

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

16 FEB -3 PM 3:45  
FEB 03 2016  
THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

JAN KOWALSKI,

Plaintiff,

-against-

COOK COUNTY OFFICERS' ELECTORAL BOARD,  
DAVID ORR in his official capacity as Cook County  
Clerk and Chairman, ANITA ALVAREZ, in her official  
capacity as Cook County State's Attorney and Member,  
AND DOROTHY BROWN, in her official capacity as  
Clerk of the Circuit Court of Cook County and Member,

Defendants.

Motion for Injunctive Relief and for  
Mandamus

Case No. 16 CV 1891

**MOTION FOR INJUNCTIVE RELIEF AND MANDAMUS**

NOW COMES the Plaintiff, JAN KOWALSKI, pro se, and for her Motion for Injunctive Relief pursuant to Federal Rule of Civil Procedure 65 and Mandamus and Federal Rule of Civil Procedure 81(b), states as follows:

**MOTION FOR MANDAMUS**

1. Plaintiff-Candidate, JAN KOWALSKI, incorporates her three (3) Count Complaint filed contemporaneously herewith as though incorporated herein fully.
2. Plaintiff-Candidate, JAN KOWALSKI ("Jan"), seeks the issuance of a writ of mandamus pursuant to 81(b) of the Federal Rules of Civil Procedure.
3. Mandamus is a summary order issued by a court of competent jurisdiction that commands the public officer to whom it is addressed to perform an official, nondiscretionary duty that Jan is entitled as a

matter of right to have performed and that the COUNTY OFFICERS ELECTORAL BOARD ("COEB"), owing the duty to perform, has failed to perform.

4. Jan, having timely submitted her Nomination Petition containing greater than 5,365 signatures by registered Cook County voters, has a clear right to have her name placed on the Ballot for the March 15, 2016 Primary Election.

5. Mandamus will issue to compel the performance of ministerial duties relating to the placement of names on a ballot.

6. The COEB having been improperly convened and conducted, lacked jurisdiction to enter the Decision sustaining the Objections to Jan's Nomination Petition, declaring Jan's Nomination Petition invalid and removing Jan's name from the printed ballot for the Primary Election on March 15, 2016.

7. The COEB was improperly constituted and the action of the COEB was so clearly a fascist abuse of power and so arbitrary and capricious as to amount to fraud.

8. Jan has a clear right to compel the COEB to act.

9. The COEB has a clear duty to act.

10. Upon information and belief, on January 29, 2016, the COEB was required to have in their office a sufficient number of ballots printed and available for mailing. On February 4, 2016, the ballots will be mailed. Mandamus is appropriate when there is insufficient time under the Election Code to seek judicial review. The time factor alone renders exhaustion of administrative remedies futile.

11. This Court should issue a writ of mandamus requiring the COEB to overrule the Objections, declare Jan's Nomination Petition valid and add Jan's name to the printed ballot for the Primary Election on March 15, 2016.

WHEREFORE, the Plaintiff-Candidate, JAN KOWALSKI, respectfully requests that this Honorable Court issue a Writ of Mandamus to the COOK COUNTY OFFICERS ELECTORAL BOARD directing it to overrule the Objections, declare the Nomination Petition of Plaintiff-Candidate, JAN KOWALSKI, valid and add the Plaintiff-Candidate, JAN KOWALSKI's, name to the printed ballot for

the Primary Election on March 15, 2016 for election to the Office of the Recorder of Deeds, County of Cook State of Illinois; and for such other relief as the court deems just and proper.

**MOTION FOR INJUNCTIVE RELIEF**

12. Plaintiff-Candidate, JAN KOWALSKI, incorporates her three (3) Count Complaint filed contemporaneously herewith as though incorporated herein fully.

13. Plaintiff-Candidate, JAN KOWALSKI, fears, and has just reason to fear, that unless mandatorily restrained and, thereafter, preliminary enjoined to overrule the Objections, declare the Nomination Petition of the Plaintiff-Candidate, JAN KOWALSKI, valid and add the Plaintiff-Candidate, JAN KOWALSKI's name to the printed ballot for the Primary Election on March 15, 2016 for election to the Office of the Recorder of Deeds, County of Cook State of Illinois that she will suffer irreparable harm in that she and 13,430 Cook County voters' First and Fourteenth Amendment U.S. and Illinois Constitutional rights will be violated.

14. A temporary restraining order and injunction are appropriate where to do otherwise would be fatal to a plaintiff's rights. *Deisenroth v. Dodge*, 350 Ill.App. 20 (1953).

15. The Plaintiff-Candidate, JAN KOWALSKI, has the ability to demonstrate complete fulfillment of all requirements for a preliminary injunction, as is established as follows:

a. Plaintiff-Candidate, JAN KOWALSKI, has a certain and clearly ascertained right that needs protection namely the right for the Plaintiff-Candidate, JAN KOWALSKI's, name to appear on the printed ballot for the Primary Election on March 15, 2016 for election to the Office of the Recorder of Deeds, County of Cook, State of Illinois, having submitted Nomination Petition containing signatures of 13,430 qualified Cook County voters.

b. Plaintiff-Candidate, JAN KOWALSKI, will suffer immediate and irreparable injury if the COEB is not mandatorily enjoined to overrule the objections to her Nomination Petition, declare the Nomination Petition valid and add the Plaintiff-Candidate, JAN KOWALSKI's name to the printed ballot for the Primary Election on March 15, 2016 for election to the Office of the Recorder of Deeds, County of Cook State of Illinois.



b. Plaintiff-Candidate, JAN KOWALSKI, has prescribed precisely the injury that will occur unless the ELECTORAL BOARD is mandatorily enjoined and has not adequate remedy at law as monetary damages are insufficient.

c. Plaintiff-Candidate, JAN KOWALSKI, on the basis of the facts stated above, has shown that she has a great likelihood of success on the merits as her Nomination Petition contained the signatures of 13,430 Cook County voters whose First and Fourteenth Amendment U.S. and Illinois constitutional rights are being squelched by the fascist partisan politics employed by the COEB.

d. Failure of this Court to act to preserve the Plaintiff-Candidate, JAN KOWALSKI's, interest will cause disproportionately greater harm to the Plaintiff-Candidate, JAN KOWALSKI, than the COEB. The COEB will not suffer harm if it is mandatorily enjoined to perform its statutory duty to certify Plaintiff-Candidate, JAN KOWALSKI's, name for the March 15, 2016 Primary Ballot.

e. The *status quo* will be preserved during the pendency of these proceedings, and will enable the court to adjudicate the rights of the parties without either party being prejudiced in the interim.

16. A temporary restraining order, and thereafter, preliminary injunction, should issue without the necessity of the Plaintiff-Candidate, JAN KOWALSKI, posting bond.

WHEREFORE, the Plaintiff-Candidate, JAN KOWALSKI, requests that this Honorable Court issue a mandatory temporary restraining order without bond mandating the COOK COUNTY OFFICERS ELECTORAL BOARD directing it to overrule the Objections, declare the Nomination Petition of the Plaintiff-Candidate, JAN KOWALSKI, valid and add the Plaintiff-Candidate, JAN KOWALSKI's, name to the printed ballot for the Primary Election on March 15, 2016 for election to the Office of the Recorder of Deeds, County of Cook State of Illinois; and for such other relief as the court deems just and proper.

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JAN KOWALSKI

