

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

William “Sam” McCann and)	
Bruce Alan Mcdaniel,)	
)	
Plaintiffs,)	
)	
v.)	Case No.
)	
William E. Brady, in his official capacity as)	Judge:
Minority Leader of the Illinois State Senate,)	Magistrate Judge:
Leader of the Illinois Senate Republican)	
Caucus, and Senate Leader of the Illinois)	
Republican Party; the Illinois Senate)	
Republican Caucus; and, the Illinois)	
Republican Party,)	
)	
Defendants.)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Count I
Violation of Freedom of Speech Under the First Amendment
to the Unites States Constitution

Introduction

Plaintiffs William “Sam” McCann and Bruce Alan Mcdaniel (collectively “Plaintiffs”) hereby file suit against William E. Brady in his official capacity as Minority Leader of the Illinois State Senate, Leader of the Illinois Senate Republican Caucus, and Senate Leader of the Illinois Republican Party; the Illinois Senate Republican Caucus; and, the Illinois Republican Party (collectively “Defendants”) arising under the First and Fourteenth Amendments to the United States Constitution and brought under 42 U.S.C. §§ 1983, 1985. In support thereof, Plaintiffs allege the following:

Jurisdiction and Venue

1. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States. This Court also has jurisdiction under 28 U.S.C. §§ 1343(a)(3) and (4) because this action seeks to redress the deprivation, under color of state law, of rights secured by the Constitution, and laws of the United States, and to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendants Illinois Senate Republican Caucus and Illinois Republican Party both reside in this District, and Plaintiff McCann and Defendants all work within and have offices in the District.

Parties

3. Plaintiff McCann is a resident of the State of Illinois, and resides in Macoupin County, Illinois. Plaintiff McCann is currently the duly elected State Senator for the 50th Legislative District of Illinois (“Senate District”). Plaintiff McCann is a member of the Republican Party. He first filed his nomination papers to run as the Republican nominee for the 49th Senate District in the 2010 general primary.¹ After securing his nomination, Plaintiff McCann defeated his Democratic opposition and became Senator for the 49th Senate District. Running for reelection as the Republican incumbent, Plaintiff McCann faced Republican opposition in the general primary elections of 2012 and 2016, but managed to defeat his opponents and secure the Republican nomination in both instances. Plaintiff McCann subsequently was reelected to represent the 50th Senate District in both years.

¹ Due to legislative redistricting, the 49th Senate District was redrawn, and Plaintiff McCann was subsequently forced to run as a Republican candidate for the newly-drawn 50th Senate District in which he now resides.

4. Plaintiff Bruce Alan Mcdaniel is a resident of the State of Illinois, and resides in Jacksonville, Morgan County, Illinois. Plaintiff Suter is a registered voter in Illinois and resides in the State Senate District 50. Plaintiff McCann is his duly elected State Senator.

5. Defendant William E. Brady is a Minority Leader of the Illinois State Senate, Leader of the Illinois Senate Republican Caucus, and Senate Leader of the Illinois Republican Party.

6. Defendant Illinois Republican Party is an Illinois Corporation with its principal place of business located in the State of Illinois, and doing business throughout the entire state. The address of the registered agent for Illinois Republican Party is 55 West Monroe Street, #940, Chicago, IL 60603.

7. Defendant Illinois Senate Republican Caucus is an association of Illinois State Senators who are members of the Republican Party. Because of the frequency with which Illinois Senators are called upon to do official business in Chicago, the Senate Republican Caucus maintains a Chicago Senate Republican Office at 100 West Randolph, 16-300, Chicago, Illinois 60601.

Legal Background

8. Pursuant to Article IV of the Constitution of the State of Illinois, the “legislative power is vested in a General Assembly consisting of a Senate and a House of Representatives elected by the electors from 59 Legislative Districts and 118 Representative Districts,” to be elected in even-numbered years. Article III, § 3, of the Illinois Constitution states that “[a]ll elections shall be free and equal.”

9. Further, Article IV, § 6, of the Illinois Constitution specifies that, in each odd-numbered year, the Governor shall convene the State Senate to elect a President of the Senate as a

presiding officer. Moreover, it states that the Minority Leader of either house is a member of the numerically strongest political party other than the party to which the President of the Senate belongs.

10. Additionally, Article IV, § 6, provides that “each house shall determine the rules of its proceedings, judge the elections, returns and qualifications of its members and choose its officers. No member shall be expelled by either house, except by a vote of two-thirds of the members elected to that house.”

11. Pursuant to the Illinois Constitution, the Illinois State Senate created “Rules of the Senate of the State of Illinois.” Pursuant to said rules, at the commencement of a term, the Senate adopts new rules of organization and procedure by resolution. Senate Resolution 2, 100th General Assembly.

12. Senate Rule 1-10 defines “majority caucus” as “that group of Senators from the numerically strongest political party in the Senate,” including “any Senator who is not from the numerically strongest or numerically second strongest political party in the Senate but who casts his or his final vote for President of the Senate for the person who is elected President of the Senate.” Correspondingly, “minority caucus” is defined as “that group of Senators from other than the “majority caucus.” Senate Rule 1-16; S.R. 2, 100th G.A.

13. In addition to the constitutional mandate, Senate Rule 2-2 sets forth the procedure to elect the President of the Senate, which requires an affirmative vote of a majority of those elected. Moreover, Senate Rule 2-3 sets forth the procedure for electing the Senate’s Minority Leader, which must be done in a manner “consistent with the Constitution and laws of Illinois.” S.R. 2, 100th G.A.; S.R. 3, 100th G.A.

14. Senator John Cullerton of the 6th Senate District of Illinois was first elected as Senate President by a majority of the members of the Senate and began serving in that capacity in 2009. Senator Bill Brady of the 44th Senate District of Illinois was elected Minority Leader to replace his predecessor in 2017. Plaintiff McCann never affirmatively voted for Senate President Cullerton during his time in the Senate.

15. A Senator, therefore, by the very nature of the Senate Rules, is either a member of the majority caucus, or, if not, a member of the minority caucus. Plaintiff McCann, for purposes of the Senate Rules, is a member of the minority caucus.

16. Additionally, according to the Article VIII, § 2, of the Illinois Constitution, “the General Assembly by law shall make appropriations for all expenditures of public funds by the State. Appropriations for a fiscal year shall not exceed funds estimated by the General Assembly to be available during that year.”

17. From July 1, 2015, to August 31, 2017, Illinois was without a complete state budget for fiscal years 2016, 2017, and part of 2018. Eventually, the General Assembly enacted a complete budget for fiscal year 2018 that included appropriations for the General Assembly.

18. During the aforementioned budget impasse, no appropriations were enacted by the legislature to provide the General Assembly with funds for legislative operational expenses. However, in 2014, the General Assembly passed legislation that ensured the operations of the Senate and House would go undisturbed. P.A. 98-682 § 50. In relevant part, it states:

Beginning July 1, 2014, the aggregate appropriations available for legislative operations from all State funds for each State fiscal year shall be no less than the total aggregate appropriations made available for legislative operations for the immediately preceding fiscal year. For purposes of this subsection (b), “legislative operations” means any expenditure for the operation of the Office of the Auditor General, the House of Representatives, the Senate ...

It further states (15 ILCS 20/50-22):

If for any reason the aggregate appropriations made available are insufficient to meet the levels required by subsections (a) and (b) of this Section, this Section shall constitute a continuing appropriation of all amounts necessary for these purposes.

19. By guaranteeing appropriations to the General Assembly in an amount not less than the previous year's appropriation, the passage of P.A. 98-682 § 50 underscores the vital role the availability of significant taxpayer-funded resources plays in an elected representatives effective representation of his or his constituents.

20. Of the General Revenue Funds appropriated for the General Assembly for fiscal year 2018, the Senate President and Minority Leader receive \$5,295,074.00, respectively, for "ordinary and contingent expenses of Legislative Leadership and legislative staff assistants."

21. The President of the Senate and the Minority Leader control the expenditure of the aforementioned appropriations within the parameters of the law. For example, to better understand the amount of control leadership has over the resources of their respective caucuses, 25 ILCS 160/1a states, "there shall be such staff assistants for the General Assembly as necessary...of the staff assistants provided for the Senate, one half shall be designated by the President and one half by the minority leader."

22. Conversely, apart from the taxpayer-funded resources provided by either the majority or minority caucus, each member of the Senate is only authorized to approve the expenditure of not more than \$73,000.00 per year for various services as defined in the State Finance Act, and for "the compensation of one or more legislative assistants ...solely under the direction and control of that member, for the purposes of assisting the member in the performance of his or his official duties." 25 ILCS 115/4.

Factual Allegations

23. As alleged *supra*, Plaintiff McCann has been a duly elected Republican State Senator since 2010. In 2010, he was elected Senator for the 49th Senate District. Subsequently, after legislative redistricting, he was elected once again in 2012, and reelected in 2016, this time as the Senator for the 50th Senate District.

24. Plaintiff McCann faced Republican general primary opponents in both 2012 and 2016.

25. Prior to the 2016 general primary, in August 2015, Plaintiff McCann voted to override a veto from Illinois Governor Bruce Rauner (“Rauner”) to Senate Bill 1229 (“SB 1229”). The legislation would have allowed arbitration to decide terms of a new contract to replace the pact that expired June 30, 2015, between the Rauner administration and the American Federation of State, County and Municipal Employees (AFSCME), which represents about 38,000 state workers.

26. Plaintiff McCann was co-sponsor of measures in Rauner’s “Turnaround Agenda” for term limits, redistricting reform and lawsuit reform, and only materially disagreed with Governor Rauner over his stance on collective bargaining rights and prevailing wage laws.

27. Plaintiff McCann’s district includes part of Springfield and is home to many unionized state workers represented by AFSCME, many of whom were and remain directly impacted by the stalled contract negotiations.

28. Rauner endorsed Plaintiff McCann’s 2016 Republican general primary opponent, Bryce Benton of Springfield, and was responsible for much of the more than \$3 million that was spent on Benton’s behalf by Liberty Principles PAC, a Super PAC led by Republican activist Dan Proft. Turnaround Illinois, a super PAC that “supports/opposes state legislative candidates,

received a \$250,000.00 contribution from Rauner on April 30, 2015, and a \$2,000,000.00 contribution from Rauner on February 29, 2016. Subsequently, in the months leading up to the 2016 general primary, Turnaround Illinois gave \$2,340,859.94 million to Liberty Principles PAC.

29. In addition to Rauner's material fiscal support and endorsement of his primary opponent leading up to the August 19, 2015 Senate vote to override Rauner's veto of SB 1229, Rauner threatened to "destroy [Plaintiff McCann] and [his] family if [he] goes through with [a yes vote]."

30. Despite direct opposition from Rauner, the *defacto* leader of the Illinois Republican Party, Plaintiff McCann won the Republican general primary in 2016, and ran unopposed in the general election. However, on September 19, 2017, Steve McClure announced his intention to challenge Plaintiff McCann in the 2018 Republican general primary, already having secured the endorsement of the Sangamon County GOP central committee.

31. Due to what Plaintiff McCann saw as a continuous attack on traditional conservative values by Rauner's Republican Party—including the availability of state-funded abortions, the ability for transgender residents to alter their birth certificates, attacks on working people, and turning Illinois into a "sanctuary state" for illegal immigrants—and facing the prospect of a third consecutive Republican primary opponent, on December 4, 2016, Plaintiff McCann announced that he would not seek the Republican nomination for the 50th Senate District. Rather, Plaintiff McCann decided to explore running for Governor of Illinois.

32. On Thursday, April 19, 2018, after witnessing nearly 50 percent of a frustrated Republican electorate cast their general primary votes for State Representative Jeanne Ives over incumbent Rauner for the Republican nomination for Governor, Plaintiff McCann announced that he intended to run for Governor of Illinois as a "new political party candidate" in the general

election.

33. In order to secure a position on the ballot, the Illinois Election Code requires prospective new political party candidates to petition for the signatures of 25,000 registered Illinois voters.

34. Pursuant to the Election Code, “the filing of [the requisite nominating petitions] shall constitute the political group a new political party, for the purpose only of placing upon the ballot at such next ensuing election such list or an adjusted list in accordance with Section 10-11, of party candidates for offices to be voted for throughout the State ... under the name of and as the candidates of such new political party.” Until such a time, however, the new political party is not formally recognized under the Illinois Election Code or any other Illinois laws. 10 ILCS 5/10-2; *see generally* 10 ILCS 5.

35. On April 19, 2018, Defendant Brady, in his capacity as Minority Leader of the Senate’s minority caucus and leader of the Illinois State Senate Republican Caucus, without conducting a hearing or other proceeding, expelled Plaintiff McCann from the Illinois State Senate’ minority caucus and the Illinois Senate Republican Caucus.

36. On April 19, 2018, Defendant Brady, in his capacity as Minority Leader of the Senate’s minority caucus and leader of the Illinois State Senate Republican Caucus, without conducting a hearing or other proceeding, denied Plaintiff McCann access to material, taxpayer-funded legislative operational resources required for him to fulfill his duties to his constituents as the duly elected Senator of the 50th Senate District.

37. On April 19, 2018, Defendant Brady, in his capacity as Minority Leader of the Senate’s minority caucus and leader of the Illinois State Senate Republican Caucus, through his taxpayer-funded spokesperson stated, “this morning, Sen. Sam McCann offered his resignation

from the Illinois Senate Republican Caucus and Leader Brady accepted.” Miller, R. (2018, April 19) *Senator Sam McCann announces for governor as Conservative Party candidate* (Retrieved from <https://capitolfax.com/2018/04/19/sen-sam-Mcdaniel-announces-for-governor-as-conservative-party-candidate/>)).

38. On April 19, 2018, Defendant Brady, in his capacity as Minority Leader of the Senate’s minority caucus and leader of the Illinois State Senate Republican Caucus, tweeted, “[t]he Illinois Republican Party didn’t leave Sam McCann. He left the Republican Party with his lockstep votes to support Mike Madigan’s agenda of unbalanced budgets and putting the interests of public sector unions ahead of Illinois taxpayers.” Wood, S. (2018, April 19) *Sam McCann Enters Illinois Governors Race* (Retrieved from <http://www.wjbc.com/2018/04/19/sam-Mcdaniel-enters-illinois-governor-race/>)).

39. However, in response to Defendant Brady’s allegations that Plaintiff Mcdaniel resigned from the Illinois State Senate Republican Caucus, Plaintiff Mcdaniel denied such action, stating (Miller, R. (2018, April 19) *McCann denies he resigned from the SGOP caucus, threatens legal action over access to “key resources”* (Retrieved from <https://capitolfax.com/2018/04/19/Mcdaniel-denies-he-resigned-from-the-sgop-caucus-threatens-legal-action-over-access-to-key-resources/>)):

I did not offer my resignation from the Republican Caucus today. In fact, I responded to the caucus with that clarification. I offered my resignation as Minority spokesman on committee. I am still a Republican until I complete the requisite legal requirements to establish a new party, which doesn’t occur until June.

The Republicans have also unlawfully restricted access to key resources that are needed to properly represent the constituents of my District. Today, I demanded access to all caucus resources available to any Republican member in order to properly represent the constituents of my District, which duly elected me as an IL State Senator of the Republican Party. I am following the legal protocol to properly establish a Conservative Party, but at this time no such party exists until the proper protocols are completed. In addition, I remain Constitutionally obligated to

represent my constituents. Moreover, it is the Republican Party's duty to allow all of its members equal access.

40. The minority caucus is currently composed of all Republican members of the State Senate who receive compensation from the State of Illinois; its sessions are conducted in the Statehouse on State property and attended by elected State Officials; it is serviced by State paid employees; and its members are have access to taxpayer-funded legislative resources necessary to effectively fulfill their duties as duly elected representatives of their districts.

41. Such taxpayer-funded legislative resources include, but are not limited to:

- a. staff analysis on the Senate floor;
- b. communications staff;
- c. material assistance from staffers coordinating the disposition and movement of active bills;
- d. material staff assistance coordinating committee hearings;
- e. material staff assistance writing, filing, and "running" bills;
- f. material staff assistance in the coordination and execution of "in-district" events;
- g. staff assistance in radio communications;
- h. access to digital platforms, i.e. official officeholder website, Facebook page, and the like; and
- i. access to staff photographer, etc.

42. As of April 19, 2018, Plaintiff McCann has been denied access to all of the above-referenced taxpayer-funded legislative operational services, and, therefore, has not been able to represent effectively or adequately the residents of the 50th Senate District who elected him on three separate occasions.

43. On April 26, 2018, Plaintiff McCann attempted to secure the use of a taxpayer-funded, minority caucus staff photographer—in advance—for an event with a local Girl Scouts troop. The photographer stated to Plaintiff McCann that he was instructed not to take any requests from Plaintiff McCann —“no exceptions.”

44. Plaintiff McCann is the primary sponsor of 24 bills that were filed this legislative session that are actively moving through the legislative process at varying speeds, serves on six Senate Committees and two Sub-committees, and must dutifully represent the interests of his constituents during negotiations concerning the Illinois State Budget, which is due to be enacted by the Illinois General Assembly on May 31, 2018.

45. Moreover, Plaintiff McCann has genuine concerns regarding what little taxpayer funds remain accessible to him; specifically, funds designated for use at district offices for payment of rent, utilities, and the like.

46. Plaintiff McCann’s participation in the minority caucus, and access to the taxpayer-funded legislative resources—which are available to every other member of the Senate—are vital to his ability to represent effectively the constituents of the 50th Senate District.

47. The First Amendment protects against State prohibition of political speech and, conversely, State punishment or penalty for the exercise of free speech rights, especially where the State’s action infringes upon the political speech of a duly elected legislator in his capacity as such.

48. Therefore, Defendants Brady, *et al.*, in their official capacities, unconstitutionally infringed upon Plaintiff McCann’s right to freedom of speech under the First Amendment to the United States Constitution.

WHEREFORE, Plaintiffs respectfully request the following relief:

- a. a declaration that Defendants actions expelling Plaintiff McCann from

access to the minority caucus and the Illinois State Senate Republican Caucus violate the First and Fourteenth Amendments to the U.S. Constitution by infringing upon Plaintiff McCann's right to freedom of speech;

- b. a declaration that Defendants denial of vital taxpayer-funded resources necessary for Plaintiff McCann to effectively fulfill his duties to represent the voters of the 50th Senate District violates the First and Fourteenth Amendments to the U.S. Constitution by severely infringing upon Plaintiff McCann's right to freedom of speech;
- c. issue the requested injunctive relief without a condition of bond or other security being required of Plaintiffs;
- d. that this Court award Plaintiffs' costs and expenses, including its attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- e. such other relief as the Court deems just and equitable.

Count II
Violation of Freedom of Association Under the First Amendment
to the Unites States Constitution

1-48. For Paragraphs 1 through 48 of this Count II of the Complaint, Plaintiffs restate and reallege paragraphs 1 through 48 of Count I of the Complaint as is fully set forth in Count II herein.

49. The First Amendment protects against State interference with an individual's right to associate with others to advance political views, and, conversely, State punishment or penalty for the exercise of associational rights. The right to associate with a political party of one's choosing is an essential part of this constitutionally protected freedom.

50. Defendants Brady, *et al.*, in their official capacities, unconstitutionally infringed upon Plaintiff McCann's freedom of association under the First Amendment and punished him for the exercise of his associational rights when it expelled him from the Illinois State Senate's minority caucus and the Illinois Senate Republican Caucus, and denied him access to material and taxpayer-funded resources required for him to fulfill his duties as the duly elected Senator of the 50th Senate District

WHEREFORE, Plaintiffs respectfully request the following relief:

- a. a declaration that Defendants actions expelling Plaintiff McCann from access to the minority caucus and the Illinois State Senate Republican Caucus violate the First and Fourteenth Amendments to the U.S. Constitution by infringing upon Plaintiff McCann's right to freedom of association;
- b. a declaration that Defendants denial of vital taxpayer-funded resources necessary for Plaintiff McCann to effectively fulfill his duties to represent the voters of the 50th Senate District violates the First and Fourteenth Amendments to the U.S. Constitution by severely infringing upon Plaintiff McCann's right to freedom of association;
- c. issue the requested injunctive relief without a condition of bond or other security being required of Plaintiffs;
- d. that this Court award Plaintiffs' costs and expenses, including its attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- e. such other relief as the Court deems just and equitable.

Count III
Violation of Freedom of the Due Process Clause the First Amendment
to the Unites States Constitution

1-48. For Paragraphs 1 through 48 of this Count III of the Complaint, Plaintiffs restate and reallege paragraphs 1 through 48 of Count I of the Complaint as is fully set forth in Count III herein.

49. The Due Process Clause of the Fourteenth Amendment protects against State deprivations of “life, liberty, or property, without due process of law.”

50. No elected representative of the people may be barred from participation in a forum to which he or she was elected for misconduct, no matter how egregious, without a hearing.

51. Defendant Brady, *et al.*, in their official capacities, unconstitutionally expelled Plaintiff McCann without a prior hearing in violation of the Due Process Clause of the Fourteenth Amendment.

WHEREFORE, Plaintiffs respectfully request the following relief:

- a. a declaration that Defendants’ actions expelling Plaintiff McCann from the minority caucus and the Illinois State Senate Republican Caucus without a proper hearing prior to such action violate the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution;
- b. a declaration that Defendants denial of vital taxpayer-funded resources necessary for Plaintiff McCann to effectively fulfill his duties to represent the voters of the 50th Senate District without proper prior hearing violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution;
- c. issue the requested injunctive relief without a condition of bond or other

security being required of Plaintiffs;

- d. that this Court award Plaintiffs' costs and expenses, including its attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- e. such other relief as the Court deems just and equitable.

Count IV
Violation of the Equal Protection Clause of the Fourteenth Amendment
to the United States Constitution

1-48. For Paragraphs 1 through 48 of this Count IV of the Complaint, Plaintiffs restate and reallege paragraphs 1 through 48 of Count I of the Complaint as is fully set forth in Count IV herein.

49. The Equal Protection Clause of the Fourteenth Amendment provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws."

50. By depriving Plaintiff McCann of the opportunity to participate in the minority caucus and the Illinois State Senate Republican Caucus where such participation is necessary for Plaintiff McCann to effectively fulfill his duties to represent the voters of the 50th Senate District, Defendants Brady, *et al.* created two classes of voters: one class consisting those citizens whose duly elected representatives could effectively and fully participate in the legislative process, and another whose Senator is only allowed to participate to a severely limited degree.

51. By denying Plaintiff McCann the vital taxpayer-funded resources necessary for Plaintiff McCann to effectively fulfill his duties to represent the voters of the 50th Senate District, Defendants Brady, *et al.*, created two classes of voters: one class consisting those citizens whose duly elected representatives could effectively and fully participate in the legislative process, and another whose Senator is only allowed to participate to a severely limited degree. Defendants Brady, *et al.*, in their official capacities, unconstitutionally deprived Plaintiff McCann's

constituents of Equal Protection of the law in violation of the Equal Protection Clause of the Fourteenth Amendment.

WHEREFORE, Plaintiffs respectfully request the following relief:

- a. a declaration that Defendants' actions expelling Plaintiff McCann from the minority caucus and the Illinois State Senate Republican Caucus deny his constituents Equal Protection of the law in violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution;
- b. a declaration that Defendants denial of vital taxpayer-funded resources necessary for Plaintiff McCann to effectively fulfill his duties to represent the voters of the 50th Senate District denies his constituents Equal Protection of the law in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;
- c. issue the requested injunctive relief without a condition of bond or other security being required of Plaintiffs;
- d. that this Court award Plaintiffs' costs and expenses, including its attorneys' fees, pursuant to 42 U.S.C. § 1988; and
- e. such other relief as the Court deems just and equitable.

Count V
Violation of the First Amendment Retaliation Pursuant to §1983

1-48. For Paragraphs 1 through 48 of this Count V of the Complaint, Plaintiffs restate and reallege paragraphs 1 through 48 of Count I of the Complaint as is fully set forth in Count V herein.

49. The First Amendment to the United States Constitution prohibits abridgement of the freedom of speech and association, and the First Amendment is incorporated against the states

by the Fourteenth Amendment. Persons violating the First Amendment under color of state law are liable at law and in equity under 42 U.S.C. § 1983.

50. The First Amendment protects against State prohibition of political speech and association and, conversely, State punishment or penalty for the exercise of free speech or associational rights, especially where the State's action infringes upon the political speech or association of a duly elected legislator in his capacity as such.

51. Defendants, while acting under color of state law, violated Plaintiff McCann's clearly established right against retaliation in violation of the First Amendment because Defendants' decision to deprive minority caucus resources and/or deprive access to minority caucus and republican caucus participation was motivated at least in part by Plaintiff's constitutionally protected speech and associational rights.

WHEREFORE, Plaintiffs respectfully request the following relief:

- a. a declaration that Defendants' actions expelling Plaintiff Mcdaniel from the minority caucus and the Illinois State Senate Republican Caucus violated Plaintiff McCann's clearly established right against retaliation in violation of the First Amendment;
- b. a declaration that Defendants denial of vital taxpayer-funded resources necessary for Plaintiff McCann to effectively fulfill his duties to represent the voters of the 50th Senate District violated Plaintiff McCann's clearly established right against retaliation in violation of the First Amendment;
- c. issue the requested injunctive relief without a condition of bond or other security being required of Plaintiffs;
- d. that this Court award Plaintiffs' costs and expenses, including its attorneys'

fees, pursuant to 42 U.S.C. § 1988; and

e. such other relief as the Court deems just and equitable.

Dated: May 1, 2018

Respectfully submitted,

By: /s/ Dale D. Pierson

One of the Attorneys for Plaintiffs

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