E-FILED
Friday, 20 July, 2018 11:45:16 PM
Clerk, U.S. District Court, ILCD

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD

DAVID M. GILL, et al. ,	)	
	)	
Plaintiffs,	)	
v.	)	No. 16 – cv – 3221
	)	
CHARLES W. SCHOLZ, et al.,	)	Hon. Sue E. Myerscough
	)	
Defendants.	)	

Plaintiffs' Motion for Summary Judgment and Memorandum of Law

Plaintiffs, David M. Gill, et al., through counsel, Samuel J. Cahnman and Andrew Finko, file their motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, Fed.R.Civ.Pro 56, and Local Rule 7.1(D), as follows.

Introduction

The factual basis for the motion is that independent candidates for U.S. Representative in Illinois are required to file a minimum number of signatures in their Congressional District equal to 5% of the last General Election vote in their District. For the 13th in 2016 that was 10,754. This is 14.61 times the requirement for established party candidates. Signatures must be collected in a 90-day window and each petition sheet must contain the notarized signature of the circulator. While Plaintiff David Gill filed 11,350 signatures, a challenge at the State Electoral Board took him down to 8,593 and then 8,491. Since this was less than the minimum 10,754, his name was removed from the ballot.

Since 1890 no candidate for U.S. Representative in Illinois has overcome a signature requirement of 10,754 or more, and only three have done so in the entire country, but two had no signature collection time restriction, and the other had a time restriction more than double Illinois'. By "overcome" the Plaintiffs mean got

on the ballot after their signatures were challenged. In 2016 the Defendants did not check the number of signatures candidates filed at all. It currently checks to see if 10% of the required signatures are filed. Only one candidate for U.S. Representative in Illinois overcame an 8,593 signature requirement, but that was before Illinois enacted the 90-day limit. That limitation was enacted to help incumbents and limit ballot access.

The legal basis for the motion is that courts of review have held that what is ultimately important in determining the constitutionality of candidate signature requirements is whether a reasonably diligent candidate could be expected to meet the requirement and gain a place on the ballot. Past experience is helpful in determining this. Since no candidate for U.S. Representative in Illinois has ever overcome the signature requirement imposed on Plaintiff, Gill, it is clearly unconstitutional. The Defendants' interest in signature requirements is to insure candidates on the ballot have a modicum of support, and to avoid ballot overcrowding, voter confusion and to detect and prevent fraud. Clearly, a 10,754 signature requirement overcomes all of these concerns.

The relief sought is for this Court to declare that the cumulative effect of the 5% signature requirement, 90-day petitioning period, circulator per page notarization requirement, and the splitting of population centers, or any combination thereof, or any one of them is unconstitutional in violation of the First and Fourteenth Amendments to the U.S. Constitution. For the signature requirement the Plaintiffs ask the Court to set the maximum that could be constitutional to be either the 0.694% of the last vote that U.S. Senator Candidates must file; or 5 times what the established party candidates must file, which is the

ratio of the signature requirement between established party and independent candidates for U.S. Senator. Five times 739 would be 3,695 signatures.

Statement of Facts

Please see Plaintiff's separately filed Statement of Undisputed Material Facts and supporting Exhibits.

Argument

A. Standard of review for Rule 56 motion for summary judgment.

Summary judgment is proper "if the pleadings, deposition, answers to interrogatories, and admissions on file, together with 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." Fed. R. Civ. P. 56(c)(2); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

Although the court must view all facts and reasonable inferences in favor of the nonmoving party, *Samuelson v. LaPorte Cnty. Sch. Corp*., 526 F.3d 1046, 1051 (7th Cir. 2008), those inferences must be both reasonable and find support in the record. See *Singer v. Raemisch*, 593 F.3d 529, 533 (7th Cir. 2010).

B. Relevant Illinois Election Code provisions – U.S. Representative.

Section 10-3 of the Illinois Election Code imposes upon independent candidates the requirement of submitting signatures of voters from the district or political subdivision "equaling not less than 5%, nor more than 8% (or 50 more than the minimum, whichever is greater) of the number of persons, who voted at the next preceding regular (general) election in such district or political subdivision. 10 ILCS 5/10-3. In redistricting years, this signature requirement for all U.S.

Congressional districts in Illinois is reduced to 5,000 signatures of qualified voters, for each congressional district. *Id.*

In contrast to the signature requirement for independent candidates, Section 7-10(b) states that established party candidates seeking nomination at the Democratic or Republican Party primaries are to submit petitions containing at least the number of signatures equal to 0.5% (or one-half of one percent) of the qualified primary electors of his/her party in the congressional district; in the first primary following redistricting, the requirement is 600 signatures, for each congressional district. 10 ILCS 5/7-10(b).

Applying the foregoing provisions of the Election Code, signature requirements for candidates in the 13th Congressional District, for the March 2016 primary election and the November 2016 general election, were determined by the State Board of Elections as follows:

Democratic Party (0.5%)	***733 signatures***
Republican Party (0.5%)	***739 signatures***
Independent (5.0%)	***10,754 but not more than 17,206 signatures***

In addition, both established party candidates an independent candidates are restricted to a 90 day time for gathering signatures. 10 ILCS 5/7-12; 10 ILCS 5/10-4. For the 13th Congressional District, established party candidates had 90 days prior to November 30, 2015 to gather their 733 (Democratic) or 739 (Republican) signatures. 10 ILCS 5/7-12; 10 ILCS 5/7-10. For the 13th Congressional District, independent candidates had 90 days prior to June 27, 2016 to gather at least 10,754 signatures. 10 ILCS 5/10-6; 10 ILCS 5/10-4.

After nomination papers are filed, they are subject to an objection process, through which a single voter (often affiliated with another candidate) may challenge

the signatures submitted by a candidate. This process then compels an electoral board to undertake a records examination comparison of petition signers to signatures and voter date stored by the Board of Elections. 10 ILCS 5/10-8.

C. Constitutional considerations for ballot access.

The U.S. Supreme Court declared in *Reynolds v. Sims* that "[t]he right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." *Reynolds v. Sims,* 377 U.S. 533, 555, 84 S.Ct. 1362 (1964).

The First and Fourteenth Amendments afford candidates vying for elected office, and their voting constituencies, the fundamental right to associate for political purposes and to participate in the electoral process. See, e.g., *Clingman v. Beaver,* 544 U.S. 581, 586 (2005); *Burdick v. Takushi*, 504 U.S. 428, 433 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 787-88 (1983); *Williams v. Rhodes*, 393 U.S. 23, 30 (1968).

Ballot-access requirements that place more burdensome restrictions on certain types of candidates than on others implicate rights under the Equal Protection Clause as well. See *Williams v. Rhodes*, 393 U.S. 23, 30-31 (1968).

Legislation governing elections should be narrowly tailored to advance a legitimate governmental purpose, which may include preventing ballot overcrowding, preventing voter confusions, and maintaining the orderly administration of elections.

Legislation that imposes greater burdens upon independent candidates to protect or insulate the two-party system is not permitted, explained by the Supreme Court as follows:

> Our U.S. Supreme Court has observed that interest in political stability 'does not permit a State to completely insulate the two-party

> system from minor parties' or independent candidates' competition and influence"

Timmons v. Twin Cities Area New Party, 520 U.S. 351, 366-87, 117 S. Ct. 1364 (1977).

To be sure, "[s]tates may condition access to the general election ballot by a minor-party or independent candidate upon a showing of a modicum of support among the potential voters for the office." *Munro v. Socialist Workers Party*, 479 U.S. 189, 193, 107 S. Ct. 533 (1986).

In evaluating legislation, courts must engage in a balancing test to weigh the State's right to condition access to the ballot against the right of citizens to nominate and vote for the candidate of their choice.

The Supreme Court in *Storer v. Brown*, 415 US 724 (1974) first outlawed the "litmus-paper test" and established the test that if a reasonably diligent candidate could not overcome the requirement, then such a requirement was unconstitutional. In *Storer* the court did not have sufficient facts to apply that test, so it remanded to the district court. Three years later the Supreme Court held the same in *Mandel v. Bradley*, 432 U.S. 173 (1977), but did not have sufficient facts to make a determination, and similarly remanded to district court.

In 1983 the Supreme Court reiterated the fundamental constitutional rights that were implicated by overly burdensome legislation, explained as follows:

> The impact of candidate eligibility requirements on voters implicates basic constitutional rights.[7] Writing for a unanimous Court in *NAACP v. Alabama ex rel. Patterson,* 357 U. S. 449, 460 (1958), Justice Harlan stated that it "is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the `liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech." In our first review of Ohio's electoral scheme, *Williams v. Rhodes*, 393 U. S. 23, 30-31 (1968), this Court explained the interwoven strands of "liberty" affected by ballot access restrictions:
>
> "In the present situation the state laws place burdens on two

> different, although overlapping, kinds of rights — the right of individuals to associate for the advancement of political beliefs, and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively. Both of these rights, of course, rank among our most precious freedoms."
>
> As we have repeatedly recognized, voters can assert their preferences only through candidates or parties or both. "It is to be expected that a voter hopes to find on the ballot a candidate who comes near to reflecting his policy preferences on contemporary issues." *Lubin v. Panish*, 415 U. S. 709, 716 (1974). The right to vote is "heavily burdened" if that vote may be cast only for major-party candidates at a time when other parties or other candidates are "clamoring for a place on the ballot." *Ibid.*; *Williams v. Rhodes*, supra, at 31. The exclusion of candidates also burdens voters' freedom of association, because an election campaign is an effective platform for the expression of views on the issues of the day, and a candidate serves as a rallying point for like-minded citizens.

Anderson v. Celebrezze, 460 U.S. 780, 786-788 (1983).

The *Anderson* court, citing to *Storer*, went on to explain the district court's process of evaluating challenged litigation as follows:

> Constitutional challenges to specific provisions of a State's election laws therefore cannot be resolved by any "litmus-paper test" that will separate valid from invalid restrictions. *Storer*, supra, at 730. Instead, a court must resolve such a challenge by an analytical process that parallels its work in ordinary litigation. It must first consider the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate. It then must identify and evaluate the precise interests put forward by the State as justifications for the burden imposed by its rule. In passing judgment, the Court must not only determine the legitimacy and strength of each of those interests, it also must consider the extent to which those interests make it necessary to burden the plaintiff's rights. Only after weighing all these factors is the reviewing court in a position to decide whether the challenged provision is unconstitutional. See *Williams v. Rhodes*, supra, at 30-31; *Bullock v. Carter*, 405 U. S., at 142-143; *American Party of Texas v. White*, 415 U. S. 767, 780-781 (1974); *Illinois Elections Bd. v. Socialist Workers Party*, 440 U. S. 173, 183 (1979). The results of this evaluation will not be automatic; as we have recognized, there is "no substitute for the hard judgments that must be made." *Storer v. Brown*, supra, at 730.[10]

Anderson v. Celebrezze, 460 U.S. 780, 789-790 (1983). See also, *Green Party of Georgia v. Georgia,* 551 Fed. Appx 982 (11th Cir. 2014).

A Court's " 'primary concern is with the tendency of ballot access restrictions 'to limit the field of candidates from which voters might choose.' Therefore, '[i]n approaching candidate restrictions, it is essential to examine in a realistic light the extent and nature of their impact on voters.'" *Anderson*, 460 U.S. at 786. (Internal citation omitted.)

As discussed recently in *Hall v. Merill*,

> In this analysis, "the burden is on the state to 'put forward' the 'precise interests ... [that are] justifications for the burden imposed by its rule,'" and to "explain the relationship between these interests" and the challenged provision. *Fulani*, 973 F.2d at 1544 (quoting *Anderson*, 460 U.S. at 789, 103 S.Ct. 1564). "The State must introduce evidence to justify both the interests the State asserts and the burdens the State imposes on those seeking ballot access." *Bergland*, 767 F.2d at 1554.

Hall v. Merrill, 212 F.Supp.3d 1148 (Dist. Court, MD Alabama, 2016).

Even so, where states may argue a compelling state interest, they must "adopt the least drastic means to achieve their ends." *Illinois State Board of Elections v. Socialist Workers Party*, 440 U.S. 173, 185, 99 S. Ct. 983 (1979).

In determining whether the burden on ballot access is unconstitutionally severe the Court of Appeals for the Seventh Circuit has advised that:

> What is ultimately important is not the absolute or relative number of signatures required but whether a "reasonably diligent candidate could be expected to be able to meet the requirements and gain a place on the ballot." *Bowe v Bd. of Election Comm'rs of City of Chicago,* 614 F.2d 1147, 1163 (7th Cir. 1980) (citing *Storer*, 415 U.S. at 742).

Stone v. Bd. of Elections Comm'rs of City of Chicago, 750 F. 3d 678, 682 (7th Cir 2014).

The *Stone* decision follows the guidance provided by the U.S. Supreme Court in *Storer,* which explained:

> [p]ast experience will be a helpful, if not always, an unerring guide: it will be one thing if independent candidates have qualified with some regularity and quite a different matter if they have not.

Storer v. Brown, 415 U.S. 724, 742, 94 S. Ct. 1274, 1285 (1974).

Stone held that because nine candidates met the 12,500 signature requirement for mayor of Chicago, that requirement was not impermissbly severe as applied in Chicago. In contrast, no candidate for U.S. Representative has ever overcome a signature requirement of 10,754 or more in Illinois. Only one candidate for the U.S. House has ever overcome a general election signature requirement of 8,593 or more in Illinois, and that was H. Douglas Lassiter in the 15th Congressional District in 1974. (Exh. 1, Complaint, Par. 77; Exh. 2, Answer, Par. 77; Exh. 4, Winger Affidavit, Par. 12) In 1974 there was no time restriction upon the number of days allowed to gather signatures, and Mr. Lassiter collected 9,698 signatures. (Exh. 6, Winger Dep. pg. 47, 54-55, 25)

In *Lee v. Keith* the Court of Appeals for the Seventh Circuit struck down an excessive signature requirement for independent legislative candidates because no one had met the requirement from 1980 to 2006. *Lee v. Keith,* 463 F.2d 763, 771-772 (7th Cir. 2006). Obviously if no candidate has ever met the challenged requirements in Illinois, and only 3 have in the entire country since 1980, it is clear that even a very reasonably diligent candidate could not be expected or be able to meet the requirements and gain a place on the ballot in Illinois.

The U.S. Supreme Court held in *Burdick v. Takushi*, 504 U.S. 428, 434 (1992) that when rights protected by the 1st and 14th Amendment are subjected to severe restrictions, the regulation must be narrowly drawn to advance a State interest of compelling importance. Instantly, there was no reason and certainly no compelling interest to keep off the ballot a candidate who filed 8,593 (or 8,491) valid signatures, leaving only one candidate from each of the major parties (who each

needed 733 or 739 signatures) on the ballot. There has never been ballot overcrowding. Rather, as explained by Richard Winger, history confirms a dearth of candidates seeking election to the U.S. House of Representatives.

For all elections prior to 2018, the State Board allowed any candidate on the ballot no matter how few signatures were filed, if no objection was filed. As such, the State Board in 2016, had no interest in avoiding ballot overcrowding, or validating that candidates had a modicum of support before being allowed on the ballot. Recently, the State Board adopted a new policy for the 2018 election, which checks for 10% of the signatures required number, and a statement of candidacy.

D. Notarization requirement imposed severe burdens upon circulators in the largely rural 13th Congressional District.

In addition to the mountain of signatures that are needed, each petition sheet also had to be notarized before an Illinois notary public. The notarization requirement is inconsistent with the Illinois Code of Civil Procedure which allows verification under penalty of perjury, without a notary public attestation. 735 ILCS 5/1-109. (Exh. 1, Par. 31-33.) See also, 28 U.S. Code § 1746 and FRCP 56.

A notarization requirement was struck down recently, in the matter *Green Party of Pennsylvania v. Aichele*, 89 F.Supp.3d 723 (E.D. Penn. 2015). In *Aichle*, the Commonwealth similarly argued that notarization served a fraud prevention purpose through their motion for summary judgment. *Id.* In reaching its holding, the court in *Aichle* considered that:

> In *Lubin*, the Supreme Court held that the state's interest in limiting ballot access "must be achieved by a means that does not unfairly or unnecessarily burden a minority party's . . . equally important interest in the continued availability of political opportunity." *Lubin*, 415 U.S. at 716, 94 S.Ct. 1315.

Id. at 744. Both “minor parties” and “independent” candidates in Illinois are

governed by the same provisions of Article 10 of the Election Code, and 10 ILCS 5/10-3 applies equally to both. See also, *Perez-Guzman v. Gracia,* 346 F.3d 229 (1st Cir.2003) (struck down notarization requirement as unduly burdensome).

Plaintiffs' Complaint alleges that the task of obtaining a notary stamp upon each page of the nomination papers imposes a severe burden upon Plaintiff Gill's ability to collect in excess of 10,754 signatures within the 90 day signature gathering time. In addition, Plaintiff, Gill, confirmed that his campaign was slowed down in its signature gathering efforts because each page had to be notarized.

The notarization requirement disparately impacts independent candidates because of the dramatically greater signature requirement. For example, obtaining 50 notarial *jurats* on sheets with 15 lines per page would yield 750 signatures. Yet, an independent candidate would need at least 717 notarial jurats (presuming 15 lines/sheet with every page filled) to reach 10,754, or more realistically, closer to 1,000 notarial *jurats* to be in excess of the 10,754 required signatures.

The added burden travel to and from a notary public's location, and paying for notarial services, creates an added burden that dramatically enhances the signature requirement.

E. <u>The 90 day signature gathering duration further enhances and compounds the signature requirement for independent candidates.</u>

Compounding the dramatically greater signature requirement imposed upon independent candidates is Illinois' suffocating restriction limiting signature collection to 90 days. The legislature enacted the 90 day signature gathering restriction through an amendment that was discussed on June 24, 1983 (Exh. 9) The debate confirms that the 90 day time provision was not advanced for a legitimate governmental purpose, bur rather, to restrict ballot access, and protect

incumbents, who historically have been Democrats or Republicans, and not independent candidates.

Arguably, even if the 5% requirement was constitutional when enacted in 1931, it has since became unconstitutional when the legislature limited signature collection to a mere 90 days to protect incumbents. In the House debate on the Amendment that added the 90 day restriction to the bill, the sponsor in his closing argument said (attached as Exh. 9):

> [I]t's very clear what the Amendment is attempting to do. It's trying to protect all of the members of the House who are down here doing the people's business while somebody is back in your district circulating petitions, and if he has enough time, there won't be any petitions left for you to circulate or to sign. I think it's a good Amendment. I move for the adoption of Amendment 2 to Senate Bill 1218.

Opponents of the 90 day restriction amendment argued it limited ballot access. Rep.Dunn stated "This is one more requirement. It's a difficult requirement. It's an unwieldy requirement." *Id.*at pg. 93-94. Rep. Jaffe called the 90 day time restriction an unnecessary "roadblock in the way of people who wanted to run for office" and would hurt (independent) candidates who did not have a party organization. *Id.* at pg. 92-93. Rep. Harris commented that the 90 day restriction limited ballot access, for the benefit of incumbents, and deterred competition at the ballot. *Id.* at pg. 94.

Our Supreme Court pointed out the importance a time limit restriction could have on the constitutionality of a signature requirement when it pointed out in footnote 2 in *Mandel v Bradley*, 432 US 173, 177 (1977) that it had recognized in *Storer v. Brown* that such a limitation, when combined with other provisions of the election law, might invalidate the statutory scheme, and added:

> The District Court in this case erred in reading *Storer v. Brown* as holding

irrelevant the limited period of time in which signatures must be gathered. *Id.*

It is instructive that the only three US House candidates in the entire country who overcame a signature requirement of 10,754 or more all had much more time to collect signatures than Plaintiff, Gill. Indeed, there was no signature gathering restriction in 1974 when Mr. Lassiter made it to the ballot in Illinois.

F. <u>Cumulative effect of Illinois Election Code imposes multiple burdens upon independent candidates, which are severe and unnecessary in their impact.</u>

The Supreme Court has held that courts are "required to evaluate challenged ballot access restrictions **together**, not individually, and assess their combined effect on voters' and candidates' political association rights." *Lee v. Keith,* 463 F.2d 763, 770 (7th Cir. 2006). Accord, *Storer v. Brown*, 415 U.S. 724 (1974) and *Mandel v. Bradley*, 432 U.S. 173 (1977). See also, *Hall v. Merrill*, 212 F. Supp. 3d 1148 (Dist. Court, MD Alabama, 2016) (requires the court to consider cumulatively the burdens imposed by the overall scheme, and not mechanically comparison); *Clingman v. Beaver*, 544 U.S. 581, 607-08, 125 S.Ct. 2029 ("A panoply of regulations, each apparently defensible when considered alone, may nevertheless have the combined effect of severely restricting participation and competition.") (O'Connor, J., concurring).

The signature requirement in Section 10-3 applicable to independent candidates is impermissibly severe and restrictive on its own. The burden is dramatically magnified an enhanced when taken in consideration with other obstacles to ballot access. As Richard Winger cautioned, due to the signature review process initiated through a single voter's objection petition, an independent candidate would need at least 50% to 100% ***more*** signatures than the amount that

would be mandated under the 5% requirement stated in the Election Code. This is the real-world application of Illinois' election code that all independents face.

Factoring in a "safety factor" of 50% to 100% more signatures would then increase Plaintiff, Gill's, real-world signature requirement to somewhere **between 16,131 signatures and 21,508 signatures** for the 13th District. Factoring in the same "safety factor" for established party candidates would mean that established party candidates, with a stated minimum of about 740 signatures, would need to submit between 1,110 signatures and 1,480 signatures.

Gathering 1,480 signatures in the 13th Congressional District during a 90 day time is a very different burden than gathering 21,508 signatures in that same district during that same time period. Because of the objection and signature review process in Illinois, however, it is necessary to submit the much greater real-world number of signatures, than the calculated 5% stated in 10 ILCS 5/10-3. The real-world impact of the Election Code in Illinois has a draconian impact, namely, the complete blocking of virtually all independent candidates from the ballot.

On its own, the restriction in Section 10-3, which imposes a 5% to 8% signature requirement for independent candidates imposes a severe obstacle to ballot access, and is not narrowly drawn to advance any compelling state interests. Taken together, with the additional 90 day restriction, per page notarization requirement, and the impending objection and signature review process, the Election Code creates an impossible task for any would-be independent candidate.

As this court previously noted, Plaintiff, Gill, and his supporters undertook a Herculean effort, and demonstrated reasonable diligence and perseverance in their signature gathering efforts. Even after the signature review, Plaintiff, Gill, was found

to have approximately 8,500 valid signatures of voters from the 13th District, which demonstrated a strong showing among the electorate, and certainly more than the requisite modicum of support necessary to satisfy any governmental concerns.

In comparison, during redistricting years, a 5,000 signature requirement satisfies all governmental concerns. As a matter of law, it is illogical and unsupportable to impose a signature requirement that is more than twice a signature requirement that works, and satisfies all concerns. Indeed, Richard Winger confirmed that governmental concerns would be satisfied with a stated 1,000 signature requirement, that would equate to a real-world minimum of at least 1,500 or 2,000 signatures.

There is no defensible reason for the Election Code provisions as applied to independent candidates. The cumulative effect of the various obstacles to ballot access is unconstitutional, and impermissibly infringes First and Fourteenth amendment rights of Plaintiffs and all voters in Illinois.

WHEREFORE, Plaintiffs, through counsel, respectfully request finding of fact and law, and entry of judgment in favor of Plaintiffs, as follows:

(a) the 5% minimum signature requirement stated in 10 ILCS 5/10-3 imposes an unconstitutional violation of Plaintiffs' First and Fourteenth Amendment rights;

(b) the 90 day signature gathering time period in 10 ILCS 5/10-4 imposes an unconstitutional violation of Plaintiffs' First and Fourteenth Amendment rights;

(c) the notarization requirement stated in 10 ILCS 5/10-4 imposes an unconstitutional violation of Plaintiffs' First and Fourteenth Amendment rights;

(d) the cumulative effect of the 5% minimum signature requirement, the 90 day signature gathering time period, the notarization requirement, and the splitting of population centers, and/or any combination thereof imposes an unconstitutional violation of the Plaintiffs' First

and Fourteenth Amendment rights;

(e) declaring the maximum Constitutional signature requirement for independent U.S. Representative candidates to be 0.694% of the number who voted in the last election for U.S. Representative in that Congressional District; or, in the alternative, five times the signature requirement for established party candidates in that Congressional District; or in the alternative, 1,000 signatures;

(f) entering an injunction against the Defendants prohibiting them from enforcing the foregoing provisions as applied to independent candidates;

(g) award of attorneys' fees and costs, with leave to file a petition for same;

(h) any other relief in favor of Plaintiffs that is just and appropriate to remedy the restrictions upon their ballot access rights.

Respectfully submitted,

By: s/ Andrew Finko
One of Plaintiffs' attorneys

Samuel J. Cahnman
Attorney at Law
915 S. Second St.
Springfield, IL 62704
Tel: (217) 528-0200
Email: samcahnman@yahoo.com

Andrew Finko
180 W. Washington St. Suite 400
Chicago, IL 60602
Tel: (773) 480-0616
Fax: (773) 453-3266
Email: Finkolaw@fastmail.FM

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD

DAVID M. GILL, et al. ,	)	
	)	
Plaintiffs,	)	
v.	)	No. 16 – cv – 3221
	)	
CHARLES W. SCHOLZ, et al.,	)	Hon. Sue E. Myerscough
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

The undersigned certifies that on July 20, 2018, he electronically filed the foregoing Plaintiffs' Statement of Undisputed Material Facts and referenced Exhibits with the Clerk of the Court of the Central District using the CM/ECF system, which will send notification of such filing to all parties and counsel of record who are ECF filers.

s/ Andrew Finko