

CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MD

CASE SUMMARY
CASE NO. C-02-CV-18-001013

Nancy Lewin, et al. vs. Linda Lamone

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Location: Anne Arundel Circuit Court
 Filed on: 04/09/2018

CASE INFORMATION

Case Type: Election Law

DATE CASE ASSIGNMENT


Current Case Assignment

Case Number C-02-CV-18-001013
 Court Anne Arundel Circuit Court
 Date Assigned 04/09/2018


PARTY INFORMATION


		<i>Attorneys</i>
Plaintiff	Ervin, Christopher 4301 Ridgewood Avenue Baltimore, MD 21215	STICHEL, HENRY MARK <i>Retained</i> 410-783-3550(W)
		HARLAN, ELIZABETH ANN <i>Retained</i> 410-783-3550(W)
	Lewin, Nancy 212 Edgevale Road Baltimore, MD 21210	STICHEL, HENRY MARK <i>Retained</i> 410-783-3550(W)
		HARLAN, ELIZABETH ANN <i>Retained</i> 410-783-3550(W)
	Mitchell, Elinor 2706 Sulgrave Avenue Baltimore, MD 21215	STICHEL, HENRY MARK <i>Retained</i> 410-783-3550(W)
		HARLAN, ELIZABETH ANN <i>Retained</i> 410-783-3550(W)
Defendant	Lamone, Linda H In her Official capacity as State Administrator Maryland State Board of Elections 151 West Street Suite 200 Annapolis, MD 21401	TRENTO, ANDREA WILLIAM <i>Retained</i> 410-576-6472(W)
		BERNHARDT, JULIA DOYLE <i>Retained</i> 410-576-7291(W)

DATE EVENTS & ORDERS OF THE COURT INDEX


04/09/2018	Attorney Appearance - \$10 Fee Counsel: Attorney STICHEL, HENRY MARK For: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher	
04/09/2018	 Complaint / Petition <i>Verified Complaint for Mandamus, Declaratory Judgment and Injunctive Relief</i> Filer: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher Against: Defendant Lamone, Linda H	

CASE SUMMARY
CASE NO. C-02-CV-18-001013


04/09/2018  Request to Issue
Request to Issue Summons


04/09/2018  Case Information Report Filed
Civil Case Information Report
Filed by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher


04/16/2018 **Hearing - Temporary Order (8:30 AM)** (Judicial Officer: McCormack, Stacy Wiederle)


04/16/2018  Summons Issued (Service Event)
Requested by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
Service for: Defendant Lamone, Linda H


04/16/2018 **Summons Issued**
Lamone, Linda H
Unserved


04/16/2018  Motion
Motion For Temporary Restraining Order And/Or Preliminary Injunction
Filed by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher


04/16/2018  Complaint - Amended
Amended Complaint
Filed by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher


04/16/2018  Supporting Documents
Comparison Copy
Filer: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher


04/16/2018  Supporting Exhibits
Exhibit A


04/16/2018  Supporting Exhibits
Exhibit B


04/16/2018  Supporting Exhibits
Exhibit C

04/16/2018  Supporting Exhibits
Exhibit D

04/16/2018  Supporting Exhibits
Exhibit E
















04/16/2018  Supporting Exhibits
Exhibit F

04/16/2018  Hearing Sheet / Open Court Proceedings (Judicial Officer: McCormack, Stacy Wiederle)














04/16/2018  Supporting Documents
Memorandum in Support of Motion For Temporary Restraining Order And/Or Preliminary Injunction

CASE SUMMARY

CASE NO. C-02-CV-18-001013

- 04/16/2018  Supporting Documents
Rule 15-504(b) Certificate
- 04/18/2018  Opposition / Response
Opposition to Motion for Temporary Restraining Order and/or Preliminary Injunction
Filed by:: Defendant Lamone, Linda H
- 04/18/2018  Order (Judicial Officer: McCormack, Stacy Wiederle)
Hearing Sheet signed as Order of Court. Copies to Atty Stichel and L Lamone. Notification emailed to Atty Stichel
- 04/18/2018  Supporting Exhibits
Exhibit A
- 04/18/2018  Supporting Exhibits
Exhibit B - Affidavit of Natasha Walker
- 04/19/2018  Reply to Opposition
Reply Memorandum in Support of Motion for Preliminary Injunction
Filed by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
- 04/19/2018  Attorney Appearance - No Fee
Counsel: Attorney HARLAN, ELIZABETH ANN
For: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
- 04/19/2018  Supporting Exhibits
Mitchell Affidavit
- 04/19/2018  Supporting Exhibits
SB 204
- 04/19/2018  Supporting Exhibits
Chapter 332
- 04/20/2018  Affidavit
Affidavit of Nancy Lewin
- 04/20/2018  Affidavit
Affidavit of Jill P. Carter
- 04/20/2018  Affidavit
Affidavit of J.D. Merrill
- 04/20/2018 **Hearing (1:30 PM) (Judicial Officer: Klavans, Glenn L.)**
- 04/20/2018  Hearing Sheet / Open Court Proceedings (Judicial Officer: Klavans, Glenn L.)
Hearing Sheet signed as Order of Court
- 04/20/2018  Motion
Motion for Relief - filed and DENIED in ope Court
Filed by: Attorney STICHEL, HENRY MARK

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- 04/20/2018  Miscellaneous Document
Attorney Appearances Filed in Open Court (Appearances previously entered)
- 04/23/2018  Complaint - Amended
Second Amended Verified Complaint for Mandamus, Declaratory Judgment and Injunctive Relief
Filed by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
- 04/23/2018  Supporting Documents
Comparison Copy
Filer: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
- 04/23/2018  Motion - Reconsideration
Filed by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
- 04/23/2018  Supporting Documents
Memorandum in Support of Motion for Reconsideration
Filer: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
- 04/23/2018  Supporting Exhibits
Exhibit A to Memorandum in Support of Motion for Reconsideration
- 04/23/2018  Supporting Exhibits
Exhibit B to Memorandum in Support of Motion for Reconsideration
- 04/24/2018  Order (Judicial Officer: Klavans, Glenn L.)
Hearing sheet signed as order of court: Court denied plaintiffs complaint for Preliminary Injunction, relief pursuant to Md Rule 2-632 denied. (Copies to attys Stichel, Harlan, Trento and Bemhardt...Notification email to all attys)
- 04/24/2018  Summons Issued (Service Event)
Requested by: Plaintiff Lewin, Nancy; Plaintiff Mitchell, Elinor; Plaintiff Ervin, Christopher
Service for: Defendant Lamone, Linda H
- 04/24/2018 **Summons Issued**
Lamone, Linda H
Unserved
- 04/24/2018  Consent Motion
Consent Motion to Shorten Time
Filed by: Attorney STICHEL, HENRY MARK
- 04/25/2018  Transcript
Invoice and 1 transcript Hearing dated 4/20/18; Costs: \$296.06.
- 04/25/2018  Order (Judicial Officer: Vitale, Cathleen M.)
ORDERED that the time for Defendant's response to Plaintiff's Motion for Reconsideration is shorten to 6:00 pm on Wednesday April 25, 2018. Matter Scheduled for hearing 1:30 pm Thursday April 26, 2018. (copies mailed to Atty Stichel, Atty Bernhardt, Atty Trento and Atty Harlan-Notification by Email)
- 04/26/2018  Order (Judicial Officer: Klavans, Glenn L.)
ORDERED, the Motion for Preliminary Injunction is GRANTED. Linda H. Lamone, in her official capacity as State Administrator of the Maryland State Board of Elections shall

CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MD

CASE SUMMARY

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immediately remove the name of Nathaniel T. Oaks from any and all ballots for elective office, in any form, to be distributed to voters in Legislative District 41, for the Democratic Party Primary Election to be held in June, 2018. This preliminary injunction shall apply to all persons under the direction of the State Administrator. No bond shall be required prior to or after the effectiveness of this Order. (Copies to attys Stichel Bernhard, Trento and Harlan... Notification email to attys

04/26/2018

CANCELED Hearing (1:30 PM) (Judicial Officer: Mulford, William C., II)
Event Terminated

DATE FINANCIAL INFORMATION

Attorney STICHEL, HENRY MARK

Total Charges	0.00
Total Payments and Credits	0.00
Balance Due as of 4/26/2018	0.00

Plaintiff Lewin, Nancy

Total Charges	165.00
Total Payments and Credits	165.00
Balance Due as of 4/26/2018	0.00

NANCY LEWIN

Plaintiff

v.

LINDA H LAMONE

Defendant

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IN THE

CIRCUIT COURT FOR

ANNE ARUNDEL COUNTY

MARYLAND

Case No.: C-02-CV-18-001013

* * * * *

ORDER

This matter having come before the Court for reconsideration of the denial of a preliminary injunction, and having considered said motion and the response thereto, the Court has determined that grounds exist for such reconsideration due to the fact that Nathaniel T. Oaks is now disqualified for election to the offices for which he filed certificates of candidacy, by virtue of his voluntary removal from the voter registration rolls. For the reasons expressed by the Court at the original adversary hearing in this matter, the Court finds that the Board of Elections still has adequate time to reform the ballots in Baltimore City. Any actions taken by the Board of Elections since the adversary hearing to further their printing and testing process was done after notice that the instant matter remained in active litigation and thus cannot be deemed to have further prejudiced the Board of Elections' position in this matter. The harm to the voters by way of potential confusion, inadvertence, and/or mischief by the appearance of a disqualified name on the ballot far outweighs any inconvenience to the Board of Elections. No less comprehensive remedy, such as the posting of signs at polling places, can assure that the voters' rights to effectively exercise their franchise will be protected.

The Court further finds that there is a likelihood that the Plaintiffs will prevail on the merits of this case, and that the Plaintiffs have raised a substantial question concerning whether the Defendant is violating Maryland law and the Maryland Constitution by the refusal to remove Mr. Oaks' name from the ballot. The Court finds the balance of convenience favors the Plaintiffs and that the public interest would be served by the issuance of a preliminary injunction; wherefore:

ORDERED, the Motion for Preliminary Injunction is GRANTED. Linda H. Lamone, in her official capacity as State Administrator of the Maryland State Board of Elections shall immediately remove the name of Nathaniel T. Oaks from any and all ballots for elective office, in any form, to be distributed to voters in Legislative District 41, for the Democratic Party Primary Election to be held in June, 2018. This preliminary injunction shall apply to all persons under the direction of the State Administrator. No bond shall be required prior to or after the effectiveness of this Order.



Judge Glenn L. Klavans

Signed: 4/26/2018 11:13 AM



**Civil Hearing Sheet
IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY**

Nancy Lewin, et al
Plaintiff / Petitioner
(H. Mark Stichel & Elizabeth Harlan)

Case No. C-02-CV-18-1013

Date: April 20, 2018

VS

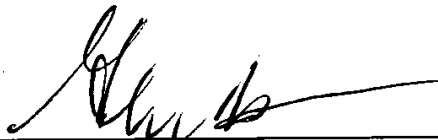
Linda Lamone
Defendant / Respondent
(Andrea Trento and Julia Doyle Bernhardt)

Clerk: D.Lowe
3E

**Case called for Hearing on Preliminary Injunction
In Open Court before Judge Glenn L. Klavans**

Counsel heard. Court DENIED Plaintiff's Complaint for Preliminary Injunction. Plaintiff moved for Relief Pursuant to Maryland Rule 2-632 by filing Motion in open Court - DENIED.

Hearing Sheet signed as Order of Court.



Judge

IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY, MARYLAND

- - - - - x
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 NANCY LEWIN, et al, :
 :
 Plaintiffs, : Civil No. C-02-CV-18-001013
 :
 v. :
 :
 LINDA LAMONE, :
 :
 Defendant. : Annapolis, Maryland
 :
 - - - - - x April 20, 2018

HEARING

WHEREUPON, proceedings in the above-entitled matter commenced.

BEFORE: THE HONORABLE GLENN L. KLAVANS, Judge

APPEARANCES:

FOR THE PLAINTIFF:

HENRY MARK STICHEL, Esq.
 ELIZABETH A. HARLAN, Esq.
 Astrachan, Gunst, Thomas PC
 217 East Redwood Street
 21st Floor
 Baltimore, MD 21202

FOR THE DEFENDANT:

ANDREA W. TRENTO, Esq.
 JULIA DOYLE BERNHARDT, AGC
 Office of the Attorney General
 Civil Litigation Division
 20th Floor
 200 St. Paul Plaza
 Baltimore, MD 21202

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<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
<u>For the Defendant:</u>				

Natasha Walker	11 (AF)	20 (HS)	--	--
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<u>EXHIBITS:</u>	<u>FOR IDENTIFICATION</u>	<u>IN EVIDENCE:</u>
<u>For the Defendant:</u>		

??	12	12
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Keynote: "----" indicates inaudible in transcript.

P R O C E E D I N G S

(Whereupon, at 1:34 p.m., the hearing began.)

THE COURT: You may be seated. Let me call the matter of Lewin et al versus Lamone, C-02-CV-18-1013. If counsel would each please state your full name and spell your full name for our recorded record.

MR. STICHEL: Your Honor, H. Mark Stichel, M-a-r-k S-t-i-c-h-e-l. Appearing for the plaintiffs, Nancy Lewin, Eleanor Mitchell and Christopher Urban.

MS. HARLAN: Good afternoon, Your Honor, Elizabeth Harlan, E-l-i-z-a-b-e-t-h H-a-r-l-a-n on behalf of the plaintiffs.

MR. TRENTO: Thank you, Your Honor. Andrea Trento, A-n-d-r-e-a T-r-e-n-t-o from the Office of the Attorney General on behalf of defendant, Linda Lamone.

MS. BERNHARDT: Good afternoon, Your Honor, Julia Doyle Bernhardt, J-u-l-i-a D-o-y-l-e B-e-r-n-h-a-r-d-t, Assistant Attorney General on behalf of the defendant.

THE COURT: All right, we are here today on the plaintiff's amended verified complaint for Mandamus, declaratory judgement and injunctive relief. I have had an opportunity to review all of the pleadings that have been filed in this matter and in the short amount of time that I have had since yesterday afternoon about 4:00 to digest what I can. And I am ready to hear from you. I would like to try to

1 limit presentations to 30 minutes each if at all possible.
2 Someone may want to run down the street before the end of the
3 day.

4 MR. STICHEL: Your Honor, Mark Stichel on behalf of
5 the plaintiffs. First before we begin, this morning we filed
6 three additional affidavits through the MDECK system. I have
7 given copies to Mr. Trento. I don't know if they have made it
8 to you yet or not, so I have paper copies here.

9 THE COURT: If they have been filed, I can accept
10 those. All right, let me take paper copies because I think
11 the last affidavit that I have -- was the Eleanor Mitchell
12 ones. So these are in addition to that?

13 MR. STICHEL: Correct, Your Honor.

14 THE COURT: All right. All right.

15 MR. STICHEL: Your Honor, you mentioned that we
16 would have 30 minutes each side to present. We have an
17 affidavit that Your Honor probably saw as well from Natasha
18 Walker --

19 THE COURT: Yes.

20 MR. STICHEL: -- we would like to move that and we
21 don't have objection from counsel but move that in as actual
22 testimony -- direct testimony on the record for Ms. Walker
23 with an additional opportunity to request to be able to put
24 Ms. Walker on the stand for 5 to 10 minutes of additional
25 testimony.

1 THE COURT: Is there any objection to that?

2 MR. TRENTO: I have no objection, Your Honor, with
3 the caveat that we would also ask if -- to verify complaint in
4 all of the affidavits that we be submitted also be considered
5 part of the evidentiary record for this hearing.

6 THE COURT: And I will do that and I will judicially
7 notice the entire record in this case -- in reaching the ---
8 all right.

9 MR. TRENTO: Thank you, Your Honor.

10 THE COURT: Very well, you may proceed.

11 MR. STICHEL: Your Honor, would you prefer that I
12 stand here or at the --

13 THE COURT: Wherever you are comfortable.

14 MR. STICHEL: I will stay here. Thank you, Your
15 Honor. Today's case is very simple. There is a candidate
16 that is going to appear on the ballot unless this Court orders
17 otherwise in District 41 who has pleaded guilty to crimes in
18 Federal Court. It is a virtual certainty that he will be
19 disqualified in the time of the general election and he has
20 also filed an affidavit in a related case in this Court
21 requesting that his name be taken off the ballot.

22 The State Board of Elections has taken the position
23 that because of the statutory language in the election code,
24 the State Board and State Administrator have no discretion
25 whatsoever that the ballot becomes frozen within 10 days of

1 the filing deadline which was back on February 27 and that is
2 that.

3 That construction makes no sense. We are going to
4 have someone on the ballot who will be unable to serve and
5 having his name on the ballot will cause a great deal of
6 confusion and will cause voters to cast votes that will be
7 wasted and it is argument that that situation deprives voters
8 of their Constitutional rights to vote which is protected by
9 both the Maryland Constitution and the United States
10 Constitution.

11 There is a construction of a statute that we believe
12 is correct, that this Court could use that would allow for
13 there to be come give here. And that is statutes can be
14 interpreted two different ways if you employ the word,
15 "Shall". The word "shall" can be construed as being
16 mandatory which would be the construction that the defendant
17 would put on it and that is there is just no discretion
18 whatsoever. We are stuck with this very difficult situation.

19 We contend that the -- in this situation, the
20 statute should be construed as being directory. That is that
21 it would allow some wiggle room -- some room here to correct a
22 situation like this which is a truly extraordinary situation.
23 You have read our papers. In 1963, the Court of Appeals held
24 that a withdrawal deadline was directory. Now there has been
25 a course of litigation and statutory changes since then.

1 It is our position that in 1998 when the General
2 Assembly rewrote the election laws, it took out what then was
3 a provision in the withdrawal provisions that said that they
4 were mandatory. It is our contention that by doing that, the
5 General Assembly left the field open for this Court to
6 construe the statute as being directory.

7 There are several reasons why the Court should do
8 that. One, is that allowing the discretion here to do that
9 would definitely serve the public good and would also prevent
10 a potential Constitutional issue. There have been a series of
11 cases beginning with Anderson versus Celebrese in 1980 where
12 the Federal Court has said that arbitrary early filing
13 deadlines are unconstitutional because they impact voters,
14 they affect a meaningful vote.

15 I will concede that I am aware of no case that has
16 flipped that and said that arbitrarily early withdrawal
17 deadlines or arbitrary early dates for freezing the ballot are
18 unconstitutional. But I think if you look at the reasoning of
19 those cases, it should apply here in this situation. There is
20 no reason whatsoever why Mr. Oakes name should appear on the
21 ballot other than defendant's arbitrary just very kind of
22 narrow view that the statute says shall and we have no choice
23 whatsoever but to live with this very bad situation.

24 Should the Court rule that Mr. Oakes' name should be
25 taken off of the ballot, it would not -- it would serve a very

1 public purpose but it would also prejudice no one. Right now,
2 there are three names on the ballot. Mr. Oakes and then J.D.
3 Merrill and Jill Carter. Among the two -- among the
4 affidavits that I have submitted to the Court today, the
5 affidavits from Ms. Carter and Mr. Merrill, both of them state
6 explicitly that they have no objection to the removal of
7 Mr. Oakes' name from the ballot.

8 I can't think of anyone else that could object.
9 Neither the candidates in the race, both of the other
10 candidates want his name off and Mr. Oakes wants his name off,
11 my clients want his name off. There is no one that wants
12 Mr. Oakes' name on the ballot except for the defendants who
13 say we just can't do it, our hands are tied. And we are here
14 to ask the Court to untie their hands.

15 There has also been an affidavit submitted from the
16 defendants in argument about the difficulty in changing the
17 ballot at this date. The statutory deadlines for changing a
18 ballot are still several weeks down the road. In this case,
19 we are dealing with the ballots in legislative district. I
20 think there are two ballots in the sense or maybe variations
21 but of the 400 some odd ballots that the State Board of
22 Elections have to contend with, we are talking with two
23 ballots.

24 I just find it very hard to believe that taking one
25 name off of two ballots is something that is so onerous that

1 it can't be accomplished at this date or even some date
2 reasonably thereafter. So therefore, Your Honor, we have read
3 the papers based on what we have said there, what I have said
4 here today and you know I would urge the Court to grant us the
5 relief we seek which is to order the State Board of Elections
6 to remove Mr. Oakes' name from the primary elections ballot.

7 THE COURT: And in that regard, what is your
8 suggestion as to a relief specifically I should grant should
9 it be a preliminary injunction? Should it be a declaratory
10 judgement or both?

11 MR. STICHEL: I guess, Your Honor, I would like the
12 belt with suspenders approach, Your Honor, which would be to
13 declare that the statute is directory and not mandatory. And
14 to grant a preliminary injunction with respect to the relief
15 we seek. I guess the other thing that I would say which I
16 have not discussed with opposing counsel, the rules governing
17 preliminary injunctions allow the Court to advance the trial
18 on the merits with the preliminary injunctions hearing.

19 Given the situation in which we face, which is that
20 the election is June 26, the deadline for sending military
21 ballots is May -- I think May 12 or something around there, I
22 think May 12 and 13, we are dealing with a relatively narrow
23 time frame. And it is my expectation that whoever loses here
24 today is probably going to seek to appeal the case, so I think
25 it would make sense after today's case for the Court to --

1 today for the Court to advance the trial on the merits so that
2 we get a final judgement.

3 We can appeal from the grant or the denial of the
4 injunction but --

5 THE COURT: That is what is unclear to me. Because
6 I am -- thought that Judge McCormick's order of two days ago
7 effectively advanced everything to today. That is what I am
8 trying to determine what the parties believe is the case.

9 MR. STICHEL: I don't have a belief one way or the
10 other as to what her order did. But I would have no objection
11 to the Court advancing the trial of the matter to today so
12 that we can final judgement.

13 THE COURT: Okay. Mr. Trento?

14 MR. TRENTO: Thank you, Your Honor. As we indicated
15 earlier, we would like to put on some testimony. I am happy
16 to address the Court's questions about where we are in the
17 case procedurally. First if the Court --

18 THE COURT: Why don't you do that first then.

19 MR. TRENTO: Okay. We would object to advancing the
20 trial on the merits today, Your Honor. As we understand it,
21 the motion that was filed on Monday was a motion for a
22 temporary restraining order or in the alternative, preliminary
23 injunction. Our view is that that part of the motion that
24 sought the TRO was denied on Monday but that motion is what is
25 pending before the Court today.

1 A Hello.

2 Q Can you tell me a little bit about what your role as
3 project manager of Election Management System entails?

4 A Yes. So I am responsible for our internal agency
5 election management system which builds our ballots. I am in
6 the process of building the new election management system. I
7 lay out the ballots and I am responsible for sending all of
8 the ballot material to the printers. And I also manage the
9 website.

10 Q Thank you. And you are familiar with -- you are
11 aware that your testimony that was provided in an affidavit
12 has now been entered into evidence in this case, right?

13 A Yes.

14 (The document referred to was
15 marked for identification as
16 Defendant's Exhibit ?? and was
17 received in evidence.)

18 BY MR. TRENTO:

19 Q Do you recall testifying about the number of
20 candidates who have withdrawn their candidacies in this
21 election?

22 A Yes.

23 Q And do you remember what that number is?

24 A 77. Or 73, I am sorry. 70 something. 77 I believe
25 it is.

1 Q 70 something. And then there was a certain number
2 that was withdrawn -- certain number of candidates withdrew
3 their candidacies after the candidate filing deadline?

4 A 23.

5 Q And the candidate filing deadline was February 27?

6 A Correct.

7 Q And was there a deadline by which they had to
8 withdraw their candidacies?

9 A March 1, 2018.

10 Q So they had two days after the filing deadline?

11 A Yes, um hum.

12 Q Are you aware of any requests to withdraw
13 candidacies that have come in to the office since March 1?

14 A Approximately 10.

15 Q And what did the board do -- what did the State
16 Board do with those requests?

17 A We denied those requests.

18 Q Okay because?

19 A Because they didn't meet the deadline.

20 Q Okay. Now, one allegation in this case as you have
21 probably heard by now is that this withdraw deadline is too
22 early? It is arbitrarily early. And in this case, are you
23 aware of -- let me strike that, are you aware of when Mr.
24 Oakes plead guilty?

25 A I am not aware of that.

1 Q Let me ask you this, if the deadline were to have
2 been extended to April 1, about a month after the current
3 deadline. What kind of impact would that have had on the
4 ballot preparation process?

5 A I would not have started the ballot preparation
6 process.

7 Q Why not?

8 A Because it -- you would have too many risks
9 introduced with that process. Because you are dealing with
10 separate independent systems. So you would have to make all
11 of those changes after you import into the voting system
12 manually.

13 Q So all of the steps that you have testified to that
14 took place during that period of -- I believe you testified
15 that you started preparing the ballots on March 12, so those,
16 the 19 or 20 days worth of steps you would not have undertaken
17 until after April 1 is that right?

18 A Correct. And actually would be further because of
19 the deadline to fill vacancies, I wait for that too.

20 Q And what does that refer to?

21 A So there is a deadline for --- to fill vacancies and
22 that happens after.

23 Q And if a withdrawal were to create a vacancy, then
24 that vacancy then there would be a period of time after the
25 withdrawal period for that vacancy to be filled?

1 A Yes, correct.

2 Q Okay, shifting gears. Do you recall testifying
3 about a test deck(sic)?

4 A Yes.

5 Q Can you tell the Court what is a test deck?

6 A So a test deck is a set of ballots, there is
7 multiple copies of each ballot style that the local Board of
8 Elections use to test their voting equipment. And it is
9 basically each ballot has an oval filled out for each
10 candidate so one ballot style can potentially have 20 copies
11 of it where each candidate has their vote basically.

12 And it also has a set of expected results. So it is
13 used during logic and accuracy testing of the voting system.
14 So we know that the voting system is properly tabulating.

15 Q So if I am understanding right, these are physical
16 ballots?

17 A Physical ballots.

18 Q And when you say test the voting system, what aspect
19 of the voting system do these test?

20 A So the ballots are scanned on the DS200 scanners
21 that are in the polling locations. And it is just -- they
22 print the tapes and compare them to the expected results that
23 are associated to that test deck.

24 Q And is every scanner tested in this manner?

25 A Yes.

1 Q Where are we today in the process of preparing test
2 decks?

3 A I have already prepared all of the test decks and --

4 Q The physical test decks?

5 A No, no the files that go to the printer so the
6 printer is expected to begin the process on Monday. Which is
7 the 23rd I believe -- whatever this upcoming Monday is. The
8 23rd.

9 THE COURT: That would be the 23rd.

10 THE WITNESS: 23rd okay.

11 BY MR. TRENTO:

12 Q And how long will that printing process take?

13 A It takes about two weeks.

14 Q So for the test decks alone, it takes two weeks?

15 A Yes.

16 Q And what happens next? What happens after the test
17 decks get printed?

18 A So the test decks get printed and sent to the Board
19 of Elections and once they have that -- those physical
20 ballots, they can begin that logic and accuracy testing. So
21 they start creating the media for the voting equipment and
22 start scanning these ballots.

23 Q If the Court were to order today that the ballots
24 affected by the removal of former Senator Oakes needed to be
25 changed to reflect that he was being removed from the ballot,

1 what would need to be done to effectuate that?

2 A So all of the ballots are produced from the same
3 data base. So it is not like you can go ahead and change one
4 or two ballots that are impacted. You have to make the change
5 to that contest and then regenerate the ballots in the voting
6 system software. I would have to do the same thing in my
7 election management system software and then the counties
8 would have to proof all of those ballots because again you
9 have to make sure that that regeneration of ballots didn't
10 impact the precinct to Ballot Style Associations because all
11 of that information is kind of fed into the other systems that
12 we have.

13 So pretty much for Baltimore City you would have to
14 start from the beginning of proofing their ballot, proofing
15 everything.

16 Q What kind of delay would that impose into the
17 system?

18 A Significant delay. I would say. Around a week I
19 would expect.

20 Q Does that mean that the test decks for those
21 jurisdictions in Baltimore City would not be printed until a
22 week later than the current?

23 A Correct.

24 Q And when do those ballots need to be printed by --
25 those test deck ballots?

1 A Well Baltimore City is scheduled to begin L&A I
2 believe around sometime in the beginning of May. I believe
3 early second week I am not sure. So obviously that would push
4 them back.

5 Q Is it even possible to accomplish this at this
6 point?

7 A It is very challenging. It just introduces a lot of
8 risks. It is doable but there are many risks involved.

9 Q And what kind of risks are you thinking of when you
10 say that?

11 A Well, the timeline -- it pushes back everything. So
12 we have to -- if this gets pushed back then the amount of
13 testing that can be done our ballot delivery system also gets
14 pushed back. And that has to be done by May 12 in order for
15 the ballot to go out to the military voters. So if you are
16 compressing the testing time there, you are impacting them.
17 You are impacting the possibility of absentees not being
18 polled in --- voters which and my testimony is, one of those
19 things that cannot be undone without the intervention of a
20 developer.

21 And obviously I have already generated everything.
22 I already have my different versions of all of the exports and
23 PDFs. So then you also are dealing with the human error
24 aspect where your version controls and you know there is like
25 22 different folders of exports and PDFs that I have to manage

1 each election and that is where you -- because you can't just
2 pull those two ballot styles. It is everything for that
3 county.

4 Q Shifting gears, last topic. Are you familiar with a
5 process by which nominees can decline the nomination after
6 they win a primary?

7 A Yes.

8 Q And so obviously that would happen after the
9 primary?

10 A Correct.

11 Q Do you know how many times that has happened in
12 recent years?

13 A 63 that I can account for going back to the late
14 90s.

15 Q Going back to the late 90s so in the last 20 years
16 or so 10 years worth of -- roughly 10 years worth of
17 elections, there have been 63 times where the voters choice
18 for an election, for a nomination withdrew from that
19 nomination?

20 A Correct.

21 Q I think you heard Mr. Stichel argue to the Court
22 that it is just a question of taking one name off of two
23 ballots. Do you agree with that statement?

24 A No.

25 Q Why not?

1 A Because again like I said, it is not about just
2 removing the name from the ballots. The ballots are the first
3 piece to the election puzzle and the removal of him from just
4 those two ballots impacts the other ballot styles in that
5 county because again everything is being produced from the
6 same application. You are having to regenerate everything.
7 You have to redo the audio ballot that we also have to produce
8 and the counties have to proof everything and you know, once
9 ballots are done and final then it feeds to all of the other
10 systems. So yes that is the most common misconception is that
11 changing a ballot is easy. They don't see what goes into
12 everything else.

13 Q Thank you very much, Ms. Walker, I don't have no
14 further questions.

15 THE COURT: Cross examination?

16 MR. STICHEL: Oh yes.

17 CROSS EXAMINATION

18 BY MR. STICHEL:

19 Q Ms. Walker, I am going to direct your attention to
20 what was Exhibit 1 to the amended verified complaint.

21 MR. STICHEL: Can I approach the witness, Your
22 Honor.

23 THE COURT: You may.

24 BY MR. STICHEL:

25 Q Ms. Walker, can you identify what I have shown you?

1 A It looks like the ballots that are posted on our
2 website, the Democratic Ballot Style 9.

3 Q And as far as that ballot, what we were seeking was
4 to remove just one name, the line with Nathaniel Oakes. And
5 are you saying to me that just removing that one little line
6 would cause all of this host of problems that you have
7 described here today?

8 A Yes. It is about the timeline. Because you can't
9 remove that line and not move up the contents below it. So
10 every single candidate where the voting system thinks that
11 candidate is is now different. So you can't just remove it
12 from the PDF or -- you have to go into the certified voting
13 system, remove that ballot, regenerate the ballots, export all
14 of the ballots and again it impacts all of the different
15 systems.

16 Q Could you just put a line through that name on the
17 ballot without changing everything else?

18 A I have never done that. I am not sure. I --

19 Q But it is possible?

20 A I don't know. I have never even tried to do that.

21 Q Ms. Walker, you walked us through kind of a schedule
22 and Mr. Trento asked you if a change could be made at a later
23 date and you testified that it would be very challenging but
24 doable?

25 A Um hum.

1 Q Were this Court to issue a ruling one way or the
2 other today and you had to wait until April 30 to give a week
3 for an appellate court to look at this and render a decision,
4 would you be able to make the change or not make the change if
5 your start date were April 30 rather than April 23?

6 A The problem is, it is larger than me. Changing the
7 physical ballots and producing the files, that is doable but
8 we are scheduled on April 25 to pull the absentees in our MD
9 Voters which is our voter registration application. And once
10 we do that, it cannot be undone. And that process has to be
11 done within a time frame that allows us to test our ballot
12 delivery system. And that requires two weeks and we can't
13 start that process until the absentees have been pulled
14 because we test with real absentee voters. So you know, it is
15 a matter of everything has to be pushed back and we don't have
16 the time.

17 Q But if you had to push things back by a week, it
18 would be challenging but you could be do it?

19 MR. TRENTO: Objection, asked and answered.

20 THE COURT: I think it has been asked and answered.

21 THE WITNESS: And I can't speak to what --

22 MR. STICHEL: There is no question.

23 THE WITNESS: Okay. Sorry.

24 MR. STICHEL: I have no further questions of the
25 witness, Your Honor.

1 THE COURT: All right, any redirect?

2 MR. TRENTO: I have no redirect, Your Honor.

3 THE COURT: All right, you may step down. Thank

4 you.

5 THE WITNESS: Thank you.

6 (Witness is excused.)

7 MR. TRENTO: Thank you, Your Honor, may it please
8 the Court. We, the defendant are not without sympathy to the
9 frustrations of the plaintiffs. This is not an ideal
10 circumstance and it is not something -- it is something that
11 we wish wasn't the case. But at this point, Your Honor we
12 are -- there is simply nothing in the code that allows us to
13 make the changes being requested of us.

14 Elections inevitably involve the drawing of lines
15 and in this case the lines have been drawn in a way clearly by
16 the legislature to preclude exceptions to the filing deadlines
17 and the withdrawal deadlines that are set forth in the
18 Election Law Article. There is no basis for the plaintiff's
19 statutory claims. We will go through the statutory language,
20 we will go through the legislative history and we will go
21 through this theory of mandatory versus directory that the
22 plaintiffs are seeking to impose on the statute and show that
23 none of it is well founded.

24 There is no basis for the plaintiff's Constitutional
25 claims. They are articulating a theory of Constitutional harm

1 that we have been unable to find a court -- a single court
2 recognize the cases that they cite from the Supreme Court are
3 cases that are in opposite. They deal with different
4 circumstances that frankly aren't at issue here. Finally, we
5 think that the -- those legal grounds demonstrate a clear
6 unlikelihood of success such that the Court does not need to
7 reach the other issues involved in analyzing whether
8 preliminary injunctions should be entered but should the Court
9 reach those issues we believe that the record reflects that
10 they too counsel a denial of preliminary injunction.

11 I think plaintiffs concede that the literal
12 application of the laws preclude the relief that they are
13 seeking. It is hard to imagine how legislatures in fact could
14 have been more clear than they were when drafting these
15 statutes. And section 5-504(b) addresses the effect of
16 withdraw. And it speaks specifically to the issue of whether
17 a name shall remain on the ballot.

18 This isn't whether somebody should remain eligible,
19 this isn't whether somebody shall be declared ineligible and
20 what the effects of that -- the language refers to the ballot.
21 And I quote, "The name of any individual who files a
22 certificate of candidacy and does not withdraw shall appear on
23 the primary election ballot unless by the 10th day after the
24 filing deadline specified under Section 5-303, that is the
25 February 27 deadline, the individual's death or

1 disqualification is known to the applicable board with which
2 their certificate of candidacy was filed.”

3 In this case, there hasn't been a withdrawal under
4 the terms of Section 5. And there is not a disqualification
5 of the legislatures reference to names appearing on the ballot
6 are dispositive to this issue. Ultimately the mandatory
7 versus directory cases that the plaintiffs are seeking to
8 enlist in support of their claims ultimately the analysis
9 there and the question is there as to what the intent of the
10 legislature is.

11 And we would submit that the legislature could not
12 be more clear here. In any event, those cases deal with
13 circumstances that don't remotely resemble the ones here.
14 They tend to deal with circumstances where an agency is
15 charged with adjudicating a claim and a statute requires the
16 agency with language that says “Shall” to render its decision
17 within 30 days of submission. It parallels to similar
18 language in the Maryland Constitution which directs the
19 Circuit Court and the Courts of Appeal to issue opinions or to
20 render decisions that they shall issue opinions or shall
21 render decisions within a certain period of time.

22 Courts have consistently held those statutes to be
23 directory because what happens is the posture in which they
24 are presented is a party who is adversely effected by a ruling
25 seeks to invalidate it on the basis of the fact that it didn't

1 comply with apparently mandatory language requiring that those
2 decisions be rendered within a certain period of time.

3 And the courts have carved out an exception to the
4 rule that shall is a mandatory verb when those circumstances
5 present themselves. We don't have that here. Here the agency
6 is again, it is clear on its face. The statute refers to --
7 the statutes refer to when a name shall appear on the ballot
8 and when it shall be removed and we don't think that there is
9 any room for the use of this doctrine in this case.

10 THE COURT: I am more interested in the
11 Constitutional argument quite frankly. That there is a
12 potential disenfranchisement of voters if they were confused
13 or cast a ballot for someone who is functionally disqualified
14 in sense of taking office. So how do we balance that against
15 the technical needs of the board?

16 MR. TRENTO: Well I think there is an interesting
17 issue as to what functionally disqualified means in Your
18 Honor's question. Because as of the date of the primary,
19 former Senator Oakes is not going to be disqualified. He is a
20 eligible candidate after that date. Barring something
21 happened between now and then that would render him
22 ineligible.

23 But what we have here, the posture of this case is,
24 yes he is likely to be sentenced in July and that sentencing
25 is likely to render him ineligible from that point forward but

1 what we have here is Mr. Oakes indicating a desire to remove
2 himself from the candidacy at a time that is well passed the
3 withdrawal deadline in this case.

4 THE COURT: So it is your position that he is not
5 ineligible by virtue of the guilty pleas alone?

6 MR. TRENTO: That is the position that we believe
7 the statute requires. The statute of eligibility, the
8 relevant statute regarding eligibility flows from his
9 eligibility as a registered voter. And a registered voter in
10 this state, in order to be ineligible because of a criminal
11 record, one must be actually serving a term of imprisonment
12 for that felony to be ineligible as a voter. And Mr. Oakes as
13 of June 26, will not be.

14 THE COURT: All right.

15 MR. TRENTO: And then in terms of -- in terms of the
16 rights of voters to have their -- to have -- to not have other
17 eligible candidates who voted for because of their likely
18 ineligibility at a later date, there is just nothing in the
19 law that would support that. So we would submit that the
20 Constitutional arguments similar are just not well founded.
21 The case -- the principal case in this line of cases has to do
22 with a yes an early filing deadline with regard to the 1980
23 Presidential election brought by independent Presidential
24 candidate John Anderson and some of his supporters.

25 But the issue there was not just the early filing

1 deadline but the early filing deadline as applied to an
2 independent candidate. He was required to file for -- file
3 his candidacy papers at the same time that the candidates for
4 the main parties were required even though he did not have to
5 compete in a primary. So he was required to file papers, 9 or
6 10 months -- I don't know what the exact date was but well in
7 advance in the general -- far advance in the general such that
8 the Supreme Court held he was actually being -- there was a
9 desperate treatment issue that was involved in that case.
10 That just isn't present here.

11 And so we would submit that these lines of cases
12 just generally don't address the issues that were confronted
13 here. Even if they did, the Constitutional analysis under
14 that Anderson and that verdict line of cases is one that
15 shifts based on the burden -- the burden on voting rights that
16 is imposed by the regulation. Every election regulation
17 imposes burdens. In this case, the burden as we articulate in
18 our papers, there is not a cognizable Constitutional right
19 along the lines of what they are asking for and what they are
20 beseeching the Court.

21 And so the burden on their voting rights, they can
22 continue to vote for the candidate of their desire. They can
23 continue to campaign on behalf of that candidate and can
24 campaign and say this guy is going to be ineligible and he
25 shouldn't be voted for. But their right to franchise is not

1 affected by the filing deadline in this case as it has been
2 applied.

3 Because the burden on their rights is relatively
4 minimal, more leeway is given to the State to regulate in this
5 area. The State just has to regulate in a way that supports
6 important State interests and otherwise is reasonable, modest
7 and non-discriminatory. As I said, Judge, it is clear that
8 the case law supports this. Every -- every election
9 regulation involves some form of line drawing where there are
10 going to be circumstances that don't seem to make sense. And
11 unfortunately this is one of those circumstances. But the
12 lines in this case are pretty clear.

13 You saw the testimony from Ms. Walker and both on
14 the stand and that is in the record, that there are ample
15 grounds to support the early filing deadline that is in place
16 here, such that it is certainly not an unconstitutional
17 arbitrary deadline. So we would submit that the
18 Constitutional claims are also not well founded.

19 Other factors also support the denial of the
20 preliminary injunction here. Judge, we don't believe that
21 there is an irreparable harm because it is hard to understand
22 what the plaintiff's harm is. They can continue to vote for
23 the candidates that they wish to vote for and campaign for the
24 candidates that they wish to campaign for. And so we don't
25 believe that there is much harm, much less any irreparable

1 harm on point 1.

2 The balance of interest on the other hand weigh
3 heavily in favor of the defendant's case here. You heard from
4 Ms. Walker, the difficulty that would entail having to change
5 the ballot at this late hour, again we accept that it is
6 doable but it gives rise to the possibility of error and it
7 would be a rushed situation that could impact voting rights in
8 other ways that we can't foresee right now. So we think the
9 ballots of interest weighs in favor of the defendants and for
10 the same reason the public interest weighs in favor of the
11 defendants.

12 Not only for the risk of error that would entail
13 from the entry of the PI here but also we believe that the
14 rules as they are written -- you know make for a clear,
15 understandable set of rules about filing and withdraw. It
16 eliminates the possibility of game playing. If the deadline
17 were to be extended, it would be more difficult for the
18 elections workers and the office here to do the work that they
19 need to do to prepare ballots. And would create uncertainty
20 with regard to how they would -- how they would be tasked with
21 exercising their discretion in those instances where somebody
22 comes forward with a pretty good reason for why their name
23 should be removed from the ballot after the filing deadline.

24 So unless the Court has questions we will submit.

25 THE COURT: I do not.

1 MR. TRENTO: Thank you.

2 THE COURT: Mr. Stichel, any final response?

3 MR. STICHEL: Yes, Your Honor.

4 THE COURT: Let me ask you to address the issue of
5 the provisional nature of Mr. Oakes' disqualification.

6 MR. STICHEL: Your Honor, it is correct. He is not
7 currently disqualified. Now he could withdraw his voter
8 registration and then he would be disqualified. But that has
9 not happened. He has filed an affidavit asking that his name
10 be taken off of the ballot but I would say effectively however
11 we look at this, he will be disqualified and he will not be
12 able to appear on the general election ballot. He will not be
13 able to serve.

14 Judge Bennett in his comments which were reported in
15 the press and I believe there is a letter in the Federal Court
16 file that makes it pretty clear that Mr. Oakes is not going to
17 be able to serve. So I think given that background, we are in
18 a situation where this case really does cry out for his name
19 to be removed from the ballot. I would just like to address
20 the practicalities that have come up through Ms. Walker's
21 testimony.

22 As I pointed out in the reply memorandum that I
23 filed, the dates for preparation for the ballot used to be
24 earlier. And in 2015, when the primary election date was
25 changed, the State Board agreed in fact, I think probably

1 drafted the bill that said that the certification and content
2 of the ballot shall be at least 55 days before the election.
3 If they have such concerns about timing, they could have put
4 in their bill a much earlier date which they didn't do.

5 I think it is Ms. Walker's testimony that -- that
6 she testified -- it would be great if they could do everything
7 beginning on Monday but if there was some additional time they
8 can accomplish the task and I think given the significant
9 issue here presented by Mr. Oakes' name being on the ballot,
10 that the case cries out for the relief that we seek and you
11 know as a practical matter, this case can be resolved very
12 quickly and then the printing of the ballots can go on.

13 And the other thing is I have to say and I don't
14 have any evidence here to dispute it but I still find it hard
15 to believe that taking one line out of one ballot some how
16 unravels the whole state election system. And if that is the
17 case, that isn't something that should be held against my
18 clients. If the state board has designed a system that is so
19 complex and so inflexible that taking one little line of print
20 off of a ballot undoes 400 and some ballots in the State of
21 Maryland, if there is a problem with that, that is the burden
22 that the state board should make because it should have
23 designed a better system. But that is all I have, Your Honor.

24 THE COURT: All right, thank you. Well I want to
25 give you some finality on the issue shortly so I am going to

1 take a brief recess and I expect to be about 20 minutes and
2 then I will render a decision.

3 MR. TRENTO: Thank you, Your Honor

4 (Whereupon, at 2:16 p.m., a brief recess was taken
5 and at 2:42 p.m. the case was recalled.)

6 THE COURT: We are resuming in Lewin et al versus
7 Lamone, C-02-CV-18-1013. And I am prepared to render a
8 decision in this matter as to the request for a preliminary
9 injunction. As we stand here today, Nathaniel Oakes is not
10 yet disqualified from holding the offices for which he is a
11 candidate. I can understand why Mr. Oakes would join if not
12 in this litigation in another case to put forth the -- his
13 assertion that he wishes to be removed from the ballot.

14 He has to stand up again before a Federal judge and
15 I am sure he would wish it to be clear that he does not intend
16 to participate or hold further office. I don't think that
17 point is dispositive of the issue. If he was currently
18 disqualified I believe that the interest of the voters in
19 District 41 particularly -- their interest to avoid the
20 potential of being constructively disenfranchised is quite
21 important. The harm attended(sic) to the rights of voters to
22 cast a meaningful vote for a qualified candidate rather than
23 potentially casting a meaningless vote by mistake or
24 inadvertence or election year mischief or a disqualified
25 candidate who cannot take the office would be in this case

1 greater than the minimal harm to the election process caused
2 the uncomfortable but adequate timing to reform the ballot in
3 this case.

4 But I am constrained by the singular fact while it
5 is virtually certain that Mr. Oakes will become disqualified
6 prior to the general election, it remains legally speculative
7 today. And close only counts in horseshoes. I cannot
8 determine such a fundamental voting issue with such a central
9 speculative fact and therefore I must reluctantly deny the
10 request for preliminary injunction in this matter. All right
11 and that will be my order as on the hearing sheet, as an order
12 of the Court. I thank you all and I know it is an interesting
13 issue -- yes, counsel?

14 MR. STICHEL: Your Honor, at this point I would like
15 to move for relief pursuant to Maryland Rule 2-3632 which
16 allows the Court to enter an injunction pending appeal. I
17 have a copy of the motion that I can hand up to the Court.

18 THE COURT: You may do so.

19 MR. STICHEL: Your Honor, the relief that I am
20 seeking in the motions is an injunction with respect to the
21 printing of the ballots basically to allow until Monday for me
22 to approach the Court of Appeals should my clients elect to
23 file those appeals to get further relief but just so Monday
24 morning the process doesn't start and then we get into the
25 situation that Ms. Walker said in her affidavit that once this

1 process begins, there would be substantial cost and whatever
2 to change it.

3 THE COURT: Your position counsel?

4 MR. TRENTO: Your Honor, we oppose the relief
5 requested.

6 THE COURT: I will decline to grant the motion. You
7 should, counsel take that up with the Court of Appeals or
8 Court of Special Appeals.

9 MR. STICHEL: Okay.

10 THE COURT: All right, thank you. Thank you all,
11 that will conclude this hearing.

12 (Whereupon, at 2:46 p.m., the hearing concluded.)

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CERTIFICATE OF TRANSCRIBER

I hereby certify that the proceedings in the matter of Nancy Lewin, et al versus Linda Lamone, Civil Number C-02-CV-18-001013, heard in the Circuit Court for Anne Arundel County, Maryland on April 20, 2018, were recorded by means of digital recording.

I further certify that, to the best of my knowledge and belief, page numbers 1 through 35 constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness whereof, I have affixed my signature of this 25th day of April, 2018.

By:

Lisa Contreras

Lisa N. Contreras
Certified Transcriber
Certificate No. CET**D-474

NANCY LEWIN
212 Edgevale Road
Baltimore, Maryland 21210

* **IN THE**
* **CIRCUIT COURT**

ELINOR MITCHELL
2706 Sulgrave Avenue
Baltimore, Maryland 21215

* **FOR**
* **ANNE ARUNDEL COUNTY**

and,

*

CHRISTOPHER ERVIN
4301 Ridgewood Avenue
Baltimore, Maryland 21215

* **Case No. C-02-CV-18-001013**
*

Plaintiffs,

*

v.

*

LINDA H. LAMONE, in her official
capacity as State Administrator,
Maryland State Board of Elections
151 West Street, Suite 200
Annapolis, Maryland 21401

*
*
*
*

Defendant.

* * * * *

**SECOND AMENDED VERIFIED COMPLAINT FOR MANDAMUS,
DECLARATORY JUDGMENT and
INJUNCTIVE RELIEF**

Nancy Lewin, Elinor Mitchell, and Christopher Ervin, Plaintiffs, by their attorneys bring the following action against Linda H. Lamone, in her official capacity as State Administrator, Maryland State Board of Elections, and allege as follows:

Parties

1. Nancy Lewin (“Lewin”) is a registered voter in Maryland’s Legislative District 41.

2. Elinor Mitchell (“Mitchell”) is a registered voter in Maryland’s Legislative District 41 and a candidate for the Democratic State Central Committee for Legislative District 41.

3. Christopher Ervin (“Ervin”) is a registered voter in Maryland’s Legislative District 41 and a candidate for the Democratic State Central Committee for Legislative District 41.

4. Linda H. Lamone (“Lamone” or “State Administrator”) is the State Administrator, Maryland State Board of Elections (“State Board”).

Facts Common to All Counts

6. Nathaniel T. Oaks (“Oaks”) filed certificates of candidacy for Maryland State Senate, Legislative District 41, and Maryland Democratic State Central Committee, Legislative District 41, for the Democratic Party Primary Election to be held on June 26, 2018.

7. The State Board has listed Oaks on its website as being a candidate for election to the Maryland State Senate, Legislative District 41, and Maryland Democratic State Central Committee for the Democratic Primary to be held on June 26, 2018.

8. The State Board has listed Oaks on proof sample ballots that is has published on its website. See http://elections.state.md.us/elections/2018/primary_ballots/baltimorecity.pdf (last accessed on April 15, 2018). *See also* Exhibit A attached hereto.

9. On March 29, 2018, Oaks pleaded guilty to Counts Three and Four of the Superseding Indictment against him that was filed in the United States District Court for the District of Maryland in *United States v. Oaks*, Criminal No. RDB-17-0288 (“Federal Criminal Case”).

10. Count Three charged Oaks with wire fraud in violation of 18 U.S.C. §1343.

11. Count Four charged Oaks with honest services wire fraud in violation of 18 U.S.C. §1346.

12. The maximum statutory sentence of imprisonment for both offenses is 20 years. Pursuant to the plea agreement in the Federal Criminal Case, the final adjusted offense level for Oaks' crimes is 30, which under Federal Sentencing Guidelines, would mean that the minimum sentence Oaks faces pursuant to the Guidelines is 97 months.

13. Oaks' sentencing in the Federal Case is scheduled to take place on July 17, 2018.

14. On April 23, 2018, Oaks requested that his name be removed from the statewide voter registration list pursuant to Maryland Code, Election Law §3-501(1).

15. On April 23, 2018, the Baltimore City Board of Elections removed Oaks' name from the statewide voter registration list and, thus, he no longer is a registered voter in Maryland.

16. The Baltimore Sun reported on March 30, 2018, that Jared DiMarinis, chief of candidacy for the State Board, stated that Oaks would remain on the June 26, 2018, Primary Election Ballot, notwithstanding his guilty plea, because he met the qualifications for the office he sought at the time of the filing deadline, which was February 27, 2018.

17. Maryland Constitution, Article I, § 12, provides:

Except as otherwise specifically provided herein, a person is ineligible to enter upon the duties of, or to continue to serve in, an elective office created by or pursuant to the provisions of this Constitution if the person was not a registered voter in this State on the date of the person's election or appointment to that term or if, at any time thereafter and prior to completion of the term, the person ceases to be a registered voter.

18. Maryland Code, Election Law §3-102(b)(1) provides that an individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment.

19. Oaks' guilty plea is the equivalent of a conviction of a felony and he will be serving a court-ordered sentence of imprisonment on the date of the General Election for the office of Maryland State Senator for Legislative District 41.

20. The By-Laws of the Maryland Democratic Party provide that member of the Democratic State Central Committee shall be disqualified for office and removed as a member upon the conviction of a felony.

21. Oaks currently is disqualified from holding the offices for which his name currently is listed on the ballot by virtue of his no longer being a registered voter in the State of Maryland.

22. Pursuant to the operation of Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii), a name of a candidate shall remain on the ballot and be submitted to the voters at a primary election unless the candidate's death or disqualification is known to the applicable election board by the 10th day after the filing deadline.

23. Nearly simultaneously with the filing of the original Complaint in the present case, Laura Harpool filed an action in this Court against the Baltimore City Elections Board, Armstead B.C. Jones in his official capacity as Elections Director of the Baltimore City Elections Board, the Maryland State Board of Elections and Linda H. Lamone in her official capacity as State Administrator of the Maryland State Board of Elections. ("Harpool Action.")

24. Filed with the Complaint in the Harpool Action is an Affidavit of Nathaniel T. Oaks. ("Oaks Affidavit.") A copy of the Affidavit is attached hereto as Exhibit B. The Oaks Affidavit affirms under the penalty of perjury the following:

1. From on or about February 10, 2017 until March 29, 2018, I served in the Maryland State Senate representing Legislative District 41.

2. I resigned my senate seat effective March 29, 2018, because I plead guilty the same day to two felony offenses in a federal criminal case pending against me in the United States District Court for the District of Maryland (*United States v. Oaks*, RDB-17-00288 (D. Md)).

3. I am currently on the ballot for the primary election, scheduled for June 26, 2018, to represent Legislative District 41 in the Maryland Senate.

4. I consent to have my name removed from the ballot for the primary election on June 26, 2018.

5. It is in the best interest of the people of Legislative District 41 that my name be removed from the ballot following my recent guilty plea on federal court.

6. I am of sound mind and body in making these statements, and no one has forced me to make them.

25. Neither the Plaintiffs in the present case nor undersigned counsel were aware of the Harpool Action or the Oaks Affidavit until Wednesday, April 11, 2018.

26. On April 11, 2018, Oaks' counsel filed a letter on his behalf in the Federal Criminal Case. A copy of the letter is attached as Exhibit C. The introductory paragraph of the letter states:

I write in regard to the advisement regarding the consequences of a felony conviction that the Court provided Mr. Oaks during his Rule 11 re-arraignment on March 29, 2018. Specifically, **this letter concerns the Court's advisement that Mr. Oaks is barred from holding elected office in the future due to his conviction in this case.** ("Emphasis added.)

27. On the evening of April 11, 2018, undersigned counsel sent a letter to Andrea Trento, Assistant Attorney General of Maryland and counsel to the State Board, requesting that the State Board or the State Election Administrator remove the name of Nathaniel T. Oaks from the ballot for the Democratic Party Primary Election to be held on June 26, 2018. Undersigned

counsel also requested the opportunity to appear before the State Board at its scheduled meeting on the next day, Thursday, April 12, 2018. A copy of the letter is attached as Exhibit D.

28. Undersigned counsel appeared before the State Board on Thursday, April 12, 2018, and requested on behalf of the plaintiffs in the present case that the State Board remove Oaks' name from the Democratic Party Primary Election ballot. The board was advised publicly by Assistant Attorney General Trento that it was his opinion at that time that the State Board did not have the authority to remove Oaks' name from the ballot. State Administrator Lamone also expressed concern during the meeting about the impact of multiple and continuing requests by candidates to change the ballot and that there had to be a deadline for changes.

29. The State Board took no action at the conclusion of undersigned counsel's presentation. On Friday, April 13, 2018, undersigned counsel sent an email to Assistant Attorney General Trento asking that he advise undersigned counsel if there had been any change in the State Board's position. On Saturday, April 14, 2018, Assistant Attorney General Trento advised undersigned counsel by email that the State Board took no further action after undersigned counsel's presentation. A copy of the email exchange is attached hereto as Exhibit E.

30. In addition to Oaks' name, the names of two additional candidates for the office of State Senator representing Legislative District 41 are listed on the ballot for the Democratic Party Primary Election to be held on June 26, 2018: Jill P. Carter ("Carter") and J.D. Merrill ("Merrill"). Both Carter and Merrill have filed affidavits in this matter stating that they have no objection to the removal of Oaks' name from the Democratic Party Primary Election ballot.

COUNT ONE
(Judicial Challenge to State Board's Refusal to Remove Oaks' Name from the Primary Election Ballot – EL § 12-202)

31. Paragraphs 1-30 above are incorporated as if recited herein.

32. The State Board's allowing on the Democratic Primary Election Ballot the name of a person who currently is disqualified from being a candidate for public office or serving in the offices that he seeks will cause confusion and cause voters to cast votes for an ineligible candidate.

33. The State Board's refusing to remove the name of a candidate who has pleaded guilty to two felony counts in Federal Court, has been advised by the Federal Judge who will be sentencing him that he will be barred from holding public office, has signed an affidavit requesting that his name be removed from the ballot, and has cancelled his voter registration will cause confusion and cause voters to cast votes for a candidate who cannot and/or will not be able to serve in the offices that he seeks.

34. Those voters who mistakenly cast votes for Oaks would cast votes for qualified candidates were Oaks' name not on the ballot.

35. The State Board's failure to remove Oaks' name from the Primary Election Ballot deprives the plaintiffs, and all voters within Legislative District 41, of their rights under Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, the Plaintiffs seek judicial review by this Court and an order directing Ms. Lamone in her capacity State Administrator for the State Board to remove Oaks' name from any and all ballots to be distributed to voters in Maryland Legislative District 41 for the Democratic Primary Election to be held on June 26, 2018.

COUNT TWO
(Writ of Mandamus – Maryland Rule 15-701)

36. Paragraphs 1-35 above are incorporated as if recited herein.

37. The State Board has a duty imposed by the Maryland Declaration of Rights and the United States Constitution to protect the right of the people to cast ballots in elections effectively.

38. The State Board's refusal to remove Oaks' name from the Primary Election ballot denies the voters of Legislative District 41 to cast effective ballots.

WHEREFORE, the Plaintiffs request that the Court issue a Writ of Mandamus directing Ms. Lamone in her capacity State Administrator for the State Board to remove Oaks' name from any and all ballots to be distributed to voters in Maryland Legislative District 41 for the Democratic Primary Election to be held on June 26, 2018.

COUNT THREE

(Declaratory Judgment -- Md. Cts. & Jud. Proc. Code §§ 3-401 to 3-415)

39 Paragraphs 1-38 above are incorporated as if recited herein.

40. An actual controversy exists between the Plaintiffs and the Defendant within the meaning of the Maryland Uniform Declaratory Judgment Act, Md. Cts. & Jud. Proc. Code § 3-409(a)(1).

41. Antagonistic claims are present between the Plaintiffs and the Defendant.

42. The Plaintiffs allege upon information and belief that the State Administrator's and/or the State Board's refusal to remove Oaks' name from the ballot is based upon reliance upon the advice of counsel that Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) do not allow the State Administrator and/or State Board to make any change in the primary election ballot once ten days have passed from the filing deadline.

43. The provision of the Election Law code that pertain to the dates for the withdrawal of a candidate and the removal of a candidate's name from a primary election ballot are not mandatory, but directory. The State Election Administrator and/or the State Board has the power

to remove a candidate's name from the primary election ballot under the facts and circumstances that Oaks' guilty plea, affidavit and cancellation of his voter registration present.

44. The refusal of the State Election Administrator and/or the State Board to remove Oaks' name from the Democratic Party Primary Election Ballot on the facts and circumstances of Oaks' guilty plea, request that his name be removed from the ballot and cancellation of his voter registration is arbitrary, capricious and an abuse of discretion.

45. Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) violate Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution in that they set an artificially early deadline for removal of a disqualified candidate's name from the Primary Election Ballot.

WHEREFORE, the Plaintiffs request that the Court issue a declaration that: (1) The provisions of Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) and all other provisions of the Maryland Code that pertain to the removal of a name from an election ballot are not mandatory, but are directory; (2) the refusal of the State Election Administrator and/or the State Board to remove Oaks' name from the Democratic Party Primary Election Ballot on the facts and circumstances of Oaks' guilty plea, request that his name be removed from the ballot and cancellation of his voter registration is arbitrary, capricious and an abuse of discretion; and (3) Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) as applied on the facts of the present case violate Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution.

COUNT FOUR
(Temporary Restraining Order)
(Maryland Rule 15-504)

46. The allegations of Paragraphs 1 to 44, above, are incorporated as if recited herein.

47. The actions of the State Board alleged above demonstrate that the State Board intends to distribute ballots to voters in the June 26, 2018, Democratic Primary Election that include Oaks' name as a candidate for State Senate and Democratic State Central Committee for Legislative District 41.

48. Should the State Board distribute ballots to voters in June 26, 2018, Democratic Primary Election that include Oaks' name as a candidate, the Plaintiffs will suffer immediate, substantial and irreparable harm before a full adversary hearing can be held on the propriety of a preliminary or final injunction.

49. The Plaintiffs are likely to succeed on the merits of their claims in this action.

50. The balance of convenience favors the Plaintiffs in that the statutory deadline for printing the Primary Election Ballots is May 7, 2018, and the deadline for sending absentee ballots to the overseas and military voters is not until May 12, 2018. See State Election Board 2018 Gubernatorial Election Calendar, page 3. A copy of the Calendar is attached hereto as Exhibit F. The removal of one name from the Democratic Party ballots for one Legislative District can be accomplished well within the time remaining before those deadlines.

51. The public interest would be served by the entry of a temporary restraining order in this action which involves fundamental issues of constitutional law and executive power in derogation of the rights of the people. Further, should voters be given ballots with the name of a candidate who is ineligible to be a candidate, the votes of those persons who would vote for the ineligible candidate will be disregarded. Given the strong public interest in protecting the votes of all voters, such a disregarding of ballots cast would violate public policy.

WHEREFORE, the Plaintiffs request that the Court enter a Temporary Restraining Order that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

COUNT FIVE
(Preliminary Injunction)
(Maryland Rule 15-505)

52. The allegations of Paragraphs 1 to 45, above, are incorporated as if recited herein.

53. The Plaintiffs are likely to succeed on the merits of their claims in this action.

54. The Plaintiffs will suffer substantial and irreparable harm should the State Board include Oaks' name as a candidate on the June 26, 2018, Democratic Primary Election Ballot.

55. The balance of convenience favors the Plaintiffs in that the Primary Election Ballots have not been printed yet. The statutory deadline for printing ballots is May 7, 2018, and the deadline for sending absentee ballots to the overseas and military voters is not until May 12, 2018. The removal of one name from the Democratic Party ballots for one Legislative District can be accomplished well within the time remaining before those deadlines.

56. The public interest would be served by the entry of a preliminary injunction in this action which involves fundamental issues of constitutional law and executive power in derogation of the rights of the people.

WHEREFORE, the Plaintiffs request that the Court enter a Preliminary Injunction that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

COUNT SIX
(Permanent Injunction)

57. The allegations of Paragraphs 1 to 56, above, are incorporated as if recited herein.

58. Should the State Board list Oaks' name on ballots to be distributed to voters in in the June 26, 2018, Democratic Primary Election, the plaintiffs will suffer irreparable injury and have no adequate remedy at law.

WHEREFORE, the Plaintiffs request that the Court enter a Permanent Injunction that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

**COUNT SEVEN
(Further Relief)**

59. The allegations of Paragraphs 1 to 58 above, are incorporated as if recited herein.

60. The Plaintiffs seek all such further relief to which they are entitled at law and in equity.

WHEREFORE, the Plaintiffs request that the Court award the Plaintiffs any and all such further relief as the Court may deem just and proper, including, but not limited to attorneys' fees and costs.

/s/

H. MARK STICHEL
CLIENT PROTECTION FUND NO.
8312010443
ELIZABETH A. HARLAN
CLIENT PROTECTION FUND NO.
1101050005
ASTRACHAN GUNST THOMAS, P.C.
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EMAIL: HMSTICHEL@AGTLAWYERS.COM

ATTORNEY FOR PLAINTIFFS

VERIFICATION

**I, NANCY LEWIN, swear under penalty of perjury that the contents of the forgoing
Complaint are true and correct**

A handwritten signature in black ink, appearing to read 'Nancy Lewin', written over a horizontal line.

NANCY LEWIN

Dated: April 23, 2018

MARYLAND RULE 20-201(f) CERTIFICATE

I HEREBY CERTIFY that this submission does not contain any restricted information.

/s/

H. MARK STICHEL

ATTORNEY FOR PLAINTIFFS

NANCY LEWIN
212 Edgevale Road
Baltimore, Maryland 21210

* IN THE
* CIRCUIT COURT

ELINOR MITCHELL
2706 Sulgrave Avenue
Baltimore, Maryland 21215

* FOR
* ANNE ARUNDEL COUNTY

and,

*

CHRISTOPHER ERVIN
4301 Ridgewood Avenue
Baltimore, Maryland 21215

* Case No. C-02-CV-18-001013
*

Plaintiffs,

*

v.

*

LINDA H. LAMONE, in her official
capacity as State Administrator,
Maryland State Board of Elections
151 West Street, Suite 200
Annapolis, Maryland 21401

*

*

*

*

Defendant.

* * * * *

**AMENDED VERIFIED COMPLAINT FOR MANDAMUS,
DECLARATORY JUDGMENT and
INJUNCTIVE RELIEF**

Nancy Lewin, Elinor Mitchell, and Christopher Erwin, Plaintiffs, by their attorneys bring the following action against Linda H. Lamone, in her official capacity as State Administrator, Maryland State Board of Elections, and allege as follows:

Parties

1. Nancy Lewin (“Lewin”) is a registered voter in Maryland’s Legislative District 41.

2. Elinor Mitchell (“Mitchell”) is a registered voter in Maryland’s Legislative District 41 and a candidate for the Democratic State Central Committee for Legislative District 41.

3. Christopher Erwin is a registered voter in Maryland’s Legislative District 41 and a candidate for the Democratic State Central Committee for Legislative District 41.

4. Linda H. Lamone (“Lamone” or “State Administrator”) is the State Administrator, Maryland State Board of Elections (“State Board”).

Facts Common to All Counts

6. Nathaniel T. Oaks (“Oaks”) filed certificates of candidacy for Maryland State Senate, Legislative District 41, and Maryland Democratic State Central Committee, Legislative District 41, for the Democratic Party Primary Election to be held on June 26, 2018.

7. The State Board has listed Oaks on its website as being a candidate for election to the Maryland State Senate, Legislative District 41, and Maryland Democratic State Central Committee for the Democratic Primary to be held on June 26, 2018.

8. The State Board has listed Oaks on proof sample ballots that it has published on its website. See http://elections.state.md.us/elections/2018/primary_ballots/baltimorecity.pdf (last accessed on April 15, 2018). See also Exhibit A attached hereto.

9. On March 29, 2018, Oaks pleaded guilty to Counts Three and Four of the Superseding Indictment against him that was filed in the United States District Court for the District of Maryland in *United States v. Oaks*, Criminal No. RDB-17-0288 (“Federal Criminal Case”).

10. Count Three charged Oaks with wire fraud in violation of 18 U.S.C. §1343.

11. Count Four charged Oaks with honest services wire fraud in violation of 18 U.S.C. §1346.

12. The maximum statutory sentence of imprisonment for both offenses is 20 years. Pursuant to the plea agreement in the Federal Criminal Case, the final adjusted offense level for Oaks' crimes is 30, which under Federal Sentencing Guidelines, would mean that the minimum sentence Oaks faces pursuant to the Guidelines is 97 months.

13. Oaks' sentencing in the Federal Case is scheduled to take place on July 17, 2018.

14. The Baltimore Sun reported on March 30, 2018, that Jared DiMarinis, chief of candidacy for the State Board, stated that Oaks would remain on the June 26, 2018, Primary Election Ballot, notwithstanding his guilty plea, because he met the qualifications for the office he sought at the time of the filing deadline, which was February 27, 2018.

15. Maryland Constitution, Article I, § 12, provides:

Except as otherwise specifically provided herein, a person is ineligible to enter upon the duties of, or to continue to serve in, an elective office created by or pursuant to the provisions of this Constitution if the person was not a registered voter in this State on the date of the person's election or appointment to that term or if, at any time thereafter and prior to completion of the term, the person ceases to be a registered voter.

16. Maryland Code, Election Law §3-102(b)(1) provides that an individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment.

17. Oaks' guilty plea is the equivalent of a conviction of a felony and he will be serving a court-ordered sentence of imprisonment on the date of the General Election for the office of Maryland State Senator for Legislative District 41.

18. The By-Laws of the Maryland Democratic Party provide that a member of the Democratic State Central Committee shall be disqualified for office and removed as a member upon the conviction of a felony.

18. Pursuant to the operation of Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii), a name of a candidate shall remain on the ballot and be submitted to the voters at a primary election unless the candidate's death or disqualification is known to the applicable election board by the 10th day after the filing deadline.

19. Nearly simultaneously with the filing of the original Complaint in the present case, Laura Harpool filed an action in this Court against the Baltimore City Elections Board, Armstead B.C. Jones in his official capacity as Elections Director of the Baltimore City Elections Board, the Maryland State Board of Elections and Linda H. Lamone in her official capacity as State Administrator of the Maryland State Board of Elections. ("Harpool Action.")

20. Filed with the Complaint in the Harpool Action is an Affidavit of Nathaniel T. Oaks. ("Oaks Affidavit.") A copy of the Affidavit is attached hereto as Exhibit B. The Oaks Affidavit affirms under the penalty of perjury the following:

1. From on or about February 10, 2017 until March 29, 2018, I served in the Maryland State Senate representing Legislative District 41.

2. I resigned my senate seat effective March 29, 2018, because I plead guilty the same day to two felony offenses in a federal criminal case pending against me in the United States District Court for the District of Maryland (*United States v. Oaks*, RDB-17-00288 (D. Md)).

3. I am currently on the ballot for the primary election, scheduled for June 26, 2018, to represent Legislative District 41 in the Maryland Senate.

4. I consent to have my name removed from the ballot for the primary election on June 26, 2018.

5. It is in the best interest of the people of Legislative District 41 that my name be removed from the ballot following my recent guilty plea in federal court.

6. I am of sound mind and body in making these statements, and no one has forced me to make them.

21. Neither the Plaintiffs in the present case nor undersigned counsel were aware of the Harpool Action or the Oaks Affidavit until Wednesday, April 11, 2018.

22. On April 11, 2018, Oaks' counsel filed a letter on his behalf in the Federal Criminal Case. A copy of the letter is attached as Exhibit C. The introductory paragraph of the letter states:

I write in regard to the advisement regarding the consequences of a felony conviction that the Court provided Mr. Oaks during his Rule 11 re-arraignment on March 29, 2018. Specifically, **this letter concerns the Court's advisement that Mr. Oaks is barred from holding elected office in the future due to his conviction in this case.** (Emphasis added.)

23. On the evening of April 11, 2018, undersigned counsel sent a letter to Andrea Trento, Assistant Attorney General of Maryland and counsel to the State Board, requesting that the State Board or the State Election Administrator remove the name of Nathaniel T. Oaks from the ballot for the Democratic Party Primary Election to be held on June 26, 2018. Undersigned counsel also requested the opportunity to appear before the State Board at its scheduled meeting on the next day, Thursday, April 12, 2018. A copy of the letter is attached as Exhibit D.

24. Undersigned counsel appeared before the State Board on Thursday, April 12, 2018, and requested on behalf of the plaintiffs in the present case that the State Board remove Oaks' name from the Democratic Party Primary Election ballot. The board was advised publicly by

Assistant Attorney General Trento that it was his opinion at that time that the State Board did not have the authority to remove Oaks' name from the ballot. State Administrator Lamone also expressed concern during the meeting about the impact of multiple and continuing requests by candidates to change the ballot and that there had to be a deadline for changes.

25. The State Board took no action at the conclusion of undersigned counsel's presentation. On Friday, April 13, 2018, undersigned counsel sent an email to Assistant Attorney General Trento asking that he advise undersigned counsel if there had been any change in the State Board's position. On Saturday, April 14, 2018, Assistant Attorney General Trento advised undersigned counsel by email that the State Board took no further action after undersigned counsel's presentation. A copy of the email exchange is attached hereto as Exhibit E.

COUNT ONE

(Judicial Challenge to State Board's Refusal to Remove Oaks' Name from the Primary Election Ballot – EL § 12-202)

26. Paragraphs 1-25 above are incorporated as if recited herein.

27. The State Board's allowing on the Democratic Primary Election Ballot the name of a person who will be disqualified from appearing on the General Election Ballot or serving in the offices that he seeks will cause confusion and cause voters to cast votes for an ineligible candidate.

28. The State Board's refusing to remove the name of a candidate who has pleaded guilty to two felony counts in Federal Court, has been advised by the Federal Judge who will be sentencing him that he will be barred from holding public office and has signed an affidavit requesting that his name be removed from the ballot will cause confusion and cause voters to cast votes for a candidate who cannot and/or will not be able to serve in the offices that he seeks.

29. Those voters who mistakenly cast votes for Oaks would cast votes for qualified candidates were Oaks' name not on the ballot.

30. The State Board's failure to remove Oaks' name from the Primary Election Ballot deprives the plaintiffs, and all voters within Legislative District 41, of their rights under Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, the Plaintiffs seek judicial review by this Court and an order directing Ms. Lamone in her capacity as State Administrator for the State Board to remove Oaks' name from any and all ballots to be distributed to voters in Maryland Legislative District 41 for the Democratic Primary Election to be held on June 26, 2018.

COUNT TWO
(Writ of Mandamus – Maryland Rule 15-701)

31. Paragraphs 1-30 above are incorporated as if recited herein.

32. The State Board has a duty imposed by the Maryland Declaration of Rights and the United States Constitution to protect the right of the people to cast ballots in elections effectively.

33. The State Board's refusal to remove Oaks' name from the Primary Election ballot denies the voters of Legislative District 41 to cast effective ballots.

WHEREFORE, the Plaintiffs request that the Court issue a Writ of Mandamus directing Ms. Lamone in her capacity as State Administrator for the State Board to remove Oaks' name from any and all ballots to be distributed to voters in Maryland Legislative District 41 for the Democratic Primary Election to be held on June 26, 2018.

COUNT THREE
(Declaratory Judgment Md. Cts. & Jud. Proc. Code §§ 3-401 to 3-415)

34. Paragraphs 1-33 above are incorporated as if recited herein.

35. An actual controversy exists between the Plaintiffs and the Defendant within the meaning of the Maryland Uniform Declaratory Judgment Act, Md. Cts. & Jud. Proc. Code § 3-409(a)(1).

36. Antagonistic claims are present between the Plaintiffs and the Defendant.

37. The Plaintiffs allege upon information and belief that the State Administrator's and/or the State Board's refusal to remove Oaks' name from the ballot is based upon reliance upon the advice of counsel that Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) do not allow the State Administrator and/or State Board to make any change in the primary election ballot once ten days have passed from the filing deadline.

38. The provision of the Election Law code that pertain to the dates for the withdrawal of a candidate and the removal of a candidate's name from a primary election ballot are not mandatory, but directory. The State Election Administrator and/or the State Board has the power to remove a candidate's name from the primary election ballot under the facts and circumstances that Oaks' guilty plea and affidavit present.

39. The refusal of the State Election Administrator and/or the State Board to remove Oaks' name from the Democratic Party Primary Election Ballot on the facts and circumstances of Oaks' guilty plea and request that his name be removed from the ballot is arbitrary, capricious and an abuse of discretion.

40. Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) violate Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution in that they set an artificially early deadline for removal of a disqualified candidate's name from the Primary Election Ballot.

WHEREFORE, the Plaintiffs request that the Court issue a declaration that: (1) The provisions of Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) and all other provisions of the Maryland Code that pertain to the removal of a name from an election ballot are not mandatory, but are directory; (2) the refusal of the State Election Administrator and/or the State Board to remove Oaks' name from the Democratic Party Primary Election Ballot on the facts and circumstances of Oaks' guilty plea and request that his name be removed from the ballot is arbitrary, capricious and an abuse of discretion; and (3) Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) as applied on the facts of the present case violate Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution.

COUNT FOUR
(Temporary Restraining Order)
(Maryland Rule 15-504)

41. The allegations of Paragraphs 1-40, above, are incorporated as if recited herein.

42. The actions of the State Board alleged above demonstrate that the State Board intends to distribute ballots to voters in the June 26, 2018, Democratic Primary Election that include Oaks' name as a candidate for State Senate and Democratic State Central Committee for Legislative District 41.

43. Should the State Board distribute ballots to voters in the June 26, 2018, Democratic Primary Election that include Oaks' name as a candidate, the Plaintiffs will suffer immediate, substantial and irreparable harm before a full adversary hearing can be held on the propriety of a preliminary or final injunction.

44. The Plaintiffs are likely to succeed on the merits of their claims in this action.

45. The balance of convenience favors the Plaintiffs in that the Primary Election Ballots have not been printed yet. The statutory deadline for printing ballots is May 7, 2018, and the

deadline for sending absentee ballots to overseas and military voters is not until May 12, 2018. See State Election Board 2018 Gubernatorial Election Calendar, page 3. A copy of the Calendar is attached hereto as Exhibit F. The removal of one name from the Democratic Party ballots for one Legislative District can be accomplished well within the time remaining before those deadlines.

46. The public interest would be served by the entry of a temporary restraining order in this action which involves fundamental issues of constitutional law and executive power in derogation of the rights of the people. Further, should voters be given ballots with the name of a candidate who is ineligible to be a candidate or to serve in the offices sought, the votes of those persons who would vote for the ineligible candidate will be disregarded. Given the strong public interest in protecting the votes of all voters, such a disqualification would violate public policy.

WHEREFORE, the Plaintiffs request that the Court enter a Temporary Restraining Order that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

COUNT FIVE
(Preliminary Injunction)
(Maryland Rule 15-505)

47. The allegations of Paragraphs 1-46, above, are incorporated as if recited herein.

48. The Plaintiffs are likely to succeed on the merits of their claims in this action.

49. The Plaintiffs will suffer substantial and irreparable harm should the State Board include Oaks' name as a candidate on the June 26, 2018, Democratic Primary Election Ballot.

50. The balance of convenience favors the Plaintiffs in that the Primary Election Ballots have not been printed yet. The statutory deadline for printing ballots is May 7, 2018, and the

deadline for sending absentee ballots to the overseas and military voters is not until May 12, 2018. The removal of one name from the Democratic Party ballots for one Legislative District can be accomplished well within the time remaining before those deadlines.

51. The public interest would be served by the entry of a preliminary injunction in this action which involves fundamental issues of constitutional law and executive power in derogation of the rights of the people.

WHEREFORE, the Plaintiffs request that the Court enter a Preliminary Injunction that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

COUNT SIX
(Permanent Injunction)

52. The allegations of Paragraphs 1 to 51, above, are incorporated as if recited herein.

53. Should the State Board list Oaks' name on ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election, the Plaintiffs will suffer irreparable injury and have no adequate remedy at law.

WHEREFORE, the Plaintiffs request that the Court enter a Permanent Injunction that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

**COUNT SEVEN
(Further Relief)**

54. The allegations of Paragraphs 1-53 above, are incorporated as if recited herein.

55. The Plaintiffs seek all such further relief to which they are entitled at law and in equity.

WHEREFORE, the Plaintiffs request that the Court award the Plaintiffs any and all such further relief as the Court may deem just and proper, including, but not limited to attorneys' fees and costs.



**H. MARK STICHEL
CLIENT PROTECTION FUND NO.
8312010443**

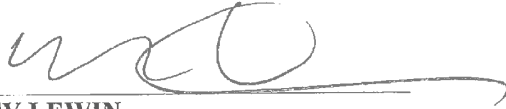
**ASTRACHAN GUNST THOMAS, P.C.
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BALTIMORE, MARYLAND 21202**

**TELEPHONE: 410-783-3547
FACSIMILE: 410-783-3530
EMAIL: HMSTICHEL@AGTLAWYERS.COM**

ATTORNEY FOR PLAINTIFFS

VERIFICATION

I, NANCY LEWIN, swear under penalty of perjury that the contents of the forgoing Complaint are true and correct

A handwritten signature in black ink, appearing to read 'Nancy Lewin', written over a horizontal line.

NANCY LEWIN
Dated: April 15, 2018

MARYLAND RULE 20-201(f) CERTIFICATE

I HEREBY CERTIFY that this submission does not contain any restricted information.



H. MARK STICHEL

ATTORNEY FOR PLAINTIFFS

NANCY LEWIN
212 Edgevale Road
Baltimore, Maryland 21210

* IN THE
* CIRCUIT COURT

ELINOR MITCHELL
2706 Sulgrave Avenue
Baltimore, Maryland 21215

* FOR
* ANNE ARUNDEL COUNTY

and,

*
* C-02-CV-18-001013

CHRISTOPHER ERVIN
4301 Ridgewood Avenue
Baltimore, Maryland 21215

* Case No. _____
*

Plaintiffs,

*

v.

*

LINDA H. LAMONE, in her official
capacity as State Administrator,
Maryland State Board of Elections
151 West Street, Suite 200
Annapolis, Maryland 21401

*
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*
*

Defendant.

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**VERIFIED COMPLAINT FOR MANDAMUS,
DECLARATORY JUDGMENT and
INJUNCTIVE RELIEF**

Nancy Lewin, Elinor Mitchell, and Christopher Erwin, Plaintiffs, by their attorneys bring the following action against Linda H. Lamone, in her official capacity as State Administrator, Maryland State Board of Elections, and allege as follows:

Parties

1. Nancy Lewin (“Lewin”) is a registered voter in Maryland’s Legislative District 41.

2. Elinor Mitchell (“Mitchell”) is a registered voter in Maryland’s Legislative District 41 and a candidate for the Democratic State Central Committee for Legislative District 41.

3. Christopher Erwin is a registered voter in Maryland’s Legislative District 41 and a candidate for the Democratic State Central Committee for Legislative District 41.

4. Linda H. Lamone (“Lamone” or “State Administrator”) is the State Administrator, Maryland State Board of Elections (“State Board”).

Facts Common to All Counts

6. Nathaniel T. Oaks (“Oaks”) filed a certificates of candidacy for Maryland State Senate, Legislative District 41, and Maryland Democratic State Central Committee, Legislative District 41, for the Democratic Party Primary Election to be held on June 26, 2018.

7. The State Board has listed Oaks on its website as being a candidate for election to the Maryland State Senate, Legislative District 41, and Maryland Democratic State Central Committee for the Democratic Primary to be held on June 26, 2018.

8. The State Board has listed Oaks on proof sample ballots that is has published on its website. See http://elections.state.md.us/elections/2018/primary_ballots/baltimorecity.pdf (last accessed on April 9, 2018).

9. On March 29, 2018, Oaks pleaded guilty to Counts Three and Four of the Superseding Indictment against him that was filed in the United States District Court for the District of Maryland in *United States v. Oaks*, Criminal No. RDB-17-0288 (“Federal Criminal Case”).

10. Count Three charged Oaks with wire fraud in violation of 18 U.S.C. §1343.

11. Count Four charged Oaks with honest services wire fraud in violation of 18 U.S.C. §1346.

12. The maximum statutory sentence of imprisonment for both offenses is 20 years. Pursuant to the plea agreement in the Federal Criminal Case, the final adjusted offense level for Oaks' crimes is 30, which under Federal Sentencing Guidelines, would mean that the minimum sentence Oaks faces pursuant to the Guidelines is 97 months.

13. Oaks' sentencing in the Federal Case is scheduled to take place on July 17, 2018.

14. The Baltimore Sun reported on March 30, 2018, that Jared DiMarinis, chief of candidacy for the State Board, stated that Oaks would remain on the June 26, 2018, Primary Election Ballot, notwithstanding his guilty plea, because he met the qualifications for the office he sought at the time of the filing deadline, which was February 27, 2018.

15. Maryland Constitution, Article I, § 12, provides:

Except as otherwise specifically provided herein, a person is ineligible to enter upon the duties of, or to continue to serve in, an elective office created by or pursuant to the provisions of this Constitution if the person was not a registered voter in this State on the date of the person's election or appointment to that term or if, at any time thereafter and prior to completion of the term, the person ceases to be a registered voter.

16. Maryland Code, Election Law §3-102(b)(1) provides that an individual is not qualified to be a registered voter if the individual:

(1) has been convicted of a felony and is actually serving a court-ordered sentence of imprisonment.

17. Oaks' guilty plea is the equivalent of a conviction of a felony and he will be serving a court-ordered sentence of imprisonment on the date of the General Election for the office of Maryland State Senator for Legislative District 41.

18. The By-Laws of the Maryland Democratic Party provide that member of the Democratic State Central Committee shall be disqualified for office and removed as a member upon the conviction of a felony.

18. Pursuant to the operation of Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii), a name of a candidate shall remain on the ballot and be submitted to the voters at a primary election unless the candidate's death or disqualification is known to the applicable election board by the 10th day after the filing deadline.

COUNT ONE
(Judicial Challenge to State Board's Refusal to Remove Oaks' Name from the Primary Election Ballot – EL § 12-202)

19. Paragraphs 1-18 above are incorporated as if recited herein.

20. The State Board's allowing on the Democratic Primary Election Ballot the name of a person who will be disqualified from appearing on the General Election Ballot or serving in the offices that he seeks will cause confusion and cause voters to cast votes for an ineligible candidate.

21. Those voters who mistakenly cast votes for Oaks would cast votes for qualified candidates were Oaks' name not on the ballot.

22. The State Board's failure to remove Oaks' name from the Primary Election Ballot deprives the plaintiffs, and all voters within Legislative District 41, of their rights under Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution.

WHEREFORE, the Plaintiffs seek judicial review by this Court and an order directing Ms. Lamone in her capacity State Administrator for the State Board to remove Oaks' name from any and all ballots to be distributed to voters in Maryland Legislative District 41 for the Democratic Primary Election to be held on June 26, 2018.

COUNT TWO
(Writ of Mandamus – Maryland Rule 15-701)

23. Paragraphs 1-22 above are incorporated as if recited herein.

24. The State Board has a duty imposed by the Maryland Declaration of Rights and the United States Constitution to protect the right of the people to cast ballots in elections effectively.

25. The State Board's refusal to remove Oaks' name from the Primary Election ballot denies the voters of Legislative District 41 to cast effective ballots.

WHEREFORE, the Plaintiffs request that the Court issue a Writ of Mandamus directing Ms. Lamone in her capacity State Administrator for the State Board to remove Oaks' name from any and all ballots to be distributed to voters in Maryland Legislative District 41 for the Democratic Primary Election to be held on June 26, 2018.

COUNT THREE
(Md. Cts. & Jud. Proc. Code §§ 3-401 to 3-415)

26 Paragraphs 1-25 above are incorporated as if recited herein.

27. An actual controversy exists between the Plaintiffs and the Defendant within the meaning of the Maryland Uniform Declaratory Judgment Act, Md. Cts. & Jud. Proc. Code § 3-409(a)(1).

28. Antagonistic claims are present between the Plaintiffs and the Defendant.

29. The Plaintiffs allege upon information and belief that the State Board's refusal to remove Oaks' name from the ballot is based upon Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii).

30. Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) violate Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution in that they set an artificially early deadline for removal of a disqualified candidate's name from the Primary Election Ballot.

WHEREFORE, the Plaintiffs request that the Court issue a declaration that Maryland Code, Election Law §§5-504(b) and 5-601(1)(ii) as applied on the facts of the present case violate Articles 7 and 24 of the Maryland Declaration of Rights and the First and Fourteenth Amendments to the United States Constitution.

COUNT FOUR
(Temporary Restraining Order)
(Maryland Rule 15-504)

31. The allegations of Paragraphs 1 to 30, above, are incorporated as if recited herein.

32. The actions of the State Board alleged above demonstrate that the State Board intends to distribute ballots to voters in the June 26, 2018, Democratic Primary Election that include Oaks' name as a candidate for State Senate and Democratic State Central Committee for Legislative District 41.

33. Should the State Board distribute ballots to voters in June 26, 2018, Democratic Primary Election that include Oaks' name as a candidate, the Plaintiffs will suffer immediate, substantial and irreparable harm before a full adversary hearing can be held on the propriety of a preliminary or final injunction.

34. The Plaintiffs are likely to succeed on the merits of their claims in this action.

35. The public interest would be served by the entry of a temporary restraining order in this action which involves fundamental issues of constitutional law and executive power in derogation of the rights of the people. Further, should voters be given ballots with the name of a candidate who is ineligible to be a candidate, the votes of those persons who would vote for the ineligible candidate will be disregarded. Given the strong public interest in protecting the votes of all voters, such a disqualification would violate public policy.

WHEREFORE, the Plaintiffs request that the Court enter a Temporary Restraining Order that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

COUNT FIVE
(Preliminary Injunction)
(Maryland Rule 15-505)

36. The allegations of Paragraphs 1 to 35, above, are incorporated as if recited herein.

37. The Plaintiffs are likely to succeed on the merits of their claims in this action.

38. The Plaintiffs will suffer substantial and irreparable harm should the State Board include Oaks' name as a candidate on the June 26, 2018, Democratic Primary Election Ballot.

39. The public interest would be served by the entry of a preliminary injunction in this action which involves fundamental issues of constitutional law and executive power in derogation of the rights of the people.

WHEREFORE, the Plaintiffs request that the Court enter a Preliminary Injunction that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

COUNT SIX
(Permanent Injunction)

40. The allegations of Paragraphs 1 to 39, above, are incorporated as if recited herein.

41. Should the State Board list Oaks' name on ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election, the plaintiffs will suffer irreparable injury and have no adequate remedy at law.

WHEREFORE, the Plaintiffs request that the Court enter a Permanent Injunction that enjoins the State Board from listing Oaks' name on any and all ballots to be distributed to voters in the June 26, 2018, Democratic Primary Election.

COUNT SEVEN
(Further Relief)

42. The allegations of Paragraphs 1 to 41 above, are incorporated as if recited herein.

43. The Plaintiffs seek all such further relief to which they are entitled at law and in equity.

WHEREFORE, the Plaintiffs request that the Court award the Plaintiffs any and all such further relief as the Court may deem just and proper, including, but not limited to attorneys' fees and costs.




H. MARK STICHEL
ASTRACHAN GUNST THOMAS, P.C.
217 EAST REDWOOD STREET, 21ST FLOOR
BALTIMORE, MARYLAND 21202

TELEPHONE: 410-783-3547
FACSIMILE: 410-783-3530
EMAIL: HMSTICHEL@AGTLAWYERS.COM

ATTORNEY FOR PLAINTIFFS

VERIFICATION

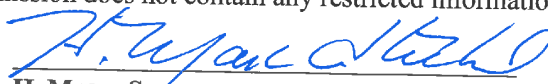
**I, NANCY LEWIN, swear under penalty of perjury that the contents of the forgoing
Complaint are true and correct**



NANCY LEWIN
Dated: April 9, 2018

MARYLAND RULE 20-201(f) CERTIFICATE

I HEREBY CERTIFY that this submission does not contain any restricted information.


H. MARK STICHEL

ATTORNEY FOR PLAINTIFFS

NANCY LEWIN, *et al.*

Petitioners,

v.

LINDA H. LAMONE, in her official
capacity as State Administrator,
Maryland State Board of Elections,

Respondent.

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* Case No.: C-02-CV-18-001013
*

* * * * *

AFFIDAVIT OF NATASHA WALKER

I, Natasha Walker, am over the age of eighteen years of age, am competent to testify, and have personal knowledge of the matters to which I testify below.

1. I have been employed by the Maryland State Board of Elections (“SBE”) since 2003. I currently serve as Project Manager of Election Management Systems and have been performing the functions of that job since July, 2015. My work requires, among other things, coordinating the preparation of ballots in advance of the primary and general elections

2. The deadline for an individual seeking to become a candidate for a public or party office in connection with the 2018 gubernatorial election was February 27, 2018, at 9:00pm. In total, 2,563 certificates of candidacy were filed by the February 27, 2018 deadline.

3. The deadline for a candidate to withdraw his or her candidacy so that his or her name would not appear on the primary ballot was March 1, 2018. In total, 77

certificates of withdrawal were filed by the March 1, 2018 deadline of which 23 were filed after the February 27, 2018 candidate filing deadline.

4. The last day for which a candidate's death or disqualification, having become known to SBE or the appropriate local board, would result in the candidate's removal from the primary ballot was Friday, March 9, 2018. In total, 8 candidates were determined to have become deceased or disqualified by the appropriate board of elections by the March 9, 2018 deadline for having their names removed from the primary ballot.

5. On Monday, March 12, 2018 – the first business day after that March 9, 2018 deadline – SBE began creating ballot databases, importing the ballot data, and laying out the different ballots that will be in use across the state for the primary election.

6. On March 23, 2018, local boards of election (“LBEs”) received ballot proofing packages to review and approve the ballots pertinent to their respective jurisdictions. This process takes approximately one week for larger jurisdictions such as Baltimore City.

7. On April 3, 2018, ballots were certified pursuant to Md. Code Ann. EL § 9-207(a)(1) and placed on SBE's website for public viewing. In total, 747 different ballots will be in use across the State during the 2018 primary election. Approximately 2 of these different ballots, which are assigned to 50 election day precincts and 7 early voting centers, include the primary contest for the Democratic nomination for Senate representing Legislative District. Any change to the ballot during the period prior to certification would have required SBE to correct the relevant databases and redo the

process of laying out affected ballots, and would have required affected LBEs to re-review and re-approve affected ballots pertinent to their jurisdictions.

8. Pursuant to Md. Code Ann. EL § 9-207(a)(1), the certification of ballots must take place “at least 55 days before the election,” which, for the 2018 primary election, imposes a deadline of May 2, 2018. However, because absentee ballots must be made available to military and overseas voters no later than 45 days before the election (this year, May 12, 2018) pursuant to 42 U.S.C. § 1973gg-1(a)(8), SBE strives to certify ballots as early as possible to allow for the completion of the several steps required to take place before the May 12, 2018 deadline.

9. On April 11, 2018, SBE began the process of creating PDFs of all 747 of the primary election ballots for each of the different ballot formats that will be in use (including specimen ballots, election day ballots, test deck ballots, absentee ballots, 11-inch ballots for web delivery, and duplication ballots for automated duplication of certain absentee ballots not capable of being processed by tabulation machines). Start to finish, this process takes approximately eight days. Any change to the ballots during this period would require PDFs of the affected ballots across all formats to be redone.

10. On April 18, 2018, SBE expects to import final ballot style data into its MDVOTERS database. Once this is done, local boards of election must verify that styles are aligned with the correct precincts and splits. For larger jurisdictions such as Baltimore City this process takes approximately one week, and any change to the ballots during or after this process would require the ballot styles to be reimported and would require affected LBEs to re-verify all ballot style to precinct associations.

11. On April 23, 2018, SBE expects to begin the printing of test decks and ballots. This process typically takes 3 weeks, and at the conclusion of the printing process approximately 1,500,000 different physical ballots will have been generated. After the date that printing begins, changes to ballots would be costly and disruptive. The pre-print production process takes approximately 2 days to lay out the ballot styles and create the metal printing plates for each ballot style. When ballot styles change, new ballot style PDF's must be sent to the printer and the pre-print production process must be redone. Any ballots printed for the impacted jurisdiction must be disposed of to ensure that the wrong ballot styles do not get sent to the jurisdiction.

12. On April 25, 2018, SBE expects to finalize the ballot style process in the MDVOTERS database by assigning voters who have requested an absentee ballot to the current election. Once the absentee voters have been assigned to the current election, there is no way to unassign them without intervention from the MDVOTERS development team. After speaking with the development team, it is my understanding that it would take approximately 5 days to return to the point where absentee voters can be assigned to the current election again.

13. On April 26, 2018, SBE expects to begin testing of its web delivery system. Under Maryland law, voters may request that absentee ballots be delivered to them via the web. In order to test SBE's web delivery system, SBE must transmit ballot style and content data to its programmer, who then performs quality assurance testing using real absentee voters. The testing process takes approximately two weeks, and must be complete before the May 12, 2018 deadline for making absentee ballots available to

military and overseas voters. Also, the testing process may not begin until absentee ballots are assigned to voters.

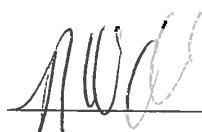
14. While ballots are being prepared, SBE also conducts testing of its election results site and news feed, to allow for real-time election results reporting to the public. The process draws on finalized ballot information to produce XML and CSV files of all final contest and candidate data for the purpose of producing test results files and HTML test results pages. This process begins at the time of ballot certification and takes approximately two months to complete. This testing process must be complete by June 15, 2018.

15. Early voting for the 2018 primary election is scheduled to begin June 14, 2018.

16. Election day for the 2018 primary election is June 26, 2018.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

April 18, 2018



Natasha Walker

NANCY LEWIN, *et al.*

Petitioners,

v.

LINDA H. LAMONE, in her official
capacity as State Administrator,
Maryland State Board of Elections,

Respondent.

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* Case No.: C-02-CV-18-001013
*

* * * * *

SUPPLEMENTAL AFFIDAVIT OF NATASHA WALKER

I, Natasha Walker, am over the age of eighteen years of age, am competent to testify, and have personal knowledge of the matters to which I testify below.

1. I have been employed by the Maryland State Board of Elections (“SBE”) since 2003. I currently serve as Project Manager of Election Management Systems and have been performing the functions of that job since July, 2015. My work requires, among other things, coordinating the preparation of ballots in advance of the primary and general elections.

2. On April 18, 2018, I executed an affidavit that was submitted in support of the Defendant’s Memorandum in Opposition to Motion for Temporary Restraining Order and/or Preliminary Injunction (the “First Affidavit”) in the above-captioned matter. In that First Affidavit, I made reference to various ballot-preparation steps that had already occurred as of the date of that affidavit, as well as several ballot- and election-preparation steps that SBE expected to commence on certain dates in the future.

3. On April 23, 2018, SBE did in fact begin the printing of test decks and ballots, as I had anticipated in paragraph 11 of my First Affidavit. Also, absentee ballot PDFs and files have been sent to the absentee printer.

4. On April 25, 2018, SBE did in fact assign absentee voters to the current election from the MDVOTERS database, as I had anticipated in paragraph 12 of my First Affidavit.

5. Tomorrow, April 26, 2018, SBE is on track to begin testing of its web delivery system, as I had anticipated in paragraph 13, of my First Affidavit.

6. Several other ballot processes are now complete:

- a. Final election databases, which are used for configuring the voting equipment for the upcoming election, were distributed to the local boards of election.
- b. Specimen ballot PDFs were distributed to the local boards of election so that they can begin the process of laying out the specimen ballot mailers.
- c. Standard length and 11 inch ballot PDFs, which are provided to absentee voters in special circumstances, were distributed to the local boards of election.
- d. Sample ballot PDFs for the SBE's voter services portal were generated and sent to the voter services developer, and are now available for voters to view through SBE's individualized voter services portal.

- e. The ballot data has been generated and imported for the ballot delivery system and ballot duplication software, which are used to deliver ballots to military and overseas voters who request to receive their ballot via web delivery and duplicate them upon return, and test ballot PDFs have been generated.
- f. Final pollbook exports that contain ballot information have been created and imported into the pollbook database and SBE is in the process of generating the test database which is used to confirm the accuracy of the polling places, precincts and ballot style assignments.
- g. Ballot PDFs have been distributed to the post-election audit vendor and all XML files and reports required for the post-election audit and for any testing in advance of the election have been sent to them.
- h. Test election result files have been created and sent to our development team to start election result testing.
- i. Preliminary news feed data has been generated and sent to the *Baltimore Sun* for their initial testing.

7. Each of the processes described above would be impacted substantially if SBE were to be required to remove a candidate's name from the ballot at this point in the election schedule. I understand that a hearing has been scheduled for tomorrow, April 26, 2018, at 1:30pm. I would be extremely concerned about SBE's ability to complete

these processes on time if it were ordered at that hearing to remove Mr. Oaks' name from the relevant ballots.

8. In my First Affidavit, at paragraph 11, I stated that approximately 1,500,000 different physical ballots will have been generated after the printing process is complete. That estimate was based on rough numbers, and I now have a more precise estimate. Now, we estimate that between 3,000,000 and 3,500,000 early voting and election-day ballots, will be printed, and enough paper for 4,000,000 ballots has been ordered.

9. If the Court were to issue an order to remove Mr. Oaks after ballots were already printed, there is a chance that we would need to reprint all the ballot styles for Baltimore City. In the past, we have encountered problems where certain ballots that are regenerated after printing do not "scan" on the voting equipment. Although this had occurred on a prior voting system that is no longer in use by the State Board, it is nevertheless risky not to send a full set of ballots for a given jurisdiction to be printed after a change is made.

10. Thus, in addition to the approximate week it would take for the State Board to reproduce the affected ballots, reproof the ballots at the local level, reassign absentee voters, re-import ballot styles, and make any ballot styles to precincts changes, we would almost certainly need to order additional ballot paper to accommodate the re-printing of a large jurisdiction like Baltimore City. Because the ballot paper needs to meet very precise specifications, the lead time for ordering additional paper is approximately four

weeks. This is another reason for why making changes to ballots after printing has begun is not feasible.

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

April 25, 2018

A handwritten signature in black ink, appearing to read "Natasha Walker", with a long horizontal flourish extending to the right.

Natasha Walker



Maryland State Board of Elections

HB 671

The Speaker, Delegates Barve and O'Donnell
(By Request – Administration)

Federal Military and Overseas Voter Empowerment (MOVE) Act Compliance

Purpose

This bill alters the dates of the primary elections and various other candidate filing and election related deadlines to allow compliance with the mandate in the federal Military and Overseas Empowerment Act (MOVE) to send military and overseas voters ballots at least 45 days prior to an election.

Comments:

Under current law, it is nearly impossible for the State to meet the MOVE Act requirement to send ballots to military and overseas voters at least 45 days prior to an election. In primary elections, the candidate filing date is 70 days before the election, but all of the following must occur before ballots are available to mail out to voters:

- Withdrawal deadline;
- Central Committee filling vacancies;
- Challenges to a candidate's residence
- Ballot development, certification, and posting;
- Printing ballots;
- Processing ballots to mail to voters.

Currently, given all of the additional deadlines and the time needed to develop and print ballots, the MOVE Act mailing deadline cannot be met. Similarly, the current gubernatorial primary date is as few as 48 days before the general election which clearly does not provide sufficient time to meet the MOVE Act 45 day mailing deadline.

This bill solves both problems. First, the bill changes the candidate filing deadline to 90 days before the general election. The bill also shortens the amount of time for withdrawal, filling vacancies, making challenges, and public display of the ballot. Second, for the gubernatorial primary, the bill moves the primary to the second Tuesday in July. This provides 126 days between the primary and general election. Accordingly, in both instances there is sufficient time to have ballots ready to mail to military and overseas voters 45 days prior to the election.

Contact:

Ross Goldstein, Deputy Administrator
410-269-2877

LINDA H. LAMONE, ADMINISTRATOR

W&M 3/8/2011

STATE BOARD OF ELECTIONS

Trento, Andrea

From: Trento, Andrea
Sent: Wednesday, April 11, 2018 6:29 PM
To: 'H. Mark Stichel'
Cc: Jason Downs
Subject: RE: Sen Oaks

Mark –

The deadline to get onto the board agenda tomorrow was earlier this afternoon. You are welcome to transmit a letter to the Board (which I would be happy to forward along), but I cannot promise that they will be in a position to consider that letter tomorrow. Also, I don't expect that our advice to the Board on this issue is going to be any different than the position I have articulated in our conversations to date, which is to say that – with or without Mr. Oaks' consent as set forth in his affidavit you forwarded along earlier today – the Board does not have the authority at this point in the election calendar to remove Mr. Oaks' name from the primary ballot.

In light of the ballot preparation schedule that I laid out over the phone, I would encourage you to try if at all possible to file your TRO application tomorrow in the early part of the day, and perhaps try to arrange for a walk-through to chambers in the afternoon, since I understand from our conversation that Friday would not work for you. I am concerned that putting this off until next week adds unnecessary delay in a process that is already extremely tight. I am available all day tomorrow and will be in Annapolis in the afternoon. Please don't hesitate to let me know if you would like to discuss further.

Best,

Andrea

Andrea Trento

Assistant Attorney General
Office of the Attorney General
Civil Litigation Division – 20th Floor
200 St. Paul Plaza
Baltimore, MD 21202
T: 410.576.6472
M: 410.746.2535
[**atrento@oag.state.md.us**](mailto:atrento@oag.state.md.us)

From: H. Mark Stichel <HMStichel@agtlawyers.com>
Sent: Wednesday, April 11, 2018 4:23 PM
To: Trento, Andrea <atrento@oag.state.md.us>
Cc: Jason Downs <Jason@downscollins.com>
Subject: RE: Sen Oaks

Thanks. I will call you then. Should I call your office number (410.576.6472) or another number?

Jason: If you want me to conference you in on the call, let me know the number at which you can be reached at 5:00 p.m.

H Mark Stichel
Principal



Astrachan Gunst Thomas, P.C.
217 E. Redwood St., 21st Floor
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410.783.3547
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Please read our [AGT blog](#).

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From: Trento, Andrea [<mailto:atrento@oag.state.md.us>]
Sent: Wednesday, April 11, 2018 4:19 PM
To: H. Mark Stichel <HMSStichel@agtlawyers.com>
Cc: Jason Downs <Jason@downscollins.com>
Subject: RE: Sen Oaks

Mark and Jason – I am available after around 5 today. I'll have some more information then about where the Board is in the ballot preparation process as well.

From: H. Mark Stichel <HMSStichel@agtlawyers.com>
Sent: Wednesday, April 11, 2018 3:56 PM
To: Trento, Andrea <atrento@oag.state.md.us>
Cc: Jason Downs <Jason@downscollins.com>
Subject: FW: Sen Oaks

Andrea

I just became aware this afternoon that Jason Downs has filed a case that parallels the case that I filed on Monday. I am forwarding what Jason has filed. Nathaniel Oaks' affidavit changes matters. Would you be available after 4:30 p.m. today for a conference call with Jason and me?

To give you a preview of where I am (I cannot speak for Jason): I will not be filing a TRO motion today. The Oaks affidavit changes what I had intended to say. At a minimum, Mr. Oaks' affidavit avoids the necessity of our litigating the issue of whether he is disqualified pursuant to EL §3-102(b)(1). Before I seek a TRO I would like to ask that the State

Election Administrator or the State Board agree to remove Mr. Oaks name from the ballot pursuant to his affidavit. I recognize that EL § 5-504(b) on its face appears to preclude the removal of Mr. Oaks' name. In *Black v. Board of Supervisors of Elections of Baltimore City*, 232 Md. 74, 80 , 191 A.2d 580, 583 (1963), the Court noted that: "The courts in other states have generally held that time limitations imposed upon a right to withdraw are directory and not mandatory." Although the Court of Appeals said that it did not need to go so far in *Black*, I believe that the Court's statement gives the State Administrator or the State Board an opening to take Mr. Oaks' name off of the ballot.

As I have alleged in my complaint, the arbitrary freezing of the ballot such that disqualified candidates cannot be removed from the ballot even though a disqualifying event occurs well in advance of the printing of ballots is a constitutional violation. Essentially, the early withdrawal deadline is analogous to early filing deadlines that have been found unconstitutional by the courts. See, e.g., *Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992); see also *Cromer v. South Carolina*, 917 F.2d 819 (4th Cir. 1990). In 2016, Dan Sparaco challenged Maryland's early filing deadline for independent and non-principal party candidates in the United States District Court for the District of Maryland. The State Board agreed to change the filing deadline to avoid Mr. Sparaco's case and a finding that Maryland's statute was unconstitutional. In the same vein, I believe that the State Board should interpret EL 5-504(b) as being directory and not mandatory pursuant to the canon of constitutional avoidance. Further, such an interpretation would be consistent with the "Democracy Canon" of statutory construction. See Richard L. Hasen, *The Democracy Canon*, 62 STAN. L. REV. 69 (2009).

When we spoke yesterday, I inquired about the schedule for printing ballots. The State Board's 2018 Gubernatorial Election Calendar states that ballots will be printed on Monday, May 7, 2018, and that the ballots will be displayed on the State Board's website on Thursday, May 3, 2018. However, I note that draft ballots already have been posted on the State Board's website. You were not able to give me a definitive answer as to whether ballots had been printed already or if they had not been printed when they would be. My clients would like to resolve this matter with the State Board without the necessity of applying for a TRO and/or preliminary injunction. However, I also am well aware of the application of the doctrine of laches in election law cases. Given that the deadline for mailing certain absentee ballots pursuant to federal law is not until May 12, 2018, I believe that our foregoing filing for a TRO for a reasonable time to allow the State Board to consider our request in light of Mr. Oaks' affidavit is both prudent and reasonable. However, should the State Board have a date certain for printing ballots that is earlier than May 7, I would ask that you inform me of it and if no such date currently is known that you inform me of the printing date as soon as it is known.

Mark

H Mark Stichel
Principal



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Please read our [AGT blog](#).

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From: Jason Downs [<mailto:Jason@downscollins.com>]
Sent: Wednesday, April 11, 2018 2:02 PM
To: H. Mark Stichel <HMStichel@agtlawyers.com>
Subject: Fwd: Sen Oaks

Please let me know if you have trouble opening

Jason Downs
Partner
Downs Collins, P. A.
20 South Charles St.
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Baltimore, MD 21201
(410) 462-4529

Begin forwarded message:

-

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April 22, 2018

VIA ECF

The Honorable Richard D. Bennett
United States District Judge
United States District Court for the District of Maryland
101 West Lombard Street
Baltimore, Maryland 21201

Re: *United States v. Oaks*,
Crim. No. 17-00288-RDB
United States District Court for the District of Maryland

Nancy Lewin, et al. v. Linda H. Lamone, etc.
Case No. C-02-CV-18-001013
Circuit Court for Anne Arundel County, Maryland

Dear Judge Bennett:

I represent the plaintiffs in *Nancy Lewin, et al. v. Linda H. Lamone*, an action in the Circuit Court for Anne Arundel County in which my clients are seeking to have the Maryland State Board of Elections remove Nathaniel T. Oaks' name from the ballot for Democratic Party Primary Election that is to be held on June 26, 2018. This morning I wrote a letter to Mr. Oaks' counsel, Lucius T. Outlaw, III, regarding my clients' request that Mr. Oaks withdraw his voter registration, which would definitively disqualify him from being a candidate for public office under Maryland law. I sent a copy of the letter to the Court via the ECF system. I am writing to explain the circumstances when I wrote the letter and what has transpired since I wrote the letter.

The afternoon of this past Friday, April 20, 2018, the Circuit Court for Anne Arundel County held a hearing upon my clients' motion for a preliminary injunction. Specifically, my clients were seeking an interlocutory order to require the Maryland State Board of Elections to remove Mr. Oaks' name from the ballot. Judge Glenn L. Klavans, who heard the motion, indicated that he would have been inclined to grant the motion but that he was constrained from granting the relief my clients sought because Mr. Oaks was not currently disqualified from appearing on the ballot. Under Maryland law so long as Mr. Oaks remains a registered voter and is not incarcerated, he is qualified to be a candidate for public office.

Mr. Oaks had stated in an affidavit filed in parallel litigation that he wanted his name removed from the ballot. After I returned to my office from the hearing on Friday, I emailed Mr.


Outlaw and requested that Mr. Oaks withdraw his voter registration. My email was sent after business hours.

Given that I did not receive a response from Mr. Outlaw by this morning, I wrote the letter that I also sent to the court. Although I had not mentioned the fact in my email to Mr. Outlaw, time was and is of the essence with respect to the matter. The Maryland State Board of Elections indicated in an affidavit submitted for the hearing on Friday and confirmed by testimony during the hearing that it intends to begin process of printing ballots tomorrow, April 23. The process takes two weeks but once it has begun it is costly and difficult to interrupt according to the testimony given by one of the Board's employees at Friday's hearing. Thus, I was under significant time pressure with respect to knowing whether Mr. Oaks would be willing to withdraw his voter registration.

Within an hour of receiving my letter by email, and prior to his being aware that I had filed a copy with the Court, Mr. Outlaw telephoned me and said that Mr. Oaks would withdraw his voter registration. Mr. Outlaw agreed to call the Assistant Attorney General who is handling the Anne Arundel County matter jointly with me tomorrow morning to discuss the most expeditious and effective way to have Mr. Oaks withdraw his voter registration.

I would like to apologize to the Court and Mr. Oaks if the filing of my letter to Mr. Outlaw suggested that Mr. Oaks was not doing everything that he could to have his name removed from the ballot. Mr. Oaks' affidavit requesting that his name be removed from the ballot was filed in another case that is being handled by other counsel. Prior to today I had not had any contact with Mr. Outlaw. Since Mr. Outlaw received my letter today, both he and Mr. Oaks have accommodated every request that I have made and I very much appreciate their cooperation with my clients' attempt to have Mr. Oaks name removed from the ballot.

Respectfully yours,



H. Mark Stichel

cc: Counsel of Record (via ECF)

Julia Doyle Bernhardt, Esquire (via email)
Andrea Trento, Esquire (via email)

astrachan



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April 22, 2018

VIA EMAIL

Lucius T. Outlaw, III
Senior Litigation Counsel
Office of the Federal Public Defender
District of Maryland
Tower II, 9th Floor
100 South Charles Street
Baltimore, Maryland 21201-2705

Re: *United States v. Oaks*,
Crim. No. 17-00288-RDB
United States District Court for the District of Maryland

Nancy Lewin, et al. v. Linda H. Lamone, etc.
Case No. C-02-CV-18-001013
Circuit Court for Anne Arundel County, Maryland

Dear Mr. Outlaw:

I am writing regarding your April 11, 2018, letter to Judge Bennett.

I represent three voters in Maryland Legislative District 41 who have filed an action in the Circuit Court for Anne Arundel County to require that the Maryland State Board of Elections remove the name of Nathaniel T. Oaks from the ballot for the Democratic Party Primary Election that is scheduled to be held on June 26, 2018. On Friday, April 20, 2018, the Circuit Court for Anne Arundel County denied my clients' motion for a preliminary injunction. Judge Glenn L. Klavans indicated during his oral decision from the bench that he agreed with my clients' position that the early freezing of the election ballot and the State Board's refusal to remove the name of a disqualified candidate from the ballot potentially was a constitutional violation. When weighing the balance of convenience between the parties, Judge Klavans also stated that the potential risk of voter disenfranchisement caused by having Mr. Oaks' name on the ballot far outweighed the administrative burden of changing the ballot. However, given that Mr. Oaks is not *currently* disqualified, Judge Klavans held that he was constrained from granting the relief my clients sought.

Article 1, Section 12 of the Maryland Constitution provides that a person is ineligible to enter upon the duties of or continue to serve in an elective office if a person ceases to be a registered voter. The State Board of Elections takes the position that Mr. Oaks remains a qualified registered voter notwithstanding his guilty plea on March 29, 2018, and the near certainty that he will be incarcerated at the time of the 2018 General Election because he currently is not incarcerated. *See*

Author: *The Law of Advertising*
LexisNexis®

Maryland Code, Election Law, §3-102(b)(1). However, should Mr. Oaks request that his voter registration be cancelled, he immediately would become disqualified. *See* Maryland Code, Election Law §3-501(1).

On Friday evening, I emailed you and informed you that my clients would be contacting Mr. Oaks to ask that he request that his name be removed from the voter registration list immediately. My clients have been unable to contact Mr. Oaks directly and I have not had a response from you to my email. **Thus, I now am writing to you to formally request that Mr. Oaks take immediate steps to remove his name from the voter registration list.**

On April 11, 2018, you stated in your letter to Judge Bennett:

Mr. Oaks and defense counsel are still pursuing recourse outside of the Board of Elections to remove Mr. Oaks' name from the ballot, including supporting an emergency petition filed in the Circuit Court for Anne Arundel County that seeks to have Mr. Oaks' name removed from the primary ballot. See Ex. 1. The complaint in that action includes an affidavit from Mr. Oaks consenting to have his name removed from the ballot. *Id.* at Exhibit 1 to the Complaint.¹

While the action in Anne Arundel proceeds, and while **Mr. Oaks continues to explore and support other means of removing his name from the primary ballot**, Mr. Oaks, in the meantime has authorized me to convey to the Court that:

- (1) he has suspended any campaign efforts for the primary and general elections;
- (2) if he wins the primary election, he will immediately decline/resign the nomination; and
- (3) he is taking steps to communicate (1) and (2) above to the voters of District 41.

(Emphasis added.)

My clients intend to continue their efforts to remove Mr. Oaks' name from the ballot. Mr. Oaks' requesting that his name be removed from the voter registration list would aid significantly my clients' efforts to have his name removed from the ballot. Should Mr. Oaks refuse to do so, it

¹ *See Harpool v. Baltimore City Elections Board, Circuit Court for Anne Arundel County.* Counsel in the *Harpool* action has moved to consolidate the case with *Lewin v. Lamone*. However, the motion has not been granted yet.

would belie the representation emphasized above that you made in your April 11 letter to Judge Bennett.

I look forward to the courtesy of a prompt response to my letter no later than tomorrow morning (*i.e.*, Monday, April 23). Should Mr. Oaks agree to request that his name be removed from the voter registration list, my clients will move for reconsideration of Judge Klavans' denial of their motion for a preliminary injunction. Should Mr. Oaks refuse, my clients will notice an appeal to the Court of Appeals of Maryland and ask for relief upon the record as it currently exists. The State Board of Elections has indicated at the preliminary injunction hearing on Friday that it intends to begin the process of printing ballots tomorrow, Monday, April 23, 2018. Thus, time is of the essence.

Sincerely,



H. Mark Stichel

cc: The Honorable Richard D. Bennett
and all counsel in *United States v. Oaks* (via ECF)

Andrea Trento, Esquire (via email)

Trento, Andrea

From: H. Mark Stichel <HMStichel@agtlawyers.com>
Sent: Sunday, April 22, 2018 2:03 PM
To: Trento, Andrea
Cc: lucius_outlaw@fd.org; Jason Downs; Elizabeth Harlan
Subject: Lewin v Lamone

Dear Andrea

I just received a telephone call from Lucius Outlaw, who represents Nathaniel Oaks. Mr Outlaw said that Mr Oaks is willing to take whatever steps he needs to take to withdraw his voter registration immediately. Mr. Outlaw has an appointment that he cannot cancel first thing tomorrow, but is available at 10:30. We would like to have a conference call with you then to discuss the most expeditions and efficient way that Mr Oaks can withdraw his voter registration pursuant to EL 3-501.

Also, once Mr Oaks withdraws his voter registration, I will be filing a second amended complaint to include the fact and request that Judge Klavans reconsider his ruling on Friday in light of Mr Oaks registration withdrawal. Given what Judge Klavans said from the bench when he denied the preliminary injunction on Friday combined with this latest development, I would request that the State Board of Elections not begin the ballot printing process until the court has had the opportunity to consider our motion for reconsideration.

Mark

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Armstead B. Jones, Sr.
Election Director
Baltimore City Board of Elections
417 E. Fayette St., Benton Office Building, Room #129
Baltimore, MD 21202

April 23, 2018

Dear Sir:

Please remove my name from the voter registration files of the State of Maryland. Below please find the information you require.

Name: Nathaniel Thomas Oaks
Address of registration: [REDACTED]
Date of birth: [REDACTED]
Reason for removal: To facilitate removal of my name from election ballot

Signed April 23, 2018:



Nathaniel T. Oaks

Voter Profile Report

Voter ID From : 1034283 To :

Voter Information

Voter ID	Last Name	First Name	Middle Name	Suffix	DOB	Driver License
1034283	OAKS	NATHANIEL	T		[REDACTED]	

Registration Information

Party	Status	Reasons
DEMOCRAT	Cancelled	Voter Request
Last Voted Date	Original Reg. Date	Effective Registration Date
[REDACTED]	06/01/1990	06/01/1990

Miscellaneous Information

Language	Gender	Assistance
	MALE	
Comments		
O200		

Residence Address

[REDACTED]

Mailing Address

District & Precinct Information

PRECINCT 20006	CONGRESSIONAL DISTRICT 7	APPELLATE/CIRCUIT COURT 6	COUNCILMANIC DISTRICT 08
FEDERAL	JUDICIAL DISTRICT 8	LEGISLATIVE DISTRICT 41	Senatorial District 41
STATE OF MARYLAND	WARD 20	BALTIMORE CITY	South Western District
ELECTION DISTRICT 20			

Absentee Addresses

Absentee Type	Address
Absentee Voter - Timely In Perso	[REDACTED]
Absentee Voter - Timely In Perso	ADDRESS ON FILE
Absentee Voter - By Mail	ADDRESS ON FILE
Absentee Voter - By Mail	ADDRESS ON FILE

Petition Sign History

Petitions Number	Petition Title	Valid Signatures
		[REDACTED]

Move History

Effective Date	Residence Address



**Civil Hearing Sheet
IN THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY**

NANCY LEWIN, et al.
Plaintiff / Petitioner
(STICHEL)

Case No. C-02-CV-18-1013

Date: 04/16/2018

VS

LINDA LAMONE
Defendant / Respondent
(TRENTO)

Clerk: C.Delost 2C

**Case called for Hearing on TEMPORARY RESTRAINING ORDER
In Open Court before Judge STACY W. MCCORMACK**

Counsel heard. Plaintiff's Motion for Temporary Restraining Order is DENIED.
Case set for 2 hour hearing on April 20, 2018 at 1:30pm. Defendant to file
Response to Amended Complaint for Declaratory Judgment by April 18, 2018 at
10 am and Plaintiff to file response by April 19, 2018 at 10 am. Hearing Sheet
Signed as Order of Court.

4/18/18 - jme

Judge

NANCY LEWIN, *et al.*,

Plaintiffs,

v.

LINDA H. LAMONE,

Defendant.

* IN THE

* CIRCUIT COURT

* FOR

* ANNE ARUNDEL COUNTY

* No. C-02-CV-18-001013

* * * * *

NOTICE OF APPEAL

MADAM CLERK:

Notice is hereby given that the defendant appeals to the Court of Special Appeals of Maryland from the preliminary injunction entered in this action on April 26, 2018.

Respectfully submitted,

/s/ Andrea W. Trento

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April 26, 2018

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on this 26th day of April 2018, a copy of the foregoing was filed and served electronically on the MDEC system and sent by electronic mail to:

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Astrachan Gunst Thomas, P.C.
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eharlan@agtlawyers.com
Attorneys for Plaintiffs

/s/ Andrea W. Trento

Andrea W. Trento

NANCY LEWIN, *et al.*,

Plaintiffs,

v.

LINDA H. LAMONE,

Defendant.

* IN THE
* CIRCUIT COURT
* FOR
* ANNE ARUNDEL COUNTY
* No. C-02-CV-18-001013

* * * * *

NOTICE OF APPEAL

MADAM CLERK:

Notice is hereby given that, as authorized by Md. Code Ann., Elec. Law § 12-203(a)(3), the defendant appeals to the Court of Appeals of Maryland from the preliminary injunction entered in this action on April 26, 2018.

Respectfully submitted,

/s/ Andrea W. Trento

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April 26, 2018

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on this 26th day of April 2018, a copy of the foregoing was filed and served electronically on the MDEC system and sent by electronic mail to:

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Attorneys for Plaintiffs

/s/ Andrea W. Trento

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