

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, STATE OF COLORADO 1427 Bannock Street, Room 256 Denver, Colorado 80202 Phone: (303) 606-2300</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Petitioners: NORMA ANDERSON, MICHELLE PRIOLA, CLAUDINE CMARADA, KRISTA KAHER, KATHI WRIGHT, and CHRISTOPHER CASTILIAN</p> <p>v.</p> <p>Respondents: JENA GRISWOLD, in her official capacity as Colorado Secretary of State, and DONALD J. TRUMP</p> <p>And</p> <p>Intervenor: COLORADO REPUBLICAN STATE CENTRAL COMMITTEE, an unincorporated association</p>	
<p>Attorneys for Intervenor: Michael Melito, CO Reg. #36059 MELITO LAW LLC 1875 Lawrence St., Suite 730 Denver, Colorado 80202 Phone: (303) 813-1200 Email: Melito@melitolaw.com</p> <p>Robert Kitsmiller, Esq., Atty. Reg. #16927 PODOLL & PODOLL, P.C. 5619 DTC Parkway, Suite 1100 Greenwood Village, CO 80111 Tel: (303) 861-4000 Fax: (303) 861-4004 bob@podoll.net</p>	<p>Case No: 23CV32577</p> <p>Division: 209</p>
<p style="text-align: center;">COLORADO REPUBLICAN STATE CENTRAL COMMITTEE’S VERIFIED PETITION IN INTERVENTION SEEKING DECLARATORY AND INJUNCTIVE RELIEF PURSUANT TO C.R.C.P. RULES OF CIVIL PROCEDURE 24 AND 57</p>	

COMES NOW, Intervenor Colorado Republican State Central Committee (the “Colorado Republican Committee,” or the “State Party”), and, pursuant to Colorado Rules of Civil Procedure 24(c) and 57, respectfully submits the following Verified Petition for declaratory and injunctive relief.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to C.R.S. § 1-4-1204(4) and § 1-1-113(1)
2. This Court has authority to award the requested declaratory and injunctive relief pursuant to C.R.S. § 13-51-105 and Rules 57 and 65 of the Colorado Rules of Civil Procedure.
3. This Court has authority to award Intervenor its reasonable costs and attorney fees pursuant to the general legal and equitable powers of this Court.
4. Venue is proper in this Court under C.R.C.P. 98(b)(2) because the Respondent Colorado Secretary of State resides and/or performs her official duties in this district.

THE INTERVENOR

5. The Colorado Republican State Central Committee, also known as the Colorado Republican Committee, is an unincorporated nonprofit association and Political Party Committee in the state of Colorado, operating under Colorado law. Its primary purpose, as reflected in its Bylaws, is to elect duly nominated Republican candidates to office, to promote the principles and achieve the objectives of the Republican Party, and to perform its functions under Colorado election law, particularly, C.R.S. § 1-4-1204(1)(b), which gives the Committee authority to determine the qualifications for presidential Republican nominees. Also, according to the Colorado Republican Committee's Bylaws, no candidate for any designation or nomination for partisan public office shall be endorsed, supported, or opposed by it, acting as an entity, or by its state officers or committees, before the Primary Election, unless such candidate is unopposed in the Primary Election.
6. Intervenor's interests, clearly implicated in this action, are to elect Republican candidates and to protect the access of its members, statewide, to as many candidates as possible. Nominating

and designating candidates is its core role – regardless of who any particular candidate might be. Intervenor seeks intervention in this action to protect its processes and procedures, and the voter access of its members. The claims advanced by Petitioners impair the Intervenor’s interests and those of its members. Indeed, the Petitioners’ claims impair the interests of voters everywhere.

7. As explained below, it is the Intervenor’s job to designate a candidate according to its own rules and to present the designated candidate to the Secretary of State, whose role in placing the so-designated candidate on the ballot is ministerial in nature. *See* C.R.S. § 1-4-1204(1)(b).

8. The Petitioners’ identities are set forth in paragraphs 35-40 of the Verified Petition. Intervenor acknowledges Petitioners’ identities as pled but does not concede any factual allegation.

9. The Respondent Colorado Secretary of State’s identity is set forth in paragraph 42 of the Petitioner’s Verified Petition. She is sued in her official capacity.

10. The Respondent Donald J. Trump’s identity is set forth in paragraph 43 of the Verified Petition.

FACTUAL ALLEGATIONS

11. For the reasons set forth herein, Intervenor, the Colorado Republican Committee, intervenes in this action pursuant to Colorado Rule of Civil Procedure 24 and seeks declaratory relief.

12. This action was filed in the District Court for the City and County of Denver, Colorado, *Anderson v. Griswold*, 2023CV32577, on Wednesday, September 6, 2023. It was removed to federal court on Thursday, September 7, 2023. It was remanded to this Court on Tuesday, September 12, 2023.

13. This motion to intervene, by being filed the day after this case was remanded to state court, was filed in a timely fashion.

14. The Colorado Republican Committee has a significant, legally protectable interest relating

to the transaction that is the subject of this action. *Feigin v. Alexa Group, Ltd.*, 19 P.3d 23, 26-29 (Colo. 2001); see *Am. Ass'n of People with Disabilities v. Herrera*, 257 F.R.D. 236, 258 (D.N.M. 2008).

15. The Colorado Republican Committee has a specific, protectable interest in ensuring that it will be able to designate the candidates of its choosing to public office

16. It is the Colorado Republican Committee, not the Secretary of State, which has authority to determine who will be the primary choices through a “certificate of designation” or through the petition process. C.R.S. 1-4-102.

17. It is either through the assembly process, C.R.S. 1-4-601, or through the petition process, C.R.S. 1-4-801, that an individual seeks a nomination through the primary. In neither case is the Secretary of State given any duty that is anything other than ministerial; her sole responsibility is to provide to the voters the names of the people selected by the political process. Under C.R.S. 1-4-1204(1)(b), it is the Colorado Republican Committee that has the authority to determine which candidates, according to its own rules, are the proper and bona fide Republican candidates.

18. Accordingly, the Colorado Republican Committee has a specific, identifiable interest in ensuring that it has the ability to carry out its decisions through determining its party nominees, and given the relief requested by Petitioners, intervention is necessary to seek declaratory relief to protect its interests and operations under the law.

19. The Colorado Republican Committee is situated such that the disposition of this action will impair its ability to protect its interests. *Feigen*, 19 P.3d at 30; see *Natural Res. Def. Council v. United States Nuclear Regulatory Comm'n*, 578 F.2d 1341, 1345 (10th Cir. 1978).

20. The relief sought by Petitioners in this case would have an adverse effect on the Colorado Republican Committee. Should the Colorado Republican Committee wish to designate

Respondent Trump as a candidate for President pursuant to its applicable rules and procedures and pursuant to C.R.S. 1-4-1204(1)(b), an adverse decision in this action impairs its ability to do so with res judicata effect, just as much as if it had been a party to the litigation.

21. Moreover, this case has broader consequences on the ability of the Colorado Republican Party to designate or nominate the candidates of its choosing beyond the 2024 primary.

22. The Colorado Republican Committee's interest is different from that of all existing parties: its interest is instead in the maintenance of its own rights, autonomy, procedures, operations, prerogatives, and its members.

23. Respondent Secretary Griswold, an active member of the opposing major political party who has publicly weighed in with her views on Respondent Trump,¹ will certainly not adequately represent the Intervenor's interests in this action, as her mind is already made up: "Today a lawsuit was filed to determine whether former President Donald J. Trump is disqualified from the Colorado ballot *for inciting the January 6th insurrection and attempting to overturn the 2020 Presidential Election.*"² It is no stretch to conclude that her inherent views and posture will present a conflict with the interests of the Colorado Republican Committee. Regardless, as explained above, her role as a government official, even if properly executed, presents inherently different interests than those of a private litigant, including those of the Intervenor herein.

¹Earnest Luning, *Jena Griswold Reelected to Head Democratic Secretaries of State Group*, Denver Gazette (Feb. 2, 2023), https://denvergazette.com/outtherecolorado/premium/jena-griswold-reelected-to-head-democratic-secretaries-of-state-group/article_b37ce37a-25b5-5a2d-8322-147445c8782d.html; Tom Porter, *Colorado's Secretary of State Says Trump Supporters are "Chipping Away" at Secure Elections as They're Placed in Election-Oversight Roles Across the Country*, (Nov. 30, 2021), <https://www.businessinsider.com/trump-loyalists-chipping-away-secure-elections-jena-griswold-2021-11?op=1>.

² Colorado Secretary of State Jena Griswold Issues Statement on Lawsuit Pertaining to 14th Amendment and Access to Colorado's Ballot (Sept. 6, 2023), <https://www.sos.state.co.us/pubs/newsRoom/pressReleases/2023/PR20230906AccessBallot.html> (emphasis added).

24. Respondent Donald Trump clearly has his own important and legitimate interests implicated in this action. However, Donald Trump’s interests and the Colorado Republican Committee’s interests are not identical in several material respects.

25. Intervenor’s interests encompass its operations and processes in all future elections, in perpetuity, and without regard to whether Donald Trump is a candidate on the ballot. This alone makes its interests not identical to Respondent Trump’s interests.³

26. The Petitioners’ claims thwart the autonomy of the Colorado Republican Committee to adhere to its own rules and applicable laws to determine its candidates, which it in turn provides to the Secretary of State.

27. If a novel lawsuit like this one, based on the types of conclusory assertions contained in the Verified Petition, and brought before a Republican candidate is even qualified in this state,⁴ is allowed to proceed or the relief requested by Petitioners is granted, the Party is materially harmed – and it is harmed long after the 2024 Presidential Elections are decided.

28. Petitioners are attempting to accomplish a maneuver with the express intent to block from

³ See *Cherokee Metro. Dist. v. Meridian Serv. Metro. Dist.*, 266 P.3d 401, 407 (Colo. 2011) (“Like Meridian, Cherokee presumably wants to go forward with the Replacement Plan and does not want the water court to grant the declaratory judgment requested by UBS. Ultimately, however, both Cherokee and Meridian have separate water rights to protect. Thus, Cherokee and Meridian do not have the kind of relationship as to make their interests identical.”); see also *Democratic Party of Va. v. Brink*, No. 3:21-cv-756-HEH, 2022 U.S. Dist. LEXIS 19983, at *2 (E.D. Va. Feb. 3, 2022) (“[Intervenor] is one of Virginia’s two major political parties, and it brings a unique perspective on the election laws being challenged and how those laws affect its candidates and voters. Courts often allow the permissive intervention of political parties in actions challenging voting laws for exactly this reason.”) (citation omitted).

⁴ Secretary Griswold promptly issued a public statement which includes the following: “At the time of this publication, no candidates have qualified for the presidential primary ballot in Colorado. Information about candidates’ statuses for the Colorado ballot will be available at [GoVoteColorado.gov](https://www.sos.state.co.us/pubs/newsRoom/pressReleases/2023/PR20230906AccessBallot.html) after candidates begin filing presidential primary paperwork with the Colorado Department of State.” Colorado Secretary of State Jena Griswold Issues Statement on Lawsuit Pertaining to 14th Amendment and Access to Colorado’s Ballot (Sept. 6, 2023), <https://www.sos.state.co.us/pubs/newsRoom/pressReleases/2023/PR20230906AccessBallot.html>

the ballot the candidate it believes the Party will designate to the Secretary. [See Verified Petition, ¶42, Doc. # 1-2, at p. 15 (referencing the Secretary’s job to “accept[] a major political party’s form designating a candidate ‘as a bona fide candidate for president of the United States’ who is ‘affiliated with [the] major political party,’ C.R.S. § 1-4-1204(1)(b)”)].

29. Petitioners’ requested relief violates the statutory and constitutional rights of the Party, and its members, and injures the Party and its members.

30. This case has only just begun, and the Colorado Republican Committee has an interest in ensuring that its rights to designate its candidates pursuant to its rules and state law are declared and protected as promptly as possible so that it may determine who its designated presidential candidates will be.

31. The Party has associational and speech rights protected by the United States Constitution, and statutory rights protected federal and state law.

CAUSE OF ACTION

COUNT I

(Declaratory Relief Regarding First Amendment – Freedom of Speech and Association)

32. The allegations of all Paragraphs above are incorporated by reference herein as if fully set out.

33. The First Amendment protects private speech and expression from government interference or restriction when the specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.

34. The First Amendment protects the speech and associational rights of associations, including those of the Intervenor.

35. The relief requested by Petitioners, i.e., the conduct it asks the Court to compel from the Secretary of State, unlawfully deprives Intervenor of its First Amendment rights to engage in protected speech, expression, and association.

36. The relief Petitioners' seek is a restriction on Intervenor's speech which is content and viewpoint-based and demonstrates a concerted effort to single out, intimidate, exclude, and ultimately silence the Intervenor's operations, association and expression. Alternatively, the relief Petitioners request to be ordered as against the Secretary of State is not justified by a compelling state interest, is not narrowly tailored, and would not reflect the least restrictive means of vindicating any such interest.

37. Intervenor has been and will continue to be harmed as a direct and proximate result of Petitioners' attempts to violate its constitutional rights, and Intervenor requests the relief set forth below in their Prayer for Relief.

38. There is a real and justiciable conflict between the parties.

39. Intervenor seeks a Declaration pursuant to Colo. R. Civ. P. 57 and C.R.S. § 13-51-105 that Petitioner requested relief violates Inventor's First Amendment rights under the U.S. Constitution and therefore must be denied.

COUNT 2

(Declaratory Relief Regarding Applicability of U.S. Const. amend. XIV, Sec. 3)

40. The allegations of all Paragraphs above are incorporated by reference herein as if fully set out

41. Petitioners seek an Order requiring the Colorado Secretary of State, Defendant Griswold, removing or precluding Defendant Trump from the ballot in Colorado pursuant to U.S. Const. amend. XIV, Sec. 3.

42. The actions alleged by Petitioners are insufficient to support Petitioners' relief against the Colorado Secretary of State Defendant Griswold.

43. Intervenor seeks a Declaration pursuant to Colo. R. Civ. P. 57 and C.R.S. § 13-51-105 that Defendant Griswold, pursuant to Petitioners' Complaint, does not have authority to preclude the placement of Defendant Trump on Colorado's ballot pursuant to U.S. Const. amend. XIV, Sec. 3.

COUNT 3
(Declaratory Relief Regarding C.R.S. § 1-4-1204)

44. The allegations of all Paragraphs above are incorporated by reference herein as if fully set out.

45. Petitioners seek an Order requiring the Secretary of State to prohibit Intervenor from determining that Respondent Trump is a bona fide candidate under its political party rules.

46. C.R.S. § 1-4-1204(1)(b), which defines the authority of the Intervenor to choose bona fide candidates pursuant to its own rules, does not vest in the Secretary of State any authority to make those decision herself, but instead makes clear that her role is solely ministerial, to transmit the decision of the intervenors to the public.

47. Intervenor seeks a Declaration pursuant to Colo. R. Civ. P. 57 and C.R.S. § 13-51-105 that Defendant Griswold, pursuant to Petitioners' Verified Petition, lacks authority to preclude the placement of Respondent Trump on Colorado's ballot, but instead it is the Intervenor who possesses the authority to make these ballot designation decisions itself.

PRAYER FOR RELIEF

Intervenor repeats and re-alleges all allegations set forth above and incorporates those allegations herein by reference, and requests that this Court grant to it the following relief and enter final judgment denying the relief sought by Petitioners:

- A. Declare the relief sought by Petitioners as against the Colorado Secretary of State to be in violation Intervenor's rights under the First Amendment to the United States Constitution and improper under U.S. Const. amend. XIV, Sec. 3;
- B. Declare the relief sought by Petitioners as against the Colorado Secretary of State to be an unlawful violation of and interference with Intervenor's rights, operations and processes as set forth by Colorado and federal law;
- C. Issue an injunction enjoining Respondent Colorado Secretary of State, and all those

in active concert with her, from taking action to interfere with Intervenor's rights, operations and processes protected by and as set forth by First Amendment, and Colorado and federal law;

- D. Award to Intervenor the costs of this action and its reasonable attorney fees; and,
- E. Award such other and further relief as the Court deems equitable and just.

DATED: This 14th day of September, 2023.

Respectfully submitted,

/s/ Michael Melito

MICHAEL MELITO (CO Bar No. 36059)
MELITO LAW, LLC
1875 Lawrence St., Ste. 730
Denver, Colorado 80202
Telephone: 303-813-1200
Email: Melito@melitolaw.com

/s/ Robert A. Kitsmiller

Robert A. Kitsmiller (CO Bar. No. 16927)
Podoll & Podoll, P.C.
5619 DTC Parkway, Suite 1100
Greenwood Village, Colorado 80111
Telephone: (303) 861-4000
Email: bob@podoll.net
Counsel for Intervenor

JAY ALAN SEKULOW*
(D.C. Bar No. 496335)
JORDAN SEKULOW*
(D.C. Bar No. 991680)
STUART J. ROTH*
(D.C. Bar No. 475937)
ANDREW J. EKONOMOU*
(GA Bar No. 242750)
BENJAMIN P. SISNEY*
(D.C. Bar No. 1044721)
NATHAN MOELKER*
(VA Bar No. 98313)
AMERICAN CENTER
FOR LAW AND JUSTICE
201 Maryland Avenue, NE
Washington, D.C. 20002
Telephone: (202) 546-8890
Facsimile: (202) 546-9309
Email: bsisney@aclj.org

*Not admitted in this jurisdiction; motion for admission forthcoming.

VERIFICATION OF DAVE WILLIAMS

I, Dave Williams, being first duly sworn, state and affirm that the factual allegations set forth in this Petition are true and correct to the best of my knowledge, information, and belief.

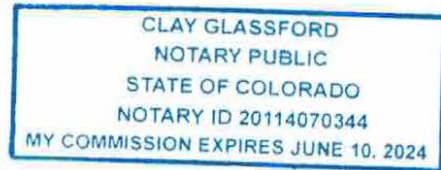
Name: [Signature]
Dave Williams, Chair
Colorado Republican Central Committee

Date: 9/13/2023

STATE OF COLORADO)
) SS.
COUNTY OF _____)

Subscribed and sworn to me, CLAY GLASSFORD, in the County of EL PASO, in the State of Colorado, on this 13TH day of September, 2023.

Witness my hand and official seal.



My commission expires JUNE 10, 2024

[Signature]
Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 14, 2023, a true and correct copy of the foregoing was served electronically, via the Colorado Courts E-filing system upon all parties and their counsel of record.

By: s/Christa K. Lundquist