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Supreme Court, U.S.
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NO._____, Original

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1995

CHARLES E. COLLINS,
PRESIDENTIAL CANDIDATE

Plaintiff,

v.

THE FIFTY STATES
OF
THE UNITED STATES OF AMERICA, et al.

Defendants,

MOTION FOR LEAVE TO FILE COMPLAINT WITH COMPLAINT AND BRIEF IN SUPPORT OF MOTION

Charles E. Collins
Presidential Candidate
Plaintiff, pro se
Apartment #107
8501 North Lagoon Drive
Panama City Beach, FL 32408
(912) 994-1695

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MOTION FOR LEAVE TO FILE COMPLAINT

Comes Now, Charles E. Collins, Presidential Candidate, plaintiff pro se, and respectfully asks leave of the Court to file the complaint submitted herewith against the several defendants, the fifty states of the United States of America and their respective Secretaries of State.

PURPOSE OF MOTION

The motion for leave to file a complaint by plaintiff against defendants is for the purpose of adjudicating the refusal of said defendants to place plaintiff's name, as an independent candidate for President of the United States, on the November 5, 1996, general election ballot in their respective states. The presenting exigent circumstances and constitutionally intolerable action by defendants, in light of the Court's apparent jurisdiction, as set forth in the accompanying complaint and as discussed in the brief in support of this motion, compel plaintiff to file an original action in this Court.

Respectfully Submitted,

Charles E. Collins
Presidential Candidate
Plaintiff, pro se
Apartment #107
8501 North Lagoon Drive
Panama City Beach, FL 32408
(912) 994-1695

August 16, 1996

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MOTION FOR LEAVE TO FILE COMPLAINT
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COMPLAINT

Comes Now, Charles E. Collins, Presidential Candidate, plaintiff pro se, with leave of the Court, files this complaint to obtain prospective declaratory and injunctive relief against all fifty states of the United States of America, pursuant to the alleged jurisdiction of the Court, and for his cause of action states:

I.

Plaintiff is sixty six years of age, is a natural born citizen of the United States, has been fourteen years a resident within the United States, and is a citizen of the State of Florida, residing at Point Lagoon Condominium, Apartment #107, 8501 North Lagoon Drive, Panama City Beach, Florida, 32408.

II.

The Defendants are all fifty states of the United States of America, namely, the State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of California, State of Colorado, State of Connecticut, State of Delaware, State of Florida, State of Georgia, State of Hawaii, State of Idaho, State of Illinois, State of Indiana, State of Iowa, State of Kansas, State of Kentucky, State of Louisiana, State of Maine, State of Maryland, State of Massachusetts, State of Michigan, State of Minnesota, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of Nevada, State of New Hampshire, State of New Jersey, State of New Mexico, State of New York, State of North Carolina, State of North Dakota, State of Ohio, State of Oklahoma, State of Oregon, State of Pennsylvania, State of Rhode Island, State of South Carolina, State of South Dakota, State of Tennessee, State of Texas, State of Utah, State of Vermont, State of Virginia, State of Washington, State of West Virginia, State of Wisconsin, State of Wyoming; and the officials of the herein named defendant states who are charged with the duty of placing eligible candidates for the office of President of the United States on their state's general election ballot, namely, Defendants, Jim Bennett, the Secretary of State of Alabama; Fran Ulmer, the Secretary of State of Alaska, Jane Dee Hull, the Secretary of State of

Arizona; Sharon Priest, the Secretary of State of Arkansas; Bill Jones, the Secretary of State of California; Vikki Buckley, the Secretary of State of Colorado; Miles Rapoport, the Secretary of State of Connecticut; Edward J. Freel, the Secretary of State of Delaware; Sandy B. Mortham, the Secretary of State of Florida; Lewis Massey, the Secretary of State of Georgia, Mazie Hirono, the Secretary of State of Hawaii; Pete T. Cenarrusa, the Secretary of State of Idaho; George H. Ryan, Sr., the Secretary of State of Illinois; Sue Anne Gilroy, the Secretary of State of Indiana; Paul Danny Pate, the Secretary of State of Iowa; Ron Thomburgh, the Secretary of State of Kansas; John Y. Brown, III, the Secretary of Statae of Kentucky; W. Fox McKeithen, the Secretary of State of Louisiana; Bill Diamond, the Secretary of State of Maine; John T. Willis, the Secretary of State of Maryland; William Galvin, the Secretary of State of Massachusetts; Candice Miller, the Secretary of State of Michigan; Joan Growe, the Secretary of State of Minnesota; Eric Clark, the Secretary of State of Mississippi; Rebecca (Bekki) Cook, the Secretary of State of Missouri; Mike Cooney, the Secretary of State of Montana; Scott Moore, the Secretary of State of Nebraska; Dean Heller, the Secretary of State of Nevada; William Gardner, the Secretary of State of New Hampshire; Lonna R. Hooks, the Secretary of State of New Jersey; Stephanie Gonzales, the Secretary of State of New Mexico; Alexander F. Treadwell, the Secretary of State of New York; Rufus L. Edmisten, the Secretary of State of North Carolina; Alvin (Al) A. Jaeger, the Secretary of State of North Dakota; Bob Taft, the Secretary of State of Ohio; Tom Cole, the Secretary of State of Oklahoma; Phil Keisling, the Secretary of State of Oregon; Yvette Kane, the Secretary of State of Pennsylvania; James Langevin, the Secretary of State of Rhode Island; Jim Miles, the Secretary of State of South Carolina; Joyce Hazeltine, the Secretary of State of South Dakota; Riley Darnell, the Secretary of State of

Tennessee; Tony Garza, the Secretary of State of Texas; Olene Walker, the Secretary of State of Utah, James Milne, the Secretary of State of Vermont, Betsy Davis Beamer, the Secretary of State of Virginia; Ralph Munro, the Secretary of State of Washington; Ken Hechler, the Secretary of State of West Virgina; Douglas La Follett, the Secretary of State of Wisconsin; Diana Ohman, the Secretary of State of Wyoming.

III.

The original jurisdiction of this Court is invoked under article III, section 2, clause 2 of the Constitution of the United States, and it is alleged that all fifty states are subject to the Court's jurisdiction, notwithstanding the eleventh amendment, because not "one of the United States", but all States of the United States are being sued by a citizen. Alternatively, all fifty states have allegedly, with respect to this cause of action, waived their eleventh amendment immunity from suit. Such alleged waiver is based on the following grounds: all states upon becoming a member of the United States agreed to the supremacy of the Constitution; all states participate in the federal elections to elect the President of the United States, pursuant to Article II, Section 1, Paragraph 5, of the United States Constitution, a provision plaintiff alleges defendants have violated; plaintiff alleges defendants have violated Article V. of the Constitution, and the First and Fourteenth Amendments to the Constitution; therefore, it is alleged that the defendant states have waived their eleventh amendment immunity because they participate in the election of a federal officer, the President of the United States, an important fundamental constitutional activity that has national impact upon the uniformity of the federal government and, because of their constitutional violations, with respect to that activity, have so seriously undermined the

integrity and supremacy of the constitution, that in order to safeguard the constitution and the Republic, it must be construed that defendants have waived their Eleventh Amendment immunity that otherwse would prohibit necessary,adequate, and timely judicial review of the constitutional violations. Further, plaintiff has no other plain, speedy or adequate remedy at law or in equity whatsoever in any other federal court.

IV.

Plaintiff, as shown in paragraph I. above, meets all the eligibility requirements for a presidential candidate, as established by Article II, Section 1, Paragraph 5, of the United States Constitution. Plaintiff has publicly declared himself to be, and, in fact, is an independent candidate for the office of President of the United States.

V.

Plaintiff is a serious presidential candidate who has exerted a substantial campaign effort, which includes, but is not limited to, the following activity:

(a) He has been a guest speaker and personally campaigned at over a hundred republican meetings, including regional, state, and local fund raisers and gatherings.

(b) He has attended and personally campaigned at the republican state conventions, or assemblies, held in the states of Alabama, Arizona, California, Florida, Georgia, Louisiana, Maine, New Hampshire, Oklahoma, South Carolina, and Texas.

(c) He attended, personally campaigned, and was a guest speaker at the combined republican convention of thirteen midwest states held in the fall of 1995, in Green Bay, Wisconsin.

(d) After declaring his independent candidacy in January 1996, he personally attended and won the nomination for President of the United States, as an independent candidate, at the CURE convention (Constitutional Unified Republic for Everyone), held in Wichita, Kansas on February 19-20, 1996. Several hundred delegates from thirty eight states attended the convention.

(e) He has personally campaigned in the states of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and the District of Columbia. His personal campaign efforts in these states have been witnessed by hundreds of thousands of people.

(f) He has personally campaigned in most of the counties and all of the large cities in California, Florida, Kansas, Missouri, New Hampshire, Oklahoma, and Texas.

(g) He has appeared as a guest on several hundred radio programs and talk shows, which together have included national, regional, and local listening audiences.

(h) He has appeared as a guest on dozens of national and local television programs, including broadcasts on C-SPAN, NET, and REUTERS. He participated in City Vote, a nationwide televised presidential candidate debate, which was covered by some of the major networks.

(i) He was featured on the front cover of Media Bypass Magazine in January 1996, a popular and nationally circulated publication. The magazine included a 19 page feature interview story about plaintiff, in which his political views and campaign platform were fully reported.

(j) He and his campaign have been the subject of literally hundreds of news articles in various newsprint publications throughout the nation, which include nearly every state.

(k) He has personally campaigned at several festivals held throughout the country, attended by hundreds of thousands of people.

(l) He has personally campaigned at a dozen state fairs at which he gave speeches and operated a campaign booth.

(m) His campaign has included the mailing and distribution of hundreds of thousands of brochures and copies of other campaign literature, including thousands of audio and video tapes.

VI.

Plaintiff mailed a letter to the Secretary of State of each of the fifty defendant states requesting that his name be placed on the ballot as an independent candidate for President

of the United States in the general election to be held November 5, 1996. A copy of Plaintiff's letter is as follows:

[Letterhead omitted]

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

January 26, 1996

TO: [Secretary of State]

FORMAL NOTICE OF CANDIDACY

My name is Charles E. Collins, and I am a candidate for the President of the United States in 1996.

I meet all the requirements to run for President as enumerated in the United States Constitution, to wit: (1) I am a natural born citizen of the United States; I am over thirty-five years of age; and I have been fourteen years a resident within the United States.

I hereby request that my name be placed on the ballot as an independent candidate for President of the United States in the general election to be held November 5, 1996.

Please advise me in the next 15 days of your acceptance of my request to be placed on the November 5th, 1996 General Election Ballot. If for any reason or reasons, whatsoever, you do not accept my name for placement on the aforesaid general election ballot as an independent candidate for

President of the United States, please advise me of such reason or reasons immediately.

Thank you for your time and attention to this matter.

Respectfully,
Charles E. Collins

VII.

Plaintiff received no response to the letter detailed in paragraph VI., above, from the several defendants to advise him that his name was being placed on their respective state ballots. The several defendants did mail to plaintiff a copy of their respective state's statutory ballot access eligibility requirements, however, many were received six to eight weeks after his letter was sent.

VIII.

In addition to the presidential candidate eligibility requirements established by Article II, Section 1, Paragraph 5, of the United States Constitution, each of the defendant states have separate and distinct statutory ballot access eligibility requirements that must be met by an independent presidential candidate before the Secretary of State of each state will place such candidate's name on the state's general election ballot.

IX.

The defendant states' additional statutory ballot access eligibility requirements usually include, but are not limited to, a certain number of petition signatures, to be acquired in a

particular manner and within a specified period of time, as more fully shown by the following chart, which lists the defendant states and their statutory ballot access eligibility requirements. The chart lists the percent of voters or actual number of signatures required to be obtained on petitions in those states, the final date such signatures must be filed with the respective states, and various other requirements:

State	**% of Voters or Actual No. of Signatures**	**Final Date to File**	**Other Info.**
Alabama	5,000	Aug. 31	
Alaska	2,585	Aug. 7	Need to form a Limited Political Party
Arizona	3% of voters <u>not</u> in a political party (7,813)	June 27	
Arkansas	3% of voters A convention must be held	minutes of convention to be filed within 2 days of convention. No later than Sept. 15	
California	147,238	Aug. 9	
Colorado	5,000 sigs or $500	July 16	
Connecticut	7,500	Aug. 7	
Delaware	3,828	Sept. 3	

State	% of Voters or Actual No. of Signatures	Final Date to File	Other Info.
Florida	65,596	July 15	
Georgia	31,771	July 9	
Hawaii	3,829	Sept. 6	
Idaho	4,821	Aug. 25	
Illinois	25,000	Aug. 5	
Indiana	29,857	July 15	
Iowa	1,500 (must collect from at least 10 counties)	Aug. 16	
Kansas	5,000	Aug. 5	
Kentucky	5,000	Aug. 29	$500.00 filing fee
Louisiana	5,000 sigs or $500 (500 sigs from each congr. district)	Aug. 2 for sigs	Sept. 3 for $500

State	% of Voters or Actual No. of Signatures	Final Date to File	Other Info.
Maine	4,000	May 28	At least 4,000 sigs, but less than 6,000 must be sub.
Maryland	3% of reg. voters	Aug. 5	$290 fee
Massachusetts	10,000	Aug. 27	
Michigan	30,891	180 days prior to gen. elect.	At least 100 sigs from 1/2 of congr. districts
Minnesota	2,000	Sept. 10	
Mississippi	1,000	July 29	
Missouri	10,000	July 29	
Montana	10,471	May 27	
Nebraska	2,500	Sept. 1	sigs must not have voted in pres. primary

State	% of Voters or Actual No. of Signatures	Final Date to File	Other Info.
Nevada	1% votes for Pres.	July 3	
New Hampshire	3,000	Aug. 21	$250 fee 1,500 sigs from ea. congr district
New Jersey	800 (Must say they will vote for the candidate)	July 29	
New Mexico	3% (14,029)	Sept. 10	
New York	15,000	Aug. 20	At least 100 sigs from 16 different Congr. districts
North Carolina	2% of registered voters	June 28	
North Dakota	4,000	Sept. 6	
Ohio	5,000	Aug. 22	Between 5,000-15,000 sigs to be sub.

State	% of Voters or Actual No. of Signatures	Final Date to File	Other Info.
Oklahoma	41,711	July 15	
Oregon	14,627	Aug. 27	
Pennsylvania	24,425	Aug. 1	
Rhode Island	1,000 per elector	Sept. 6	
South Carolina	10,000	Aug. 1	
South Dakota	3,117 sigs	Aug. 6	
Tennessee	275*	Aug. 15	
Texas	61,540	May 13	sigs must not have voted in pres. primary, or signed any other petition
Utah	300	Aug. 15	
Vermont	1,000	Sept. 19	

* Each elector must get 25 signatures on their petition or one petition with all electors listed containing 275 signatures.

State	% of Voters or Actual No. of Signatures	Final Date to File	Other Info.
Virginia	15,168	Aug. 23	At least 200 from each congr. district
Washington	By convention 200 names	conv. by - July 6 filed by July 13	Must be nomin. by conv.
West Virginia	6,837	Aug. 1	
Wisconsin	2,000	Sept. 3	2,000 - 4,000 sigs
Wyoming	9,809	Aug. 27	

X.

The defendant states, except for the State of Washington, have denied plaintiff, as an independent candidate for President of the United States, access to the November 5, 1996, general election ballot, because he has not met their respective statutory ballot access eligibility requirements.

XI.

Plaintiff alleges that the eligibility requirements for a presidential candidate, as contained within Article II, Section

1, Paragraph 5, of the United States Constitution, are fixed and unalterable, and that no supplemental additions thereto, in the nature of ballot access requirements, or qualifications, can be made by a state, either directly or indirectly, without substantially violating the plain and express terms of the Constitution of the United States.

XII.

Plaintiff alleges that the laws of the several defendant states, Individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, present such an enormous and intricate maze of obstacles in the way of political and social-economic barriers for an independent candidate, that they, undermine open elections, handicap a class of candidates and favor their exclusion from federal office, and effect a fundamental change in the constitutional framework established by the framers of the Constitution for the executive branch of government.

XIII.

Plaintiff alleges that the laws of the several defendant states, Individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, operate as a nationwide effective mechanism to eliminate all but the most wealthy or privileged candidates, who are, in turn, financially supported by wealthy contributors or by a well funded national political party, or both.

XIV.

Plaintiff alleges that the laws of the several defendant states, individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, are, oppressive and repressive of the political rights and freedoms guaranteed by the Constitution; contrary to the intentions of the original framers of the Constitution; contrary to the fundamental principle of our representative democracy, embodied in the Constitution, that the people should choose whom they please to govern them; contrary to the egalitarian concept that the opportunity to be elected was open to all; contrary to the postulate that sovereignty is vested in the people, and that sovereignty confers on the people the right to choose freely their national leader, the President of the United States.

XV.

Plaintiff alleges that the diverse laws of the several defendant states, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, have resulted in a patchwork of state qualifications, which, because of their lack of uniformity, among many other reasons, unfairly discriminate against an independent presidential candidate.

XVI.

Plaintiff alleges that the laws of the several defendant states, individually and collectively, which have established additional eligibility requirements for ballot access for a

presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, are inconsistent with, and violate, said provisions of the Constitution.

XVII.

Plaintiff alleges that the laws of the several defendant states, individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, deprive plaintiff and all citizens eligible to vote, the right to freely associate, and constitute an unlawful restraint on freedom of association, in contravention of the First Amendment of the United States Constitution.

XVIII.

Plaintiff alleges that the laws of the several defendant states, individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, contravene and violate the Fourteenth Amendment, section 1, of the United States Constitution, which provides in pertinent part, that: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States".

XIX.

Plaintiff alleges that the laws of the several defendant states, individually and collectively, which have established additional eligibility requirements for ballot access for a

presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, deprive plaintiff and all citizens eligible to vote, the equal protection of the laws guaranteed under the Fourteenth Amendment of the United States Constitution.

XX.

Plaintiff alleges that the additional ballot access eligibility requirements of the fifty states, as shown in paragraph VI., above, are, in effect, fifty separate and distinct amendments to the Constitution, which have been made by defendants in contravention of Article V. of the United States Constitution.

XXI.

Plaintiff alleges that the laws of the several defendant states, individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, are in conflict with and repugnant to the Constitution and are accordingly void under the supremacy clause, Article VI. of the United States Constitution.

XXII.

Plaintiff brings this action to vindicate the supremacy of the Constitution of the United States, with respect to the election of a federal officer, the President of the United States. Plaintiff seeks: prospective declaratory relief with respect to the constitutionality of the laws of the several defendant states, individually and collectively, which have established additional eligibility requirements for ballot

access for a presidential candidate, which are contrary to and inconsistent with Article II, Section 1, Paragraph 5, of the United States Constitution; to enjoin all fifty states from enforcing provisions of their respective laws, which are contrary to and inconsistent with Article II, Section 1, Paragraph 5, of the United States Constitution, and that have effectively denied him, as an independent presidential candidate, placement on the ballots to be used in the general election to elect the President of the United States; and, an order issued by the Court which directs each and every Secretary of State of the defendant states to place his name on their respective general election ballots as an independent presidential candidate.

Wherefore, Plaintiff Respectfully Prays That This Court:

(1) Declare that the laws of the several defendant states, which have established additional eligibility requirements for ballot access for a presidential candidate, other than those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, are in conflict with, repugnant to, and in violation of the Constitution and are accordingly void under the Constitution of the United States .

(2) Enjoin the several defendant states, and each defendant Secretary of State, from enforcing the laws of the several states, which establish additional eligibility requirements for ballot access for a presidential candidate, other than those contained within Article II, Section 1, Paragraph 5, of the United States Constitution.

(3) Issue an order to the several defendant states, and each defendant Secretary of State, with the exception of

the State of Washington, which directs that said defendants place plaintiff's name, as an independent candidate for President of the United States, on their respective state's November 5, 1996, general election ballot.

(4) Enjoin the several defendant states, except for the State of Washington, from conducting the general election to elect the President of the United States, presently scheduled for November 5, 1996, until such time that plaintiff's name, as an independent candidate for President of the United States, is placed on their respective state's ballot.

(5) Grant such other relief as the interest of justice may require.

Respectfully Submitted,

Charles E. Collins
Presidential Candidate
Plaintiff, pro se
Apartment #107
8501 North Lagoon Drive
Panama City Beach, FL 32408
(912) 994-1695

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BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE COMPLAINT

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JURISDICTION

The original jurisdiction of this Court is invoked under Article III, Section 2, Clause 2 of the Constitution of the United States, and is more fully set forth under the heading, ARGUMENT, *infra*.

STATEMENT OF THE CASE

Plaintiff, Charles E. Collins, is an independent presidential candidate in 1996, who meets all the eligibility requirements for President of the United States, as set forth in Article II, Section 1, Paragraph 5, of the United States Constitution.

1. Plaintiff Is A Serious Presidential Candidate

Plaintiff is a serious presidential candidate who has exerted a substantial campaign effort, which includes, but is not limited to, the following activity: speaking and personally campaigning at over a hundred republican meetings, nationwide; attending and personally campaigning at the republican state conventions, or assemblies, held in eleven States; speaking and personally campaigning at the combined republican convention of thirteen midwest States held in the fall of 1995, in Green Bay, Wisconsin; personally attending and winning the nomination for President of the United States, as an independent candidate, at the CURE convention (Constitutional Unified Republic for Everyone), held in Wichita, Kansas on February 19-20, 1996, attended by several hundred delegates from thirty eight States; personally campaigning in forty three States and the District of Columbia; personally campaigning in most of the counties and all of the large cities in California, Florida, Kansas, Missouri, New Hampshire, Oklahoma, and Texas; appearing

as a guest on several hundred radio programs and talk shows; appearing as a guest on dozens of national and local television programs, including broadcasts on C-SPAN, NET, and REUTERS; participating in City Vote, a nationwide televised presidential candidate debate, which was covered by some of the major networks; being featured on the front cover of Media Bypass Magazine in January 1996, a popular and nationally circulated publication, and included in the issue was a 19 page feature interview story about plaintiff, in which his political views and campaign platform were fully reported; being the subject of literally hundreds of news articles in various newsprint publications throughout the nation, which include nearly every State; personally campaigning at several festivals held throughout the country, attended by hundreds of thousands of people; personally campaigning at a dozen state fairs at which plaintiff gave speeches and operated a campaign booth; and the mailing and distributing of hundreds of thousands of brochures and copies of other campaign literature, including thousands of audio and video tapes.[1]

2. Plaintiff's Request To States For Placement On Ballot

On January 26, 1996, plaintiff mailed a letter to the Secretary of State of each of the fifty States, wherein he gave notice of his independent candidacy and requested that his name be placed on the State's November 5, 1996, ballot, as an independent candidate for President of the United States.[2] He also requested that he be informed of the State's action, with respect to his request, within fifteen days. His letter also asked that if his name was not accepted for placement on the ballot that he be informed of the reasons for non-acceptance. No State responded to his letter to advise him that his name

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1 See summary of campaign activity in complaint, para. V.

2 See copy of letter in complaint, para. VI.

was being placed on the ballot, however, during the following two months he received information from the States concerning their respective State's ballot access eligibility requirements.[3]

3. States' Presidential Candidate Eligibility Requirements

In addition to the presidential candidate eligibility requirements established by Article II, Section 1, Paragraph 5, of the United States Constitution, each of the defendant states have separate and distinct statutory ballot access eligibility requirements, as essentially shown in paragraph IX. of the attached Complaint, that must be met by an independent presidential candidate before the Secretary of State of each State will place such candidate's name on the State's general election ballot.

The ballot access eligibility requirements of the several States, taken collectively, are a formidable barrier to overcome for an independent candidate, because of numerous logistical factors that vary from State to State, such as: requiring a certain number of signatures to be obtained on nominating petitions; requiring a particular number of petitions, either statewide or by political subdivision; specifying where petitions must be circulated; specifying the manner in which petitions must be circulated; specifying who is, and is not, eligible to sign a petition; a short specified time period in which petitions may be circulated; regulations on whether petitions must be certified, and if so, by whom and when; the date petitions must be filed; regulations on whether a political party must be formed and qualified; regulations on whether a nominating convention must be held; and regulations on whether a filing fee must be paid to the State.

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[3] See chart of States' eligibility requirements in complaint, para. IX.

In most cases the time periods allowed for obtaining signatures on required nominating petitions and for filing the petitions are too narrow and inadequate, for the number of signatures required. Additionally, the time periods established by the States for obtaining nominating petitions are usually different for each State, and thus they are staggered, with respect to each other, which results in a logistical nightmare for an independent candidate.

The qualifying time period for independent candidates to submit nominating petitions, and to meet other eligibility requirements for the November 5, 1996, election, has already passed in most of the States. The door of opportunity to meet ballot access requirements in half of the remaining States will close by the end of August, 1996.

Except for the State of Washington, plaintiff has not been able to meet any of the States' ballot access eligibility requirements. Although plaintiff has campaigned very extensively throughout the United States and has been seen and heard by hundreds of thousands of people, he has not had the extra financial resources required to fund an organization capable of meeting the challenge presented by all the ballot access eligibility requirements of the several defendant States, which apply to an independent candidate.

4. Purpose Of Complaint

The purpose of the complaint is to obtain a final authoritative adjudication of the laws of the several defendant States, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, and which have effectively denied plaintiff a position on the states'

November 5, 1996, general election ballot, as an independent presidential candidate.

5. Plaintiff's Contentions

It is plaintiff's contention that the eligibility requirements for a presidential candidate, as contained within Article II, Section 1, Paragraph 5, of the United States Constitution, are fixed and unalterable, and that no supplemental additions thereto, in the nature of ballot access requirements, or qualifications, can be made by a State, either directly or indirectly, without substantially violating the plain and express terms of the Constitution of the United States.

It is also plaintiff's contention that the laws of the several defendant States, individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, present such an enormous and intricate maze of obstacles in the way of political and social-economic barriers for an independent candidate, that they: undermine open elections, handicap a class of candidates and favor their exclusion from federal office; effect a fundamental change in the constitutional framework established by the Framers of the Constitution for the executive branch of government; operate as a nationwide effective mechanism to eliminate all but the most wealthy or privileged candidates, who are, in turn, financially supported by wealthy contributors or by a well funded national political party, or both; have resulted in a patchwork of State qualifications, which, because of their lack of uniformity, among many other reasons, unfairly discriminate against an independent presidential candidate.

Further, it is plaintiff's contention that the laws of the several defendant States, individually and collectively, which have established eligibility requirements for ballot access for a presidential candidate, beyond those expressly contained within Article II, Section 1, Paragraph 5, of the United States Constitution, are, oppressive and repressive of the political rights and freedoms guaranteed by the Constitution; contrary to the intentions of the original Framers of the Constitution; contrary to the fundamental principle of our representative democracy, embodied in the Constitution, that the people should choose whom they please to govern them; contrary to the egalitarian concept that the opportunity to be elected was open to all; contrary to the postulate that sovereignty is vested in the people, and that sovereignty confers on the people the right to choose freely their national leader, the President of the United States.

Finally, plaintiff contends that the laws of the several defendant States, individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, are inconsistent with, and violate, said provisions of the Constitution; deprive plaintiff and all citizens eligible to vote, the right to freely associate, and constitute an unlawful restraint on freedom of association, in contravention of the First Amendment of the United States Constitution; contravene and violate the Fourteenth Amendment, section 1, of the United States Constitution, which provides in pertinent part, that, "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States"; deprive plaintiff and all citizens eligible to vote, the equal protection of the laws guaranteed under the Fourteenth Amendment of the United States Constitution; are, in effect, fifty separate and

distinct amendments to the Constitution, which have been made by defendants in contravention of Article V. of the Constitution; and, are in conflict with and repugnant to the Constitution and are accordingly void under the supremacy clause, Article VI. of the United States Constitution.

6. Plaintiff's Request For Relief

Plaintiff brings this action to vindicate the supremacy of the Constitution of the United States, with respect to the election of a federal officer, the President of the United States. Plaintiff seeks: prospective declaratory relief with respect to the constitutionality of the laws of the several defendant States, individually and collectively, which have established additional eligibility requirements for ballot access for a presidential candidate, which are contrary to and inconsistent with Article II, Section 1, Paragraph 5, of the United States Constitution; to enjoin all fifty states from enforcing provisions of their respective laws, which are contrary to and inconsistent with Article II, Section 1, Paragraph 5, of the United States Constitution, and that have effectively denied him, as an independent presidential candidate, placement on the ballots to be used in the general election to elect the President of the United States; and, an order issued by the Court which directs each and every Secretary of State of the defendant states to place plaintiff's name on their respective general election ballots as an independent presidential candidate.

There being no other competent forum available to the parties, and there being a clear threat of imminent and irreparable harm to the constitutional rights of Plaintiff, due to the refusal of defendants to place plaintiff's name, as an independent candidate for President of the United States, on their respective State's November 5, 1996, general election

ballot, it is imperative that this Court exercise its original jurisdiction over the case and controversy by granting leave to file the instant Complaint and proceeding to determine the constitutional rights of plaintiff to have his name, as an independent candidate for President of the United States, placed on the several States' November 5, 1996, general election ballot, as well as granting the further relief prayed for in the Complaint.

ARGUMENT

Before the issues underlying the purpose of, and grounds for, the instant Complaint can be discussed, the questions concerning jurisdiction must be examined, first, with respect to whether there is a lawful basis for federal jurisdiction, in light of the Eleventh Amendment, since States are named as parties, and, second, if there is a basis for federal jurisdiction, whether there is also a basis for original jurisdiction to be invoked in the Supreme Court.

1. Federal Jurisdiction

In the instant Complaint, in which all fifty States and their respective Secretaries of State are named, the original jurisdiction of the Court is being invoked under Article III, Section 2, Clause 2 of the Constitution of the United States, and plaintiff contends the States are subject to the Court's jurisdiction, notwithstanding the Eleventh Amendment.

The Court has previously held that the Eleventh Amendment prohibits a private citizen from suing a State, unless the State consents to the action, *Clark v. Barnard*, 108 U.S. 436, 447, 2 S.Ct. 878, 883, 27 L.Ed. 780 (1883), *Atascadero State Hospital v. Scanlon*, 473 U.S., 234, 105 S.Ct., 3142 (1985). The Court has also held that Congress

can abrogate State immunity, pursuant to appropriate legislation. *Seminole Tribe of Florida v. Florida,* 116 S.Ct. 1114, (1996); *Fitzpatrick v. Bitzer*, 427 U.S. 445, 456, 96 S.Ct. 2666, 2671, 49 L.Ed.2d 614 (1976); *Pennsylvania v. Union Gas Co.*, 491 U.S. 1, 24, 109 S.Ct. 2273, 2287, 105 L.Ed.2d 1 (1989).

a. Explicit Text Of Eleventh Amendment

The Court's interpretation of the Eleventh Amendment has taken into consideration several factors, one of which, is the express language of the amendment.

The Eleventh Amendment to the United States Constitution, provides:

> "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." (emphasis added)

The explicit text of the Eleventh Amendment clearly and specifically declares that "one" State is not subject to suit by citizens of "another" State. The word, "one", has a fixed character, which imports a single definite idea. The singular meaning of the word is further understood by its agreement with the word "another", used contemporaneously in the same phrase.

If it was the intention of the Framers of the Eleventh Amendment to prohibit suits against more than one State in a single action, such intention could have been accomplished simply by using wording like, "one or more of the United States", to import a pluralistic meaning to the phrase.

Actually, the history behind the adoption of the Eleventh Amendment does not suggest that the Framers ever considered that more than one, or all, States would ever be sued in the same action, although a number of cases were brought against States prior to the passage of the amendment.

The Court, in the case that prompted the Eleventh Amendment, *Chisholm v. Georgia*, 2 Dall. 419, 1 L.Ed. 440 (1793), held that Georgia was subject to the judicial power in a common-law assumpsit action by a South Carolina citizen suing to collect a Revolutionary War military debt. Additionally, in December 1793, a suit was brought against Massachusetts in the Supreme Court by a British Loyalist whose properties had been confiscated. *Vassal v. Massachusetts*. "The point of the Eleventh Amendment was to bar jurisdiction in suits at common law by Revolutionary War debt creditors". *Seminole Tribe of Florida,* supra, at 1151 (SOUTER, dissenting) [citing *Cohens v. Virginia*, 6 Wheat. 264, 406-407, 5 L.Ed. 257 (1821)]. Plaintiffs who might prevail against a State and be awarded money judgments, which would tap the State treasuries and thus impair financially the States' functions, was the major concern of the day. It was not the purpose of the amendment "to strip the government of the means of protecting, by the instrumentality of its Courts, the constitution and laws from active violation." id. at 1151 (SOUTER, dissenting) (citing *Cohens, at 407*). Under the circumstances, it is not likely that the Framers of the Eleventh Amendment ever considered that a suit against several States, combined into the same action, would ever be commenced. Accordingly, when the Framers of the Eleventh Amendment expressly used the word "one" it is likely that they intended for the word to mean its exact singular numerical value. By its explicit terms, a suit against all States just does not fit within the meaning of the eleventh amendment. Therefore, plaintiff respectfully submits, that a

federal court has jurisdiction to hear this case, notwithstanding the Eleventh Amendment, because plaintiff is not suing "one" State, he is suing all fifty States in the same action.

b. States' Waiver Of Eleventh Amendment Immunity

Should the Court not find the foregoing jurisdictional argument persuasive, plaintiff, in the alternative, contends that all fifty States, with respect to the instant Complaint, have waived their Eleventh Amendment immunity from suit. Defendants' alleged waiver of immunity is based on the following grounds: all States upon becoming a member of the United States agreed to the supremacy of the Constitution; all States participate in the federal elections to elect the President of the United States, pursuant to Article II, Section 1, Paragraph 5, of the United States Constitution, a provision plaintiff alleges defendants have violated; plaintiff alleges defendants have violated Article V. of the Constitution, and the First and Fourteenth Amendments to the Constitution; therefore, it is alleged that the defendant states have waived their Eleventh Amendment immunity, because they participate in the election of a federal officer, the President of the United States, an important fundamental constitutional activity that has national impact upon the Republic and uniformity of the federal government and, because of their constitutional violations, with respect to that activity, have so seriously undermined the integrity and supremacy of the constitution, that in order to safeguard the Constitution and the Republic, it must be construed that defendants have waived their Eleventh Amendment immunity that otherwise would prohibit necessary, adequate, and timely judicial review of the constitutional violations.

The Court has recently stated:

> "That presupposition, first observed over a century ago in *Hans v. Louisiana*, 134 U.S. 1, 10 S.Ct. 504, 33 L.Ed. 842 (1890), has two parts: first, that each State is a sovereign entity in our federal system; and second, that " '[i]t is inherent in the nature of sovereignty not to be amenable to the suit of an individual without its consent". 116 S.Ct. 1114, at 1122, (1996).

Plaintiff, respectfully submits, however, that when a State leaves the sphere that is exclusively its own and enters into federal activities, like national presidential elections, which are governed by express constitutional provisions, it waives its immunity to the extent that it violates the constitution while engaging in those activities. See *Parden v. Terminal R. R. Co.*, 377 U.S. 184, 107 S.Ct. 2941, 12 L.Ed.2d 233 (1964). The Supremacy clause, Article VI. of the Constitution of the United States supports this contention as well. Plaintiff meets all the requirements for President of the United States, as contained in Article II, Section 1, Paragraph 5, of the United States Constitution. Defendants' refusal to place his name on their respective State ballots violate this provision, they ought not be able to hide behind Eleventh Amendment immunity, while at the same time ignoring the supreme law of the land that created the immunity in the first place.

By establishing additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, defendants, individually and collectively, have violated Article V. of the Constitution. Allowing the states to do this behind a curtain of Eleventh

Amendment immunity is pervasively destructive to our Republican form of government. The Court, discussed states' supplementing candidate qualifications in *U. S. Term Limits, Inc. v. Thornton*, 115 S.Ct. 1842, at 1871, 131 L.Ed.2d 881, (1995), and said:

> "Through the Amendment procedures set forth in Article V. The Framers decided that the qualifications for service in the Congress of the United States be fixed in the Constitution and be uniform throughout the Nation. That decision reflects the Framers' understanding that Members of Congress are chosen by separate constituencies, but that they become, when elected, servants of the people of the United States. They are not merely delegates appointed by separate, sovereign States; they occupy offices that are integral and essential components of a single National Government. In the absence of a properly passed constitutional amendment, allowing individual States to craft their own qualifications for Congress would thus erode the structure envisioned by the Framers, a structure that was designed, in the words of the Preamble to our Constitution, to form a 'more perfect Union.' "

Although the case involved congressional candidates, the same comments would seemingly apply to presidential candidates. The fifty States, by establishing additional eligibility requirements for ballot access for a presidential candidate, have essentially amended the Constitution fifty times, in contravention of Article V. They are operating outside their spheres as a State when they engage in this activity, and plaintiff contends that they surrender their immunity in the process.

Defendants', while participating in federal elections, violate independent candidates' First Amendment's rights, by establishing additional eligibility requirements for ballot access, and thus, plaintiff submits, waive their immunity by such action.

With respect to the First Amendment to the Constitution, certain comments made by the Court in *Anderson v. Celebrezze,* 460 U.S. 780, 103 S.Ct. 1564, at 1572, 75 L.Ed.2d 547 (1983), warrant repeating :

> "A burden that falls unequally on new or small political parties or on independent candidates impinges, by its very nature, on associational choices protected by the First Amendment. [460 U.S. 794] It discriminates against those candidates and--of particular importance--against those voters whose political preferences lie outside the existing political parties. Clements v. Fashing, supra, 457 U.S., at ----, 102 S.Ct., at 2844 (plurality opinion). By limiting the opportunities of independent-minded voters to associate in the electoral arena to enhance their political effectiveness as a group, such restrictions threaten to reduce diversity and competition in the marketplace of ideas. Historically political figures outside the two major parties have been fertile sources of new ideas and new programs; many of their challenges to the status quo have in time made their way into the political mainstream. Illinois Elections Bd. v. Socialist Workers Party, supra, 440 U.S., at 186, 99 S.Ct., at 991; Sweezy v. New Hampshire, 345 U.S. 234, 250-251, 77 S.Ct. 1203, 1211-1212, 1 L.Ed.2d 1311 (1957) (opinion of Warren, C.J.). () In short, the primary values protected by the First

> Amendment--"a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open," New York Times Co. v. Sullivan, 376 U.S. 254, 270, 84 S.Ct. 710, 720, 11 L.Ed.2d 686 (1964)--are served when election campaigns are not monopolized by the existing political parties."

Moreover, defendants', while participating in federal elections, violate independent candidates' Fourteenth Amendments rights, by establishing additional eligibility requirements for ballot access, and thus, plaintiff submits, waive their immunity by such action. The Fourteenth Amendment to the Constitution, in part, provides:

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States"..."nor deny to any person within its jurisdiction the equal protection of the laws"

Independent presidential candidates are discriminated against and denied equal protection of the laws in most States simply by being denied the same amount of time in which to file petition signatures, as opposed to the time allowed organized political parties. For example, in Texas, Plaintiff was given until May 14th to obtain petition signatures as an independent candidate; however, political parties were given until May 27th. Many other biased requirements and tactics, however, are used, apparently in an effort to discourage independent candidates from seeking office. Such discrimination increases the candidate's cost and expenses, the candidate's chances of political success are reduced, the integrity of the democratic process suffers, and the Nation as a whole loses. Its interesting to note how the election laws, in the several states, favor the major political parties, as opposed

to independent presidential candidates. One does not have to look very hard to find substantial evidence of it, either. Fourteenth Amendment violations outpour from the states' establishment and application of ballot access requirements for independent presidential candidates. Protection from Fourteenth Amendment violations resulting from the States' abridgment of citizens' rights, with respect to seeking federal office, is no less embodied in the Constitution than is State immunity from suit. See *State of Georgia v. Stanton*, 73 U.S. 50, 6 Wall 50, 18 L.Ed. 721, (1867) (Case concerns the 1867 post Civil War Reconstruction Acts and the military districts that were established in the Southern States - their States' Rights were denied in Congress until such time as they ratified the Fourteenth Amendment). Plaintiff respectfully submits, that the Republic the Framers envisioned will not have much of a future, if the Fourteenth Amendment violations associated with the election of Federal Officers are not brought under control. Eleventh Amendment immunity ought to yield to the protection of Fourteenth Amendment Rights.

Justice Brennan's apparent foresight makes the point, he wrote:

> "[f]or Eleventh Amendment purposes, the line between permitted and prohibited suits will often be indistinct," ante, at 2941. This hodgepodge produces no positive benefits to society. Its only effect is to impair or prevent effective enforcement of federal law. It is highly unlikely that, having created a system in which federal law was to be supreme, the Framers of the Constitution or of the Eleventh [478 U.S. 293] Amendment nonetheless intended for that law to be unenforceable in the broad class of cases now barred by this Court's

precedents. In fact, as I demonstrated last Term in *Atascadero*, the Framers intended no such thing." *Papasan v. Allain* 478 U.S. 265, 106 S. Ct. 2932, at 2948 (1986) (BRENNAN, J., dissenting).

c. Supreme Court Original Jurisdiction

Article III, Section 2, Clause 2 of the Constitution of the United States, provides:

> "In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction."

Since States are name as parties in the instant Complaint, they having surrendered and waived their Eleventh Amendment immunity, as shown herein, and there being a justiciable case and controversy existing between the parties, the original jurisdiction of the Court is properly invoked under Article III, Section 2, Clause 2 of the Constitution of the United States.

The reading of 28 U.S.C. § 1251, indicates that when a State is a party that exclusive original jurisdiction is limited to controversies between two or more States. However, in *South Carolina v. Regan*, 465 U.S. 367, 104 S.Ct. 1107, at 1124, (U.S.S.C. 1984) the Court said:

> "[T]he "Court has indicated that Congress is without power to add parties not within the initial grant of original jurisdiction, see Marbury v. Madison, 1 Cranch 137, 174, 2 L.Ed. 60 (1803), and has indicated, in dicta, that Congress may not withdraw that jurisdiction either. See, e.g., California v.

> Arizona, 440 U.S. 59, 65-66, 99 S.Ct. 919, 923-924, 59 L.Ed.2d 144 (1979); California v. Southern Pacific Co., 157 U.S. 229, 261, 15 S.Ct. 591, 604, 39 L.Ed. 683 (1895); Wisconsin v. Pelican Insurance Co., 127 U.S. 265, 300, 8 S.Ct. 1370, 1379, 32 L.Ed. 239 (1888); Ames v. Kansas, 111 U.S. 449, 464, 4 S.Ct. 437, 444, 28 L.Ed. 482 (1884); Martin v. Hunter's Lessee, 1 Wheat. 304, 332, 4 L.Ed. 97 (1816); Marbury v. Madison, supra, 1 Cranch, at 174, 2 L.Ed. 60." (emphasis added).

Therefore, notwithstanding 28 U.S.C. § 1251, Plaintiff submits that the Court has original jurisdiction under Article III, Section 2, Clause 2 of the Constitution of the United States, to adjudicate the instant Complaint, because Congress cannot diminish such jurisdiction, as indicated in *South Carolina v. Regan*, 465 U.S. 367, 104 S.Ct. 1107, at 1124, (U.S.S.C. 1984).

2. States' Unlawful Additions To Presidential Candidate Eligibility Requirements

Article II, Section 1, Paragraph 5, of the United States Constitution, provides:

> "No person except a natural born Citizen...shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty-five Years, and been fourteen Years a Resident within the United States."

There are no other eligibility requirements to be found anywhere else in the Constitution, pertaining to the President of the United States. Each of the defendant States, on the other hand, have enacted laws adding ballot access eligibility

requirements for an independent presidential candidate, in varying character and number. The Court, has generally approved States' supplemental requirements. In *U. S. Term Limits, Inc. v. Thornton*, 115 S.Ct. 1842, at 1870, 131 L.Ed.2d 881, (1995), the Court, commented on the subject of States establishing requirements applicable to independents, saying:

> "We also recognized the 'States' strong interest in maintaining the integrity of the political process by preventing interparty raiding,' id., at 731, 94 S.Ct., at 1279, and explained that the specific requirements applicable to independents were 'expressive of a general State policy aimed at maintaining the integrity of the various routes to the ballot,' id., at 733, 94 S.Ct., at 1281. In other cases, we have approved the States' interests in avoiding 'voter confusion, ballot overcrowding, or the presence of frivolous candidacies,' Munro v. Socialist Workers Party, 479 U.S. 189, 194-195, 107 S.Ct. 533, 537, 93 L.Ed.2d 499 (1986), in 'seeking to assure that elections are operated equitably and efficiently,' Burdick v. Takushi, 504 U.S., at 433, 112 S.Ct., at 2063, and in 'guard[ing] against irregularity and error in the tabulation of votes,' Roudebush v. Hartke, 405 U.S. 15, 25, 92 S.Ct. 804, 810, 31 L.Ed.2d 1 (1972). In short, we have approved of State regulations designed to ensure that elections are " 'fair and honest and ... [that] some sort of order, rather than chaos, ... accompan[ies] the democratic processes.' " Burdick v. Takushi, 504 U.S., at 433"
> "The provisions at issue in Storer and our other Elections Clause cases were thus constitutional because they regulated election procedures and did not even arguably impose any substantive

> qualification rendering a class of potential candidates ineligible for ballot position. They served the State interest in protecting the integrity and regularity of the election process, an interest independent of any attempt to evade the constitutional prohibition against the imposition of additional qualifications for service in Congress. And they did not involve measures that exclude candidates from the ballot without reference to the candidates' support in the electoral process. Our cases upholding State regulations of election procedures thus provide little support for the contention that a State-imposed ballot access restriction is constitutional when it is undertaken for the twin goals of disadvantaging a particular class of candidates and evading the dictates of the Qualifications Clauses."

The reasons announced by the Court for allowing the States to establish regulations or specific requirements, with respect to federal elections, appear reasonable, but the States abuse the latitude given them by the Court, which results in violations of the Constitution, with regard to independent presidential candidates. Plaintiff is such an example. As shown in the instant Complaint and herein, plaintiff has not undertaken a frivolous candidacy or failed to gain national recognition or support, albeit not on a level of a major party candidate. His primary problem stems from not being wealthy or supported by those who are rich. That's the catch, the States, individually and collectively, have established ballot access requirements, that necessitate a candidate to have substantial campaign funds to finance an organization that can help to satisfy the States' ballot requirements. The States have been able to do indirectly, what they cannot do directly, which, in effect, has been to deny plaintiff his

Constitutional rights. *Thornton*, 115 S.Ct. 1842, at 1867 [quoting Harman v. Forssenius, 380 U.S. 528, 540, 85 S.Ct. 1177, 1185, 14 L.Ed.2d 50 (1965)]. Some States have more extensive requirements than others, but the "Constitution 'nullifies sophisticated as well as simple-minded modes' of infringing on Constitutional protections." id. at 1867 [quoting Lane v. Wilson, 307 U.S. 268, 275, 59 S.Ct. 872, 876, 83 L.Ed. 1281 (1939); Harman v. Forssenius, 380 U.S., at 540-541, 85 S.Ct., at 1185.]

Plaintiff, has difficulty accepting the constitutional propriety of any State requirements beyond those expressed in Article II, Section 1, Paragraph 5, of the United States Constitution, and without a Constitutional amendment for same, would not agree that any additional requirements are lawful. However, he does understand that when isolated, on an ad hoc basis, with respect to some States, the requirements appear not to be excessive or burdening. Yet, when those States are combined with others, the requirements form a much different picture, and it can be seen that for an independent candidate, the situation is an enormous ballot access problem. In other cases, the requirements are stifling. California for example requires 147,000 (plus) petition signatures; Texas requires 61,000 (plus) petition signatures from citizens who, (1) did not vote in any primary in 1996 already, or (2) had not signed a petition for any other candidate or party, in 1996. In these states, and others similar to them, the requirements present substantial ballot access prerequisites. One should not have to be a "millionaire" to run for President, in all fifty states, as an independent candidate, but to satisfy all of the States' requirements it practically takes that much. It certainly can't be said that the Framers of the Constitution ever contemplated such circumstances when the national government was formed. According, to the Federalist No. 57, at 351, "No qualification

of wealth...is permitted to fetter the judgment or disappoint the inclination of the people". *Thornton*, supra at 1857.

The Framers made it quite clear that they thought wealth could subvert the Constitution, as the Court in *Thornton*, noted:

> "We found particularly revealing the debate concerning a proposal made by the Committee of Detail that would have given Congress the power to add property qualifications. James Madison argued that such a power would vest " 'an improper & dangerous power in the Legislature,' " by which the Legislature" 'can by degrees subvert the Constitution.' Madison continued: " 'A Republic may be converted into an aristocracy or oligarchy as well by limiting the number capable of being elected, as the number authorised to elect.' "
> 115 S.Ct. 1842, at 1849 (citations omitted).

When noting that the qualifications expressed in the Constitution were fixed and unalterable the Court said in *Thornton*, supra:

> "[T]he Framers understood the qualifications in the Constitution to be fixed and unalterable by Congress. For example, we noted that in response to the antifederalist charge that the new Constitution favored the wealthy and well-born, Alexander Hamilton wrote:
>
> " 'The truth is that there is no method of securing to the rich the preference apprehended but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part

> of the power to be conferred upon the national government....The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the legislature.' " 395 U.S., at 539, 89 S.Ct., at 1973, quoting The Federalist No. 60, p. 371 (C. Rossiter ed. 1961) (emphasis added) (hereinafter The Federalist). 115 S.Ct. 1842, at 1849.

The Framers of the Constitution did not intend that, as a condition precedent to being able to seek elective Federal office, a person would have to be wealthy or have access to substantial financial resources. In *Thornton*, supra a passage reads:

> "Timothy Pickering noted that, "while several of the state constitutions prescribe certain degrees of property as indispensable qualifications for offices, this which is proposed for the U.S. throws the door wide open for the entrance of every man who enjoys the confidence of his fellow citizens." Letter from T. Pickering to C. Tillinghast (Dec. 24, 1787), 1 Bailyn 289, 290 (emphasis in original). Additional qualifications pose the same obstacle to open elections whatever their source. "
> 115 S.Ct. 1842, at 1863. (emphasis added).

Although, the *Thornton*, case dealt with Representatives and Senators, much of what was said also applies to presidential candidates, and such was indicated within the opinion:

> "Representatives and Senators are as much officers of the entire union as is the President. States thus

> "have just as much right, and no more, to prescribe new qualifications for a representative, as they have for a president.... It is no original prerogative of state power to appoint a representative, a senator, or president for the union." Ibid. (emphasis added). 115 S.Ct. 1842, at 1855, (quoting 1 Story Sec. 627).

Plaintiff submits, allowing individual States to add ballot access requirements, directly or indirectly, for independent presidential candidates, which have a collective effect upon the candidates as well as the Nation, "would be inconsistent with the Framers' vision of a uniform National government representing the people of the United States," and further, "if the qualifications set forth in the text of the Constitution are to be changed, that text must be amended". 115 S.Ct. 1842, at, 1845.

The Framer's concept of a uniform National government runs head-on into the defendant States' establishment, directly or indirectly, of ballot access requirements, for independent presidential candidates. No doubt they have a collective effect upon the candidates as well as the Nation. The Court took recognition of this fact in Anderson v. Celebrezze, 103 S.Ct. 1564, at 1573, 1573, 460 U.S. 780, (U.S.Ohio 1983), when it noted:

> Furthermore, in the context of a Presidential election, state-imposed restrictions implicate a uniquely important [460 U.S. 795] national interest. For the President and the Vice President of the United States are the only elected officials who represent all the voters in the Nation. Moreover, the impact of the votes cast in each State is affected by the votes cast for the various candidates in other States. Thus in a Presidential election a State's

> enforcement of more stringent ballot access requirements, including filing deadlines, has an impact beyond its own borders. Similarly, the State has a less important interest in regulating Presidential elections than statewide or local elections, because the outcome of the former will be largely determined by voters beyond the State's boundaries.

As the Court in *Thornton*, noted, the States can not in any manner change the requirements for Federal office:

> "G. McCrary, American Law of Elections Sec. 322 (4th ed. 1897) ("It is not competent for any State to add to or in any manner change the qualifications for a Federal office, as prescribed by the Constitution or laws of the United States"); T. Cooley, General Principles of Constitutional Law 268 (2d ed. 1891) ("The Constitution and laws of the United States determine what shall be the qualifications for federal offices, and state constitutions and laws can neither add to nor take away from them")."
> 115 S.Ct. 1842, at 1853.

Also, States possess no reserve power to "add qualifications to those that are fixed in the Constitution". 115 S.Ct. 1842, at 1856. Allowing States to "formulate diverse qualifications...would result in a patchwork of state qualifications, undermining the uniformity and the national character that the Framers envisioned and sought to ensure". id. at 1864.

The Court had this to say on the States supplementing exclusive requirements set forth in the Constitution:

> "In sum, the available historical and textual evidence, read in light of the basic principles of democracy underlying the Constitution and recognized by this Court in Powell, reveal the Framers' intent that neither Congress nor the States should possess the power to supplement the exclusive qualifications set forth in the text of the Constitution." 115 S.Ct. 1842, at 1866.

The States by establishing ballot access requirements for independent presidential candidates, even the most innocuous, have subverted the basic and fundamental principles upon which the Republic was formed, and have retarded and frustrated the goal of national uniformity, envisioned by the Framers. They have also created, "qualifications indirectly", with the "effect of handicapping a class of candidates", 115 S.Ct. 1842, at 1871, who find it difficult to raise money and gain support, due directly to the States' requirements.

Moreover, in light of the importance to preserve uniformity in the national government, especially the executive branch, in which there is only two elected federal officers, the disparity as it presently exists amongst the several States, with regard to ballot access requirements for presidential candidates, must be extinguished in order to preserve the posterity of, and, "to form a more perfect Union." 115 S.Ct. 1842, at 1871.

CONCLUSION

Plaintiff has shown that an actual case and controversy exists between him and defendants. He has demonstrated that the defendant States, with respect to the instant Complaint, do not have Eleventh Amendment

immunity to the suit. Lack of Eleventh Amendment immunity is premised on the explicit text of the amendment, which does not, as argued, preclude a suit against all States, as opposed to just "one". Alternatively, lack of immunity was premised on the theory that States waive their immunity when they leave the sphere that is exclusively their own and enter into federal activities, like national presidential elections, and violate the constitution while engaging in those activities. It was argued that Protection from Fourteenth Amendment violations resulting from the States' abridgment of citizens' rights, with respect to seeking federal office, is no less embodied in the Constitution than is State immunity from suit. Moreover, plaintiff respectfully submits, that Fourteenth Amendment rights are no less essential to a uniform Republic today than Congress deemed them to be in 1867, when the Republic was not uniform, and Congress, pursuant to the Reconstruction Acts, denied the Southern States their States' Rights in Congress and subjugated their civil governments to that of the military, until they ratified the amendment. See *State of Georgia v. Stanton*, 73 U.S. 50, 6 Wall 50, 18 L.Ed. 721, (1867). Certainly, Eleventh Amendment immunity pales against loss of States' Rights in Congress and imposition of martial law. If such rights could be denied until the States ratified the Fourteenth Amendment, then violation of the amendment today ought to constitute at least a waiver of immunity, with respect to prospective relief, to enjoin those violations.

Plaintiff has shown that the case is properly within the Court's original jurisdiction, and that the defendant States by establishing, individually and collectively, additional eligibility requirements for ballot access for a presidential candidate, beyond those contained within Article II, Section 1, Paragraph 5, of the United States Constitution, have

violated Articles II., V. and VI. of the Constitution, and the First and Fourteenth Amendments to the Constitution.

The Complaint which plaintiff asks leave to file presents a case of novel national importance, because it concerns presidential elections, independent presidential candidates, the several States, the national government, and every citizen of the United States, who wishes to exercise his or her right to freely choose their national leader, the President of the United States. It calls upon the Supreme Court to exercise its original jurisdiction, conferred on the Court by Article III, Section 2, Clause 2 of the Constitution of the United States, and to adjudicate the controversy between plaintiff and all fifty States. Further, plaintiff has no other plain, speedy, and adequate remedy at law or in equity whatsoever in any other federal court.

In light of the foregoing, plaintiff respectfully requests that the prayer for relief in the Complaint be granted.

Respectfully Submitted,

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Presidential Candidate
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August 16, 1996

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