

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD, ILLINOIS**

|   |   |                    |
|---|---|--------------------|
| PUBLIC INTEREST LEGAL FOUNDATION,                   | ) |                    |
| INC.,   | ) |                    |
| Plaintiff,  | ) |                    |
|   | ) |                    |
| -vs-  | ) | 20-cv-3190-SEM-TSH |
|   | ) |                    |
| STEVE SANDVOSS, in his official Capacity as         | ) |                    |
| Executive Director of the Illinois State Board of   | ) |                    |
| Elections, KYLE THOMAS, in his official capacity )  | ) |                    |
| as Director of Voting Systems and Registration,     | ) |                    |
| CHERYL HOBSON in her official capacity as           | ) |                    |
| Deputy Director of Voting and Registration, and the | ) |                    |
| ILLINOIS STATE BOARD OF ELECTION,                   | ) |                    |
|   | ) |                    |
| Defendants.   | ) |                    |

**DEFENDANT STEVE SANDVOSS' ANSWER**

NOW COMES Defendant, STEVE SANDVOSS,<sup>1</sup> by and through his attorney, Kwame Raoul, Attorney General for the State of Illinois, and hereby files his Answer, stating as follows:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, because the action arises under the laws of the United States. This Court also has jurisdiction under 52 U.S.C. § 20510(b), because the action seeks injunctive and declaratory relief under the NVRA. This Court may also grant declaratory relief under 28 U.S.C. § 2201.

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 1.**

2. Venue in this Court is proper under 28 U.S.C. § 1391(b)(1), because the Defendants reside in this district, and under 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim occurred in this district.

---

<sup>1</sup> Defendants, KYLE THOMAS, CHERYL HOBSON, and ILLINOIS STATE BOARD OF ELECTIONS, have filed a motion to dismiss. The motion is currently pending before the Court. Should the Court deny the motion, these Defendants will answer the Complaint.

**ANSWER: Defendant Sandvoss admits venue is proper in this Court because a substantial part of the events giving rise to the claim occurred in this district, but denies that all Defendants reside in this district.**

3. The Public Interest Legal Foundation, Inc., (the “Foundation”) is a non-partisan, public interest organization incorporated and based in Indianapolis, Indiana. The Foundation seeks to promote the integrity of elections nationwide through research, education, remedial programs, and litigation. The Foundation regularly utilizes the NVRA’s Public Disclosure Provision and state and federal open records laws that require government records be made available to the public. Using records and data compiled through these open records laws, the Foundation analyzes the programs and activities of state and local election officials in order to determine whether lawful efforts are being made to keep voter rolls current and accurate. The Foundation also uses records and data to produce and disseminate reports, articles, blog and social media posts, and newsletters in order to advance the public education aspect of its organizational mission.

**ANSWER: Defendant Sandvoss lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 3.**

4. Defendant Steve Sandvoss is the Executive Director of the Illinois State Board of Elections, which has the duties and responsibilities of the Secretary of State and State Electoral Board to supervise the administration of the registration and election laws throughout the State of Illinois. 10 ILCS 5/1A-8(1); 10 ILCS 5/1A-8(12).

**ANSWER: Defendant Sandvoss admits he is the Executive Director of the Illinois State Board of Elections. Defendant Sandvoss further admits that the Election Code provides the State Board of Elections shall assume “all duties and responsibilities of the State Electoral Board and the Secretary of State as heretofore provided in this Code[.]” 10 ILCS 5/1A-8. Defendant Sandvoss further admits that a duty of the State Board of Elections is to supervise the administration of the registration and election laws throughout the State of Illinois. Defendant denies the remaining allegations of paragraph 4.**

5. Defendant Sandvoss, as the Executive Director, “shall exercise general supervision over the operation of the business of the Board and its equipment, facilities, employees and consultants, in accordance with the rules and regulations of the Board and as otherwise directed by the Board.” 10 ILCS 5/1A-10.

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 5.**

6. Defendant Cheryl Hobson is the Deputy Director of Voting and Registration within the Illinois State Board of Elections and is responsible for providing copies of the voter registration list to those not restricted from receiving it.

**ANSWER: Defendant admits Cheryl Hobson is the Deputy Director of Voting and Registration Systems within the Illinois State Board of Elections. Defendant denies the remaining allegations of paragraph 6.**

7. Defendant Kyle Thomas is the Director of Voting Systems and Registration and has responsibility for maintaining the statewide voter registration list on behalf of the State Board of Elections.

**ANSWER: Defendant admits Kyle Thomas is the Director of Voting and Registration Systems. Defendant denies the remaining allegations of paragraph 7.**

8. Defendant Illinois State Board of Elections has general supervision over the administration of the registration and election laws in the State of Illinois. 10 ILCS 5/1A.1.

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 8.**

9. Defendant Illinois State Board of Elections has all duties and responsibilities of the State Electoral Board and the Secretary of State as provided in the State Election Code, codified at 10 ILCS 5. 10 ILCS 5/1A.8(1).

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 9.**

10. Section 10 ILCS 5/1A-25 of the Illinois Compiled Statutes requires that a “centralized statewide voter registration list” be created and maintained by the State Board of Elections.

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 10.**

11. Section 10 ILCS 5/1A-25(1) provides that “[t]he centralized statewide voter registration list shall be compiled from the voter registration data bases of each election authority in this State.”

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 11.**

12. Section 10 ILCS 5/1A-25(4) requires that “[t]he registration information maintained by each election authority shall be synchronized with that authority’s information on the statewide list at least every 24 hours.”

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 12.**

13. Section 10 ILCS 5/1A-25(4) restricts those allowed to receive a copy of the voter registration list to just two types of entities: political committees or government entities (“Restricted Access Law”). No other entity or individual is allowed to receive a copy of the voter registration list under the Restricted Access Law.

**ANSWER: Defendant Sandvoss admits that 10 ILCS 5/1A-25(4) generally restricts those allowed to receive a copy of the voter registration list to State or local political committees and governmental entities. Defendant denies this statute is entitled “Restricted Access Law.”**

14. The Restricted Access Law contains just one exception, which is that a person may *view* the voter registration list at the office of the State Board of Elections:

To protect the privacy and confidentiality of voter registration information, the disclosure of any portion of the centralized statewide voter registration list to any person or entity other than to a State or local political committee and other than to a governmental entity for a governmental purpose is specifically prohibited except as follows: (1) subject to security measures

adopted by the State Board of Elections which, at a minimum, shall include the keeping of a catalog or database, available for public view, including the name, address, and telephone number of the person viewing the list as well as the time of that viewing, **any person may view the list on a computer screen at the Springfield office of the State Board of Elections**, during normal business hours other than during the 27 days before an election, but the person viewing the list under this exception may not print, duplicate, transmit, or alter the list; or (2) as may be required by an agreement the State Board of Elections has entered into with a multi-state voter registration list maintenance system. (Source: P.A. 98-115, eff. 7-29-13; 98-1171, eff. 6-1-15.)

**ANSWER: Defendant Sandvoss denies this statute contains “just one exception.” Defendant admits Plaintiff has cited a portion of 10 ILCS 5/1A-25(4).**

15. The NVRA provides, in relevant part, “Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters[.]” 52 U.S.C. § 20507(i)(1) (hereafter, the “Public Disclosure Provision”).

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 15.**

16. The Public Disclosure Provision is designed to “ensure that election officials are fulfilling their list maintenance duties” and is “available to any member of the public.” *Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at \*12 (S.D. Fla. Mar. 30, 2018). The Public Disclosure Provision “convey[s] Congress’s intention that the public should be monitoring the state of the voter rolls and the adequacy of election officials’ list maintenance programs. Accordingly, election officials must provide full public access to all records related to their list maintenance activities, including their voter rolls.” *Id.* at \*12-13.

**ANSWER: Defendant Sandvoss admits Plaintiff accurately quotes portions of *Bellitto*. Defendant denies the allegations of this paragraph to the extent Plaintiff represents *Bellitto* as precedential authority this Court must apply.**

17. The Public Disclosure Provision “embodies Congress’s conviction that Americans who are eligible under law to vote have every right to exercise their franchise, a right that must not be sacrificed to administrative chicanery, oversights, or inefficiencies.” *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 334-35 (4th Cir. 2012).

**ANSWER: Defendant Sandvoss admits Plaintiff accurately quotes portions of *Project Vote*. Defendant denies the allegations of this paragraph to the extent Plaintiff represents *Project Vote* as precedential authority this Court must apply.**

18. On October 16, 2019, the Foundation emailed a letter to Steve Sandvoss, the Executive Director of the Illinois State Board of Elections. The letter requested an electronic copy of Illinois’s statewide voter registration list pursuant to the NVRA’s Public Disclosure Provision.

**Exhibit A.**

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 18.**

19. The letter acknowledged that 10 ILCS 5/1A-25(4) appears to prohibit any person or entity other than a political committee from receiving the requested voter registration list.

**Exhibit A.**

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 19.**

20. The letter further explained that the NVRA, as a federal enactment, supersedes and preempts Illinois law and therefore a denial of the Foundation’s request would violate the NVRA.

**Exhibit A.**

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 20.**

21. On October 29, 2019, General Counsel for the Board, Ken Menzel, responded in a letter to the Foundation. **Exhibit B.** The letter stated:

We have received your letter dated October 16, 2019, alleging a violation of 52 USC § 20507(i) by the State of Illinois based upon an allegation that “Illinois’ disclosure and duplication limitations violate the text and intent of Section 8 of the National Voter Registration Act of 1993 (NVRA).”

Your organization is authorized to participate in the “public inspection” (52 U.S.C. § 20507(i)(1)) of Illinois voter registration information. As you correctly note in your letter, Illinois law provides that “any person may view the centralized statewide voter registration list on a computer screen at the Springfield office of the State Board of Elections, during normal business hours other than during the 27 days before an election.” 10ILCS 5/4-8; see also 10 ILCS 5-7, 6-35.”

Any relevant information regarding Illinois list maintenance efforts in the possession of the SBE would be made available during our normal business hours (8:00AM to 4:30PM CST) at our main office in Springfield, Illinois. Reasonable advanced notice of when your staff would like to visit would be appreciated and allow for a more efficient visit.” We look forward to hearing from you. If you have any questions or comments, please do not hesitate to contact me at kmenzel@elections.il.gov or [redacted].

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 21.**

22. On November 14, 2019, the Foundation sent a letter to Mr. Menzel via email, acknowledging his response and advising him that the “NVRA requires not only inspection of voter list maintenance records, but also reproduction” of them. It further advised that “Illinois law appears to conflict with this requirement because it provides that we ‘may not print, duplicate, transmit, or alter the list.’ 10 ILCS 5/1A-25(4).” **Exhibit C.**

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 22.**

23. The letter asked for clarification as to whether the State Board would permit the Foundation to copy or reproduce the statewide voter registration list should the Foundation send someone to Illinois for the inspection.

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 23.**

24. Counsel for the Foundation sent follow up emails on November 21, December 11 and on a third date, each asking to schedule an inspection of the voter registration list in Springfield. **Exhibit D, p. 2.**

**ANSWER: Defendant Sandvoss admits counsel for Plaintiff sent a follow up email on December 11, 2019. Defendant Sandvoss also admits that Plaintiff sent a follow up email in November 2019, but denies that this email was sent on November 21. Defendant Sandvoss lacks knowledge or information sufficient to form a belief about the truth of the allegation that counsel for the Foundation sent a follow up email on a third date. Defendant Sandvoss denies the remaining allegations in paragraph 24.**

25. On January 23, 2020, counsel for the Foundation received an email from Bernadette Matthews, who advised that she had replaced Mr. Menzel as counsel for the Board, and that she was responding to the Foundation's earlier requests to visit the office for an inspection. Ms. Matthews stated that she would send the request to Kyle Thomas, Director of Voting Systems and Registration so that he could "touch base" with counsel "about a visit to the office." **Exhibit D, p.**

**1.**

**ANSWER: Defendant Sandvoss denies that Ms. Matthews used the phrase "a visit." Defendant Sandvoss admits the remaining allegations in paragraph 25.**

26. On January 31, 2020, counsel for the Foundation traveled from Indianapolis, Indiana to the SBE office in Springfield to inspect the voter registration list on the computer at the SBE office. **Exhibit E, Declaration of Sue Becker.**

**ANSWER: Defendant Sandvoss admits that on January 31, 2020, a representative of Plaintiff came to the SBE office in Springfield to inspect the voter registration list on the computer at the SBE office. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 26.**

27. Upon arrival, counsel was given access to a computer monitor but was told that she could not print a record, photocopy or reproduce the screen, photograph the screen, print the screen or use a flash drive to obtain a copy of any sort of any information viewed. She was also assigned an employee to remain near her as she sat at the public access desk. **Exhibit E.**

**ANSWER: Defendant denies the allegation that Plaintiff's representative was assigned an employee to remain near her as she sat at the public access desk. Defendant Sandvoss lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 27.**



28. When counsel asked for assistance in locating the voter registration list, the monitoring employee responded that the list was not available on the computer. **Exhibit E.**

**ANSWER: Defendant Sandvoss denies that an employee was assigned to monitor Plaintiff's representative. Defendant Sandvoss lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 28.**

29. The employee further confirmed that information in the public access voter registration database could only be searched by inputting one specific name or specific birthdate at a time. **Exhibit E.**

**ANSWER: Defendant Sandvoss lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29.**

30. Further communication with the monitoring employee confirmed that it was not possible to conduct a general search of the list using a variety of search criteria, such as which registrants had been subjected to various list maintenance procedures including the transmission of an address confirmation card. **Exhibit E**

**ANSWER: Defendant Sandvoss denies there was a "monitoring employee," but admits an employee was in the area and available for questions. Defendant lacks knowledge or information as to what the employee stated. Defendant admits that it is not possible to conduct a search of the list using as search criteria which registrants had been subjected to various list maintenance procedures including the transmission of an address confirmation card. Defendant denies the list cannot be searched using a variety of search criteria.**

31. On February 21, 2020, the Foundation sent a Notice Letter to Defendants that the Board's refusal to produce or allow the photocopying of any of the requested documents was a violation of the NVRA, and that the violation needed to be corrected within 20 days of receipt of the notice or else a lawsuit could be filed. **Exhibit F.**

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 31.**

32. The Foundation received no response to its Notice Letter.

**ANSWER: Defendant Sandvoss admits the allegations in paragraph 32.**

COUNT I

**VIOLATION OF SECTION 8(i)(1) OF THE NATIONAL VOTER REGISTRATION ACT**  
**Refusal to Produce Voter Registration List Maintenance Records**

33. The Foundation realleges the preceding paragraphs as if fully stated herein.

**ANSWER: Defendant Sandvoss restates and re-incorporates his answers to the previous paragraphs.**

34. The requested record(s) are in the possession, custody, and control of the Defendants.

**ANSWER: Defendant Sandvoss denies the allegations in this paragraph to the extent Plaintiff alleges that a list of inactive voters is in the possession, custody, and control of SBE, but admits SBE maintains a centralized statewide voter registration list pursuant to 10 ILCS 5/1A-25(1).**

35. The voter registration list, as described in 10 ILCS 5/1A-25(4), is a record that falls under the Public Disclosure Provision of the NVRA, 52 U.S.C. § 20507(i) and must be produced. *See Judicial Watch, Inc. v. Lamone*, 399 F. Supp. 3d 425, 438-442, 446 (D. Md. 2019); *True the Vote v. Hosemann*, 43 F. Supp. 3d 693, 723 (S.D. Miss. 2014) (“The Court likewise concludes that the Voter Roll is a ‘record’ and is the ‘official list[] of eligible voters’ under the NVRA Public Disclosure Provision.”); *Bellitto v. Snipes*, No. 16-cv-61474, 2018 U.S. Dist. LEXIS 103617, at \*13 (S.D. Fla. Mar. 30, 2018) (“[E]lection officials must provide full public access to all records related to their list maintenance activities, including their voter rolls.”).

**ANSWER: Defendant Sandvoss denies the allegations in paragraph 35.**

36. The Public Disclosure Provision authorizes and entitles *the public*, which includes the Foundation, to inspect and copy, or otherwise purchase and receive, a variety of list maintenance data in the custody of the Defendants, including the voter registration list described in 10 ILCS 5/1A-25(4) as well as list maintenance data attached to individual registration files such as when and if the registrant was subjected to various list maintenance procedures.

**ANSWER: Defendant Sandvoss denies the allegations in paragraph 36.**

37. The Defendants are in violation of the NVRA because they did not allow the Foundation to inspect, copy, purchase or receive the requested list maintenance records. Indeed, Illinois has deliberately made this impossible.

**ANSWER: Defendant Sandvoss denies the allegations in paragraph 37.**

38. By denying the Foundation the ability to obtain records it otherwise could obtain under the Public Disclosure Provision of the NVRA, the Restricted Access Law, 10 ILCS 5/1A-25(4), conflicts with federal law.

**ANSWER: Defendant Sandvoss denies the allegations in paragraph 38.**

39. Any Illinois statute, regulation, practice or policy that conflicts with, overrides, or burdens the NVRA, a federal statute, is preempted and superseded under Art. VI, cl. 2, the Supremacy Clause and Art. I, § 4, cl.1, the Elections Clause, of the Constitution of the United States.

**ANSWER: Defendant Sandvoss admits that generally a statute, regulation, practice or policy that conflicts with and overrides the NVRA is preempted under Art. VI, Cl. 2, the Supremacy Clause. Defendant denies the remaining allegations of paragraph 39.**

40. Illinois's Restricted Access Law found in 10 ILCS 5/1A-25(4) is therefore preempted, invalid, and unenforceable.

**ANSWER: Defendant Sandvoss denies the allegations in paragraph 40.**

41. The Foundation provided Defendants written notice of the NVRA violation alleged herein, thereby satisfying the NVRA's pre-litigation notice requirement, 52 U.S.C. § 20510(b)(1).

**Exhibit F.**

**ANSWER: Defendant Sandvoss admits the allegations of paragraph 41.**

42. Defendant has not cured his violation of the NVRA within the 20 days permitted by the NVRA. *See* 52 U.S.C. § 20510(b)(2).

**ANSWER: Defendant Sandvoss denies a violation of the NVRA, and therefore denies the allegations in this paragraph. Defendant denies any wrongful conduct and denies violating Plaintiff's rights.**

43. Defendant's violation of the NVRA is causing the Foundation to suffer a concrete informational injury because the Foundation does not have records and information to which it is entitled under federal law. *FEC v. Akins*, 524 U.S. 11, 21 (1998) (“[A] plaintiff suffers an ‘injury in fact’ when the plaintiff fails to obtain information which must be publicly disclosed pursuant to a statute”).

**ANSWER: Defendant Sandvoss denies a violation of the NVRA. Defendant denies any wrongful conduct and denies violating Plaintiff's rights.**

44. By denying the Foundation the ability to obtain the requested voter registration list, Illinois is impairing the Foundation's ability to assess the accuracy of Illinois's voter roll and to determine whether people from other states are voting in Illinois elections and vice versa.

**ANSWER: Defendant Sandvoss lacks knowledge of information sufficient to form a belief about the allegations of paragraph 44.**

45. Defendants' violation of the NVRA is thus frustrating, impeding and harming the efforts of the Foundation to carry out its organizational mission.

**ANSWER: Defendant Sandvoss denies a violation of the NVRA. Defendant lacks knowledge or information sufficient to form a belief about the remaining allegations of paragraph 45.**

46. The Foundation will continue to be injured by the Defendants' violations of the NVRA unless and until the Defendants are enjoined from continuing to violate the law.

**ANSWER: Defendant Sandvoss denies the allegations in paragraph 46.**

47. The Foundation is a person aggrieved by a violation of the NVRA, as set forth in 52 U.S.C. § 20510(b)(1).

**ANSWER: Defendant Sandvoss denies the allegations in paragraph 47.**

RETRIEVED FROM DEMOCRACYDOCKET.COM

**PRAYER FOR RELIEF**

**Defendant Sandvoss denies any wrongful conduct, denies violating Plaintiff's rights, and denies Plaintiff is entitled to any relief.**

Respectfully submitted,

STEVE SANDVOSS,

Defendant,

KWAME RAOUL, Attorney General,  
State of Illinois,

Attorney for Defendant

By: s/Thomas R. Ewick

Thomas R. Ewick #6279084  
Assistant Attorney General

Thomas R. Ewick #6279084  
Kristina Dion #6312732  
Assistant Attorney General  
500 South Second Street  
Springfield, Illinois 62701  
(217) 782-9026 Phone  
(217) 524-5091 Fax  
E-mail: [tewick@atg.state.il.us](mailto:tewick@atg.state.il.us)

RETRIEVED FROM DEMOCRACYDOCK.COM

**IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
SPRINGFIELD, ILLINOIS**

|   |   |                    |
|---|---|--------------------|
| PUBLIC INTEREST LEGAL FOUNDATION,                   | ) |                    |
| INC.,   | ) |                    |
| Plaintiff,  | ) |                    |
|   | ) |                    |
| -vs-  | ) | 20-cv-3190-SEM-TSH |
|   | ) |                    |
| STEVE SANDVOSS, in his official Capacity as         | ) |                    |
| Executive Director of the Illinois State Board of   | ) |                    |
| Elections, KYLE THOMAS, in his official capacity    | ) |                    |
| as Director of Voting Systems and Registration,     | ) |                    |
| CHERYL HOBSON in her official capacity as           | ) |                    |
| Deputy Director of Voting and Registration, and the | ) |                    |
| ILLINOIS STATE BOARD OF ELECTION,                   | ) |                    |
|   | ) |                    |
| Defendants.   | ) |                    |

**CERTIFICATE OF SERVICE**

I hereby certify that on October 5, 2020, the foregoing document, *Answer and Affirmative Defense* was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

|                      |  |
|----------------------|--|
| A. Christine Svenson | <a href="mailto:christine@svensonlawoffices.com">christine@svensonlawoffices.com</a> |
| Sue Becker           | <a href="mailto:sbecker@PublicInterestLegal.org">sbecker@PublicInterestLegal.org</a> |

and I hereby certify that on the same date, I caused a copy of the foregoing document to be mailed by United States Postal Service, to the following non-registered participant:

NONE

Respectfully submitted,

By: s/Thomas R. Ewick  
 Thomas R. Ewick #6279084  
 Assistant Attorney General  
 500 South Second Street  
 Springfield, IL 62701  
 (217) 782-9026 Phone  
 (217) 524-5091 Fax  
 E-mail: tewick@atg.state.il.us