

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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 :
 WILLIAM K. SCHMIDT, SAMUEL SCOTT :
 ERICKSON, WILLIAM CODY ANDERSON, :
 and DIANE SARE, :
 Plaintiffs, :
 :
 - against - :
 :
 PETER S. KOSINSKI, DOUGLAS A. :
 KELLNER, ANDREW J. SPANO, and :
 ANTHONY J. CASALE, in their official :
 capacities as Commissioners of the New York :
 State Board of Elections, :
 :
 Defendants. :
 :
 ----- X

PRELIMINARY INJUNCTION

22-cv-2210 (BMC)

COGAN, District Judge.

This matter having come before the Court on the application of plaintiffs William K. Schmidt, Samuel Scott Erickson, William Cody Anderson, and Diane Sare, for a preliminary injunction, and this Court having found that plaintiff has demonstrated a likelihood of success on the merits and of irreparable harm absent equitable relief, it is hereby

ORDERED, ADJUDGED, AND DECREED, that defendants, their agents and those acting on their behalf, and other parties with notice of this preliminary injunction, are restrained, enjoined, and prohibited from enforcing New York Election Law §6-140(1)(b) to the extent that it would prevent a United States citizen who otherwise satisfies the requirements to register to vote in New York, but who is not so registered, or a United States citizen who would satisfy those requirements if the citizen was a New York resident, from validly witnessing signatures on Nominating Petitions, when that individual complies with the procedures set forth below:

1. An individual who is not qualified to act as a witness to signatures on Nominating Petitions under current New York law, and who is (1) a United States citizen who satisfies the requirements to register to vote in New York, but who is not so registered, or (2) a United States citizen who would satisfy the requirements to register to vote in New York if that witness were a New York resident, may sign a statement as described in paragraph 3 below, in lieu of the “STATEMENT OF WITNESS” as set forth in New York Election Law §6-140(1)(b), appended at the bottom of each sheet of signatures witnessed, and subject to the same penalties if it contains a material false statement.

2. The New York State Board of Elections (“NYSBOE”) shall publish on a website maintained by the NYSBOE all information regarding witnesses that is required pursuant to this injunction. The NYSBOE or a local board of elections under its direction (meaning, the New York City Board of Elections, a board of elections of any county outside of New York City, or the clerk of any village) (collectively, a “Local Board”), as the case may be, may treat as invalid any signatures on a Nominating Petition that are witnessed by an individual who is not otherwise qualified under current New York law and who fails to complete and sign such a statement.

3. The statement required by this injunction shall provide substantially as follows:

STATEMENT OF WITNESS

I, _____ (name of witness) state: I am a citizen of the United States of America who is duly qualified to register to vote in the State of New York but not so registered, or who would be duly qualified to register to vote in the State of New York if I were a New York resident, and I consent to the jurisdiction of the courts of New York in resolving any disputes concerning the witnessing of petition signatures. I further consent to service of the subpoena on a person of suitable age and discretion at the following New York address, which may be considered my actual place of business for this purpose.

Address: _____

Each of the individuals whose names are subscribed to this petition sheet

containing _____ (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself or herself to be the individual who signed this sheet.

I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a materially false statement, shall subject me to the same penalties as if I had been duly sworn.

Date: _____

Signature of Witness

4. If an individual who has signed such a statement is properly served with a subpoena to provide evidence in an action regarding the witnessing of petition signatures and fails to appear or produce documents as provided for in the subpoena, and upon sufficient proof of the same, all signatures purportedly witnessed by that individual shall be deemed invalid. Upon presentation of such a finding by a court of this state, the NYSBOE shall remove, or deem removed, any signatures purportedly witnessed by such an individual from a filed Nominating Petition, or shall direct the Local Board to do so.

SO ORDERED.

**Digitally signed by
Brian M. Cogan**

U.S.D.J.

Issued: Brooklyn, New York
May 3, 2022, at 12:00 p.m.