

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 23-cv-01948-PAB-KAS

COLORADO REPUBLICAN PARTY,
an unincorporated nonprofit association, on behalf of itself and its members,

Plaintiff,

v.

JENA GRISWOLD, in her official capacity as Colorado Secretary of State,

Defendant.

JOINT STATEMENT OF UNDISPUTED FACTS

Pursuant to the Court's order of November 2, 2023, the parties hereby submit this joint statement of undisputed facts, as follows:

1. Plaintiff, The Colorado Republican Party, is a major political party under Colorado law, Colo. Rev. Stat. § 1-1-104(22), having received at least ten percent of the total gubernatorial votes cast at the 2022 gubernatorial election.
2. Defendant Jena Griswold is the Colorado Secretary of State, sued in her official capacity. Her duties include supervising the conduct of primary elections in Colorado and enforcement of the provisions of Colorado's election code.
3. As of November 1, 2023, there were 929,561 registered active Republican voters, 1,053,385 registered active Democrat voters, and 1,871,868 active unaffiliated voters in Colorado.

4. The candidate who receives the most votes in the Republican semi-open primary is identified as the Republican Party candidate on the general election ballot.
5. Consistent with Colorado law, Colo. Rev. Stat. § 1-4-702(1), the Colorado Republican Party's State Central Committee met on September 30, 2023. During that meeting, among other actions, the Committee held a vote on whether to opt out of Colorado's semi-open primary system that allows unaffiliated voters the opportunity to cast ballots in a nonpresidential primary of a single major political party.
6. The votes in favor of opting out of the Colorado semi-open primary system fell short of the 75% requirement imposed by Proposition 108.
7. Following the Central Committee meeting on September 30, 2023, Central Committee members voted to adopt a resolution stating that the Central Committee "believes the Open Primary enacted under Proposition 108 is unconstitutional as it violates the Freedom of Association guaranteed by the 1st Amendment to the United States Constitution" and reaffirming its support for the lawsuit, filed on its behalf on July 31, 2023 (*Colorado Republican Party v. Griswold*, No. 23-cv-01947), to challenge the constitutionality of Proposition 108 and have it overturned.
8. Consistent with Colorado law, Colo. Rev. Stat. § 1-4-702(1), the Colorado Republican Party's State Central Committee met on September 18, 2021. During that meeting, among other actions, the Committee held a vote on whether to opt out of Colorado's semi-open primary system that allows unaffiliated voters the opportunity to cast ballots in a nonpresidential primary of a single major political party.

9. After establishing a quorum, the vote of the Colorado Republican Party's State Central Committee was 171.6 votes in favor of opting out of Colorado's semi-open primary system and 241.3 votes against.¹
10. 441 voting members were in attendance (either in person or by proxy) at the September 18, 2021 meeting of the Colorado Republican Party's State Central Committee, 84.6% of the total voting membership of 521. In order to achieve the three-quarters threshold required by Colo. Rev. Stat. § 1-4-702(1) to opt out of the Open Primary, 88.6% ($521 * .75 / 441$) of those in attendance (either in person or by proxy) would have had to vote in favor of the Opt Out Resolution.
11. At its meeting on September 18, 2021, the Colorado Republican Party's State Central Committee voted unanimously to authorize the Party or its members to bring a lawsuit challenging Colorado's Proposition 108.
12. 267.64 voting members were in attendance at the meeting of the Colorado Republican Party State Central Committee on September 21, 2019, which was 56.9% of the total membership of 470, less than the 75% threshold required by Colo. Rev. Stat. § 1-4-702(1) to vote to opt out of Colorado's semi-open primary system.
13. An unaffiliated voter may vote in the primary election of only one major political party in Colorado (or that of a minor political party that has not elected to hold a closed primary election) in each election cycle.

¹ Pursuant to party bylaws, certain of the party's county vice-chairmen have less than a full vote.

Respectfully Submitted,

/s/ John C. Eastman

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November, 2023 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following email addresses:

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/s/ John C. Eastman

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