

**VIRGINIA:**

**IN THE CIRCUIT COURT OF TAZEWELL COUNTY**

RYAN T. MCDOUGLE, Virginia State Senator  
and Legislative Commissioner for the Virginia  
Redistricting Commission, et al.,

Plaintiffs,

v.

G. PAUL NARDO, in his official capacity as  
Clerk of the Virginia House of Delegates, et al.,  
Defendants,

Civil Action No. CL25-1582

and

DON SCOTT, in his official capacity as  
Speaker of the Virginia House of Delegates,  
Intervenor-Defendant.

**PLAINTIFFS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER  
AND SUPPORTING MEMORANDUM**

Plaintiffs move for a temporary restraining order as to Paragraphs 95, 96 and 97 in their Verified Amended Complaint. *See* Va. Sup. Ct. R. 3:26(b). A TRO will preserve the status quo until the Court holds a hearing on the preliminary injunction motion, currently set for January 21, 2026. Plaintiffs will likely succeed on the merits of their claims and suffer irreparable harm without temporary relief. And the equities support a TRO. Plaintiffs are thus entitled to a TRO “for the limited purpose of preserving the status quo between the parties pending a hearing on a motion for a preliminary injunction.” Va. Sup. Ct. R. 3:26(b).

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## INTRODUCTION

The relief requested in this motion is minimal and “limited.” Va. Sup. Ct. R. 3:26(b). A temporary restraining order against the Legislative Clerk Defendants will allow the Court to hold a hearing on the preliminary injunction motion after the opening of the legislative session. Plaintiffs filed a preliminary injunction motion on December 16, 2025. In that motion, Plaintiffs request relief before the next legislative session begins on January 14, 2026. The Court scheduled a hearing on the preliminary injunction motion for January 21, and allowed Plaintiffs to move for a temporary restraining order to the extent they need relief before the legislative session. This TRO motion thus seeks temporary relief against the legislative clerks from introducing or furthering legislation pertaining to the unconstitutional redistricting amendment. *See* Am. Compl. ¶¶95-97.

Temporary relief is necessary to allow the Court evaluate the constitutional violations that plague the proposed redistricting amendment. The Virginia Constitution requires that the General Assembly adopt a proposed constitutional amendment twice, with those adoptions separated by an intervening House election. Va. Const. art. XII, §1. But the General Assembly introduced and adopted the proposed amendment while the 2025 general election was already underway, depriving Virginians of their constitutional and statutory rights to notice and opportunity to hold their Delegates accountable. The General Assembly compounded that constitutional infirmity by attempting to adopt the proposed amendment in a special budgetary session that had long expired. That May 2024 special session expired when the General Assembly convened its regular 2025 session—which terminated any ability to maintain a separate special session—or, at the latest, when the General Assembly adopted the proposed budget and fulfilled the special session’s limited budgetary purpose. The General Assembly further transgressed its authority by transforming a budgetary session into a constitutional amendment session, expanding the limited legislative scope of the special session. *See* Va. Const. art. IV, §6.

These constitutional violations carry solemn weight. They doom the proposed redistricting amendment from the outset. And each subsequent step furthering the proposed redistricting amendment harms Plaintiffs and the Commonwealth. When the Legislative Clerk Defendants take action to introduce and further the redistricting bill in the next legislative session, they will renew these constitutional violations. Those ministerial acts to continue an unconstitutional process are thus unlawful, and the Defendants lack authority to take them.

This TRO motion asks for modest, “limited” relief to preserve the status quo. Va. Sup. Ct. R. 3:26(b). Plaintiffs will suffer irreparable harm if the Court denies the TRO motion. Once the legislative clerks introduce the unconstitutional redistricting amendment, that initial act can no longer be enjoined. A TRO will thus “preserv[e] the status quo between the parties pending a hearing on a motion for a preliminary injunction” on that issue. Va. Sup. Ct. R. 3:26(b). It will allow the Court to hear and rule in due course on whether the clerks can introduce the redistricting amendment. In contrast, the TRO poses no irreparable harm to the Legislative Clerk Defendants. They would at most be temporarily delayed in introducing the unconstitutional legislation until the Court resolves the preliminary injunction motion, which is set for hearing on January 21.

If Defendants are unwilling to concede that Plaintiffs can get full and complete relief through their preliminary injunction after January 14, then the Court must grant the TRO to preserve Plaintiffs’ ability to obtain full relief after the January 21 hearing. A one-week delay in the legislative process is the least that the Plaintiffs and the citizens of the Commonwealth deserve while the Court hears and resolves these important issues.

### **LEGAL STANDARDS**

“If the equities of a case warrant doing so and adequate notice to opposing parties has been given by the movant, 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.” Va. Sup. Ct. R. 3:26(b). The Court can issue a TRO supported by “specific facts” in a “verified complaint.” *Id.*

## ARGUMENT

Plaintiffs are entitled to a temporary restraining order as to Paragraphs 95, 96 and 97 of their Verified Amended Complaint. As the Plaintiffs’ preliminary injunction motion explains, each Plaintiff has standing, and they’re likely to succeed on the merits of their claims: the proposed redistricting amendment failed the constitutional amendment procedural requirements for the 2025 general election; the General Assembly had no authority to reconvene the 2024 special session in October 2025; and it had no authority to expand the scope of that session to enact partisan redistricting reform. Temporary relief is needed to prevent the imminent and irreparable harm that Plaintiffs will suffer when the Legislative Clerk Defendants take actions to introduce the proposed constitutional amendment on January 14, 2026, purportedly for its second passage.

For three reasons, the equities favor preserving the status quo until the Court can hear the full preliminary injunction motion.

*First*, Plaintiffs will suffer irreparable harm without temporary relief. A “presumption of irreparable injury” flows “from a violation of constitutional rights.” *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996); *accord Johnson v. Bergland*, 586 F.2d 993, 995 (4th Cir. 1978). As legislators and voters, the Plaintiffs have the right to participate in the amendment process as laid out in the Constitution. *See* Va. Const. art. XII, §1. And as legislative leaders and Commissioners, Plaintiffs have the constitutional right to participate in the redistricting process. *See id.* art. II, §6-A. The loss of constitutional rights “for even minimal periods of time, rises to the level of irreparable injury.” *Young v. Northam*, 107 Va. Cir. 281, \*6 (2021) (unpublished op.) (citing *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020)).

For this TRO motion, Plaintiffs assert the right merely to *make these arguments and seek appropriate relief*. Once the Legislative Clerk Defendants take the ministerial steps to introduce the proposed redistricting amendment, Plaintiffs can no longer obtain relief against those unconstitutional acts. Scheduling a hearing on the validity of those ministerial acts *after they occur* is no different than denying the preliminary injunction motion as to those acts. Courts recognize that “monetary damages are inadequate to compensate” for the deprivation of constitutional rights. *Legend Night Club v. Miller*, 637 F.3d 291, 302 (4th Cir. 2011). So no after-the-fact damages can make the Plaintiffs whole. Either the Court preserves the status quo against the Legislative Clerk Defendants, or Plaintiffs lose the ability to seek that relief because of scheduling issues.

*Second*, the equities favor preserving the status quo. That’s the basic purpose of a “prohibitory injunction” such as the one Plaintiffs seek here. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 236 (4th Cir. 2014). And in Virginia, “the balance of equities weighs in favor of enforcing ... agreements.” *CG Riverview, LLC v. 139 Riverview, LLC*, 98 Va. Cir. 59 (2018). The Constitution is the preeminent social contract, so equity favors strictly enforcing its terms. *See Coleman v. Pross*, 219 Va. 143, 145 (1978). Moreover, if this Court grants the TRO motion, the only harm to Defendants is that “at worst [they] will suffer the inconvenience of not being able to [pass the proposed amendment] for some period of time.” *Cf. Fontaine v. Watson*, 106 Va. Cir. 430 (2020). That period of time will be short, and Defendants will have the opportunity to present their arguments in full at the January 21 hearing on the preliminary injunction motion. By contrast, injury to Plaintiffs—who will lose their right to relief against the Legislative Clerks without ever having had the chance to seek it—will be “quite severe.” *Id.*

*Third*, the public interest supports temporary relief. Va. Sup. Ct. R. 3:26(d)(iii). “The public interest advanced by granting a temporary injunction outweighs the public interest in denying the

motion.” *Young v. Northam*, 107 Va. Cir. 281 (2021). That is because “it is always in the public interest to protect constitutional rights.” *Carson v. Simon*, 978 F.3d 1051, 1061 (8th Cir. 2020). And “the public interest favors enjoining a constitutional violation.” *Elhert v. Settle*, 105 Va. Cir. 544, \*9 (2020). Because Defendants have no legitimate interest in enacting an unlawful amendment, the equities strongly favor Plaintiffs.

Finally, *Scott v. James*, 76 S.E. 283, 283 (Va. 1912), is no obstacle to temporary relief. To start, *Scott* did not concern a temporary one-week delay in the legislative process. Rather, in *Scott*, the Supreme Court declined to enter a permanent injunction prohibiting the submission of a proposed amendment to the voters, in part because it didn’t want to “interfere with the process of legislation.” 114 Va. at 304 (cleaned up). Even if the Court were concerned about the legislative process, the TRO isn’t permanent—it simply preserves the status quo between the parties while the Court hears those arguments at the preliminary injunction hearing.

Moreover, *Scott*’s facts don’t match this case. In *Scott*, “a taxpayer and citizen” sought to enjoin the Secretary from submitting a proposed constitutional amendment to the people for a vote. *Id.* at 302-03. The General Assembly had adopted two proposed amendments modifying the rules for re-election of city treasurers and revenue commissioners. *Id.* at 300. Those amendments were submitted to the voters as a package, and they failed. The General Assembly then sought to resubmit them to the voters on separate ballots. *Scott* objected, arguing that the amendments couldn’t be resubmitted to the people without going through the amendment process again, and asked the court to enjoin the Secretary from enforcing the act establishing the election. *Id.* at 301-02. The court declined, reasoning that “with few exceptions,” it could not “enjoin the holding of an election.” *Id.* at 304-05 (cleaned up). Plaintiffs do not ask the Court “to enjoin the holding of an election,” so *Scott* does not apply.

Even if Plaintiffs were seeking to enjoin an act that “direct[s] an election to be held upon the proposed amendments,” *id.* at 305, *Scott*’s other rationale about interfering with the legislative process has been abrogated by more recent precedent. In *Coleman v. Pross*, just as in *Scott*, the General Assembly adopted an act directing officials to hold an election “upon the ratification or rejection of certain proposed amendments to the Constitution of Virginia” affecting legislative sessions. 219 Va. at 145. The “Acting Comptroller entertained doubts as to the constitutionality” of the proposed amendment because the two versions of the amendment adopted in the two legislative sessions were not “the same.” *Id.* at 145, 154. The Attorney General sought a writ of mandamus ordering officials to hold the election. Rather than apply *Scott*’s reasoning that it could not “interfere with the process of legislation,” 114 Va. at 304, the Court in *Coleman* held that the proposed constitutional amendment *could not* be submitted to the voters because it flunked the amendment procedures, 219 Va. at 1458-59. The two versions of the proposed amendment “were not the same,” so “there ha[d] not been strict compliance” with “Article XII, Section 1 of the Constitution.” *Id.*

*Coleman*, not *Scott*, controls. “[I]n determining whether proposed amendments to the Constitution may properly be referred to the electorate, a standard of strict compliance with all specified prerequisites, rather than a standard of substantial compliance, must be applied.” *Id.* at 158. That’s because “[v]oters have the right to act on proposed constitutional amendments with confidence, secure in the knowledge that the proposals have been put to them for final action only after careful analysis, elimination of errors of form and substance.” *Id.* The Plaintiffs in this case have no less a right today. They are thus entitled to a preliminary injunction. At the very least, they are entitled to a TRO until the Court has time to consider and resolve their motion for a preliminary injunction.

**CONCLUSION**

For these reasons, the Court should grant a temporary restraining order as to Paragraphs 95, 96, and 97 of the Verified Amended Complaint, temporarily prohibiting the Legislative Clerk Defendants from taking any action to publish, introduce, or further legislation pertaining to the proposed redistricting amendment until the Court resolves the preliminary injunction motion.

Respectfully submitted January 6, 2026

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**CERTIFICATE OF SERVICE**

I hereby certify that this document was served on all parties, consistent with Rule 1:12 of the Rules of the Supreme Court of Virginia.

Dated: January 6, 2026

/s/ Michael A. Thomas  
Michael A. Thomas

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