

IN THE COURT OF APPEALS OF VIRGINIA

RECORD NO. 1475-26-3

CHARLA BANSLEY,
Plaintiff-Appellant,

v.

G. PAUL NARDO, in his official capacity as Clerk of the Virginia House of Delegates; STEVEN KOSKI, in his official capacity as Commissioner of Elections of the Commonwealth of Virginia; VIRGINIA STATE BOARD OF ELECTIONS; VIRGINIA DEPARTMENT OF ELECTIONS; REBECCA C. BROWN, in her official capacity as Registrar of Elections for the County of Bedford; JUDY REYNOLDS, in her official capacity as Clerk for the Circuit Court of Bedford County; Defendants-Appellees,

and

VIRGINIANS FOR REPRODUCTIVE FREEDOM,
Intervenor-Defendant-Appellee.

**APPELLANT'S MOTION TO CERTIFY APPEAL
TO SUPREME COURT OF VIRGINIA**

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**Pro hac vice application forthcoming*

August 26, 2026

**APPELLANT’S MOTION TO CERTIFY APPEAL
TO THE SUPREME COURT OF VIRGINIA**

Pursuant to Rule 5A:2 and Rule 5:14(b) of the Rules of the Supreme Court of Virginia, and in accordance with Va. Code §17.1-409, Plaintiff-Appellant, Charla Bansley (“Appellant” or “Bansley”), by and through the undersigned counsel, hereby moves the Court to exercise its authority to motion the Supreme Court of Virginia to certify this appeal for review by the Supreme Court of Virginia before it has been determined by this Court. In support of this Motion, Bansley hereby states that this appeal involves questions of imperative public importance as to justify deviation from the normal appellate practice, that the issues in this appeal require prompt adjudication by the Supreme Court of Virginia, and that the expeditious administration of justice warrants certification by the Supreme Court of Virginia over the issues of this matter. In further support, Bansley further states:

INTRODUCTION

Bansley filed this action on March 2, 2026, challenging H.D.J. Res. 1, 2025 Reg. Sess. (Va. 2025), the so-called Reproductive Freedom Amendment that purports to establish a “fundamental right to reproductive freedom” in the Commonwealth and amend the

Constitution of Virginia to establish such right. Bansley's Complaint alleged that the procedure followed by the General Assembly (or, more accurately, not followed by the General Assembly) violated Article XII, Section 1 of the Constitution of Virginia and Va. Code §30–13, as effective at the operative time. (*See* Complaint, ¶¶50–158.) Specifically, Bansley alleged that the Clerk of the House of Delegates did not distribute the proposed amendment for notice and inspection, as required by Va. Code §30–13, which was operative at the time of the process, and that the clerks for the circuit courts in at least three different jurisdictions did not post the proposed amendment nor make it available for inspection. (Complaint, ¶¶84–150.)

On July 14, 2026, the Circuit Court for Bedford County heard oral arguments on Defendants' and Intervenor-Defendants' demurrers and motions to transfer venue.¹ At that hearing, the Court granted Intervenor-Defendants' Motion to Intervene and orally sustained the demurrers on the grounds that (1) "Virginia Code §30-13, when it was operative, was directory rather than mandatory, such that Defendants'

¹ The Court also heard argument on Intervenor-Defendant's Motion to Intervene and granted that Motion. (Exhibit A, Final Order, at 1.) Bansley did not appeal that Order and does not contest it in this appeal.

alleged noncompliance with it would not invalidate the proposed amendment,” (2) “the General Assembly acted within its constitutional prerogative when it retroactively repealed Section 30–13,” and (3) that Plaintiff did not have standing to bring this action. (A true and correct copy of the Circuit Court’s July 24, 2026 Final Order is attached hereto as Exhibit A for ease of the Court’s reference and because the record on appeal is not yet filed.)

On the record at the hearing, Bansley noted her objections to each of those findings of the Circuit Court. And, pursuant to Rule 5:25 of the Rules of the Supreme Court of Virginia, Bansley noted in writing her specific and reasonably certain objections to the Circuit Court’s findings. (Exhibit A, Final Order, at 3–4.) Specifically, Bansley objected to the Circuit Court’s finding that Va. Code §30–13 was directory rather than mandatory, that the General Assembly’s attempt to retroactively cure its failures to follow Va. Code §30–13 satisfied the standards of the Constitution of Virginia, and that Bansley failed to demonstrate her constitutional standing to challenge the Commonwealth’s failures to follow the required process.

The questions in this appeal will thus determine (a) whether the requirements of Va. Code §30–13 were mandatory and thus the Commonwealth’s failure to follow Va. Code §30–13, which the Supreme Court of Virginia has found was “in effect” at the time of the Commonwealth’s failures, *Scott v. McDougle*, 930 S.E.2d 332, 348 n.31 (Va. 2026), requires invalidating the proposed amendment regardless of the outcome of the November 2026 vote and finding any approval of such amendment null and void; (b) whether the General Assembly’s attempt to retroactively repeal the requirements of Va. Code §30-13 was unconstitutional as impermissible altering substantive rights in a manner the Constitution of Virginia does not allow; and (c) whether Bansley has sufficient standing to bring her claims.²

² Bansley does not offer these statements as substitute for the preliminary statement of assignments of error required by Rule 5A:19 of the Rules of the Supreme Court of Virginia, and will timely file the required preliminary assignments in this Court. Bansley merely offers these broad outlines of the issues in this appeal to demonstrate that the questions involved in this appeal satisfy the requirements of Va. Code §17.1–409.B and mirror some of the questions that this Court and the Supreme Court of Virginia already found satisfied the requirements for certification of the appeal to the Supreme Court of Virginia. *Scott v. McDougle*, Record No. 260127, Order (Feb. 13, 2026); *Nardo v. McDougle*, Court of Appeals Record No. 0189-26-3 and *Scott v. McDougle*, Court of Appeals Record No. 0190-26-3, Motion for Certification under Code §17.1–409 (Feb. 4, 2026).

ARGUMENT

This Court has the discretionary authority to move the Supreme Court of Virginia to certify an appeal for review before adjudication in this Court where “(1) [t]he case is of such imperative public importance as to justify the deviation from normal appellate practice and to require prompt decision in the Supreme Court,” or (2) [t]he docket or status of the work of the Court of Appeals is such that the sound or expeditious administration of justice requires that jurisdiction over the case be transferred to the Supreme Court.” Va. Code §17.1–409(B)(1)–(2). *See also HCA Health Servs. of Va., Inc. v. Levin*, 260 Va. 215, 220, 530 S.E.2d 417, 419 (Va. 2000) (certifying the cases for review where “the matters are of such imperative importance as to justify the deviation from normal appellate practice and to require prompt decision in this Court.”); *Edwards v. Vesilind*, 292 Va. 510, 519, 790 S.E.2d 469, 519 (Va. 2016) (same). The Supreme Court of Virginia has also held that certification under Va. Code §17.1–409.B is appropriate where such certification and transfer of jurisdiction to the Supreme Court was “in the interests of judicial economy.” *DRHI, Inc. v. Hanback*, 288 Va. 249, 253, 765 S.E.2d 9, 12 (Va. 2014). *See also Nusbaum v. Berlin*, 273 Va. 385, 390, 641 S.E.2d

494, 496 (Va. 2007) (same); *Petrosinelli v. People for the Ethical Treatment of Animals, Inc.*, 273 Va. 700, 706, 643 S.E.2d 151, 154 (Va. 2007) (same).

I. This appeal involves questions of grave concern and imperative public importance justifying departure from the normal appellate practice and prompt decision from the Supreme Court of Virginia.

This Court has the discretionary authority to move the Supreme Court of Virginia to certify an appeal for review before adjudication in this Court where—as here—“(1) [t]he case is of such imperative public importance as to justify the deviation from normal appellate practice and to require prompt decision in the Supreme Court.” Va. Code §17.1–409(B)(1). This Court should exercise that authority because the case at bar presents substantial questions of imperative public importance that require prompt decision from the Supreme Court of Virginia.

A. This appeal involves questions concerning the constitutional validity of the process employed by the General Assembly to attempt to amend the fundamental charter of the Commonwealth’s liberties and is of paramount importance to the public.

As the Supreme Court of Virginia noted this year, “[w]hile the Commonwealth is free by its lights to do the right thing for the right reason, the Rule of Law requires that *it be done the right way.*” *Scott v.*

McDougle, 930 S.E.2d 332, 348 (Va. 2026) (emphasis added). In this appeal, as in *Scott*, “the Commonwealth [aims to] submit[] a proposed constitutional amendment to Virginia voters in an unprecedented manner that violates” the very process by which amendments are to be submitted, voted upon, and approved or rejected. *Id.* The seminal question presented in this appeal is whether the violations alleged in Bansley’s Complaint and at issue in this appeal “irreparably undermines the integrity of the [coming November] vote and renders it null and void.” *Id.* There could be no more imperative question than this.

“The Constitution of Virginia is the fundamental law of Virginia.” *Coleman v. Pross*, 219 Va. 143, 152, 246 S.E.2d 613, 618 (Va. 1978). Indeed, “[i]t is the charter by which our people have consented to be governed; it sets forth the basic rights and principles sought to be maintained and preserved in a free society.” *Id.*, 246 S.E.2d at 618. Though the people of the Commonwealth “have a nearly unlimited power to control and amend the Constitution, subject only to the limitations imposed by the United States Constitution . . . one of the two amendatory processes specified in the Virginia Constitution must be followed if a valid amendment is to be effectuated.” *Id.*, 246 S.E.2d at 619.

“The power to amend and revise in whole or in part the Virginia Constitution resides in the people, not in the State legislature.” *Staples v. Gilmer*, 183 Va. 613, 623, 33 S.E.2d 49, 53 (Va. 1945). The people of the Commonwealth of Virginia have placed limits on the mechanism by which any amendments to their charter of ordered liberties may be amended, and “[t]hey must be followed if a valid revision or amendment is to result.” *Id.*, 33 S.E.2d at 52. For over 225 years, the Virginia Constitution “has necessitated compliance with the requirements of a deliberatively lengthy, precise, and balanced procedure.” *Coleman*, 219 Va. at 153, 246 S.E.2d at 619. Indeed, “strict compliance with these mandatory provisions is required in order that all proposed constitutional amendments shall receive the deliberate consideration and careful scrutiny they deserve.” *Id.* at 154, 246 S.E.2d at 620.

Here, as in *Scott v. McDougle*, the questions presented in the appeal involve whether the Commonwealth followed the fundamental charter of the Commonwealth’s liberties. “Article XII, Section 1 of the Constitution of Virginia mandates a detailed process governing lawful adoption of constitutional amendments.” *Scott v. McDougle*, 930 S.E.2d at 338. “To guard against hasty changes to the Commonwealth’s organic law, Article

XII, Section 1 also slow-walks the constitutional-amendment process.”

Id. at 339.

The General Assembly must twice vote in favor of a proposed amendment at two separate legislative sessions with an intervening election of the House of Delegates. This gives voters two opportunities — one indirect, the other direct — to voice their views on the proposed amendment. The first is during the intervening-election period between the two legislative sessions. Voters can support or defeat candidates for the House of Delegates who either endorse or oppose the proposed amendment. If the General Assembly votes against it at the next legislative session, the process ends there. If the General Assembly votes in favor of the proposal, voters get a second direct opportunity to vote the proposed amendment up or down at the ballot box. The efficacy of the second popular vote depends in part upon the reliability of the first.

Id. The process is critical so that voters have the requisite information to make informed choices in an election. *See McDougle v. Nardo*, 2026 WL 243908, *3 (Va. Cir. Ct. Jan. 27, 2026) (“The sole purpose for the posting the proposed amendment at the front door of the Courthouse and having a copy in the Clerk’s Office available for inspection is to provide the voters with notice and information PRIOR to the election of the House of Delegates members who would be elected to vote on the proposed Constitutional Amendment for the second vote as required under the Constitution.”); *Scott v. James*, 114 Va. 297, 303, 76 S.E. 283, 285 (Va. 1912) (“the amendments [are] to be published for three months previous

to the time of such election, in order to notify the people of their pendency.”).

There could be no greater question of public importance than whether the Commonwealth lived up to its bargain with its citizens and followed the process necessary to change its fundamental charter. Indeed, as the Supreme Court of Virginia recognized in *Scott*, that is a question surrounding whether the very Rule of Law itself was followed. *Scott v. McDougle*, 930 S.E.2d at 348.

B. Both the Supreme Court of Virginia and this Court have already determined that the questions at issue in this appeal are of imperative public importance warranting deviation from the normal appellate procedure, prompt decision from the Supreme Court, and certification under Va. Code §17.1-409(B).

The question at issue here is the reliability of the vote concerning the proposed constitutional amendment, and whether the requisite process was followed. Specifically, the Circuit Court sustained a demurrer to Bansley’s challenge to the Commonwealth’s failure to follow Virginia Code §30–13, as operative at the time of the process at issue herein,³ finding that the requirements of the statute were directory

³ The Supreme Court of Virginia recognized that Va. Code §30–13 “was in effect in October 2025.” *Scott v. McDougle*, 930 S.E.2d at 348 n.31.

rather than mandatory “such that Defendants’ alleged noncompliance with it would not invalidate the proposed amendment.” (*See* Exhibit A, Final Order, at 1–2.) Alternatively, the Circuit Court held that the General Assembly’s retroactive repeal would not affect the constitutional validity of Bansley’s claims. (*Id.* at 2.)

Both of those questions were before the Supreme Court of Virginia in *Scott v. McDougle* and *Koski v. Republican National Committee*. *See, e.g., Koski*, 926 S.E.2d at 293. And, as it relates to the operation of Va. Code §30–13 and whether the General Assembly’s retroactive repeal was constitutional, the Supreme Court of Virginia already recognized that the claims Bansley asserts in this appeal relating to those questions “involve weighty assertions of invalidity against the process employed by the General Assembly in an effort to submit a proposed constitutional amendment to the citizens of the Commonwealth.” *Koski*, 926 S.E.2d at 293. And those questions, the Supreme Court of Virginia noted, “are of grave concern to the Court.” *Id.*

Because of the questions at issue in *Scott* (and *Koski*), which involve two of the same questions as those at issue here, this Court moved the Supreme Court of Virginia to certify the appeal under Va. Code §17.1–

409(B)(1). *See Nardo v. McDougle*, Court of Appeals Record No. 0189-26-3 and *Scott v. McDougle*, Court of Appeals Record No. 0190-26-3, Motion for Certification under Code §17.1–409 (Feb. 4, 2026). In its Motion, the Court noted that one of the questions warranting certification by the Supreme Court of Virginia was whether, *inter alia*, the General Assembly’s “attempt[] to repeal Code Section 30–13” “present[s] [a] question[] of such imperative public importance as to justify deviation from the normal appellate practice and to require prompt decision in the Supreme Court.” *See id.* at 2. The Court then “respectfully request[ed] that the Supreme Court certify the appeals for review.” *Id.*

On February 13, 2026, the Supreme Court of Virginia granted the Court’s Motion. *See Scott v. McDougle*, Record No. 260127, Order (Feb. 13, 2026) (“It appearing to the Court that these matters have not been determined by the Court of Appeals of Virginia and that the case is of such imperative public importance as to justify the deviation from the normal appellate practice and to require a prompt decision in this Court, the motion of the Court of Appeals of Virginia that we certify these cases for review pursuant to Code §17.1–409 is hereby granted.”).

Of course, the Supreme Court of Virginia found it unnecessary to ultimately address the constitutional validity of the General Assembly's purported repeal of Va. Code §30–13 and whether it could be constitutionally made retroactive to its past failures to comply with its requirements. *See Scott v. McDougle*, 930 S.E.2d at 348 n.31 (“Given our holding in this case, we need not address any of the remaining questions, including (i) the potential remedy for a failure of state and local officials to comply with former Code § 30-13, which was in effect in October 2025, and (ii) whether the General Assembly's later repeal of Code § 30-13 could be made retroactive.”) But, the only reason that question went unanswered was because the Supreme Court of Virginia's other holding that the proposed amendment at issue in *Scott* violated the intervening-election requirement of Article XII, Section 1 of the Constitution of Virginia rendered the proposed amendment null and void regardless of whether the Commonwealth's attempt to retroactively cure its failures would have also resulted in the invalidation of the proposed amendment.

And, “[o]ne of the most firmly established doctrines in the field of constitutional law is that a court will pass upon the constitutionality of a statute only when it is necessary to the determination of the merits of the

case.” *Bissell v. Commonwealth*, 199 Va. 397, 400, 100 S.E.2d 1, 3 (1957). But, here, the Supreme Court had no need to decide the other questions. “An appellate court decides cases ‘on the best and narrowest ground available.”’ *Miles v. Commonwealth*, 274 Va. 1, 2, 645 S.E.2d 924, 925 (Va. 2007) (Kinser, J., concurring) (quoting *Air Courier Conference of America v. American Postal Workers Union AFL-CIO*, 498 U.S. 517, 531 (1991) (Stevens, J., concurring)). The reason for that is simple, leaving unnecessary decisions for a different day “encourages judicial self-restraint by avoiding the resolution of broad, reasonably debatable legal issues when narrower, less debatable legal issues fully dispose of the appeal before the court.” *Foltz v. Commonwealth*, 58 Va. App. 107, 114, 706 S.E.2d 914, 918 (Va. Ct. App. 2011).

The critical issue in this appeal is whether the Commonwealth’s purported repeal of Va. Code §30–13 can be made retroactive to cure the deficiencies in the process for the proposed amendment at issue here. The question is squarely before the Court in this appeal as it was one of the critical bases upon which the Circuit Court sustained the demurrers. (Exhibit A, Final Order, at 1–2.) Thus, the Court will necessarily be required to adjudicate “the potential remedy for a failure of state and

local officials to comply with former Code §30–13, which was in effect in October 2025, and whether the General Assembly’s later repeal of Code §30–13 could be made retroactive.” *Scott* 930 S.E.2d at 348 n.31.

Thus, the decisions of both the Supreme Court and this Court determining that the questions surrounding the constitutional validity of the General Assembly’s failure to comply with Va. Code §30–13, as operative at the time of the process for the proposed constitutional amendment, and its attempt to retroactively cure its failures present questions of “imperative public importance as to justify deviation from the normal appellate practice and to require prompt decision from the Supreme Court,” *see Scott v. McDougle*, Record No. 260127, Order (Feb. 13, 2026); *Nardo v. McDougle*, Court of Appeals Record No. 0189-26-3 and *Scott v. McDougle*, Court of Appeals Record No. 0190-26-3, Motion for Certification under Code §17.1–409 (Feb. 4, 2026), remain valid.

The questions presented here are identical to the questions presented there concerning Va. Code §30–13. As in *Scott*, the questions are of imperative public importance. And, as in *Scott*, the questions presented here warrant deviation from the normal appellate practice so as to obtain a prompt decision from the Supreme Court of Virginia. This

Court should grant the Motion and move the Supreme Court of Virginia to certify the appeal under Va. Code §17.1–409(B).

C. A prompt decision from the Supreme Court of Virginia is required in this appeal.

Article XII, Section 1 provides that a proposed amendment that is approved by the voters after the General Assembly submits it to the vote becomes part of the Constitution on the date prescribed in the submission. *See* Art. XII, §1, Const. of Va. (“If a majority of those voting vote in favor of any amendment, it shall become part of the Constitution on the date prescribed by the General Assembly in submitting the amendment to the voters.”). Though the date at which the proposed constitutional amendment at issue here will become part of the Constitution of Virginia is not yet known, a prompt decision is necessary to prevent a proposed constitutional amendment that might be declared null and void from becoming part of the Constitution prior to final decision on the merits of this appeal.

Though merely instructive, this Court’s own description of the process suggests that “it usually takes twelve months for all briefs to be

filed and for the full review process to take place.”⁴ Bansley filed her Notice of Appeal in this matter on August 13, 2026, meaning that full review and decision in just this Court would be nearly one year away. Assuming the proposed amendment at issue here is approved, such delay would leave a potentially null and void constitutional amendment constitutionally operative as part of the Constitution of Virginia for nearly one year despite failing to follow the requisite procedures. Such delay renders a prompt decision from the Supreme Court finally adjudicating a question it has already certified as of imperative public importance both necessary and warranted.⁵

Again, both this Court and the Supreme Court of Virginia have already found that the questions at issue in this appeal “require prompt

⁴ Court of Appeals of Virginia, *Frequently Asked Questions*, 6 (Oct. 17, 2025), https://www.vacourts.gov/static/courts/cav/cav_faqs.pdf_faqs (last visited Aug. 24, 2026).

⁵ Respectfully, Appellant does not intend to suggest that the Court “cannot timely do its work,” *DRHI*, 288 Va. at 257, 765 S.E.2d at 144 (Mims, J., dissenting), but only that the sensitivity of the issues presented and the likely need for ultimate review by the Supreme Court of Virginia, and the delay that would appertain to review in both this Court and the Supreme Court of Virginia would be disadvantageous to the Commonwealth such that “the sound and expeditious administration of justice” warrants transferring the case to the Supreme Court of Virginia in the first instance.

decision in the Supreme Court.” *See Scott v. McDougle*, Record No. 260127, Order (Feb. 13, 2026); *Nardo v. McDougle*, Court of Appeals Record No. 0189-26-3 and *Scott v. McDougle*, Court of Appeals Record No. 0190-26-3, Motion for Certification under Code §17.1–409 (Feb. 4, 2026). The same conclusion is warranted here, and the Court should grant the instant Motion and move to the Supreme Court of Virginia to certify this appeal under Va. Code §17.1–409(B).

II. Judicial economy favors an exercise of this Court’s statutory authority to ask and the Supreme Court of Virginia’s authority to certify this case for appeal.

In addition to satisfying the requirements of Va. Code §17.1–409(B) concerning questions of public importance, deviation from the standard appellate practice, and need for prompt resolution by the Supreme Court, the instant Motion further warrants granting because it satisfies the Supreme Court’s standard for judicial economy of such certification. The Supreme Court of Virginia has also held that certification under Va. Code §17.1–409(B) is appropriate where such certification and transfer of jurisdiction to the Supreme Court was “in the interests of judicial economy.” *DRHI, Inc. v. Hanback*, 288 Va. 249, 253, 765 S.E.2d 9, 12 (Va. 2014). *See also Nusbaum v. Berlin*, 273 Va. 385, 390, 641 S.E.2d 494, 496

(Va. 2007) (same); *Petrosinelli v. People for the Ethical Treatment of Animals, Inc.*, 273 Va. 700, 706, 643 S.E.2d 151, 154 (Va. 2007) (same).

For the same reasons that this appeal involves questions of imperative public importance requiring prompt decision in the Supreme Court, *supra* Section I, the interests of judicial economy favor expeditious consideration by the Supreme Court of Virginia.

CONCLUSION

For the foregoing reasons, and because this appeal involves questions of imperative public importance as to justify deviation from the normal appellate practice, that the issues in this appeal require prompt adjudication by the Supreme Court of Virginia, and that the expeditious administration of justice warrants certification by the Supreme Court of Virginia over the issues of this matter, Bansley respectfully requests that the Court grant the instant Motion and move the Supreme Court of Virginia to certify the case for review before it has been determined by this Court.

Respectfully submitted,

/s/ Daniel J. Schmid

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Counsel for Plaintiff-Appellant

**Pro hac vice application forthcoming*

RULE 5A:2 CERTIFICATION

Pursuant to Rule 5A:2(a)(1), the undersigned counsel conferred with counsel for Appellees regarding the relief requested herein. Counsel for the Commonwealth Defendants-Appellees and Defendant-Appellee Reynolds notified Appellant that they object to the relief requested herein but do not intend to file a response in opposition to it, while reserving the right to do so upon seeing the Motion. Counsel for Intervenor-Defendant-Appellee object to the relief and intend to respond in opposition.

/s/ Daniel J. Schmid

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Counsel for Plaintiff-Appellant

**Pro hac vice application forthcoming*

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of August, 2026, I filed the foregoing Motion electronically with this Court and served the below counsel of record for each party via electronic mail:

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IN THE COURT OF APPEALS OF VIRGINIA

RECORD NO. 1475–26–3

CHARLA BANSLEY,
Plaintiff-Appellant,

v.

G. PAUL NARDO, in his official capacity as Clerk of the Virginia House of Delegates; STEVEN KOSKI, in his official capacity as Commissioner of Elections of the Commonwealth of Virginia; VIRGINIA STATE BOARD OF ELECTIONS; VIRGINIA DEPARTMENT OF ELECTIONS; REBECCA C. BROWN, in her official capacity as Registrar of Elections for the County of Bedford; JUDY REYNOLDS, in her official capacity as Clerk for the Circuit Court of Bedford County; Defendants-Appellees,

and

VIRGINIANS FOR REPRODUCTIVE FREEDOM,
Intervenor-Defendant-Appellee.

**EXHIBIT A TO APPELLANT’S MOTION TO CERTIFY APPEAL
TO SUPREME COURT OF VIRGINIA**

VIRGINIA:

IN THE CIRCUIT COURT OF BEDFORD COUNTY

CHARLA BANSLEY,	)	
	)	
<i>Plaintiff,</i>	)	
	)	
v.	)	Civil Action No. CL26000931-00
	)	
G. PAUL NARDO, <i>et al.</i> ,	)	
	)	
<i>Defendants,</i>	)	
	)	
and	)	
	)	
VIRGINIANS FOR REPRODUCTIVE	)	
FREEDOM,	)	
	)	
<u><i>Intervenor-Defendant.</i></u>	)	

FINAL ORDER

The parties and Intervenor, Virginians for Reproductive Freedom (“VRF”), all by counsel, came before the Court for a July 14, 2026, hearing on the record on VRF’s Motion to Intervene, Motion for Change of Venue, and Demurrer; on the State Defendants’ Motion to Transfer Venue and Demurrer; and on Defendant Reynolds’ Motion for Change of Venue and Demurrer. Having considered those motions, the briefs in support thereof and in opposition thereto, and the oral arguments of the parties at the July 14 hearing, for the reasons stated on the record and herein, the Court hereby:

GRANTS Intervenor-Defendant VRF’s Motion to Intervene and **ORDERS** that the Clerk enter Intervenor VRF as a party Defendant on the docket for all purposes in this litigation;

SUSTAINS Intervenor-Defendant’s, State Defendants’, and Defendant Reynolds’ Demurrers because (1) Virginia Code § 30-13, when it was operative law, was directory rather than mandatory, such that Defendants’ alleged noncompliance with it would not invalidate the

proposed amendment; (2) alternatively, the General Assembly acted within its constitutional prerogative when it retroactively repealed Section 30-13 in 2026 Va. Acts, ch. 6, §§ 15–16, eliminating the statutory basis for Plaintiff’s claims; and (3) on the basis that the Plaintiff failed to show she had standing to bring this action;

DENIES Intervenor-Defendant’s, State Defendants’, and Defendant Reynolds’ Motions to Transfer Venue on the basis that they are moot after the Court sustained the Demurrers; and

ORDERS that the Complaint is hereby **DISMISSED with prejudice** and the case struck from the docket of this Court.

The Clerk is respectfully requested to provide an endorsed copy of this Final Order to all counsel of record.

ENTERED this 24th day of July, 2026.

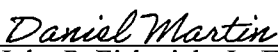


The Hon. John T. Cook

We ask for this:



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Seen and objected to:

Pursuant to Rule 5:25 of the Rules of the Supreme Court of Virginia, Plaintiff hereby states for the record and with reasonable certainty her objection to the foregoing Final Order by the Circuit Court of Bedford County, Virginia:

(1) As stated by the Circuit Court on the record, the Circuit Court's Final Order was based in large measure (if not completely) upon the *dissenting* opinion in *Scott v. McDougle*, 930 S.E.2d 332 (Va. 2026). Specifically, the Circuit Court's reliance on two paragraphs of a *dissent* in *Scott* suggesting that Va. Code §30-13 was merely directory and not mandatory does not form a sufficient basis for sustaining a demurrer that the Defendants' failure to comply with the requirements of Va. Code §30-13, which the Supreme Court of Virginia said was "in effect" at the times relevant to Plaintiff's Complaint, 930 S.E.2d at 348 n.31, was excusable and without legal consequence. Plaintiff specifically states that this finding of the Circuit Court constitutes reversible error as erroneously based on a dissenting opinion that is neither precedential nor binding, and in fact rejected by the majority in *Scott*. Plaintiff further objects to this finding as violative of the Supreme Court of Virginia's precedent concerning mandatory requirements of the constitutional amendment process. *E.g.*, *Gray v. Va. Sec'y of Transp.*, 276 Va. 93, 103–04, 662 S.E.2d 66, 72 (Va. 2008); *Gill v. Nickels*, 197 Va. 123, 129, 87 S.E.2d 806, 810 (Va. 1955); *Coleman v. Pross*, 219 Va. 143, 152, 246 S.E.2d 613, 619 (Va. 1978).

(2) Plaintiff further objects to the Circuit Court's Final Order on the basis that the General Assembly's repeal of Va. Code §30-13, which the Supreme Court of Virginia stated was "in effect" at the relevant times, 930 S.E.2d at 348 n.31, could be made retroactive without constitutional

infirmity, despite the fact that its failure to follow binding and operative provisions of law in effect at the time of Defendants' failures impacted substantive rights in a way the Constitution of Virginia does not allow by "attach[ing] new consequences to events completed before its enactment." *Appalachian Power Co. v. State Corp. Comm.*, 301 Va. 257, 295, 876 S.E.2d 349, 367 (Va. 2022) (quoting *Martin v. Hadix*, 527 U.S. 343, 357–58 (1999)). See also *Shiflet v. Eller*, 228 Va. 115, 120, 319 S.E.2d 750, 753 (Va. 1984); *Sch. Bd. of City of Norfolk v. U.S. Gypsum Co.*, 234 Va. 32, 38, 360 S.E.2d 325, 328 (Va. 1987); *City of Norfolk v. Kohler*, 234 Va. 341, 345, 362 S.E.2d 894, 896 (Va. 1987). This finding constitutes reversible error.

(3) Plaintiff further objects to the Circuit Court's Final Order because it improperly and erroneously finds that Plaintiff lacked standing to bring her challenges to the Defendants' failure to follow the procedures of Article XII, Section 1 of the Constitution of Virginia and Va. Code §30–13, as operative at the time of the failures. Plaintiff objects to this finding as (a) plainly violative of the Supreme Court of Virginia's standing precedent in the voting context cases, e.g., *Howell v. McAuliffe*, 292 Va. 320, 333, 788 S.E.2d 706, 714 (Va. 2016); *Wilkins v. West*, 264 Va. 447, 460, 571 S.E.2d 100, 107 (Va. 2002); (b) as violative of the Supreme Court of Virginia's precedent on standing under the traditional test in that an actual controversy exists and was properly pleaded in Plaintiff's Complaint and that concrete interests were threatened and injured by Defendants' actions and failures alleged in the Complaint, e.g., *W.S. Carnes, Inc. v. Bd. of Supervisors of Chesterfield Cnty.*, 252 Va. 377, 383, 478 S.E.2d 295, 299 (Va. 1996); *Cupp v. Bd. of Supervisors of Fairfax Cnty.*, 227 Va. 580, 589, 318 S.E.2d 407, 411 (Va. 1984); *Morgan v. Board of Supervisors of Hanover County*, 302 Va. 46, 65, 883 S.E.2d 131, 142 (Va. 2023), and (c) as plainly violative of the Supreme Court of Virginia's precedents for plaintiffs bringing challenges to flawed constitutional amendment processes. E.g., *Scott v. James*, 114 Va. 297, 298, 76 S.E. 283, 283 (1912).

Plaintiff hereby objects to the Final Order sustaining the demurrer.

/s/ Daniel J. Schmid

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