts . . .”). Much of Defendants’ motions simply rehash arguments that this Court rejected in granting the preliminary injunction. And at places Defendants’ motions both ignore Plaintiffs’ constitutional argument by attempting to reframe this case as an administrative action concerning objections to candidates’ nomination petitions. Where Defendants’ motions do acknowledge Plaintiffs’ constitutional claim, however, they still misconstrue it by treating it as a facial challenge to the Act as to future elections, rather than a challenge to the Act as applied only to Plaintiffs in the 2024 general election. As further explained below, this Court should deny both motions.

I. The correct standard of review is strict scrutiny.

This Court held that “the challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote, and therefore, the proper standard is strict scrutiny.” Prelim. Inj. 3, May 23, 2024.

Nonetheless, both Defendant and Intervening Defendant continue to insist that lesser scrutiny applies. But neither Defendant nor Intervening Defendant offer any different legal arguments from those they asserted in response to the motion for preliminary injunction. Raoul Mot. 6-9; Welch Mot. 11-16.

Defendants misstate Plaintiffs’ position on this issue by arguing as though Plaintiffs maintain that *any* law that implicates the right to vote is subject to strict scrutiny. Defendant Raoul insists that the Illinois Supreme Court in *Tully v. Edgar*, 171 Ill. 2d 297 (1996), “[did] not hold that any law that implicates the right to vote is subject to strict scrutiny.” Raoul Mot. 6. And Intervening Defendant asserts that Plaintiffs argue that “the Supreme Court’s decision in *Tully* . . . dictates that any law impacting the right to vote should be subjected to strict scrutiny.”

But, as Plaintiffs explained at the hearing on the motion for preliminary injunction and in their motion for summary judgment, Pls.’ Am. Mot. 28, strict scrutiny applies specifically when a law nullifies the right to vote either during or after that process—not when a law simply changes the Election Code for future elections. What matters is timing.

In *Tully*, strict scrutiny applied where the law attempted to remove trustees who had already been elected, but not where the law generally changed how trustees

would be selected in the future. Pls.’ Am. Mot. 28. The Attorney General claims that strict scrutiny only applies where “the law in question was enacted *after* the election,” Raoul Mot. 6 (emphasis in original), *accord.* Welch Mot. 13, and not when the rules are changed “in the middle of the game,” Raoul Mot. 7. But the only cases Defendant cites in which courts did not apply strict scrutiny to laws implicating the right to vote involved changes to the law that applied to *future* elections, *see* Raoul Mot. 7-8, not laws that changed the rules for an election in the middle of the process.

The Supreme Court in *Tully* would still have applied strict scrutiny had the law been enacted and gone into effect in the middle of voting. It strains logic to suggest that strict scrutiny applies when a law goes into effect after an election and alters the results of that election, but strict scrutiny does not apply when a law goes into effect in the middle of the voting (“in the middle of the game”) and alters the result. Surely strict scrutiny would apply where a law that changed the standards for which mail-in ballots would be counted was enacted and went into effect after such ballots had begun to be collected, but before voting had ended (“in the middle of the game”). The situation here is no different: Plaintiffs only challenge the Act’s application to the 2024 election because the Act was enacted and went into effect after the slating process had started, obliterating their opportunity to appear on the 2024 general election ballot.

Even under the *Anderson-Burdick* standard that Defendants assert applies, a law that changes the election rules in the middle of the game is subject to strict

scrutiny because it is discriminatory and unreasonable. *See* Pls.’ Am. Mot. 33, citing *Green Party v. Henrichs*, 355 Ill. App. 3d 445, 447 (3d Dist. 2005) (such restrictions are subject to strict scrutiny unless they are reasonable and nondiscriminatory). It’s discriminatory because it treats some candidates differently from others, and it’s unreasonable because the same rules should apply for everyone during the election process. Intervening Defendant asserts that the Act is not discriminatory because “it applies to Democrats and Republicans equally.” Welch Mot. 15. But in fact, the Act treats some candidates differently from others: Some candidates who pursued the processes to get on the ballot before the Act’s enactment will be placed on the ballot, while those who had not completed the process when the Act took effect have no opportunity to complete the process and be placed on the ballot, even if they meet the same requirements.

Intervenor-Defendant attempts to downplay the Act’s application to Plaintiffs as merely creating “hurdles which tend to limit the field” of candidates, relying on *Nader v. Keith*, 2004 U.S. Dist. LEXIS 16660 (N.D. Ill. 2004) and *Bullock v. Carter*, 4405 U.S. 134, 143 (1972). Welch Mot. 13. But the Act does not merely impose “hurdles” for candidates in the current election. Hurdles can be overcome. Plaintiffs, however, cannot overcome the new absolute barrier the Act has imposed, in the middle of the game, to keep them off the 2024 general election ballot. On the other hand, the Act’s application to future elections might be described as a “hurdle” to candidates because aspiring candidates for those elections will know in advance that slating is not available to them and that they therefore must pursue other

means to appear on the ballot. That is why the Act might satisfy even strict scrutiny as applied in future elections—but cannot survive even intermediate scrutiny as applied to Plaintiffs in the current election.

Intervening Defendant also attempts to avoid strict scrutiny by asserting that ballot access is not a fundamental right. But he doesn't cite any cases for that proposition. Rather, he relies on a pair of cases in which “the Supreme Court disqualified candidates whose nomination papers contained fewer petition signatures than the statutory minimum.” Welch Mot. 12. Then he concludes that the right to ballot access must not be fundamental because “[h]ad the Supreme Court believed that ballot access was a fundamental right, it would have applied strict scrutiny.” *Id.* But neither of the cases he cites concerned a constitutional challenge to a statute; rather they involve statutory construction of the Election Code. See *Corbin v. Schroeder*, 2021 IL 127052, ¶ 33; *Jackson-Hicks v. East St. Louis Bd. Of Elec. Comm'rs*, 2015 IL 118929, ¶ 1. And the Supreme Court has explicitly held the opposite of what Intervening Defendant asserts: “Restrictions on access to the ballot burden two distinct and *fundamental* rights, the rights of individuals to associate for the advancement of political beliefs, and the right of qualified voters . . . to cast their votes effectively.” *Illinois State Board of Elections v. Socialist Workers Party*, 440 U.S. 173, 184 (1979) (emphasis added). “In *veneration* of these intertwined rights, Illinois treats ‘access to a place on the ballot [as] a substantial right not lightly to be denied.’” *Ghiles v. Mun. Officers Electoral*

Bd. Of Chi. Heights, 2019 IL App (1st) 190117 ¶ 17, quoting *Bettis v. Marsaglia*, 2014 IL 117050, ¶ 28 (emphasis added) (alteration in original).

Defendant asserts that “there is no right to the continuation of an existing law.” Raoul Mot. 12, quoting *New Heights Recovery & Power, LLC v. Bower*, 347 Ill. App. 3d 89, 96 (1st Dist. 2004). But this is simply another attempt to assert that there is no fundamental right at issue here. *New Heights Recovery* is inapposite because the plaintiffs in that case asserted a right to a “special rate of reimbursement” provided in the Retail Rate Law—not interference with the fundamental constitutional right to ballot access on which Plaintiffs in this case rely. *Id.* at 94; *see also see Welch v. Johnson*, 147 Ill. 2d 40, 56 (1992).

II. The Act as applied to Plaintiffs for the 2024 general election satisfies neither strict scrutiny analysis nor the *Anderson-Burdick* test.

As explained at the preliminary injunction hearing and in Plaintiffs’ motion for summary judgment, the Act as applied to Plaintiffs for the 2024 general election fails both strict scrutiny and the *Anderson-Burdick* test. Pls.’ Am. Mot. 30-34. Applying the Act’s elimination of slating to keep Plaintiffs off the November 2024 general election does not advance a compelling state interest, nor is it substantially related to an important government interest. Defendants rely on the same interest they did in opposing the motion for preliminary injunction: “to prevent political insiders from having control over which candidates are slated and to ensure that the voters—and only the voters—make this determination.” Raoul Mot. 9; *see also Welch Mot.* 14.

But applying the Act to Plaintiffs in the 2024 general election would not advance that interest, because doing so would ensure that voters have less choice, with no Republican in the general election in those districts. Pls.' Am. Mot. 30. Further, keeping Plaintiffs off the ballot would mean that voters would have no role in selecting the candidates who appear on the general election ballot in the twelve districts (out of fourteen) where no Republican candidates ran in the primary, and only one candidate ran in the Democratic primary. Pls.' Am. Mot. 31. The Act's purpose is further undermined by the fact that it only ends the slating process for races for the General Assembly, not for other offices, making it fatally underinclusive. Pls.' Am. Mot. 34.

Finally, the Act does not advance the purported interest in ensuring voters and not political insiders determine who is on the ballot because the slating process only happens if no candidates run in a party's primary. In other words, political party committees can only slate a party's candidate for office if otherwise there would be no party candidate for that office on the ballot at all. If Intervening Defendant is correct that when no party candidate runs in a primary that "[t]he voters effectively abdicated an interest in voting for [that party's] candidate," Welch Mot. 13, then it's hard to see how the Act protects voters' determination of who is on the ballot. Eliminating the slating process that takes place after voters have abdicated their interest in deciding who is on the ballot cannot protect voters' right to decide who is on the ballot. Thus, under either strict scrutiny or *Anderson-Burdick*, the Act as applied to Plaintiffs in the 2024 general election is unconstitutional.

III. Plaintiffs are entitled to a permanent injunction.

Plaintiffs have met the standards for, and are entitled to, a permanent injunction. *See* Pls.' Am. Mot. 25-26. But for the same reasons they objected to Plaintiffs' request for a preliminary injunction, defendants assert that Plaintiffs are not entitled to a permanent injunction.

A. Plaintiffs do not seek a mandatory injunction.

Defendant Raoul asserts that Plaintiffs are seeking a mandatory injunction, as he did in opposition to Plaintiffs' motion for preliminary injunction. Raoul Mot. 5; *see also* Welch Mot. 7-8 (implying that Plaintiffs seek mandamus). According to Defendant, "Plaintiffs request that the Court reinsert the deleted language from the Election Code and require the Board to use a now-defunct procedure." Raoul Mot. 5. But it is neither true that Plaintiffs request that this Court to reinsert deleted language into the Election Code, nor true that slating procedure is now defunct. The Act amended language in Section 8-17 of the Election Code that allowed slating to be used in General Assembly races, but left the slating procedure set forth Section 7-61 intact. Defendant asserts that "Plaintiffs essentially request that the Court force the Board to place them on the ballot contrary to the Act's amendment to the Election Code." Raoul Mot. 5. But Plaintiffs are not seeking a mandatory injunction. *See People v. Van Tran Electric Corp.*, 152 Ill. App. 3d 175, 183 (5th Dist. 1987) ("A mandatory injunction is one which commands performance of some positive act.") They are not seeking to force anyone to place them on the ballot. They are simply seeking to prevent defendants *from enforcing the Act* to keep them off the 2024

general election ballot. An injunction would not prevent the Board from keeping Plaintiffs off the ballot for other lawful reasons.

B. The balance of the hardships favors granting Plaintiffs' motion for permanent injunction.

The Attorney General argues that granting Plaintiffs a permanent injunction would run counter to the public interest because doing so “would require this Court to tell the General Assembly that it is not allowed to repeal its own laws.” Raoul Mot. 12. But this is an as-applied challenge to the application of the Act to Plaintiffs for the 2024 general election only, not a facial challenge to the constitutionality of the Act generally, as Defendant elsewhere admits. Raoul Mot 10 (Plaintiffs’ “problem is not with the substance of the Act, but with its timing”). This case does not impact the General Assembly’s ability to repeal its own laws. If Plaintiffs are successful, the Act would still repeal the slating process for General Assembly races. It just couldn’t apply to Plaintiffs in the 2024 general election because doing so in the middle of the slating process would violate Plaintiffs’ fundamental right to access the ballot.

Defendants’ claim that an injunction is not in the public interest because the slating process is an end run around the will of the voters has no basis in fact. *See* Raoul Mot. 11 (Plaintiffs are not “entitled to a process where political insiders hand-select them to be their party’s nominees”), Welch Mot. 14 (the Act “ensures that a party’s primary voters, not party bosses, will have the ultimate say in who represents the party in the general election”). Again, Defendants attempt to defend the Act as if Plaintiffs had brought a facial challenge and do not explain why or how

granting Plaintiffs' requested relief—a permanent injunction as applied to Plaintiffs in the 2024 election—would undermine the voters. As explained above in Section II, applying the Act to Plaintiffs in the 2024 general election would not protect the voters' ability to choose their own candidates but rather would undermine voters' rights by guaranteeing that there will be no Republican candidate on the general election ballot. *See also* Pls.' Am. Mot. 30-34.

The Attorney General asserts that there is no hardship to Plaintiffs by insisting that "Plaintiffs are trying to create a right to the continuation of the now-defunct version of Section 8-17." Raoul Mot. 12. But this, again, ignores the fact that Plaintiffs have brought an as-applied constitutional challenge to the Act prohibiting them from accessing the 2024 ballot only. The Act clearly is a hardship to Plaintiffs because it prohibits them from using the process on which they relied to access the 2024 general election ballot in the middle of that process.

In defending the Act, neither Defendant has explained why it was necessary that the slating procedure be repealed immediately—after the process had started for the 2024 election—instead of going into effect after the 2024 election. Defendants have not explained what the government interest is in stopping the slating procedure for *this specific election*. Thus, they cannot explain why the specific action Plaintiffs seek here is not in the public interest.

IV. This Court has subject-matter jurisdiction because this matter challenges the constitutionality of the Act.

Intervening Defendant argues that this Court does not have subject-matter jurisdiction over this case. But this is simply a veiled attempt to reclassify the

Plaintiffs’ case—a constitutional challenge to the application of the Act to Plaintiffs in the 2024 election—to one Intervening Defendant wishes Plaintiffs brought—an administrative challenge to objections to Plaintiffs’ nomination petitions. And it is clear that courts, not administrative agencies, have jurisdiction to hear constitutional challenges to the application of laws. Illinois Const., Arv. VI, § 9; *Emps. Mut. Companies v. Skilling*, 163 Ill. 2d 284, 289 (1994) (“Administrative agencies are given wide latitude in resolving factual issues but not in resolving matters of law”). Indeed, as Intervening Defendant must know—as he presided over the passage of P.A. 103-5, codified at 735 ILCS 5/2-101.5—the Code of Civil Procedure requires that constitutional challenges to legislation, like this one, be brought in courts in Cook or Sangamon County.

Intervening Defendant reframes Plaintiffs’ as-applied constitutional challenge as “an order seeking to pre-empt Plaintiffs’ expected objections to their nomination papers.” Welch Mot. 5. “In other words,” he argues, “Plaintiffs are asking this Court to prospectively order the Board to overrule *any* objections to their’ [sic] nomination papers even before they are filed.” Welch Mot. 5 (emphasis added). Welch further hypothesizes: “If Plaintiffs prevail in this Court, then the Board will be in a situation where it will be forced to overrule *any objection over which it had jurisdiction* to any of Plaintiffs’ nomination papers.” *Id.* 6.

But none of these assertions accurately reflect what Plaintiffs are claiming or have argued. Rather, Plaintiffs are asking this Court for “a permanent injunction prohibiting Defendants from applying the provision of Illinois Public Act No. 103-

0586 that eliminates the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election, and from otherwise using that provision to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot." Pls.' Am. Mot. 1.

Contrary to Intervening Defendant's assertion, this case is not one of administrative review because the Board does not have the authority to enjoin the provisions of the Act Plaintiffs are challenging. Intervening Defendant Welch's arguments to the contrary are based on his misreading of this action (see above). Welch's reliance on *Lara v. Schneider*, 75 Ill. 2d 63 (1979) is likewise misplaced. In that case, an objection was made to a candidate's nominating papers because the required statement of economic interests was incomplete. 75 Ill. 2d at 65 (Kluczynski, J., dissenting). The Board of Elections, exercising its authority under provisions of the Election Code that allowed the Board to "determine the validity of a candidate's 'certificate of nomination and nomination papers,'" sustained the objections. *Id.* at 66, quoting Ill. Rev. Stat. 1977, ch. 46, par. 10-10. But again, despite Intervening Defendant's arguments to the contrary, *this is not about a challenge to Plaintiffs' nomination papers*. This is an as-applied challenge to the constitutionality of a statute. And if the General Assembly wanted to give the Board of Elections original jurisdiction over a constitutional claim, it needed to "explicitly exclude[] the circuit courts from hearing such cases." *People v. NL Industries*, 152 Ill. 2d 82, 97 (1992). But the General Assembly has not done so, as Intervening Defendant, as Speaker of the Illinois House of Representatives, must know.

V. Plaintiffs need not join the Chicago Board of Elections nor any other body or electoral board to this litigation.

Defendants argue that the actions of Plaintiffs Kunz, Collazo, Kirchner, Olivo, Rivera, Rodriguez, and Nguyen Le must be dismissed because the State Board of Elections is not the electoral board that would ultimately determine the validity of these candidates' nomination papers. Raoul Mot. 12-14; Welch Mot. 9-11. According to Defendants, Plaintiffs were required to add the Chicago Board of Election Commissioners and the Cook County Officers Electoral Board as Defendants in this case.

The State Board of Elections is charged with supervising the administration of the election laws throughout the State. 10 ILCS5/1A-8(12). Plaintiffs, as candidates for state legislative offices, must file their petitions in "the principal office of the State Board of Elections." 10 ILCS 5/10-6. If those petitions apparently conform with the requirements of the Election Code, and no objection is filed within five business days of the last day for filing, those petitions are deemed to be valid. 10 ILCS 5/10-8. None of the Plaintiffs filed, or will file, their petitions with the Chicago Board of Election Commissioners, the Cook County Clerk, or any office other than the State Board of Elections. SOF 12, 16-17, 23, 27, 31, 35, 39, 43, 47, 51, 55, 59, 63, 67.

Any objection to a representative or legislative candidate's nomination papers is also filed with the State Board of Elections, and no other administrative body. 10 ILCS 5/10-8. Once an objection is filed, the State Board sends the objection to chair

of the appropriate electoral board for adjudication. *Id.* But Plaintiffs are not seeking administrative review of a ruling on an objection to their petitions; rather, this is an as-applied challenge to the constitutionality of the Act. *See* Section III. Further, while the State Board of Elections functions as an electoral board for the hearing of objections in multi-county representative and legislative districts, in doing so it does not sit as the State Board of Elections, but rather as the State Officers Electoral Board. 10 ILCS 5/1A-8(1). Other electoral boards are convened as set forth in Section 10-9 of the Election Code. But each such electoral board does not continuously sit as a body, however, like the State Board of Elections does. An electoral board comes in to being *only* when an objection to a candidate's nomination papers is filed, and *only* upon notification by the State Board of Elections. The fact that none of these preconditions has yet occurred not only shows that Plaintiffs' action does not seek administrative review, but also shows why it would be inappropriate to add these electoral boards as defendants—they do not currently exist.

However, even assuming *arguendo* that Defendants are correct that the Chicago Board of Elections or any other administrative body is a necessary defendant in this litigation, dismissal of this case would not be merited. The Code of Civil procedure provides that “[n]o action shall be dismissed . . . for nonjoinder of necessary parties without first affording reasonable opportunity to add them as parties. New parties may be added . . . by order of the court, at any stage of the cause, before or after

judgment, as the ends of justice may require and on terms which the court may fix.”
735 ILCS 5/2-407.

The Plaintiffs have properly sued the State Board of Elections, which is designated by law as the supervisor of the election laws and the electoral process in the State of Illinois. No candidate would file their petitions anywhere else, and no objection to those petitions would be filed anywhere else.

VI. The injunction should issue against the Attorney General.

Attorney General Raoul argues that he should be exempt from the requested injunction because the State Board of Elections enforces the Election Code. Raoul Mot. 11-12. Plaintiffs are seeking an injunction preventing the unconstitutional application of the Act against them in the 2024 general election. The Attorney General is the right defendant because he enforces the law in general and is the legal officer of the State. Illinois Const., Art. V, § 15.

Further, the State Board of Elections is required to report violations of election laws to the Attorney General. 10 ILCS 5/1A-8(7). And the Board may refer those who violate its administrative orders to the Attorney General. 10 ILCS 5/9-23. The Attorney General is free to take action against the Board if they violate what he perceives to be state law. If this Court were to enjoin the Board but not the Attorney General, nothing would stop him from charging the Board with violating the Act. Therefore, the injunction should issue against the Attorney General.

May 31, 2024

Respectfully submitted,

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Attorneys for Plaintiffs

**IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

LESLIE COLLAZO, <i>et al.</i> ,)	
)	
Plaintiffs,)	
	)	Case No. 24 CH 32
v.)	
	)	Hon. Gail Noll
ILLINOIS STATE BOARD OF ELECTIONS,)	
<i>et al.</i> ,)	
)	
Defendants.)	
)	

**DEFENDANT ATTORNEY GENERAL KWAME RAOUL’S RESPONSE IN
OPPOSITION TO PLAINTIFFS’ AMENDED MOTION FOR SUMMARY JUDGMENT**

Defendant Attorney General Kwame Raoul (“AG Raoul”) submits this brief in opposition to Plaintiffs’ motion for summary judgment and states as follows:

INTRODUCTION

As this Court is aware, Plaintiffs bring an as-applied challenge to a recent amendment to the Election Code that repeals language providing for a post-primary procedure to slate candidates for established political parties. The general facts of this case have been stated by the parties on multiple occasions and are well-known to the Court. Defendant AG Raoul therefore incorporates and adopts the background section from his previously filed motion for summary judgment herein. (Def. AG Raoul’s Motion for Summary Judgment (“Def.’s MSJ”) at 2-3). As discussed, the material facts of this case are not in dispute and Defendant AG Raoul does not dispute any facts listed in the Plaintiffs’ Statement of Facts in their Amended Motion for Summary Judgment. Defendant Raoul AG simply lists additional facts below regarding the locations of the districts of the new Plaintiffs.

STATEMENT OF ADDITIONAL FACTS

Plaintiff Camaxtle “Max” Olivo is a prospective candidate for the 1st Representative District. The 1st Representative District is located in the City of Chicago and entirely within Cook County. *See* 2021-2022 Illinois Blue Book at 58, ILLINOIS SECRETARY OF STATE *available at* https://www.ilsos.gov/publications/illinois_bluebook/legdistrictmaps.pdf (last visited May 30, 2024).

Plaintiff Juvandy Rivera is a prospective candidate for the 3rd Representative District. The 3rd Representative District is located in the City of Chicago and entirely within Cook County. *Id.*

Plaintiff Nancy Rodriguez is a prospective candidate for the 4th Representative District. The 4th Representative District is located in the City of Chicago and entirely within Cook County. *Id.*

Plaintiff Terry Nguyen Le is a prospective candidate for the 13th Representative District. The 13th Representative District is located in the City of Chicago and entirely within Cook County. *Id.*

Plaintiff John Zimmers is a prospective candidate for the 19th Representative District. The 19th Representative District is located in the City of Chicago and entirely within Cook County. *Id.*

Plaintiff Ron Andermann is a prospective candidate for the 53rd Representative District. The 53rd Representative District is located entirely within Cook County. *Id.*

Plaintiff Carlose Gonzalez is a prospective candidate for the 31st Legislative District. The 31st Legislative District is located in Lake County. *Id.*

Plaintiff Teresa Alexander is a prospective candidate for the 50th Representative District. The 50th Representative District is located in Kane County and Kendall County. *Id.*

Plaintiff Donald Puckett is a prospective candidate for the 43rd Representative District. The 43rd Representative District is located in Kane County and Cook County. *Id.*

ARGUMENT

Plaintiffs' legal arguments in their motion for summary judgment are substantially the same as their argument in their motion for preliminary injunction. Defendant AG Raoul's legal arguments in opposition to Plaintiffs' legal arguments by and large have already been discussed in Parts I-VI of his Motion for Summary Judgment. (Def.'s MSJ at 5-15). The Court is already well-versed in the parties' arguments. Therefore, for the purpose of judicial efficiency, Defendant AG Raoul hereby adopts and incorporates Parts I-VI of his Motion for Summary Judgment as his response to Plaintiffs' motion. Consequently, in this Response Defendant AG Raoul will only address two points not addressed in his motion for summary judgment.

The first point is whether the new Plaintiffs have failed to name a necessary party to obtain injunctive relief over their claim. As discussed in Defendant AG Raoul's Motion for Summary Judgment, the Court lacks jurisdiction to enter an injunction in favor of Plaintiffs Collazo, Kirchner, and Kunz because they failed to name the Chicago Board of Elections, which is a necessary party for the relief they seek. (Def.'s MSJ at 12-14). The same is true for new Plaintiffs Olivo, Rivera, Rodriguez, Nguyen Le, Zimmers, and Andermann. Specifically, as discussed above, Olivo, Rivera, Rodriguez, and Nguyen Le's districts are all at least partially within the City of Chicago. Therefore, under Section 10-9(2.5) of the Election Code, the Chicago Board of Elections would hear any challenge to their candidacies. 10 ILCS 5/10-9(2.5). Meanwhile, Zimmers and Andermann's districts are entirely within suburban Cook County, meaning that the Cook County Electoral Board would hear challenges to their candidacies. *Id.* As explained in the Motion for Summary Judgment, this makes these two electoral boards necessary parties to effectuate relief for these Plaintiffs. (*See* Def.'s MSJ at 12-14). Indeed, the fact that two separate electoral boards that

are not before this Court would hear the potential challenges to most of the Plaintiffs' nomination petitions in this case supports the Speaker's position that this lawsuit has been brought prematurely. (*See* Def.-Intervenor's Motion to Dismiss at 3-9). Therefore, Plaintiffs Olivo, Rivera, Rodriguez, Nguyen Le, Zimmers, and Andermann are not entitled to injunctive relief because they have failed to join necessary parties.

The second point is Plaintiffs' argument that P.A. 103-0586 is underinclusive because it only applies to races for the General Assembly. However, the General Assembly is allowed to approach perceived problems incrementally and can "select one phase of one field and apply a remedy there, neglecting others." *Arangold Corp. v. Zehnder*, 329 Ill. App. 3d 781, 779 (1st Dist. 2002). Moreover, "the legislature is not bound to pass one law meeting every exigency, but may consider degrees of evil." *Cutinello v. Whitley*, 161 Ill. 2d 409, 422 (1994). *See also Williams-Yulee v. Fla. Bar*, 575 U.S. 433, 499 (2015) ("A State need not address all aspects of a problem in one fell swoop; policymakers may focus on their most pressing concerns."). Accordingly, the General Assembly is permitted to phase out the post-primary slating procedure at issue in steps, starting with races for the General Assembly. P.A. 103-0586's limitation to the General Assembly is in no way fatal to its constitutionality.

CONCLUSION

For the reasons discussed in Defendant AG Raoul's Motion for Summary Judgment, P.A. 103-0586 is a reasonable, nondiscriminatory legislative enactment substantially related to the important state interest. It is therefore constitutional. Moreover, for the reasons discussed in the Motion for Summary Judgment and herein, Plaintiffs Collazo, Kirchner, Kunz, Olivo, Rivera, Rodriguez, Nguyen Le, Zimmers, and Andermann are not entitled to injunctive relief because they have not named the Chicago Board of Elections or the Cook County Electoral Board, which are

necessary parties to this action. Finally, as discussed in the Motion for Summary Judgment, even if an injunction is issued in this case, there is no basis to enter an injunction against Attorney General Raoul. Plaintiffs' Motion for Summary Judgment should therefore be denied.

WHEREFORE, the Defendant Attorney General Raoul respectfully requests that this Honorable Court deny Plaintiffs' Motion for Summary Judgment.

Respectfully Submitted,

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**IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

38

Joseph B. Raoul Clerk of the Circuit Court

LESLIE COLLAZO, et al.,)
)
Plaintiffs,)
)
v.)
)
THE ILLINOIS STATE BOARD OF)
ELECTIONS, et al.,)
)
Defendants.)

Case No.: 24-CH-32

ORDER

This case came before the Court on June 3, 2024 for hearing on Plaintiffs’ Amended Combined Motion for Summary Judgment and Permanent Injunction and Defendant Attorney General Kwame Raoul’s Motion for Summary Judgment. Plaintiffs, who are prospective candidates for seats in the Illinois General Assembly, seek a declaratory judgment that Public Act 103-0586’s revisions to 10 ILCS 5/8-17, as applied to Plaintiffs for the November 2024 general election, violate their constitutional right to access the ballot as protected by Article II, section 1 of the 1970 Illinois Constitution. Plaintiffs seek a permanent injunction preventing Defendants from enforcing this portion of the Act against Plaintiffs, including using the revisions as a basis for denying Plaintiffs’ nomination petitions for the November 2024 general election or otherwise using that provision to prevent Plaintiffs’ names from being listed on the November 2024 ballot. Considering the law, the facts, and the arguments of counsel, the Court finds and orders as set forth below.

The material facts are not in dispute. Article 8 of the Election Code governs nominations for election to seats in the Illinois General Assembly. With respect to the 2024 November general election for the seats at issue in the case, potential candidates for the General Assembly from an established political party could begin circulating nominating petitions on September 5, 2023.

These potential candidates were required to file their nominating papers with the State Board of Elections during the filing period, which was from November 27, 2023 to December 4, 2023. The 2024 Illinois primary election was held on March 19, 2024.

At the beginning of the 2024 election cycle, on September 5, 2023, the law of the State of Illinois provided multiple avenues for a candidate to access the ballot for General Assembly races in the November 2024 general election. These same avenues were available on the petition filing deadline, December 4, 2023, and on and after the March 19, 2024 primary. On May 3, 2024, P.A. 103-0586 completely eliminated one of the previously available routes to ballot access; the act removed the post-primary legislative or representative committee nomination process that had been available under Section 5/8-17 for races in which there was no candidate for nomination of a party in the primary.

Section 5/8-17 addresses ballot vacancies in General Assembly races. 10 ILCS 5/8-17. Until May 3, 2024, Section 5/8-17 provided in relevant part as follows:

In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary) or decline the nomination or should the nomination for any other reason become vacant, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no candidate for the nomination of the party in the primary, except as otherwise provided in this Code, no candidate of that party for that office may be listed on the ballot at the general election, unless the legislative or representative committee of the party nominates a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election. Vacancies in nomination occurring under this Article shall be filled by the appropriate legislative or representative committee in accordance with the provisions of Section 7-61 of this Code.** In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6.

(emphasis added). This case arises out of Public Act 103-0586 (effective 5/3/2024) which amended Section 5/8-17. After P.A. 103-0586, Section 5/8-17 now provides in relevant part as follows:

In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary), decline the nomination, or withdraw the candidate's name from the ballot prior to the general election, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.** In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6 or as provided in Section 25-6, as applicable.

(emphasis added).

Section 5/8-17's 75-day window to fill vacancies in nominations through the legislative or representative committee nomination process ("slating process") began on the day of the primary election, March 19, 2024, and was to end on June 3, 2024. However, when P.A. 103-0586 became effective on May 3, 2024, the slating process was eliminated in General Assembly races where there was no candidate for the party's nomination in the primary.¹ The law as amended expressly states that when "there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election."

Under Section 5/8-17 as it existed prior to May 3, 2024, when an established party had a ballot vacancy following the primary election because no one ran in the primary, the legislative or representative committee of the party could nominate a candidate to fill the vacancy. The nominee would then need to gather a sufficient number of signatures under 10 ILCS 5/7-61, which was set at the same number of signatures that an established party candidate would have been required to

¹ The provisions of Section 5/8-17 that allow for slating when a nominated candidate dies before election, declines the nomination, or withdraws his or her name from the ballot remain intact.

file during the original filing period, from November 27, 2023 to December 4, 2023.² The circulation period for petitions under the now deleted slating process began on the day the appropriate committee nominated the individual. The nominee was then required to file proper nominating paperwork with the State Board of Elections within 75 days of the primary, i.e. by June 3, 2024.

For each seat at issue here, there was no candidate for the nomination of the Republican party in the March 2024 primary election. Plaintiffs were in the course of availing themselves of the slating process contained in Section 5/8-17 at the time P.A. 103-0586 amended the statute on May 3, 2024 to delete the language relating to that process for races in which there was no candidate for nomination of a party in the primary. Plaintiffs filed this lawsuit on May 10, 2024, seeking declaratory and injunctive relief. Plaintiffs contend that the revisions to 10 ILCS 5/8-17 are unconstitutional as applied to them in the November 2024 general election. On May 23, 2024, this Court entered a preliminary injunction under which Defendant State Board of Elections and Defendant Kwame Raoul were preliminarily enjoined from rejecting Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17. Counsel for the Board represented that the Board accepted for filing all nominating petitions that were tendered to it from potential candidates, Plaintiffs and other individuals, seeking to proceed under the now deleted slating process in General Assembly races. Counsel for the Board also confirmed that subsequent to the March 2024 primary election at least one individual filed nominating petitions for a General Assembly seat with the State Board of Elections under Section 5/8-17 prior to the slating process being removed from the statute on May 3, 2024.

² The number of signatures required for an established party candidate for the General Assembly is less than that required for an independent or third-party candidate.

ANALYSIS

Plaintiffs and Defendant Raoul filed cross-motions for summary judgment. Intervening Defendant Welch filed a response opposing Plaintiffs' motion for summary judgment. Summary judgment is appropriate when "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c). As a threshold matter, the Court finds that this case is justiciable. While the Defendant Board of Elections has declined to take a position, the matter presents an actual controversy between adverse parties given the Defendant Attorney General's interest in upholding P.A. 103-0586 as passed by the General Assembly. Plaintiffs have a strong interest in the resolution of their constitutional claim to determine whether they may continue to avail themselves of the now deleted slating process. The issues are legal ones, fit for judicial determination, and given the urgent timeline associated with certifying and printing the ballots for the November 2024 general election, both sides would experience hardship if judicial consideration was withheld.

Plaintiffs raise an as-applied constitutional challenge to P.A. 103-0586's revisions to Section 5/8-17. Plaintiffs do not contend that the General Assembly cannot amend Section 5/8-17 to remove the slating process in the future. Rather, they assert that the application of the amendment to them in the middle of the 2024 election cycle violates their right to vote and to have their names placed on the November 2024 ballot. The law as amended is clear. Effective May 3, 2024, when "there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election." 10 ILCS 5/8-17. The question before the Court is whether the General Assembly's exercise of its power to completely eliminate one avenue for ballot access during an election cycle impermissibly burdens Plaintiffs' right to vote and, if so, whether injunctive relief is appropriate.

In 1974, the United States Supreme Court recognized that, “as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Storer v. Brown*, 415 U.S. 724, 730 (1974). The legislature enjoys great freedom in enacting legislation, but that power is subject to constitutional limitation. Legislation challenged in court enjoys a presumption of constitutionality. When a state election law provision imposes only reasonable, nondiscriminatory restrictions on the rights of voters, the State's important interest in regulating elections is generally sufficient to justify the restrictions. See *Burdick v. Takushi*, 504 U.S. 428 (1992); *Anderson v. Celebrezze*, 460 U.S. 780 (1983).

However, if an electoral regulation imposes a severe restriction on the right to vote, strict scrutiny applies. The Illinois Supreme Court has held that when “challenged legislation implicates a fundamental constitutional right, . . . such as the right to vote, the presumption of constitutionality is lessened and a far more demanding scrutiny is required.” *Tully v. Edgar*, 171 Ill.2d 297, 304 (1996) (citing *Potts v. Illinois Department of Registration & Education*, 128 Ill.2d 322, 329 (1989)). In cases that implicate fundamental constitutional rights, the court examines the challenged statute under a strict scrutiny standard. *Id.* Plaintiffs assert that the strict scrutiny standard applies here. Defendant Raoul and Intervening Defendant Welch argue that the less stringent *Anderson-Burdick* standard applies.

“No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.” *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964). The Illinois Supreme Court “has determined that the right to vote is implicated by legislation that restricts a candidate's effort to gain access to the ballot.” *Tully*, 171 Ill.2d at 306-07 (citing *Anderson v. Schneider*, 67 Ill.2d 165, 172–73 (1977)). However, the law does not require that

every legislation that places a restriction on ballot access be subject to strict scrutiny. The Court is faced with a unique set of circumstances where a provision of the Election Code establishing a route for ballot access was eliminated during the election cycle. While there is no case law directly on point, the Court finds the instant case to be more similar to *Tully* and *Graves v. Cook Cnty. Republican Party*, 2020 IL App (1st) 181516, than it is to the cases upon which Defendants rely.

Both *Tully* and *Graves* involved timing issues and considered when changes to laws involving elections could be made without impermissibly burdening the right to vote. In *Tully*, the Illinois Supreme Court examined the constitutionality of an act which changed the Board of Trustees of the University of Illinois from an elective to an appointive office. The act in question was to take effect post-election, in the middle of the terms of the duly-elected board members, removing them from office prior to the expiration of their current terms. In *Graves*, the First District Appellate Court examined whether a change relating to candidate eligibility for committeemen in the bylaws of the Cook County Republican Party which was enacted after early voting started in the 2016 March primary election but prior to election day violated the fundamental right to vote. The plaintiff in *Graves* did not dispute whether the Cook County Republican Party could enact such provision, but asserted that the bylaw enacted and applied during the primary election was a violation of the right to vote. Both the *Tully* court and the *Graves* court applied a strict scrutiny analysis.

The challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken place, precludes Plaintiffs from having their

names placed on the November 2024 ballot under any statutorily available method.³ A strict scrutiny analysis is appropriate.

Under the strict scrutiny analysis, the Court “must consider three questions: (1) Does the Act advance a compelling state interest? (2) Is the provision . . . necessary to achieve the legislation's asserted goal? and (3) Are the provisions in the legislation the least restrictive means available to attain the legislation's goal?” *Tully*, 171 Ill. 2d at 311. No relevant legislative history associated with P.A. 103-0586 has been identified. Defendant Raoul submits that the important government interest at issue is the need to prevent political insiders from having control over which candidates are slated and to ensure that the voters, and only the voters, make this determination.

Assuming the proffered reason satisfies the first prong, P.A. 103-0586's revisions to Section 5/8-17 do not meet the strict scrutiny standard because they fail to satisfy the second and third prongs. As was the case in *Tully* and *Graves*, in the present case the legislation's goal could be achieved by other less restrictive means that would not impinge upon the fundamental right to vote. The General Assembly could make the revisions effective for the next election, rather than in the midst of the current election. Everyone would then be on notice that, in General Assembly races, when there was no candidate for the nomination of the party in the primary, no candidate of that party for that office can be listed on the ballot at the general election. While the election cycle for seats in the General Assembly is long, spanning 14 months, that does not mean that the legislature has only a small window to act, given that the General Assembly can designate an effective date in the future when it enacts legislation. Changing the rules relating to ballot access in the midst of an election cycle removes certainty from the election process and is not necessary to achieve the legislation's proffered goal. As applied to Plaintiffs, P.A. 103-0586's revisions to

³ “A person . . . who voted the ballot of an established political party at a general primary election may not file a statement of candidacy as a candidate of a different established political party, a new political party, or as an independent candidate for a partisan office to be filled at the general election immediately following the general primary for which the person filed the statement or voted the ballot.” 10 ILCS 5/7-43.

Section 5/8-17 do not satisfy the strict scrutiny standard and therefore the act impermissibly violates Plaintiffs' right to vote as guaranteed under the Illinois Constitution. Declaratory judgment is appropriate.

Plaintiffs are entitled to declaratory judgment even if the less stringent *Anderson-Burdick* standard urged by Defendants applies. Under *Anderson-Burdick*, when a state election law provision imposes only reasonable, nondiscriminatory restrictions on the rights of voters, the State's important interest in regulating elections is generally sufficient to justify the restrictions. However, to withstand *Anderson-Burdick* scrutiny, the statute must be reasonable and not arbitrary or discriminatory. P.A. 103-0586's revisions to Section 5/8-17 are not retroactive. The act was effective immediately, which means that the slating process was eliminated in the midst of the 75-day post-primary window previously available to fill vacancies. At least one potential candidate filed nominating petitions for a General Assembly seat with the State Board of Elections under Section 5/8-17 prior to the slating process being removed from the statute on May 3, 2024. The act arbitrarily treats potential candidates seeking to use the now deleted slating process within the 75-day post-primary window differently and does not apply the same rules to all potential candidates.

The Court turns to Plaintiffs request for a permanent injunction. Plaintiffs seek a permanent injunction preventing Defendants from enforcing P.A. 103-0586's revisions to Section 5/8-17 against Plaintiffs, including using the revisions as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision to prevent Plaintiffs' names from being listed on the November 2024 ballot. A party seeking an injunction must demonstrate (1) a clear and ascertainable right in need of protection, (2) that he or she will suffer irreparable harm if the injunction is not granted, and (3) that no adequate remedy at law exists. *Swigert v. Gillespie*, 2012 IL App (4th) 120043, ¶ 27.

The record does not support a finding that a permanent injunction against Defendant Raoul is appropriate. Summary judgment in favor of Defendant Raoul is granted on this issue. The Attorney General is not authorized to deny nominating petitions or to certify a candidate's name for the ballot. The Court adopts Counsel for Defendant Raoul's arguments on this point. The request for permanent injunctive relief enjoining Defendant Raoul is denied and the preliminary injunction entered against him on May 23, 2024 is dissolved.

The Court finds that permanent injunctive relief against the Defendant State Board of Elections and the Defendant Board members is appropriate. The Board is responsible for determining whether a candidate has met the qualifications for appearing on the ballot and for certifying the names of eligible candidates for local county clerks to place on the ballots. Plaintiffs have a clearly ascertainable right to be free from unconstitutional restriction on their right to vote which under the circumstances of this case includes their right to ballot access under the law as it existed prior to May 3, 2024. Under 10 ILCS 5/10-8, "[e]xcept as otherwise provided in this Code, certificates of nomination and nomination papers . . . being filed as required by this Code, and being in apparent conformity with the provisions of this Act, shall be deemed to be valid unless objection thereto is duly made" The Election Code as amended now provides in Section 5/8-17, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election. If Plaintiffs' nomination petitions are rejected based on P.A. 103-0586's revisions to 10 ILCS 5/8-17, they will suffer irreparable harm in that they will lose the opportunity to run as party candidates in the 2024 general election. Additionally, the timing of the amendment, which occurred after the March primary election, precludes Plaintiffs from having their names placed on the November ballot under any of the statutorily available routes to ballot access. Under these circumstances, no adequate remedy at law exists.

Furthermore, the balance of hardships weighs in favor of injunctive relief. A permanent injunction does not prevent the General Assembly from amending its own laws, rather it prevents the application of such an amendment in the middle of an election cycle. Absent injunctive relief, Plaintiffs are deprived of an avenue of ballot access that existed prior to May 3, 2024, and under the facts of this case, they face an absolute barrier preventing them from having their names placed on the November 2024 ballot.

The Court is not persuaded by the argument that Plaintiffs are seeking a mandatory injunction or that Plaintiffs have failed to name necessary parties, specifically the local election boards or the State Board sitting as the State Officers Electoral Board. Counsel for the Board requested that if injunctive relief was ordered that there be clarification as to its scope. “If a plaintiff prevails in an as-applied claim, he may enjoin the objectionable enforcement of the enactment only against himself, while a successful facial attack voids the enactment in its entirety and in all applications.” *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 306 (2008). This Court’s permanent injunction is limited to the named Plaintiffs and extends only to the Defendant State Board of Elections and the Defendant Board members.

THEREFORE, for the reasons set forth above, it is hereby ordered:

1. Plaintiffs’ Motion for Summary Judgment is ALLOWED, in part.
2. Defendant Raoul’s Motion for Summary Judgment is ALLOWED, in part.
3. Declaratory and injunctive relief is entered as follows: The revisions to 10 ILCS 5/8-17 contained in P.A. 103-0586 are unconstitutional as applied to Plaintiffs in the November 2024 general election because the application of the amendment to Plaintiffs during the 2024 election cycle impermissibly burdens their right to vote and to have their names placed on the November ballot. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken

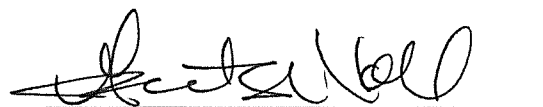
place, precludes Plaintiffs from having their names placed on the November ballot under any statutorily available method. The challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote, and therefore, the proper standard is strict scrutiny, which it does not meet.

The law, which became effective on May 3, 2024, as applied to Plaintiffs in the on-going 2024 election cannot reasonably be construed in a manner that would preserve its validity. The Court is cognizant that it must avoid unnecessary declarations that a statute is unconstitutional; however, here the Plaintiffs bring a constitutional challenge to the application of the revisions to Section 5/8-17 in the midst of the 2024 election cycle. The finding of unconstitutionality is necessary to the Court's decision, and there is no alternative grounds upon which the decision can rest. Attorney General Raoul is a named defendant in this matter; therefore, separate notice under Illinois Supreme Court Rule 19 is not required.

With respect to injunctive relief, based on the Court's declaratory judgment regarding P.A. 103-0586's revisions to 10 ILCS 5/8-17, Defendant State Board of Elections and Defendant Board members are hereby enjoined from applying the provisions of Illinois Public Act No. 103-0586 which revise 10 ILCS 5/8-17 to eliminate the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election and from otherwise using the revisions to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot. All other requests for relief are denied.

5. This is a final order. There is no just reason for delaying enforcement or appeal of this order, or both. THE CLERK IS DIRECTED TO FORWARD A COPY OF THIS ORDER TO COUNSEL OF RECORD.

Date: 6-5-2024



Gail L. Noll
Circuit Judge

Supreme Court from the final order entered by the Honorable Judge Gail Noll of the Circuit Court for the Seventh Judicial Circuit, Sangamon County, Illinois, on June 5, 2024, in which the circuit court granted plaintiffs' motion for summary judgment and granting injunctive relief against the Illinois State Board of Elections by finding revisions to 10 ILCS 5/8-17 contained in P.A. 103-0586 violates Article III, Section 1 of the Illinois Constitution as applied to plaintiffs in the November 2024 general election because the application of the amendment to plaintiffs during the 2024 election cycle impermissibly burdens their right to vote and to have their names placed on the November ballot. A copy of the circuit court's June 5, 2024 order is attached as Exhibit A.

By this appeal, Intervening Defendant EMANUEL "CHRIS" WELCH, in his official capacity as Speaker of the Illinois House of Representatives and his individual capacity, requests that the Illinois Supreme Court reverse and vacate the circuit court's order and grant any other appropriate relief.

Respectfully submitted,

EMANUEL "CHRIS" WELCH

By: /s/ Michael J. Kasper
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*attorneys for intervening-defendant appellant
Emanuel "Chris" Welch*

FILED

JUN 05 2024

**IN THE CIRCUIT COURT
OF THE SEVENTH JUDICIAL CIRCUIT
SANGAMON COUNTY, ILLINOIS**

38

Joseph B. Raoul Clerk of the
Circuit Court

LESLIE COLLAZO, et al.,)
)
Plaintiffs,)
)
v.)
)
THE ILLINOIS STATE BOARD OF)
ELECTIONS, et al.,)
)
Defendants.)

Case No.: 24-CH-32

ORDER

This case came before the Court on June 3, 2024 for hearing on Plaintiffs' Amended Combined Motion for Summary Judgment and Permanent Injunction and Defendant Attorney General Kwame Raoul's Motion for Summary Judgment. Plaintiffs, who are prospective candidates for seats in the Illinois General Assembly, seek a declaratory judgment that Public Act 103-0586's revisions to 10 ILCS 5/8-17, as applied to Plaintiffs for the November 2024 general election, violate their constitutional right to access the ballot as protected by Article II, section 1 of the 1970 Illinois Constitution. Plaintiffs seek a permanent injunction preventing Defendants from enforcing this portion of the Act against Plaintiffs, including using the revisions as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision to prevent Plaintiffs' names from being listed on the November 2024 ballot. Considering the law, the facts, and the arguments of counsel, the Court finds and orders as set forth below.

The material facts are not in dispute. Article 8 of the Election Code governs nominations for election to seats in the Illinois General Assembly. With respect to the 2024 November general election for the seats at issue in the case, potential candidates for the General Assembly from an established political party could begin circulating nominating petitions on September 5, 2023.

These potential candidates were required to file their nominating papers with the State Board of Elections during the filing period, which was from November 27, 2023 to December 4, 2023. The 2024 Illinois primary election was held on March 19, 2024.

At the beginning of the 2024 election cycle, on September 5, 2023, the law of the State of Illinois provided multiple avenues for a candidate to access the ballot for General Assembly races in the November 2024 general election. These same avenues were available on the petition filing deadline, December 4, 2023, and on and after the March 19, 2024 primary. On May 3, 2024, P.A. 103-0586 completely eliminated one of the previously available routes to ballot access; the act removed the post-primary legislative or representative committee nomination process that had been available under Section 5/8-17 for races in which there was no candidate for nomination of a party in the primary.

Section 5/8-17 addresses ballot vacancies in General Assembly races. 10 ILCS 5/8-17. Until May 3, 2024, Section 5/8-17 provided in relevant part as follows:

In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary) or decline the nomination or should the nomination for any other reason become vacant, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no candidate for the nomination of the party in the primary, except as otherwise provided in this Code, no candidate of that party for that office may be listed on the ballot at the general election, unless the legislative or representative committee of the party nominates a candidate to fill the vacancy in nomination within 75 days after the date of the general primary election. Vacancies in nomination occurring under this Article shall be filled by the appropriate legislative or representative committee in accordance with the provisions of Section 7-61 of this Code.** In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6.

(emphasis added). This case arises out of Public Act 103-0586 (effective 5/3/2024) which amended Section 5/8-17. After P.A. 103-0586, Section 5/8-17 now provides in relevant part as follows:

In the event that a candidate of a party who has been nominated under the provisions of this Article shall die before election (whether death occurs prior to, or on, or after, the date of the primary), decline the nomination, or withdraw the candidate's name from the ballot prior to the general election, the legislative or representative committee of such party for such district shall nominate a candidate of such party to fill such vacancy. **However, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election.** In proceedings to fill the vacancy in nomination, the voting strength of the members of the legislative or representative committee shall be as provided in Section 8-6 or as provided in Section 25-6, as applicable.

(emphasis added).

Section 5/8-17's 75-day window to fill vacancies in nominations through the legislative or representative committee nomination process ("slating process") began on the day of the primary election, March 19, 2024, and was to end on June 3, 2024. However, when P.A. 103-0586 became effective on May 3, 2024, the slating process was eliminated in General Assembly races where there was no candidate for the party's nomination in the primary.¹ The law as amended expressly states that when "there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election."

Under Section 5/8-17 as it existed prior to May 3, 2024, when an established party had a ballot vacancy following the primary election because no one ran in the primary, the legislative or representative committee of the party could nominate a candidate to fill the vacancy. The nominee would then need to gather a sufficient number of signatures under 10 ILCS 5/7-61, which was set at the same number of signatures that an established party candidate would have been required to

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For each seat at issue here, there was no candidate for the nomination of the Republican party in the March 2024 primary election. Plaintiffs were in the course of availing themselves of the slating process contained in Section 5/8-17 at the time P.A. 103-0586 amended the statute on May 3, 2024 to delete the language relating to that process for races in which there was no candidate for nomination of a party in the primary. Plaintiffs filed this lawsuit on May 10, 2024, seeking declaratory and injunctive relief. Plaintiffs contend that the revisions to 10 ILCS 5/8-17 are unconstitutional as applied to them in the November 2024 general election. On May 23, 2024, this Court entered a preliminary injunction under which Defendant State Board of Elections and Defendant Kwame Raoul were preliminarily enjoined from rejecting Plaintiffs' nomination petitions for the November 2024 general election based on P.A. 103-0586's revisions to 10 ILCS 5/8-17. Counsel for the Board represented that the Board accepted for filing all nominating petitions that were tendered to it from potential candidates, Plaintiffs and other individuals, seeking to proceed under the now deleted slating process in General Assembly races. Counsel for the Board also confirmed that subsequent to the March 2024 primary election at least one individual filed nominating petitions for a General Assembly seat with the State Board of Elections under Section 5/8-17 prior to the slating process being removed from the statute on May 3, 2024.

² The number of signatures required for an established party candidate for the General Assembly is less than that required for an independent or third-party candidate.

ANALYSIS

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Plaintiffs raise an as-applied constitutional challenge to P.A. 103-0586's revisions to Section 5/8-17. Plaintiffs do not contend that the General Assembly cannot amend Section 5/8-17 to remove the slating process in the future. Rather, they assert that the application of the amendment to them in the middle of the 2024 election cycle violates their right to vote and to have their names placed on the November 2024 ballot. The law as amended is clear. Effective May 3, 2024, when "there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election." 10 ILCS 5/8-17. The question before the Court is whether the General Assembly's exercise of its power to completely eliminate one avenue for ballot access during an election cycle impermissibly burdens Plaintiffs' right to vote and, if so, whether injunctive relief is appropriate.

In 1974, the United States Supreme Court recognized that, “as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Storer v. Brown*, 415 U.S. 724, 730 (1974). The legislature enjoys great freedom in enacting legislation, but that power is subject to constitutional limitation. Legislation challenged in court enjoys a presumption of constitutionality. When a state election law provision imposes only reasonable, nondiscriminatory restrictions on the rights of voters, the State's important interest in regulating elections is generally sufficient to justify the restrictions. See *Burdick v. Takushi*, 504 U.S. 428 (1992); *Anderson v. Celebrezze*, 460 U.S. 780 (1983).

However, if an electoral regulation imposes a severe restriction on the right to vote, strict scrutiny applies. The Illinois Supreme Court has held that when “challenged legislation implicates a fundamental constitutional right, . . . such as the right to vote, the presumption of constitutionality is lessened and a far more demanding scrutiny is required.” *Tully v. Edgar*, 171 Ill.2d 297, 304 (1996) (citing *Potts v. Illinois Department of Registration & Education*, 128 Ill.2d 322, 329 (1989)). In cases that implicate fundamental constitutional rights, the court examines the challenged statute under a strict scrutiny standard. *Id.* Plaintiffs assert that the strict scrutiny standard applies here. Defendant Raoul and Intervening Defendant Welch argue that the less stringent *Anderson-Burdick* standard applies.

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The challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken place, precludes Plaintiffs from having their

names placed on the November 2024 ballot under any statutorily available method.³ A strict scrutiny analysis is appropriate.

Under the strict scrutiny analysis, the Court “must consider three questions: (1) Does the Act advance a compelling state interest? (2) Is the provision . . . necessary to achieve the legislation's asserted goal? and (3) Are the provisions in the legislation the least restrictive means available to attain the legislation's goal?” *Tully*, 171 Ill. 2d at 311. No relevant legislative history associated with P.A. 103-0586 has been identified. Defendant Raoul submits that the important government interest at issue is the need to prevent political insiders from having control over which candidates are slated and to ensure that the voters, and only the voters, make this determination.

Assuming the proffered reason satisfies the first prong, P.A. 103-0586's revisions to Section 5/8-17 do not meet the strict scrutiny standard because they fail to satisfy the second and third prongs. As was the case in *Tully* and *Graves*, in the present case the legislation's goal could be achieved by other less restrictive means that would not impinge upon the fundamental right to vote. The General Assembly could make the revisions effective for the next election, rather than in the midst of the current election. Everyone would then be on notice that, in General Assembly races, when there was no candidate for the nomination of the party in the primary, no candidate of that party for that office can be listed on the ballot at the general election. While the election cycle for seats in the General Assembly is long, spanning 14 months, that does not mean that the legislature has only a small window to act, given that the General Assembly can designate an effective date in the future when it enacts legislation. Changing the rules relating to ballot access in the midst of an election cycle removes certainty from the election process and is not necessary to achieve the legislation's proffered goal. As applied to Plaintiffs, P.A. 103-0586's revisions to

³ “A person . . . who voted the ballot of an established political party at a general primary election may not file a statement of candidacy as a candidate of a different established political party, a new political party, or as an independent candidate for a partisan office to be filled at the general election immediately following the general primary for which the person filed the statement or voted the ballot.” 10 ILCS 5/7-43.

Section 5/8-17 do not satisfy the strict scrutiny standard and therefore the act impermissibly violates Plaintiffs' right to vote as guaranteed under the Illinois Constitution. Declaratory judgment is appropriate.

Plaintiffs are entitled to declaratory judgment even if the less stringent *Anderson-Burdick* standard urged by Defendants applies. Under *Anderson-Burdick*, when a state election law provision imposes only reasonable, nondiscriminatory restrictions on the rights of voters, the State's important interest in regulating elections is generally sufficient to justify the restrictions. However, to withstand *Anderson-Burdick* scrutiny, the statute must be reasonable and not arbitrary or discriminatory. P.A. 103-0586's revisions to Section 5/8-17 are not retroactive. The act was effective immediately, which means that the slating process was eliminated in the midst of the 75-day post-primary window previously available to fill vacancies. At least one potential candidate filed nominating petitions for a General Assembly seat with the State Board of Elections under Section 5/8-17 prior to the slating process being removed from the statute on May 3, 2024. The act arbitrarily treats potential candidates seeking to use the now deleted slating process within the 75-day post-primary window differently and does not apply the same rules to all potential candidates.

The Court turns to Plaintiffs request for a permanent injunction. Plaintiffs seek a permanent injunction preventing Defendants from enforcing P.A. 103-0586's revisions to Section 5/8-17 against Plaintiffs, including using the revisions as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election or otherwise using that provision to prevent Plaintiffs' names from being listed on the November 2024 ballot. A party seeking an injunction must demonstrate (1) a clear and ascertainable right in need of protection, (2) that he or she will suffer irreparable harm if the injunction is not granted, and (3) that no adequate remedy at law exists. *Swigert v. Gillespie*, 2012 IL App (4th) 120043, ¶ 27.

The record does not support a finding that a permanent injunction against Defendant Raoul is appropriate. Summary judgment in favor of Defendant Raoul is granted on this issue. The Attorney General is not authorized to deny nominating petitions or to certify a candidate's name for the ballot. The Court adopts Counsel for Defendant Raoul's arguments on this point. The request for permanent injunctive relief enjoining Defendant Raoul is denied and the preliminary injunction entered against him on May 23, 2024 is dissolved.

The Court finds that permanent injunctive relief against the Defendant State Board of Elections and the Defendant Board members is appropriate. The Board is responsible for determining whether a candidate has met the qualifications for appearing on the ballot and for certifying the names of eligible candidates for local county clerks to place on the ballots. Plaintiffs have a clearly ascertainable right to be free from unconstitutional restriction on their right to vote which under the circumstances of this case includes their right to ballot access under the law as it existed prior to May 3, 2024. Under 10 ILCS 5/10-8, "[e]xcept as otherwise provided in this Code, certificates of nomination and nomination papers . . . being filed as required by this Code, and being in apparent conformity with the provisions of this Act, shall be deemed to be valid unless objection thereto is duly made" The Election Code as amended now provides in Section 5/8-17, if there was no candidate for the nomination of the party in the primary, no candidate of that party for that office may be listed on the ballot at the general election. If Plaintiffs' nomination petitions are rejected based on P.A. 103-0586's revisions to 10 ILCS 5/8-17, they will suffer irreparable harm in that they will lose the opportunity to run as party candidates in the 2024 general election. Additionally, the timing of the amendment, which occurred after the March primary election, precludes Plaintiffs from having their names placed on the November ballot under any of the statutorily available routes to ballot access. Under these circumstances, no adequate remedy at law exists.

Furthermore, the balance of hardships weighs in favor of injunctive relief. A permanent injunction does not prevent the General Assembly from amending its own laws, rather it prevents the application of such an amendment in the middle of an election cycle. Absent injunctive relief, Plaintiffs are deprived of an avenue of ballot access that existed prior to May 3, 2024, and under the facts of this case, they face an absolute barrier preventing them from having their names placed on the November 2024 ballot.

The Court is not persuaded by the argument that Plaintiffs are seeking a mandatory injunction or that Plaintiffs have failed to name necessary parties, specifically the local election boards or the State Board sitting as the State Officers Electoral Board. Counsel for the Board requested that if injunctive relief was ordered that there be clarification as to its scope. “If a plaintiff prevails in an as-applied claim, he may enjoin the objectionable enforcement of the enactment only against himself, while a successful facial attack voids the enactment in its entirety and in all applications.” *Napleton v. Vill. of Hinsdale*, 229 Ill. 2d 296, 306 (2008). This Court’s permanent injunction is limited to the named Plaintiffs and extends only to the Defendant State Board of Elections and the Defendant Board members.

THEREFORE, for the reasons set forth above, it is hereby ordered:

1. Plaintiffs’ Motion for Summary Judgment is ALLOWED, in part.
2. Defendant Raoul’s Motion for Summary Judgment is ALLOWED, in part.
3. Declaratory and injunctive relief is entered as follows: The revisions to 10 ILCS 5/8-17 contained in P.A. 103-0586 are unconstitutional as applied to Plaintiffs in the November 2024 general election because the application of the amendment to Plaintiffs during the 2024 election cycle impermissibly burdens their right to vote and to have their names placed on the November ballot. The timing of the amendment, which eliminated one of the methods for ballot access that was available at the beginning of the election cycle after the March primary election had taken

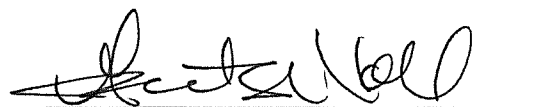
place, precludes Plaintiffs from having their names placed on the November ballot under any statutorily available method. The challenged amendment as applied to Plaintiffs in the 2024 election cycle places a severe restriction on the fundamental right to vote, and therefore, the proper standard is strict scrutiny, which it does not meet.

The law, which became effective on May 3, 2024, as applied to Plaintiffs in the on-going 2024 election cannot reasonably be construed in a manner that would preserve its validity. The Court is cognizant that it must avoid unnecessary declarations that a statute is unconstitutional; however, here the Plaintiffs bring a constitutional challenge to the application of the revisions to Section 5/8-17 in the midst of the 2024 election cycle. The finding of unconstitutionality is necessary to the Court's decision, and there is no alternative grounds upon which the decision can rest. Attorney General Raoul is a named defendant in this matter; therefore, separate notice under Illinois Supreme Court Rule 19 is not required.

With respect to injunctive relief, based on the Court's declaratory judgment regarding P.A. 103-0586's revisions to 10 ILCS 5/8-17, Defendant State Board of Elections and Defendant Board members are hereby enjoined from applying the provisions of Illinois Public Act No. 103-0586 which revise 10 ILCS 5/8-17 to eliminate the slating process for General Assembly elections as a basis for denying Plaintiffs' nomination petitions for the November 2024 general election and from otherwise using the revisions to prevent Plaintiffs from being listed as candidates on the November 2024 general election ballot. All other requests for relief are denied.

5. This is a final order. There is no just reason for delaying enforcement or appeal of this order, or both. THE CLERK IS DIRECTED TO FORWARD A COPY OF THIS ORDER TO COUNSEL OF RECORD.

Date: 6-5-2024



Gail L. Noll
Circuit Judge

STATE OF ILLINOIS)
)
 COUNTY OF COOK)

PROOF OF SERVICE

I, Michael J. Kasper, attorney for intervening defendant-appellant Emanuel “Chris” Welch, certify that I electronically filed via Odyssey EFile IL the foregoing Appearance with the Clerk of the Appellate Court First District on the 10th day of June 2024.

The undersigned further certifies that on the 10th day of June 2024, an electronic copy of the foregoing Notice of Appeal is being served either through the Court’s electronic filing manager or an approved electronic filing service provider to:

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Under penalties as provided by law pursuant to § 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109), the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/Michael J. Kasper_____