

No. 22-125084-A

**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, CHARLEY CRABTREE, FAYE
HUELSMANN, and PATRICIA LEWTER,**

Plaintiffs-Appellants,

vs.

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

Defendants-Appellees.

**PLAINTIFFS-APPELLANTS' RESPONSE TO DEFENDANTS-APPELLEES'
NOTICE OF ADDITIONAL AUTHORITY**

To the Court:

Mazo v. New Jersey Secretary of State, 54 F.4th 124 (3d Cir. 2022), submitted by Defendants as “supplemental authority” on December 14, is inapplicable to the claims before this Court. As Plaintiffs have noted, Pls.’ Br. 25-26, 30-31, *Anderson-Burdick* is a doctrine created by federal courts motivated by federalism concerning when a federal court reviews a state’s election laws for consistency with the federal constitution. Kansas is not bound to apply it to claims brought under its own Constitution, and the doctrine has never once been cited, let alone applied, by any Kansas appellate court.

That said, if this were a federal court in the Third Circuit applying the *Mazo* test to federal constitutional claims, ballot collection is “the type of interactive, one-on-one communication that constitutes core political speech” that *Mazo* recognizes is “entitled to the fullest First Amendment protection.” 54 F.4th at 135. This is in marked contrast to the law at issue in *Mazo* concerning language on the ballot itself, which the U.S. Supreme Court has long recognized is not a forum for political expression but simply *the electoral mechanism by which* voters exercise their right to vote. *See, e.g., Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 365 (1997).

Thus, to the extent *Mazo* is informative, it further supports this Court’s application of its well-established free speech analysis to the Ballot Collection

Restriction at issue in this case.¹

Respectfully submitted, this 21st day of December, 2022.

/s/ Pedro L. Irigonegaray
Pedro L. Irigonegaray (#08079)
Nicole Revenaugh (#25482)
Jason Zavadil (#26808)
J. Bo Turney (#26375)
**IRIGONEGARAY, TURNEY,
& REVENAUGH LLP**
1535 S.W. 29th Street
Topeka, KS 66611
(785) 267-6115
pedro@iirlaw.com
nicole@itrlaw.com
jason@itrlaw.com
bo@itrlaw.com

Counsel for Plaintiffs

Elisabeth C. Frost*
Henry J. Brewster*
Mollie A. DiBrell*
Marisa A. O’Gara*
ELIAS LAW GROUP LLP
10 G Street NE, Suite 600
Washington, DC 20002
(202) 968-4513
efrost@elias.law
hbrewster@elias.law
mdibrell@elias.law
mogara@elias.law

*Counsel for Loud Light, Kansas
Appleseed Center for Law and Justice,
and Topeka Independent Living
Resource Center, Charley Crabtree,
Faye Huelsmann, and Patricia Lewter*

David Anstaett*
PERKINS COIE LLP

¹ Defendants suggest that Plaintiffs brought free-speech claims against the Signature Verification Requirement as well. Not so. Plaintiffs challenge that Requirement on equal protection, due process, and right-to-vote grounds, only. (R. II, 272-84).

35 East Main Street, Suite 201
Madison, WI 53703
(608) 663-5408
danstaett@perkinscoie.com

*Counsel for League of Women Voters of
Kansas*

**Appearing Pro Hac Vice*

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CERTIFICATE OF SERVICE

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

Brad Schlozman
Hinkle Law Firm
1617 North Waterfront Parkway, Suite 400
Wichita, KS 67206-6639

Scott Schillings
Hinkle Law Firm
1617 North Waterfront Parkway, Suite 400
Wichita, KS 67206-6639

Krystle Dalke
Hinkle Law Firm
1617 North Waterfront Parkway, Suite 400
Wichita, KS 67206-6639

Brant M. Laue
Solicitor General
120 SW 10th Ave, Room 200
Topeka, KS 66612-1597

/s/ Pedro L. Irigonegaray
Pedro L. Irigonegaray (#08079)

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