

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
LASALLE COUNTY, ILLINOIS

LASALLE COUNTY REPUBLICAN  
CENTRAL COMMITTEE, by its  
Chairman, LARRY SMITH,  
  
Plaintiff,  
  
vs.  
  
LORI BONGARTZ, LaSalle County Clerk,  
in her official capacity,  
  
Defendant.

Case # 2020-MR-390

MEMORANDUM IN SUPPORT OF EMERGENCY EX PARTE  
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Now comes the Plaintiff, the LaSalle County Republican Central Committee, by its  
Chairman, Larry Smith, by and through Attorney William Hotopp, and for its Memorandum in  
Support of its Emergency Ex Parte Temporary Restraining Order and Preliminary Injunction, hereby  
states as follows:

INTRODUCTION

In the United States of America, voting is a fundamental civil right which no one can take  
away from you. However, illegal voting practices do occur and take away that right through the  
dilution and negotiation of valid votes.

The November 2020 general election in LaSalle County, Illinois lacked both accuracy and  
integrity. Election officials, including the Defendant, processed mail in ballots without the presence  
of election judges as statutorily required, voting tabulating machines in certain precincts were  
inoperable and required to be rebooted, election judges at the various precincts did not compare the  
signatures of in person voters with their registration, voters who had previously voted by mail were  
told at the polls that they would be eligible to vote on election day, no election judges were allowed  
to watch recounting of ballots at a collection site (Celebrations), and poll watchers at certain  
precincts were not allowed to watch a "recount" of nearly 700 ballots.

Systemic fraud and mishandling of the mail in ballots has plagued Defendant's handling of

the November 3, 2020 election, and her actions now require immediate injunctive relief.

## ARGUMENT

1. Granting Plaintiff's Motion for Emergency Ex Parte Temporary Restraining Order and Preliminary Injunction will preserve the status quo and protect Plaintiff from the irreparable harm of certifying the results of the fraudulently conducted election.

As this Court is well aware, the purpose of a Temporary Restraining Order is to preserve the status quo pending a hearing on a preliminary injunction. *Abdulhafedh v. Secretary of State*, 161 Ill. App. 3d 413, 416 (2d Dist. 1987). Plaintiff has, through its Motion, established considerable irregularities and illegalities in the November 3, 2020 general election. Defendant's actions permeated the election process and affected the result of thousands of ballots. Defendant has yet to certify the results of the election, but is required to do so on or before November 24, 2020.

It is requested that this Honorable Court immediately hear this case prior to any certification, including testimony of employees of Defendant, thereby necessitating the need for an order enjoining the certification of the election. The status quo will be preserved through the issuance of a temporary injunction.

It is not necessary that Plaintiff make out a case that would entitle it to relief on the merits. *Buzz Barton & Assoc. Inc. v. Giannore*, 108 Ill.2d 373, 382 (1985). Instead, Plaintiff need only raise a fair question whether the right at issue exists. *Id.*

### A. Plaintiff has a Clear and Ascertainable Right.

At issue are two distinct and fundamental rights: the right of individuals to associate for the advancement of political beliefs and the right of qualified voters, regardless of their political persuasion, to cast their votes effectively. *Ghiles v. Municipal Officers Electoral Board*, 2019 IL App (1st) 190117, 17. A free and fair election is an essential right in America. Plaintiff's Motion filed herein and the attached Affidavit describe the fraud and abuse that plagued the processing and tabulation of the mail in ballots collected for the November 3, 2020 general election. Defendant has

committed numerous violations of law as alleged in the Petition.

The Illinois Constitution provides that all elections are to be free and equal. Ill. Const. art. 3, § 3. The Constitution also provides that "[n]o person shall be deprived of life, liberty or property without due process or law nor be denied the equal protection of the laws. Ill. Const. art. 1, sec. § 2. This rule of law holds especially true when governmental officials violate a fundamental right, such as the right to vote. *Zablocki v. Redhail*, 434 U.S. 374, 388 (1978).

Thus, Plaintiff has an absolute constitutional right to ensure the accuracy and integrity of the November 3, 2020 election through an independent and impartial audit due to Defendant's unequal evaluation of ballots because it fails to equally protect the rights of all voters.

Defendant's actions were fraudulent in that they lacked clear standards and failed to abide by the terms of the Election Code. Thus, the results were replete with fraud resulting in the unequitable treatment of votes cast.

Defendant's actions also violated Plaintiff's statutory rights under the Election Code.

Section 9.1 of the Code provides that each election authority maintaining a website must provide 24 hour notice on its site of the date, time, and location of the analysis, processing, and counting of all ballot forms. 10 ILCS 5/1-9.1. Defendant failed to post this requisite notice on her web site. Furthermore, Section 9.2 dictates that no later than 48 hours after the closing of polling locations on election day, each election authority maintaining a website shall post the number of ballots that remain uncounted. The posting shall separate the number of ballots yet to be counted into the following categories: ballots cast on election day, early voting ballots, provisional ballots, vote by mail ballots received by the election authority but not counted, and vote by mail ballots sent by the election authority but have not been returned to the election authority. This information shall be updated on the website of the election authority each day until the period for counting provisional and vote by mail ballots has ended. All election authorities, regardless of whether they maintain a website, shall share the same information, separated in the same manner, with the State Board of

Elections no later than 48 hours after the closing of polling locations on election day and each business day thereafter until the period for counting provisional and vote by mail ballots has ended. 10 ILCS 5/1-9.2. Once again, Defendant failed in her required duties to post this information in that she failed to post the required information on her web site.

Lastly, Defendant violated the provisions of the Election code requiring that absentee or mail in ballots must only be counted when there are three election judges present, one being from each political party. As outlined in the Petition, Defendant had no election judges present for a period of at least four days. This violation amounts to a severe statutory violation depriving Plaintiff and all citizens of LaSalle County of having a free and impartial election.

**B. Plaintiff will Suffer Irreparable Injury.**

Plaintiff faces a real and imminent danger of irreparable harm if injunctive relief is not immediately granted. Once officials are sworn into office, that action cannot be undone without a lengthy and protracted election contest. As outlined herein, deprivation of a constitutional right to a fair and impartial election is a far greater injury.

**C. Plaintiff has No Other Adequate Remedy at Law.**

Plaintiff lacks an adequate remedy at law. In order to be "adequate," a remedy must be as clear, complete, practical, and efficient as the equity remedy. *A.B. Dick Co. v. American Pro-Tech*, 159 Ill.App.3d 786, 794 (1st Dist. 1987). Indeed, once a protectable interest is established, courts presume irreparable injury follows if the interest is not protected. *Id.* Without the requested discovery and review of the election records, including the flash drive, Plaintiff will never know how many ballots were actually cast and for whom and whether they were properly "processed."

**D. Probability of Success on the Merits.**

To succeed on a Temporary Restraining Order, Plaintiff need only raise a "fair question" as to success. *Fraternal Order of Police, Chicago Lodge No. 7 v. City of Chicago*, 2016 IL App (1st) 143884, 130. This standard is something less than what is required to ultimately prevail on the

underlying action, it is less than the preponderance of the evidence burden. *A.J. Dralle, Inc. v. Air Techs., Inc.*, 255 Ill. App. 3d 982, 989 (2d Dist. 1994). So, while the TRO remedy may be "extraordinary," the bar is set low here. Plaintiff does not even need to prove its case beyond 50% at this stage, it need only present a "fair question." Plaintiff has presented a sufficient cause of action so as to preserve the voting records herein.


E. Balancing of Hardships.

Defendant would suffer no hardships by allowing discovery of the requested materials herein. Defendant has adamantly refused to allow Plaintiff to review the flash drive or question her regarding her practices on Election Day. Plaintiff herein merely seeks expedited discovery to view documents otherwise able to be produced by Defendant, which she refuses to allow.

CONCLUSION

All factors favor granting Plaintiff's requested relief and, accordingly, Plaintiff respectfully requests that this Honorable Court grant their Petition and any and all other relief it deems just and equitable under the circumstances.

LASALLE COUNTY REPUBLICAN CENTRAL  
COMMITTEE, by its Chairman, LARRY SMITH,  
Plaintiff




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William L. Hotopp  
Attorney for Plaintiff

ATTORNEY PLEADING CERTIFICATE

I have read the foregoing and to the best of my knowledge, information and belief formed after a reasonable inquiry, it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.



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