IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

RACHEL RAAK LAW and MICAH BROEKEMEIER, individuals, Plaintiffs, v. ROBERT GAST, in his official capacity as State Court Administrator for the Iowa Judicial Branch, Defendant.	)	Case No. 4:22-cv-00176-SMR-SHL **PLAINTIFFS' RESISTANCE TO DEFENDANT'S MOTION TO DISMISS**

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INTRODUCTION

The Constitution guarantees to each individual equality under the law. Iowa law, by contrast, denies that principle by demanding a fixed "gender balance" that rigidly sets how many men or women can serve on the State Judicial Nominating Commission. *See* Iowa Code § 46.2(1). Because of this Gender Quota, Plaintiffs cannot run for the open seat in their districts in the January 2023 election. The Gender Quota therefore violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Defendant argues that the law does not discriminate on the basis of gender because it discriminates evenly against men and women by establishing proportional *group* representation. But the Constitution protects *individual*s from government sponsored discrimination and subjects all laws that classify individuals based on their gender to heightened scrutiny. Defendant does not and cannot deny that Plaintiffs are ineligible for placement on the January 2023 ballot in their own district solely because they are the wrong gender. That is the very definition of gender-based discrimination. Iowa's fixation on proportional group representation stifles individual opportunity and contravenes the Constitution's guarantee of equality before the law.

Defendant attempts to dodge these facts by arguing that Plaintiffs are not injured because they can run for a seat in another district or just show "a little patience" and wait to run the next time the seat that corresponds to their gender is up for election. But just that underscores Plaintiffs' equal protection injury. There are vacant seats in Plaintiffs' districts when the next election takes place in *months*; the Gender Quota prohibits Plaintiffs from running for those seats and would instead have them wait for *years*. Men in Ms. Raak Law's district and women in Mr. Broekemeier's district may solicit signatures for the nominating petition from their neighbors and obtain votes from bar members in their community. At a minimum, the Gender Quota forces Plaintiffs to solicit signatures and seek votes from those who live in a different part of Iowa.

Finally, Defendant argues that Plaintiffs' claims are not justiciable because Plaintiffs have not submitted a nominating petition to Defendant. But by his own admission, the Defendant has not distributed a nominating petition for the upcoming election and would, in any case, be bound by the Gender Quota to reject any nominating petition that Plaintiffs submit from their districts. Defendant cites no case—and there is none—dictating that civil rights plaintiffs must engage in utterly futile exercises before seeking to vindicate their fundamental equal protection rights.

STATEMENT OF FACTS

I. Legal Background

In the late 1980s, the Iowa Legislature enacted a host of laws that mandate gender balance on public boards. *See, e.g.*, Iowa Code § 69.16A (requiring gender balance on "[a]ll appointive boards, commissions, committees, and councils of the state" unless otherwise provided by law). The law at issue in this case imposes a gender quota for elected commissioners on the State Judicial Nominating Commission. It provides that "[t]he resident members of the bar of each Congressional district shall elect two eligible electors of different genders to the state judicial nominating commission." Iowa Code § 46.2(1).

The State Judicial Nominating Commission plays an important role in selecting judges and justices for the Iowa Court of Appeals and the Iowa Supreme Court. The commissioners interview judicial candidates and submit a list of nominees to the Governor, who must appoint a person from the list. Iowa Code § 46.15. The Commission is composed of 17 members: nine appointed by the Governor and eight elected by resident members of the Iowa Bar. *See* Iowa Code §§ 46.1–46.2. The elected commissioners serve staggered six-year terms and are elected in the month of January for terms commencing July 1 of odd-numbered years. Iowa Code § 46.2(2).

Besides the Gender Quota in Section 46.2(1), Iowa law contains few eligibility restrictions for Iowans who seek to serve as elected members on the State Judicial Nominating Commission.

A prospective commissioner must be a citizen of the United States, an Iowa resident, and at least eighteen years old. Iowa Code § 48A.5. As discussed below, there is some ambiguity as to whether a prospective commissioner must reside in the district that he seeks to represent. He or she must also have never served on the Commission nor hold an office for profit at the state or federal level at the time of the election. Iowa Code § 46.2(4)–(5). Finally, a person seeking to be placed on the ballot for an upcoming election must submit, with the State Court Administrator, a nominating petition signed by ten Iowans eligible to vote in the candidate's district. Iowa Code § 46.10.

The State Court Administrator is responsible for conducting each election. *See* Iowa Code § 46.9(1). The Administrator issues notices of upcoming vacancies on the Commission, Iowa Code § 46.9A, and conducts the election in accordance with Iowa law, including the Gender Quota contained in Section 46.2(1). For instance, the Administrator's Notice for the 2021 election cited Section 46.2(1) and dictated that "[t]he person to be elected in District One shall be a female and the person to be elected in District Three shall be a male." *See* Compl., Exh. A. In that election only female candidates appeared on the ballot for District One and only male candidates appeared on the ballot for District Three. *See id.*, Exh. B.

II. Factual Background

Plaintiffs are Iowans who are interested in serving on the State Judicial Nominating Commission but precluded from running on the basis of their gender. Rachel Raak Law has interviewed candidates for Iowa's district courts as a former member of the District Judicial Nominating Commission. *See* Raak Law Decl. ¶ 4. She seeks to use her experience to now serve Iowans by interviewing candidates for Iowa's appellate courts as a member of the State Judicial Nominating Commission. *Id.* Ms. Raak Law resides in the Fourth Congressional District, which will elect a new commissioner in January 2023. But because the Gender Quota requires that commissioner to be a man, Ms. Raak Law is excluded from consideration.

Mr. Broekemeier presently serves on the candidate nominating committee for the Johnson County Republicans. Broekemeier Decl. ¶ 4. As part of that committee, Mr. Broekemeier interviews Iowans who would make good candidates to run for public office. *Id.* Today, Mr. Broekemeier seeks to serve Iowans by interviewing candidates for Iowa's appellate courts as a member of the State Judicial Nominating Commission. *Id.* ¶ 5. Mr. Broekemeier resides in the First Congressional District, which will elect a new commissioner in January 2023. But because Iowa law requires that commissioner to be a woman, Mr. Broekemeier is excluded from consideration.

Plaintiffs filed this federal civil rights lawsuit on May 24, 2022. They allege that the Gender Quota contained in Section 46.2(1) violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Plaintiffs seek an injunction preventing the State Court Administrator from enforcing the Gender Quota and a declaration that the Gender Quota violates their rights under the Equal Protection Clause. On July 8, 2022, Defendant filed a motion to dismiss.

STANDARD OF REVIEW

Defendant argues that Plaintiffs' complaint should be dismissed for lack of jurisdiction under Rule 12(b)(1) and for failure to state a claim under Rule 12(b)(6). This Court may decide the merits of a claim that it lacks jurisdiction under Rule 12(b)(1) and consider evidence outside of the pleadings in order to determine that it has jurisdiction. *Osborn v. United States*, 918 F.2d 724, 729 (8th Cir. 1990). In this case, that includes the declarations submitted in support of and in opposition to Plaintiffs' motion for preliminary injunction. A complaint will survive a Rule 12(b)(6) motion to dismiss for failure to state a claim if it includes "sufficient factual matter, accepted as true, to 'state a claim for relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

ARGUMENT

I. Plaintiffs Have Standing To Bring This Suit in Federal Court

Plaintiffs have standing to have their federal constitutional claim heard in federal court because they suffer an "injury in fact" that is both "fairly traceable" to a defendant's actions and redressable by a favorable decision from the court. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). The injury-in-fact in an equal protection case is not the ultimate denial of the benefit, but the erection of "a barrier that makes it more difficult for members of one group to obtain a benefit than it is for members of another group." *Ne. Fla. Ch. of Assoc. Gen. Contractors of Am. v. City of Jacksonville, Fla.*, 508 U.S. 656, 666 (1993).

Iowa's Gender Quota establishes such a barrier. As Defendant concedes, the Gender Quota requires "four men and four women" to serve as the elected members as the State Judicial Nominating Commission—including one man and one woman elected by bar members in each of Iowa's four congressional districts. Def's Mot. to Dismiss (MTD), ECF 22-1, at 2. Thus, half of the elections are open only to men; half are open only to women. *See id.* Because of that limitation, "neither [Plaintiff] is eligible to seek election" in the districts in which they reside and in which they prefer to seek election. *Id.*

Defendant argues that Plaintiffs lack standing because they could either run in 2023 in a *different* Congressional district or wait over two years for run for a vacant seat open to individuals of their gender in their Congressional district. Neither of these alternatives remedy the injury that Plaintiffs suffer.[1]

[1] Defendant previously stated that there were four vacancies for *appointed* positions on the judicial nominating commission. ECF 20 at 7. He appears to have abandoned any argument on that point and for good reason: the appointed positions have nothing to do with this case, which concerns Plaintiffs' inability to run for the *elected* seats on the Commission. Beyond that, the appointed positions require senate confirmation, Iowa Code § 46.1(1), which is far from a straightforward process. *See* Kathie Obradovich, *Senate Democrats defeat four governor's appointees to the*

A. Plaintiffs Are Injured Because the Gender Quota Prohibits Them from Running in Their Districts in the Upcoming Election

Defendant contends that the Gender Quota does not harm Plaintiffs because they can show "a little patience" and run the next time that there is an opening that someone of their gender is allowed to fill. MTD at 13. The suggestion that Plaintiffs "wait their turn" for over two years before they will have the same opportunities that Iowans of the other gender will have in months only underscores the gender discrimination here. *See Craig v. Boren*, 429 U.S. 190, 197–204 (1976) (Oklahoma statute prohibiting sale of "nonintoxicating" beer to males under the age of 21 and females under the age of 18 constituted gender discrimination against males between 18 and 21 years old). The Gender Quota injures Plaintiffs by precluding Plaintiffs from running in their districts in *this* election in January 2023 and forcing them to wait to run in the *next* election in January 2025.

B. Plaintiffs Are Injured Because the Gender Quota Prohibits Them from Running for Elected Seats in the Districts in Which They Reside

Defendant's suggestion that Plaintiffs could simply seek to be elected by bar members in another district is both factually dubious and legally irrelevant. After a wholesale revision of the statutory language of Section 46.2 in 2019,[2] the Iowa Gender Quota now requires that "[t]he resident members of the bar of each congressional district shall elect two eligible electors of different genders to the state judicial nominating commission." Iowa Code § 46.2(1). It is silent as

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judicial nominating commission, (Iowa Capital Dispatch, May 24, 2022). In addition, Ms. Raak Law is ineligible to be appointed, because there are three openings and two appointed commissioners from her district. *See* Iowa Talent Bank, https://talentbank.iowa.gov/board-detail/3f292295-4ea2-4ec1-a08b-46007a17710e (commissioners in Audubon and Cherokee Counties); *see* Iowa Code § 46.1(5) ("[T]here shall not be more than two commissioners appointed by the governor from a single congressional district unless each congressional district has at least two commissioners appointed by the governor.").

[2] 2019 Acts, ch. 89, §§ 47, 60 at 11, https://www.legis.iowa.gov/docs/publications/iactc/88.1/CH0089.pdf.

to whether the eligible electors must be residents of the district or whether they may reside anywhere in the state.

The principle of constitutional avoidance favors the former interpretation of the ambiguous statute. *See, e.g.*, *Simmons v. State Public Defender*, 791 N.W.2d 69, 74 (Iowa 2010) ("If fairly possible, a statute will be construed to avoid doubt as to constitutionality."). "From the beginning, the Legislature implemented the Constitution's requirement for geographic diversity by tying appointments and elections to Iowa's congressional districts." MTD at 4. An interpretation of the statute that allows all eight elected members to reside in Des Moines is hardly consistent with that requirement of the Iowa Constitution.

Iowa's own practices appears to recognize this fact. The Commission's website proclaims that "[t]he resident members of the bar of each congressional district elect commissioners *from the district* to the state judicial nominating commission for a six–year term."[3] (emphasis added). And Defendant required each candidate to declare in her sworn statement the congressional district in which she resided on the nominating petition for the 2021 election—a superfluous requirement if candidates can run in the district of their choosing.[4] At the very least, this is a disputed issue of law in Iowa which means that if Plaintiffs are placed on the ballot and elected in a different Congressional district, their qualifications could be challenged in Court by residents of that district. 1982 Iowa Op. Att'y Gen. 126 (1981). Defendant's proposed alternative may therefore be fool's gold.

But even if Plaintiffs could run for a seat to represent a different Congressional district, they still suffer a constitutionally cognizable injury in being deprived of the equal opportunity to

[3] https://tinyurl.com/yvves46s (accessed July 16, 2022).
[4]https://www.iowajnc.gov/media/cms/Nominating_Petition_2021_SJNC_Elect_4C91547DD89C4.pdf

seek election to represent their own district. The Equal Protection Clause protects against the denial of equal treatment not just the denial of a certain benefit or outcome. *See Ne. Fla. Ch. of Assoc. Gen. Contractors*, 508 U.S. at 666. Plaintiffs are deprived of equal treatment by being forced to gather signatures and solicit votes in a district that is, at best, Plaintiffs' second choice—while Iowans of the other gender can do so in Plaintiffs' preferred district. *See* Iowa Code § 46.2(1) (candidates for the Judicial Nominating Commission are elected by "[t]he resident members of the bar of each congressional district"); *id.* § 46.10(1) ("nominating petition [must be] signed by at least ten eligible electors of the congressional district.").

And this unequal treatment has real world consequences. In his motion to dismiss, Defendant explains a variety of reasons why "it makes perfect sense for a prospective commissioner to run for election in a district where they do not reside." MTD at 8. But this paragraph also perfectly encapsulates why a candidate may want to run to represent the district where he or she resides and why the ability to run in one Congressional district is not simply interchangeable with the opportunity to run in a different Congressional district. A candidate may wish to seek election in their Congressional district "because those are the constituents they want to represent," because they "know[] or interact[]" with many lawyers there, because "their professional expertise often involves or requires projects in" their district, or because they "maintain strong ties to their hometown" or university located in their district. *Id.*

That is certainly the case with Plaintiffs who have strong ties to the district in which they reside. Ms. Raak Law already has ten residents of the Fourth Congressional District willing to sign her nominating petition, Raak Law 2d Decl. ¶ 7, ECF 21-1, and has gathered invaluable connections in the Fourth District—where she has lived for almost her entire life. Mr. Broekemeier is relatively new to Iowa by comparison, but most of his professional contacts are in the First

Congressional District, where he is active in local politics and currently resides. Broekemeier 2d Decl. ¶¶ 4–7, ECF 21-2. Yet they are both denied the opportunity to run to represent their friends and family members and their communities on the State Judicial Nominating Commission solely because the State of Iowa has determined that they are the wrong gender. Instead, they would be required to compete in and represent a Congressional district where they lack ties and connections. This unequal treatment constitutes a legally cognizable equal protection injury.

C. Plaintiffs Need Not Engage in the Futile Exercise of Submitting a Nominating Petition Before Seeking To Vindicate Their Constitutional Rights in This Court

Defendant argues that Plaintiffs lack standing because they have not submitted a nominating petition. But doing so would be futile in light of the express language of the Gender Quota which renders Plaintiffs ineligible to appear on the ballot to represent their own districts on the commission. *See Sporhase v. Nebraska, ex rel. Douglas*, 458 U.S. 941, 945 n.2 (1982); *S.D. Mining Ass'n v. Lawrence County*, 155 F.3d 1005, 1008–09 (8th Cir. 1998). Defendant does not contest the fact that Plaintiffs are ineligible. Declaration of Robert Gast ¶ 5, ECF No. 20-1 ("And only eligible electors of the same gender as the commissioner they would be replacing are eligible to be placed on the ballot for the election."). Plaintiffs therefore may challenge the Gender Quota without taking the "futile gesture" of submitting an application. *Sammon v. New Jersey Bd. of Med. Examiners*, 66 F.3d 639, 643 (3d Cir. 1995) ("Litigants are not required to make such futile gestures to establish ripeness."). Plaintiffs' clear ineligibility sets this case apart from the cases that Defendant cites where an application or petition would have not been futile. *See Bernbeck v. Gale*, 829 F.3d 643, 648 (8th Cir. 2016) ("This is not a situation where an attempt to comply with a challenged requirement would have been futile."); *Pucket v. Hot Springs Sch. Dist. No. 23-2*,

526 F.3d 1151, 1162 (8th Cir. 2008) ("Here, though, there was no allegation or evidence that a request … would have been futile.").

Defendant's only response is that submitting a nominating petition would not be futile because Plaintiffs could seek to be placed on the ballot for a *different* congressional district. As already discussed, this argument ignores the significant burden that being forced to run for a seat in a different Congressional district would impose on Plaintiffs. That Plaintiffs can submit an application for a *different* position with qualifying signatures from *different* electors and gather votes from *different* members of the Iowa Bar does not change the fact that the Gender Quota prevents Plaintiffs from being considered for positions in their respective districts—*i.e.* the positions for which they want to be considered.

Furthermore, even if submitting a nominating petition were not futile, Plaintiffs would still have standing. Defendant concedes that submitting a nominating petition is not a prerequisite to being elected. He recognizes that "even if not placed on the ballot, any *eligible elector* may seek to be elected as a write-in candidate because resident members of the bar voting in the election may write-in any name of an *eligible elector* on the ballot." Declaration of Robert Gast ¶ 7, ECF No. 20-1 (emphasis added). Defendant's repeated use of the phrase "eligible elector" is significant. Because of Section 46.2, Plaintiffs would not be eligible to fill the vacancies in their own district on the January 2023 ballot even if they received the write in votes of the majority of resident members of the bar. *Accord* Gast Declaration ¶ 5 ("And only eligible electors of the same gender as the commissioner they would be replacing are eligible to be placed on the ballot for the election."). By contrast, if the Gender Quota is enjoined, then Plaintiffs could be elected even without being placed on the ballot. Plaintiffs are therefore injured by the Gender Quota even if they never submit a nominating petition.

Finally, Plaintiffs' claims are "fit for resolution and delay means hardship" for both Plaintiffs and the courts. *Shalala v. Illinois Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000); *see also Abbott Labs. v. Gardner*, 387 U.S. 136, 153 (1967). Indeed, Defendant's position would *require* this Court to go down the disfavored path of waiting to prevent a constitutional injustice until the "eve of an election." *League of United Latin Am. Citizens of Iowa v. Pate*, 950 N.W.2d 204, 215 (Iowa 2020); *Republican Nat'l Comm. v. Democratic Nat'l Comm*., 140 S. Ct. 1205, 1207 (2020).

According to the Judicial Nominating Commission's website, Defendant must send out a notification 60 days before the end of the term of a commissioner which "includes the procedure for filing nominating petitions, including the last date for filing and the election process."[5] *See also* Iowa Code § 46.9A. Defendant concedes that he has not yet begun soliciting nominations and may not do so until early December, just 30 days before nominating petitions are due and less than two months before the election. Declaration of Robert Gast ¶ 8, ECF No. 20-1. Defendant does not suggest that Plaintiffs could somehow get access to a January 2023 nominating petition before December 2022, or explain how Plaintiffs could apply to appear on the ballot without completing this form (that has not been released yet). Defendant would therefore have Plaintiffs wait for nearly another five months, apply, receive a formal rejection (which he concedes is inevitable), and only then bring a lawsuit seeking placement on the ballot in an imminent judicial election. As Defendant concedes, Article III does not require plaintiffs to engage in futile exercises before having their claims heard in federal court. *See* MTD at 11 (citing *Pucket*, 526 F.3d at 1162). Yet that is precisely what Defendant would have Ms. Raak Law and Mr. Broekemeier do. This case does not require emergency motions on the eve of the election; it can be decided now.

[5] https://www.iowajnc.gov/state-commission/serve-on-a-commission.

II. Plaintiffs State a Claim for Relief under the Equal Protection Clause of the Fourteenth Amendment

A. Plausible Gender Discrimination Claims are Subject to Heightened Scrutiny and Must Survive a Motion to Dismiss

The Equal Protection Clause of the Fourteenth Amendment places the onus on "[p]arties who seek to defend gender-based government action" to "demonstrate an exceedingly persuasive justification for that action." *United States v. Virginia*, 518 U.S. 515, 531 (1996) (citations omitted). This is a "demanding" burden that "rests entirely on the State." *Id.* at 533.

Because "all gender-based classifications today warrant heightened scrutiny," *id.* at 555 (internal quotation marks omitted), Plaintiffs' claims must survive Defendant's motion to dismiss. *See Hassan v. City of New York*, 804 F.3d 277, 306 (3d Cir. 2015). The "burden of producing evidence to overcome heightened scrutiny's presumption of unconstitutionality" rests with the government and can only be met—if at all—after discovery. *Id.*[6]

Defendant claims that "[a]n equal protection claim can be decided under Rule 12(b)(6) at the motion to dismiss stage." MTD at 6 (citing *Carlson v. Wiggins*, 675 F.3d 1134, 1138 (8th Cir. 2012)). But that case is inapposite here because it did not involve heightened scrutiny. On the contrary, the Eighth Circuit affirmed the district court's dismissal only after applying rational basis review to the law. *Carlson*, 675 F.3d at 1141–42.

[6] Plaintiffs maintain that Defendant cannot overcome heightened scrutiny even after discovery. Defendant does not have any evidence of actual discrimination against women, never purports to have any evidence of discrimination against men, and does not advance any argument that there is continued discrimination against either men or women in the election process for the judicial nominating commission. Most striking is the fact that, regardless of the ends that Defendant purports to advance, the means he employs—an inflexible, overbroad, and perpetual gender quota—plainly fails the "substantial relationship" test required in cases involving gender discrimination. *See* Plaintiffs' Brief in Support of Mot. for Prelim. Inj. at 7–9, ECF 16-1; Plaintiffs' Reply in Support of Mot. for Prelim. Inj. at 3–5, ECF 21.

B. The Iowa Gender Quota Is Subject to Heightened Scrutiny Because It Discriminates Against Individuals on the Basis of Gender

Defendant attempts to reframe the Gender Quota as an even-handed effort to treat men and women equally. But Defendant cannot evade heightened scrutiny simply because the law he is defending discriminates against men in some cases and against women in others. *Rosenbrahn v. Daugaard*, 61 F. Supp. 3d 845, 859 (D.S.D. 2014) ("The fact that a statute imposes identical disabilities on men and women does not foreclose a claim that the statute discriminates based on gender."); *see also D.M. by Bao Xiong v. Minn. State High Sch. League*, 917 F.3d 994, 1002 (8th Cir. 2019); *Back v. Carter*, 933 F. Supp. 738, 757 (N.D. Ind. 1996).

The rights protected by the Fourteenth Amendment are "personal rights" that are "guaranteed to the individual," not groups. *Shelley v. Kraemer*, 334 U.S. 1, 22 (1948). And the discriminatory impact on Plaintiffs as *individuals* could not be clearer. The Gender Quota deprives Plaintiffs of opportunities to serve on the Commission merely because of their gender. Without the quota, Plaintiffs would be eligible to run for vacant seats on the Commission in *every* election. With the quota, Plaintiffs may only run for vacant seats in *half* of the elections.

For this reason, a federal court in Florida enjoined a similar quota because the plaintiff was "forever barred by statute, based on his race and gender, from applying for one-third of the seats for which lawyers are eligible." *Mallory v. Harkness*, 895 F. Supp. 1556, 1559 (S.D. Fla. 1995). The same is true here. Because of the Gender Quota, plaintiffs are "forever barred by statute" from competing for half of the elected seats on the Commission.

In response to this heavy weight of precedent, Defendant points to a single case from the Washington Supreme Court that was decided more than 40 years ago. That case interpreted Washington's Equal Rights Amendment—a provision that is substantially different from the Equal Protection Clause of the United States Constitution. *Marchioro v. Chaney*, 582 P.2d 487, 493

(Wash. 1978). In particular, the court hinged its analysis on language in the Washington Constitution which guaranteed "equality of . . . responsibility" that the Court interpreted as allowing the State to require "for each sex to equally conduct the affairs of major political parties." *Id.* The Equal Protection Clause contains no equivalent demand of "equality of responsibility," only the inexorable demand for "equality under the law." Furthermore, *Marchiaro* predates all of the Supreme Court's "pathmarking decisions" discussed above. *Marchioro* therefore carries no persuasive value in this case. Regardless of what a constitutional provision in another state might say, the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution subjects Iowa's Gender Quota to heightened scrutiny.

CONCLUSION

Defendant's Motion to Dismiss should be denied.

DATED: July 18, 2022.

Respectfully submitted,

s/ Wencong Fa

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CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2022, I submitted the foregoing to the Clerk of the Court via the District Court's CM/ECF system, which will provide notice of the submission of this document to all counsel of record.

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