

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

Civil Action No. _____

**NORMA ANDERSON, MICHELLE PRIOLA, CLAUDINE CMARADA,
KRISTA KAHER, KATHI WRIGHT, and CHRISTOPHER CASTILIAN,**
Petitioners,

v.

JENA GRISWOLD, in her official capacity as Colorado Secretary of State, and
DONALD J. TRUMP
Respondents.

NOTICE OF REMOVAL

Respondent Donald J. Trump (“Trump”) removes this case to the United States District Court for the District of Colorado under 28 U.S.C. §§ 1331, 1441(a) and 1446, as well as D.C.COLO.LCivR.81.1. Currently, this case is pending in Denver District Court as Case No. 2023CV32577 (the “State Court Action”).

A. Introduction

1. This case arises under the 14th Amendment. Although Plaintiffs have drafted their *Verified Petition* in a manner that ostensibly relies on state claims, in fact every state claim – indeed every effort to bar Trump from running for President – relies solely on the application of U.S. Const. 14th Amend, Sec. 3.

2. Plaintiffs have filed a 104 page *Verified Petition* to seek an expedited hearing within five days in state court. Accordingly, Trump has immediately filed this *Notice of Removal*.

3. Because this Court has original federal-question jurisdiction over the State Court Action under 28 U.S.C. § 1331, removal to federal court is proper under 28 U.S.C. § 1441(a). As shown below, Trump also satisfies the procedural requirements for removal.

B. Plaintiffs’ challenge to Colorado’s ability to place Donald Trump on the presidential ballot depends solely on the Fourteenth Amendment.

4. Trump’s basis for removal of the state court action is federal question jurisdiction under Section 3 of Fourteenth Amendment.

5. Plaintiffs have fashioned their claims for relief citing only state law. Specifically, the first count of their claim for relief seeks to bar Trump for running for President in Colorado, citing Colo. Rev. Stat. §§ 1-4-1204 and 1-1-113.¹ Their second count seeks declaratory relief under Colo. Rev. Stat. § 13-51-105 and Colo. Rul. Civ. Proc. 57(a).²

6. Plaintiffs’ effort to ground their *Verified Petition* in state law cannot conceal the underlying federal constitutional issue in dispute. Even a brief review of the *Verified Petition* shows that their case is grounded in the Fourteenth Amendment.

7. Specifically, the first count alleges:

a. “it is the intent of the people of the State of Colorado that the provisions of [the presidential primary elections statute] conform to the requirements of federal law.”³

¹ *Verified Petition* at 100.

² *Id.* at 102.

³ *Id.* at ¶ 435.

b. “Section 3 of the Fourteenth Amendment, as part of the U.S. Constitution, “shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby.” U.S. Const. art. VI cl. 2; see also Colo. Const. art. II, § 2 (recognizing supremacy of the “[C]onstitution of the United States”).”⁴

c. “Both the Secretary and this Court are required by law to take an oath to support the U.S. Constitution, including Section 3 of the Fourteenth Amendment. See U.S. Const. art. VI cl. 3.”⁵

d. “The Secretary has a mandatory duty to support, obey, consider, apply, and enforce the U.S. Constitution, including Section 3 of the Fourteenth Amendment, in executing her official duties.”⁶

e. “Because Trump is disqualified from public office under Section 3 of the Fourteenth Amendment, he does not meet all qualifications for the office [of the President] prescribed by law.”⁷

f. Accepting Trump’s candidate affidavit will be “in violation of the U.S. Constitution and Colorado law.”⁸

⁴ *Id.* at ¶ 438.

⁵ *Id.* at ¶ 439.

⁶ *Id.* at ¶ 440.

⁷ *Id.* at ¶ 445.

⁸ *Id.* at ¶ 447.

g. “There is an urgent public interest in promptly resolving whether Trump is constitutionally eligible to serve as president in advance of the approaching primary election.”

8. In their second count, the Plaintiffs penultimate allegation forthrightly states that “Because Trump is disqualified to serve as president under Section 3 of the Fourteenth Amendment, Petitioners are entitled to declaratory relief that Trump is disqualified from office and that the Secretary may not take any action to allow Trump access to the 2024.”⁹

9. In total, the Plaintiffs refer to the Fourteenth Amendment 41 times in their *Verified Petition*.

10. Courts recognize that “under the artful pleading doctrine and FDCPA, defendants must show that plaintiff’s claims are based on or require the resolution of important and disputed questions of federal law.”¹⁰ Here, the Plaintiffs’ claims require resolution of the applicability of Section 3 of the Fourteenth Amendment.

C. Trump satisfies the procedural requirement for removal.

11. The District Court, City and County of Denver, Colorado, is located within the District of Colorado; therefore, this Court is the proper district to which remove this case. 28 U.S.C. § 1441(a).¹¹

⁹ *Id.* at ¶ 452.

¹⁰ *Carrington Square, LLC v. Steeley*, 2019 U.S. Dist. LEXIS 192946, *3, *citing Grable & Sons Metal Products Inc. v. Darue Engineering & Manufacturing*, 545 U.S. 308, 314-15 (2005).

¹¹ *Verified Petition* at ¶ 448.

12. Plaintiffs filed their *Verified Petition* in the State Court Action on September 6, 2023.

13. Donald J. Trump has not been served a copy of the petition.

14. The Denver District Court docket does not contain a return of service for Jena Griswold, the Colorado Secretary of State, and to undersigned's knowledge the Secretary has not been served.

15. This *Notice of Removal* is timely filed within "30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." 28 U.S.C. § 1446(b)(1).

16. A complete copy of the file from the State Court Action is attached to this Notice of Removal, as required by 28 U.S.C. § 1446(a) as follows:

- a. A current docket sheet (**Exhibit 1**);
- b. Plaintiffs' Verified Petition Under C.R.S. § 1-4-1204, § 1-1-113, § 13-51-105, and C.R.C.P. 57(a) (**Exhibit 2**);
- c. District Court Civil Case Cover Sheet (**Exhibit 3**);
- d. Motion for an Expedited Case Management Conference (**Exhibit 4**);
- e. Notice of Recusal (**Exhibit 5**); and
- f. Order of Reassignment (**Exhibit 6**).

17. After filing this Notice of Removal, Trump will promptly serve a copy of this *Notice of Removal* on Plaintiffs, Respondent Jena Griswold, the Colorado Secretary of State,

and file a copy with the Clerk of Court of the Second Judicial District Court, City and County of Denver, Colorado, in accordance with 28 U.S.C. § 1446(d).

18. By filing this *Notice of Removal*, Trump does not waive, either expressly or implicitly, its rights to assert any defense which it could have asserted in the State Court Action.

FOR THESE REASONS, Trump removes this civil action from the District Court, City and County of Denver, Colorado, to the United States District Court for the District of Colorado.

Dated: September 7, 2023.

GESSLER BLUE LLC

s/ *Scott E. Gessler*
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s/ *Geoffrey N. Blue*
Geoffrey N. Blue

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