

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION (CHICAGO)**

LIBERTARIAN PARTY OF ILLINOIS,)
ILLINOIS GREEN PARTY, DAVID)
F. BLACK, SHELDON SCHAFER,)
RICHARD J. WHITNEY, WILLIAM)
REDPATH, BENNETT W. MORRIS,)
MARCUS THRONEBURG,)

Plaintiffs,)

and ALEXANDER (AJ) RUGGIERI,)

Intervenor-Plaintiff,)

vs.)

J.B. PRITZKER, in his official capacity)
as Governor of Illinois,)

and WILLIAM J. CADIGAN, KATHERINE S.)
O'BRIEN, LAURA K. DONAHUE, CASSANDRA)
B. WATSON, WILLIAM R. HAINE, IAN K.)
LINNABARY, CHARLES W. SCHOLZ,)
WILLIAM M. MCGUFFAGE, in their official)
capacities as Board Members for the Illinois State)
Board of Elections,)

Defendants.)

Case No. 1:20-cv-02112

Hon. Charles R. Norgle

**ALEXANDER (AJ) RUGGIERI’S CONSOLIDATED REPLY
IN SUPPORT OF MOTION TO INTERVENE**

Introduction

Alexander (AJ) Ruggieri files this Consolidated Reply to the nearly identical oppositions to his Motion to Intervene (the “Motion”) filed by Plaintiffs and Defendant J.B. Pritzker (together the “Objectors”). *See* ECF # 49 and # 50. All Ruggieri wants is the same relief that the Court granted to independent and new party candidates in the legislative district where Ruggieri is running. The Objectors, who are Ruggieri’s political opponents, oppose his Motion because (1) it

is purportedly untimely; and (2) it is not accompanied by a Rule 24(c) proposed pleading that explains why Ruggieri seeks intervention. *Id.* Neither argument carries the day. Ruggieri filed his Motion just two business days after his interest in this matter materialized. Moreover, given the clear and simple state of the record, there is no need to tax the Court with reading a Rule 24(c) explanatory pleading. But even if such a pleading were useful, it accompanies this Reply.

I. The Objectors' argument that Ruggieri's Motion is untimely fails because he filed it just two business days after his interest in this action materialized.

The Objectors argue that Ruggieri's Motion is untimely because he filed it more than two months after Plaintiffs began their action on April 2, 2020. See ECF # 49 at 6-7; ECF # 50. The problem with this argument is that it mistakenly keys on when the action began rather than on when Ruggieri's interest in it materialized.

The test for timeliness is focused on when a petitioner learned "of a suit that might affect *their rights*[".]” *Reich v. ABC/York-Estes Corp.*, 64 F.3d 316, 321 (7th Cir. 1995) (internal quotations and citations omitted, emphasis added). When determining if a petitioner has sought to intervene timely, Courts review: (1) the length of time the intervenor knew or should have known *of his interest in the case*; (2) the prejudice to the original party caused by the delay; (3) the resulting prejudice to the intervenor if the motion is denied; and (4) any unusual circumstances. *See South v. Rowe*, 759 F.2d 610, 612 (7th Cir. 1985). Ruggieri meets the test.

Ruggieri first became a candidate able to collect supporting signatures on May 18, when the Republican Legislative Committee for the 52nd District designated him. *See Ex. A*; 10 ILCS 5/7-61.¹ He proceeded to collect more than the minimum 1000 required signatures, only to learn

¹ The Court can judicially notice public documents like the Notice of Appointment on file with the Illinois State Board of Elections and attached hereto at Ex. A. *See Tobey v. Chibucos*, 890 F.3d 634 (7th Cir. 2018).

from the Illinois Board of Elections on June 19 that a number of his signatures were invalid and so he fell below the minimum threshold. Ruggieri Dec. ¶8. Ruggieri's interest in this case materialized that day and he moved to intervene two business days later, on June 23. Moreover, the Objectors do not identify how they would be prejudiced by Ruggieri's intervention, nor could they. Ruggieri merely seeks to participate in the political process under the same relaxed rules as provided to Plaintiffs. If an equal footing were denied to Ruggieri, he will be prejudiced because his present ballot may be incurably deficient given the recognized unusual circumstances created by COVID-19 restrictions on his ability to cure that defect. Ruggieri's Motion is timely.

II. The Objectors' argument that Ruggieri's Motion should be denied because it is not accompanied by a pleading that explains why he seeks intervention fails because even though such pleadings are not always required, Ruggieri provides one anyway.

The Objectors' argument that the Motion fails for lack of an accompanying pleading that explains why Ruggieri seeks to intervene rests on an overly strict reading of Rule 24(c). *See* ECF # 49 at 8; ECF # 50. Courts in this and other circuits "do not take an inflexible view of this rule; if no prejudice would result, a district court has the discretion to accept a procedurally defective motion." *Retired Chicago Police Ass'n. v. City of Chicago*, 7 F.3d 584, 595 (7th Cir. 1993). As this Court explained in *Gibraltar Mausoleum Corp. v. Cedar Park Cemetery Ass'n, Inc.*: "courts often decline to apply Rule 24(c) in a needlessly technical manner in the absence of resulting prejudice." 92 C 5228, 1993 WL 135454, at *4 (N.D. Ill. April 29, 1993) (allowing intervention despite no accompanying pleading), citing *Beckman Industries, Inc. v. International Insurance Co.*, 966 F.2d 470, 474 (9th Cir. 1992) (intervention granted despite absence of pleading where court was apprised of legal and factual grounds for motion). Here, the Objectors have not articulated any prejudice to them from a simple Motion that seeks the same relief Plaintiffs received based on an established record. *See* Mot. at 2, 5; Ruggieri Dec. at ¶ 11. The only purpose of an accompanying pleading would be to repeat what has already been said.

The Objectors' reliance on *Shevlin v. Schewe*, 809 F.2d 447 (7th Cir. 1987), is distinguishable. *See* ECF # 49 at 8; ECF # 50. The decision in *Shevlin* denied intervention to an employer who sought to "upset the settlement agreement" between the original labor organizations without explaining what relief it sought or why it could not collectively bargain for it with the original parties. *Id.* at 449-50. Demonstrating the flexibility of Rule 24(c), *Shevlin* noted that an unaccompanied motion for intervention may be corrected if the missing pleading is submitted within a reasonable time. *Id.* at 450. Thus, although this is not the kind of case that will benefit from further explanation of why he seeks to intervene, Ruggieri files his proposed pleading along with this Reply. Now, even by the Objectors' measure, there is no reason left to deny the Motion.

Conclusion

The Objectors' oppositions to Ruggieri's Motion is politics. Neither Objector wants to contend with an established Republican candidate for State Senate. And so, they untenably argue that Ruggieri should be prevented from competing in the political arena on the same footing that has been granted to all other candidates because of the COVID-19 pandemic. Aside from being unfair, the Objectors' argument is legally infirm. For all the foregoing reasons and those stated in the Motion, the Court should grant the Motion.

Respectfully submitted,

Alexander (AJ) Ruggieri

/s/ John Fogarty, Jr.
Counsel for the Intervenor

John G. Fogarty, Jr.
(ARDC No. 6257898)
Clark Hill PLC
130 E. Randolph, Suite 3900
Chicago, Illinois 60601
(773) 680-4962 (cell)
(773) 681-7147 (fax)
jfogarty@clarkhill.com

EXHIBIT A

CERTIFICATE OF LEGISLATIVE OR REPRESENTATIVE COMMITTEE ORGANIZATION

52nd LEGISLATIVE DISTRICT)
OR) fill in only ONE blank
REPRESENTATIVE DISTRICT)

STATE OF ILLINOIS
COUNTY OF Champaign
(County in which organization occurred)

This is to certify that, in accordance with 10 ILCS 5/8-5, the Legislative or Representative
Committee (circle one) of the Republican Party of the 52nd Legislative or
Representative District (circle one) met on May 18, 2020, in the City of
(insert month, day, year)
Savoy, County of Champaign and organized by electing
the following officers in conformity with the Election Laws of this State.

Roger Dee Shonkwiler
PRINT CHAIRMAN'S NAME

1421 Quail Run, Drive, Savoy, IL
COMPLETE MAILING ADDRESS

Macy Surprenant
PRINT SECRETARY'S NAME

3303 Fairway Drive, Danville, IL
COMPLETE MAILING ADDRESS

SIGNED: Roger Dee Shonkwiler
CHAIRMAN

ATTEST: [Signature]
SECRETARY

Natasha Stone 06.01.2020



NOTICE OF APPOINTMENT TO FILL A VACANCY IN NOMINATION
52nd Legislative District


WHEREAS, a vacancy in the nomination of the Republican Party for the Office of State Senator in the General Assembly in and for 52nd Legislative District of Illinois exists, as the name of no candidate was printed on the primary election ballot for said office, nor was any person nominated for said office as a write-in candidate at the General Primary Election conducted on March 17, 2020; and

WHEREAS, on May 18, 2020, the duly constituted Legislative Committee of the Republican Party in and for the 52nd Legislative District of Illinois designated and appointed the person named herein below as the candidate of the Republican Party to fill said vacancy as required by 10 ILCS 5/7-61;

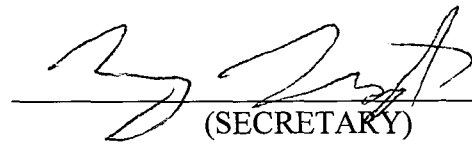
THEREFORE, TAKE NOTICE THAT:

Alexander (AJ) Ruggieri

who resides at 106 Dropseed Drive, in the Village of Savoy, State of Illinois, 61874, was designated and appointed to be the Republican Party candidate for the Office of State Senator in the General Assembly in and for the 52nd Legislative District of Illinois to be voted upon at the General Election to be held on November 3, 2020.


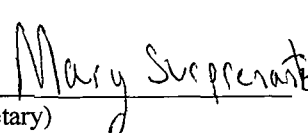


(CHAIRMAN)
Legislative Committee of the Republican
Party in and for the 52nd Legislative District



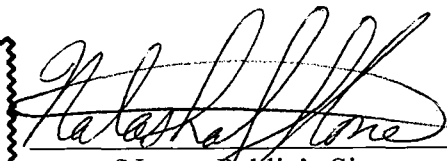
(SECRETARY)
Legislative Committee of the Republican
Party in and for the 52nd Legislative District

Date of designation and appointment meeting: May 18, 2020

Signed and sworn to (or affirmed) by   before me,
(Names of Chairman AND Secretary)
on June 1st 2020
(month, day, year)

(SEAL)





(Notary Public's Signature)

This Notice must be accompanied by nominating petitions containing the requisite number of signatures, a Statement of Candidacy and a receipt for filing a Statement of Economic Interests as required by the Illinois Governmental Ethics Act.

20 JUN -1 PM 4:15
CLERK OF ELECTIONS