

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION (CHICAGO)**

**LIBERTARIAN PARTY OF ILLINOIS,)
ILLINOIS GREEN PARTY, DAVID)
F. BLACK, SHELDON SCHAFER,)
RICHARD J. WHITNEY, WILLIAM)
REDPATH, BENNETT W. MORRIS,)
MARCUS THRONEBURG,)**

Plaintiffs,

v.

**J.B. PRITZKER, in his official capacity as)
Governor of Illinois, WILLIAM J.)
CADIGAN, KATHERINE S. O'BRIEN,)
LAURA K. DONAHUE, CASSANDRA B.)
WATSON, WILLIAM R. HAINE, IAN K.)
LINNABARY, CHARLES W. SCHOLZ,)
WILLIAM M. MCGUFFAGE, in their)
Official capacities as Board Members of the)
Illinois State Board Of Elections,)**

Defendants,

and

KYLE KENLEY KOPITKE,

Intervenor,

vs.

**WILLIAM J. CADIGAN, KATHERINE S.)
O'BRIEN, LAURA K DONAHUE,)
CASSANDRA B. WATSON, WILLIAM)
HAINE, IAN K. LINNABARY, CHARLES)
W. SCHOLZ and WILLIAM M.)
MCGUFFAGE, in their official capacities)
as Board Members of the Illinois State)
Board of Elections,)**

Intervenor-Defendants.

Case No. 1: 20-cv-02112

Judge: Charles R. Norgle

Magistrate: Jeffrey Cummings

**EMERGENCY MOTION FOR PRELIMINARY INJUNCTION AND /OR
TEMPORARY RESTRAINING ORDER AND MEMORANDUM
OF LAW IN SUPPORT**

Pursuant to Federal Rules of Civil Procedure 65(a) and (b), and in view of the public health crisis precipitated by the national coronavirus pandemic, COVID-19, and the ensuing emergency measures adopted by the State of Illinois, Intervenor Kyle Kenley Kopitke, moves for this Court to enter a preliminary injunction and/or temporary restraining order, prohibiting Intervenor-Defendants (hereinafter: “Defendants”) from enforcing or applying those provisions of the Illinois Election Code that require Intervenor as a condition of qualifying for the general election ballot to collect 25,000 voters’ signatures on petitioners.

Intervenor specifically moves this Court to enjoin Defendants from enforcing the following statutory provisions as applied to Intervenor in the 2020 Election Cycle: 10 ILCS 5/7-10 and 5/10-3. Further, Intervenor requests that the Court order Defendants to (1) accept Intervenor’s nominating papers for the November 3, 2020 General Election without requiring supporting signatures from voters; and (2) place Intervenor’s Name and the name of his vice presidential running mate on the Illinois November 3, 2020 general election ballot.

Respectfully submitted,

/s/ Samuel J. Cahnman
Attorney for Intervenor

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MEMORANDUM OF LAW IN SUPPORT

1. As and for his Memorandum Of Law In Support of his Emergency Motion For Preliminary Injunction And/Or Temporary Restraining Order, Intervenor restates and incorporates by reference, the Plaintiffs' Memorandum Of Law In Support, filed herein on April 3, 2020.

2. In addition, equitable estoppel estops the Defendants from enforcing the Illinois signature requirement to get on the ballot for the November 3, 2020 General Election. *See: Atkinson v. Schelling*, 2013IL App (2d) 130140, 988 N.E.2d 700 (2013). In that case candidates for mayor relied on a letter from the village clerk, with whom petitions were to be filed. The letter stated a minimum of 80 signatures were required to run for mayor. However, the Election Code provided that the number of signatures needed was 5% of the last vote for mayor, or 123 signatures. The candidates had filed more than 80 signatures, but less than the 123.

The Illinois Appellate Court held that to invoke equitable estoppel against a public body, a litigant must establish an affirmative act on the part of the public body that induced substantial reliance. *id.* 988 N.E.2d at 703. The *Atkinson* Court held that equitable estoppel prohibited the local electoral board from enforcing the signature requirement because the candidates not only relied on the clerk's letter, but also the Illinois State Board Of Elections Candidate Guide, which directed to candidates to look to the local election official who accepts nominating petitions for the number of signatures needed. *id.*

Similarly, in the instant case, the affirmative acts that induced substantial reliance are the Illinois Governor's Executive Orders, which direct all person in Illinois to shelter in

place, and social distance by keeping at least 6 feet from another person. Because the Intervenor and his volunteers have been relying on and complying with the Executive Orders, it is impossible for them collect signatures. Therefore, the Defendants here, like the local electoral board in *Atkinson* should be estopped from enforcing or applying Illinois' signature requirement to get on the November 3, 2020 General Election ballot.

Respectfully submitted,

/s/Samuel J. Cahnman
Attorney for Intervenor

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CERTIFICATE OF SERVICE

This will certify service of the foregoing instrument by CM/ECF online filing system with the U.S. District Court For the Northern District of Illinois, which will automatically send email notification to all counsel of record, upon the following:

Oliver B. Hall

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This 13th day of April 2020.

/s/Samuel J. Cahnman

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