





Connecticut voter, I feel compelled to bring this action, and the urgency of this matter compels me to urge this Court's issuance of an emergency order. In this affidavit, I explain why I am bringing this case and why I believe it requires immediate action by this Honorable Court.

**A. Potential Candidate**

5. As alleged in the Complaint in this action, I ran for the office of state senate in 2018, and fell just short of the signatures required to qualify for the primary ballot. In 2018, the seat was vacant – an “open seat” – but the seat is now occupied by an incumbent Democrat.

6. I've been asked many times since my 2018 state senate campaign whether I will ever run again. I always say, “Yes, I will! I just don't know when I might be able to get on the ballot.” Given that it was next-to-impossible to run for even an open seat, I know that running against an incumbent would be even more quixotic.

7. Being denied ballot access is not an easy loss to accept, precisely because it's not even a defeat. It feels more like one's candidacy is put in suspended animation, with voters never getting to weigh in one way or another.

8. As heartbreaking as it would be, I could accept defeat at the polls, because that would have democratic legitimacy. But Connecticut's ballot access laws make a mockery of those ideals. A group of party insiders selecting a group of party insiders to be delegates to decide on the nominee (knowing that whoever doesn't make the cut will be thrown to the wolves in the petition process) echoes the worst of closed political systems.

9. As far as I can tell, the state has an interest in ensuring that only serious candidates make it onto the ballot. I understand and agree with that proposition, but Connecticut's laws go well beyond that of almost any other state.

10. Gathering the valid signatures of five percent of all registered Democrats in my district is a hefty challenge, but it could be done. Doing so in an arbitrary two-week window in late May and early June is what makes it nearly impossible. Again, I can understand why the state would have a deadline to turn in signatures, but I will never grasp the rational basis of having a start date a mere fourteen days beforehand.

11. In most other states, I would be given months to gather such a quantity of signatures. I did my utmost to meet the requirements in 2018, knocking on thousands of doors, along with my volunteers. I certainly demonstrated the earnestness of my candidacy.

12. I (rather dangerously) lost seven pounds over two weeks of nonstop petitioning, going door to door in scorching heat and through torrential downpours.

13. The overwhelming majority of people I spoke with were willing to sign, seeing ballot access as essential to democracy.

**B. Voter**

14. I also believe the ballot access laws violate my rights as a voter.

15. I'm a registered Democrat in a blue state who votes a straight-party ticket in November. My only real choice could come in a primary.

16. But in the four state elections I've been eligible to vote in since I turned 18, not once has there been a primary in either my state representative district or my state senate district.

17. I know firsthand how difficult the process is, and I'm certain that more people would step up to run (and succeed in doing so) if only a viable path existed to getting on the ballot.

18. I also desire a way to vote absentee without meeting one of the six narrow excuses allowed under current law. Voting is one of our most fundamental rights and should be accessible to all citizens, not dependent on one's physical availability on a single day in August or November.

**C. Urgency**

19. The indefensibility of Connecticut's ballot access and absentee voting laws has been brought to the fore by the COVID-19 pandemic.

20. Collecting signatures moves from nearly impossible to absolutely impossible under social distancing measures, closing off any avenue to candidates not backed at party conventions. Similarly, voting in person goes against social distancing measures. Common sense dictates that voting by mail is the only safe way to conduct an election in the near future.

21. While I was prepared earlier to give the state time to respond to our Complaint, after speaking with Jason Bartlett about the unfair pressures his candidacy is facing due to ballot access uncertainty, I believe that action is required immediately to give candidates a reasonable method of attaining a spot in their primary.

**D. The Governor's New Executive Order**

22. Reducing the number of signatures by 30% and adding two days to the petition period does not begin to address the magnitude of the present situation.

23. A Democratic candidate in my senate district, for instance, would still need approximately 700 valid signatures to make the primary ballot. This would be substantially more in a district with higher concentrations of registered Democrats, such as the 10th Senate District where Jason Bartlett is running.

24. Corraling that many registered voters without going door-to-door would be extraordinarily difficult; a mere 16 days to collect that many signatures under fast-changing circumstances would be completely impossible. Requiring it is completely irrational.

25. I cannot comprehend why Governor Lamont would insist on such a high standard for a candidate to make the primary ballot, except to exclude those disfavored by the party establishment.

26. A reasonable standard would be at least a month to gather petition signatures, along with a reduction of the needed signatures by at least 80% or simply a fixed number of signatures, such as 100 for state senate candidates and 50 for state representative candidates. This would be sufficient to prove that the candidate has a significant modicum of voter support.

27. The use of electronic signatures could ameliorate the burden somewhat, but the executive order makes it as cumbersome as possible.

28. Requiring potential petition signers to print out, sign, scan, and email the petition form puts the process out of reach for all but the most determined and well-resourced voters.

29. The only other option, of mailing in the form, also places an undue burden on the voter – unless Secretary Merrill decides to send every registered voter a petition form with a self-addressed stamped envelope, as she is planning on doing for absentee ballot application forms.

30. A reasonable standard would be for the Secretary to set up a web form, similar to the very successful one already used for registering to vote or checking a voter's registration. A voter could simply type in their name, town, and birthdate, and be presented with a dropdown of petitioning candidates in their district. The voter could then select which candidates they would "sign" for and submit directly to the Secretary. The procedure would be straightforward and secure.

31. Keep in mind that party convention candidates' delegates are being allowed to appear via Zoom to ratify their choices in this year's conventions, and it is likely that no incumbent office-holder in the State of Connecticut will be required to collect any petition signatures at all, because they will be nominated by the party convention.

32. Each day that passes without action causes greater irreparable injury placing an ever-greater undue burden on candidates seeking access to the primary ballot and, by discouraging them, on voters seeking to vote for the candidate of their choice.

\* \* \*

I swear under penalty of perjury, pursuant to Title 28, § 1746 of the United States Code, that the foregoing is true, correct, and within my personal knowledge.

/s/Andy Gottlieb  
Andy Gottlieb  
Dated this 7th day of May, 2020

**NOTARIZATION**

Subscribed to and sworn before me, this 11th day of May, 2020, through Communication Technology pursuant to the terms of Governor Lamont's Executive Order No. 7Q (3).

/s/  
Alexander T. Taubes, Esq.  
Commissioner of the Connecticut Superior Court

- Alma Rose Nunley, Assistant Attorney General, Office of the Attorney General of the State of Connecticut, 165 Capitol Avenue Suite 5000, Hartford, CT 06106, [alma.nunley@ct.gov](mailto:alma.nunley@ct.gov)

2. As established by the Memorandum in Support of this Motion, and the documents and pleadings referenced therein, the Plaintiffs are entitled to immediate declaratory and injunctive relief because 1) they are likely to succeed on the merits, 2) they are suffering, and will continue to suffer, irreparable harm in the absence of preliminary relief, 3) the balance of equities tips in the Plaintiffs' favor, and 4) because an injunction is in the public interest. *See Winter v. Natural Res. Def. Council Inc.*, 555 U.S. 7, 20 (2008).

3. The Plaintiffs request telephonic or videoconference oral arguments on their motion this week or next or at the Court's earliest convenience.

4. The Plaintiffs request the waiver of any bond requirement before preliminary injunction issues. *Doctor John's, Inc. v. City of Sioux City, Iowa*, 305 F. Supp. 2d 1022, 1043–44 (N.D. Iowa 2004) (“[R]equiring a bond to issue before enjoining potentially unconstitutional conduct by a governmental entity simply seems inappropriate, because the rights potentially impinged by the governmental entity's actions are of such gravity that protection of those rights should not be contingent upon an ability to pay.”).

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request that this Court:

A. Issue a declaratory judgment stating that Connecticut's restrictions on ballot access, as modified by Defendant Lamont's May 11, 2020 executive order regarding qualifying for the August 11, 2020 major party primary election ballot cannot be constitutionally enforced;



B. Issue a temporary restraining order and/or preliminary injunction (i) enjoining or modifying enforcement of Connecticut's petition collection requirements for qualifying for the August 11, 2020 party primary election ballot; (ii) enabling and requiring the Defendants to allow for petitions to be submitted electronically via names of qualified electors collected by an online form to be created by the Secretary of the State; (iii) extend the deadline for the collection of the names of qualified electors from June 11, 2020 to July 15, 2020; and (iv) reduce the number of signatures required to qualify for the offices of state representative or state senate on the primary ballot to one percent of the registered party members in the district or to some percentage of required signatures necessary to demonstrate a significant modicum of public support in light of the cumbersome process imposed by Defendant Lamont's executive order;

C. Order Defendants to pay to Plaintiffs their costs and reasonable attorneys' fees under 42 U.S.C. § 1988(b); and

D. Grant such other and further relief as this Court deems proper and appropriate.

Dated: May 12, 2020

Respectfully Submitted,

PLAINTIFFS, ANDY GOTTLIEB,  
LORNA CHAND, RICHARD  
LACOURCIERE, AND JASON  
BARTLETT, FOR THEMSELVES AND  
THE PROPOSED CLASS

By: \_\_\_\_\_/s/  
Alexander T. Taubes, Esq.  
Federal Bar No.: ct30100  
Alexander T. Taubes  
470 James Street, Suite 007  
New Haven, CT 06513  
(203) 909-0048  
[alextt@gmail.com](mailto:alextt@gmail.com)

*Their Attorney*

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

ANDY GOTTLIEB, et al.,	:	
	:	Case No. 3:20-cv-623-JCH
<i>Plaintiffs,</i>	:	
	:	
v.	:	
	:	
NED LAMONT, et al.,	:	
	:	
<i>Defendants.</i>	:	May 12, 2020

**MEMORANDUM OF LAW IN SUPPORT OF  
EMERGENCY MOTION FOR PRELIMINARY OR PERMANENT  
INJUNCTIVE AND DECLARATORY RELIEF  
AS TO FIRST CLAIM (BALLOT ACCESS)**

This is a federal civil rights class action to enjoin Connecticut’s (1) in-person petition signature requirements for ballot access in the August 11, 2020 primary election (First Claim) and (2) eligibility requirements for obtaining mail-in absentee ballots for the August 11 primary and November 3, 2020 general elections (Second, Third, and Fourth Claims) because the requirements violate Plaintiffs’ First and Fourteenth Amendment rights as candidates and voters.

Plaintiff brings this emergency motion for preliminary or permanent injunctive and declaratory relief as to the First Claim only, regarding in-person petition signature requirements for candidates to access the August 11, 2020 primary ballot, about which Defendant Lamont issued an executive order yesterday.<sup>1</sup> Defendant Lamont’s executive order fails to remedy the First Amendment violations identified in Plaintiffs’ initial complaint, ECF No. 1, as described in their amended complaint filed today, ECF No. 8. Plaintiffs request an audience with this Court as soon as possible to address this matter of paramount constitutional importance.

---

<sup>1</sup> State of Connecticut, By His Excellency Ned Lamont, Executive Order No. 7LL (May 11, 2020), available at <https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-7LL.pdf?la=en> (last acc. May 12, 2020).

Petitions will be made available for candidates by Defendant Merrill beginning May 26 and candidates will be given only 16 days to collect signatures under Defendant Lamont's order. Time is therefore particularly of the essence as to Plaintiff's First Claim regarding ballot access for the August 11, 2020 primary election. The key facts in support of this motion are verified as set forth in the attached executed Affidavits and Expert Reports of Plaintiffs, Andy Gottlieb (Exhibit A), Jason W. Bartlett (Exhibit B), and Richard Lacourciere (Exhibit C).

### ARGUMENT

Plaintiffs respectfully submit that the four well-settled factors for consideration of a preliminary injunction, *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008), weigh heavily in their favor, as follows.

**1. Plaintiffs are Highly Likely to Succeed on the Merits of Their First Claim, Because This Case is Essentially Indistinguishable from *Campbell v. Bysiewicz***

---

Almost twenty years ago this Court held that Connecticut's "15%-delegate-vote rule," then the only method for candidates to gain access to the primary ballot for state offices, "far exceeds a means to a legitimate end, the screening out of candidates who lack a significant modicum of support," *Campbell v. Bysiewicz*, 213 F.Supp.2d 152, 157 (D.Conn. July 23, 2002) (*Dorsey, J.*), finding that "[t]his system ha[d] systematically denied Connecticut voters over the last 47 years a direct primary for district and state offices," *Id.* Without this Court's immediate action Connecticut voters will again be systematically denied their First Amendment free associational rights by requirements that again far exceed any legitimate State interest, and again serve only to insulate incumbent officeholders from legitimate competition.

The legislature's remedy for the constitutional violation identified in *Campbell* was Public Act 03-241, effective January 1, 2004, creating another method for candidates to gain

access to the primary ballot: collecting in-person petition signatures. *See* Conn. Gen. Stat. Secs. 9-404a-404c. It is highly doubtful that Public Act 03-241 was ever an adequate constitutional remedy for the violations identified in *Campbell*. *See* Exhibit A (Affidavit of Andy Gottlieb) at ¶¶ 10 (“Gathering the valid signatures of five percent of all registered Democrats in my district is a challenge, but it could be done. Doing so in an arbitrary two-week window in late May and early June is what makes it nearly impossible.”), ¶ 1, 11-13 (candidate went door to door “nonstop in scorching heat and through torrential downpours” and rallied volunteers, but fell short of the signatures required to qualify); *see Campbell*, 213 F.Supp.2d at 155 (testimony from candidates of the “considerable effort to access the primary ballot . . . goes to show a burdensome primary ballot access system.”).

Because of the COVID-19 pandemic, as Defendant Lamont has admitted by issuing Executive Order No. 7LL, *supra* note 1, the requirements in Public Act 03-241 are unquestionably an unconstitutionally undue severe burden on candidates’ and voters’ First Amendment rights to run for office and to vote for the candidate of their choice. Amended Complaint, ECF No. 8, at ¶¶ 3-7 (Defendant Lamont’s admissions of the extraordinary circumstances). Defendant Lamont’s cumbersome new executive order, *id.* at ¶¶ 8-13, however, fails to remedy the First Amendment harm that motivated it, and continues to inflict a severe undue burden on the First Amendment rights of Plaintiffs and all Connecticut voters. *Id.* at ¶¶ 8-13, 33-37, 57-59.

As Mr. Gottlieb’s affidavit and report demonstrates, Defendant Lamont’s new executive order fails even to “begin to address the magnitude of the present situation,” Ex. A at ¶ 22, the application of Public Act 03-241 to the COVID-19 pandemic. A Democratic candidate in Mr. Gottlieb’s senate district would need to collect over 700 valid signatures from registered

Democrats to qualify for the ballot. *Id.* at ¶ 23. The number will be significantly higher in districts with more Democrats, like Mr. Bartlett’s. *Id.* As Mr. Gottlieb notes, the order would require petition signers “to print out, sign, scan, and email the petition,” which would exclude “all but the most determined and well-resourced voters,” *id.* at ¶ 28, or require mailing a form back and forth in the U.S. Mail, which will be an undue severe burden at least unless Secretary Merrill sends every voter a self-addressed stamped envelope as she is planning to do for absentee ballot application forms, *id.* at ¶ 29.

Mr. Gottlieb – who has knowledge, training, and experience running a petition signature drive, *id.* at ¶¶ 5-9 – concludes that it is “completely impossible” to access the ballot using the mechanism created by Defendant Lamont’s executive order, *id.* at ¶ 24. The severity of the restrictions, such as the mere two-day extension to use the order’s cumbersome new mechanism introduced yesterday, *id.*, causes Mr. Gottlieb to conclude, reasonably, that the purpose of the order was “to exclude those disfavored by the party establishment.” ¶ 25. He further concludes that a reasonable system would require fewer signatures with more time to obtain them, ¶ 26, obtained through a web form created by the Secretary that is straightforward and secure, ¶ 30.

Mr. Lacourciere and Mr. Bartlett – candidates presently running for state representative in the 24th House District and state senator in the 10th Senate District, respectively – concur in Mr. Gottlieb’s judgment regarding the severe violation of First Amendment rights imposed by Defendant Lamont’s order. Mr. Bartlett is one of the most sophisticated political operatives in the state, with decades of success running petition signature drives. Ex. B at ¶ 9 (ran multiple successful petition signature drives as campaign manager). However, as Plaintiff Bartlett concludes in his affidavit and report, “[t]he executive order fails to provide a meaningful

alternative” for accessing the ballot in the state party primary. *Id.* at ¶ 16. As Plaintiff Bartlett explains:

Under the executive order, I would still need to obtain 3.5% of the registered members of the Democratic Party in my state senate district, a number that likely exceeds 1,000 registered Democrats. . . . [T]he voter to be either mailed a petition, or requires candidates to email the petition to the voter, which is unlikely because voters’ email addresses are rarely provided in applications to register to vote and are therefore not public information. The voter must then sign and mail the petition back to the candidate, or print and sign the petition then upload the petition by photograph or scanner to their computer and email it back to the candidate. The candidate must then print out all of the emails and petitions, one petition and the email that it came with per voter, to the registrar of voters of the voter’s municipality. This new process is cumbersome and costly and the executive order only gives two additional days to complete it.

[And] [u]nlike applications for absentee ballots, which are being mailed to every voter by the Secretary of the State, petitions will not be mailed to any voters. . . .

Petitions are routinely circulated online through websites such as Change.org but Governor Lamont’s order requires people to not only have computers, but also printers and scanners. The total number of steps and new paperwork created by the Governor’s new order will increase the time spent by either candidates going door-to-door to canvas for the signatures, volunteers, or voters leaving their homes to print or scan documents.

. . . .

Given my knowledge, training, and experience running campaigns and collecting signatures, I can easily conclude within a reasonable degree of professional certainty that unless the number of signatures required is capped at 500, and a substantial amount of additional time is provided, there is essentially no way that anyone will qualify for the ballot under the Governor’s cumbersome new system for collecting signatures. It is absurd, and demonstrates that the Governor has little concern for candidates’ and voters’ First Amendment rights.

*Id.* at ¶¶ 16-20. Mr. Lacourciere, running for the office of state representative albeit a relative newcomer to politics, agrees, *see* Ex. C, and concludes that a severe reduction in the number of signatures and a significant expansion of the amount of time required to obtain them is needed to protect voters’ and candidates’ constitutional rights to meaningful democratic participation. *Id.* at ¶¶ 7-8.

Without meaningful alternatives to the party convention system, the present case is essentially indistinguishable with *Campbell v. Bysiewicz*: effectively, once again, “[t]o get on a

political party's primary ballot for state or district offices, a candidate must either receive the political party endorsement or else obtain at least 15% of the delegate votes to that political party's state or district convention.” 213 F.Supp.2d at 153. No other option at all existed then; no realistic option exists now. Thus, this Court must once again act to safeguard First Amendment rights by entering a preliminary injunction.

The record observations of the district court in *Campbell* – that, *inter alia*, only one person ever successfully navigated the convention delegate system against an incumbent congressperson, senator, governor, or secretary of the state in 47 years of modern democracy – are directly applicable to this case, where once again the convention delegate system will be the only meaningful method for candidates to access the August 11, 2020 primary ballot for congress, state senate, or state representative, absent action by this Court. The district court’s observations “strongly suggest[ed] an overly burdensome primary ballot access system” then, *id.* at 156, and they still do now.

In light of Plaintiffs’ “sufficient and persuasive evidence of an overly burdensome system,” 213 F.Supp.2d at 157, the governor’s executive order must be considered “severe” restrictions, which “must be narrowly drawn to advance a state interest of compelling importance.” *Burdick v. Takushi*, 504 U.S. 428, 434 (1992).

In *Campbell*, the state offered “no real analysis in support” of the convention-delegate system for ballot access. 213 F.Supp.2d at 156. Defendant Lamont’s executive order puts forth two possible interests in the continued severity of Connecticut’s ballot access restrictions: ensuring “viable” candidates qualify for the ballot “based on a minimum threshold of support,” and “to promote an election that is orderly, fair and transparent.” *See supra* note 1 at pp. 1-2. But the Defendant’s executive order, like the statutory scheme in *Campbell*, “far exceeds a means to

a legitimate end, the screening out of candidates who lack a significant modicum of support,” 213 F.Supp.2d at 157, and instead imposes an overly severe restriction on Plaintiffs’ and all voters First Amendment rights.

The restrictions imposed by Defendant Lamont’s executive order are far more severe than necessary to guarantee a significant modicum of support. Defendant Lamont’s executive order fails to justify the severity of the restrictions – requiring 3.5% of party members’ signatures to be collected in 16 days under a cumbersome new mechanism without a direct online portal – by any compelling state interest. Defendants, meanwhile, will be unable to show that the relief requested by Plaintiffs would “encumber the ballot with the names of frivolous candidates,” allow “distortion of the electoral process by the device of ‘party raiding,’” or that the restrictions on access are related to any other legitimate state goals. *Anderson v. Celebrezze*, 460 U.S. 780, 788 n.9 (giving examples of legitimate reasons for restrictions). As in *Campbell*, “[v]oters comprising a candidate’s significant modicum of support should not be disenfranchised by an overly burdensome primary ballot process that bars their candidate from appearing on the primary ballot.” 213 F.Supp.2d at 157.

Plaintiffs have shown that significant numbers of voters would be disenfranchised by Connecticut’s primary ballot access process which, absent this Court’s action, will likely bar them both from appearing on the primary ballot and from voting for the full range of candidates of their choice. *See generally* Exhibits A-C. Plaintiffs therefore show a very high likelihood of success on the merits of their First Claim.

**2. Plaintiffs are Suffering, and Will Continue to Suffer, Harm to their First Amendment Rights if the Injunction is Denied, Harm That is Severe and Irreparable**

The severe restrictions imposed by Connecticut’s ballot access requirements are causing at least three forms of irreparable harm to Plaintiffs, Connecticut candidates and voters.



*First*, as shown in Mr. Gottlieb’s affidavit, they harm Plaintiffs as *potential candidates*, by deterring them from running for office in the first place, even if they desire to do so and have a significant modicum of support. Exhibit A at ¶ 6 (“I’ve been asked many times since my 2018 state senate campaign whether I will ever run again. I always say, ‘Yes I will! I just don’t know when I might be able to get on the ballot.’”). This “chilling” of the right to speak, petition, and run for office is cognizable First Amendment injury of the utmost importance justifying entrance of declaratory relief and a preliminary injunction.

*Second*, also shown in Mr. Gottlieb’s affidavit, the restrictions harm Plaintiffs *as voters*, by restricting the number of candidates to choose from and denying voters the ability to vote for candidates of their choice. Exhibit A at ¶¶ 15-16 (“I’m a registered Democrat in a blue state who votes a straight-party ticket in November . . . But in the four state elections I’ve been eligible to vote in since I turned 18, not once has there been a primary in either my state representative or my state senate district.”); ¶ 20 (“Collecting signatures moves from nearly impossible to absolutely impossible under social distancing measures, . . .”). Ms. Chand is also a Plaintiff being denied her rights as a voter. The injury to voters from overly restrictive ballot access requirements is cognizable First Amendment injury. *See Rockefeller v. Powers*, 74 F.3d 1367 (2d Cir. 1995) (voters have standing to challenge ballot access requirements).

*Third*, as shown in Mr. Bartlett and Mr. Lacourciere’s affidavits, the restrictions harm Plaintiffs if they choose to run for office, as Mr. Bartlett and Mr. Lacourciere have, *as candidates*, because for candidates who are not incumbent officeholders, no available method for qualifying for the ballot is practicable under the circumstances of the COVID-19 pandemic. This injury is compounded every day because any ballot access method takes time to plan for and organize. Even with the governor’s new executive order, the ballot access requirements under

Connecticut state law continue to place a severe undue burden on candidates seeking to qualify for the primary ballot, as explained *supra*, pp. 2-7. These harms are irreparable and Plaintiffs have no adequate remedy at law, because, as it is well-settled, harms to their First Amendment rights cannot be repaired by money damages.

“[T]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976); *Murphy v. Zoning Comm’n of the Village of New Milford*, 148 F.Supp.2d 173, 180-81 (D. Conn. 2001). Plaintiffs are suffering irreparable damage because candidates who would challenge incumbent public officials will not run for office—or even if they do, like Mr. Bartlett and Mr. Lacourciere, qualifying for the ballot will be impossible. Plaintiffs are also suffering as voters, because they will be unable to choose from a full range of candidates when they cast their ballots.

Plaintiffs’ irreparable injury will only compound as the petitions are issued on May 26, the petitioning deadline approaches 16 days later on June 11, and the August 11, 2020 primary comes closer. Plaintiffs have reached out to Defendants to confer about settlement, but have been told that in light of the executive order they now have no other recourse than this Court. At some point, as this Court has observed, there no longer is “sufficient time to permit Plaintiffs access to the ballot.” *Campbell*, 213 F.Supp.2d at 159 (rejecting state’s argument there was insufficient time as of July 23 to permit access for September 10 primary). Plaintiffs seek immediate action now to prevent, for example, ballots from needing to be re-printed should this case take weeks or longer to resolve.

**3. The Balance of the Harms Favors Plaintiffs Because They Will Be Severely Harmed Without Action by This Court, and They Request Readily Available Relief from Defendants**

Any speculative harm to the Defendants is far outweighed by the harm that the Plaintiffs would suffer by being deprived of their constitutional freedoms to petition and to speak, in the distinct ways identified above and in their affidavits and expert reports.

Injunctive and declaratory relief here, meanwhile, would simply require Defendants to make reasonable modifications to their election procedures in light of the pandemic as a number of states have voluntarily done.

This Court can take notice that, as demonstrated by other states, there is minimal burden associated with protecting the rights of petition and speech in this case:

The Arizona Secretary of State has provided an online petitioning mechanism for candidates since 2015;<sup>2</sup>

On March 19, 2020, the Governor of New Jersey issued an executive order to the Secretary of State to implement online petitioning and signature collection;<sup>3</sup>

On April 2, 2020 Florida's Secretary of State signed an emergency order allowing for the collection of petition signatures online;<sup>4</sup>

It is evident, therefore, that narrowly-tailored options that protect both the health of the general public as well as their constitutional rights are readily available and have been implemented without any harm to any legitimate State interests. Thus far, however, Connecticut

---

<sup>2</sup> Arizona Citizens Clean Elections Commission, *E-Qual*, available at <https://www.azcleanelections.gov/E-Qual>.

<sup>3</sup> New Jersey Executive Order No. 105, available at <https://www.state.nj.us/state/elections/assets/pdf/candidate/EO-105.pdf>

<sup>4</sup> Florida Certification of Department of State Emergency Rule, 11SER20-2 – Candidate Petition Process, available at <https://dos.myflorida.com/media/702874/1ser20-2.pdf>

has failed to follow suit, which this Court can and should remedy. Plaintiffs' relief is therefore reasonable in light of the impossibility of gathering in-person petition signatures and the balance of the harms favors Plaintiffs.

**4. Granting the Relief Requested Will Serve the Public Interest, Because Vindicating First Amendment Rights is Always in the Public Interest**

“Vindicating First Amendment freedoms is clearly in the public interest.” *Pacific Frontier v. Pleasant Grove City*, 414 F.3d 1221, 1237 (10th Cir. 2005). *See also Am. Civil Liberties Union of Georgia v. Miller*, 977 F.Supp. 1228, 1235 (N.D. Ga. 1997) (“No long string of citations is necessary to find that the public interest weighs in favor of having access to a free flow of constitutionally protected speech.”) (quotation and citation omitted). “[I]njunctive protecting First Amendment freedoms are always in the public interest.” *Am. Civil Liberties Union of Illinois v. Alvarez*, 679 F.3d 583, 590 (7th Cir. 2012).

“The impact of candidate eligibility requirements on voters implicates basic constitutional rights.” *Anderson v. Celebrezze*, 460 U.S. 780, 786 (1983). “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 likeminded citizens.” *Id.* at 787-88. “The right to associate with the political party of one’s choice is an integral part of . . . basic constitutional freedom.” *Tashjian v. Republican Party of Conn.*, 479 U.S. 208, 214 (1986). The right to “the political franchise of voting . . . is regarded as a fundamental political right, because [it is] preservative of all rights.” *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

**CONCLUSION**

For the reasons stated above, Plaintiffs motion should be granted, and an order in the nature of the relief requested in the Motion, at pp. 2-3 (prayer for relief), should be issued.



# Exhibit A

## UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

ANDY GOTTLIEB, et al.,	:	
	:	Case No. 3:20-cv-623
<i>Plaintiffs,</i>	:	
	:	
v.	:	
	:	
NED LAMONT, et al.,	:	
	:	
<i>Defendants.</i>	:	May 11, 2020

### **VERIFIED AFFIDAVIT AND/OR EXPERT REPORT OF ANDY GOTTLIEB**

I, Andy Gottlieb, hereby declare this 11th day of May, 2020 based on facts within my personal knowledge:

1. I am 26 years old and a registered Connecticut voter in Guilford.
  
2. I bring this case because Connecticut’s ballot access laws, even with Governor Lamont’s new executive order, place an undue burden on candidates seeking access to the primary ballot and on voters seeking to vote for the candidate of their choice.
  
3. Connecticut’s ballot access laws placed severe burdens on the rights of candidates and voters before COVID-19. Before COVID-19, even candidates with a significant modicum of support were confronted with very substantial obstacles in obtaining access to the ballot. The threshold was much more difficult to surmount than is reasonably necessary to achieve the legitimate purpose of screening out candidates with no real support and systematically denied Connecticut voters the chance to be heard.
  
4. Now, with COVID-19, the magnitude of the burdens placed by Connecticut’s ballot access laws have increased even further, and Governor Lamont’s new executive order fails to begin to address the magnitude of the present situation. Thus, as a potential candidate for office and as a

Connecticut voter, I feel compelled to bring this action, and the urgency of this matter compels me to urge this Court's issuance of an emergency order. In this affidavit, I explain why I am bringing this case and why I believe it requires immediate action by this Honorable Court.

**A. Potential Candidate**

5. As alleged in the Complaint in this action, I ran for the office of state senate in 2018, and fell just short of the signatures required to qualify for the primary ballot. In 2018, the seat was vacant – an “open seat” – but the seat is now occupied by an incumbent Democrat.

6. I've been asked many times since my 2018 state senate campaign whether I will ever run again. I always say, “Yes, I will! I just don't know when I might be able to get on the ballot.” Given that it was next-to-impossible to run for even an open seat, I know that running against an incumbent would be even more quixotic.

7. Being denied ballot access is not an easy loss to accept, precisely because it's not even a defeat. It feels more like one's candidacy is put in suspended animation, with voters never getting to weigh in one way or another.

8. As heartbreaking as it would be, I could accept defeat at the polls, because that would have democratic legitimacy. But Connecticut's ballot access laws make a mockery of those ideals. A group of party insiders selecting a group of party insiders to be delegates to decide on the nominee (knowing that whoever doesn't make the cut will be thrown to the wolves in the petition process) echoes the worst of closed political systems.

9. As far as I can tell, the state has an interest in ensuring that only serious candidates make it onto the ballot. I understand and agree with that proposition, but Connecticut's laws go well beyond that of almost any other state.

10. Gathering the valid signatures of five percent of all registered Democrats in my district is a hefty challenge, but it could be done. Doing so in an arbitrary two-week window in late May and early June is what makes it nearly impossible. Again, I can understand why the state would have a deadline to turn in signatures, but I will never grasp the rational basis of having a start date a mere fourteen days beforehand.

11. In most other states, I would be given months to gather such a quantity of signatures. I did my utmost to meet the requirements in 2018, knocking on thousands of doors, along with my volunteers. I certainly demonstrated the earnestness of my candidacy.

12. I (rather dangerously) lost seven pounds over two weeks of nonstop petitioning, going door to door in scorching heat and through torrential downpours.

13. The overwhelming majority of people I spoke with were willing to sign, seeing ballot access as essential to democracy.

**B. Voter**

14. I also believe the ballot access laws violate my rights as a voter.

15. I'm a registered Democrat in a blue state who votes a straight-party ticket in November. My only real choice could come in a primary.

16. But in the four state elections I've been eligible to vote in since I turned 18, not once has there been a primary in either my state representative district or my state senate district.

17. I know firsthand how difficult the process is, and I'm certain that more people would step up to run (and succeed in doing so) if only a viable path existed to getting on the ballot.

18. I also desire a way to vote absentee without meeting one of the six narrow excuses allowed under current law. Voting is one of our most fundamental rights and should be accessible to all citizens, not dependent on one's physical availability on a single day in August or November.



**C. Urgency**

19. The indefensibility of Connecticut's ballot access and absentee voting laws has been brought to the fore by the COVID-19 pandemic.

20. Collecting signatures moves from nearly impossible to absolutely impossible under social distancing measures, closing off any avenue to candidates not backed at party conventions. Similarly, voting in person goes against social distancing measures. Common sense dictates that voting by mail is the only safe way to conduct an election in the near future.

21. While I was prepared earlier to give the state time to respond to our Complaint, after speaking with Jason Bartlett about the unfair pressures his candidacy is facing due to ballot access uncertainty, I believe that action is required immediately to give candidates a reasonable method of attaining a spot in their primary.

**D. The Governor's New Executive Order**

22. Reducing the number of signatures by 30% and adding two days to the petition period does not begin to address the magnitude of the present situation.

23. A Democratic candidate in my senate district, for instance, would still need approximately 700 valid signatures to make the primary ballot. This would be substantially more in a district with higher concentrations of registered Democrats, such as the 10th Senate District where Jason Bartlett is running.

24. Corraling that many registered voters without going door-to-door would be extraordinarily difficult; a mere 16 days to collect that many signatures under fast-changing circumstances would be completely impossible. Requiring it is completely irrational.

25. I cannot comprehend why Governor Lamont would insist on such a high standard for a candidate to make the primary ballot, except to exclude those disfavored by the party establishment.

26. A reasonable standard would be at least a month to gather petition signatures, along with a reduction of the needed signatures by at least 80% or simply a fixed number of signatures, such as 100 for state senate candidates and 50 for state representative candidates. This would be sufficient to prove that the candidate has a significant modicum of voter support.

27. The use of electronic signatures could ameliorate the burden somewhat, but the executive order makes it as cumbersome as possible.

28. Requiring potential petition signers to print out, sign, scan, and email the petition form puts the process out of reach for all but the most determined and well-resourced voters.

29. The only other option, of mailing in the form, also places an undue burden on the voter – unless Secretary Merrill decides to send every registered voter a petition form with a self-addressed stamped envelope, as she is planning on doing for absentee ballot application forms.

30. A reasonable standard would be for the Secretary to set up a web form, similar to the very successful one already used for registering to vote or checking a voter's registration. A voter could simply type in their name, town, and birthdate, and be presented with a dropdown of petitioning candidates in their district. The voter could then select which candidates they would "sign" for and submit directly to the Secretary. The procedure would be straightforward and secure.

31. Keep in mind that party convention candidates' delegates are being allowed to appear via Zoom to ratify their choices in this year's conventions, and it is likely that no incumbent office-holder in the State of Connecticut will be required to collect any petition signatures at all, because they will be nominated by the party convention.

32. Each day that passes without action causes greater irreparable injury placing an ever-greater undue burden on candidates seeking access to the primary ballot and, by discouraging them, on voters seeking to vote for the candidate of their choice.

\* \* \*

I swear under penalty of perjury, pursuant to Title 28, § 1746 of the United States Code, that the foregoing is true, correct, and within my personal knowledge.

/s/Andy Gottlieb  
Andy Gottlieb  
Dated this 7th day of May, 2020

**NOTARIZATION**

Subscribed to and sworn before me, this 11th day of May, 2020, through Communication Technology pursuant to the terms of Governor Lamont's Executive Order No. 7Q (3).

/s/  
Alexander T. Taubes, Esq.  
Commissioner of the Connecticut Superior Court

# Exhibit B

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

ANDY GOTTLIEB, et al.,	:	
	:	Case No. 3:20-cv-623
<i>Plaintiffs,</i>	:	
	:	
v.	:	
	:	
NED LAMONT, et al.,	:	
	:	
<i>Defendants.</i>	:	May 11, 2020

**VERIFIED AFFIDAVIT AND/OR  
EXPERT REPORT OF JASON W. BARTLETT**

I, Jason W. Bartlett, hereby declare this 11th day of May, 2020 based on facts within my personal knowledge:

1. I am a registered Connecticut voter at 22 Howard Ave., New Haven, CT 06519.
2. I have filed paperwork with the Connecticut State Elections Enforcement Commission (SEEC) to become a candidate for the 10th State Senate District of the Connecticut General Assembly and have filed the legal candidate committee paperwork to raise funds in the exploratory designation for such office.
3. I have obtained the paperwork to transition to an official State Senate candidate committee according to SEEC guidelines and Connecticut law and intend to officially file that paperwork the day before the Democratic Party State Senate Convention for the 10th State Senate District. I am following the rules and guidelines as written by the SEEC in order to run for State Senate and to abide by the laws of the State of Connecticut in order to receive public financing monies to support my campaign.
4. I am a former member of the Connecticut House of Representatives, having served in the General Assembly from 2007 to 2011 for the 2nd State House District serving parts of the

towns of Danbury, Bethel and Redding. I have also served the former Mayor of New Haven, Toni Harp, 2014-2020, as the Director of Youth Services and Liaison to the New Haven Board of Education. I am also the elected State Central Committee member representing the Cities of New Haven & West Haven for State 10th State Senate District within the Connecticut Democratic Party.

5. My experiences as an active elector, legislator and municipal employee and community activist enables my desire to serve the people of New Haven as their next State Senator from the 10th State Senate District.

6. When I decided to run for State Senate in the 10th Senate District, a Democratic-majority voter district, I understood that it would be a challenge to obtain the necessary votes from the delegates who would be appointed by New Haven's Democratic Party Chair, who had opposed the election campaign of my former employer, Toni Harp, and had opposed my election to the State Central Committee two years ago. I knew, based on my knowledge and experience in New Haven Democratic Party politics, that New Haven's Democratic Party Chair would make it highly improbable for me to qualify for the ballot by state party state senate convention.

7. In fact, the New Haven Democratic Party Chair chose the delegates for the state party state senate convention himself.

8. Knowing it was highly improbable that I would qualify for the ballot by state party state senate convention, I ran for office, believing that I would not be precluded from obtaining ballot access because I could petition my way onto the ballot in a Democratic Party Primary.

9. I have years of experience obtaining ballot petition signatures, because I was successful as a campaign manager in charge of obtaining the necessary petitions for a variety of candidates for office and ensuring they achieved ballot access in the State of Connecticut. This experience includes successful petition access campaigns for James Newton, Democratic

candidate for Mayor of New Haven in 1999, State Senator Martin Looney, Democratic candidate for Mayor of New Haven in 2001, Mary Jane Foster, Democratic candidate for Mayor of Bridgeport in 2011, and then-Sen. Toni Harp, Democratic candidate for Mayor of New Haven 2013. I believed, when I began planning to run for office, because of my experience, that I would be able to collect enough signatures from electors to qualify for the ballot in a Democratic Party Primary.

10. However, due to COVID-19 and the continuing shelter-at-home orders issued by Governor Lamont, going door-to-door will be impossible to obtain legal signatures in person. I am aware that Governor Lamont issued an executive order allowing for remote notarization to be legal and legitimate with a proper attestation so I have theorized that we could do an electronic signature on petitions.

11. Conventions for political office in the Democratic Party are scheduled to begin by the Connecticut Democratic Party on May 10th. The State Senate Conventions for the City of New Haven are scheduled for May 19, 2020. Time is of the essence.

12. Based on my knowledge, training, and experience, I know that political campaigns that challenge incumbent political leaders require foresight, planning, and organization.

13. By the time this case was filed, as a candidate for public office challenging a public official, guidance should have been provided by the Secretary of the State's office or the Governor regarding the establishment of procedures and guidelines to obtain and legally attest electronic signatures for the office I and other candidates seek.

14. The Secretary of the State and the Governor's office had already articulated strategies to ensure that the Presidential Primary Election delegates have access to the democratic system months in advance of the elections, but no strategy for Connecticut residents who seek to

obtain access to the ballot in order to represent our Cities, towns and communities in which we live and to hold incumbent officeholders accountable was announced until today.

15. I have reviewed the Secretary of the State and the Governor's new executive order, which is supposedly meant to provide an alternative to paper petition signatures for candidates who, like me, are unlikely to receive the support of the local party insiders at convention has placed an undue burden on my candidacy seeking access to the primary ballot.

16. The executive order fails to provide a meaningful alternative to paper petition signatures. Under the executive order, I would still need to obtain 3.5% of the registered members of the Democratic Party in my state senate district, a number that likely exceeds 1,000 registered Democrats.

17. The supposed alternative to an in-person paper petition drive requires the voter to be either mailed a petition, or requires candidates to email the petition to the voter, which is unlikely because voters' email addresses are rarely provided in applications to register to vote and are therefore not public information. The voter must then sign and mail the petition back to the candidate, or print and sign the petition then upload the petition by photograph or scanner to their computer and email it back to the candidate. The candidate must then print out all of the emails and petitions, one petition and the email that it came with per voter, to the registrar of voters of the voter's municipality. This new process is cumbersome and costly and the executive order only gives two additional days to complete it.

18. Unlike applications for absentee ballots, which are being mailed to every voter by the Secretary of the State, petitions will not be mailed to any voters.

19. The City of New Haven is doing distance learning, and it is well known that between 5 to 7 thousand children do not have a computer to be able to do the online learning.

Petitions are routinely circulated online through websites such as Change.org but Governor Lamont's order requires people to not only have computers, but also printers and scanners. The total number of steps and new paperwork created by the Governor's new order will increase the time spent by either candidates going door-to-door to canvas for the signatures, volunteers, or voters leaving their homes to print or scan documents.

20. Given my knowledge, training, and experience running campaigns and collecting signatures, I can easily conclude within a reasonable degree of professional certainty that unless the number of signatures required is capped at 500, and a substantial amount of additional time is provided, there is essentially no way that anyone will qualify for the ballot under the Governor's cumbersome new system for collecting signatures. It is absurd, and demonstrates that the Governor has little concern for candidates' and voters' First Amendment rights.

21. Every hour and day that passes without being able to plan for a meaningful electronic petition signature gathering effort that we could actually achieve – or some other alternative form of ballot access – irreparably harms my ability to exercise my First Amendment right to run for office. I can never get that time back. The time lost due to the failure of the Governor and the Secretary of the State put me at a competitive disadvantage in my race challenging my incumbent State Senator.

22. The extreme difficulty of the Governor's executive order, and the absurdly little amount of time given to complete its requirements – two extra days – can leave me with no other conclusion than that Governor Lamont is intentionally discriminating against candidates for office who are challenging incumbent office-holders. Although I can understand the chief executive's desire to curry legislative support, I believe it is inconsistent with voters' First Amendment rights.



23. In my opinion, if an order from this Court does not issue, time will run out and irreparably harm the ability of myself and other candidates for office to meaningfully access the ballot, unless they are well-connected and have the support of someone like the New Haven Democratic Party Chair.

24. This case isn't just about me. It's about the voters of New Haven and West Haven, towns dominated by the Democratic Party, who will only have a realistic voice in the selection of their elected representatives if they can choose from a full range of candidates in the state party primary. Unless candidates are given reasonable access to the ballot in the state party primary, Democratic Party insiders will be able to maintain a political monopoly over many state senate and state representative districts in our state. Unless this Court takes action, the ballot access restrictions in the Governor's order will deny thousands of voters in cities across Connecticut the First Amendment right to vote for the candidate of their choice, including candidates with significant support.

\* \* \*

I declare under penalty of perjury, pursuant to Title 28, § 1746 of the United States Code, that the foregoing is true, correct, and within my personal knowledge.

/s/Jason W. Bartlett  
Jason W. Bartlett  
Dated this 11th day of May, 2020

**NOTARIZATION**

Subscribed to and sworn before me, this 11th day of May, 2020, through Communication Technology pursuant to the terms of Governor Lamont's Executive Order No. 7Q (3).

/s/  
Alexander T. Taubes, Esq.  
Commissioner of the Connecticut Superior Court

# Exhibit C

## UNITED STATES DISTRICT COURT DISTRICT OF CONNECTICUT

ANDY GOTTLIEB, et al.,

*Plaintiffs,*

v.

NED LAMONT, et al.,

*Defendants.*

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Case No. 3:20-cv-623

May 11, 2020

### VERIFIED AFFIDAVIT AND/OR EXPERT REPORT OF RICHARD LACOURCIERE

I, Richard Lacourciere, hereby declare this 11th day of May, 2020 based on facts within my personal knowledge:

1. I am over 18 years old and a registered Connecticut voter.
2. At the heart of politics is person-to-person connection, whether it be door-to-door canvassing, signature collection, or fundraisers.
3. I am running for State Representative in the 24th House District of the Connecticut General Assembly as a Democrat.
4. The current COVID-19 pandemic has struck not only at the heart of politics, but also the democratic process we all believe in and fight for.
5. Now, more than ever, it is incumbent on those with the power to allow democracy to do so.
6. I have reviewed the Governor's Executive Order on ballot access. It does not go far enough.
7. A reasonable system for ballot access would reduce the number of signatures required by 80% and greatly expand the window in which to collect them, an extension of 3 weeks.

8. Another possibility is to allow the number of in-district donations as the threshold for being on the ballot, as this can primarily be done online.

9. People who know me, know my enthusiasm when it comes to speaking with my neighbors and community and under any other circumstances I am more than happy to do so and look forward to it.

10. But under the current circumstances, where it is inadvisable to go visit my younger cousins, it is also unwise to spend so much time going door-to-door and to be forced by those in power to do this to engage in our democratic process running for office.

11. It is the responsibility of those in power to use that power correctly and not force those without it to give up their rights and put themselves in harm's way to have a voice in our democracy.

12. For all of these reasons, I join the above-titled lawsuit and ask that this Honorable Court take the immediate action required by Plaintiffs.

\* \* \*

I declare under penalty of perjury, pursuant to Title 28, § 1746 of the United States Code, that the foregoing is true, correct, and within my personal knowledge.

/s/Richard Lacourciere  
Richard Lacourciere  
Dated this 11th day of May, 2020

#### NOTARIZATION

Subscribed to and sworn before me, this 11th day of May, 2020, through Communication Technology pursuant to the terms of Governor Lamont's Executive Order No. 7Q (3).

/s/  
Alexander T. Taubes, Esq.  
Commissioner of the Connecticut Superior Court