

IN THE SUPREME COURT OF ILLINOIS

PAT BRADY, individually as  
a registered voter and as Chairman of the  
Illinois Republican Party and  
the ILLINOIS REPUBLICAN PARTY

Plaintiffs,

vs.

LISA MADIGAN, in her official  
capacity as Illinois Attorney General; JESSIE WHITE,  
in his official capacity as Illinois Secretary of  
State; the STATE BOARD OF ELECTIONS and  
its members, WANDA L. REDNOUR, BRYAN A.  
SCHNEIDER, ALBERT S. PORTER, JOHN R.  
KEITH, WILLIAM F. MCGUFFAGE, JESSE R.  
SMART, PATRICK A. BRADY, and ROBERT  
J. WALTERS, all named in their official  
capacities; MICHAEL J. MADIGAN, in his  
official capacity as Speaker of the Illinois  
House of Representatives; JOHN J. CULLERTON,  
in his official capacity as President of the Illinois Senate;  
THOMAS CROSS, in his official capacity as Minority  
Leader of the Illinois House of Representatives;  
and CHRISTINE RADOGNO, in her official capacity as  
Minority Leader of the Illinois Senate.

Defendants.

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)  
) Original Act  
) Article IV, Section 3(b) of  
) the Illinois Constitution of  
) 1970

STATE BOARD OF ELECTIONS  
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**COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**  
**PURSUANT TO SUPREME COURT RULE 382**

NOW COME, the Plaintiffs, PAT BRADY and the ILLINOIS REPUBLICAN PARTY, by and through their counsel, and pursuant to Illinois Supreme Court Rule 382, and complaining of the Defendants, allege the following:

**PARTIES**

1. Plaintiff, Pat Brady, is a citizen of the United States, a duly registered voter, a resident of Kane County, Illinois and is Chairman of the Illinois Republican Party.

2. Plaintiff, the Illinois Republican Party is an organization with the purpose of promoting views, ideas, and principles of the Illinois Republican Party.

3. Plaintiff, the Illinois Republican Party is an organization with the purpose of supporting and electing Republicans to all levels of government, including state and federal offices.

4. Defendant, Lisa Madigan, is the chief legal officer of the State of Illinois whose responsibilities include representing the people of the State. She is sued in her official capacity as Illinois Attorney General.

5. Defendant, Jessie White, is the elected official responsible for certifying Illinois' redistricting maps. The Illinois Constitution mandates the responsibility of randomly selecting the ninth member of the Legislative Redistricting Commission ("the Commission") to the Illinois Secretary of State. He is sued in his official capacity as Illinois Secretary of State. IL CONST., art. IV, § 3 (b).

6. Defendant, Illinois State Board of Elections (“Board of Elections”), is responsible for the administration and supervision of the election laws of the State of Illinois, the administration and supervision of the redistricting maps and the election of members of the Illinois Senate and Illinois House of Representatives. 10 ILCS 5/1 et seq.

7. Defendant, Bryan A. Schneider, is the Executive Director of the Board of Elections and is sued only in his official capacity as Executive Director of the Board of Elections.

8. Defendant, Wanda L. Rednour, is a member of the Board of Elections and is sued only in her official capacity as a member of the Board of Elections.

9. Defendant, Albert S. Porter, is a member of the Board of Elections and is sued only in his official capacity as a member of the Board of Elections.

10. Defendant, John R. Keith, is a member of the Board of Elections and is sued only in his official capacity as a member of the Board of Elections.

11. Defendant, William F. McGuffage, is a member of the Board of Elections and is sued only in his official capacity as a member of the Board of Elections.

12. Defendant, Jesse R. Smart, is a member of the Board of Elections and is sued only in his official capacity as a member of the Board of Elections.

13. Defendant, Patrick A. Brady, is a member of the Board of Elections and is sued only in his official capacity as a member of the Board of Elections.

14. Defendant, Robert J. Walters, is a member of the Board of Elections and is sued only in his official capacity as a member of the Board of Elections.

15. Defendant, Michael J. Madigan, is sued in his official capacity as Speaker of the Illinois House of Representatives. The Illinois Constitution mandates to the Speaker the responsibility of appointing to the Commission one Representative and one person who is not a member of the General Assembly. IL CONST., art. IV, § 3 (b).

16. Defendant, John J. Cullerton, is sued in his official capacity as President of the Illinois Senate. The Illinois Constitution mandates to the Senate President the responsibility of appointing to the Commission one Senator and one person who is not a member of the General Assembly. IL CONST., art. IV, § 3 (b).

17. Defendant, Thomas Cross, is sued in his official capacity as Minority Leader of the Illinois House of Representatives. The Illinois Constitution mandates to the House Minority Leader the responsibility of appointing to the Commission one Representative and one person who is not a member of the General Assembly. IL CONST., art. IV, § 3 (b).

18. Defendant, Christine Radogno, is sued in her official capacity as Minority Leader of the Illinois Senate. The Illinois Constitution mandates to the Senate Minority Leader the responsibility of appointing to the Commission one Senator and one person who is not a member of the General Assembly. IL CONST., art. IV, § 3 (b).

### **JURISDICTION**

19. Plaintiffs invoke this Honorable Court's jurisdiction under IL CONST., art. IV, § 3 (b) and US CONST. art. VI.

## FACTS

20. Plaintiff Brady is a registered voter and an Illinois resident whose fundamental constitutional right of assembly, right of association with the Republican Party of Illinois, right to participate in fair and meaningful elections and right to elect Republican candidates of his choice will be violated, unless the declaratory judgment and injunctive relief complaint sought in this complaint is granted.

21. Plaintiff Brady is a registered voter and an Illinois resident whose fundamental constitutional rights under the Guaranty Clause, the Privileges or Immunities Clause of the Fourteenth Amendment and First Amendment of the U.S. Constitution will continue to be violated, unless the declaratory judgment and injunctive relief complaint sought in this complaint is granted.

22. Plaintiff Brady is also a Republican Party official from the State level of the Illinois Republican Party.

23. Plaintiff Brady has been elected as Chairman directly or by representative of the voters for the purpose of promoting views, ideas, and principles of the Illinois Republican Party, an endeavor protected by the First Amendment to the U.S. Constitution.

24. Plaintiff Brady was elected for the purpose of obtaining donations for the party, promoting and supporting candidates which comport with certain political views, all of which are protected by the First Amendment to the U.S. Constitution.

25. The Illinois Republican Party is an organization with the purpose of obtaining donations for the party, supporting and electing Republicans to all levels of government, including state and federal offices.

26. The Illinois Republican Party's purpose of obtaining donations for the party, supporting and electing Republicans to all levels of government, including state and federal offices is protected by the First Amendment to the U.S. Constitution.

27. The Defendants are Illinois leaders of the Republican and Democrat political parties in the General assembly and Illinois State Officials essential to complete judicial relief.

28. Article IV, § 3(b) of the Illinois Constitution sets forth the manner in which the State of Illinois reapportions its legislative and representative districts.

29. If the Illinois General Assembly is unable to agree on a redistricting plan, the task is charged to the Commission.

30. The Commission is initially composed of eight members, no more than four of whom may be members of the same political party.

31. Should the eight-member Commission deadlock and fail to approve a redistricting plan by majority vote before August 10, a ninth, tie-breaking member is appointed.

32. To choose the ninth member, article IV, § 3(b) directs the Illinois Supreme Court to submit the names of two persons, not of the same political party, to the Secretary of State.

33. The Secretary of State is then called upon to publicly "draw by random selection" the name of one of the two persons, who then becomes the ninth Commission member.

34. Since the passage of the 1970 Illinois Constitution, the Illinois General

Assembly and Governor have failed to pass a redistricting plan based on the federal census data for the Illinois Legislative and Representative Districts.

35. Pursuant to constitutional directive, Legislative Redistricting Commissions were constituted.

36. The Commissions, except for 1970, have always failed to adopt a redistricting plan by the constitutionally mandated vote of five members.

37. As directed by art. IV, § 3(b) of the Illinois Constitution, this Honorable Court has submitted the names of two individuals, not of the same political party, to the Secretary of State to serve as the ninth member of the Commission.

38. The Illinois Secretary of State has drawn by random selection the name of one of the two persons to serve as the ninth member of the commission.

39. The randomly selected member has always voted to adopt the plan most favorable to his own political party affiliation.

40. The party that won the tie-breaker, except for 1990, has controlled both houses for that decade.

41. Redistricting and reapportionment procedure modernization is occurring throughout the United States.

42. The Illinois legislature plans no such reform.

43. The Republican legislative leaders have insufficient votes to effect reform and the Democrat legislative leaders have insufficient motive to effect redistricting and reapportionment reforms.

44. That it is a Gordian legislative knot that makes this Court, the only way to protect the fundamental rights of the Republican Party, the two party system and the voice of the disenfranchised.

45. The proposed complaint asserts that the tie-breaking method of selecting the ninth member of the Illinois Legislative Redistricting Commission under Article IV, Section 3 of the Illinois Constitution of 1970 is unconstitutional.

46. The tie-breaking provision violates the U.S. Constitution Article IV, Section 4, Guaranty Clause, which guarantees a republican form of government.

47. U.S. Constitution Article IV, Section 4 provides "The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence". US CONST. art. IV, § 4.

48. Drawing a statewide map by a method involving random chance deprives the Plaintiffs a republican form of government.

49. The tie-breaking clause infringes upon Plaintiff Brady's fundamental right to effective participation in a democratic republic and thus violates the Guaranty Clause.

50. The tie-breaking provision violates the Privileges or Immunities Clause of the Fourteenth Amendment to the U. S. Constitution.

51. Section 1 of the Privileges or Immunities Clause of the Fourteenth Amendment provides: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they



reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States...". US CONST. amend. XIV.

52. Inherent in every individual are certain natural and inalienable rights.

53. The Declaration of Independence, U.S. Constitution and the Bill of Rights protect a U.S. citizen's natural and inalienable rights.

54. The right to participate in the election process is one of the natural and inalienable rights inherent in Plaintiff Brady.

55. The Privileges or Immunities Clause of the Fourteenth Amendment protects that right against abridgment by the State of Illinois.

56. Drawing a statewide map by a method involving random chance deprives Plaintiff Brady's natural right to participate in a fair election process.

57. The tie-breaking provision deprives Plaintiff Brady's natural right to participate in the election process and thus violates the Privileges or Immunities Clause of the Fourteenth Amendment to the U. S. Constitution.

58. The tie-breaking provision violates the Plaintiffs' First Amendment to the U. S. Constitution.

59. No redistricting plan since 1970 has received the requisite votes from the Commission necessary to avoid the tie-breaking vote.

60. The randomly selected member has always voted to adopt the plan most favorable to his own political party affiliation.

61. Both Plaintiffs have First Amendment rights directly and specifically effected by an irregular and unpredictable redistricting and reapportionment effort by the General Assembly.

62. The possibility exists that the districts will infringe upon the rights of free speech and free association guaranteed by the First Amendment because they can be designed to limit the effectiveness of the organized political activity of the party that did not win the tie-breaking process.

63. The tie-breaking provision unconstitutionally gives a single member of the commission the opportunity to choose the redistricting map of his or her choice, with the possibility of infringing upon the rights of free speech and free association guaranteed by the First Amendment.

64. The Constitutional issues raised have not been brought before this Court for determination.

65. Plaintiffs' complaint is not brought under equal protection or due process arguments.

66. It is essential that this Court resolve these matters that affect the rights of assembly and association and the right to fair and equal elections of State Representatives and State Senators to the Illinois General Assembly.

67. Article VI of the U.S. Constitution mandates that this Court is bound by the U.S. Constitution and the Laws of the United States.

68. Only this Court's intervention can halt an implosion into single party rule, given the construction of the Illinois Constitution.

69. This complaint filed as an original action concerning the redistricting process is necessitated by the disclosure of the data on December 21, 2010, from the United States Census Bureau initiating the Illinois General Assembly's constitutional duty to re-draw the Representative and Legislative Districts of the General Assembly and the Representative Districts of the United States House of Representatives.

70. The General Assembly would be prohibited from fulfilling its aforementioned constitutional duty until this Court resolves the underlying constitutional claims regarding the redistricting process as stated in Article IV, Section 3 of the Illinois Constitution of 1970.

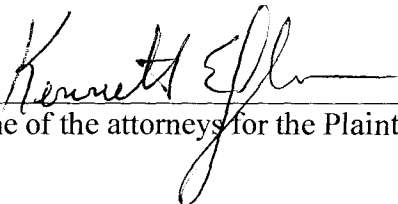
71. In accordance with Supreme Court 382(a), a brief in support of this complaint for declaratory judgment is attached herewith.

WHEREFORE, Plaintiffs pray this Honorable Court will enter judgment in their favor and against the Defendants as follows:

- A. Declare the tie-breaking provision of Article IV, Section 3 of the Illinois Constitution of 1970 violates the Guaranty Clause of the U.S. Constitution.
- B. Declare the tie-breaking provision of Article IV, Section 3 of the Illinois Constitution of 1970 violates the Privileges or Immunities Clause of the Fourteenth Amendment of the U.S. Constitution.
- C. Declare the tie-breaking provision of Article IV, Section 3 of the Illinois Constitution of 1970 violates the First Amendment of the U.S. Constitution.

- D. Preliminarily and permanently enjoin and restrain the Illinois General Assembly from redistricting until the constitutionality of Article IV, Section 3 is determined by the Court.
- E. Preliminarily and permanently enjoin and restrain the Illinois State Board of Elections from conducting or administering elections for the Illinois Legislature until the constitutionality of Article IV, Section 3 is determined by the Court.
- F. Order that if redistricting by the Illinois General Assembly is to continue, that it shall do so under the supervision of this Honorable Court.
- G. Grant any and all other and further relief this Honorable Court deems equitable and just.

Respectfully Submitted,

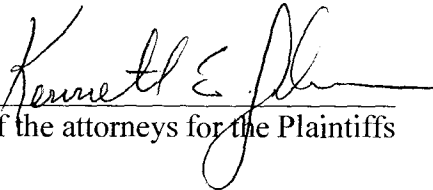
  
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VERIFICATION

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and, as to such matters, the undersigned certifies as aforesaid that the undersigned verily believes the same to be true.

By:   
One of the attorneys for the Plaintiffs

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SUBSCRIBED and SWORN to before me  
this 6th day of May, 2011.

