Case No. _____
IN THE
SUPREME COURT OF ILLINOIS

CARLA BURKHART and HERRICANE GRAPHICS. INC., *Plaintiff-Respondent,* v. EDGAR COUNTY WATCHDOGS, INC., KIRK ALLEN, ADAM ANDRZEJEWSKI, KATHY HAMILTON, and CLAIRE BALL, *Defendants-Petitioners*.	Appeal From the Second District App. Ct. Case Nos. 2-16-0705; 2-16-0711; 2-16-0712 Date of Appellate Order: January 17, 2017

DEFENDANT CLARE BALL'S PETITION FOR LEAVE TO APPEAL PURSUANT TO ILLINOIS SUPREME COURT RULE 315

On Petition for Leave to Appeal from the Appellate Court of Illinois,
Second District Case Nos. 2-16-0705; 2-16-0711; 2-16-0712
There declined to be heard on Rule 306(a)(9) appeal from the Circuit Court of the
Eighteenth Judicial Circuit, DuPage Case No. 15 L 001244
Hon. Robert G. Kleeman, Judge Presiding

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ORAL ARGUMENT REQUESTED IF PETITION GRANTED

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I. PRAYER FOR LEAVE TO APPEAL

Defendant-Petitioner Claire Ball ("Ball") respectfully petitions this Court, pursuant to Illinois Supreme Court Rule 315(a), for leave to appeal from the judgment of the Appellate Court of Illinois, Second Judicial District.

II. JUDGMENT BELOW

On July 29, 2016, the circuit court denied Ball's Motion to Dismiss Pursuant to the Illinois Citizen Participation Act ("CPA"). Thereafter, Ball filed a timely Petition for Leave to Appeal pursuant to Illinois Supreme Court Rule 306(a)(9) in the Second District, seeking review of the denial of her CPA motion.

On January 17, 2017, the Second District Appellate Court issued a minute order denying (without briefing or argument) Ball's Petition for Leave to Appeal. In that same minute order, the Second District also stated, without any analysis, that "Defendants have not established that plaintiff's claims are meritless or filed solely based on defendants' rights of petition, speech association, or to otherwise participate in government such that dismissal pursuant to Section 2-619…would be appropriate." *See* Appendix. No petition for rehearing was filed.

III. POINTS RELIED UPON FOR REVIEW

This Court should grant leave to appeal[1] for the following reasons:

- Pursuant to Rule 315(a), the questions presented involve important First Amendment considerations—namely whether candidates for public office (like Ball) may label behavior as "corrupt" or accuse politicians and their

[1] For the avoidance of doubt, this Court may review Ball's petition even though the appellate court denied the Ball's Rule 306(a) Petition. *Miller v. Consol. Rail Corp.*, 173 Ill. 2d 252, 253 (1996).

friends of engaging in "pay to play", without having to prove that the subject politicians were engaged in criminal behavior. *See, e.g., Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334, 2344 (2014) ("the constitutional guarantee [of free speech] has its fullest and most urgent application precisely to the conduct of campaigns for political office"). Respectfully, the trial court's ruling—and the Second District's affirmance of it without briefing, argument, or apparent rationale—threatens the ability of candidates to challenge our existing political leadership.

- Pursuant to Rule 315(a), the circuit court's erroneous holding—that "in Illinois…saying 'pay to play'… [is] implying criminal conduct" (R. C00403 at 110:11-19)—severely misinterpreted Illinois law on "innocent construction". Review is proper because the law on "innocent construction" necessarily implicates important considerations of First Amendment jurisprudence, especially given that Ball did not even direct the term "pay to play" at Plaintiffs, but rather at the College of DuPage ("COD") generally.
- Pursuant to Rule 315(a), a conflict exists between the decision rendered below regarding "innocent construction" and a long line of cases holding the opposite, as set forth herein. In effect, the court's ruling below erroneously rendered the phrase "pay to play" off-limits for use by political candidates. Moreover, the trial court's invocation of Illinois' history of political corruption as a rationale to forbid the use of the phrase "pay to play" is illogical, as the fact-based use of that term by political candidates and others may expose further corruption.

- Pursuant to Rule 315(a), a conflict exists between the decision rendered below and *McDonnell v. United States*, 136 S. Ct. 2355 (2016) which confirms that, irrespective of its unsavory nature, "pay to play" in American politics is not always illegal, and therefore, the term cannot serve as the basis for a defamation action.
- Pursuant to Rule 315(a), there is a need for the Supreme Court to exercise its supervisory authority, because the Second District issued a merits-based affirmance of the trial court's denial of Ball's CPA motion, without briefing, argument or apparent analysis.
- Pursuant to Rule 315(a), there is a need for the Supreme Court to exercise its supervisory authority, because, respectfully, the decisions of the trial and appellate courts have failed to give due consideration to the Illinois legislature's determination that "the constitutional rights of citizens and organizations to be involved and participate freely in the process of government must be encouraged and safeguarded with great diligence." 735 ILCS 110/5. Due to the "disturbing increase in lawsuits termed…SLAPPs," which "significantly chill[] and diminish[] citizen participation in government [and] voluntary public service," the Illinois legislature enacted the CPA to protect participation in democracy, award attorneys' fees and costs to prevailing defendants, and provide a mechanism to quash "intimidating" and "harassing" SLAPP suits. *Id.*
- Pursuant to Rule 315(a), the judgment sought to be reviewed is expressly contemplated as an enumerated basis for an interlocutory appeal. *See, e.g.,*

Illinois Supreme Court Rule 306(a)(9) (allowing for filing of petition for leave to appeal "from an order of the circuit court denying a motion to dispose under the [the CPA, 735 ILCS 110/1]"); 735 ILCS 110/20 ("[a]n appellate court shall expedite any appeal or other writ, whether interlocutory or not, from a trial court order denying [a CPA] motion...").

- Pursuant to Rule 315(a), there is conflict of law between *Stein v. Krislov*, 2013 IL App (1st) 113806, ¶ 19 (a lawsuit filed just before the expiration of the statute of limitations is evidence of a plaintiff's retaliatory intent) and *Goral v. Kulys*, 2014 IL App (1st) 133236, ¶ 55 ("[t]he relatively close proximity between the posting of defendant's articles and plaintiff's suit suggests that it was retaliatory").[2]

IV. STATEMENT OF FACTS

In January 2015, Ball was a candidate for the COD Board of Trustees, running with the intention of bettering the COD community and participating in local government. (R. C00186 at ¶¶ 4-5). During her candidacy, she was interviewed by *The Illinois Herald*. *Id.* at ¶ 6. According to the Complaint, Plaintiffs allege that the following exchange during the interview was defamatory:

> **Illinois Herald:** According to OpenTheBooks.com, "It now appears [COD] has a sophisticated pay-to-play scheme with Board members of its supporting community foundation. Payments from [COD] to [COD] Foundation Board

[2] Alternatively, this Court has on numerous recent occasions directed an appellate court to review the merits of the denial of a Motion to Dismiss pursuant to the CPA. *See, e.g., Drury v. Neerhof*, 45 N.E.3d 674, 675 (Ill. 2015) (directing appellate court to vacate judgment denying leave to appeal and directing it to grant leave to appeal and review merits of denial of CPA Motion); *Samoylovich v. Montesdeoca*, 2014 IL App (1st) 121545, ¶ 13 (noting that Illinois Supreme Court denied leave to appeal but directed the appellate court to vacate a denial of a petition for leave and consider merits of denial of CPA motion).

> members or their affiliated companies total $192 million since 2010." How do you feel about this extremely obvious and extremely profitable conflict of interests?
>
> **Claire Ball:** Pay-to-play is alive and well in Illinois, and it is certainly not surprising that this level of corruption is going on. But it is dismaying to think that it could be so widespread and rampant at a community college. Over $400K in payments to Herricane Graphics, $465K to the law firm Robbins, Schwartz, Nicholas, Lifton & Taylor, $330K to Wight & Company—and all three happen to have executives on COD's foundation Board? You don't have to be an accountant to see how corrupt that is, but maybe you need to be one to do something about it. Community colleges are such a valuable resource for people trying to better themselves, and to hear that the people entrusted with the job of managing that resource are so arrogantly and callously abusing that trust is alarming.

(R. C00190) (quotation in original). Ball heard about the payments to Plaintiff Herricane, and the other companies, from an October 2014 article in *The Washington Times*. (R. C00193). *The Washington Times* reported on the valuable "no bid" contracts awarded to Plaintiff, and other COD Foundation board members. (R. C00187 at ¶ 9). Ball had no knowledge that any of her statements in the article were untrue, and believed all the factual statements contained therein are true. (*Id*. at ¶ 12). Ball had not read, and had never worked with, the other defendants in this lawsuit, including in connection with the Illinois Leaks news blog, and therefore could not have participated in a "conspiracy" with them. (*Id*. at ¶ 13).

Procedural History

On December 31, 2015, Plaintiffs filed an eight count Complaint against five defendants,[3] seeking compensatory damages and punitive damages in excess of

[3] Claire Ball has filed the instant petition. Two other defendants, the Watchdogs and Kirk Allen, also represented by the undersigned counsel, concurrently seek leave to appeal pursuant to Rule 315. A fourth defendant, Adam Andrzejewski, is believed to also be seeking leave to appeal the denial of his CPA Motion. The defendants' petitions for leave to appeal were consolidated by the Second District. The fifth defendant, Kathy Hamilton, was dismissed by Plaintiffs after she filed a motion to dismiss.

$16,000,000. (R. C00001-21). The Complaint asserted two counts of defamation against Ball and one count of conspiracy against her. *Id*. Each and every one of the counts directed at Ball indisputably arose out of statements she made in a newspaper interview, taken while she was running for political office. (R. C00011 at ¶ 49). On February 11, 2016, Ball filed a Motion to Dismiss Pursuant to the CPA, supported by affidavit. (R. C00169). In their Response, Plaintiffs did not file any affidavits or provide any evidentiary support.

On July 29, 2016, the circuit court held oral argument on the motions and ruled, denying the CPA Motion in its entirety. (R. C00444). Ball timely sought leave to appeal in the Second District, and the Second District issued a minute order on January 17, 2017, denying leave to appeal. *See* Appendix.

V. ARGUMENT

A. This case involves matters of constitutional concern and threatens to muzzle political candidates critical of other elected officials.

"[T]he constitutional guarantee [of free speech] has its fullest and most urgent application precisely to the conduct of campaigns for political office." *See, e.g., Susan B. Anthony List v. Driehaus*, 134 S. Ct. 2334, 2344 (2014). The rulings below invade this sacred ground and muzzle political candidates, threatening to place off-limits commonly used critical phrases, such as "corruption", "fraud", and "pay to play".

Ball was a candidate for the COD Board of Trustees, running with the intention of bettering the COD community and participating in local government. (R. C00186 at ¶¶ 4-5). During her candidacy, she was interviewed by a local newspaper. *Id*. at ¶ 6. The single exchange quoted above is the entire basis for a $2,000,000 defamation suit filed by Plaintiffs against Ball. Ball, along with all political candidates, now faces hurdles to candid campaigning and legitimate criticism of those in power. And, Ball is greatly susceptible

to SLAPPs because she lacks resources to mount a defense of this lawsuit seeking millions of dollars from her.

B. The CPA contemplates an immediate, expedited appeal, and Ball undoubtedly faces years of costly litigation if her Petition is not granted.

This Court should allow this appeal because it comports with the underlying policies and purposes of the CPA, which specifically contemplates a speedy and complete resolution of litigation implicating the rights that the CPA seeks to protect. *See* 735 ILCS 110/20(a) (requiring expedited interlocutory appeals); Illinois Supreme Court Rule 306(a).

The circuit court found that Ball acted in furtherance of her Constitutionally-protected rights to speak and participate in government, i.e., that she had satisfied the first *Sandholm* factor under the CPA. (R. C00421-422 at 128:24-129:1). If, as Ball contends, the circuit court erred in applying the law protecting her right to speak in the second *Sandholm* prong, then this Court has the ability to efficiently reverse those errors and prevent years of unnecessary, costly litigation. This is especially true here, where there is only ***one paragraph of text*** wherein Ball allegedly defamed Plaintiffs, and Ball's allegedly defamatory statements were not even directed at Plaintiffs. Being forced to litigate when a CPA motion was filed and improperly denied directly undermines the purpose of the CPA "as expressly dictated by the Illinois legislature—to curtail the "significant[] chill[ing]" of SLAPPs and eliminate a "means of intimidating, harassing, or punishing citizens and organizations for involving themselves in public affairs." *See* 735 ILCS 110/5.

C. Plaintiffs' lawsuit is both retaliatory and meritless, and the circuit court erred in applying the law of defamation to the facts of this case.[4]

For purposes of the CPA, a lawsuit is meritless not only if the complained-of statements are true, but also if they can be reasonably innocently interpreted. *Goral v. Kulys*, 2014 IL App (1st) 133236, ¶ 46.

Plaintiffs' lawsuit against Ball is meritless because Ball did not even use the phrase "pay to play" with respect to Plaintiffs

The circuit court correctly observed that, "I have taken a look at [the allegations directed at] Ms. Ball's [in the] Complaint here, and I think it is different." (R. C00421 at 128:7-8). As an initial matter, Plaintiffs' case directed at Ball is different because Ball demonstrably did not say anything at all with respect to Plaintiff Burkhart. While Ball raised this argument in the circuit court (R. C00425 at 132:5-10), the Complaint's count directed at Ball by Burkhart nonetheless was allowed to proceed. This was error, and for this reason alone Ball's CPA Motion should have been granted as to Burkhart.

Moreover, Ball's use of the phrase "pay to play" was directed not at Plaintiffs but at COD generally. In response to the interviewer's inquiry seeking her thoughts on "COD['s] sophisticated pay-to-play scheme", Ball stated that "[p]ay-to-play is alive and well in Illinois, and it is certainly not surprising that this level of corruption is going on." (R. C00190).

[4] Not surprisingly, the Court found that Ball satisfied the first *Sandholm* prong, *i.e.*, that her statements made as a candidate for public office in an interview during a political election were made "in furtherance of [her] right to petition, speak, associate, or otherwise participate in government to obtain favorable government action." (R. C00421-422 at 128:24-129:1). However, because Plaintiffs' lawsuit was both meritless and retaliatory, it was error to refuse to shift the burden back to Plaintiffs to "produce clear and convincing evidence that the movant's acts were not genuinely aimed at solely procuring favorable government action," and because Plaintiffs had produced no evidence at all, to fail to grant Ball's Motion CPA Motion. *See Garrido*, 2013 IL App (1st) 120466, ¶ 16.

Under Illinois law, the innocent construction rule "prevents a case from getting to the jury if there is ***any possible reasonable innocent interpretation*** of the language" (*Chicago City Day Sch. v. Wade*, 297 Ill. App. 3d 465, 471 (1st Dist. 1998) (emphasis added)) including where it would reasonable to conclude that someone other than the plaintiff was responsible for committing the alleged wrongdoing. *Id*. at 474-75. Ball said simply that "[p]ay to play is alive and well in Illinois"—not that Plaintiff Herricane (or anyone else) had engaged in it. ***If anything***, Ball's harshest comments directed at Plaintiff Herricane is the label that they acted "corrupt[ly]", but this label is plainly not actionable and subject to an innocent construction.[5]

Moreover, the circuit court necessarily should have conducted this inquiry (i.e. whether the statements are Constitutionally-protected under the "innocent construction rule") as a matter of law to be immediately resolved, in order to "advance[] the constitutional interests of free speech and free press and encourage[] the robust discussion of daily affairs." *Tuite v. Corbitt*, 224 Ill. 2d 490, 511 (2006). Importantly, the circuit court failed to recognize that *if* a statement can reasonably be innocently construed, "it cannot be actionable," and "***[t]here is no balancing of reasonable constructions***." *Solaia Tech., LLC v. Specialty Pub. Co.*, 221 Ill. 2d 558, 580 (2006) (emphasis added). Ball's

[5] *See, e.g., Doctor's Data, Inc. v. Barrett*, 170 F. Supp. 3d 1087, 1123–24 (N.D. Ill. 2016) (applying Illinois law) (statement that doctor's test was a "fraud" not defamatory because "to speak of something as a 'fraud' may mean it is criminally deceptive, but it may also mean simply that it is not what it purports to be"); *Schivarelli v. CBS, Inc.*, 333 Ill. App. 3d 755, 761-62 (1st Dist. 2002) (finding non-actionable the statement that company was "cheating the city"); *Tamburo v. Dworkin*, 974 F. Supp. 2d 1199, 1213-14 (N.D. Ill. 2013) (deciding, as a matter of law, that statement which accused plaintiff of "theft" was not actionable); *Garber–Pierre Food Products, Inc. v. Crooks*, 78 Ill. App. 3d 356, 360 (1st Dist. 1979) ("blackmail" and "extortion" reasonably capable of innocent construction rather than commission of crime).

statements in one paragraph of an interview will read the same today as they will in months or years after discovery has been conducted, and they will be nonactionable then just as they are today.

***Plaintiffs' lawsuit is meritless because Ball's use of the term "pay to play" in an interview is non-actionable under the law of defamation, especially in light of* McDonnell v. United States**

The circuit court erred by misunderstanding and misapplying the legal test to determine whether "pay to play" is protected by the innocent construction rule. First, while the circuit court recognized that the phrase "pay to play" may be interpreted as describing non-criminal behavior, it nonetheless allowed the case to continue because it found that "in Illinois…saying 'pay to play'… [is] implying criminal conduct." (R. C00403 at 110:11-19); *see also* R. C00403 at 110:11-14 (emphasis added) (circuit court stating, "I've taken a look at the pay to play, and ***I understand that pay to play can mean a number of different things***…").

The circuit court erred when it stated that "pay to play" necessarily imputes upon its participants the commission of a crime. Importantly, under a new United States Supreme Court decision, this nation's highest court *reversed* the "pay to play" conviction of Governor McDonnell, who was criminally convicted for accepting payments, loans, and gifts in exchange for favorable governmental action. *McDonnell v. United States*, 136 S. Ct. 2355, 2364-65 (2016). This new authority confirms that, simply put, "pay to play" is not always illegal. [6] Consistent with *McDonnell*, Illinois law likewise recognizes that

[6] In the same way that it is not *per se* illegal to accept benefits from constituents as a governmental official, it is not *per se* illegal for constituents to receive benefits from their relationships with the officials. *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310, 359 (2010) ("[t]he fact that speakers may have influence over or access to elected officials does not mean that these officials are corrupt").

even very harsh labels placed on unsavory behavior do not imply criminality. *See, e.g.*, *Doctor's Data, Inc. v. Barrett*, 170 F. Supp. 3d 1087, 1123–24 (N.D. Ill. 2016) (applying Illinois law) (statement that doctor's test was a "fraud" not defamatory because "to speak of something as a 'fraud' may mean it is criminally deceptive, but it may also mean simply that it is not what it purports to be"); *Kapotas v. Better Gov't Ass'n*, 2015 IL App (1st) 140534, ¶ 51, *appeal denied*, 39 N.E.3d 1003 (2015) ("the use of a term which has a broader, noncriminal meaning does not impute the commission of a crime"); *Owen v. Carr*, 134 Ill. App. 3d 855, 859 (4th Dist. 1985), *aff'd*, 113 Ill. 2d 273 (1986) (allegation that party was trying to "intimidate" not defamatory because it could refer to the "crime of intimidation" or other non-criminal meaning); *Schivarelli v. CBS, Inc.*, 333 Ill. App. 3d 755, 761-62 (1st Dist. 2002) (finding non-actionable the statement that company was "cheating the city", because although cheating may "imply criminal acts," it "means different things to different people at different times and in different situations"); *Tamburo v. Dworkin*, 974 F. Supp. 2d 1199, 1213-14 (N.D. Ill. 2013) (deciding, as a matter of law, that statement which accused plaintiff of "theft" was not actionable because, "[t]o a lay person…'theft' can also mean the wrongful act of taking the property of another person without permission").

Second, the circuit court mistakenly believed that that an "innocent construction" can only be found if the statement itself is non-objectionable. (R. C00401-402 at 108:24-109:4) (in using the term "pay to play" the circuit court believed that calling behavior corrupt does not "necessarily give[] rise to an innocent construction"). This is incorrect: the innocent construction rule is a rule to determine whether a statement is non-actionable. *Chapski v. Copley Press*, 92 Ill. 2d 344, 352 (1982).

This Court should grant Ball's Petition because Plaintiffs' lawsuit is clearly retaliatory

Furthermore, the circuit court erred in determining that Plaintiffs' case was not retaliatory. It plainly was. It is well-settled in Illinois that "[d]emanding damages in the millions for alleged defamation is a classic SLAPP scenario." *Ryan,* 2012 IL App (1st) 120005 at ¶ 24; *Goral v. Kulys*, 2014 IL App (1st) 133236 at ¶ 56 ("Plaintiff's damage requests, exceeding $1 million and requesting an unspecified amount of punitive damages" is retaliatory); *Hytel Grp., Inc. v. Butler,* 405 Ill. App. 3d 113, 126 (2d Dist. 2010) (claim for $8 million in damages was "intended to strike fear into the defendant").

Here, Plaintiffs each seek $1,000,000 in punitive damages from Ball on Count III and another $1,000,000 in punitive damages from Ball on Count IV, as well as compensatory damages in the amount of $50,000 for each count. These damages are wildly out-of-proportion to the allegedly defamatory statements—which, as set forth below, is not actionable. The enormous damages sought are clearly indicative of Plaintiffs' retaliatory intent.[7] Moreover, the retaliatory intent becomes even clearer when the excessive punitive damages are viewed in light of the $50,000 in claimed compensatory damages. *See Stein,* 2013 IL App (1st) 113806, ¶ 19 (finding that $50,000 was not a good-faith estimate damages arising out of alleged defamation because it was a speculative amount and plaintiff alleged only reputational harm). The damages sought are not a good faith estimate

[7] Further evidence that Plaintiffs' damages are not a good faith measure of damages—and therefore retaliatory—can be found in the fact that Plaintiff Herricane seeks from Ball the exact same measure of damages ($50,000 in compensatory, and $1,000,000 in punitive) as Burkhart seeks from Ball ($50,000 in compensatory and $1,000,000 in punitive) even though Ball ***never even mentioned Burkhart at all***. The damages sought by Plaintiffs are arbitrary values designed to "strike fear" into Ball for even mentioning Herricane in the press. *Hytel Grp., Inc.*, 405 Ill. App. 3d at 126 (claim for $8 million in damages was "intended to strike fear into the defendant").

of the alleged reputational harm from the articles at issue. Rather, they are indicative of a "classic SLAPP scenario." *Ryan*, 2012 IL App (1st) 120005 at ¶ 24. Moreover, Ball presented evidence—which was wholly unrebutted by evidence from the Plaintiffs—in which Plaintiffs admitted they were not damaged by Ball's statement. (R. C00241-243).

D. Illinois authority is inconsistent regarding when a lawsuit is "retaliatory" for purposes of analysis under the CPA.

In the circuit court, Ball argued that Plaintiffs' lawsuit was retaliatory in part because it was filed just prior the running of the statute of limitations for Ball's interview. Ball premised her argument on *Stein v. Krislov*, 2013 IL App (1st) 113806, ¶ 19, which holds that a lawsuit filed just before the expiration of the statute of limitations is evidence of a plaintiff's retaliatory intent. The circuit court disregarded this controlling precedent (*see* R. C00398-400 at 105:12-107:8), perhaps due to other seemingly inconsistent case law which holds that "[t]he relatively close proximity between the posting of defendant's articles and plaintiff's suit suggests that it was retaliatory." *Goral*, 2014 IL App (1st) 133236 at ¶ 55. This Court now has an opportunity to clarify this apparent contradiction, in order to provide guidance to lower courts on the important issue of determining whether a lawsuit is a SLAPP and therefore subject to dismissal under the CPA.

VI. CONCLUSION

WHEREFORE, Defendant-Petitioner, CLAIRE BALL, respectfully requests that this Court grant her Petition, allow her to file a brief in support of her petition, reverse the Circuit Court, require that the Circuit Court grant Defendant's CPA Motion, and provide such further relief as is just.

February 21, 2017

Respectfully submitted,
CLAIRE BALL

By: _/s/ Shawn M. Collins_____
One of her Attorneys

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CERTIFICATE OF COMPLIANCE

I certify that the Petition for Leave to Appeal Pursuant to Supreme Court Rule 315 conforms to the requirements of Rule 341 (a) and (b). The length of this brief, excluding the cover page and supporting record, is 14 pages.

Dated: February 21, 2017

Respectfully submitted,

CLAIRE BALL

By: /s/ Shawn M. Collins
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Case No. _____
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SUPREME COURT OF ILLINOIS

CARLA BURKHART and HERRICANE GRAPHICS. INC., *Plaintiff-Respondent,* v. EDGAR COUNTY WATCHDOGS, INC., KIRK ALLEN, ADAM ANDRZEJEWSKI, KATHY HAMILTON, and CLAIRE BALL, *Defendants-Petitioners*.	Appeal From the Second District App. Ct. Case Nos. 2-16-0705; 2-16-0711; 2-16-0712 Date of Appellate Order: January 17, 2017

NOTICE OF FILING

TO: ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that on this 21st day of February, 2017, the undersigned Petitioner, by and through her attorneys, The Collins Law Firm, P.C., filed the attached ***Petition for Leave to Appeal Pursuant to Illinois Supreme Court Rule 315***, with the Clerk of the Supreme Court of Illinois, 200 East Capital Avenue, Springfield, IL 62701, via electronic filing.

Respectfully submitted,
CLAIRE BALL

By: _/s/ Shawn M. Collins_____
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CERTIFICATE OF SERVICE

The Undersigned, an attorney, certifies that he caused to be served the foregoing ***Petition for Leave to Appeal Pursuant to Illinois Supreme Court Rule 315*** by email delivery on February 21, 2017.

By: _/s/ Shawn M. Collins_____

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APPENDIX

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Appeal from the Circuit Court of County of DuPage

Trial Court No.: 15L1244

THE COURT HAS THIS DAY, 01/17/17, ENTERED THE FOLLOWING ORDER IN THE CASE OF:

Gen. No.: 2-16-0705
Cons. Cases: 2-16-0711, 2-16-0712

Burkhart, Carla et al. v. Edgar County Watchdogs, et al.

Defendants, Edgar County Watchdogs, Inc., Kirk Allen, Adam Andrzejewski, and Claire Ball, appeal the trial court's denial of their motion to dismiss in accordance with the provision of the Citizen Participation Act (Act) (735 ILCS 110/1 et seq. (West 2016)). Leave to appeal is denied as to all defendants. Defendants have not established that plaintiffs' claims are meritless or filed solely based on defendants' rights of petition, speech, association, or to otherwise participate in government such that dismissal pursuant to Section 2-619 of the Code of Civil Procedure (735 ILCS 5/2-619 (West 2016)) would be appropriate. We express no opinion on the actual merits of plaintiffs' causes of action. Any outstanding motions are stricken as moot.
THIS ORDER IS FINAL AND SHALL STAND AS THE MANDATE OF THIS COURT.
(Hudson, Zenoff, Burke, JJ).

Robert J. Mangan
Clerk

cc: The Collins Law Firm, P.C.
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