

No. 1-18-0122

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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JAN KOWALSKI McDONALD,	)	
	)	
Petitioner-Appellant,	)	Appeal from the
	)	Circuit Court of
	)	Cook County.
v.	)	
	)	No. 2017 COEL 41
THE COOK COUNTY OFFICERS ELECTORAL	)	
BOARD,	)	Honorable
	)	James R. Carroll,
Respondent-Appellee.	)	Judge Presiding.

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JUSTICE MIKVA delivered the judgment of the court.  
Presiding Justice Pierce and Justice Simon concurred in the judgment.

**ORDER**

¶ 1 *Held:* The circuit court properly dismissed appellant’s petition for appointment of a public member to the Cook County Officers Electoral Board. The petition did not state a claim for such an appointment under either Section 10-9 of the Election Code or Circuit Court of Cook County General Order No. 21.

¶ 2 Appellant Jan Kowalski McDonald is a candidate for Cook County clerk in the March 20, 2018, primary election. Objections filed to her nomination petition were, as required by the Illinois Election Code (10 ILCS 5/10-9(2.5) (West 2016)), submitted to the Cook County

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Officers Election Board (Board). Ms. Kowalski McDonald filed a motion with the Board to have David Orr, who is the current Cook County clerk and the statutory chair of the Board, replaced as a Board member with a public member appointed by the chief judge of the circuit court of Cook County.

¶ 3 When the hearing officer for the Board did not immediately rule on Ms. Kowalski McDonald's motion, she filed a lawsuit in the circuit court of Cook County seeking the same relief. Ms. Kowalski McDonald argued that Mr. Orr was disqualified from serving on the Board both under section 10-9 of the Election Code (10 ILCS 5/10-9 (West 2016)) because he was the current occupant of the office she sought to run for—and under Cook County General Order No. 21 (General Order No. 21)—on the basis that he or his designee had “a personal or direct pecuniary interest in the outcome” of her case. The circuit court dismissed Ms. Kowalski McDonald's initial complaint under section 2-615 of the Code of Civil Procedure (735 ILCS 5/2-615 (West 2016)) for failing to state a claim on which relief could be granted, but granted her leave to amend. Ms. Kowalski McDonald filed an amended complaint based only on General Order No. 21, and the circuit court again dismissed her complaint, this time with prejudice. For the following reasons, we affirm the judgment of the circuit court.

¶ 4 I. BACKGROUND

¶ 5 The factual background set forth here is based primarily on the allegations of Ms. Kowalski McDonald's “Petition for Appointment of a Public Member Pursuant to Section 9 of the Election Code and Circuit Court of Cook County General Order No. 21,” which was filed on December 21, 2017, and was dismissed with leave to replead on January 17, 2018; her “Second Amended Petition for Appointment of a Public Member Pursuant to Cook County Circuit Court General Order No. 21,” which was dismissed with prejudice on February 6, 2018; and the

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attachments to those petitions, including Ms. Kowalski McDonald's affidavit of December 20, 2017. We will refer to these as the complaint and second amended complaint, to avoid any confusion with Ms. Kowalski McDonald's nomination petition.

¶ 6 The legal framework for Ms. Kowalski McDonald's allegations is provided by the Illinois Election Code. 10 ILCS 5/1-1 *et seq.* (West 2016). Section 10-9 of the Election Code establishes the composition of electoral boards convened to pass on objections to candidates' nomination papers. 10 ILCS 5/10-9 (West 2016). It provides that in counties with a population of 3,000,000 or more, the county officers electoral board shall be composed of the county clerk, the state's attorney for that county, and the clerk of the circuit court, or by the designees of those individuals. *Id.* § 5/10-9(2.5). If a specified individual is ineligible to serve, he or she is replaced by the county treasurer, and if the treasurer is also ineligible, by the sheriff. *Id.* § 5/10-9. Any vacancies still remaining are "filled by public members appointed by the Chief Judge of the Circuit Court for the county." *Id.*

¶ 7 Ms. Kowalski McDonald submitted her nomination petition to run for Cook County clerk in a timely manner on December 4, 2017. On December 11, 2017, Reginald Lamont Featherston, Sr. filed objections to that petition, and on December 18, the Board met to consider objections to nominating petitions, including Mr. Featherston's. On December 19, 2017, Ms. Kowalski McDonald filed with the Board a motion seeking the removal of Mr. Orr or his designee from the Board. Two days later, on December 21, 2017, Ms. Kowalski McDonald initiated this lawsuit seeking the same relief. Ms. Kowalski McDonald also filed an emergency motion for a restraining order, asking the circuit court to enjoin the Board from ruling on her nominating petition until after the court ruled on her request to appoint a public member to the Board. Following a hearing that same day, the circuit court entered an agreed order stating that the

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Board and its hearing officer agreed not to issue any rulings in the matter of Mr. Featherston's objections to Ms. Kowalski McDonald's petition until the circuit court ruled on Ms. Kowalski McDonald's request to replace Mr. Orr as a Board member. Citing this agreed order, in December 2017 and January 2018 the Board expressly refused to consider Ms. Kowalski McDonald's request to appoint a public member.

¶ 8 In her initial complaint filed in the circuit court, Ms. Kowalski McDonald sought an order disqualifying Mr. Orr from sitting on the Board under both section 10-9 of the Election Code, which provides that "in the event that any member of the appropriate board is a candidate for the office with relation to which the objector's petition is filed, he shall not be eligible to serve on that board" (10 ILCS 5/10-9 (West 2016)), and under General Order No. 21, which further provides that "[m]embers of an electoral board must be disqualified on due process grounds if they have a personal or direct pecuniary interest in the outcome of a case."

¶ 9 Ms. Kowalski McDonald alleged that Mr. Orr's presence on the Board posed a risk of bias and prejudice because another candidate for the position of Cook County clerk, Stephanie Joy Jackson-Rowe, had publicly commented that Mr. Orr had endorsed her candidacy. Ms. Kowalski McDonald also alleged that a supervisory employee of the clerk's office closed the office early on December 4, 2017, to prevent her circulator from bringing her 80 additional pages with 800 signatures to include with her nominating petition and that—while her motion to disqualify Mr. Orr was pending—the clerk's office ended up conducting a detailed review of the records supporting her nominating petition, after the Board had told her that such a review would not take place. Under these circumstances, Ms. Kowalski McDonald alleged that it was improper for a designee of Mr. Orr's to chair the Board's meetings.

¶ 10 Ms. Kowalski McDonald also alleged that it would not be appropriate for Mr. Orr's place

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on the Board to be filled—as provided in section 10-9 of the Election Code—by either the county treasurer or sheriff, as she went to law school with the treasurer’s daughter, she was previously engaged in litigation with the sheriff, and her brother was presently involved in litigation against the sheriff. Ms. Kowalski McDonald instead asked that the chief judge of Cook County appoint a public member to replace Mr. Orr as chair of the Board, the method provided by section 10-9 for addressing “vacancies on an electoral board not otherwise filled.” 10 ILCS 5/10-9 (West 2016).

¶ 11 The Board filed a combined motion to dismiss Ms. Kowalski McDonald’s initial complaint based on section 2-619.1 of the Code of Civil Procedure (735 ILCS 5/2-619.1 (West 2016)). On January 17, 2018, the circuit court granted that motion under section 2-615 (*id.* § 2-615). The court ruled that Mr. Orr’s continued participation on the Board did not violate section 10-9 of the Election Code because he was not a current candidate for the clerk’s office position. Although the court also found, in reference to Ms. Kowalski McDonald’s claim that removal was required under General Order No. 21, that she had alleged insufficient facts to give rise to a due process violation, it granted her leave to replead.

¶ 12 In her second amended complaint, which is the operative complaint in this matter, Ms. Kowalski McDonald focused strictly on her claim under General Order No. 21. She also included a number of new factual allegations concerning the records examination conducted by the Cook County clerk’s office in connection with the objections to Ms. Kowalski McDonald’s nominating petition, which began on December 26, 2017, and continued through January 4, 2018. Ms. Kowalski McDonald alleged a myriad of ways in which that examination was improper, including who was present; what searches were performed; poor communication with Ms. Kowalski McDonald about what time the examination would start; missing pages from her

petition; the failure to recognize valid signatures; use of computerized records incorrectly indicating that Calumet Park, Calumet City, Niles, Bridgeview, Phoenix, and Evanston, among other areas, were not in Cook County; and the manner in which Ms. Kowalski McDonald was treated by employees of the office. Although it appears, based on attachments to the complaint, that following this examination, Ms. Kowalski McDonald had several hundred more signatures than she needed to be placed on the ballot, the full Board had yet to consider the objector's challenges to her nomination petition or her responses to those challenges.

¶ 13 In her second amended complaint, Ms. Kowalski McDonald also cited, as evidence that Mr. Orr and his staff were biased against her, a series of actions taken by the Board since the circuit court had dismissed her initial complaint. For example, she alleged that Daniel P. Madden, who was Mr. Orr's designee to chair the Board, refused to recognize her when she tried to appear before the Board. She also alleged that Christina Lynch, who was listed on the Cook County payroll as the "Executive Assistant to Director" and who represented herself as an attorney for Mr. Orr, functioned as more than a mere administrator for the Board but in fact acted as a hearing officer and engaged in "*ex parte*" communications with other hearing officers.

¶ 14 Ms. Kowalski McDonald also alleged that "David Orr, his employees, and his designees ha[d] a clear personal or direct pecuniary interest" in the outcome of her case. Specifically, she alleged that Mr. Madden, a senior attorney at the Cook County clerk's office earning \$166,444.16 annually in that position, had "a personal or direct pecuniary interest in his job longevity" which would be at risk if Ms. Kowalski McDonald's name appeared on the ballot.

¶ 15 In her second amended complaint, Ms. Kowalski McDonald also sought to disqualify State's Attorney Kim Foxx from remaining a member of the Board, on the grounds that Ms. Foxx's office had filed a motion to dismiss Ms. Kowalski McDonald's initial complaint and a

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motion to quash certain subpoenas. Ms. Kowalski McDonald did not re-allege her prior challenge to the appointment of the county treasurer as an alternate board member in the event of either Mr. Orr's or Ms. Foxx's disqualification, but did re-allege her challenge to the appointment of Cook County Sheriff Tom Dart.

¶ 16 On February 6, 2018, the circuit court dismissed Ms. Kowalski McDonald's second amended complaint with prejudice. The court noted that General Order No. 21 specifically provides that "electoral board members do not have a disqualifying interest because they may be political allies or opponents of a party in a case or because they are familiar with the facts of the case." The court reasoned that Mr. Orr's alleged support of another candidate was therefore "*excluded* as a basis for disqualification under General Order No. 21." (Emphasis added.) And although the court acknowledged that Mr. Madden had a pecuniary interest in continued employment, it viewed Ms. Kowalski McDonald's contention "that his status as an employee of the Clerk's office would constitute an unreasonable risk of bias as to one of the potential successful candidates" for the head of that office as "an unsupported conclusion." Although the circuit court also acknowledged Ms. Kowalski McDonald's "numerous allegations of misconduct" by various employees of the clerk's office, it found them "insufficient to conclude that David Orr or his designee should be disqualified on the basis of vicarious liability" stemming from the conduct of those employees. The court rejected Ms. Kowalski McDonald's claim that Ms. Foxx was disqualified and found it unnecessary to consider the allegations regarding Sheriff Dart, a statutorily designated second alternate who would only be called upon to serve on the Board if two of its original members were disqualified.

¶ 17

## II. JURISDICTION

¶ 18 The circuit court entered its final order dismissing Ms. Kowalski McDonald's second

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amended complaint in this matter with prejudice on February 6, 2018, and Ms. Kowalski McDonald filed her amended notice of appeal from that order the next day. We have jurisdiction over Ms. Kowalski McDonald's challenge to the February 6, 2018, order under Illinois Supreme Court Rules 301 and 303, governing appeals from final judgments in civil cases. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994); R. 303 (eff. Jan. 1, 2015).

¶ 19 Ms. Kowalski McDonald also seeks to appeal the circuit court's order of January 17, 2018, dismissing her initial petition—including her claim based on section 10-9 of the Election Code. Ms. Kowalski McDonald's initial notice of appeal in this matter was filed from the January 17 order the same day that it was entered. However, that order, which granted Ms. Kowalski McDonald leave to file an amended petition, was not a final and appealable order. See *Piagentini v. Ford Motor Co.*, 387 Ill. App. 3d 887, 894 (2009) (“An order dismissing a complaint is not final unless its language indicates the litigation is terminated and the plaintiff will not be permitted to replead.” (internal quotation marks omitted)). Although Ms. Kowalski McDonald asserts in her docketing statement filed in this court that her appeal of the January 17, 2018, order “is brought pursuant to Illinois Supreme Court Rule 304(a),” the record does not reflect that she ever secured a written finding that there was “no just reason for delaying either enforcement or appeal or both.” Ill. S. Ct. R. 304(a) (eff. March 8, 2016).

¶ 20 And although Ms. Kowalski McDonald listed the January 17, 2018, order as a challenged order in her amended notice of appeal, it is unclear that we have jurisdiction to review that order on appeal, because she failed both to perfect an appeal from that order and to preserve her dismissed claim based on section 10-9 of the Election Code for appeal by including or referencing it in her second amended complaint. See *Foxcroft Townhome Owners Association v. Hoffman Rosner Corp.*, 96 Ill. 2d 150, 153 (1983) (holding that, where such steps are not taken, a

previously dismissed claim is considered abandoned). But, as discussed more fully below, even if preserved for review, we find that Ms. Kowalski McDonald's claim that Mr. Orr's removal from the Board is required by section 10-9 of the Election Code lacks merit and was properly dismissed by the circuit court.

¶ 21

### III. ANALYSIS

¶ 22 A motion to dismiss brought pursuant to section 2-615 of the Code of Civil Procedure is a facial challenge asserting that the complaint fails to state a cause of action upon which relief can be granted. 735 ILCS 5/2-615 (West 2016); *Oliveira v. Amoco Oil Co.*, 201 Ill. 2d 134, 147 (2002). "The proper inquiry is whether the well-pleaded facts of the complaint, taken as true and construed in a light most favorable to the plaintiff, are sufficient to state a cause of action upon which relief may be granted." *Loman v. Freeman*, 229 Ill. 2d 104, 109 (2008). Because Illinois is a fact-pleading jurisdiction, a plaintiff must make sufficient factual allegations to bring her claim within a legally recognized cause of action. *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429-30 (2006). Unsupported conclusions of law or fact are not taken as true and are not considered. *In re Estate of Dimatteo*, 2013 IL App (1st) 122948, ¶ 58. Our review of an order granting a section 2-615 motion to dismiss is *de novo*. *Freeman v. Williamson*, 383 Ill. App. 3d 933, 936 (2008).

¶ 23 On appeal, Ms. Kowalski McDonald challenges the circuit court's dismissal of her complaints under section 2-615 for failing to state a claim for Mr. Orr's disqualification from the Board and the appointment of a public member to replace him. Ms. Kowalski McDonald argues that she did state a claim for this requested relief, under both section 10-9 of the Election Code and under General Order No. 21. We consider each argument in turn.

¶ 24

#### A. Section 10-9 of the Election Code

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¶ 25 Ms. Kowalski McDonald first argues that, for purposes of considering the objections to her nominating petition, Mr. Orr is disqualified from serving on the Board under section 10-9 of the Election Code (10 ILCS 5/10-9 (West 2016)). This claim, which was based on a statutory construction rejected by the circuit court, was raised by Ms. Kowalski McDonald only in her first complaint. When the circuit court questioned her about this at the hearing on the Board’s motion to dismiss her second amended complaint, Ms. Kowalski McDonald confirmed that her second amended complaint contained no allegations relating to section 10-9 of the Election Code:

“MS. KOWALSKI: Thank you, your Honor. This is a 615 motion is my understanding, and I am alleging my second amended petition is for appointment of a public member pursuant to Cook County Circuit Court General Order No. 21. My prior pleading addressed a section under the Election Code, but based upon—

THE COURT: And you’ve dropped that it appears from the second amended petition?

MS. KOWALSKI: Yes. Exactly.

THE COURT: Okay.

MS. KOWALSKI: I am proceeding strictly upon General Order No. 21.

THE COURT: Okay.”

¶ 26 Our supreme court has made clear that “[w]here an amendment is complete in itself and does not refer to or adopt the prior pleading, the earlier pleading ceases to be a part of the record for most purposes, being in effect abandoned and withdrawn.” (Internal quotation marks omitted.) *Foxcroft*, 96 Ill. 2d at 154. Thus, “a party who files an amended pleading waives any objection to the trial court’s ruling on the former complaints.” *Id.* at 153. “[T]he purpose of the *Foxcroft* rule is to ensure that the court and the defendant possess objective means of knowing

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with certainty which claims the plaintiff is pursuing.” *Bonhome v. St. James*, 2012 IL 112393, ¶ 29.

¶ 27 The application of the *Foxcroft* rule, however, is unclear in this case, when the relief Ms. Kowalski McDonald sought was equitable in nature, *i.e.*, Mr. Orr’s removal from the Board and the appointment of a public member to replace him. Although she asserted two independent bases for this relief—section 10-9 of the Election Code (10 ILCS 5/10-9 (West 2016)) and General Order No. 21—Ms. Kowalski McDonald did not set these theories out as separate counts in her initial pleading. Nor was she required to. Illinois Supreme Court Rule 135 provides that requests for equitable relief “may be regarded as a single equitable cause of action and \*\*\* pleaded without being set forth in separate counts.” Ill. S. Ct. R. 135(a) (eff. July 1, 1982).

¶ 28 We need not decide whether Ms. Kowalski McDonald effectively abandoned her claim to the extent that it was based on section 10-9 of the Election Code because, even if we assume that her challenge to the circuit court’s January 17, 2018, dismissal order is properly before us, we agree with the circuit court that the argument is based on faulty statutory construction.

¶ 29 Section 10-9 provides, in relevant part:

“In the event that any member of the appropriate board is a candidate for the office with relation to which the objector’s petition is filed, he shall not be eligible to serve on that board and shall not act as a member of the board and his place shall be filled as follows:

a. In the county officers electoral board by the county treasurer, and if he or she is ineligible to serve, by the sheriff of the county.” 10 ILCS 5/10-9 (West 2016).

¶ 30 Ms. Kowalski McDonald acknowledges that because David Orr is not running for

reelection as Cook County Clerk, he is not a “candidate for the office” for which she filed her nominating petition. Ms. Kowalski McDonald nevertheless argues that the words “with relation to” in the statute express an intent to disqualify not just actual candidates for the office in question, but anyone “with relation to” that office, including the current holder of the position—whether or not that individual will seek reelection—and any of that individual’s staff members.

¶ 31 Ms. Kowalski McDonald argues that her reading of the statute is the only one that does not render the words “with relation to” mere surplusage. She contends that if the statutory intent were to limit disqualification only to individuals running for reelection to the position in question, those words could be removed and the statute would still make sense. We do not agree. The words “with relation to” are necessary to make clear that the office in question is the one “in relation to” which the objector has filed his or her objection. The sentence simply would not make sense without these words.

¶ 32 Ms. Kowalski McDonald discusses at length the public policy reasons why courts construe ballot access restrictions narrowly, but section 10-9 does not restrict a candidate’s access to the ballot. It establishes a narrow basis on which to disqualify a member of a board of elections. And it expressly makes such a disqualification dependent on whether the member “*is a candidate* for the office with relation to which the objector’s petition is filed.” (Emphasis added.) 10 ILCS 5/10-9 (West 2016). “The cardinal rule of statutory construction is to ascertain the intent of the legislature,” and we look to “the language of the statute itself as the best indication of the intent of the drafters.” *Toner v. Retirement Board of the Policemen's Annuity & Benefit Fund*, 259 Ill. App. 3d 67, 70 (1994). We have no power to “restrict or enlarge the meaning of an unambiguous statute.” *People ex rel. Nelson Brothers Storage & Furniture Co. v. Fisher*, 373 Ill. 228, 234 (1940). There is simply nothing in the plain language of section 10-9 of the Election

Code to support Ms. Kowalski McDonald's broad reading of that section to disqualify anyone working in the various public offices, the heads of which are statutorily designated to serve as election board members, or to disqualify holders of those office who are not running for reelection.

¶ 33 We find distinguishable the cases Ms. Kowalski McDonald cites in which courts have found disqualifications under section 10-9. The objections that were before the electoral boards in each of those cases were not objections to a candidate's nominating petition, but to petitions for the inclusion of referenda questions on the ballots in upcoming elections—whether to dissolve the township in *Anderson v. McHenry Township*, 289 Ill. App. 3d 830, 831 (1997), and whether to impose term limits on village officers in *Zurek v. Franklin Park Officers Electoral Board*, 2014 IL App (1st) 142618, ¶¶ 4-5. The proposed referenda “mounted a direct challenge to each member's position and continued employment.” *Anderson*, 289 Ill. App. 3d at 833. In *Anderson*, “[i]f the township were dissolved, the positions of the township officials [serving on the electoral board] would also be dissolved, along with their eligibility for compensation” (*id.* at 834), and in *Zurek*, the members of the electoral board were village officers who would themselves be subject to the proposed term limits if the referendum passed (*Zurek*, 2014 IL App (1st) ¶¶ 4, 11, 85,88). The *Anderson* court explained that, “[j]ust as one candidate may not pass on the objections to another's candidacy,” electoral board members should not be allowed to pass on objections to a petition for a referendum question when they “ha[ve] an interest in seeing the question excluded from the ballot.” Here, where none of the electoral board members will face Ms. Kowalski McDonald as an opponent for the office she is seeking, her nominating petition simply does not represent the sort of direct challenge at issue in *Anderson* and *Zurek*.

¶ 34 If not abandoned as a result of Ms. Kowalski McDonald's failure to reference it in her

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subsequent pleadings, we conclude that Ms. Kowalski McDonald's request for relief based on section 10-9 of the Election Code was properly dismissed by the circuit court on January 17, 2018.

¶ 35 B. General Order No. 21

¶ 36 Ms. Kowalski McDonald alternatively argues that section 5B of General Order No. 21 "could be interpreted as providing additional grounds for disqualification not found in the [Election] Code." That section provides:

"Members of an electoral board must be disqualified on due process grounds if they have a personal or direct pecuniary interest in the outcome of a case or if one of the members would properly be called as a necessary witness in a case and therefore required to judge his or her own testimony. However electoral board members do not have a disqualifying interest because they may be political allies or opponents of a party in a case or merely because they are familiar with the facts of the case. Neither may a statutory member cause a vacancy to be filled by this General Order by a personal preference or convenience of that statutory member not to sit or merely because a party has requested such disqualification." Cook Co. Cir. Ct. G.O. 21 (Feb. 1, 2005).

¶ 37 The circuit court found that Ms. Kowalski McDonald failed to allege sufficient facts in her second amended complaint showing that employees of the Cook County clerk's office who had been or might be designated by Mr. Orr to serve on the Board had a "personal or pecuniary interest" in the resolution of the objections to Ms. Kowalski McDonald's nominating petition. We agree with the circuit court.

¶ 38 The drafters of General Order No. 21 made quite clear that an individual's general status as a candidate's political opponent will *not* disqualify him or her from serving on an electoral

board under that Order. Ms. Kowalski McDonald's allegation that Mr. Orr has publicly endorsed another candidate for Cook County clerk is therefore irrelevant.

¶ 39 Ms. Kowalski McDonald insists that even if Mr. Orr will no longer have a pecuniary interest in the office of the Cook County Clerk after December 2018, when his term ends, employees of his office whom he may choose, pursuant to section 10-9 of the Election Code, to represent him on the Board have a pecuniary interest in their own continued employment. Although this is no doubt true, we agree with the circuit court that more than a mere interest in continued employment is needed to create an unreasonable risk that those employees will be biased against Ms. Kowalski McDonald. If this were enough, it would disqualify the entire staffs of the offices headed by all statutorily designated electoral board members, even where the member was not running for reelection, something that is clearly not contemplated by the narrow disqualification provisions in section 10-9 of the Election Code and General Order 21.

¶ 40 Ms. Kowalski McDonald's inability to articulate any concrete allegations of bias at the hearing on the Board's motion to dismiss reinforced the speculative and conclusory nature of her allegations. For example, Ms. Kowalski McDonald pointed to her allegations regarding Ms. Lynch, who Ms. Kowalski McDonald noted stood over the shoulder of the records examiner during the examination, communicated with Mr. Orr's designee Mr. Madden and with the hearing officer in Ms. Kowalski McDonald's case, and who "ha[d] so many hats on"—including attorney for Mr. Orr, attorney for the Cook County clerk's office, and administrative support person for the Board—insisting that this "raise[d] the specter of something is going on in the back." However, the most Ms. Kowalski McDonald could say about Ms. Lynch was "she might be personally animated against me for whatever reason. I don't know why, but there's something that is not quite right here." We agree with the circuit court that such unsupported conclusions of

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bias are insufficient to state a claim for the disqualification from the Board of Mr. Orr or his designee.

¶ 41 Ms. Kowalski McDonald's alternative argument, made in her reply brief, that Mr. Orr and his designees should be disqualified under General Order No. 21 because they may be called as necessary witnesses, must also be rejected. Ms. Kowalski McDonald indicates that she would like to question Mr. Orr regarding his supervision of the records examination in her case and his endorsement of another candidate for Cook County clerk and Ms. Lynch regarding "her multi-faceted multitude of hats." This testimony would seem to relate only to Ms. Kowalski McDonald's challenge to the composition of the Board, not to any underlying issue relating to the objections to her nominating petition. This cannot be what General Order No. 21 refers to when it speaks of the disqualification of individuals who will be necessary witnesses in a case. If it were, a petitioner could manufacture a conflict simply by alleging one. Moreover, it seems clear to us that the provision is meant to prevent Board members from having to assess their own credibility as witnesses. By asking the circuit court to resolve her challenges to the Board's makeup, Ms. Kowalski McDonald has effectively removed from the Board's consideration the only issue for which the testimony she refers to could pose this problem.

¶ 42 We likewise reject Ms. Kowalski McDonald's argument that Ms. Foxx or her designee should also be disqualified from serving on the Board because the State's Attorney's office sought to dismiss Ms. Kowalski McDonald's complaint in the circuit court and to quash certain subpoenas. The circuit court correctly concluded that Ms. Kowalski McDonald's allegations were insufficient to establish an unreasonable risk of bias under General Order No. 21. The State's Attorney is not a real party in interest in this litigation; she acts as "the attorney and legal adviser of the county officials in all matters pertaining to the official business of the county."

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*County of Cook ex rel. Rifkin v. Bear Stearns & Co*, 215 Ill. 2d 466, 483 (2005). We find Ms. Kowalski McDonald's allegations of Ms. Foxx's actions taken in that official capacity insufficient to allege a disqualifying personal or pecuniary interest under General Order No. 21. Ms. Kowalski McDonald also asserts in her reply brief that she was told by a hearing officer in her case that Ms. Foxx initially recused herself from serving on the Board but that Ms. Foxx later designated a representative to vote on matters concerning Ms. Kowalski McDonald's nominating petition. We are prevented from addressing these assertions by Ms. Kowalski McDonald's failure to support them with any citations to the record on appeal. See Ill. S. Ct. R. 341(h)(7) (eff. Nov. 1, 2017) (noting that argument "shall contain" citations to the pages of the record relied on, and "[p]oints not argued are waived [forfeited]"); *In re Marriage of Kohl*, 334 Ill. App. 3d 867, 874 (2002) (noting that a court of review may not consider any material outside the certified record on appeal).

¶ 43

#### IV. CONCLUSION

¶ 44 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 45 Affirmed.