



Plaintiff seeks a permanent injunction and declaratory relief prohibiting the Defendants from applying the statute to the extent it disqualifies certain candidates from appearing on the ballot, but allows the Defendant to place similarly situated candidates on the ballot at will. The Plaintiff also seeks an injunction requiring the Defendants to place the Plaintiff on the Republican primary ballot in time for the August 7, 2018 election. The Plaintiff should be awarded damages, costs, attorneys' fees, and any other relief to which he is entitled as a victim of civil rights violations.

### **INTRODUCTION**

1. Plaintiff Vermin Love Supreme is a political activist who has run for various elected offices since the 1980s including President of the United States.

2. Mr. Supreme learned that under the Kansas Constitution and, “[u]nder Kansas law, there is no law governing the qualifications for governor, not one,”<sup>1</sup> Mr. Supreme announced he would run as a candidate for Kansas Attorney General.

3. Mr. Supreme timely filed a Declaration of Intention to become a candidate, in person and in Kansas, as required by Kansas Statute Annotated (“KSA”) 25-206, before noon on June 1, 2018.

---

<sup>1</sup> See **Exhibit 1**, Hunter Woodall, “The 16-Year-Old Running for Governor of Kansas,” TRIBUNE NEWS SERVICE (Aug. 8, 2017) (“**Under Kansas law, there is no law governing the qualifications for governor, not one,**” said Bryan Caskey, director of elections at the Kansas secretary of state's office. “**So there's seriously nothing on the books that lays out anything, no age, no residency, no experience. Nothing.**”) (emphasis added), available at: <<http://www.governing.com/topics/politics/tns-jack-bergeson-kansas-governor.html>>.

4. As part of his commentary on American politics, Mr. Supreme's political platform advocates for socialized distribution of equine companions<sup>2</sup> and is known nationally for his political ambitions.

5. Mr. Supreme expected to receive substantial backing from his Kansas supporters.

6. Kansas made nationwide news due to its uniquely restrictive laws for Kansas voters, while having absolutely no laws about running for office in Kansas.

7. Mr. Supreme wished to run for Kansas Attorney General ("AG") in part to draw attention to these disparities, but also because he has a desire to serve the people of Kansas.

8. There are no age, residency, or experience requirements to run for Kansas Attorney General pursuant to Kansas law or the Kansas Constitution.

9. After Mr. Supreme filed his Declaration of Intention, the Executive Director of the Kansas Republican Party, Mr. Jim Joice, filed an objection to Mr. Supreme's candidacy, based on a non-existent "residency" requirement.

10. KSA 25-308 states that anyone may object to any candidate and, [t]he causes for objection under this section as to any office *may be* any of those causes listed in K.S.A. 25-1436." (emphasis added).

11. Residency is not listed as a requirement under K.S.A. 25-1436.

12. The Kansas Elections Board, which is comprised of elected officials (who are also running their own election campaigns), scheduled a hearing on the Opposition for Monday, June 11, 2018.

---

<sup>2</sup> Mr. Supreme's long standing platform has been centered on mandatory tooth brushing and free ponies for all. Although Supreme uses "joke humor" as a campaign device when he runs for office as a response to some of the issues inherent in democracy, Supreme is a sincere political activist, who has participated in protests such as the *Great Peace March for Global Nuclear Disarmament* and the *Occupy* protests.

13. Pursuant to the statute, the Lieutenant Governor, the Secretary of State, and the Attorney General, are the only officials authorized to vote on the objections.

14. As described in more detail below, the Attorney General abstained from participating in the hearing, without designating another officer to vote in his place, and the Kansas Election Board (the "Board") voted 2-0 to sustain Mr. Joice's objection, finding that Mr. Supreme was not a resident and thus was not qualified.

15. Directly after Mr. Supreme's hearing, the Board heard a substantially similar case, wherein a Democrat objected to a Republican's candidacy based on residency, and despite the fact that the second candidate had only recently stated an intention to move for the election on May 7, 2018, the Board arbitrarily approved that the second candidate would be allowed on the ballot.

16. Defendants' conduct is never constitutionally tolerable, but the harm caused by their actions is especially pronounced here.

17. Access to the ballot and the ballot box is one of the bedrock principals of our democracy by the people, and the regulations, the Constitution, and the Defendant's actions must be scrutinized. Plaintiff's freedom of association rights are protected by the First Amendment, and his due process rights are protected by the Fourteenth Amendment.

18. This will not stand, and the Court should immediately remedy the unconstitutional wrong by ordering that the Defendants to place Mr. Supreme's name on the ballot, and enjoining the Defendants from disqualifying Mr. Supreme from appearing on the ballot.

#### **JURISDICTION AND VENUE**

19. This Court has original subject matter jurisdiction over the federal Constitutional violations alleged in this Complaint pursuant to the provisions of

42 U.S.C. § 1983 and 28 U.S.C. § 1331 & 1343. This Court has jurisdiction to issue injunctive and declaratory relief pursuant to 28 U.S.C. § 2201 and 42 U.S.C. § 1983.

20. Plaintiff's claims for declaratory relief and injunctive relief are authorized by 28 U.S.C. §§ 2201 & 2202 and Rule 57 of the Federal Rules of Civil Procedure.

21. Venue is proper in the District of Kansas pursuant to 28 U.S.C. § 1391. All Defendants reside in Kansas and all actions pertinent to this complaint occurred in Kansas.

### **THE PARTIES**

22. Plaintiff Vermin Supreme is a resident of the Commonwealth of Massachusetts, however, at the end of May, Mr. Supreme obtained a rental property with the intention of becoming a Kansas resident. He is a civically concerned individual who regularly engages in political speech and political campaigns.

23. Defendant Kansas State Elections Board (the "Board") is a State Board empowered by Kansas Statute Annotated § 25-308(c) and comprised of the Secretary of State, the Lieutenant Governor, and the Attorney General. The Board is charged with ensuring that the State of Kansas will have fair and impartial elections and is responsible for disqualifying the Plaintiff from the ballot, pursuant to KSA § 25-308.

24. Kris Kobach is and/or was at all times relevant herein the Kansas Secretary of State, and an officer, employee, and agent of the State of Kansas.

25. Jeff Colyer is and/or was at all times relevant herein the Governor of the State of Kansas, and an officer, employee, and agent of the State of Kansas.

26. Brant Laue is and/or was at all times relevant herein the Chief Counsel to the Governor, and an officer, employee, and agent of the State of Kansas.

27. Derek Schmidt is and/or was at all times relevant herein the Attorney General of the State of Kansas, and an officer, employee, and agent of the State of Kansas.

28. Bryan Caskey is and/or was at all times relevant herein the Elections Director for the State of Kansas, and an officer, employee, and agent of the State of Kansas.

### **STANDING**

29. Plaintiff is directly affected by Defendants' unlawful actions and Defendant's unlawful application of an unconstitutional statute in violation of his free expression, free association, and due process rights.

30. Defendants' actions have caused a violation of Plaintiff's rights under the U.S and Kansas Constitutions. Thus, the requirements for Article III standing have been met.

### **FACTS COMMON TO ALL CLAIMS**

31. Vermin Love Supreme spent several decades running for political office and has run for President of the United States seven times.

32. Mr. Supreme has appeared on several state's ballots in his bid to become President, and he placed fourth in New Hampshire's Democratic primary election in 2016.<sup>3</sup>

33. Part of Mr. Supreme's long standing campaign platform has centered on free ponies for all Americans and mandatory tooth-brushing laws. Some voters have interpreted this as commentary, satire, and political parody about a political system that rewards candidates who promise free benefits

---

<sup>3</sup> See **Exhibit 2**, Rebecca Kaplan, "Vermin Supreme finishes fourth in N.H. Democratic primaries," CBS NEWS (Feb. 10, 2016), available at <https://www.cbsnews.com/news/vermin-supreme-finishes-fourth-in-new-hampshire-democratic-primary/>.

without discussing cost and to pass overprotective laws that interfere with individual choice.<sup>4</sup>

34. The State of Kansas has made national news over the last few years regarding its voting laws.

35. On the one hand, Kansas has made national news for having uniquely restrictive laws when it comes to access to the ballot box: Defendant Secretary of State Kris Kobach has been the face of the Non-Citizen Voter Fraud Movement, which led to Kansas having some of the most restrictive requirements to vote in the country<sup>5</sup>.

36. Kobach's "Documentary Proof" law, which requires voters in Kansas to present documentary proof that they are a U.S. citizen to register to vote,<sup>6</sup> has received significant criticism.

37. On the other hand, the State of Kansas also made national news when the Kansas Elections Director Brian Caskey announced that Kansas has **no qualification requirements** when it comes to running for office in Kansas,<sup>7</sup> and

---

<sup>4</sup> See **Exhibit 3**, Megan Specia, "A man with a boot on his head got more primary votes than Jim Gilmore in New Hampshire," MASHABLE (Feb. 10, 2016), available at <https://mashable.com/2016/02/10/vermin-supreme-new-hampshire-primary/#zNrgewp6Ugqr>.

<sup>5</sup> See **Exhibit 4**, Laurel Wamsley, "Kansas Scrambles To Change Rules After 6 Teens Enter Governor's Race," NATIONAL PUBLIC RADIO (Feb. 9, 2018), available at: <https://www.npr.org/sections/thetwo-way/2018/02/09/584678163/kansas-scrambles-to-change-rules-after-6-teens-enter-governors-race>.

<sup>6</sup> A lawsuit regarding whether this law is Constitutional is currently pending before this Honorable Court: *Fish v. Kobach*, No. 16-2105-JAR, U.S. Dist. Kan. (Filed 2016).

<sup>7</sup> See Woodall, "The 16-Year-Old Running for Governor of Kansas," TRIBUNE NEWS SERVICE, *supra*.

several teenagers<sup>8</sup>, and several non-residents from Oregon,<sup>9</sup> Pennsylvania,<sup>10</sup> and New York<sup>11</sup> announced they would run for office in Kansas.

38. Mr. Supreme, who is actively engaged in politics and happens to be from Rockport, Massachusetts, followed the stories and originally announced he would run for Governor, but decided to run for Attorney General instead.

39. Currently, law makers in Kansas are working to change the law in Kansas so that only residents who are over 25 may run in Kansas and only attorneys may run for Kansas AG, however, these changes to the law will not take effect until 2019, after the November Election Cycle.<sup>12</sup>

40. Mr. Supreme (who is not an attorney) believes the voters of Kansas will value having a non-attorney seek the office of Kansas AG.

41. Mr. Supreme filed his Declaration of Intention to run for Kansas AG timely, and in person, before June 1st.

---

<sup>8</sup> See **Exhibit 5**, Eric Levitz, "6 Teenage Boys Are Running for Governor of Kansas," NEW YORK MAGAZINE (Feb. 6, 2018), available at: <<http://nymag.com/daily/intelligencer/2018/02/6-teenage-boys-are-running-for-governor-of-kansas.html>>.

<sup>9</sup> See **Exhibit 6**, Associated Press, "2 Men From Oregon Say They Plan to Run for Kansas Office," US NEWS (Feb. 23, 2018), available at: <<https://www.usnews.com/news/best-states/oregon/articles/2018-02-23/2-men-from-oregon-say-they-plan-to-run-for-kansas-office>>.

<sup>10</sup> See **Exhibit 7**, Allison Kite, "7th teen candidate for governor has never lived in Kansas," TOPEKA-KANSAS JOURNAL (Feb. 15, 2018), available at: <<http://www.cjonline.com/news/20180215/7th-teen-candidate-for-governor-has-never-lived-in-kansas>>.

<sup>11</sup> See **Exhibit 8**, Courtney Ryan, "New York advertiser explains why he is running for Kansas governor," KSN WICHITA KANSAS LOCAL NEWS (May 9, 2018), available at: <<https://www.ksn.com/news/capitol-bureau/new-york-advertiser-explains-why-he-is-running-for-kansas-governor/1169205961>>.

<sup>12</sup> See Kansas House Bill No. 2539, attached as **Exhibit 9**, which pursuant to Section 1, goes into effect January of 2019, and amends K.S.A. 25-205 to read that electors must be 25 years old every candidate for the office of attorney general must be licensed to practice law within the state of Kansas.

42. Mr. Supreme also secured a rental property on May 17, 2018, with a rental reservation dates of "May 31<sup>st</sup>, 2018 to TBD".

43. Although the rent is nominal, Mr. Supreme has paid rent for the property. See **Exhibit 10**.

44. Mr. Supreme asked Bryan Caskey, the Director of Elections at the Kansas Secretary of State's office, in person if there would be any issue if he listed both his Kansas rental property address and his Massachusetts address on the Declaration.

45. Mr. Caskey assured Mr. Supreme that since there were no residency requirements, he could not foresee any issue arising if he listed both addresses.

46. Republican Executive Director Jim Joice filed an Opposition to Mr. Supreme's candidacy, citing that Mr. Supreme was not qualified because he was not a resident. See Joice's Opposition, attached as **Exhibit 11**.

47. On Monday, June 11, 2018, the Kansas Elections Board held a hearing on Jim Joice's Opposition to Mr. Supreme's candidacy.

48. The Board also held a hearing on the candidacy of another alleged non-resident, Michael Capps.

49. Mr. Supreme showed the Board that he had obtained a rental property in Kansas prior to filing his Declaration of Intent.

50. However, more importantly, Mr. Supreme argued that this was irrelevant, because the Kansas Constitution does not require candidates for public office to be residents.

51. Since the Kansas State Constitution<sup>13</sup> was ratified in 1859, two years before Kansas became a State,<sup>14</sup> the absence of a residency requirement, set in the context of the expanding west, cannot possibly be an omission.

52. However, this is precisely what the incumbent officials in Kansas have argued, without reference to textual meaning<sup>15</sup> or original intent, Kansas officials are systematically disqualifying certain candidates for office to narrow the playing field for themselves.

53. K.S.A. 25-308 states that the causes for objection to a candidate *may* be any one of a list of enumerated criteria.

54. The use of the permissive word "may be", while referencing a list of enumerated causes for objection, is vague, and facially appears to mean that people may object to a candidate for any reason, and Kansas officials may vote to get rid of or discriminate against any candidate for any reason, including the elimination of political opponents.

55. Likely out of embarrassment of the recent news coverage and desperate to narrow the pool of candidates running for office, Kansas AG Derek Schmidt (who is up for re-election as the Attorney General) filed a lawsuit against Kobach (who is currently running for Governor as a Republican) seeking a declaration that only Kansas residents are eligible to run for Governor.

---

<sup>13</sup> See **Exhibit 12**, Constitution of the State of Kansas.

<sup>14</sup> Kansas became a State in 1861, see the National Archives at <<https://www.archives.gov/legislative/features/kansas>>, attached as **Exhibit 13**.

<sup>15</sup> Further, enlarging the qualifications to run for office, beyond the plain words of the qualification clause of the Kansas Constitution, and without statutory authority to the contrary, is highly disfavored in the federal context: while this is merely persuasive authority, the Ninth Circuit has held that residency requirements that handicap nonresident candidates who would otherwise meet the requirements of the Qualification Clause, U.S. Const. art. I, § 2, cl. 2, to be unconstitutional. See *Schaefer v. Townsend*, 215 F.3d 1031, 1032 (9th Cir. 2000)

56. Kansas State Court Judge Watson, over the objection of ousted gubernatorial candidate and New York resident Andy Maskin (who argued, like Supreme, that the omission of a candidate residency requirement from the Kansas Constitution was likely deliberate, since leaders, especially in 1861, came from all over the nation)<sup>16</sup> declared that Maskin's arguments were, "imaginative hypothesizing" and that declaring that there is a residency requirement for Governor is the, "common sense approach" and, "that the lack of an explicit candidate residency requirement was simply an oversight." See *Kansas, ex rel. Schmidt v. Kobach*, Shawnee County District Court of Kansas, Case No. 2018-CV-285, Memorandum Decision and Order (Judge Watson) (May, 31 2018), attached as **Exhibit 14**.

57. The Kansas Elections Board, authorized by K.S.A. 25-308, cited to this declaratory judgment regarding the residency requirements for those running for governor, and voted against Mr. Supreme's candidacy, finding he was not a resident for purposes of being on the ballot as a candidate for Attorney General.

58. However, directly after Mr. Supreme's hearing, the Board arbitrarily voted that another candidate, Michael Capps, who had also (1) only recently (May 5<sup>th</sup>) moved, and (2) proclaimed to live in a house that was in foreclosure by

---

<sup>16</sup> Most of the founding fathers of Kansas were not originally from Kansas (Kansas was not a state at the time the founders drafted the Constitution); most were also distinguished journalists in their day, likely not known for blatant omissions: the President of the Kansas Constitutional Convention, James Winchell of New York, wrote for *The New York Times*; two other signatories: journalists Edmund G. Ross of Wisconsin and Victor Murdock of Illinois, both covered Kansas politics and worked as war correspondents. See founders' biographies on the Kansas Historical Society Archives page, attached as **Exhibits 15, 16, & 17** and available at: <<https://www.kshs.org/>>.

a bank at the time of filing, was a resident for purposes of appearing on the ballot.<sup>17</sup>

59. The Kansas Elections Board has acted in bad faith, by seeking a declaratory judgment to narrow the field of candidates, and using the declaratory judgment to arbitrarily get rid of certain candidates that they claim do not meet the residency requirements (such as Mr. Supreme), but allowing other candidates, who objectively have the same “lack of residency criteria” to be named on the ballot.

60. Both Capps and Supreme registered as Republicans, and in Kansas, the Republican nominee is chosen by *the voters* in a primary election held on August 7, 2018.<sup>18</sup>

61. K.S.A. 25-308(a) states that:

Any certificate of nomination, nomination petitions or declaration of intention to become a candidate, filed or issued in apparent conformity with law, shall be deemed to be valid unless: (1) Objection thereto is made in writing within three days from the date the certificate, petitions or declaration is filed with or issued by the proper officers...”

62. K.S.A. 25-308(c) states that:

In the case of nominations of national and state officers, objections shall be filed with the secretary of state and shall be considered by the lieutenant governor, secretary of state, and attorney general, and a decision of a majority of these officers shall be final.

---

<sup>17</sup> See Chris Reeves, “Not all voter fraud is equal, as Kris Kobach provides two different standards in same meeting,” DAILY KOS (June 12, 2018), available at <<https://www.dailykos.com/stories/2018/6/12/1771350/-Not-all-voter-fraud-is-equal-as-Kris-Kobach-provides-two-different-standards-in-same-meeting>>, attached as **Exhibit 18**.

<sup>18</sup> See **Exhibit 19**, Kansas Secretary of State 2018 Election Information sheet, <[https://www.kssos.org/elections/18elec/2018\\_Election\\_Information.pdf](https://www.kssos.org/elections/18elec/2018_Election_Information.pdf)>.

63. K.S.A. 25-308(e) states that:

The causes for objection under this section as to any office may be any of those causes listed in K.S.A. 25-1436.

64. K.S.A. 25-1436, referenced above, enumerates the following causes:

Grounds for contest. Any contest of election to which K.S.A. 25-1435, and amendments thereto, applies shall be brought on any one or more of the following grounds:

(a) The person to whom a certificate of election was issued was ineligible to hold such office at the time of the election;

(b) some voters were deprived of the right of voting for a candidate or on a question submitted, when such voters had the right under the election laws of this state to vote thereon, and such deprivation could change the result of the election;

(c) illegal votes were received or legal votes were rejected which could change the result of the election;

(d) error or fraud occurred in computing the results of the election which could change the result of the election;

(e) the person to whom the certificate of election was issued offered or gave, or caused to be offered or given, a bribe to any person charged by law with any election duty, for the purpose of procuring such person's election; or

(f) any other cause which shows that another was the person to whom the certificate of election for such office should have been issued.

65. For all of the following reasons, K.S.A. 25-308(a), (c), & (e) is unconstitutional on its face and as applied to Mr. Supreme.

66. Further, the Kansas Elections Board has acted arbitrarily and capriciously, and has violated Mr. Supreme's free speech, free association, and due process rights, in violation of the First Amendment and Fourteenth Amendment of the U.S. Constitution and §§ 1, 2, 3, & 11 of the Kansas Constitution.

**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**Violation of the First Amendment to the United States Constitution**

**under 42 U.S.C. § 1983**

**(Free Speech and Freedom of Association)**

67. Plaintiff repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

68. Plaintiff alleges that Defendants' conduct of arbitrarily refusing to place him on the ballot due to a perceived lack of residency at the time he filed violates his right to engage in direct political expression, is unconstitutional and violates his First Amendment rights to freedom of speech and expression, and freedom of petition.

69. Plaintiff alleges that Defendants' conduct, wherein Defendants disqualified the Plaintiff from appearing on the ballot squashed the Plaintiff's platform to engage in specific and politically motivated speech, is unconstitutional and violates his First Amendment rights to freedom of speech and expression, and freedom of petition.

70. Plaintiff alleges that Defendants' conduct of arbitrarily disqualifying him from appearing on the ballot prevents him from associating with voters who would have supported his candidacy, which places a heavy burden on Plaintiff's associational rights as protected by the First Amendment.

71. Plaintiff alleges that KSA 25-308(a), (c), & (e), on its face and as applied in an electoral scheme which allows the Defendants to arbitrarily decide which political opponents may appear on the ballot and which may not, violated the rights guaranteed to the Plaintiff by the First Amendment to the United States Constitution, as enforced by 42 U.S.C. § 1983.

72. Plaintiff has been injured, or reasonably fears imminent injury, by these constitutional violations, and Plaintiff is entitled to relief.

**SECOND CLAIM FOR RELIEF**  
**Violation of Kansas Const., Articles 1, 3, and 11**  
**(Free Speech and Freedom of Association)**

73. Plaintiff repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

74. Plaintiff alleges that Defendants' conduct of arbitrarily refusing to place him on the ballot due to a perceived lack of residency at the time he filed violates his right to engage in direct political expression, is unconstitutional and violates his rights to freedom of speech and expression, and freedom of petition protected by Kansas Constitution §§ 3 & 11.

75. Plaintiff alleges that Defendants' conduct, wherein Defendants disqualified the Plaintiff from appearing on the ballot squashed the Plaintiff's platform to engage in specific and politically motivated speech, is unconstitutional and violates his rights to freedom of speech and expression, and freedom of petition protected by Kansas Constitution §§ 3 & 11.

76. Plaintiff alleges that Defendants' conduct of arbitrarily disqualifying him from appearing on the ballot prevents him from associating with voters who would have supported his candidacy, which places a heavy burden on Plaintiff's associational rights as protected by Kansas Constitution § 1.

77. Plaintiff alleges that KSA 25-308(a), (c), & (e), on its face and as applied in an electoral scheme which allows the Defendants to arbitrarily decide which political opponents may appear on the ballot and which may not, violated the rights guaranteed to the Plaintiff by Kansas Constitution §§ 1,3, & 11.

78. Plaintiff has been injured, or reasonably fears imminent injury, by these constitutional violations, and Plaintiff is entitled to relief.

**THIRD CLAIM FOR RELIEF**  
**Violation of the Fourteenth Amendment to the United States Constitution**  
**Under 42 U.S.C. § 1983**  
**(Substantive Due Process)**

79. Plaintiff repeats and re-alleges each and every allegation in the preceding paragraphs as if set forth fully herein.

80. Plaintiff alleges that Defendants' conduct, wherein Defendants arbitrarily disqualified Plaintiff from appearing on the ballot is unconstitutional and violates his due process rights under the Fourteenth Amendment.

81. Plaintiff alleges that KSA 25-308(a), (c), & (e), on its face and as applied in an electoral scheme which allows the Defendants to arbitrarily decide which political opponents may appear on the ballot and which may not, violated the rights guaranteed to the Plaintiff by the Fourteenth Amendment to the United States Constitution, as enforced by 42 U.S.C. § 1983.

82. Plaintiff has been injured, or reasonably fears imminent injury, by these constitutional violations, and Plaintiff is entitled to relief.

**FOURTH CLAIM FOR RELIEF**  
**Violation of Kansas Const., Art. 3**  
**Under 42 U.S.C. § 1983**  
**(Substantive Due Process)**

83. Plaintiff repeats and re-alleges each and every allegation in the preceding paragraphs as if set forth fully herein.

84. Plaintiff alleges that Defendants' conduct, wherein Defendants arbitrarily disqualified Plaintiff from appearing on the ballot is unconstitutional and violates his due process rights under the Kansas Const., Art. 3.

85. Plaintiff alleges that KSA 25-308(a), (c), & (e), on its face and as applied in an electoral scheme which allows the Defendants to arbitrarily decide which political opponents may appear on the ballot and which may not, violated the rights guaranteed to the Plaintiff by Kansas Const., Art. 3.

86. Plaintiff has been injured, or reasonably fears imminent injury, by these constitutional violations, and Plaintiff is entitled to relief.

**FIFTH CLAIM FOR RELIEF**  
**Violation of the Fourteenth Amendment to the United States Constitution**  
**Under 42 U.S.C. § 1983**  
**(Procedural Due Process)**

87. Plaintiff repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

88. Plaintiff alleges that Defendants' conduct, wherein Defendants arbitrarily disqualified Plaintiff from appearing on the ballot is unconstitutional and violates his due process rights under the Fourteenth Amendment.

89. Plaintiff further alleges that Defendants appeared to have unfettered discretion and lacked a procedure to guide their decision making when they disqualified the Plaintiff from appearing on the ballot.

90. Plaintiff alleges that KSA 25-308(a), (c), & (e), on its face and as applied in an electoral scheme which allows the Defendants to arbitrarily decide which political opponents may appear on the ballot and which may not, violated the rights guaranteed to the Plaintiff by the Fourteenth Amendment.

91. Plaintiff has been injured, or reasonably fears imminent injury, by these constitutional violations, and Plaintiff is entitled to relief.

**SIXTH CLAIM FOR RELIEF**  
**Violation of Kansas Const., Art. 2**  
**Under 42 U.S.C. § 1983**  
**(Procedural Due Process)**

92. Plaintiff repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

93. Plaintiff alleges that Defendants' conduct, wherein Defendants directed Plaintiff not to engage in specific and politically motivated speech by

refusing to issue a permit on a targeted date and time is unconstitutional and violates his due process rights under the New Hampshire Const. Art. 15.

94. Plaintiff further alleges that Defendants appeared to have unfettered discretion and lacked a procedure to guide their decision making when they denied the permit.

95. Plaintiff alleges that KSA 25-308(a), (c), & (e), on its face and as applied in an electoral scheme which allows the Defendants to arbitrarily decide which political opponents may appear on the ballot and which may not, violated the rights guaranteed to the Plaintiff by Kansas Const., Art. 2.

96. Plaintiff has been injured, or reasonably fears imminent injury, by these constitutional violations, and Plaintiff is entitled to relief.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully seeks judgment as follows:

- a. A declaration that the Defendants conduct is unconstitutional under the First and Fourteenth Amendments of the United States, and Articles 1, 2, 3, & 11 of the Kansas Constitution;
- b. A declaration that K.S.A. 25-308(a), (c), & (e) violates rights guaranteed to the Plaintiff by Kansas Constitution Articles 1, 2, 3, & 11 and the First and Fourteenth Amendment to the United States Constitution, as enforced by 42 U.S.C. § 1983;
- c. A preliminary and permanent injunction compelling Defendants to place the Plaintiff's name on the ballot so that he may engage in constitutionally protected activities and enjoining each Defendant from disqualifying the Plaintiff from appearing on the ballot;
- d. A preliminary and permanent injunction enjoining the Defendants from enforcing K.S.A. 25-308(a), (c), & (e) to the extent that it allows

the Defendants to arbitrarily disqualify a candidate from appearing on the ballot;

- e. Damages in an amount to be determined at trial;
- f. An award of attorneys' fees and expenses under 42 U.S.C. § 1988; and,
- g. Any further relief the Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all causes of action.

Dated: June 22, 2018.

Respectfully submitted,

/s/ David P. Calvert

David P. Calvert (#06628)

DAVID P. CALVERT, P.A.

532 N. Market St.

Wichita, KS 67214

(316) 269-9055

Fax: (316) 269-0440

lawdpc@swbell.net

Marc J. Randazza

*Pro Hac Vice* forthcoming

RANDAZZA LEGAL GROUP, PLLC

2764 Lake Sahara Drive, Suite 109

Las Vegas, Nevada 89117

Tel: 702-420-2001

ecf@randazza.com