

§ 12.33 Notice of Additional Authority

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

**LEAGUE OF WOMEN VOTERS OF KANSAS, LOUD LIGHT, KANSAS
APPLESEED CENTER FOR LAW AND JUSTICE, INC., and TOPEKA
INDEPENDENT LIVING RESOURCE CENTER**

Plaintiffs-Appellants,

vs.

No. 21-124378-A

**SCOTT SCHWAB, in his official capacity as Kansas Secretary of State,
and DEREK SCHMIDT, in his official capacity as Kansas Attorney
General**

Defendants-Appellees.

NOTICE OF ADDITIONAL AUTHORITY

To the Court:

Plaintiffs respectfully submit this notice of additional authority relevant to the disposition of this case, which was issued after Plaintiffs submitted their opening brief.

On June 17th, in the related appeal, *League of Women Voters of Kansas et al. v. Schwab*, No. 124378, a panel of this Court dismissed Plaintiffs' claims against K.S.A. 2021 25-2438(a)(2)-(3)—the False Representation provision.

Although the Court dismissed Plaintiffs' claims against that provision on the basis of standing, finding that Plaintiffs had not established a sufficient likelihood of prosecution under that specific provision, the Order supports Plaintiffs' contention in this appeal that the district court erroneously rejected their argument that the Ballot Collection Restriction, K.S.A. 25-2437, curtails core political speech. Brief of Appellants at 22-25. For example, the Order describes Plaintiffs' actions as "designed to promote civic engagement" (Order at 13)—and after citing many of the same cases Plaintiffs cited in their district court brief to demonstrate that ballot collection is constitutionally protected expressive conduct—this Court declined to depart from that line of precedent. (*Compare Id.*, with [Brief of Appellants at 22]).

Additionally, on June 21, 2022, in *Rivera et al. v. Schwab et al.*, No. 125092, the Kansas Supreme Court clarified that the "equal protection guarantees contained in the

Kansas Constitution []” are “coextensive with the equal protection guarantees afforded under the Fourteenth Amendment” and that “Kansas courts shall be guided by United States Supreme Court precedent” when interpreting equal protection guarantees under state law. *Rivera* at 22.

Plaintiffs have argued in the instant appeal that the Signature Verification Requirement, K.S.A. 1124(h), violates equal protection under state law. Brief of Appellants at 38-39. Applying *Rivera*, Plaintiffs submit that their equal protection claim is just as strong under federal precedent. See *Bush v. Gore*, 531 U.S. 98 (2000) (holding that laws that create “varying standards” throughout the state violate equal protection).

Respectfully submitted, this 1st day of July, 2022.

Attorney’s Signature

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Notice of Additional Authority was electronically transmitted via the Court's electronic filing system, the following:

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