

**IN THE 18th JUDICIAL CIRCUIT COURT
DUPAGE COUNTY, ILLINOIS**

GRANT WEHRLI,)
)
 Plaintiff,)
)
 v.)
)
 THE DUPAGE COUNTY BOARD OF)
 ELECTION COMMISSIONERS; ITS)
 MEMBERS, CATHY TERRELL, JAMES)
 LOWE AND JOHN BOSKE,)
)
 Defendants.)

No. 2018CH001154



**VERIFIED COMPLAINT FOR INJUNCTION, MANDAMUS,
DECLARATORY JUDGMENT AND OTHER RELIEF**

NOW COMES the Plaintiff, Grant Wehrli (“Plaintiff”), by and through his attorney Keri-Lyn J. Krafthefer of Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer P.C., and complains of the Defendants, the DuPage County Board of Election Commissioners; its Members, Cathy Terrell, Chair, James Lowe and John Boske (“Defendants”), as follows:

SUMMARY OF THE CASE

1. Defendants have miscoded an apartment building located at 1621 Country Lakes Drive, Naperville, Illinois to distribute ballots to voters at that address permitting them to vote in the incorrect Representative District and Legislative Districts for the November 6, 2018 general election.

PARTIES

2. Plaintiff is a resident and registered voter at 1232 Atlas Lane, in the City of Naperville, in DuPage County, Illinois.

3. Plaintiff is the incumbent State Representative for the 41st Representative District of the State of Illinois, and is seeking reelection at the November 6, 2018 general election. In addition to residing within the 41st Representative District, Plaintiff resides within the 21st Legislative District of the State of Illinois.
4. The Defendants, the DuPage County Board of Election Commissioners and its members, Cathy Terrell, James Lowe and John Boske, comprise the local election authority, responsible for conducting the election within DuPage County and for distributing proper ballots to all registered voters in DuPage County, Illinois.

5. ALLEGATIONS COMMON TO ALL COUNTS

6. The boundaries of the 41st Representative District and the 21st Senate District were established by the Illinois General Assembly in the General Assembly Redistricting Act of 2011, to effectuate the State's obligations consistent with the United States Constitution, the Illinois Constitution and under the federal Voting Rights Act. See 10 ILCS 91/5, 10 ILCS 91/15.21 and 10 ILCS 91/10.41. A description of the 41st Representative District established by such legislation is attached hereto as "Exhibit A." Attached "Exhibit B" is a description of the boundaries of the 21st Senate District.
7. The DuPage County Board of Election Commissioners has no legal authority whatsoever to change the boundaries of the State's Representative Districts or Legislative Districts.
8. Upon information and belief, there is an apartment complex located at 1621 Country Lakes Drive, Naperville, Illinois, which has 23 registered voters living at that address.
9. 1621 Country Lakes Drive is located within Naperville Township Precinct 25. See attached Exhibit C, a map of Naperville Township Precinct 25, from the Defendants' website, marked to indicate the approximate location of 1621 Country Lakes Drive.

10. 1621 Country Lakes Drive, Naperville, Illinois is located within the 49th Representative District and the 25th Legislative District.
11. According to the United States Department of Census, the address of 1621 Country Lakes, Illinois, is located in census tract 846411, Blockgroup 2, Block 2037. Pursuant to 10 ILCS 91/10.49, such address is located in the 49th Representative District. Pursuant to 10 ILCS 91/15.25, such Representative District is located within the 25th Legislative District.
12. Notwithstanding that the address of 1621 Country Lakes Drive, Naperville, Illinois is located, by law, in Naperville Township Precinct 25 and within the 49th Representative District and the 25th Legislative District, the Defendants have “coded” the address to indicate that it is located within Naperville Township Precinct 6 and within the boundaries of the 41st Representative District and the 21st Legislative District. See attached Exhibit D, printout of election districts applicable to the address 1621 Country Lakes Drive, Naperville, Illinois from the Defendants’ website.
13. The address of 1621 Country Lakes Drive, Naperville, Illinois is not located within the boundaries of Naperville Township Precinct 6, even according to the Defendants’ own map of the precincts boundaries. See attached Exhibit E, a map of Naperville Township Precinct 6.
14. Upon information and belief, earlier this year, the Defendants coded the address properly. However, the Defendants recently changed the coding to reflect the improper voting districts.
15. The Plaintiff and his agents have informed the Defendants and their agents of the miscoding but, upon information and belief, the Defendants and their agents have

intentionally decided not to correctly code the address of 1621 Country Lakes Drive, Naperville, Illinois for the correct voting districts.

16. Upon information and belief, as a result of the Defendants' miscoding of said address, voters from 1621 Country Lakes Drive, Naperville, Illinois will be given ballots for the incorrect Representative District and Legislative District for the November 6, 2018 general election.
17. Because the voters who are registered to vote at 1621 Country Lakes Drive, Naperville, Illinois and who should be voting in the 49th Representative District election will be, instead, voting in the 41st Representative District election, the voting strength of other voters, including the Plaintiff, in the 41st Representative District will be diluted and the voting strength of the voters of the 49th Representative District will be increased.
18. Because the voters who are registered to vote at 1621 Country Lakes Drive, Naperville, Illinois and who should be voting in the 25th Legislative District election will be, instead, voting in the 21st Legislative District election, the voting strength of other voters, including the Plaintiff, in the 21st Legislative District will be diluted and the voting strength of the voters of the 25th Legislative District will be increased.
19. As a candidate for State Representative for the 41st Representative District, the Plaintiff has the right to have only those electors who are qualified to vote in said District vote in his district for the general election.
20. As a voter in the 41st Representative District and the 21st Legislative District, the Plaintiff has the right to not have his vote diluted by permitting people who are not qualified by law to participate in the election in said Districts vote in the general election.

21. In addition to miscoding the address of 1621 Country Lakes Drive, Naperville, Illinois, the Defendants have also miscoded apartment units at 1595 Country Lakes Drive, 1597 Country Lakes Drive, 1623 Country Lakes Drive and 1625 Country Lakes Drive, all within Naperville, Illinois, to be in the incorrect precincts. See attached Exhibit F, a copy of Naperville Township precincts depicting the coding errors.
22. Upon information and belief, the Defendants caused incorrect ballots to be distributed to voters at 1621 Country Lakes Drive, Naperville, Illinois and these other addresses at the general primary election earlier this year.

**COUNT I – DECLARATORY ACTION
TO DECLARE THAT THE ADDRESS OF
1621 COUNTRY LAKES DRIVE, NAPERVILLE, ILLINOIS
IS LOCATED WITHIN THE BOUNDARIES
OF NAPERVILLE TOWNSHIP PRECINCT 25,
THE 49TH STATE REPRESENTATIVE DISTRICT AND
THE 25TH LEGISLATIVE DISTRICT.**

23. Plaintiff adopts and realleges Paragraphs 1 – 22 above as though fully set forth herein.
24. This count is an action for declaratory judgment pursuant to the Illinois Declaratory Judgment Act, 735 ILCS 5/2-701.
25. Upon information and belief, Defendants’ miscoding of the address of 1621 Country Lakes Drive, Naperville, Illinois to be within Naperville Township Precinct 6, State Representative District 41 and Legislative District 21 will result in voters being given incorrect ballots for the November 6, 2018 primary, so there is an active controversy between the parties.
26. There is an actual controversy between the parties as to the Representative and Legislative voting districts in which the voters who reside at 1621 Country Lakes Drive, Naperville, Illinois are legally entitled to vote for the November 6, 2018 general election.

27. Pursuant to the Defendants' own precinct boundary map, which the Defendants themselves adopted, the address of 1621 Country Lakes Drive, Naperville, Illinois, is lawfully located within the boundaries of Naperville Township Precinct 25. Accordingly, voters residing at 1621 Country Lakes Drive, Naperville, Illinois are entitled to ballots with candidates for Naperville Township Precinct 25, not Naperville Township Precinct 6.

28. Pursuant to application of the General Assembly Redistricting Act of 2011, the address of 1621 Country Lakes Drive, Illinois, is lawfully located within the boundaries of the 25th Legislative District and the boundaries of the 49th Representative District.

29. Because the Township precinct boundaries established by the Defendants and the legislation adopted by the General Assembly which establishes Representative District boundaries and Legislative District boundaries, when applied, show the address of 1621 Country Lakes Drive within the boundaries of Naperville Township Precinct 25, the 25th Legislative District and the 49th Representative District, the Plaintiff is entitled to a declaration that such address is located within those voting districts and not within Naperville Township Precinct 6, the 21st Legislative District and the 41st Representative District.

30. Further, the voters in each district are entitled to have only properly registered, lawful, voters participate in the elections and the voters themselves are entitled to correct ballots.

WHEREFORE, the Plaintiff, GRANT WEHRLI, prays for a judgment against the Defendants as follows:

- A. For a declaratory judgment that the address 1621 Country Lakes Drive, Naperville, Illinois is located in Naperville Township Precinct 25, in the 49th Representative District and the 25th Legislative District for purposes of the 2018 general election.
- B. For such other and further or different relief as may be equitable and just.

**COUNT II: INJUNCTION TO PREVENT THE
DEFENDANTS FROM DISTRIBUTING
INCORRECT BALLOTS TO VOTERS REGISTERED AT
1621 COUNTRY LAKES DRIVE, NAPERVILLE, ILLINOIS**

- 31. Plaintiff adopts and realleges Paragraphs 1 – 30 above as though fully set forth herein.
- 32. For the November 6, 2018 elections, the first day for the Defendants to mail official vote by mail ballots is September 27, 2018, which is also the first day for early voting.
- 33. Upon information and belief, the Defendants have already received applications for official vote by mail ballots from voters registered at 1621 Country Lakes Drive, Naperville, Illinois.
- 34. If the Defendants distribute ballots to voters from 1621 Country Lakes Drive, Naperville, Illinois, as they have indicated they are going to do, which incorrectly and unlawfully let those voters vote for candidates in the 41st Representative District, the Plaintiff will be irreparably harmed as a Candidate for office in the 41st Representative District because people from outside of his Representative District will have been improperly permitted to vote in a race for which they are not qualified to vote.
- 35. If the Defendants distribute ballots to voters from 1621 Country Lakes Drive, Naperville, Illinois, as they have indicated they are going to do, which incorrectly and unlawfully let those voters vote for candidates in the 21st Legislative District, the Plaintiff will be irreparably harmed as a voter in the 21st Representative District because his vote will

have been improperly diluted by allowing people from outside of the 21st Legislative District to participate in the election for that District when they are not qualified by law to do so.

36. The Plaintiff lacks an adequate remedy at law.

37. The Plaintiff has a likelihood of succeeding on the merits.

38. As the voters at 1621 Country Lakes Drive, Naperville, Illinois have no right whatsoever to vote in either the 41st Legislative District or the 21st Legislative District, the balance of harms suffered by the Plaintiff and the public interest both weigh in favor of the Plaintiff and the relief he is seeking.

WHEREFORE, the Plaintiff, GRANT WEHRLI, prays for a judgment against the Defendants as follows:

- A. For an injunction against Defendants barring them from distributing ballots to voters at 1621 Country Lakes Drive which would permit them to vote in any Representative District or Legislative Districts other than the 49th Representative District and the 25th Legislative District for the 2018 general election.
- B. For such other and further or different relief as may be equitable and just.

**COUNT III: MANDAMUS TO COMPEL DEFENDANTS TO
DISTRIBUTE BALLOTS WITH THE CORRECT REPRESENTATIVE
AND LEGISLATIVE DISTRICT TO VOTERS REGISTERED
AT COUNTRY LAKES DRIVE, NAPERVILLE, ILLINOIS**

39. Plaintiff adopts and realleges Paragraphs 1 – 38 above as though fully set forth herein.

40. Defendants, acting as Local Election Authority, have a mandatory obligation to prepare and distribute correct ballots to all qualified voters.

41. As of the date of the filing of this Complaint, the Defendants have refused and continue to refuse to correct the Representative and Legislative voting Districts to correctly reflect the districts applicable to voters at 1621 Country Lakes Drive, Naperville, Illinois.

42. The Plaintiff has informed the Defendants of these errors, through their agents, but the Defendants have refused to correct the voting districts to ensure that voters at 1621 Country Lakes Drive, Naperville, Illinois will receive the correct ballots.

43. Upon information and belief, the Defendants' failure to follow the correct coding procedures related to the voting districts for voters residing at 1621 Country Lakes Drive, Naperville, Illinois, will result in those voters being given incorrect ballots and will result in them unlawfully being able to participate in the election in Plaintiff's race.

WHEREFORE, the Plaintiff, GRANT WEHRLI, prays for a judgment against the Defendants as follows:

- A. For entry of a mandatory injunction compelling the Defendants to issue proper ballots to voters at 1621 Country Lakes Drive, Naperville, Illinois which would permit them to vote only in the Representative District election for the 49th Representative District and the in the Legislative District election for the 25th Legislative District for the 2018 general election.
- B. For such other and further or different relief as may be equitable and just.

**COUNT IV – VIOLATION OF CIVIL RIGHTS
UNDER 42 U.S.C. 1983**

44. Plaintiff adopts and realleges Paragraphs 1 – 44 above as though fully set forth herein.

45. The United States Constitution protects the rights of all qualified citizens to vote in state and federal elections. This includes the right to have proper ballots distributed and to have one's vote counted without debasement or dilution.
46. The actions described above indicate that the Defendants are going to permit residents of 1621 Country Lakes Drive, Naperville, Illinois to vote in a Representative District and Legislative District in which they do not reside and in which they are not qualified voters, resulting in the dilution of Plaintiff's vote in both Districts.
47. Upon information and belief, the Defendants' failure to follow the correct coding procedures related to the voting districts for voters residing at 1621 Country Lakes Drive, Naperville, Illinois, is willful conduct which undermines the organic processes by which candidates are elected.

WHEREFORE, the Plaintiff, GRANT WEHRLI, prays for a judgment against the Defendants as follows:

- A. For entry of a mandatory injunction compelling the Defendants to issue proper ballots to voters at 1621 Country Lakes Drive, Naperville, Illinois which would permit them to vote only in the Representative District election for the 49th Representative District and the in the Legislative District election for the 25th Legislative District for the 2018 general election.
- B. For an order enjoining the Defendants from issuing improper ballots to the residents of 1621 Country Lakes Drive, Naperville, Illinois for the November 6, 2018 general election.
- C. For such other and further or different relief as may be equitable and just.



By: _____
Plaintiff's Attorney

Keri-Lyn J. Krafthefer
Attorney for Plaintiff Grant Wehrli
DuPage County Attorney #1300

Ancel Glink Diamond Bush DiCianni & Krafthefer, P.C.

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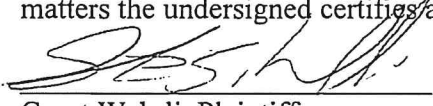
Naperville, IL 60563

(312) 604-9126

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VERIFICATION

Under the penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Grant Wehrli, Plaintiff

Sworn to and signed before
me by Grant Wehrli
this 17th day of September, 2018



Notary Public

