IN THE IOWA DISTRICT COURT FOR POLK COUNTY

LEAGUE OF UNITED LATIN AMERICAN CITIZENS OF IOWA,

Petitioner,

v.

IOWA SECRETARY OF STATE PAUL PATE, in his official capacity; IOWA VOTER REGISTRATION COMMISSION; BUENA VISTA COUNTY AUDITOR SUE LLOYD, in her official capacity; CALHOUN COUNTY AUDITOR ROBIN BATZ, in her official capacity; JEFFERSON COUNTY AUDITOR SCOTT RENEKER, in his official capacity; MONTGOMERY COUNTY AUDITOR STEPHANIE BURKE, in her official capacity,

Respondents.

Case No. CVCV062715

PETITIONER'S MOTION TO RECONSIDER

COMES NOW Petitioner League of United Latin American Citizens ("LULAC") of Iowa moving under Iowa Rules of Civil Procedure 1.904(2) and 1.904(3) to respectfully request that this Court reconsider its March 7, 2022 Order granting, in part, Respondents' motion to dismiss. *See* Ruling on Resp'ts' Mot. to Dismiss, *LULAC v. Pate, et al.,* Polk County Case No. CVCV062715 (Mar. 7, 2022) (the "Dismissal Order"). For the following reasons, this Court should grant LULAC's motion for reconsideration and deny Respondents' motion to dismiss in full.

INTRODUCTION

This lawsuit challenges Respondents' continued application of the English Language Reaffirmation Act (the "English-Only Law") to prohibit the use of any language other than English on voting materials in Iowa. Iowa Code § 1.18(3). LULAC's Amended Petition advanced two causes of action: Count I sought a declaratory judgment clarifying that an express exemption to

the English Only Law for "[a]ny language usage required . . . to secure the rights guaranteed by [federal law] or the Constitution of the State of Iowa," § 1.18(5)(h) (the "Rights Exception"), permits the use of non-English voting materials. Count II sought an order dissolving the permanent injunction in *King v. Mauro* because it is inconsistent with the Rights Exception. *See generally,* Am. Pet., *LULAC v. Pate* No. CVCV062715 (Iowa Dist. Ct. Jan. 18, 2022). Respondents moved to dismiss both claims on different grounds: for Count I, they argued that LULAC lacked standing to bring a declaratory judgment action; and, for Count II, they argued that LULAC's attempt to lift the *King* injunction was procedurally improper and that LULAC was "relegated to intervening in [the *King* action]." Dismissal Order at 5.

In denying Respondents' motion with respect to Count I, this Court correctly determined that "LULAC has adequately connected the dots between [the Respondents' reliance on an incorrect legal position] and the resulting injury to it and its members." *Id*. at 13. And with respect to LULAC's claim to dissolve the *King* injunction, this Court confirmed that LULAC followed the correct procedure, holding that so long as "the action has been filed in Polk County district court," it complies with the Iowa Rules. *Id.* at 6. While the result of these holdings should have been an outright denial of Respondents' motion to dismiss, the Court proceeded to incorrectly apply the doctrine of res judicata and found that LULAC's claim to dissolve the *King* injunction was barred—even though LULAC was a stranger to that case. *Id*. at 7.

Under Iowa law, the preclusive effect of a prior judgment binds only the parties to that litigation—and as this Court noted, LULAC was "a stranger to the [*King* action]." *Id*. at 4. The Court's Order cites a collection of cases applying the doctrine of res judicata in the context of modifying injunctions, but those cases universally involved claims by a party to the prior lawsuit. Put simply, res judicata cannot apply to LULAC's claims; to hold otherwise would preclude

LULAC and its members from vindicating their own legal rights and deny them an opportunity to be heard, which raises serious constitutional questions. For these reasons, the Court should reconsider its decision to dismiss LULAC's claim to dissolve the *King* injunction.

LEGAL STANDARD

LULAC requests that the Court reconsider its decision based on the misapplication of the principles of res judicata. "A rule 1.904(2) motion may be properly used to request additional factual findings and conclusions, to obtain a ruling on an issue the court may have overlooked, or to ask the court to reconsider and change its ruling." *Collett v. Vogt*, 859 N.W.2d 673 (Iowa Ct. App. 2014) (citing *In re Marriage of Okland*, 699 N.W.2d 260, 266–67 (Iowa 2005)). A motion to reconsider is proper when requesting an expansion of the judgment and consideration of law. *City of Waterloo v. Black Hawk Mut. Ins. Ass'n*, 608 N.W.2d 442, 444 (Iowa 2000).

ARGUMENT

Iowa law states that a stranger to the *King* action is not bound by its judgment and cannot be barred from litigating issues that may have been raised in that case. "Briefly stated, the doctrine of res judicata is that an existing final judgment rendered upon the merits . . . is conclusive of rights, questions, and facts in issue, *as to the parties and their privies*." *Kunkel v. E. Iowa Light & Power Co-op.*, 232 Iowa 649 (1942) (emphasis added). For a party to invoke res judicata or another form of preclusion, they must establish three elements: "(1) the parties in the first and second action were the same; (2) the claim in the second suit could have been fully and fairly adjudicated in the prior case; and (3) there was a final judgment on the merits in the first action." *Spiker v. Spiker*, 708 N.W.2d 347, 353 (Iowa 2006) (quotations omitted). Here, the first element is not satisfied because LULAC was not a party in *King v. Mauro*, CVCV 006739 (Plk. Cnty 2008). This is fatal to any invocation of issue preclusion. *Arnevik v. Univ. of Minn. Bd. of Regents*, 642 N.W.2d

315, 319 (Iowa 2002) ("The absence of any one of these elements is fatal to a defense of claim preclusion.").

The principle animating issue preclusion is that a "plaintiff is not entitled to a second day in court." *Westway Trading Corp. v. River Terminal Corp.,* 314 N.W.2d 398, 401 (Iowa 1982). But this case is a first for LULAC: it was not a party to *King v. Mauro*, in any form, nor has it litigated the issues raised in that case. It is improper to apply res judicata "unless the party against whom preclusion is asserted had a full and fair opportunity to litigate the claim or issue in the first action." *Spiker*, 708 N.W.2d at 353 (citation omitted). Barring LULAC from asserting claims that could have been raised in *King* contradicts the long-standing requirement under Iowa law that a precluded party must have also been a party to the prior litigation.

The cases cited in the Court's Order support this conclusion. In *Bear v. Iowa District Court of Tama County*, the defendant sought to dissolve an injunction entered against her in a prior case. 540 N.W.2d 439, 440 (Iowa 1995). In *Helmkamp*, a defendant sought to "vacate a prior decree" enjoining the defendants' conduct. *Helmkamp v. Clark Ready Mix Co.*, 249 N.W.2d 655, 656 (Iowa 1977). And *Gail v. W. Convenience Stores* reaffirms the rule that res judicata only "precludes *the parties* from relitigating issues." 434 N.W.2d 862, 863 (Iowa 1989) (emphasis added).

Decisions from other jurisdictions cited in the Court's Order are no different; each court applied res judicata only to parties of the original action. *See McDonald v. Hillcrest Towne Homeowner's Ass'n, Inc.*, No. CAE18-00584, 2020 WL 619604, at *3 (Md. Ct. Spec. App. Feb. 10, 2020) (precluding McDonald from challenging injunction based on issues that "could have been raised in either his answer … or in a timely appeal"); *Arkwright Advanced Coating, Inc. v. MJ Sols. GmbH*, No. CIV. 14-5030 DSD/TNL, 2015 WL 4663366, at *1 (D. Minn. Aug. 6, 2015) (precluding defendant from "revisit[ing]" arguments rejected in "previous order"). *Bredfeldt v.*

Greene, No. 2 CA-CV 2016-0198, 2017 WL 6422341, at *1 (Ariz. Ct. App. Dec. 18, 2017) (affirming denial of motion to dissolve injunction entered against moving party).

These authorities all point in the same direction and for good reason: "It is a principle of general application in Anglo-American jurisprudence that one is not bound by a judgment in personam in a litigation in which he is not designated as a party." *Hansberry v. Lee*, 311 U.S. 32, 40 (1940). The U.S. Supreme Court has described this principle—and the resulting rule that preclusion be limited to parties in the original action—as "a most significant safeguard" to ensure "those who never appeared in a prior action . . . may not be collaterally estopped without litigating the issue." *Blonder-Tongue Lab'ys, Inc. v. Univ. of Ill. Found.*, 402 U.S. 313, 329 (1971). For litigants who "never had a chance to present their evidence and arguments on the claim[,] [d]ue process prohibits estopping them despite one or more existing adjudications of the identical issue." *Id*.

This Court found (correctly) that LULAC followed the appropriate procedure to dissolve the *King* injunction, and that Iowa law permits such actions. Dismissal Order at 6-7. But it departed from settled precedent by applying res judicata to LULAC—a stranger to the *King* action. Because non-parties to a final judgment may litigate similar or even identical issues in future actions, LULAC may vindicate its rights and those of its members by dissolving the *King* injunction and may advance any relevant arguments or evidence in doing so. Regardless of the outcome in *King*, LULAC and its members are entitled to their day in court.

CONCLUSION

For the foregoing reasons, the Court should reconsider its decision to grant Respondents' Motion to Dismiss in part and deny their motion in full.

Dated this 22nd day of March, 2022.

Respectfully submitted,

/s/ Shayla McCormally

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