VIRGINIA: IN THE CIRCUIT COURT OF TAZEWELL COUNTY

RYAN T. MCDOUGLE, Virginia State Senator and Legislative Commissioner for the Virginia Redistricting Commission, WILLIAM M. STANLEY JR., Virginia State Senator and Legislative Commissioner for the Virginia Redistricting Commission, TERRY KILGORE, Delegate to the Virginia House of Delegates, VIRGINIA TROST-THORNTON, Citizen Commissioner of the Virginia Redistricting Commission,	)	Civil Action No.: CL25-1582
Plaintiffs,	)	
v.	)	
G. PAUL NARDO, in his official capacity as Clerk of the Virginia House of Delegates, SUSAN CLARKE SCHAAR, in her official capacity as Clerk of the Virginia Senate, TARA PERKINSON, in her official capacity as Chief Deputy Clerk of the Virginia Senate, And CHARITY D. HURST, in her official Capacity as Clerk of Court of the Tazewell Circuit Court	)	Received and filed in Tazewell County, Virginia Circuit Court Clerk's Office. This the 28 day of Oct, 25 Time 12:15 P M. TESTE: C Brewster Clerk, Deputy Clerk
Defendants.	)	

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EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER

Plaintiffs have filed a Verified Complaint, whose allegations this Motion incorporates by reference. In conjunction with that Verified Complaint, Plaintiffs respectfully move that this Court grant emergency injunctive relief—a temporary restraining order—against Defendants. To preserve the status quo pending a hearing, this Court should temporarily restrain Defendants from taking action to advance any resolution or proposed constitutional amendment initiated under House Joint Resolution 6006. Once the parties meet for a hearing, this Court should then enter a preliminary injunction ordering Defendants not to take any such action.

Under the Rules of the Supreme Court of Virginia, a court "may issue a temporary restraining order of brief duration for the limited purpose of preserving the status quo between the parties pending a hearing on a motion for a preliminary injunction." Rule 3:26(b). As long as the opposing parties have received notice, a temporary restraining order is proper whenever "the equities warrant" it. *Id.*

Both necessary conditions for a temporary restraining order—notice and the equities—are met here. First, Plaintiffs intend to serve Defendants with process on Tuesday, October 28. This ensures that they receive nearly immediate notice of the claims brought against them and the forms of relief, including the temporary restraining order, that Plaintiffs seek.

Second, the equities warrant a temporary restraining order. The Plaintiffs present a weighty question of Virginia constitutional law: Though the Constitution vests the Governor with exclusive power to convene a special session "when, in his opinion, the interest of the Commonwealth may require," Va. Const. art. IV, §6, does the Speaker of the House have unilateral authority to extend that session—or expand its scope to subjects

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not contemplated by the Governor? Faced with this serious constitutional issue, the Court should restrain the Defendants from violating Plaintiffs' rights, at the least while it prepares for a hearing, receives briefing, and decides whether to issue a preliminary injunction.

The equities also favor the Plaintiffs because, without a temporary restraining order, the proposed constitutional amendment—eliminating their right to participate in Virginia's redistricting process—will be transmitted to the Virginia Senate and approved. By contrast, a short delay will not permanently harm the proponents of the redistricting amendment (let alone the clerks), who will be able to move forward with the amendment process if this Court determines that the special legislative session has been lawfully extended.

The equities are the only relevant consideration where the Defendants have received adequate notice. Nevertheless, a temporary restraining order would be proper even without this notice. That is because Virginia authorizes issuance of a temporary restraining order even without notice where "specific facts" in "a verified complaint" demonstrate that "immediate and irreparable harm will result before the adverse party can be heard" and "the movant ... certifies in writing any efforts made to give notice." Rule 3:26(b)(i)–(ii). Plaintiffs have submitted to the Court a Verified Complaint explaining how the imminent violation of their constitutional rights.

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The loss of constitutional rights, for even "minimal periods of time," qualifies as irreparable harm. *Young v. Northam*, 107 Va. Cir. 281 (2021) (quoting *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S.Ct. 63, 67 (2020)). Every day that the Virginia House of Delegates sits in its sham Special Session is a day when the constitutional rights of the people of Virginia are violated. It is a day when the separation of powers is subverted, the Governor's authority is trampled upon, and liberty is denied to every Virginia citizen.

House Joint Resolution 6006 is unconstitutional under Article IV §6 and Article V §5 of the Virginia Constitution. Every legislative act advanced under House Joint Resolution 6006 is unconstitutional because such acts are the usurpations of an illegally constituted body. But Defendants don't seek to pass just any act. They seek to strike at the very Constitution of the Commonwealth. Defendants are set to take the unlawful step of transmitting a proposed constitutional amendment to eviscerate Article II, §6-A of the Virginia Constitution and deprive Plaintiffs of their constitutional privilege of participating in redistricting. They plan to do it at noon on Wednesday, October 29.

Plaintiffs thus move that this Court temporarily restrain Defendants from acting pursuant to House Joint Resolution 6006 so that the parties may brief and the Court may consider a request for a preliminary injunction. As to the Defendant legislative clerks, this Court should restrain them from transmitting the proposed amendment between legislative chambers or to court clerks. As to the Defendant court clerk, this Court should order the clerk not to post the proposed amendment at the courthouse doors or make it available for public inspection. This Motion certifies that Plaintiffs have arranged to serve Defendants with process on Tuesday, October 28. So Plaintiffs have made every reasonable effort to provide notice to Defendants.

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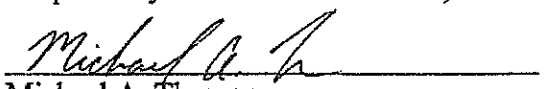
Respectfully submitted October 28, 2025



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