

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

JULIA LYNN,)	
)	
Petitioner,)	
v.)	Case No. _____
)	
SCOTT SCHWAB, in his official capacity as the)	Division:
Secretary of State for the State of Kansas,)	
)	K.S.A. Chapter 60
Respondent.)	
_____)	

VERIFIED PETITION FOR WRIT OF MANDAMUS

COMES NOW Petitioner Senator Julia Lynn (“Senator Lynn” or “Petitioner”), by and through counsel, moves this Court for an Order in Mandamus directing the Kansas Secretary of State (“KSOS” or “Respondent”) to remove her name from the General Election Ballot for 2020. In support thereof, the Petitioner states as follows:

Nature of the Case

1. Senator Lynn fully complied with the requirements of K.S.A. 25-306b on September 1, 2020, therefore the Kansas Secretary of State is directed by law to remove her name from the ballot and notify the appropriate officials of the vacancy. However, on September 2, 2020, the KSOS notified Senator Lynn that the Doctor’s certification submitted on her behalf was insufficient. This is legally in error and this action is brought to respectfully request the Court compel the KSOS to perform his legally mandated duty through mandamus.

Parties

2. Petitioner is an individual and current member of the Kansas Senate representing Kansas Senate District 9 and a resident thereof. Senator Lynn has received the Republican nomination for District 9 but does not wish to appear on the ballot for the 2020 General Election.

3. Respondent is the Kansas Secretary of State and Chief Elections Officer for the State of Kansas. He is sued in his official capacity. Respondent can be served with process at the Kansas Secretary of State's Office, Memorial Hall, 1st Floor, 120 S.W. 10th Avenue, Topeka, KS 66612-1594 or delivering the same to the Kansas Attorney General, 120 SW 10th Ave., 2nd Floor, Topeka, KS 66612.

Jurisdiction and Venue

4. This is an action in mandamus, pursuant to K.S.A. 60-801 et seq. This Court has jurisdiction pursuant to K.S.A. 60-801 et seq.

5. Venue is proper before this Court under K.S.A. 60-602(2).

Factual Allegations

6. Senator Lynn properly filed to run for the office of Kansas State Senator for District 9 of the State of Kansas.

7. Subsequently, Senator Lynn won the Republican nomination for the same office in the 2020 Primary Election.

8. Senator Lynn's sister is experiencing a medical hardship in that she requires continuous care and oversight of her medical and financial affairs. This places a hardship on the family, including Senator Lynn, impacting operations of the family business and other family activities.

9. Because of her sister's medical hardship, Senator Lynn decided to no longer seek the public office for which she had filed and sought to remove her name from the ballot.

10. On September 1, 2020, Sen. Lynn made a timely request pursuant to K.S.A. 25-306b to be removed from the November general election ballot.

11. In making the timely request, Senator Lynn filed a certification from Dr. Jay Zwibelman, M.D. with the KSOS on September 1, 2020 certifying the medical hardship above and satisfying the requirements of K.S.A. 25-306b. A copy of this certification is attached hereto as **Exhibit 1**.

12. Sen. Lynn's stated reason for the request was a medical hardship on her immediate family, pursuant to K.S.A. 25-306b(b)(1)(A).

13. The certification was delivered in printed form.

14. The certification was signed in electronic form by Dr. Jay Zwibelman, M.D., with the assistance of his agent, Renaye Ramirez, L.P.N., consistent with industry and local standards for electronic signature authorizations.

15. Based on an agreement between staff for the KSOS and Senator Lynn, the certification was accepted and presumed complete upon filing by Senator Lynn. However, supplemental verification was requested from the doctor because of the electronic nature of the Doctor's signature.

16. Sen. Lynn provided the Office of the KSOS with supplemental verification that was not required by law on September 2, 2020, at the request of the Office of the KSOS. This supplemental certification consisted of an emailed version of the same document containing the handwritten signature of Dr. Jay Zwibelman, M.D. A copy of this supplemental certification is attached hereto as **Exhibit 2**.

17. There has been no contention that Dr. Jay Zwibelman, M.D. did not authorize the execution of the certification of the document in question.

18. Because Kansas law treats both forms of signature as valid under the Kansas Uniform Electronic Transactions Act, K.S.A. 16-1601 et seq. and based on other law, the KSOS

mistakenly determined Senator Lynn's request to be removed from the ballot lacked the requisite documentation.

19. Based on their incorrect determination, Senator Lynn was notified on September 2, 2020 that her certification was insufficient and her name would remain on the 2020 General Election ballot.

20. In an effort to remedy the KSOS's incorrect determination, counsel for Senator Lynn submitted a letter on September 3, 2020 to the KSOS, including affidavits to clarify that the signature of Dr. Jay Zwibelman, M.D. was electronically affixed on the September 1, 2020 certification. Such electronic signature was fully authorized and executed appropriately on the doctor's behalf. A copy of the letter submitted by Senator Lynn's counsel is attached hereto as **Exhibit 3** including the attached affidavits and associated exhibits.

21. In response, the KSOS refused to reconsider his prior determination by issuing a letter the same day. A copy of the response letter from the KSOS is attached hereto as **Exhibit 4**.

22. After receiving this information from the KSOS, the Petitioner filed this action seeking to have the Court direct the KSOS to remove Senator Lynn's name from the ballot for the 2020 General Election.

23. Because of the nature of the elections process, time is of the essence in this matter as, upon information and belief, Uniform and Overseas Citizens Absentee Voting Act ("UOCAVA") ballots must be issued by **September 19, 2020**. Accordingly, this matter should be fully decided by **September 15, 2020** to allow the party committee in Kansas Senate District 9 enough time to select a new nominee before UOCAVA ballots must be issued.

24. Because of the emergency nature of this case, an Emergency Motion for Expedited Hearing and Briefing Schedule is submitted herewith.

GROUND FOR RELIEF
Writ of Mandamus under K.S.A. 60-801

25. Mandamus is available when a public official has failed to perform a clear legal duty. *Comprehensive Health of Planned Parenthood of Kan. & Mid-Mo., Inc. v. Kline*, 197 P.3d 370, 396 (Kan. 2008). The Kansas Supreme Court has also recognized that mandamus is appropriate under the following circumstances: where the state action at issue threatens to deny Petitioners of a right or privilege that exists as a matter of law and would be irreparably threatened absent mandamus, where the action concerns a matter of great public interest or concern, and to obtain an authoritative interpretation of the law for the guidance of public officials in their administration of public interest. *Alpha Med. Clinic v. Anderson*, 128 P.3d 364, 375 (Kan. 2006).

26. Mandamus is appropriate in this case for each of these four independent reasons: (1) the Secretary has a plain legal duty to remove the Petitioner's name from the ballot because the certification submitted was legally sufficient, (2) Petitioner's interest in compelling the Secretary to perform his public duty arises out of injuries to her right to not run for office during the course of a family medical hardship and subject herself to the difficulties surrounding public life in an attempt to move her role into a more private nature during this hardship, (3) the Secretary's failure to act concerns a matter of public interest and concern, namely, the rights of individuals, particularly Republicans, in Kansas Senate District 9 that wish to vote for a Republican candidate that desires to fulfill the duties of the office on their behalf, and (4) the Parties would benefit from obtaining an authoritative interpretation of the word "signature" in K.S.A. 25-306b(b)(1)(B) as to whether or not it includes an electronic signature.

27. The Kansas legislature imposed an unambiguous duty on the KSOS to remove an individual's name from the ballot if the individual complies with the requirements of K.S.A. 25-306b.

28. The Petitioner has complied with the requirements of K.S.A. 25-306b.

29. The Respondent has failed to execute his legislatively imposed mandate pursuant to K.S.A. 25-306b.

RELIEF SOUGHT

WHEREFORE, for the reasons stated above Petitioner seeks the following relief:

30. A Writ of Mandamus directing the Secretary to comply with his clearly defined duty imposed by K.S.A. 25-306b and promptly notify the party committee of Kansas Senate District 9 of the vacancy so they may select a replacement nominee.

31. Such further relief as this Court deems just and proper attributable to Respondent's refusal to perform his specific duties under the law.

Respectfully Submitted,

KRIGSHAUSER LAW, LLC

/s/ Ryan A. Kriegshauser
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KRIGSHAUSER LAW, LLC
15050 W. 138th St., Unit 4493
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/s/ Joshua A. Ney
Joshua A. Ney (KS Bar No. 24077)
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Telephone: (785) 414-9065
josh@joshney.com
ATTORNEYS FOR PETITIONER

VERIFICATION

I declare under penalty of perjury that the foregoing Verified Complaint has been examined by me and that the factual allegations therein are true and correct.

Dated: September 4, 2020



Julia Lynn

EXHIBIT 1



Today's date: 9/1/2020.

To whom it may concern:

Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs . This places a hardship on the family impacting operations of the family business and other family activities .

JAY ZWIBELMAN
COMPREHENSIVE NEUROLOGY
20375 W. 151ST ST, STE 203
913-764-5100

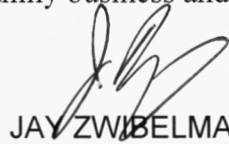
Ruan Rao LPN

EXHIBIT 2

Today's date: 9/1/2020.

To whom it may concern:

Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs . This places a hardship on the family impacting operations of the family business and other family activities .



JAY ZWIBELMAN, M.D.
COMPREHENSIVE NEUROLOGY
20375 W. 151ST ST, STE 203
913-764-5100

EXHIBIT 3



KRIEGSHAUSER LAW

Ryan A. Kriegshauser
ryan@kriegshauserlaw.us
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September 3, 2020

VIA E-MAIL

Clay Barker
Deputy General Counsel
120 SW 10th Ave #1,
Topeka, KS 66612
Email: clay.barker2@ks.gov

RE: **IMMEDIATE RESPONSE REQUESTED: Removal of Senator
Julia Lynn from the General Election Ballot.**

Dear Mr. Barker:

Co-counsel Josh Ney and I represent Sen. Julia Lynn. This letter introduces three attached affidavits relevant to your consideration and approval of Sen. Julia Lynn's September 1, 2020 request to have her name removed from the November ballot due to medical hardship.

As you are aware, Sen. Lynn is no longer able to continue to serve in her capacity as state senator due to the need for her to care for her chronically ill sister. Sen. Lynn contacted your office on September 1 and worked with you and your staff throughout the day to provide the requisite documentation pursuant to K.S.A. 25-306b to have her name removed from the November ballot in time for a successor candidate to be selected by the party precinct committees in her Senate district.

Sen. Lynn discovered yesterday that your office had preliminarily rejected her request based on your conclusion that the letter from her doctor documenting her medical hardship was statutorily insufficient due to the electronic form of the doctor's signature. The purpose of this letter is to discuss the relevant law regarding the form of valid signatures in Kansas to demonstrate why you must reverse your preliminary rejection of her request as a matter of law.

As demonstrated by the accompanying affidavits from Dr. Jay Zwibelman, M.D.; Renaye Ramirez, L.P.N; and Chase Blasi; the facts surrounding the timing and authorization of the documentation are clear:

- 1) On September 1, 2020, Sen. Lynn made a timely request pursuant to K.S.A. 25-306b(b)(2) to be removed from the November general election ballot;

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- 2) Sen. Lynn's stated reason for the request was a medical hardship on her immediate family, pursuant to K.S.A. 25-306b(b)(1)(A);
- 3) On September 1, 2020, Sen. Lynn provided your office with documentation signed by Dr. Jay Zwibelman, M.D., certifying this medical hardship, satisfying the requirements of K.S.A. 25-306b(b)(1)(B);
- 4) This documentation was signed in electronic form by Dr. Jay Zwibelman, M.D., with the assistance of his agent, Renaye Ramirez, L.P.N., consistent with industry and local standards for electronic signature authorizations;
- 5) Based on an agreement between your office and Senator Lynn, this documentation was accepted and complete upon filing. However, supplemental verification was requested from the doctor;
- 6) Sen. Lynn provided your office with extra-statutory supplemental verification on September 2, 2020, at your request, demonstrating an emailed version of the same document with a copy of Dr. Jay Zwibelman, M.D., handwritten signature;
- 7) Because Kansas law treats both forms of signature as valid under the Kansas Uniform Electronic Transactions Act, K.S.A. 16-1601 et seq., your office mistakenly determined her request lacked the requisite documentation.

As a result, I respectfully request on behalf of Sen. Lynn that you reconsider your preliminary determination and remove Sen. Lynn's name from the November general election ballot pursuant to K.S.A. 25-306b.

The Statutory requirements for withdrawal from nomination were met.

K.S.A. 25-306b states that

[a] person who has been nominated by any means for any [state office] may be withdrawn from nomination if: (A) The nominee certifies to the to the secretary of state that such nominee is withdrawing from nomination because of a severe medical hardship on the nominee or the nominee's immediate family. Such nominee shall send the secretary a certification of the severe medical hardship signed by a medical doctor.

The statute requires the certification of the severe medical hardship to be "signed by a medical doctor" and "received" by the secretary of state "on or before" September 1 before the general election. See K.S.A. 25-306b(1)(A) & (B). The statute does not specifically define the term "signed" or "signature," thus general Kansas law regarding the legal effect of different forms of signature applies.

KUETA: Electronic signatures are valid signatures.

The Kansas Uniform Electronic Transactions Act (“KUETA”), K.S.A. 16-1601 et seq., “applies to electronic records and electronic signatures relating to a transaction” and “applies to . . . any *electronic signature* created, generated, sent, communicated, received or stored on or after July 1, 2000. See K.S.A. 16-1603(a), 16-1604 (emphasis added). “Transaction” is defined under the act as “an action or set of actions occurring between two or more persons relating to the conduct of . . . governmental affairs.” See K.S.A. 16-1602(t).

KUETA is clear regarding the legal effect of an otherwise authorized electronic signature: “A record or signature *may not be denied legal effect or enforceability solely because it is in electronic form.*” 16-1607(a) (emphasis added). More directly, “[i]f a law requires a signature, an *electronic signature satisfies the law.*” See *id.* at (b) (emphasis added).

K.S.A. 25-306b(1)(A) requires a certification of a medical hardship in the context of a candidate withdrawal to be “signed by a medical doctor.” The statute provides no qualifications, restrictions, or requirements on the form of that signature. As a result, KUETA establishes that an electronic signature satisfies the signature requirement of K.S.A. 25-306b, thus Dr. Zwibelman’s electronic signature on September 1 clearly constituted a valid signature for purposes of certifying Sen. Lynn’s medical hardship.

Electronic signatures and signatures generally may be remotely authorized or signed by representative.

Kansas law recognizes the traditional practice of “dictating” one’s signature to another person signing on the one’s behalf as a valid method of signing a document. In *Brungardt v. Kansas Department of Revenue*, 468 P.3d 791 (Kan. Ct. App. 2020), the Kansas Court of Appeals explained:

A person's signature may take many forms. Caselaw and statutes have recognized that a person may affix his or her signature by an “X” or other marking, by manually writing his or her name by hand, *or even by having an amanuensis sign in a person's stead.* Regardless of the form used, courts have emphasized that it is the person's intent in signing—to communicate and memorialize his or her authorization or agreement—that matters.

(emphasis added). Moreover, the Kansas Supreme Court has further explained:

An amanuensis is one who takes dictation or who writes down what another has dictated. ‘Where a person's name is signed for him at his direction and in his presence by another, the signature

becomes his own, and is sufficient to give the same validity to an instrument as though written by the person himself.' . . . The practice of using amanuenses has a rich history in Kansas.”

Matter of Est. of Moore, 448 P.3d 425, 429 (Kan. 2019) (citations omitted).

The legality of directing of another person to sign on one’s behalf is well established in Kansas.¹ While not specifically considered in Kansas jurisprudence, courts in other states have expressly recognized the ability for persons to authorize an amanuensis to sign on their behalf when the amanuensis is outside the principal’s immediate presence. *See e.g. Estate of Stephens*, 28 Cal. 4th 668, 675 (Cal. App. 2002) (discussing a series of cases where a principal validly authorized an amanuensis over the telephone to sign on principal’s behalf).

In the present matter, Dr. Zwibelman expressly intended to affix his signature “to communicate and memorialize his or her authorization or agreement” on the certification in question. He did so authorizing his nurse, Renaye Ramirez, to affix his signature in electronic form. Kansas law clearly sanctions this method of signing documents, thus the certification of medical hardship provided to your office on September 1, 2020 was authorized and valid at the time of submission. While not need to establish the validity of Dr. Zwibelman’s signature, nevertheless, subsequent proof of his intent to affix his signature on the September 1, 2020 has been provided to your office, in the form of both a follow up letter signed in script by Dr. Zwibelman. Further documentation is being provided herewith through the attached affidavit sworn to by Dr. Zwibelman.

Electronic signatures are consistent with law and public health guidelines in COVID-19 pandemic; substantial compliance; and detrimental reliance.

Finally, given the extraordinary conditions of the COVID-19 pandemic, Dr. Zwibelman’s signature method and the remote electronic transmission facilitated by his office *especially appropriate* given the law and health guidance surrounding the COVID-19 pandemic.² By authorizing his agent to apply his

¹In addition to recognizing the use of an amanuensis to “dictate” one’s signature, Kansas law has also long recognized the validity and binding nature of signatures made by representatives. For example, the Uniform Commercial Code provides:

If a person acting, or purporting to act, as a representative signs an instrument by signing either the name of the represented person or the name of the signer, the represented person is bound by the signature to the same extent the represented person would be bound if the signature were on a simple contract. If the represented person is bound, the signature of the representative is the “authorized signature of the represented person” and the represented person is liable on the instrument, whether or not identified in the instrument.

K.S.A. 84-3-402.

²*See Jacobsen v. Massachusetts*, 197 U.S. 11, 38, 25 S.Ct. 358 (1905) (holding that otherwise legal actions of a state to protect public health during a pandemic are permissible to the extent they do not invade a constitutional right); *see also* Center for Disease Control, *Coronavirus Disease: Returning to*

electronic signature, consistent with his medical practice policies and industry standards, he minimized unnecessary in-person interaction between himself, his office, Sen. Lynn, and your office. This practice is not only common in the modern workplace, it the safest method of communication in the midst of a pandemic.

Further, it has long been held that, “[a] substantial compliance with the law regulating the conduct of elections is sufficient, and when the election has been held and the will of the electors has been manifested thereby, the election should be upheld even though there may have been attendant informalities and in some respects a failure to comply with statutory requirements; mere irregularities should not be permitted to frustrate the will of the voters, nor should the carelessness of election officials.” *See eg. Matter of Levens*, 237 Kan. 614, 617 (1985). *See also Cure v. Bd. of Cty. Comm'rs of Hodgeman Cty.*, Kan., 263 Kan. 779, 952 (1998); *Kimsey v. Board of Education*, 211 Kan. 618, 629, 507 P.2d 180 (1973); and *Brown v. Summerfield Rural High School Dist. No. 3*, 175 Kan. 310, 262 P.2d 943 (1953). The doctrine of substantial compliance applies to all election law including K.S.A. 25-306b and has been used in Objections Board hearings and orders related to filing requirements. *See eg. In re: David Holmes* (2002) (Kansas Objections Board hearing). Accordingly, while the documentation in question is legally sufficient, there can be no doubt that it substantially complies with K.S.A. 25-306b. Accordingly, it should be accepted even if the Kansas Secretary of State incorrectly believes there is a technical deficiency as to the document.

In addition, it is important to note that the Kansas Secretary of State has accepted electronic signatures in the past. In 2006, the Objection Board had no issue with the acceptance of a faxed signature. *See In re: Carol Birch* (2002) (Kansas Objections Board hearing). The issue in that case was the acceptance of a late filing fee. That being said, there was no question about the validity of the faxed electronic signature. To be clear, there is no legal distinction between a “handwritten” or “typed signature.” The only question is the signer’s intent in signing—to communicate and memorialize his or her authorization or agreement—that matters. *See Brungardt, supra*. The only legal distinctions in Kansas law, as discussed above, is an “electronic signature” compared to a “physical” signature or an “original” signature. The Kansas Secretary of State has accepted electronic signatures and non-original signatures in the past, therefore, the current situation should be no different. Outside of these legal distinctions, the appearance of the mark has no legal significance.

It is not necessary that the signature of a party to a memorandum, under the statute requiring a signing, should be at the bottom or end of the memorandum, but it may be at the top, in the middle, or

Work, August 25, 2020, available at <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/returning-to-work.html> (last accessed September 3, 2020) (recommending minimization of unnecessary interaction with people in business settings and adoption of virtual communication methods as substitutes for in-person interactions).

inserted in any other part of the paper. But in all cases the name of the party to be charged must be affixed in such a manner as to authenticate the instrument. The signature may be by mark, initials, pencil, typewriting, print, or stamp, *if the party to be charged intended by the mark, initials, pencil, print, or stamp to affix the same as his signature*, with the purpose to complete or authenticate the contract as his own contract, and to indicate his intention to be bound thereby.

Id. (Emphasis added.) *citing Guthrie v. Anderson*, 49 Kan. 416, 419-20, 30 Pac. 459 (1892). The attached affidavits clearly further demonstrate the intent and authorization by Dr. Zwibelman to sign the certification in question. Based on this, the Office of the Kansas Secretary of State has no legal basis to reject a signature that appears in typewritten form. Further, a rejection of the document at issue when the Kansas Secretary of State routinely accepts “electronic signatures” in numerous processes, including the elections functions of the office as exemplified in *In re: Carol Birch* raises other concerns, including issues with Equal Protection under the Kansas and United States constitutions.

Furthermore, Senator Lynn relied on the assertions of Bryan Caskey and yourself that the documentation was sufficient, albeit with a request that a supplemental verification also be submitted at some point. Senator Lynn complied as requested by the staff of the Secretary of State. Had the staff of the Secretary refused the filing on September 1, 2020 and insisted that Senator Lynn obtain a “handwritten” signature, Senator Lynn and/or staff could have done everything in their power to obtain such documentation timely. K.S.A. 25-306b(b)(2) states “[if] the secretary of state *receives*” the relevant certification “on or before the first day of September following a primary election...” he shall begin the process to remove the candidate’s name from the ballot. *See* K.S.A. 25-306b(b)(2) (emphasis added). There is no mention of a “5:00pm deadline” on September 1st or a requirement that the certification be “file-stamped” but merely that it be received. Accordingly, Senator Lynn and staff would have had until midnight on September 1, 2020 to track down a doctor that could have provided the requisite certification in the form demanded by the Kansas Secretary of State and submitted such a certification by email, fax, or otherwise such that the Office of the Secretary of State “received” it “on or before the first day of September.” However, that did not occur, because both Senator Lynn and staff were lulled into a false sense of security that the filed certification was sufficient. Accordingly, Senator Lynn relied on the staff of the Kansas Secretary of State to her detriment.

The principle of “detrimental reliance” allows for equitable relief when a party in good faith relies on another person’s words or actions to his or her detriment. *See eg. Bittel v. Farm Credit Services of Central Kansas*, 265 Kan. 651 (1998); *Iola State Bank v. Biggs*, 233 Kan. 450 (1983). This doctrine has also been routinely applied in the context of election law. The Kansas Objections Board has

overlooked technical noncompliance when a candidate detrimentally relied on an election official in the following cases:

- On May 13, 2002: *In re: David Holmes*: A candidate filed for candidacy for Judicial District #27 by nominating petition. The Objection Board found that the petition was incorrectly executed based on the representations of a county election official. The Board sustained the objection based on “substantial compliance” with the law and noted detrimental reliance on the election official’s representations.
- On June 26, 2006: *In re: Carol Birch*: A candidate filed for State Representative for the 74th District of Kansas. Objection was raised because the filing fee was not received by the filing deadline. Ms. Birch had submitted a fee and her Declaration to a county election official and was told “her filing was complete” by the county election official. Based on her reliance on the representations of the county election official the objection was overruled citing *Caggiano, Mielke, Brewer and Nordell v. Thornburgh* in the District Court of Shawnee County.
- On June 23, 2008: *In re: Damon Brown*: A candidate filed for district magistrate judge. Mr. Brown sent his Declaration to the Secretary of State with a fee well before the filing deadline (in early June). The candidate had failed to write in the district number. The Objections Board held that the early June filing was valid and should not have been returned because of the district number omission. The Board cited *Caggiano, Mielke, Brewer and Nordell v. Thornburgh* based on substantial compliance. The Objection was unanimously sustained.
- On June 23, 2008: *In re: Darrell Rohr*: Mr. Rohr filed as a candidate for District Magistrate Judge. His filing was received after the filing deadline. The candidate objected to the determination that his Declaration was invalid. Testimony was presented that Mr. Rohr had submitted a fee and his Declaration to a county election official and was told “his filing was complete.” However, neither the county election official or the candidate forwarded the documents to the Secretary of State. Based on his reliance on the representations of the county election official the objection was sustained citing detrimental reliance.

The signature at issue was legally compliant as described above, particularly in light of the COVID-19 pandemic. However, to the extent that the Office of the Kansas Secretary of State does not find it technically sufficient, the doctrines of substantial compliance and detrimental reliance provide further legal foundations to process the documentation in question and remove Senator Lynn from the ballot.

Conclusion

For the legal and factual reasons above-stated, I respectfully request you reconsider your preliminary decision to reject Sen. Lynn's request to be removed from the November general election ballot. Furthermore, I request that you find that the certification of medical hardship submitted to your office on September 1, 2020 was validly signed by Dr. Zwibelman's, and, pursuant to K.S.A. 25-306b, cause Sen. Lynn's to be withdrawn from nomination and notify the chairperson of the appropriate party committees of their duty to nominate a successor candidate.

Please notify us as soon as possible as to your decision so we may pursue any legal or equitable remedies available based on that decision. I am sure you understand that time is very much of the essence. Accordingly, I respectfully request a decision by 4:00pm today, September 3, 2020.

Sincerely,

/s/ Ryan A. Kriegshauser
Ryan A. Kriegshauser

Enc: (1) Affidavit of Chase Blasi
(2) Affidavit of Dr. Jay Zwibelman, M.D.
(3) Affidavit Renaye Ramirez L.P.N.

cc: Josh Ney, Ney Law Firm LLC (via email: josh@joshney.com)
Jeff Chanay, Assistant Attorney General, Office of the Kansas Attorney General (via email: jeff.chanay@ag.ks.gov)

**IN FRONT OF THE OFFICE OF THE
KANSAS SECRETARY OF STATE**

IN RE: SENATOR JULIA LYNN)
)
 Withdrawing Candidate.)
)

AFFIDAVIT OF CHASE BLASI

STATE OF KANSAS)
) ss:
 COUNTY OF SHAWNEE)

COMES NOW Chase Blasi, of lawful age and being first duly sworn upon oath, and states:

1. I worked with Senator Julia Lynn to submit her certification to be removed from the ballot.
2. On September 1, 2020, I accompanied Senator Lynn to the Secretary of State's Office where the certification attached as Exhibit A was filed. Clayton Barker and Bryan Caskey, both employees of the Office of the Secretary of State, were present when Exhibit A was filed.
3. Exhibit A was signed by Dr. Jay Zwibelman, M.D.
4. Upon filing, Bryan Caskey expressed concern that the signature was electronic and not a written signature. I responded that the use of electronic signatures was common practice.
5. The document was ultimately accepted.
6. At 8:02pm on September 1, 2020, Clayton Barker contacted me via text and acknowledged that a "note" was submitted and requested a "note signed by a doctor" as soon as possible, presumably meaning a he required a certification with a "handwritten" signature and not an electronic signature.

7. In response to Mr. Barker's request, a supplemental certification letter with a handwritten signature was submitted to the Kansas Secretary of State at approximately 2:00pm on September 2, 2020.

8. Accordingly, the Office of the Secretary of State agreed to accept Exhibit A including its electronic signature so long as a supplemental certified letter was submitted.

9. Such a supplemental certified letter was submitted on September 2, 2020 as agreed.

10. I have personal knowledge that the Office of the Kansas Secretary of State often uses electronic signatures in numerous processes throughout the Office, most notably by the Business Services Department.

11. Accordingly, the Office of the Kansas Secretary of State has agreed to use electronic signatures throughout its operations.

12. It is unknown to me why the Office of the Secretary of State would not accept an electronic signature in this circumstance given the office's pervasive use of electronic signatures elsewhere.

FURTHER AFFIANT SAITH NAUGHT.

I, Chase Blasi, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, I declare and swear that all statements above are made of my own knowledge and are true.



Chase Blasi

Signed and sworn to (or affirmed) before me on 3 day of September, 2020 by Chase Blasi.



Notary Public
My appointment expires: 2/18/2022





Today's date: 9/1/2020.

To whom it may concern:

Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs . This places a hardship on the family impacting operations of the family business and other family activities .

JAY ZWIBELMAN
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Ruan Rao LPN

**IN FRONT OF THE OFFICE OF THE
KANSAS SECRETARY OF STATE**

IN RE: SENATOR JULIA LYNN)
)
 Withdrawing Candidate.)

AFFIDAVIT OF DR. JAY ZWIBELMAN, M.D.

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

COMES NOW Dr. Jay Zwibelman, M.D. of lawful age and being first duly sworn upon oath, and states:

1. I am a Board Certified Medical Doctor licensed to practice in Kansas as a Neurology Specialist in Olathe, KS.
2. I have over 34 years of experience in the medical field.
3. I graduated from University of Missouri--Kansas City School of Medicine medical school in 1986, and I am affiliated with Olathe Medical Center.
4. I have reviewed the certification letter attached hereto as Exhibit A and hereby verify that it is a true and accurate representation of my September 1, 2020 certification and displays my signature as it was affixed on September 1, 2020.
5. Exhibit A certifies that Senator Julia Lynn’s sister, a member of Senator Lynn’s immediate family, is experiencing a medical hardship. Exhibit A states: “Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs. This places a hardship on the family impacting operations of the family business and other family activities.”



6. I was aware of the content of Exhibit A and verified its veracity prior to my authorized signature being affixed.

7. Given my medical practice, it is common for nurses to affix my signature from time to time with my authorization. This occurs through the use of electronic signature blocks.

8. Accordingly, Renaye Ramirez, LPN, had authorization to affix my signature.


9. I recognize my signature on Exhibit A as being true, accurate, and fully authorized by myself prior to it being affixed.

10. Based on the foregoing, Exhibit A is a certification letter intentionally signed by myself, a Medical Doctor, on September 1, 2020.

11. Although my signature was properly affixed to Exhibit A, I was happy to provide additional supplemental verification with my handwritten signature as requested by the Kansas Secretary of State. I have reviewed Exhibit B and it is a true and accurate copy of this supplemental verification with my handwritten signature.

FURTHER AFFIANT SAITH NAUGHT.

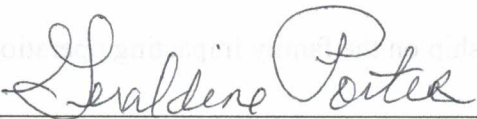
I, Dr. Jay Zwibelman, M.D., being warned that willful false statements and the like are punishable by fine or imprisonment, or both, I declare and swear that all statements above are made of my own knowledge and are true.



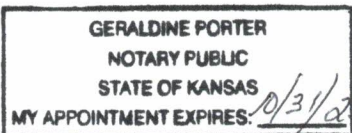
Dr. Jay Zwibelman, M.D.

Signed and sworn to (or affirmed) before me on 3rd day of Sept., 2020 by Dr. Jay Zwibelman, M.D.

(Seal)



Notary Public
My appointment expires: 10-31-2022





Today's date: 9/1/2020.

To whom it may concern:

Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs . This places a hardship on the family impacting operations of the family business and other family activities .

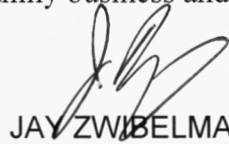
JAY ZWIBELMAN
COMPREHENSIVE NEUROLOGY
20375 W. 151ST ST, STE 203
913-764-5100

Ruan Rao LPN

Today's date: 9/1/2020.

To whom it may concern:

Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs . This places a hardship on the family impacting operations of the family business and other family activities .



JAY ZWIBELMAN, M.D.
COMPREHENSIVE NEUROLOGY
20375 W. 151ST ST, STE 203
913-764-5100

EXHIBIT B

**IN FRONT OF THE OFFICE OF THE
KANSAS SECRETARY OF STATE**

IN RE: SENATOR JULIA LYNN)

 Withdrawing Candidate.)

AFFIDAVIT OF RENAYE RAMIREZ, L.P.N.

STATE OF KANSAS)

) ss:

COUNTY OF JOHNSON)

COMES NOW Renaye Ramirez, L.P.N. of lawful age and being first duly sworn upon oath, and states:

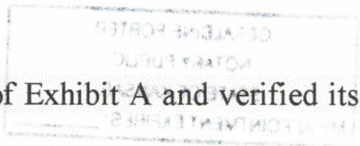
1. I am a licensed practical nurse, licensed to practice nursing in Kansas.

2. I have reviewed the certification letter attached hereto as Exhibit A and hereby verify that it displays the signature of Dr. Jay Zwibelman, M.D., as it was affixed on September 1, 2020. Exhibit A is a true and accurate representation of Dr. Jay Zwibelman’s September 1, 2020 certification.

3. Exhibit A certifies that Senator Julia Lynn’s sister and a member of Senator Lynn’s immediate family is experiencing a medical hardship. Exhibit A states: “Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs. This places a hardship on the family impacting operations of the family business and other family activities.”

4. Dr. Jay Zwibelman, M.D. was aware of the content of Exhibit A and verified its veracity prior to his authorized signature being affixed.

5. Given the nature of our practice, it is common for nurses to affix doctor signatures from time to time with prior authorization.



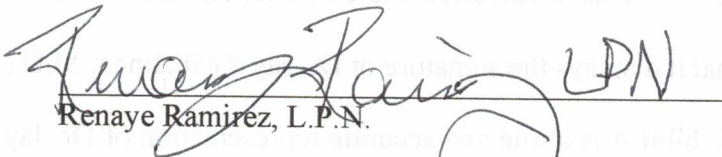
6. Accordingly, I had prior authorization to affix the signature of Dr. Jay Zwibelman, M.D. to Exhibit A.

7. I affixed the signature Dr. Jay Zwibelman, M.D., through the use of his electronic signature block, to Exhibit A on September 1, 2020. I signed my name next to his signature block to designate my authorized representative capacity when applying his signature block.

8. Based on the foregoing, Exhibit A is a certification letter signed by Dr. Jay Zwibelman, M.D., a Medical Doctor, on September 1, 2020.

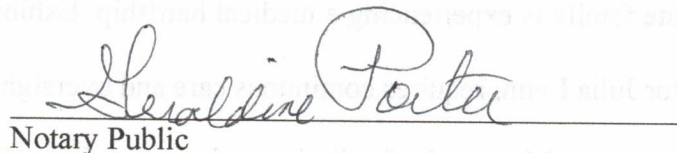
FURTHER AFFIANT SAITH NAUGHT.

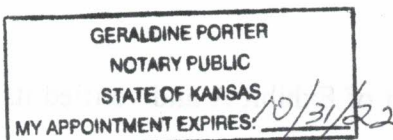
I, Renaye Ramirez, L.P.N., being warned that willful false statements and the like are punishable by fine or imprisonment, or both, I declare and swear that all statements above are made of my own knowledge and are true.


Renaye Ramirez, L.P.N.

Signed and sworn to (or affirmed) before me on 3rd day of Sept, 2020 by Renaye Ramirez, L.P.N.

(Seal)


Notary Public



My appointment expires: 10-31-2022



Today's date: 9/1/2020.

To whom it may concern:

Kathryn Ketcham, sister of Senator Julia Lynn, requires continuous care and oversight of her medical and financial affairs . This places a hardship on the family impacting operations of the family business and other family activities .

JAY ZWIBELMAN
COMPREHENSIVE NEUROLOGY
20375 W. 151ST ST, STE 203
913-764-5100

Ruwan Raju LPN

EXHIBIT 4

SCOTT SCHWAB
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS

SENT BY E-MAIL ONLY

September 3, 2020

Ryan A. Kriegshauser
ryan@kriegshauserlaw.us

Re: Withdraw of Senator Lynn's Candidacy

Mr. Kriegshauser,

Thank you for your letter and phone call. The Secretary has reviewed your letter and attachments regarding your request that he reconsider the decision to reject Senator Lynn's attempt to withdraw her candidacy. The Secretary is not reconsidering his decision.

As you are aware, KSA 25-306b(b)(1)(A) required two certifications from Senator Lynn. First, the nominee must certify the withdrawal is because of a severe medical hardship on the nominee's immediate family. Second, the nominee must send the secretary a certification of the severe medical hardship "signed by a medical doctor."

A few factual points:

First, you stated that our office was contacted by Senator Lynn who worked with our staff "throughout the day" regarding her attempted withdrawal. At no point before the Senator's physical arrival at our office, around 4:45 PM, Tuesday, September 1, did anyone from our office have contact with the Senator. Indeed, when we learned from Mr. Blasi in mid-afternoon that a senate candidate would seek to withdraw, we requested to work directly with the candidate to coordinate the withdraw filing. Our request was categorically denied, and we were not informed which senator planned to withdraw. If we had been able to contact the Senator, this situation could have been avoided.

Second, the medical certification did not arrive at our office electronically. Instead, it was hand delivered, not by Senator Lynn, but by Mr. Blasi. At no point on September 1 did anyone assert that the medical certification contained the doctor's electronic signature. When we informed the Senator and Mr. Blasi of the statute's mandate that it contain a medical doctor's signature, they asserted to us that the nurse's signature was sufficient in and of itself. Moreover, they informed us that they could not locate the doctor. Attempts to reach the doctor or nurse were unsuccessful.

Third, a letter dated September 1 and signed by the doctor was hand delivered to our office by Mr. Blasi in the afternoon of Wednesday, September 2, after we had informed the Senator that the Secretary had denied the withdrawal.

Last, our elections staff made it abundantly clear that by receiving the Senator's filing we were not necessarily agreeing to the validity of the withdraw. We informed the Senator and Mr. Blasi that we would give them our determination on Wednesday, September 2.

Sincerely,



Clay Barker

Office of the Kansas Secretary of State

Deputy General Counsel

Clay.barker2@ks.gov