

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOHN ANTHONY CASTRO,

Plaintiff,

vs.

Case No. 5:23-cv-00781-JD

SECRETARY OF THE OKLAHOMA
STATE ELECTION BOARD PAUL
ZIRIAX,

And,

DONALD JOHN TRUMP,

Defendants.

**OKLAHOMA REPUBLICAN PARTY’S MOTION TO INTERVENE PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 24 AND BRIEF IN SUPPORT**

JONATHAN ECHOLS

[REDACTED]

JAY ALAN SEKULOW*

[REDACTED]

JORDAN SEKULOW*

STUART J. ROTH*

ANDREW J. EKONOMOU*

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FOR LAW AND JUSTICE

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Counsel for Intervenor

September 19, 2023

** Not admitted to practice before this Court, motions for admission pro hac vice forthcoming*

Intervenor, the Oklahoma Republican Party, respectfully moves to intervene in this action pursuant to Federal Rule of Civil Procedure 24, and requests the Court accept its proposed Complaint in Intervention, attached hereto.

Counsel for Intervenor conferred with pro se Plaintiff via email, who has advised he is opposed to this motion. Counsel for the Defendants have not yet appeared and the Defendants may not yet be served with the Plaintiff's Complaint.

For the reasons stated below, Intervenor requests that this Court grant this motion and allow the Republican Committee of Oklahoma to intervene as of right, or alternatively, via permissive intervention, to represent its interests in this action.

I. The Intervenor Oklahoma Republican Party's Interests

The Oklahoma Republican Party is an unincorporated nonprofit association and Political Party Committee in the state of Oklahoma, operating under Oklahoma law. Its primary purpose, as reflected in its bylaws, is to, subject to its own rules of organization and procedure, elect duly nominated Republican candidates to office, promote the principles and achieve the objectives of the Republican Party, and perform its functions under Oklahoma election law.

Its interests, clearly implicated in this action, are to elect Republican candidates and to protect the access of its members, statewide, to as many candidates as possible. Nominating and designating candidates is its core role – regardless of who any particular candidate might be. Intervenor seeks intervention in this action to protect its processes and procedures and the voter access of its members statewide and any Oklahoman who might vote for any Republican candidate. The claims advanced by the Plaintiff impair the

Intervenor's interests and those of its members. Indeed, the Plaintiff's claims impair the interests of voters everywhere.

Although the Secretary of the Oklahoma State Election Board plays a role in the election process, it is the Oklahoma Republican Party – the Intervenor – who bears the ultimate responsibility under Oklahoma law to determine who shall be the Republican nominees for presidential office according to its own policies and procedures, by determining who shall represent the Oklahoma Republican Party at the National Republican Convention.

II. The Intervenor Requests Intervention as of Right.

This Court should grant the Oklahoma Republican Party's motion for intervention as of right. Intervention as a matter of right under Rule 24(a) is mandated when a federal statute gives the applicant an unconditional right to intervene or when the applicant satisfies each of four conditions: (1) the applicant has moved for intervention timely; (2) the applicant has a significantly protectable interest relating to the property or transaction that is the subject of the action; (3) the applicant is situated such that the disposition of the action may impair or impede the party's ability to protect that interest; and (4) the applicant's interest is not represented adequately by existing parties. *Alameda Water & Sanitation Dist. v. Browner*, 9 F.3d 88, 90 (10th Cir. 1993); *Kane Cnty. v. United States*, 928 F.3d 877, 889 (10th Cir. 2019). This circuit "follows a somewhat liberal line in allowing intervention." *Utah Ass'n of Cntys. v. Clinton*, 255 F.3d 1246, 1249 (10th Cir. 2001) (quotations omitted). "The central concern in deciding whether intervention is proper is the practical effect of the litigation on the applicant for intervention." *San Juan Cnty. v.*

United States, 503 F.3d 1163, 1193 (10th Cir. 2007) (*en banc*).

First, the Oklahoma Republican Party's motion to intervene is timely. The Tenth Circuit instructs that Rule 24's timeliness requirement should be evaluated "in light of all the circumstances, including the length of time since the applicant knew of his interest in the case, prejudice to the existing parties, prejudice to the applicant, and the existence of any unusual circumstances." *Sanguine, Ltd. v. U.S. Dep't of Interior*, 736 F.2d 1416, 1418 (10th Cir. 1984) (citations omitted). The Tenth Circuit has further explained that such factors "are a function of intervention itself rather than the timing of the motion to intervene. The prejudice prong of the timeliness inquiry measures prejudice caused by the intervenors' delay – not by the intervention itself." *Utah Ass'n of Cnty. v. Clinton*, 255 F.3d 1246, 1251 (10th Cir. 2001) (internal citation omitted). This action was filed on Wednesday, September 6, 2023. No significant action has been taken in this case. There has been no appearance entered from either of the named Defendants. The deadline for service has not yet passed and there is no proof of service on file. No dispositive orders have been entered. No significant action has taken place in this case since it was filed only approximately two weeks ago. Accordingly, this motion to intervene, by being filed now, was filed in a timely fashion.

Second, the Oklahoma Republican Party has a significant, legally protectable interest relating to the transaction that is the subject of this action. While Rule 24(a) does not explicitly specify the nature of the interest required for intervention as a matter of right, the Supreme Court has held that "what is obviously meant . . . is a significantly protectable interest." *Donaldson v. United States*, 400 U.S. 517, 531 (1971). The threshold for finding

the requisite legally protectable interest is not high. The Tenth Circuit has stated that, “[s]uch impairment or impediment need not be ‘of a strictly legal nature,’” and a court “‘may consider any significant legal effect in the applicant’s interest and [we are] not restricted to a rigid res judicata test.’” *Coal. of Ariz./N.M. Cnty. for Stable Econ. Growth v. U.S. Dep’t of Interior*, 100 F.3d 837, 845 (quoting *Nat. Res. Def. Council, Inc. v. U.S. Nuclear Regul. Comm’n*, 578 F.2d 1341, 1345 (10th Cir. 1978)). “[T]he interest test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process.” *Nuesse v. Camp*, 385 F.2d 694, 700 (D.C. Cir. 1967). “A protectable interest is one that would be impeded by the disposition of the action.” *W. Energy All. v. Zinke*, 877 F.3d 1157, 1165 (10th Cir. 2017) (quotations omitted).

A District Court within this Circuit has explained in detail why a Republican Committee has interests justifying intervention in election disputes:

“The RPNM is similar to the environmental organizations who many courts have recognized to have protectable interests in litigation challenging the goals of those organizations. . . . As an organization involved in helping to elect candidates to office, it has a direct and specific interest in the litigation that is not the same general interest in fair elections that is common to all voters. . . . The RPNM, though, is not asserting “indirect and speculative partisan concerns,” but has a concrete interest in this action, and invalidation of the challenged law could directly impact its interest in getting its candidates elected. Its protectable interest in this matter . . . is not in vague, general interests such as preserving confidence in the electoral system. Its protectable interest is a result of running a slate of state-wide candidates.”

Am. Ass’n of People with Disabilities v. Herrera, 257 F.R.D. 236, 258 (D.N.M. 2008). That analysis applies here, as well. The Oklahoma Republican Party has a specific, protectable interest in ensuring that it will be able to nominate the candidates of its choosing, candidates

affiliated with the Republican Party, to public office. The Oklahoma Republican Party clearly has an interest in who will be its presidential nominee.¹

While the Secretary of the Oklahoma State Election Board plays a significant statutory role in the primary election process, the Secretary's role does not supersede the ability of political parties to make their own decisions. In short, the roles here are different, but just as significant. "If the political parties involved in the primary elections will not accept the minimum threshold or other provisions of this section, or have a different method of allocating the votes of all candidates falling below such threshold, either as to the congressional districts or statewide vote, then these matters may be governed by the respective political parties involved." Okla. Stat. tit. 26, § 20-104(H). The Republican Party has chosen to exercise its authority to create rules regarding candidate selection; its rules regarding the selection of Republican delegates at the Republican National Convention expressly supersede and supplant the method enumerated under state law. Oklahoma law reflects the authority of political parties to make their own decisions regarding the political process and how their candidates for office will be selected. For example, the Attorney General, when certifying primary results, is "required to provide said notice in such a way as to be consistent with the methods required by the recognized political parties relative to selection of delegates to their national conventions." Okla. Stat. tit. 26, § 20-104(F). Each party selects its candidates to the national convention "by a method to be determined by the party." *Id.* § 20-104(E). By selecting its candidates to the National Republican

¹ See, e.g., Rules of the Oklahoma Republican Party, available at <https://okgop.com/wp-content/uploads/2021/08/2021-State-Party-Rules.pdf>, at p. 33.

Convention, the Oklahoma Republican Party exercises authority over the question of who will be the Republican nominee for President. As the political party with authority and the prerogative to determine its nominees for office, the Oklahoma Republican Party has a specific, identifiable interest in ensuring that it has the ability to carry out its decisions through determining its party nominees, justifying its intervention in this action.

Third, relatedly, the Oklahoma Republican Party is situated such that the disposition of this action will impair its ability to protect its interests. The Tenth Circuit has emphasized that “the question of impairment is not separate from the question of existence of an interest.” *Nat. Res. Def. Council v. U.S. Nuclear Regul. Comm’n*, 578 F.2d 1341, 1345 (10th Cir. 1978). Moreover, “the Rule refers to impairment ‘as a practical matter.’ Thus, the court is not limited to consequences of a strictly legal nature.” *Id.* “To satisfy this element of the intervention test, a would-be intervenor must show only that impairment of its substantial legal interest is possible if intervention is denied. This burden is minimal.” *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1247 (6th Cir. 1997).

A decision in this case adverse to Defendant Donald John Trump would likewise have an adverse effect on the Oklahoma Republican Party. Should the Oklahoma Republican Party wish to designate Defendant Trump as a candidate for President pursuant to its applicable rules and procedures, an adverse decision in this action impairs its ability to do so with res judicata effect, just as much as if it had been a party to the litigation. Moreover, this case has broader consequences on the ability of the Oklahoma Republican Party to designate or nominate the candidates of its choosing beyond the upcoming elections, pursuant to its own rules and procedures. Accordingly, there is a clear likelihood

that the Intervenor's interests would be impaired by this action, justifying intervention as of right.

Finally, the Oklahoma Republican Party's interests in this matter is not represented adequately by the existing parties. "Although an applicant for intervention as of right bears the burden of showing inadequate representation, that burden is the 'minimal' one of showing that representation 'may' be inadequate. *Sanguine, Ltd. v. U.S. Dep't of Interior*, 736 F.2d 1416, 1419 (citing *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)); see *Nat'l Farm Lines v. Interstate Com. Comm'n*, 564 F.2d 381, 383 (10th Cir. 1977). "An applicant may fulfill this burden by showing collusion between the representative and an opposing party, that the representative has an interest adverse to the applicant, or that the representative failed in fulfilling his duty to represent the applicant's interest." *Id.* Only "when the objective of the applicant for intervention is *identical* to that of one of the parties" is representation considered to be adequate. *Coal. of Ariz./N.M. Cntys. for Stable Econ. Growth v. U.S. Dep't of Interior*, 100 F.3d 837, 845 (10th Cir. 1996) (quotations omitted) (emphasis added). See *Utah Ass'n of Cntys v. Clinton*, 255 F.3d 1246, 1254 (10th Cir. 2001) (same); *Nat'l Farm Lines v. Interstate Com. Comm'n*, 564 F.2d 381, 383 (10th Cir. 1977) (recognizing the proposed intervenor's "slight" and "minimal" burden of establishing that representation of his interests "may be inadequate").

As to the Defendant Secretary of the Oklahoma State Election Board, this minimal burden is further reduced when it is the government whose ability to adequately represent the potential intervenor's interest is in question. See *Utah Ass'n, of Cntys. v. Clinton*, 255 F.3d 1246, 1254-55 (10th Cir. 2001). "[A] presumption of adequate representation arises

when an applicant for intervention and an existing party have the same ultimate objective in the litigation,” but the Tenth Circuit has “held this presumption rebutted by the fact that the public interest the government is obligated to represent may differ from the would-be intervenor’s particular interest.” *Id.* at 1255; *see Trbovich v. United Mine Workers*, 404 U.S. 528, 538 (1972) (holding that a union member’s interest was not adequately represented by the Secretary of Labor because the Secretary had a “duty to serve two distinct interests, which are related, but not identical” that of the individual union member and that of the general public); *Nat’l Farm Lines v. Interstate Com. Comm’n*, 564 F.2d 381, 384 (10th Cir. 1977) (“We have here also the familiar situation in which the governmental agency is seeking to protect not only the interest of the public but also the private interest of the petitioners in intervention, a task which is on its face impossible. The cases correctly hold that this kind of a conflict satisfies the minimal burden of showing inadequacy of representation.”).

In this case, the interests of the Secretary of the Oklahoma State Election Board are clearly different from that of the Oklahoma Republican Party. The Secretary’s interest is primarily that of the public generally, in the general and faithful application of the law. The Oklahoma Republican Party’s interest is different in nature: Its interest is instead in the maintenance of its own rights, autonomy, procedures, operations, prerogatives, and its members’ interests and ballot access. The Secretary’s role as a government official, even properly executed, presents inherently different interests than those of a private litigant, including those of the Intervenor herein.

Likewise, the Oklahoma Republican Party's interests are not fully represented here by Defendant Trump.² Defendant Trump clearly has his own important and legitimate interests implicated in this action. However, his interests and the Oklahoma Republican Party's interests are not identical in several material respects. Intervenor's interests encompass its operations and processes in all future elections, in perpetuity, and without regard to whether the Defendant is a candidate on the ballot. This alone makes its interests not identical to Defendant Trump's interests. *Coal. of Ariz./N.M. Cnty. for Stable Econ. Growth v. U.S. Dep't of Interior*, 100 F.3d 837, 845 (10th Cir. 1996).

The Plaintiff's claims thwart the autonomy of the Oklahoma Republican Party to determine its candidates through the nomination process. If a novel lawsuit like this one, based on the types of conclusory assertions contained in the Complaint, is allowed to proceed or the relief requested by Plaintiff is granted even in part, the Intervenor is

² As the Tenth Circuit has explained, even if parties apparently have similar interests and align in that sense, their interests may still diverge for multiple reasons. *Barnes v. Sec. Life of Denver Ins. Co.*, 945 F.3d 1112, 1125 (10th Cir. 2019). As explained in *Barnes*:

To be sure, Jackson and SLD are both undoubtedly interested in defending against, and ultimately defeating, the claims asserted in Barnes's complaint. From there, however, their interests clearly diverge.... Differences in their pertinent administrative practices could prompt different factual defenses and strategies, both as to class certification-related arguments and the merits. Further, and relatedly, SLD's counsel cannot be expected to act in the best interests of both SLD and Jackson. Rather, SLD's counsel will, and should, act only in the best interests of its client, SLD. And, indeed, SLD admits as much in its appellate brief We therefore conclude that Jackson easily satisfies the 'minimal' burden of establishing a 'possibility' that its interests will not be adequately represented by SLD.

Barnes v. Sec. Life of Denver Ins. Co., 945 F.3d 1112, 1125 (10th Cir. 2019). Likewise in this case, Defendant Trump's counsel will act in the best interests of Defendant Trump, while the Oklahoma Republican Party's counsel will act in the Committee's best interests.

materially harmed – and it is harmed long after the 2024 Presidential Elections are decided. Plaintiff is attempting to accomplish a maneuver with the express intent to block from the ballot the candidate he believes the Intervenor will designate and to enjoin the Oklahoma Republican Party from carrying out its own political, expressive, and associational activity. [See Verified Petition, Doc. #1, ¶57, at p. 20 (seeking to “secure an injunction against the Republican Party” to prevent Trump’s nomination)]. The Intervenor’s interests are not in conflict with Defendant Trump, but they are not identical, either.

III. Alternatively, the Intervenor Requests this Court Grant its Intervention Permissively.

Even if this Court were to find the Oklahoma Republican Party ineligible for intervention as of right, it clearly satisfies the requirements for permissive intervention under Rule 24. Federal Rule of Civil Procedure 24(b)(1)(B), which concerns “permissive intervention,” states that “the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact.” For context, federal courts across the country have regularly granted permissive intervention to political parties in election-related cases. *See Democratic Party of Va. v. Brink*, No. 3:21-cv-756-HEH, 2022 U.S. Dist. LEXIS 19983, at *2 (E.D. Va. Feb. 3, 2022) (“[Intervenor] is one of Virginia’s two major political parties, and it brings a unique perspective on the election laws being challenged and how those laws affect its candidates and voters. Courts often allow the permissive intervention of political parties in actions challenging voting laws for exactly this reason.”) (citation omitted).

Both types of intervention share the timeliness requirement. As explained above

regarding intervention as of right, the Oklahoma Republican Party's motion to intervene is timely. The Oklahoma Republican Party's response to the Petitioner's arguments will share common questions of law and fact with the central issue already present in this litigation, namely, disqualification under the Fourteenth Amendment. Intervention will result in neither prejudice nor undue delay. As a party against whom injunctive relief is sought, [*See* Verified Petition, Doc #1, ¶57, at p. 20 (seeking to “secure an injunction against the Republican Party” to prevent Trump's nomination)], the Oklahoma Republican Party is clearly a proper party to be added to this litigation.

This case has only just begun, and the Oklahoma Republican Party has an interest in ensuring that this matter is resolved as promptly as possible so that it may determine who its designated presidential candidates will be. If intervention is granted, the legal issues present in this case regarding the meaning of the Fourteenth Amendment will be unaltered, and there will likewise be no change to the practical questions before this Court. As this case seems one likely to be decided as a matter of law or on the pleadings, it appears there would be no additional discovery burden imposed by the addition of the Oklahoma Republican Party as a party. Accordingly, there would be no burden to the Court or to the parties that would result from intervention. In sum, the Intervenor “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b)(1)(B). That common question is grounded upon the Fourteenth Amendment to the Constitution of the United States and whether Petitioner's request to thwart the Intervenor's ability to have its designated candidates presented to the people for a vote.

WHEREFORE, Intervenor respectfully requests that the Court grant this motion

and allow the Oklahoma Republican Party to intervene, file its proposed Complaint in Intervention, and defend its interests in this action.

Dated: September 19, 2023.

Respectfully submitted,

/s/ Jonathan D. Echols
JONATHAN D. ECHOLS

[REDACTED]

JAY ALAN SEKULOW*

[REDACTED]

JORDAN SEKULOW*

[REDACTED]

STUART J. ROTH*

[REDACTED]

ANDREW J. EKONOMOU*

[REDACTED]

/s/ Benjamin P. Sisney
BENJAMIN P. SISNEY

[REDACTED]

NATHAN MOELKER*

[REDACTED]

AMERICAN CENTER

FOR LAW AND JUSTICE

[REDACTED]

Counsel for Intervenor



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

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2023, the foregoing document was electronically transmitted to the Clerk of Court using the ECF System for filing and was transmitted to those individuals receiving Notice of Electronic Filings in this matter.

Further, the foregoing document was delivered via email to J.Castro@JohnCastro.com, and submitted to a federal express carrier for delivery to the pro se Plaintiff at the following address on record:

John Anthony Castro


/s/ Benjamin P. Sisney
BENJAMIN P. SISNEY 
AMERICAN CENTER FOR LAW & JUSTICE


Counsel for Intervenor

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOHN ANTHONY CASTRO,)	
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Plaintiff,)	
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vs.)	Case No. 5:23-cv-00781-JD
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SECRETARY OF THE OKLAHOMA)	
STATE ELECTION BOARD PAUL)	
ZIRIAX,)	
)	
And,)	
)	
DONALD JOHN TRUMP,)	
)	
Defendants,)	
)	
And,)	
)	
OKLAHOMA REPUBLICAN PARTY,)	
4031 N. Lincoln Blvd.)	
Oklahoma City, OK 73105,)	
)	
Intervenor.)	

**OKLAHOMA REPUBLICAN PARTY’S COMPLAINT IN INTERVENTION
SEEKING DECLARATORY AND INJUNCTIVE RELIEF PURSUANT TO
FEDERAL RULES OF CIVIL PROCEDURE 24, 57, AND 65**

COMES NOW, Intervenor Oklahoma Republican Party (or the “State Party”), and, pursuant to Federal Rules of Civil Procedure 24(c), 57, and 65 respectfully submits the following Complaint against Plaintiff John Castro for declaratory and injunctive relief.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(4) and 1346.

2. This Court has authority to award the herein requested declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Rules 57 and 65 of the Federal Rules of Civil Procedure.

3. This Court has authority to award Intervenor its reasonable costs and attorney fees pursuant to the general legal and equitable powers of this Court.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because Defendant Secretary of the Oklahoma State Election Board resides and/or perform its official duties in this district.

THE INTERVENOR

5. The Oklahoma Republican Party is an unincorporated nonprofit association and Political Party Committee in the state of Oklahoma, operating under Oklahoma law. Its primary purpose, as reflected in its bylaws, is to, subject to its own rules of organization and procedure, elect duly nominated Republican candidates to office, promote the principles and achieve the objectives of the Republican Party, and perform its functions under Oklahoma election law.

6. Intervenor's interests, clearly implicated in this action, are to elect Republican candidates and to protect the access of its members, statewide, to as many candidates as possible. Intervenor seeks intervention in this action to protect its processes and procedures, and the voter access of its members. The claims advanced by the Plaintiff impair the Intervenor's interests and those of its members, registered Republicans, and indeed, any Oklahoman who might vote for any candidate affiliated with the Oklahoma Republican Party. Indeed, the Plaintiff's claims impair the interests of voters everywhere.

7. The Plaintiff's identity is set forth in paragraph 2 of the Verified Petition. Intervenor acknowledges Plaintiff's identity as pled but does not concede any factual allegation.

8. The Defendant Secretary of the Oklahoma State Election Board's identity is set forth in paragraph 3 of the Plaintiff's Verified Complaint. He is sued in his official capacity.

9. The Defendant Donald John Trump's identity is set forth in paragraph 4 of the Verified Complaint.

FACTUAL ALLEGATIONS

10. For the reasons set forth herein, Intervenor, the Oklahoma Republican Party, intervenes in this action pursuant to Federal Rule of Civil Procedure 24 and seeks declaratory and injunctive relief.

11. The Oklahoma Republican Party has a significant, legally protectable interest relating to the transaction that is the subject of this action. *See Am. Ass'n of People with Disabilities v. Herrera*, 257 F.R.D. 236, 258 (D.N.M. 2008).

12. The Oklahoma Republican Party has a specific, protectable interest in ensuring that it will be able to run candidates affiliating themselves with the Party for public office and, in primaries, in ensuring as many candidates are available to its members for their choice.

13. It is the Oklahoma Republican Party which has authority to determine who will be chosen as its nominee by determining the exact parameters of its political primary process. Okla. Stat. tit. 26, § 20-104. It ultimately selects its own methods for determining how it will determine which individuals it will send to the Republican National Convention to vote on political candidates. *Id.* § 20-104(E).

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

15. The Oklahoma Republican Party is situated such that the disposition of this action will impair its ability to protect its interests. *Nat. Res. Def. Council v. U.S. Nuclear Regul. Comm'n*, 578 F.2d 1341, 1345 (10th Cir. 1978); *Mich. State AFL-CIO v. Miller*, 103 F.3d 1240, 1247 (6th Cir. 1997).

19. The relief sought by Plaintiff in this case would have an adverse effect on the Oklahoma Republican Party. Should the Oklahoma Republican Party wish to designate Defendant Trump as a candidate for President pursuant to its applicable rules and procedures, an adverse decision in this action impairs its ability to do so with res judicata effect, just as much as if it had been a party to the litigation.

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

21. The Oklahoma Republican Party's interest is different from that of all existing parties: In contrast to the interests of the government official named in this case, its interest is instead in the maintenance of its own rights, autonomy, procedures, operations, prerogatives, and its members' interests.

22. Defendant Donald Trump clearly has his own important and legitimate interests implicated in this action. However, Defendant Trump's interests and the Oklahoma

Republican Party's interests are not identical in several material respects.

23. Intervenor's interests encompass its operations and processes in all future elections, in perpetuity, and without regard to whether Defendant Donald Trump is a candidate on the ballot.

24. This alone makes its interests not identical to Defendant Trump's interests. *Coal. of Ariz./N.M. Cntys. for Stable Econ. Growth v. U.S. Dep't of Interior*, 100 F.3d 837, 845 (10th Cir. 1996); see *Democratic Party of Va. v. Brink*, No. 3:21-cv-756-HEH, 2022 U.S. Dist. LEXIS 19983, at *2 (E.D. Va. Feb. 3, 2022) (“[Intervenor] is one of Virginia’s two major political parties, and it brings a unique perspective on the election laws being challenged and how those laws affect its candidates and voters. Courts often allow the permissive intervention of political parties in actions challenging voting laws for exactly this reason.”) (citation omitted).

25. The Plaintiff's claims thwart the autonomy of the Oklahoma Republican Party and its ability to adhere to its own rules and applicable laws to determine its candidates pursuant to the rules and policies it establishes under Oklahoma law.

26. If a novel lawsuit like this one, based on the types of conclusory assertions contained in the Verified Complaint, is allowed to proceed or the relief requested by Plaintiff is granted even in part, the Party is materially harmed – and it is harmed long after the 2024 Presidential Elections are decided.

27. The Plaintiff is attempting to accomplish a maneuver with the express intent to require the Intervenor to make a specific decision in its political selection process [*See* Verified Complaint, ¶57, at p. 20 (seeking to “secure an injunction against the Republican

Party” to prevent Trump’s nomination)]. The Plaintiff’s requested relief violates the statutory and constitutional rights of the Party, and its members.

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

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

CAUSE OF ACTION

COUNT I

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

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

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

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

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

34. The relief Plaintiff seeks is a restriction on Intervenor's speech which is content and viewpoint-based and demonstrates a concerted effort to single out, intimidate, exclude, and ultimately silence the Intervenor's operations, association and expression. Further, the relief Plaintiff seeks to impose upon the Defendant Secretary does not serve a compelling interest, is not narrowly tailored, and does not constitute the least restrictive means of advancing any state interest.

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

36. There is a real and justifiable conflict between the parties.

37. Intervenor seeks a Declaration pursuant to Fed. R. Civ. P. 57 and 28 U.S.C §§ 2201 and 2202 that Plaintiff's requested relief violates Intervenor's First Amendment rights under the U.S. Constitution and therefore must be denied.

COUNT 2
(Declaratory Relief Regarding Applicability of U.S. Const. amend. XIV, § 3)

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

39. Plaintiff seeks an Order requiring the Secretary of the Oklahoma State Election Board to remove or preclude Defendant Donald Trump from the ballot in Oklahoma pursuant to U.S. Const. amend. XIV, § 3.

40. Plaintiff's allegations are insufficient to support his requested relief against the Secretary of the Oklahoma State Election Board Defendant Zirix and his requested relief violates Intervenor's rights.

41. Intervenor seeks declaratory relief pursuant to Rule 57, Fed. R. Civ. P. and 28 U.S.C §§ 2201 and 2202, that the relief Plaintiff seeks against Defendant ZiriAx does not amount to or identify authority to preclude the placement of Defendant Trump on Oklahoma’s ballot pursuant to U.S. Const. amend. XIV, § 3.

PRAYER FOR RELIEF

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

- A. Declare the relief sought by Plaintiff as against the Secretary of the Oklahoma State Election Board to be in violation Intervenor’s rights under the First Amendment to the United States Constitution and improper under U.S. Const. amend. XIV, § 3;
- B. Declare the relief sought by Plaintiff as against the Secretary of the Oklahoma State Election Board to be an unlawful violation of and interference with Intervenor’s rights, operations and processes as set forth by Oklahoma and federal law;
- C. Issue an injunction enjoining any party to this case from taking action to interfere with Intervenor’s rights, operations and processes protected by and as set forth by First Amendment, and Oklahoma and federal law;
- D. Award to Intervenor the costs of this action and its reasonable attorney fees; and,
- E. Award such other and further relief as the Court deems equitable and just.

Dated: September 19, 2023.

Respectfully submitted,

/s/ Jonathan D. Echols

JONATHAN D. ECHOLS

[REDACTED]

JAY ALAN SEKULOW*

[REDACTED]
JORDAN SEKULOW*

[REDACTED]
STUART J. ROTH*

[REDACTED]
ANDREW J. EKONOMOU*

/s/ Benjamin P. Sisney
BENJAMIN P. SISNEY

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FOR LAW AND JUSTICE

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Counsel for Intervenor

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

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September 2023, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive such service.

Further, the foregoing document was delivered via email to J.Castro@JohnCastro.com, and submitted to a federal express carrier for delivery to the pro se Plaintiff at the following address on record:

John Anthony Castro

[REDACTED]

Respectfully submitted,

/s/ Benjamin P. Sisney

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