IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

COMMON CAUSE INDIANA, et al.,	)	
	)	
Plaintiff,	)	
v.	)	23-CV-1022-JRS-TAB
	)	
CITY OF ANDERSON COMMON COUNCIL, and the MADISON COUNTY BOARD OF ELECTIONS,	)	
	)	
Defendants.	)	

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT CITY OF ANDERSON COMMON COUNCIL'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6) and 19

Defendant, City of Anderson Common Council ("Anderson Council"), through its attorneys, Henderson Parks, LLC and Laduzinsky & Associates, P.C., request that this Honorable Court enter an order dismissing Plaintiffs' Complaint with prejudice in its entirety pursuant to Fed. R. Civ. P. 12(b)(6) and 19. In support of its Motion, Anderson Council states:

I. INTRODUCTION

Plaintiffs -- Common Cause Indiana, Anderson-Madison County NAACP Branch and the League of Women Voters of Indiana -- have filed suit in purported want of "fair elections" and promotion of active participation in state and local government. (Compl. ¶¶7-9). Specifically, Plaintiffs allege violations of Section 2 of the Voting Rights Act and the 14th Amendment's Equal Protection Clause. It is no secret that the Voting Rights Act was momentous federal legislation intended to protect the voting rights of historically disenfranchised voters, especially African-American voters.

But tellingly absent from Plaintiffs' Complaint is any allegation of race discrimination, as required by a Section 2 claim. Plaintiffs' Complaint is rich in legal conclusions, but the very

few material facts which are alleged can lead this Court to only one undeniable conclusion, that Plaintiffs: (1) waited too long to file suit, triggering the doctrine of *laches*; (2) failed to name indispensable parties, namely, successful candidates whose names have appeared on the ballot for the 2023 Primary Election and will appear on the ballot at the 2023 General Election; (3) make no allegations of race or color discrimination as required to state a cognizable Section 2 violation; and (4) seek drastic injunctive relief, the basis for which cannot be readily ascertained from the face of Plaintiffs' Complaint, which would essentially strip the voters and successful candidates who have already participated in the 2023 Election Cycle of their fundamental rights to vote and engage in the electoral process.

The drastic form of relief Plaintiffs seek -- a preliminary and permanent injunction barring future elections and shortening the terms of successful candidates and mandating new special elections -- will strip the rights of voters and candidates who have already participated in the electoral process, despite Plaintiffs' failure to allege the threshold requirement of a voting rights claim: that the decision to not redraw the Anderson Council districts had an actual discriminatory effect on the basis of race or color. *Thornburg v. Gingles*, 478 U.S. 30, 36 (1986) (holding a cognizable Section 2 violation requires a showing that the alleged practice has a discriminatory effect which results in a denial or abridgment of the right to vote of any person because of race); *Barnett v. City of Chicago*, 809 F. Supp. 1323, 1327 (N.D. Ill. 1992) ("Section 2(a) of the Voting Rights Act makes it illegal to deny or abridge, on account of race, any person's right to vote.").

Assuming *arguendo* that the Anderson Council districts were malapportioned, the time to file suit was immediately after December 11, 2022 when Anderson Council voted to not redistrict. (Compl.¶ 20) If there was an actual issue with the Anderson Council district electoral boundaries -- *i.e.*, lack of reasonable compactness, equivalent populations, not crossing precinct boundary

lines, etc. -- then the proper time to raise the issue was immediately and certainly long before the voters went to the polls, cast their ballots and nominated candidates for office in the May 2, 2023 Primary Election.

But that is not what the Plaintiffs did, as is readily apparent from the face of the Complaint. Instead, Plaintiffs waited until June 13, 2023, 143 days after the December 11, 2022 Council apportionment vote, to file suit. During those 143 days of inaction, Plaintiffs did nothing except watch their constituents whose interests Plaintiffs purport to represent, march to the polls to vote and cast their ballots in the May 2, 2023 Primary Election. And then, 43 days after the May 2 2023 Primary Election, Plaintiffs filed this lawsuit wherein they cry foul about the apportionment of the Anderson Council Districts using conclusory labels like "deviation" "malapportioned" and invoke an inflammatory prayer for relief that would have this Court enter an order "prohibiting racial discrimination." (Compl., Prayer for Relief ¶b) Anderson Council reiterates nowhere in the Complaint do Plaintiffs actually allege that the Anderson Council Districts used in the May 2, 2023 Primary Election actually yielded an election outcome indicative of racial or color discrimination. Choosing to ignore that fatal error, Plaintiffs demand that this Court enter drastic injunctive relief, including shortening the terms of duly elected officials and essentially asking for a "do-over" by ordering special elections in 2024, ignoring how voters and the candidates who won the May 2, 2023 Primary Election are currently preparing to participate in the November 7, 2023 General Election.

Federal law is abundantly clear that election proceedings, such as this one, are expedited proceedings on steroids, where due to the nature of elections, candidate filing deadlines are necessarily short, and election-related litigation is even shorter, because Courts must act quickly to avoid interfering with the administration of elections. That said, waiting 143 days to file suit,

seeking to change the rules of the game mid-election is a complete non-starter. *Trump v. Biden*, 394 Wis. 2d 629, 636, 951 N.W.2d 568, 572 ("If a party seeking extraordinary relief in an election-related matter fails to exercise the requisite diligence, *laches* will bar the action.") *Id*. Additionally, when there is an unreasonable delay in initiating and prosecuting a lawsuit, the defense of *laches* is recognized. *See Id*.

For the reasons set forth below, Plaintiffs' Complaint should be dismissed with prejudice in its entirety based on the doctrine of *laches* and for failure to join indispensable parties, namely, the successful candidates in the 2023 Primary Election whose names will appear on the ballot for the November 7, 2023 General Election, as the outcome of this election could directly impact their rights under Indiana election law.

II. LEGAL STANDARD

A. Fed. R. Civ. P. 12(b)(6) – Failure to State a Claim

"[O]nly a complaint that states a plausible claim for relief survives a motion to dismiss." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). When reviewing the sufficiency of a complaint, the court must accept as true all well-pleaded factual allegations. *McCauley v. City of Chicago*, 671 F.3d 611, 616 (7th Cir. 2011). However, legal conclusions and "conclusory allegations merely reciting the elements of a claim are not entitled to this presumption of truth." *Id.* The plaintiff must provide "more than labels" or a "formulaic recitation of a cause of action's elements." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 545 (2007). A complaint must "contain either direct or inferential allegations respecting all the material elements necessary to sustain recovery under some viable legal theory." *Id.* at 562. Or, as the Seventh Circuit again recently re-emphasized, to survive dismissal, "the complaint must contain 'factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged . . . at a minimum it

'must give enough details about the subject matter of the case to present a story that holds together.'" *Vanzant v. Hill's Pet Nutrition, Inc.*, 934 F.3d 730, 736 (7th Cir. 2023).

B. Fed. R. Civ. P. 19 – Failure to Join Indispensable Parties

"A person who is subject to service of process and whose joinder will deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if . . . in the person's absence complete relief cannot be afforded among those already parties. Fed. R. Civ. P. 19; *United States ex. rel. Hall v. Tribal Dev. Corp.*, 100 F.3d 476 (7th Cir. 1996). Rule 19 sets forth four (4) factors to determine whether dismissal should be granted where Plaintiffs fail to join an indispensable party to the action: (1) the extent to which a judgment rendered in the person's absence might be prejudicial to the person or those already parties; (2) the extent to which relief can be tailored to lessen or avoid prejudice; (3) the adequacy of the judgment in the person's absence; and (4) whether the plaintiff will have an adequate remedy if the action is dismissed for non-joinder." *Ex. rel. Hall*, 100 F.3d at 480 (citing Fed. R. Civ. P. 19)

III. PLAINTIFFS' COMPLAINT

The following facts are taken from Plaintiffs' Complaint and are assumed to be true solely for purposes of a Rule 12(b)(6) motion to dismiss. *McCauley*, 671 F.3d at 616.

Indiana Code provides that the six single-member districts must be: (1) reasonably compact; (2) not cross precinct boundary lines except as necessary to make the districts contain equal population; and (3) contain, as nearly as possible, equal population. (Compl. ¶13) Indiana law also provides that redistricting shall occur "during the second year in which a federal decennial census is conducted" and not later than December 31, 2022. (Compl. ¶14)

Council members are elected for terms of four years. (Compl. ¶15) Plaintiffs further allege that the ideal population for each single-member district is 9,130 persons, a number derived by

dividing the City of Anderson's total population (54,777) by 6. (Compl. ¶19) But despite knowledge that its single-member districts were severely malapportioned, the Council on December 11, 2022, voted not to engage in redistricting following the 2020 Census. (Compl. ¶20) The Primary Election was held on May 2, 2023, using the malapportioned districts, and the General Election is scheduled to be held on November 7, 2023. (Compl. ¶20) Plaintiffs only allege that the votes of District 3 residents and Individual Plaintiffs Cassandra Riggs and Jeffrey Cottrell were diluted because District 3 has less voting strength when compared to other underpopulated districts, such as Districts 4, 5 and 6. (Compl. ¶15)

Nowhere in the thirty-three (33) separate numbered paragraphs do Plaintiffs actually allege that the Council Districts used in the May 2, 2023 election actually yielded an election outcome indicative of racial discrimination or that it disenfranchised voters on the basis of race.

IV. ARGUMENT

A. The Complaint is barred by the doctrine of *laches*.

Laches "is the neglect for an unreasonable and unexplained length of time, under circumstances permitting diligence, to do what in law should have been done. More specifically, it is inexcusable delay in asserting a right; an implied waiver arising from knowledge of existing conditions and an acquiescence in them." *Haas v. Holder*, 218 Ind. 263, 272, (Ind. 1941). "*Laches* requires evidence of: (1) inexcusable delay in asserting a right; (2) an implied waiver arising from a knowing acquiescence in existing conditions; and (3) a change in circumstances causing prejudice to the adverse party." *Riggs v. Hill*, 84 N.E.3d 699, 704 (Ind. Ct. App. 2017). What constitutes *laches* or staleness of demand depends entirely on the particular circumstances of the case. *Haas*, 218 Ind. 263, 272, 32 N.E.2d 590, 593 (1941).

In the election law context, the Seventh Circuit has clearly held that "the obligation to seek injunctive relief in a timely manner in the election context is hardly a new concept." *Jones v. Markiewicz-Qualkinbush*, 842 F.3d 1053, 1060-61 (7th Cir. 2016). "Extreme diligence and promptness are required in election-related matters." *Trump*, 2020 WI 91, at ¶11, 394 Wis. 2d 629, 636, 951 N.W.2d 568, 572. "If a party seeking extraordinary relief in an election-related matter fails to exercise the requisite diligence, *laches* will bar the action." *Id*. Additionally, when there is an unreasonable delay in initiating and prosecuting a lawsuit, the defense of *laches* is recognized. *See Id*.

Other states have frequently noted that courts "consistently required relators in election cases to act with the utmost diligence." *Smith v. Scioto County Bd. of Elections,* 123 Ohio St. 3d 467 (S. Ct. Ohio 2009). In *Smith v. Scioto County Bd. of Elections*, the Ohio Supreme Court held that *laches* barred an election contest because the plaintiff was not permitted to "sleep on his rights." *Id*. at 470.

The Supreme Court of Minnesota has also applied *laches* to certain claims in an election contest case, and did so in *Carlson v. Ritchie* where the plaintiffs' "unreasonable delay" would cause "significant potential prejudice to respondents, to other election officials, to [the candidate] and potentially to other candidates, and to the electorate […]" 830 N.W.2d 887, 893 (S. Ct. Minn. 2013).

Similarly in *Mathieu v. Mahoney*, the Supreme Court of Arizona dismissed an election contest after finding an unreasonable delay when plaintiff knew for more than a year of defendants' efforts to place an initiative on the ballot. 174 Ariz. 456, 460, 461 (Ariz. 1993). Thus, the weight of the law in election cases requires claims be dismissed where the plaintiff has "unreasonably failed to act diligently" or "slept on his rights." *See Fulani v. Hogsett*, 917 F.2d 1028, 1029-31,

n.7 (7th Cir. 1990) (holding that *laches* barred claim when plaintiffs waited eleven weeks after the basis for their claims was a matter of public record and two weeks after they received actual notice – "[t]he candidate's and party's claims to be respectively a serious candidate and a serious party with a serious injury become less credible by their having slept on their rights.").

1. Plaintiffs have demonstrated an inexcusable delay in asserting their right.

Plaintiffs sat on their claims for over six (6) months before the filing of the Complaint, and did not bring their claim until June 13, 2023. The Council voted not to redistrict on December 11, 2022, which took place at a public meeting and its information was publicly available. Courts have previously held that if the plaintiffs "were unaware, they are nonetheless charged with notice of these activities by virtue of their public nature." *SMDfund, Inc. v. Fort Wayne-Allen Cnty. Airport Auth.*, 831 N.E.2d 725, 729 (Ind. 2005); *see also Hutter v. Weiss,* 132 Ind. App. 244, 259 (1961) (if circumstances should have put the plaintiff on inquiry and the plaintiff could have easily learned the truth and neglect if there was a failure to make such inquiry will make the plaintiff guilty of *laches* just as if the facts were known to the plaintiff).

For example, in *SMDfund, Inc. v. Fort Wayne-Allen Cnty. Airport Auth*., the Court held that the proper time to challenge the validity of the creation of a tax authority was when it was created, and not long after it had already begun collecting taxes. 831 N.E.2d at 729 (dismissing on the basis of *laches*). The court further summarized, "[t]he plaintiffs' contention is that the Authority was created improperly. If the plaintiffs are correct, their claim accrued at the time of the creation of the Authority or at the very latest when it began collecting taxes." *Id*.

As the Supreme Court noted, "where a public expenditure has been made [an election], or a public work undertaken [an election], and where one, having full opportunity to prevent its accomplishment, has stood by and seen the public work [an election] proceed, a court of equity

will more readily consider *laches*." *Penn Mut. Life Ins. Co. v. Austin*, 168 U.S. 685, 698, 18 S. Ct. 223, 228 (1898) (parenthetical emphasis supplied); *see also Fulani,* 917 F.2d at 1031 ("[a]s time passes, the state's interest in proceeding with the election increases in importance as resources are committed and irrevocable decisions are made."). Here, the time for Plaintiffs' time to bring this suit was when Anderson Council voted not to redistrict which was on December 11, 2022, or at the very latest December 31, 2022, which is the date Plaintiffs contend was the deadline for Anderson Council to redistrict. (Compl. ¶1) What should not have happened was for the Plaintiffs to sit on their hands for six (6) months while the candidates, election authorities and voters did what they were supposed to do, respectively: campaign; organize and operate an election apparatus; and vote in the May 2, 2023 Primary Election.

Plaintiffs have demonstrated an extremely inexcusable delay in bringing this Complaint. Since the Council's December 11, 2022, vote, the May 2, 2023 Primary Election has been held and the Madison County has been preparing for the November 7, 2023, General Election.

2. There is an implied waiver arising from a knowing acquiescence in the existing conditions.

Plaintiffs have been aware of Anderson Council's decision to not redistrict since December 11, 2022. Even if Plaintiffs were not aware at that exact time, they are nonetheless charged with notice of these activities by virtue of their public nature. *See SMDfund, Inc.* at 729 (holding that the proper time to challenge the validity of the creation of a government authority was when it was created and notice of creation was issued). Plaintiffs' failure to bring their claim until six (6) months later amounts to an implied waiver arising from a knowing acquiescence in the existing Anderson Council's decision not to redistrict.

3. Extreme prejudice would result to the adverse party.

The facts of this case are clear in that prejudice would result. Courts have held that "[t]he required prejudice may be created if a party, with knowledge of the relevant facts, permits the passing of time to work a change of circumstances by the other party, *laches* may bar the claim." *SMDfund, Inc.*, 831 N.E.2d at 731. "Unreasonable delay in the election context poses a particular danger ----- not just to municipalities, candidates, and voters but to the entire administration of justice." *Trump*, 2020 WI 91, at ¶30, 394 Wis. 2d 629, 645-46, 951 N.W.2d 568, 577. The May 2, 2023 Primary Election has already taken place, voters cast their ballots and candidates have been nominated, as well as preparations for the November 7, 2023 General Election have begun. Plaintiffs request a preliminary injunction, later to be made permanent, enjoining the Board of Elections from holding any further elections under current districting as well as seeking to shorten the term of Anderson Council members and order special primary and general elections. This undoubtedly would result in prejudice to the voters, candidates, local election authority and the administration of justice.

B. The Complaint Must Be Dismissed for Failure to Join Indispensable Parties.

Under Fed. R. Civ. P. 19, "a person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if . . . in the person's absence complete relief cannot be afforded among those already parties."

Rule 19 requires that in determining whether dismissal on the grounds of failure to join an indispensable party to action, a court must consider: (1) the extent to which a judgment rendered in the person's absence might be prejudicial to the person or those already parties; (2) the extent to which relief can be tailored to lessen or avoid prejudice; (3) the adequacy of the judgment

rendered in the person's absence; and (4) whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

Here, each of these factors weigh in favor of dismissal, provided the successful candidates at the May 2, 2023 Primary Election, who will be participating in the November 7, 2023 General Election are not joined as parties in this action. Each of those candidates have a direct interest -- both personally and derivatively to the voters who nominated the candidates to the General Election -- to see the election proceed as scheduled and, absent joinder, will be unable to raise any defenses to this suit or have their interests adequately represented in this suit. *See generally Paul v. State of Indiana Election Board*, 743 F. Supp. 616, 625-26 (S.D. Ind. 1990) (citing *Reynolds v. Sims,* 377 U.S. 533 (1964) for the proposition that the citizens' right to vote for the candidates of their choice should also be considered, and "is of paramount importance, because it preserves all other civil and political rights.")

Under the second and third factors -- absent joinder of the successful candidates who will be participating in the November 7, 2023 General Election -- relief cannot be tailored to lessen or avoid prejudice to those successful candidates and for the voters who chose which candidates to advance to the General Election. Finally, the fourth factor favors dismissal because in the event of dismissal Plaintiffs will continue to have the same remedy that they always had – as discussed, *infra*, they can petition the Indiana legislature for the relief that they seek.

C. The Complaint Fails to State a Cognizable Cause of Action.

1. Plaintiffs Have Failed to Allege Race Discrimination.

Finally, in their prayer for relief, Plaintiffs request that this Court enter an injunction pursuant to Section 2 of the Voting Rights Act of 1965 "prohibiting racial discrimination in voting." (Compl., Prayer for Relief ¶b). As the Seventh Circuit has made abundantly clear, the

Iqbal/Twombly pleading standard to survive a Rule 12(b)(6) motion to dismiss cannot be satisfied by pleading "labels" or "conclusions." *McCauley*, 671 F.3d at 616. "The complaint must contain 'factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged . . . at a minimum it 'must give enough details about the subject matter of the case to present a story that holds together.'" *Vanzant*, 934 F.3d at 736 (7th Cir. 2023). Here, Plaintiffs' Complaint does not hold together a plausible factual basis because a Section 2 voting rights case specifically concerns race discrimination. Without it, there cannot be, as a matter of law, a viable claim for a Section 2 violation. *Thornburg*, 478 U.S. at 36 (holding a cognizable Section 2 violation requires a showing that the alleged practice has a *discriminatory effect* which results in a denial or abridgment of the right of any because of race or color.[1]); *Barnett v. Daley*, 809 F. Supp. 1323, 1327 (N.D. Ill. 1992) ("Section 2(a) of the Voting Rights Act makes it illegal to deny or abridge, on account of race, any person's right to vote.") No doubt, Plaintiffs claim that the voters' votes in District 3 have been diluted. (Compl. ¶¶22-23) But Plaintiffs do **not** allege, consistent with Plaintiffs' obligations under Fed. R. Civ. P. 11, that the alleged dilution resulted in the dilution of votes on the basis of race.[2] If there is no discriminatory effect, then there cannot be, as a matter of law, a Section 2 violation.

[1] "Congress substantially revised §2 to make clear that a violation could be proved by showing discriminatory effect alone [and §2], as amended reads . . . no qualification or prerequisite to voting . . . shall be imposed . . . which results in a denial or abridgment of the right . . . to vote on account of race or color . . . or in contravention of the guarantees set forth in section 4(f)(2)." *Thornburg*, 478 U.S. at 36. Section 4(f)(2) prohibits barriers to voting for language minority groups on the basis of language barriers. *See generally* 42 U.S.C.§1973. Plaintiffs' Complaint likewise fails to allege they are members of a language minority or that the Council District apportionment resulted in a language barrier robbing them of, or diluting, their right to vote.

[2] And if Plaintiffs could have made such an allegation consistent with their obligations under Fed. R. Civ. P. 11, then they surely would have because the U.S. Census data will certainly provide the racial data for each district. Its absence from the Plaintiffs' Complaint speaks volumes.

2. Plaintiffs' Request to Shorten the Terms of Elected Office Holders Exceeds the Power of the Federal Court.

Plaintiffs cite no federal constitutional or statutory basis that empowers a federal court to grant the extraordinary relief of shortening the term of office for an elected official. After a diligent search, Anderson Council found no reported federal cases granting such extraordinary relief. But Indiana law is quite clear on the subject: only the Indiana state legislature holds such power. The term of a City Council member can likely be shortened during the incumbent term if the term is altered by the legislature. However, the term cannot be altered by the courts. *See Dortch v. Lugar*, 255 Ind. 545, 558 (Ind. 1971) (holding that the terms of elected officials is "subject to the legislature at all times.").

Under Indiana law, unless otherwise prohibited by the Indiana Constitution, an office created by the legislature "may be enlarged, abridged, or abolished entirely by the legislation. Absent some constitutional prohibition, an office created by the legislature may be abolished by the legislature during the term of the incumbent." *Stoffel v. Daniels,* 908 N.E.2d 1260, 1263 (Ind. Ct. App. 2009). These statutory offices are "almost completely under the control of the legislature, and the term might begin or end at any time, or be lengthened or shortened, at the will of the legislature." *Scott v. State*, 151 Ind. 56, 569 (Ind. 1898) (holding that the legislature could fix the terms of when a county treasurer took office); *see also State ex. rel. Yancey v. Hyde*, 129 Ind. 296, 302 (1891) (holding that the terms of a statutory office may be shortened by the legislature).

The office of city council is a statutory office created by the state legislature in the Indiana Code which states: "A common council, which is the city legislative body, shall be elected under IC 3-10-6 by the voters of each city." IN Code § 36-4-6-2. The Indiana Constitution does not specifically prohibit the alteration of terms for the office of city council. Because the duration of

the term is not provided by the Indiana Constitution, "it may be declared by law; and, if not so declared, such office shall be held during the pleasure of the authority making the appointment." Ind. Const. Art. 15, § 2.

It is axiomatic that federal courts are courts of limited jurisdiction that should not interfere in the orderly administration of the states. There is a panoply of federal statutes that empower federal interests to intervene in state issues, including elections. Here, Section 2 of the Voting Rights Act of 1965. If Plaintiffs cannot muster necessary allegations to state a cognizable cause of action under Section 2 of the Voting Rights Act that confers available relief, then this Court should not and cannot go out of its way to create from whole cloth a radical form of relief that is contrary to Indiana law.

VI. CONCLUSION

For the reasons set forth above, Plaintiffs' Complaint should be dismissed with prejudice in its entirety pursuant to Fed. R. Civ. P. 12(b)(6) and 19.

Respectfully submitted,

CITY OF ANDERSON COMMON COUNCIL

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CERTIFICATE OF SERVICE

The undersigned certifies that on August 11, 2023, the foregoing **DEFENDANT CITY OF ANDERSON COMMON COUNCIL'S MOTION AND MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' COMPLAINT PURSUAN TO FED. R. CIV. P. 12(b)(6) and 19** was electronically filed with the United States District Court for the Southern District of Indiana by filing though the Court's CM/ECF system, which served a copy of the foregoing upon all counsel of record.

By: *Devlin Joseph Schoop*