

**IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIO
CIVIL DIVISION**

JUSTIN TJADEN
5185 FAIRFAX DR
GENEVA, OHIO 44041

Petitioner,

v.

**GEAUGA COUNTY BOARD OF
ELECTIONS**
470 CENTER ST - UNIT 6A
CHARDON, OHIO 44024

- and -

MICHELLE LANE, In Their Capacity As
Director Of The Geauga County Board Of
Elections
470 CENTER ST - UNIT 6A
CHARDON, OHIO 44024

- and -

NORA MCGINNIS In Their Capacity As
Deputy Director Of The Geauga County Board
Of Elections
470 CENTER ST - UNIT 6A
CHARDON, OHIO 44024

- and -

DENNIS M. PAVELLA , In Their Capacity
As Member Of The Geauga County Board Of
Elections
470 CENTER ST - UNIT 6A
CHARDON, OHIO 44024

- and -

CASE NO.

JUDGE

Request for Expedited Hearing

JOAN A. WINDNAGEL, In Their Capacity
As Member Of The Geauga County Board Of
Elections
470 CENTER ST - UNIT 6A
CHARDON, OHIO 44024

- and -

JANET M. CARSON, In Their Capacity As
Member Of The Geauga County Board Of
Elections
470 CENTER ST - UNIT 6A
CHARDON, OHIO 44024

- and -

RICHARD J. PIRAINO, In Their Capacity
As Member Of The Geauga County Board Of
Elections
470 CENTER ST - UNIT 6A
CHARDON, OHIO 44024

- also serve -

FRANK LAROSE, in is official capacity as
OHIO SECRETARY OF STATE
180 S CIVIC CENTER DR
COLUMBUS, OHIO 43215

Respondent.

**MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION; AND
COMPLAINT FOR DECLARATORY JUDGMENT**

Now comes Petitioner, Justin Tjaden, *pro se* and by and through undersigned counsel, and respectfully submits this Joint Motion for Temporary Restraining Order and Preliminary Injunction and Complaint for Declaratory Judgment against Defendants, the Geauga County Board of Elections, and its members and directors, seeking immediate and injunctive relief to prevent irreparable harm to Petitioner's constitutional rights and to the democratic electoral

process.

This action arises out of Respondents' planned refusal, at a Special Meeting scheduled for April 9, 2024, to certify Petitioner as an Independent candidate for Ohio House of Representatives, House District 99, for the November 5, 2024 General Election. This refusal is based on a disputed interpretation and application of signature requirements as set forth in ORC § 3513.257 and related statutes. Petitioner contends that these requirements, and Respondents' application thereof, violate his rights under the Ohio Constitution and the United States Constitution, including but not limited to the rights to equal protection, free speech and association, and due process.

Petitioner seeks a Temporary Restraining Order and Preliminary Injunction to preserve the status quo and prevent his exclusion from the ballot while this Court considers the merits of his Complaint for Declaratory Judgment. Petitioner asserts that without this Court's immediate intervention, he will suffer irreparable harm for which there is no adequate remedy at law, including the denial of his right to compete in an election on an equal footing and the denial of voters' right to a meaningful choice at the polls.

A Memorandum in Support and Proposed Order is attached hereto.

Respectfully submitted by:

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**MEMORANDUM IN SUPPORT OF PETITIONER'S MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

ISSUES FOR REVIEW

On the outset, Petitioner respectfully outlines the following constitutional and legal issues this Court can expect to review, critical to the analysis and adjudication of this matter:

1. Does the significant difference in signature requirements for independent candidates pursuant to ORC § 3513.257(C), as compared to major party candidates pursuant to ORC § 3513.05, violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by imposing a disproportionate burden on independent candidates and their supporters, *when neither major party candidate faced a challenger in the March 19, 2024 Primary Election?*
2. Does the significant difference in signature requirements for independent candidates pursuant to ORC § 3513.257(C), as compared to major party candidates pursuant to ORC § 3513.05, violate the Equal Protection Clause of the Article I, Section 2 to the Ohio Constitution by imposing a disproportionate burden on independent candidates and their supporters, *when neither major party candidate faced a challenger in the March 19, 2024 Primary Election?*
3. Does the application of ORC § 3513.257(C), in requiring independent candidates to gather a significantly higher number of signatures than major party candidates, *who in the instant case faced no primary challengers*, infringe upon the First Amendment rights of free speech as provided by the First Amendment to the United States Constitution for Petitioner and similarly situated independent candidates?
4. Does the application of ORC § 3513.257(C), in requiring independent candidates to gather a significantly higher number of signatures than major party candidates, *who in the instant case faced no primary challengers*, infringe upon the First Amendment rights of freedom of association provided by the First Amendment to the United States Constitution for Petitioner and similarly situated independent candidates?
5. Does the application of ORC § 3513.257(C), in requiring independent candidates to gather a significantly higher number of signatures than major party candidates, *who in*

the instant case faced no primary challengers, infringe upon Petitioner’s and similarly situated independent candidates rights of free speech as provided by Article I, Section 11 of the Ohio Constitution for Petitioner and similarly situated independent candidates?

6. Does the lack of a clear, objective, and transparent process for the verification of signatures under ORC § 3513.257 and related statutes and regulations deny Petitioner due process under the Fourteenth Amendment to the United States Constitution?
7. Does the lack of a clear, objective, and transparent process for the verification of signatures under ORC § 3513.257 and related statutes and regulations deny Petitioner due process under Article 1, Section to the Ohio Constitution?
8. Is the statutory scheme, particularly the provisions of ORC § 3513.257 that impose higher signature requirements on independent candidates, contrary to the Ohio Constitution’s guarantees of free speech, equal protection, and fair access to the electoral process, *when neither major party opponent faces a primary challenger*?

These issues are presented in light of the fundamental constitutional principles that underpin our democratic electoral process and the rights of individuals to participate in that process on an equal basis. The resolution of these issues is essential not only for the Petitioner’s immediate candidacy but also for the integrity of the electoral system and the rights of all individuals who seek to engage in political expression and association through independent candidacies.

STATEMENT OF THE FACTS

Petitioner, Justin Tjaden, is a resident of Geneva-on-the-Lake, Ohio, and aspires to serve his community through elected office. With a commitment to represent the diverse voices of Ohio House District 99, Mr. Tjaden declared his candidacy as an Independent for the General Election scheduled for November 5, 2024. This declaration set in motion his effort to meet the statutory requirements for ballot access as prescribed by Ohio Revised Code § 3513.257.

Pursuant to ORC § 3513.257(C), an Independent candidate such as Mr. Tjaden is required to submit a nominating petition signed by a minimum number of qualified electors based on a formulaic provision of the statute – 1% of the total electors in preceding

gubernatorial election of the sought district. ORC § 3513.257(C). In the instant case, the required number of signatures is purported to be 495. In contrast, candidates affiliated with major political parties, pursuant to ORC § 3513.05, are only required to submit 50 signatures to qualify for their respective primary ballots, a disparity that becomes more pronounced in the absence of primary election challengers for either major party candidate.

On March 18, 2024, Mr. Tjaden submitted 552 signatures to the Geauga County Board of Elections for verification, as primary certifiers of Mr. Tjaden's petitions in accordance with ORC § 3513.257. Respondents then sent petition parts that related to Ashtabula County's portion of District 99 to the Ashtabula County Board of Elections.

Upon review, the Geauga and Ashtabula County Boards of Elections determined that only 371 of Mr. Tjaden's signatures were valid, falling short of the determined amount of 495 signatures (See **Exhibits A and B**, true and accurate copies of reports provided by the Geauga and Ashtabula Boards of Elections, respectively). The requirement for 495 valid signatures was not transmitted to Mr. Tjaden until the moment he was submitting his petitions. The determination of valid signatures, and the Board's intent to certify his failure to qualify for the ballot, was communicated to Mr. Tjaden days before the Geauga Board was scheduled to meet on April 9, 2024 Special Meeting (See **Exhibit C**).

Respondent's decision to potentially exclude Mr. Tjaden from the ballot based on these findings has precipitated this legal challenge. Mr. Tjaden contends that the differential treatment of independent candidates regarding signature requirements, especially when neither major party candidate faces primary opponents, coupled with the opaque and inconsistent verification process, violates his constitutional rights and those of the voters who seek to support Independent candidates.

This case presents critical questions regarding the fairness and constitutionality of Ohio's electoral process, particularly as it pertains to Independent candidates. The resolution of these questions will not only affect Mr. Tjaden's candidacy but also has broader implications for the democratic principles of equal access, free speech, and political association within the State of Ohio.

STANDARD OF REVIEW

In evaluating the Plaintiff's request for a Temporary Restraining Order (TRO) and Preliminary Injunction, this Court is guided by four factors. These factors are: (1) the likelihood of the Plaintiff's success on the merits of the case; (2) whether the Plaintiff will suffer irreparable harm in the absence of injunctive relief; (3) the potential harm to others resulting from the issuance of the injunction; and (4) the extent to which the public interest is served by the granting of the injunction. *Corbett v. Ohio Bldg. Auth.*, 86 Ohio App.3d 44, 619 N.E.2d 1145 (10th Dist.1993).

No single factor is determinative in the Court's decision to grant injunctive relief. *Mike McGarry & Sons, Inc. v. Robert Gross, et al.*, 2006 Ohio 1759, ¶10 (8th Dist.). Instead, the Court must apply a holistic approach, employing the "flexibility which traditionally has characterized the law of equity." *Id.*

The purpose of a Preliminary Injunction is to preserve the status quo between the parties pending a full hearing on the merits. *Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981). This interim relief is crucial in preventing the perpetuation of injustices that cannot be adequately remedied at a later stage. Similarly, a Temporary Restraining Order can be granted based on "procedures less formal and evidence less complete than one would find in the record of a trial on the merits." *Midwest Retailer Associated, Ltd. v. City of Toledo*, 563 F. Supp. 2d 796, (N.D.

Ohio 2008), citing *Univ. of Tex. v. Camenisch*.

In the present case, Petitioner asserts that the application of ORC § 3513.257 imposes an unconstitutional burden on independent candidates, including himself, thereby justifying the Court's consideration of injunctive relief under the aforementioned standards. Petitioner contends that without such relief, he will suffer irreparable harm that cannot be rectified post-certification, highlighting the urgency and necessity of the Court's intervention to prevent an ongoing violation of constitutional rights.

ANALYSIS

A. Success on the Merits

To assess the likelihood of success on the merits, this Court is to apply the modified balancing test as established by the United States Supreme Court in *Anderson v. Celebrezze* (1983), 460 U.S. 780, 789, 103 S.Ct. 1564, 1570, 75 L.Ed.2d 547, 558, and *Burdick v. Takushi*, 504 U.S. 428.

Under this test, in deciding whether a state election law violates First and Fourteenth Amendment constitutional rights, [this Court] must first weigh the character and magnitude of the burden the law imposes on those rights against the interests the state contends justify that burden, and consider the extent to which the state's interests necessitate the burden.

State ex rel. Wilcoxson v. Harsman, 2d Dist. Montgomery No. 24095, 2010-Ohio-4048, quoting *Anderson*.

“Regulations imposing severe burdens on voters’ and candidates’ rights must be narrowly tailored to serve a compelling state interest, while lesser burdens require less exacting review, and a state’s important regulatory interests usually justify reasonable, nondiscriminatory restrictions.”

Id., 2010-Ohio-4048, see also *Timmons v. Twin Cities Area New Party* (1997), 520 U.S. 351, 358-359, 117 S.Ct. 1364, 1370, 137 L.Ed.2d 589, 598.

“[T]he right to exercise the franchise in a free and unimpaired manner is preservative of

other basic civil and political rights, [thus] any alleged infringement must be carefully and meticulously scrutinized.” *Harper v. Virginia Bd. Of Elections*, 383 U.S. 663, 665 (1996). Further, “we note that a law severely burdens voting rights if it discriminates based on political content instead of neutral factors or if there are few alternative means of access to the ballot.” *State ex rel. Watson v. Hamilton Cty. Bd. of Elections*, 88 Ohio St.3d 239, 725 N.E.2d 255 (2000), citing *Citizens for Legislative Choice v. Miller* (C.A.6, 1988), 144 F.3d 916, 921.

In this context, the requirement for independent candidates like Petitioner to gather a significantly higher number of signatures than their major-party counterparts imposes a severe, content-based burden on both the candidates’ and voters’ rights. Despite what Respondents and existing case law may suggest, this discriminatory burden is not justified by the state’s regulatory interests, and certainly not in a manner that is narrowly tailored to serve a compelling state interest.

Distinguishable Facts – Narrow Scope of Opponents Without Primary Challengers

The only case to specifically consider ORC § 3513.257(C)’s inflated signature requirements is *State ex rel. Wilcoxson v. Harsman*, 2d Dist. Montgomery No. 24095, 2010-Ohio-4048. In *Wilcoxson*, an Independent candidate challenged the signature requirements of ORC § 3513.257(C) on its face, claiming the required amount of signatures was unconstitutional in light of the required amount for major party candidates. Wilcoxson filed a Writ of Mandamus asking the Court to compel the requisite board of elections to certify his petition for the General Election. Nowhere in the *Wilcoxson* opinion is it alleged that there were no primary challengers for Wilcoxson’s political opponents.

In denying writ, the *Wilcoxson* court did note ORC § 3513.257(C) presented discrimination based on political content, but the court justified this discrimination based off the

fact that major primary opponents had primary challengers, stating:

The burden imposed on independent candidates by R.C. 3513.257 is based on political affiliation by the simple fact that it is associated with party affiliation. However, it is ill-founded to say that the statute ‘*discriminates based on political content*’... Independent candidates are guaranteed a place on the general election ballot upon satisfying R.C. 3513.257. *Major and minor party candidates, however, are only guaranteed a place on their party’s primary election ballot, a first step in the process of securing a place on the general election ballot.* Once on the primary election ballot, said candidates must rally the support of a plurality of their party to win the primary. Only upon winning the primary do said candidates begin the process of garnering support from the entire population for the race on the general election ballot.

Id. (emphasis as to primary challengers added).

This follows a common justification for disparate treatment of independent voters – that major party candidates have a primary election, thus the signature requirements for independent candidates to have direct access to the ballot is not overly burdensome. In *Lawrence v. Blackwell*, 430 F.3d 368 (6th Cir. 2005), the 6th Circuit determined, in reviewing the filing deadline of independent candidates pursuant to §3513.257, “[T]he burden on independent candidates to file the day before the primary is reasonable because it prevents such candidates from being able to make a decision to run for office *after learning which candidates will be representing the major parties.*” (emphasis added).

These highlighted portions trigger the major fact that distinguishes the case at bar. Here, neither major party candidate faced a primary challenger, eliminating the major hurdle confronted in the *Wilcoxson* court, and removing a justifiable reason for disparate treatment in *Blackwell*.

Additionally, the statute itself provides some guidance. While ORC § 3513.257(C) is absent in terms of its justification for the heightened number of signature required, it does state:

[T]he state has a substantial and compelling interest in protecting its electoral process by encouraging political stability, ensuring that the winner of the election

will *represent a majority of the community*, providing the electorate with an understandable ballot, and enhancing voter education, thus fostering informed and educated expressions of the popular will in a general election.

ORC § 3513.257(C) (emphasis added).

In review of voter affiliation information provided by the Ohio Secretary of State, it is clear that neither “major party” reflects a “majority of the community.”¹ Of the 82,022 registered voters in Ohio House District 99, only 19,953 (24.3%) are registered Republicans, and only 8,882 (10.8%) are registered Democrats. Meanwhile 53,187 voters (64.84% of District 99) are Unaffiliated Voters without relation to either “major party”.

This disparity makes clear that the current signature requirements for independent candidates do not reflect the political landscape of Ohio House District 99. The overwhelming majority of unaffiliated voters indicate a diverse electorate potentially open to independent candidates, yet the statutory requirements disproportionately burden these candidates, limiting the electorate’s choices to a minority of “major parties”. The unique circumstances of this case, where neither major party candidate faced a primary challenger, eliminates the purported “first step” in the electoral process for major party candidates, as described in *Wilcoxson*. Instead, the statute effectively grants them direct access to the general election ballot without the preliminary test of party support.

Moreover, the state’s interest in “encouraging political stability” and “ensuring that the winner of the election will represent a majority of the community,” balanced against the rights

¹ See: Ohio Secretary of State’s Voter Files Download Page (April 4-6, 2024), <https://www6.ohiosos.gov/ords/f?p=VOTERFTP:STREP::#stRepVtrFiles> (Methodology: Because these voter files come in .txt format, Petitioner uploaded the comma-separated values into Microsoft Excel).

of voters and candidates under the First and Fourteenth Amendments, highlights the simple realization that the current signature requirement for independent candidates, especially in a district with a significant unaffiliated voter base and major party candidates without primary opponents, does not serve these interests in a manner that is narrowly tailored and proportionate.

Proportional Application of Signature Requirements for Independent Candidates

A pivotal element of the Petitioner's likelihood of success on the merits is the potential for proportional application of signature requirements for independent candidates, as delineated in Ohio Revised Code §§ 3513.05 and 3513.257.

Under § 3513.05:

If the declaration of candidacy declares a candidacy which is to be submitted to electors throughout the *entire state*, the petition, including a petition for joint candidates for the offices of governor and lieutenant governor, *shall be signed by at least one thousand qualified electors* who are members of the same political party as the candidate or joint candidates, and the declaration of candidacy and petition shall be filed with the secretary of state; provided that the secretary of state shall not accept or file any such petition appearing on its face to contain signatures of more than three thousand electors.

(Emphasis added). In contrast, § 3513.257 stipulates:

(A) If the candidacy is to be voted on by electors throughout the *entire state*, the nominating petition, including the nominating petition of independent joint candidates for the offices of governor and lieutenant governor, *shall be signed by no less than five thousand qualified electors*, provided that no petition shall be accepted for filing if it purports to contain more than fifteen thousand signatures.

This 1:5 ratio, deemed constitutional for statewide offices and not being objected to here, necessitates a thoughtful and proportional application to district-level candidacies to prevent undue burdens on independent candidates and ensure fair access to the electoral process.

Given this established ratio, a proportional application to district or smaller jurisdiction offices logically suggests that if a major party candidate for such offices is required to collect

fifty signatures under § 3513.05, an independent candidate should, therefore, be required to gather a proportionally similar amount, adjusted to reflect the statewide ratio. This adjustment would equate to 250 signatures for independent candidates for district-level offices, aligning with the constitutional ratio while significantly reducing the disproportionate burden currently placed on these candidates.

This proportional approach not only aligns with the spirit of equitable treatment under the law but also addresses the practical challenges faced by independent candidates like the Petitioner. By requiring 250 signatures for district-level independent candidates, the state can maintain its regulatory interests in ensuring a manageable and understandable ballot, preventing frivolous candidacies, and upholding the integrity of the electoral process, without imposing an unnecessarily onerous barrier to ballot access.

While a 10:1 ratio may not seem unconstitutionally disparate to some courts, the framework of § 3513.257(C) means that a person seeking office as an independent candidate for one seat in the Ohio State Senate would need around 1,500 signatures (30:1). The law of large numbers necessitates a more nuanced approach that doesn't allow for unreasonably varied signature requirements.

Error in Wilcoxson

As stated *supra*, the case *State ex rel. Wilcoxson v. Harsman*, 2d Dist. Montgomery No. 24095, 2010-Ohio-4048 stands as Ohio's sole judicial interpretation of ORC § 3513.257(C)'s signature requirements for independent candidates. This Court must respectfully scrutinize the *Wilcoxson* court's opinion. Petitioner asks this Court to recognize the *Wilcoxson* court erred in its justification of upholding § 3513.257(C), saying independent candidacy is analogous to the requirements for forming a new political party under ORC § 3517.01.

The *Wilcoxson* court justified the heightened signature requirements for independent candidates by drawing parallels to the formation of a new political party:

Moreover, the one percent signature requirement has been considered and adopted by the legislature in other ballot access contexts. As stated above, a person wishing to organize a new party must submit a petition to the secretary of state “signed by qualified electors equal in number to at least one percent of the total vote for governor or nominees for presidential electors at the most recent election.” R.C. 3517.01. Candidates for office from the newly formed party are then entitled to hold a primary election, regulated by the candidacy requirements outlined in R.C. 3513.05. *We find Wilcoxson’s candidacy as an independent analogous to one of a newly formed party. In a reasonable, nondiscriminatory fashion, the legislature has set forth like signature requirements to obtain access to the ballot.*

Id., 2010-Ohio-4048 (emphasis added).

First, the analogy fails to account for the unique electoral and political challenges confronting independent candidates, who often lack the organizational support, resources, and established voter base accessible to existing, or even new, political parties. Independent candidates, by their very nature, operate outside the traditional party structures, relying on individual merit and direct voter engagement rather than party-driven mobilization. The motivations that drive a singular independent candidate are oftentimes divergent from the motivations to create a political party. This distinction underscores the disproportionate burden placed on independent candidates by ORC § 3513.257(C), which does not adequately reflect the practical realities of independent campaigning.

Furthermore, the *Wilcoxson* decision does not sufficiently address the constitutional concerns raised by the disparate treatment of independent candidates. By focusing narrowly on the procedural similarities between independent candidacies and new party formations, or by simply stating the candidate can join an existing party to “change it from within,” the court overlooked the broader constitutional implications of imposing such a significant barrier to

ballot access. While they do proclaim, “[T]he State certainly has a legitimate interest in creating an election process that avoids voter confusion, ballot overcrowding, or frivolous candidacies[.]” this Court should also recognize this new, proportional interpretation provided by Petitioner does not hinder those goals, but instead emphasizes the purpose of signature requirements, i.e. “requiring some preliminary showing of a significant modicum of support’ before printing the name of a political candidate on the ballot.” *Id.*, quoting *Jenness v. Fortson*, 403 U.S. 431, 91 S.Ct. 1970, 29 L.Ed.2d 554 (1971). The current structure of § 3513.257(C) does not require a “modicum” of support, but rather a mountain of support that is unjustifiable when major party candidates get direct access to the ballot with 50 signatures – so long as they face no primary challengers.

In light of these considerations, this Court is presented with an opportunity to reevaluate the rationale and application of ORC § 3513.257 in the context of independent candidacies. A more nuanced understanding of the distinct challenges faced by independent candidates, coupled with a careful consideration of the constitutional principles involved, supports a reexamination of the signature requirements to ensure they do not unjustly hinder the democratic process. By addressing the error in *Wilcoxson*, this Court can affirm its commitment to upholding the constitutional rights of all candidates and voters, fostering a more inclusive and representative electoral landscape.

Given the unique circumstances of this case—where neither major party candidate faced a primary challenger—the Court is urged to consider the specific impact of ORC § 3513.257(C) on the Petitioner’s ability to access the ballot. This situation presents a compelling argument for reevaluating the constitutionality of the statute under the modified balancing test established in *Anderson/Burdick*, thus presenting a strong likelihood of success on the merits of this case.

B. Irreparable Harm

The concept of irreparable injury in the context of this case is not merely theoretical; it is a tangible threat to the democratic process and the rights of both the candidate and the electorate. “Irreparable harm is harm for which there is no plain, adequate, and complete remedy at law, and for which money damages would be impossible, difficult, or incomplete.” *Mike McGarry & Sons, Inc. v. Gross*, 8th Dist. Cuyahoga No. 86603, 2006-Ohio-1759. This case presents a quintessential example of such a scenario. The denial of ballot access to an independent candidate, based on a statutory requirement that disproportionately burdens such candidates, represents a harm for which there is no adequate remedy at law. The harm extends beyond the individual candidate, affecting the electorates’ right to a diverse and representative slate of candidates.

The authority granted to Boards of Elections under R.C. 3501.39(A)(3) to reject nominating petitions for non-compliance with statutory requirements underscores the immediacy and severity of the harm faced by the Petitioner. “Under R.C. 3501.39(A)(3), a Board of Elections has the authority, *sua sponte*, to reject a nominating petition if the petition violates the requirements of R.C. Chapter 3513 or any other law.” *State ex rel. Lorenzi v. Mahoning Cty. Bd. of Elections*, 7th Dist. Mahoning No. 07 MA 127, 2007-Ohio-5879. This authority, while necessary for maintaining the integrity of the electoral process, can also lead to the exclusion of candidates from the ballot, thereby limiting voter choice and undermining the principles of democratic representation.

In the case at bar, the irreparable harm is not merely the exclusion of the Petitioner from the ballot but the broader impact on the democratic process itself. The inability to participate in

the electoral process, to offer the voters of Ohio House District 99 an independent choice, constitutes an injury for which there is no adequate remedy. Money damages or subsequent legal victories cannot undo the effect of an election conducted without the full spectrum of electoral choices. Nor can they restore the Petitioner’s opportunity to compete in the election on an equal footing with major party candidates, particularly in an election cycle where the major party candidates faced no primary challengers and had direct access to the ballot.

Furthermore, the harm extends to the electorate which is deprived of the opportunity to consider and vote for an independent candidate. This deprivation directly impacts the electorate’s ability to shape their representation in accordance with their preferences, especially in a district with a significant number of unaffiliated voters. The exclusion of the Petitioner from the ballot, therefore, represents a clear and present danger to the rights of voters and the integrity of the electoral process—a harm that is both immediate and irreparable.

Irreparable Harm Due to Premature Certification

The impending review and potential official action by the Geauga County Board of Elections, as indicated in the communication attached as Exhibit C, underscores a pressing concern for irreparable harm. The email’s mention that the Board “may take official action at the April 9, 2024, Special Meeting” introduces a significant degree of uncertainty and urgency into the process. This language not only highlights the discretionary power of the Board to advance the certification process but also suggests a window of opportunity for judicial intervention to ensure a fair and equitable review of the petitioner’s signatures.

The use of the term “may” in the context of the Board’s decision-making timeline is critical. It implies that while the Board has the option to proceed with certification on April 9, there is also the flexibility to delay this action, providing a crucial period for judicial review.

This flexibility is particularly relevant given the statutory provisions outlined in ORC § 3513.262, which states, in pertinent part:

Each board shall, not later than the next fifteenth day of July, or if the primary election was a presidential primary election, not later than the end of the tenth week after the day of that election, examine and determine the sufficiency of the signatures on the petition papers transmitted to or filed with it, and the validity of the petitions filed with it, and shall return to the secretary of state all petition papers transmitted to it by the secretary of state, together with its certification of its determination as to the validity or invalidity of signatures thereon, and shall return to each other board all petition papers transmitted to it by such other board, as provided in this section, together with its certification of its determination as to the validity or invalidity of signatures thereon.

This statute grants a review period extending until May 31, 2024. This statutory framework affords the Board ample time to consider the merits of the petition and the validity of signatures, after court adjudication, without rushing to a premature conclusion that could disenfranchise the petitioner and his supporters.

The potential for irreparable harm arises from the possibility of the Board prematurely certifying the election results before a thorough judicial examination of the constitutional challenges presented by the petitioner. Such premature certification would effectively eliminate the petitioner's opportunity to contest the election on substantive grounds, thereby causing irreparable damage to his candidacy and the democratic process. The harm in this context is not merely theoretical but manifests in the tangible loss of an opportunity to participate in an electoral process that is supposed to be accessible, fair, and reflective of the electorate's will.

Given the critical timing and the potential for irreversible harm, it is imperative that the Court grants immediate relief to preserve the status quo until the legal challenges to the signature verification process and the statutory requirements for independent candidates can be thoroughly reviewed.

C. Substantial Harm to Others

The Petitioner seeks to ensure a fair and equitable electoral process by challenging a statutory scheme that disproportionately burdens independent candidates. Granting this relief would not impose substantial harm on others; rather, it would serve to enhance the democratic process by ensuring that all candidates, regardless of party affiliation, are subject to equitable requirements for ballot access.

The primary parties that might be considered “at risk of potential harm” are the Boards of Elections, and, by extension, the electorate. However, the relief sought does not disadvantage these parties. For the Boards of Elections, the injunction would temporarily adjust the requirements for verifying and certifying independent candidates for ballot access. This adjustment does not impose an undue burden on the Boards; instead, it asks them to operate within a framework that ensures all candidates are treated equitably, aligning with the Boards’ overarching mission to facilitate fair elections.

For the electorate, the inclusion of the Petitioner on the ballot does not constitute harm but rather benefits the democratic process by providing voters with a broader range of choices. The harm to the electorate arises not from granting the injunction but from maintaining the status quo, which restricts voter choice and undermines the principles of democratic representation. The potential inclusion of an independent candidate on the ballot enriches the electoral dialogue, encourages higher voter engagement, and ensures that the electoral process accurately reflects the diverse political landscape of Ohio House District 99.

Moreover, the argument that granting the injunction could lead to ballot overcrowding or voter confusion is mitigated by the specific circumstances of this case. The Petitioner is not

seeking to lower the threshold for all candidates indiscriminately but is challenging a specific statutory requirement that places an undue burden on independent candidates when their major party opponents do not face primary challengers. In a district where a significant portion of the electorate is unaffiliated with any major party, the inclusion of an independent candidate responds to the electorate's desire for representation that transcends traditional party lines.

In summary, granting the requested injunctive relief would not result in substantial harm to others. Instead, it would rectify an existing imbalance in the electoral process, ensuring that independent candidates are afforded the same opportunity to compete for public office as their major-party counterparts. This adjustment aligns with the public interest in a fair, equitable, and representative electoral process, thereby serving the greater good without imposing undue harm on the Boards of Elections or the electorate.

D. Public Interest

It's a fundamental understanding in Ohio that, "All political power is inherent in the people. Government is instituted for their equal protection and benefit." Ohio Const. Article I, § 2. Further, we as a nation recognize the right to vote for your preferred candidate is as fundamental as any other American right:

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. Our Constitution leaves no room for classification of people in a way that unnecessarily abridges this right.

Wesberry v. Sanders, 376 U.S. 1, 84 S.Ct. 526, 11 L.Ed.2d 481 (1964). This belief stemmed from the days of our founding, when James Madison wrote:

"Who are to be the electors of the F[ed]eral Representatives? Not the rich more than the poor; not the learned more than the ignorant; not the haughty heirs of distinguished names, more than the humble sons of obscure and unpropitious fortune. The electors are

to be the great body of the people of the United States. . . .”

The Federalist, No. 57 (Cooke ed. 1961), at 385

The public interest is best served by an electoral system that is inclusive, fair, and reflective of the electorate’s diverse political views. Granting the requested injunctive relief aligns with these principles by ensuring that independent candidates, who represent a significant portion of the political spectrum, have equitable access to the ballot.

The requirement for independent candidates to gather a disproportionately high number of signatures to qualify for the ballot, when major party opponents do not have primary challengers, not only burdens these candidates but also diminishes the electorate’s ability to choose from a wider range of political options. By addressing this disparity, the court would enhance the democratic process, encouraging greater participation and engagement from both candidates and voters. This is particularly relevant in Ohio House District 99, where a significant number of voters are unaffiliated with any major party and may seek alternatives to the traditional two-party candidates.

Furthermore, the public interest extends beyond the immediate parties involved in this litigation. It encompasses the broader principles of electoral integrity, political fairness, and the democratic values enshrined in both the Ohio and United States Constitutions. Ensuring that the electoral process is accessible to all candidates, regardless of party affiliation, upholds these values and reinforces the public’s trust in the electoral system.

In addition, addressing the constitutional concerns raised by the Petitioner would provide valuable legal clarity and guidance for future elections. This would benefit not only independent candidates but also the Boards of Elections, which are tasked with navigating the complex legal landscape of election law. Clarifying and solidifying the legal standards

applicable to signature requirements and ballot access would facilitate the Boards' administration of elections, ultimately benefiting the public by ensuring that electoral decisions are made on a clear, consistent, and equitable basis, while saving time and cost to the taxpayer.

In conclusion, granting the requested injunctive relief serves the public interest by promoting a more inclusive and representative electoral process, enhancing voter choice, and upholding the democratic principles that are foundational to our society. The court's intervention in this matter would not only address the immediate concerns of the Petitioner but also contribute to the long-term health and integrity of Ohio's electoral system.

CONCLUSION

In light of the foregoing, it is evident that the Petitioner's request for a Temporary Restraining Order and Preliminary Injunction is not only justified, but necessary to protect the fundamental rights of both the candidate and the voters of Ohio House District 99. The Petitioner has demonstrated a substantial likelihood of success on the merits, particularly given the unique circumstances of this election where neither major party candidate faced a primary challenger. The irreparable harm faced by the Petitioner, absent court intervention, is clear and present, as is the absence of substantial harm to others should the relief be granted. Most importantly, the public interest overwhelmingly supports ensuring that the electoral process is fair, equitable, and inclusive, allowing voters the broadest possible choice in their representation.

Therefore, this Court is respectfully requested to grant the Petitioner's motion for a Temporary Restraining Order and Preliminary Injunction, ordering the Geauga County Board of Elections to refrain from certification of Petitioner's petitions for independent candidacy, pending a full hearing on the merits of the case. A proposed Order is attached hereto.

Respectfully submitted by:

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/s/ Justin D. Tjaden

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COMPLAINT FOR DECLARATORY JUDGMENT

Now comes Plaintiff, Justin Tjaden, who incorporates by reference the above Motion and Memorandum in Support of the Motion for Temporary Restraining Order and Preliminary Injunction, as if fully restated herein, and for his Complaint for Declaratory Judgment states as follows:

I. NATURE OF THE ACTION

1. This is an action for declaratory judgment pursuant to ORC § 2721.02, seeking a judicial declaration regarding the constitutionality and application of Ohio Revised Code § 3513.257, as it pertains to signature requirements for independent candidates seeking ballot access for state legislative office.
2. Plaintiff seeks a declaration that the disparate signature requirements for independent candidates, compared to major party candidates who do not face primary election challengers, violate the Ohio Constitution and the United States Constitution.

II. JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to ORC § 2721 *et seq.*
4. Venue is proper in this Court because the actions giving rise to this Complaint occurred within this County, and Defendants operate within this jurisdiction.

III. PARTIES

5. Plaintiff Justin Tjaden is a resident of Geneva-on-the-Lake, Ohio, and strives to be an independent candidate for Ohio House District 99.
6. Defendants, Geauga County Board of Elections and its directors and members, is responsible for overseeing elections within Geauga County, including the verification of

petition signatures for candidates seeking ballot access for Ohio House District 99.

7. Defendant, Secretary of State—Frank LaRose, is the statewide public official, elected to oversee the administration of elections in Ohio.

VI. FACTUAL ALLEGATIONS

8. Mr. Tjaden declared his candidacy as an Independent for the General Election scheduled for November 5, 2024, aiming to represent the diverse voices of Ohio House District 99.
9. To meet the statutory requirements for ballot access, Mr. Tjaden was required to follow the provisions of Ohio Revised Code § 3513.257.
10. According to ORC § 3513.257(C), an Independent candidate like Mr. Tjaden must submit a nominating petition signed by a minimum number of qualified electors, determined as 1% of the total electors in the preceding gubernatorial election of the sought district.
11. On March 18, 2024, Mr. Tjaden submitted a total of 552 signatures to the Geauga County Board of Elections for verification.
12. The Geauga County Board of Elections, as primary certifiers of Mr. Tjaden's petitions, subsequently sent parts of the petition related to Ashtabula County's portion of District 99 to the Ashtabula County Board of Elections for further verification.
13. Upon review, the Geauga and Ashtabula County Boards of Elections determined that only 371 of Mr. Tjaden's signatures were valid, falling short of the 495 signatures required for ballot access.
14. The requirement for 495 valid signatures was not made clear to Mr. Tjaden until he was submitting his petitions.
15. The determination of the validity of Mr. Tjaden's signatures was communicated to him

on March 28, shortly before the Geauga Board was scheduled to potentially certify candidates for the General Election ballot at an April 9, 2024, Special Meeting.

16. Respondents' decision to potentially exclude Mr. Tjaden from the ballot has precipitated this legal challenge, wherein Mr. Tjaden contends that the differential treatment of independent candidates regarding signature requirements violates his constitutional rights and those of voters who seek to support independent candidates, especially and solely in light of the fact that neither major party candidate faced primary opponents.

IV. LEGAL CLAIMS

17. Plaintiff re-alleges and reincorporates paragraphs 1-15 as if fully restated herein.
18. Plaintiff re-alleges and re-incorporates the legal arguments, assertions, and allegations made in the Motion and Memorandum in Support of Petitioner's Motion for a Temporary Restraining Order and Preliminary Injunction, *supra*, as if fully restated herein.

First Claim for Relief (Violation of the Equal Protection Clause):

19. Plaintiff alleges that the disparate signature requirements for independent candidates pursuant to ORC § 3513.257(C), as compared to major party candidates who are not facing primary election opponents, violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Second Claim for Relief (Violation of the First Amendment):

20. Plaintiff alleges that the signature requirements for independent candidates unduly burden the First Amendment rights of free speech and association of the Plaintiff and his supporters, when major party candidates who do not face primary opponents have a lower threshold to ballot access.

Third Claim for Relief (Violation of the Ohio Constitution):

21. Plaintiff alleges that the signature requirements for independent candidates violate similar protections under the Ohio Constitution, including Ohio's right to freedom of speech and by extension freedom of association as provided in Article I, Section 2 of Ohio's Constitution; right to equal protection as provided in Ohio Constitution Article I, Section 11 of Ohio's Constitution; and right to due process as provided in Ohio Constitution Article I, Section 16.

- a. The unequal burden imposed on independent candidates under ORC 3513.257(C) inhibits their ability to effectively exercise their rights to freedom of speech and association as guaranteed by the Ohio Constitution.
- b. Additionally, the differential treatment of independent candidates regarding signature requirements constitutes a violation of Ohio Constitution Article I, Section 11, which guarantees equal protection of the laws, by subjecting independent candidates to stricter requirements compared to major party candidates who do not face primary election challengers.
- c. Further, the lack of transparency and clarity regarding signatures requirements, as evidenced by the failure to clearly communicate the requirement for 495 valid signatures to Plaintiff until after he had submitted his petitions, and failure to have an independent representative present during signature validation, constitutes a violation of the right to due process as provided in Ohio Constitution Article I, Section 16.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

- A. Declare that the signature requirements for independent candidates, as set forth in Ohio Revised Code § 3513.257(C), are unconstitutional under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and corresponding provisions of the Ohio Constitution, particularly when the candidate's opponents in the general election never face a primary challenger, because it imposes unequal burdens on independent candidates, and their supporters, for ballot access.
- B. Declare the signature requirements pursuant to ORC § 3513.257(C) as an infringement of First Amendment Rights as further provided by the First Amendment to the United States Constitution: The unequal and unjust treatment of independent candidates under the signature requirements unduly burdens the First Amendment rights of free speech and association, inhibiting the ability of independent candidates like Plaintiff to effectively participate in the electoral process.
- C. Declare the signature requirements pursuant to ORC § 3513.257(C) as a breach of Ohio Constitutional Protections: The disparate treatment of independent candidates under the signature requirements violates protections under the Ohio Constitution, which guarantees equal protection of the laws under Article I, Section 11 and the right to participate fully in the political process without arbitrary or unreasonable barriers to candidacy pursuant to:
 - i. Violation of Ohio Constitution Article I, Section 2
 - ii. Violation of Ohio Constitution Article I, Section 11
 - iii. Violation of Ohio Constitution Article I, Section 16

- D. Enjoin Defendants from enforcing the signature requirements against Plaintiff;
- E. Order that Respondents are to certify Petitioner's Petitions in accordance with this Order, and that Petitioners' name be placed on the ballot for the November 5, 2024 General Election for Ohio House District 99;
- F. Award Plaintiff reasonable costs, including attorney's fees, incurred in bringing this action;
- G. Grant such other and further relief as the Court deems proper.

Respectfully submitted by:

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