

**IN THE STATE COURT OF KANSAS
DISTRICT COURT OF DOUGLAS COUNTY**

KANSAS APPLESEED CENTER FOR LAW AND JUSTICE, INC., LOUD LIGHT, DISABILITY RIGHTS CENTER OF KANSAS, DOROTHY NARY, MARTHA HODGESMITH, and ROBERT MIKESIC,

Plaintiffs,

v.

SCOTT SCHWAB, in his official capacity as the Kansas Secretary of State, and JAMIE SHEW, in his official capacity as Douglas County Clerk,

Defendants.

Original Action No.

DG-2025-CV-000206

**PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
PLAINTIFFS’ MOTION FOR TEMPORARY INJUNCTION AND OPPOSITION TO
DEFENDANT’S MOTION TO DISMISS**

On March 3, 2026, three jurisdictions within Johnson County held special elections on local ballot issues conducted by mail voting.¹ Approximately 30,000 ballots were cast across these elections, of which 1,008 were rejected for arriving after election day—meaning that approximately *one out of every 30* voters were disenfranchised.² One of the issues in the election was ultimately approved by a margin of only *nine* votes. *See supra* note 1.

These real-world election results provide additional evidence that, under SB 4, postal delays will cause substantial numbers of mail ballots to be rejected for reasons outside a voter’s control. T.I. Mem. at 9-12. This was a low-turnout special election in a single county and, even so,

¹ Taylor O’Connor, *After 1,000 late ballots didn’t count, Johnson County reminds voters of new rules*, Kansas City Star (Mar. 19, 2026), <https://perma.cc/TS3P-3JG6>.

² *See supra* note 1; *March 3, 2026 Special Election Results*, Johnson County Election Office (last accessed Mar. 23, 2026), <https://www.jocoelection.org/events-elections/march-3-2026-special-elections>.

more than 1,000 ballots were rejected for arriving after election day. Notably, this special election was the type of election that has long been conducted without a grace period. Thus, the result thoroughly discredits the Secretary's suggestion that voters will be able to adjust their behavior to ensure that their ballot arrives on time with SB 4's elimination of the grace period for all Kansas elections. T.I. Opp. at 9.

This new data also shows why the Secretary's preemption argument is misplaced. These were local elections, to which the federal election day statutes could not possibly apply. If the Court finds that the Kansas Constitution protects against a strict election day receipt deadline where the evidence shows that it will result in the rejection of the ballots of voters for reasons beyond their control, this data underscores that such a ruling would play a meaningful role in enfranchising Kansans in elections for state and local issues and non-federal offices even if the federal election day statutes were found to mean what the Secretary argues they say. *See Proposed Order Denying MTD*, ¶70.

Respectfully submitted this 27th day of March, 2026.

/s/ Nicole M. Revenaugh

Pedro L. Irigonegaray (#08079)

Nicole M. Revenaugh (#25482)

Ryan T. Petersen (#30689)

IRIGONEGARAY & REVENAUGH

1535 S.W. 29th Street

Topeka, KS 66611

(785) 267-6115

pedro@itrlaw.com

nicole@itrlaw.com

Elisabeth C. Frost*

Joshua Abbuhl*

Branden Lewiston*

ELIAS LAW GROUP LLP

250 Massachusetts Ave. NW, Suite 400

Washington, DC 20001

(202) 968-4490

efrost@elias.law
jabbuhl@elias.law
blewiston@elias.law

Counsel for Plaintiffs

Micah L. Tempel (#29390)
Alexandra N.C. Rose (#27247)
**KANSAS APPLESEED CENTER
FOR LAW AND JUSTICE, INC.**
211 E. 8th St., Suite D
Lawrence, KS 66044
(785) 251-8160
mtempel@kansasappleseed.org
nrose@kansasappleseed.org

*Counsel for Kansas Appleseed Center
For Law and Justice, Inc.*

** Appearing Pro Hac Vice*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 27, 2026, a true and correct copy of the above document was electronically filed with the Clerk of the Court using the Court's electronic filing system, which will send notice of electronic filing to all counsel of record.

/s/ Nicole M. Revenaugh
Nicole M. Revenaugh (#25482)