IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Libertarian Party of Illinois, *et al*.,	)	
	)	
Plaintiffs,	)	Case No.: 20-cv-2112
	)	
vs.	)	Hon. Charles R. Norgle, Sr., Presiding Judge
	)	
	)	
J.B. Pritzker, *et al*.,	)	Hon. Jeffrey Cummings, Magistrate Judge
	)	
Defendants.	)	

DEFENDANTS' RESPONSE TO PLAINTIFFS' EMERGENCY MOTION FOR PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER

Defendant JB Pritzker, in his official capacity of Governor of Illinois, and Defendants William J. Cadigan, Katherine S. O'Brien, Laura K. Donahue, Casandra B. Watson, Ian K. Linnabary, Charles W. Scholz, and William McGuffage (collectively "State Board of Elections", and together with Governor Pritzker, "Defendants") through their attorney Kwame Raoul, Attorney General of Illinois, submit the following memorandum in response to Plaintiffs' Emergency Motion for a Preliminary Injunction and/or Temporary Restraining Order. Dkt. 2.

INTRODUCTION

Plaintiffs and Intervenor Kyle Kopitke[1] (collectively, the "Candidates") are new party and independent candidates who wish to qualify for the ballot for the upcoming general election in November. They have filed suit alleging that Illinois' Election Code provisions requiring all candidates for public office to submit nomination petitions signed by a number of voters of their community are unconstitutional as applied to them, and only them, because of the current COVID-19 public health emergency and related governmental action. Specifically, the

[1] Defendants take no position on Mr. Kopitke's motion to intervene in this case.

Candidates allege that they have been unable to circulate petitions in public due to Executive Order No. 2020-10. *See* Dkt. 2 at 4. The Candidates seek an order directing the Defendants to place their names on the ballot, without requiring them to submit a single signature in support.

In previous challenges to Illinois' ballot access laws, courts have repeatedly rejected the argument that the relevant petitioning requirements are unconstitutional. *See, e.g., Tripp v. Scholz*, 872 F.3d 857, 865, 867 (7th Cir. 2017) (Illinois' 5% signature requirement, 90-day signature gathering period, and notarization requirement did not violate the First Amendment); *see also Nader v. Keith*, 385 F.3d 729 (7th Cir. 2004) (independent candidate signature threshold and filing deadline did not violate the First Amendment).

As courts have recognized "ballot access laws serve the important, interrelated goals of preventing voter confusion, blocking frivolous candidates from the ballot, and otherwise protecting the integrity of elections." *Navarro v. Neal*, 716 F.3d 425, 431 (7th Cir. 2013). The state has a widely acknowledged and substantial interest in the integrity of its elections, which ballot access laws serve to protect. *Id*. Courts, recognizing a state's legitimate need to protect electoral integrity, have held that Illinois' ballot access laws do not impermissibly burden ballot access. *Tripp*, 872 F.3d at 865, 870 (reasonably diligent candidate could secure place on ballot; notarization requirement is a legitimate method of attempting to eliminate fraudulent signatures).

Accordingly, the law is well-settled that the State has an important interest in establishing a minimum signature requirement as a condition of securing a place on the ballot. Given the extraordinary circumstances presented by the COVID-19 pandemic, Defendants recognize the need for some accommodations—in the form of a *reduced* signature requirement and other technical adjustments—to be made in order to allow the Candidates and other new party or independent candidates an opportunity to qualify for the ballot. The Candidates, however, seek

the complete elimination of the petition signature threshold, effectively allowing a candidate to secure a place on the ballot with no supporting signature but their own. Defendants do not believe this is either warranted or justified.

Defendants propose, however, that the Court enjoin the certain provisions of the Election Code requiring in-person signature collection, and notarization of petition collection sheets, and effect a *pro rata* reduction in the number of signatures required to qualify for the ballot. Defendants believe that their proposed order would allow the Candidates to qualify for office while still preserving the State's important interests in election integrity. In contrast, the Candidates' proposed remedy, that they simply be placed on the ballot without collecting a single signature, would place the Candidates in a significantly better position than they would have been before the pandemic, and would cause significant harm to the State's and the public's interest.

The Candidates have the burden of showing a likelihood of success on the merits of their claims, and that they are, based on the other equitable factors, entitled to the extraordinary remedy of a preliminary injunction. Because Plaintiffs fail to meet their burden, the Defendants request that the Court deny the Candidates' requested remedy, and instead enter the Defendants' proposed order, attached as Exhibit A.

BACKGROUND

Since approximately December 2019, the world has been coping with the outbreak of the respiratory disease COVID-19. In response to this respiratory disease, the Centers for Disease Control issued guidelines on February 27, 2020, including the recommendation that people practice social distancing. Weeks later, the Governor of Illinois proclaimed the entire state a

disaster area and banned gatherings of 1,000 people or more and closed all schools, restaurants, and bars. Dkt. 2 at 3.

Since March 20, 2020, the State of Illinois has been subject to orders that residents, with some exceptions, stay at home and maintain a distance of six feet from one another. *Id*. at 4. The order is to remain in effect until at least April 30, 2020. Plaintiffs allege that circulating initiative petitions is not listed as an essential activity under the Governor's order and that they are effectively barred from gathering signatures in public for their candidate petitions. *Id*. at 4.

Candidates associated with "new political parties" and independents can begin petition circulation on March 24, 2020; the filing period for these candidates' petitions is June 15 – June 22, 2020. Dkt. 1 ¶ 14; 10 ILCS 5/10-4, 10-6. New political party candidates for offices throughout the entire state must circulate petitions and collect signatures of either 1% of the number of voters who voted at the next preceding statewide general election or 25,000 qualified voters, whichever is less, to appear on the ballot. Dkt. 1 ¶ 15, 10 ILCS 5/10-2. New political party candidates seeking to run for office in a district or other political subdivision rather than a statewide office must file a petition signed by no less than 5% of the number of voters who voted at the next preceding regular election in that district or political subdivision. 10 ILCS 5/10-2. The specific requirements for the number of signatures for each race are set forth in the State of Illinois 2020 Candidate's Guide (the "Candidate's Guide"), attached as Exhibit B and available on the Board's website (elections.il.gov).[2] Independent candidates are subject to largely the same petitioning requirements as new political parties. 10 ILCS 5/10-3.

[2] The Court may take judicial notice of the Candidate's Guide because it is repeatedly referenced in the Plaintiffs' Complaint (*see* Dkt. 1 ¶¶ 7, 8, 11-18), and it is a public record not subject to reasonable dispute. *Tobey v. Chibucos*, 890 F.3d 634, 647-48 (7th Cir. 2018).

The petitions to be filed by new party and independent candidates must contain a statement from the circulator of the petition certifying as to each page that "the signatures on that sheet of the petition were signed in his or her presence; certifying that the signatures are genuine; and either (1) indicating the dates on which that sheet was circulated, or (2) indicating the first and last dates on which the sheet was circulated, or (3) certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition…." 10 ILCS 5/10-4. This circulator's statement must be "sworn to before some officer authorized to administer oaths in this state." *Id*.[3]

Nominating petitions must be filed with the Defendant Board during the one-week filing period in June. 10 ILCS 5/10-6. Any registered voter of the appropriate district may file an objection challenging the sufficiency of a candidate's nominating petitions. 10 ILCS 5/10-8. The Defendant Board will use every effort to resolve any such objections prior to the August 21, 2020 deadline to certify the General Election ballot. *See* 10 ILCS 5/1A-8(14), 7-60, 10-14; *see also* State of Illinois 2020 Election & Campaign Finance Calendar (the "Election Calendar") at 37, attached as Exhibit C and available on the Board's website (elections.il.gov).[4] By federal law, ballots must be mailed to military personnel and citizens temporarily residing overseas by September 18, 2020. *See* 42 U.S.C. § 1973ff-1(a)(8)(A); 10 ILCS 5/16-5.01; Election Calendar at 40.

[3] Petitions submitted by established party candidates for the primary election must contain the same affidavit. 10 ILCS 5/7-10; 8-8.

[4] A court may take judicial notice of this document as a public record not subject to reasonable dispute. *Tobey*, 890 F.3d at 647-48; *see also Hill v. Capital One Bank (USA), N.A*., No. 14-CV-6236, 2015 WL 468878, at *5 (N.D. Ill. Feb. 3, 2015), *citing Denius v. Dunlap,* 330 F.3d 919, 926 (7th Cir. 2003) (contents of government websites are a proper item of which to take judicial notice).

DEFENDANTS' PROPOSAL

As an alternative to the Plaintiffs' proposed remedy, and in order to most equitably address the present circumstances, the Defendants propose that the Court enter a more tailored remedy which would include the following:

1. The in-person signature requirement, circulator statement, and notarization requirement of 10 ILCS 5/10-4 will be enjoined for new political party and independent candidates for the November 2020 election only. Specifically, the following portion of 10 ILCS 5/10-4 would be enjoined:

> At the bottom of each sheet of such petition shall be added a circulator's statement, signed by a person 18 years of age or older who is a citizen of the United States; stating the street address or rural route number, as the case may be, as well as the county, city, village or town, and state; certifying that the signatures on that sheet of the petition were signed in his or her presence; certifying that the signatures are genuine; and either (1) indicating the dates on which that sheet was circulated, or (2) indicating the first and last dates on which the sheet was circulated, or (3) certifying that none of the signatures on the sheet were signed more than 90 days preceding the last day for the filing of the petition; and certifying that to the best of his knowledge and belief the persons so signing were at the time of signing the petition duly registered voters under Articles 4, 5 or 6 of the Code of the political subdivision or district for which the candidate or candidates shall be nominated, and certifying that their respective residences are correctly stated therein. Such statement shall be sworn to before some officer authorized to administer oaths in this State.

By enjoining these requirements, candidates will be able to circulate petition forms via their websites, by social media, by email, and by mail. Petition signers could return signed petitions via email, mail, other electronic means (*e.g.*, texting a photo of the signed petition, uploading the petition to the candidate's website, *etc.*), or any other means. A physical "wet" signature would still be required on the petition, as well as the signer's printed name and home address. Illinois has a history of election-related misconduct, and there is even a term for the false swearing of petitions—"roundtabling," where people sit around the table signing voters'

names on petitions. *Tripp v. Smart*, No. 14-cv-0890, 2016 WL 4379876 at *7 (S.D. Ill. Aug. 17, 2016). The requirement of a physical signature allows the Board of Elections and any objectors to verify the validity of the signature, a requirement that becomes even more important if a circulator does not need to witness the signature and certify that it is genuine.

2. Additionally, the requirement in 10 ILCS 5/10-4 that the candidate must file the "original sheets which have been signed by the voters and by the circulator, and not photocopies or duplicates of such sheets" would also be enjoined. This change would allow candidates to file copies of the signed petition sheets.

3. The deadline to submit candidate petitions should remain at June 22, 2020. This deadline is important to allow sufficient time for objections to be filed and ruled upon and to ensure that the Board will be able to certify the ballot by August 21, 2020 statutory deadline and comply with the applicable federal deadline for mailing out overseas and military ballots under the Uniformed and Overseas Citizens Absentee Voting Act. *See* 42 U.S.C. § 1973ff-1(a)(8)(A); 10 ILCS 5/16-5.01; Election Calendar at 40.

4. The number of signatures required for any new party or independent candidate will be 50% of the number set forth in the Candidate's Guide for that office. This *pro rata* reduction is based on the assumption that candidates will have approximately half as much time to gather signatures as they would have in a normal election year. However, candidates would be able include any signatures they were able to gather since March 24, 2020 under the current restrictions.

A proposed order setting forth this proposal is attached as Exhibit A, and a Word version of this order has been set to the Court's proposed order box.

ARGUMENT

I. Plaintiffs Must Make a Clear Showing of Entitlement to the "Extraordinary" Remedy of a Preliminary Injunction.

A preliminary injunction is "an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original); *see also Boucher v. Sch. Bd. of Sch. Dist. of Greenfield*, 134 F.3d 821, 823 (7th Cir. 1998) (same); *see also Roland Mach. Co. v. Dresser Indus.*, 749 F.2d 380, 389 (7th Cir. 1984). For such drastic relief to be granted, "a plaintiff must show three things: (1) without such relief, he will suffer irreparable harm before his claim is finally resolved; (2) he has no adequate remedy at law; and (3) he has some likelihood of success on the merits." *Harlan v. Scholz*, 866 F.3d 754, 758 (7th Cir. 2017).

If plaintiff can make this showing, the court must still "weigh the harm the plaintiff will suffer without an injunction against the harm the defendant will suffer with one." *Id*. The court must also consider whether granting a preliminary injunction is in the public interest. *Id*. The court "must balance the competing claims of injury and must consider the effect on each party of granting or withholding the requested relief," paying "particular regard for the public consequences in employing the extraordinary remedy of injunction." *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 24 (2008).

Here, the Candidates' burden is even greater than usual because, rather than seeking to preserve the status quo, they seek *mandatory* interim relief directing Defendants to place their names on the November 3, 2020 general ballotwithout requiring *any* supporting signatures from voters. Dkt. 2 at 2. Plaintiffs also seek a declatory judgment and permanent injunction. Dkt. 1 at 26. Because a mandatory injunction requires the court to command the defendant to take a particular action, it is "cautiously viewed and sparingly issued." *Knox v. Shearing*, 637 F. App'x

226, 228 (7th Cir. 2016) (quoting *Graham v. Med. Mut. of Ohio*, 130 F.3d 293, 295 (7th Cir. 1997)). Mandatory injunctions are "rarely issued," interlocutory mandatory injunctions are "even more rarely issued," and neither should be issued "except upon the clearest equitable grounds." *W.A. Mack, Inc. v. Gen. Motors Corp.*, 260 F.2d 886, 890 (7th Cir. 1958).

The Candidates' burden is also greater here because the interim injunction they seek would give them all the relief they seek through this lawsuit. *See, e.g.*, *Boucher*, 134 F.3d at 827 n.6 ("A preliminary injunction that would give the movant substantially all the relief he seeks is disfavored, and courts have imposed a higher burden on a movant in such cases."); *W.A. Mack, Inc.*, 260 F.2d at 890 ("A preliminary injunction does not issue which gives to a plaintiff the actual advantage which would be obtained in a final decree."). In a ballot access case, the court observed that this factor counted against the plaintiffs because "a victory at [the preliminary injunction] stage would effectively win the case for the [plaintiff] by putting its candidates on the November ballot regardless of the eventual outcome." *Tripp v. Smart*, No. 14-CV-0890, 2014 WL 4457200, at *6 (S.D. Ill. Sept. 10, 2014). "A plaintiff should not gain, via preliminary injunction, the actual advantage which would be obtained in a final decree." *Id*.

II. The Candidates Are Unlikely to Succeed in Obtaining Their Requested Relief.

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits." *Winter*, 555 U.S. at 20. To meet their initial burden, the Candidates must show that they have a "better than negligible" chance of success on the merits. *Roland Mach. Co*., 749 F.2d at 387. Where it is more likely than not that a defendant will prevail, injunctive relief is improper, particularly where the balance of harms tips decidedly in favor of the defendant. *See Boucher*, 134 F.3d at 826-27. Even if a plaintiff makes the required showing, however, the court must determine how likely it is that plaintiff actually will succeed: "The more likely the plaintiff

is to win, the less heavily need the balance of harms weigh in his favor; the less likely he is to win, the more need it weigh in his favor." *Id*. Moreover, "when . . . there are two equally credible versions of the facts the court should be highly cautious in granting an injunction without the benefit of a full trial." *Lawson Prods., Inc. v. Avnet, Inc*., 782 F.2d 1429, 1440 (7th Cir. 1986) (citation omitted). In this case, the Defendants' proposal puts forth reasonable, nondiscriminatory requirements designed to protect the election process while still allowing the Candidates access to the ballot. The Candidates thus have little chance of ultimately succeeding in obtaining the relief that they seek.

The First Amendment protects the rights of persons to associate and form political parties and of voters to vote for the candidate of their choice. At the same time, states have the responsibility for conducting elections for state and federal offices, and the courts have long recognized that the election management necessarily demands considerable and close regulation. Elections entail extraordinarily complicated administrative tasks; ballot space is finite and cannot accommodate everybody; and if the process is to function at all, detailed state laws are necessary. One need only to skim the Illinois Election Code to see the level of detail it provides. "As a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic process." *Storer v. Brown,* 415 U.S. 724, 730 (1974). *See also Navarro v. Neal,* 716 F.3d 425, 430-31 (7th Cir. 2013); *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768 (7th Cir. 1997). In imposing these regulations, the State does not have to make "a particularized showing of voter confusion, ballot overcrowding, or the presence of frivolous candidates prior to the imposition of reasonable restrictions on ballot access." *Id., quoting Munro v. Socialist Workers Party,* 479 U.S. 189, 194-195 (1986).

When evaluating whether a state law infringes a First Amendment right, courts apply the balancing test from *Anderson v. Celebrezze*, 460 U.S. 780 (1983), *Burdick v. Takushi,* 504 U.S. 428 (1992), and *Timmons v. Twin Cities Area New Party,* 520 U.S. 351 (1997). Under this test, courts weigh the "character and magnitude" of the burden imposed by the State's rule against the interests the State contends justify the burden. Regulations imposing severe burdens on plaintiffs' rights must be narrowly tailored and advance a compelling state interest. "But when a state election law provision imposes only reasonable, nondiscriminatory restrictions upon the First and Fourteenth Amendment rights of voters, the State's important regulatory interests are generally sufficient to justify the restrictions." *Burdick,* 504 U.S. at 434 (internal citations and quotation marks omitted). In assessing the "character and magnitude" of the asserted injury, the Court must evaluate the alleged burden not "in isolation, but within the context of the state's overall scheme of election regulations." *Lerman v. Bd. of Elections in City of New York,* 232 F.3d 135, 145 (2d Cir. 2000).

Concerning minimum signature requirements, courts have long held that the State has an important interest in limiting the field of candidates to those who have demonstrated a sufficient "modicum of support" in the community to qualify for the ballot. *Libertarian Party of Illinois v. Rednour,* 108 F.3d 768, 775 (7th Cir. 1997); *see also Nader v. Keith*, No. 04 C 4913, 2004 WL 1880011, at *5 (N.D. Ill. Aug. 23, 2004), *aff'd,* 385 F.3d 729 (7th Cir. 2004) ("[T]he mere fact that a state's system creates hurdles which tend to limit the field of candidates from which voters can choose by itself does not require that regulations be narrowly tailored to advance a compelling state interest.").

In upholding Section 10-3's minimum signature threshold in the face of a federal constitutional challenge, the Seventh Circuit explained why the minimum signature threshold is just such a provision protecting a fair and honest election:

> [T]erminal voter confusion might ensue from having a multiplicity of Presidential candidates on the ballot—for think of the confusion caused by the "butterfly" ballot used in Palm Beach County, Florida in the 2000 Presidential election. That fiasco was a consequence of the fact that the ballot listed ten Presidential candidates.

Nader v. Keith, 385 F.3d 729, 733 (7th Cir. 2004).

In this case, as discussed above, Illinois' requirements for new party and independent candidates have been upheld time and again by the courts, including the Seventh Circuit. *See, e.g., Tripp*, 872 F.3d at 865, 867. In each case, courts have recognized that there must be *some* level of community support shown through the collection of a threshold number of signatures of eligible voters. In the current environment, however, the Defendants agree that it would be appropriate, for this upcoming election only, that candidates seeking a place on the November, 2020 ballot should face a *reduced* signature requirement for ballot access. Plaintiffs, however, ask this Court to place their names on the ballot with *no* signature requirement at all.

Nevertheless, the Defendants are willing to agree to some modifications to those requirements in these extraordinary circumstances. Given this, Defendants' proposal should be the baseline when considering whether the Candidates will be able to succeed on the merits of their claims.

Here, Defendants' proposal imposes a greatly reduced burden on the Candidates than the normal petition requirements, which, as discussed above, are undoubtedly constitutional. Rather than recruiting volunteers or hiring petition circulators to gather signatures, the Candidates will

be able to circulate petition forms via their websites,[5] by social media, by email, and by mail. These various methods could potentially allow the Candidates to reach many more potential petition signers. And the Candidates would have the same 90 days to circulate their petitions (because any signatures gathered prior to entry of an order in this case would still be valid) as they have had in prior elections, but would only be required to gather half as many signatures as usual.

In contrast, the Candidates' preferred remedy, that they simply be placed on the ballot without any effort at all, is untenable. First, rather than merely remedying the harm caused by the COVID-19 pandemic, the requested relief would put the Candidates in a substantially better position than they would otherwise have been in. The Candidates would not need to expend the time, money, and resources needed to gather signatures, and would not have to defend their petition against objections. This would also place the Candidates in a substantially better position than established party candidates, who had to submit nominating petitions, face the objection process, and compete in a primary for their place on the General Election ballot. The Plaintiffs in this case argue that they have demonstrated success in gaining access to the ballots in previous elections, and that therefore they can be presumed to have the "modicum of support" required by the case law. However, the Court should not enter any remedy that would favor some candidates over others, and should not grant any remedy that would place the Candidates in a substantially better position than they would otherwise be in normal circumstances.

It is also worth noting that granting Plaintiffs the relief they request could have consequences well beyond this election. By proposing that they need not demonstrate any

[5] In fact, both the Libertarian Party and the Green Party currently have the petition form available for download on their websites. *See* https://www.lpillinois.org/petition/ and https://www.ilgp.org/ballotaccess (last visited April 15, 2020).

minimum level of support amongst the voters, the Libertarian and Green Party Plaintiffs would presumably be able to field a candidate for every office, in every district of the State, simply by getting a candidate to sign a Statement of Candidacy. This, of course, increases the likelihood that those parties could become established political parties for the next (*i.e.*, 2022) election.[6] In other words, Plaintiffs ask for the opportunity to become established political parties without obtaining the signature of a single Illinois voter.

Administration of the Election Code requires bright-line rules on ballot access. Either candidates have the number of signatures required or they don't. *Jackson-Hicks v. E. St. Louis Bd. of Election Com'rs*, 2015 IL 118929. The Board could not function, could not give proper guidance to candidates, and could not adjudicate challenges in the time-sensitive environment it works under, if there was a shifting, *ad hoc* standard for whether or not a candidate is well-known enough to be placed on the ballot without signatures. The litigation would be endless, slow, disruptive, and would harm the public interest.

III. Plaintiffs Have Not Demonstrated They Are Likely to Suffer Irreparable Harm without the Relief They Request.

The Candidates' motion should also be denied because Plaintiffs cannot establish irreparable harm. *Winter*, 555 U.S. at 2 ("possibility" of irreparable harm is not enough; plaintiffs must "demonstrate that irreparable injury is *likely* in the absence of an injunction") (emphasis in original). Here, as discussed above, Defendants' proposal places them in a better position as they would be in under normal circumstances, while the Candidates' proposed remedy amounts to a windfall.

[6] A political party whose candidate receives at least 5% of the general election vote in a district becomes an established political party in that district for the next election. 10 ILCS 5/10-2.

IV. The Harm to Defendants and the Public If the Candidates Are Granted Their Requested Relief Issues Outweighs the Harm to Candidates.

Under the "balance of harms" portion of the analysis, the Candidates must establish that "the harm they would suffer without the injunction is greater than the harm that preliminary relief would inflict on the defendants." *Mich. v. U.S. Army Corps of Eng'g*, 667 F.3d 765, 769 (7th Cir. 2011). The balance of hardships "takes on heightened importance when the plaintiff requests a 'mandatory injunction,'" which "imposes significant burdens on the defendant and requires careful consideration of the intrusiveness of the ordered act." *Kartman v. State Farm Mut. Auto. Ins. Co.*, 635 F.3d 883, 892 (7th Cir. 2011). Because a movant need not establish that it is more likely than not that they will succeed on the merits to obtain injunctive relief, a movant "must compensate for the lesser likelihood of prevailing by showing the balance of harms tips *decidedly* in favor of the movant." *Boucher*, 134 F.3d at 826 n.5 (emphasis in original). The court also should consider whether a preliminary injunction would cause harm to the public interest. *Platinum Home Mort. Corp. v. Platinum Fin. Group, Inc*., 149 F.3d 722, 726 (7th Cir. 1998).

Here, the harm to Defendants and the public is significant if the Candidates are granted their requested relief. "States ... have a strong interest in preventing voter confusion by limiting ballot access to serious candidates who can demonstrate at least some level of political viability." *Lee v. Keith*, 463 F.3d 763, 769 (7th Cir. 2006). "Light regulation of ballot access could lead to an unmanageable number of frivolous candidates qualifying for the ballot, thereby confusing voters." *Navarro*, 716 F.3d at 431; *see also Nader*, 385 F.3d at 733 ("terminal voter confusion might ensue from having a multiplicity of Presidential candidates on the ballot"); *Huskey v. Mun. Officers Electoral Bd. for Vill. of Oak Lawn*, 509 N.E.2d 555, 557–58 (Ill. App. 1987) ("The primary purpose of the signature requirement is to reduce the electoral process to manageable

proportions by confining ballot positions to a relatively small number of candidates who have demonstrated initiative and at least a minimal appeal to eligible voters.").

Contrary to the Candidates' claim that the public has no interest in keeping them off the ballot (Dkt. 2 at 13), "the public interest of the citizens of Illinois is not best served when a federal court intervenes to override a valid ballot-access requirement . . . and impose candidates by judicial fiat." *Summers v. Smart,* 65 F.Supp.3d 556, 569 (N.D. Ill. 2014). This is particularly the case where the State is willing to agree to reasonable modifications to the ballot requirements given the extraordinary circumstances. The federal courts should avoid unwarranted interference with state elections. *Summers*, 65 F. Supp. 3d at 569, *citing Gjersten v. Bd. of Election,* 791 F.2d 472, 479 (7th Cir. 1986). The ballot access procedures that the Candidates challenge are safeguards against voter fraud and overly crowded ballots. These safeguards not only serve the State's interest, but also the voting public's interest, and should not be cast aside lightly.

Moreover, as discussed above, the public interest is best served by having clear rules in place regarding the requirements to place a candidate on the ballot. If these rules can be relaxed for one candidate but not others who chose not to file suit, then there is no certainty regarding how to get on the ballot. Thus, granting the Candidates' request for relief harms not only the public, but other independent or minor party candidates who may seek access to the ballot. *Nader*, 385 F.3d at 736. The harm to the State and the public thus weighs decidedly against granting the Candidates their requested relief.

CONCLUSION

Illinois has established an orderly process that balances candidates' ballot access rights to and the State's interest in manageable ballots and orderly elections. In light of the current circumstances, the Defendants' proposal reasonably accommodates the Candidates' interests in

accessing the ballot and does not impose an undue burden on them. In contrast, the Candidates' requested remedy—that they win access to the ballot without doing anything at all—would unfairly advantage the Candidates and significantly harm the public interest.

WHEREFORE, the Defendants respectfully request that this Honorable Court enter an order denying Plaintiffs' requested relief and instead enter the order attached as Exhibit A.

Respectfully submitted,

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