

**IN THE STATE COURT OF KANSAS  
DISTRICT COURT OF SHAWNEE COUNTY**

LEAGUE OF WOMEN VOTERS OF KANSAS,  
LOUD LIGHT, KANSAS APPLESEED  
CENTER FOR LAW AND JUSTICE, INC.,  
TOPEKA INDEPENDENT LIVING RESOURCE  
CENTER, CHARLEY CRABTREE, FAYE  
HUELSMANN, and PATRICIA LEWTER,

Plaintiffs,

v.

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

Defendants.

Original Action No. 2021-CV-000299

**PLAINTIFFS' MOTION TO SET CASE MANAGEMENT CONFERENCE**

There is a great need for clarity regarding the four challenged provisions of Senate Substitute for House Bill 2183 and House Bill 2332 ahead of the fast-approaching 2022 primary and general elections. These challenged provisions make significant changes to Kansas law, including by substantially revising the signature matching process for absentee ballot envelopes, forbidding the collection of more than ten absentee ballots by any one individual, and prohibiting the delivery of absentee ballot applications from vendors outside Kansas. They also severely hamper third-party voter registration, education, and outreach efforts by broadly criminalizing any conduct that could give the impression that one is an election official.

Unless this litigation is quickly advanced and resolved—and the challenged provisions authoritatively construed upon a full record that evidences their anticipated and practical impact on Kansas voters, advocates, and elections officials alike—they will operate to chill core political

speech and cause confusion in the 2022 elections, undermining public faith in the electoral system. The August 2022 primary is less than a year from now, and the July 12 registration deadline for that election a mere nine months away. Unless discovery commences soon, there is a significant risk that there will not be time to create a full evidentiary record related to the challenged provisions and alleged harms and resolve this matter in time to provide clarity and guidance. Pursuant to Shawnee County District Court Rule 3.201(2), case-specific interrogatories and requests for production must be appended to a case management order approved by the Court prior to service. Having conferred in good faith with opposing counsel and failed to reach agreement on a case management order, Plaintiffs request that the Court set a case management conference to resolve the dispute as contemplated by Rule 3.201(1).

Any burdens Defendants may experience as a result of discovery commencing are far outweighed by the need for expediency in this case. The longer the validity of the four challenged provisions remains adjudicated, the greater the uncertainty in the run up to the pivotal 2022 elections. Clarity on the operative election administration laws regarding ballot collection, signature match, and voter engagement activities, is imperative because “once [an] election occurs, there can be no do-over and no redress.” *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). It is therefore crucial that the people of Kansas quickly obtain the “correct answer” to these questions of great electoral import in order to minimize “chaos and uncertainty” in future elections and the accompanying loss of public confidence in their outcomes. *Gonzalez v. Governor of Georgia*, 978 F.3d 1266, 1272 n.14 (11th Cir. 2020).

By contrast, Defendants have little interest in avoiding the minimal burdens associated with basic discovery. *Cf. Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1112 (9th Cir. 2005) (stating that “being required to defend a suit, without more, does not constitute a ‘clear case of hardship or

inequity” as required to obtain a stay of proceedings). And, to the extent Defendants contend that the outcome of the Motion to Dismiss may render discovery irrelevant, this is the sort of speculation that courts have repeatedly rejected as a basis for preventing a case from moving forward. See *Johnson v. Simonton Building Prods., Inc.*, No. 08-2198-CM-DJW, 2010 WL 11565138, at \*4–5 (D. Kan. Sep. 9, 2010) (denying motion to stay where the proffered basis was “highly speculative”); *Golden Rule Fasteners Inc. v. Neverleak Co.*, No. 3:17-cv-249-MPM-JMV, 2019 WL 257983, at \*3 (N.D. Miss. Jan. 17, 2019) (“[B]ecause the grounds on which [the movant] founds its request for a stay are themselves speculative . . . it cannot be said with any confidence at this juncture that a stay would simplify either the issues or the trial.”); *Miller Weisbrod, LLP v. Klein Frank, PC*, No. 3:13-CV-2695-B, 2014 WL 2738231, at \*4 (N.D. Tex. 2013) (“A speculative injury does not weigh strongly in favor of imposing a stay when [a] case could otherwise proceed shortly to a conclusion.”).

There is thus no reason why discovery should not proceed, and Plaintiffs respectfully request that a case management conference be set as soon as the Court deems practicable.

Respectfully submitted, this 14th day of October, 2021.

/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

[pli@plilaw.com](mailto:pli@plilaw.com)

[nicole@itrlaw.com](mailto:nicole@itrlaw.com)

[jason@itrlaw.com](mailto:jason@itrlaw.com)

[bo@itrlaw.com](mailto:bo@itrlaw.com)

*Counsel for Plaintiffs*

Elisabeth C. Frost\*

Henry J. Brewster\*

Tyler L. Bishop\*

**ELIAS LAW GROUP LLP**

10 G Street NE, Suite 600

Washington, DC 20002

(202) 968-4513

[efrost@elias.law](mailto:efrost@elias.law)

[hbrewster@elias.law](mailto:hbrewster@elias.law)

[tbishop@elias.law](mailto:tbishop@elias.law)

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

David Anstaett\*

**PERKINS COIE LLP**

33 East Main Street, Suite 201

Madison, WI 53703

(608) 663-5408

[danstaett@perkinscoie.com](mailto:danstaett@perkinscoie.com)

*Counsel for League of Women Voters of Kansas*

*\*Appearing Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing was electronically transmitted via the Court's electronic filing system, to the following:

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

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

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

*/s/ Pedro L. Irigonegaray*

---

Pedro L. Irigonegaray (#08079)

RETRIEVED FROM DEMOCRACYDOCKET.COM