

DISTRICT COURT, EL PASO COUNTY, COLORADO
270 S. Tejon St. Colorado Springs CO 80903

DATE FILED: September 28, 2022 4:02 PM
FILING ID: 202EFC671A093
CASE NUMBER: 2022CV31462

Petitioners: **TIMOTHY J. KIRKWOOD and
PAUL T. PRENTICE**

v.

Respondents: **HOLLY WILLIAMS, CARRIE GEITNER,
STAN VANDERWERF, LONGINOS
GONZALEZ, JR. and CAMI BREMER in
their official capacities as members of
Respondent BOARD OF COUNTY
COMMISSIONERS OF EL PASO COUNTY;
and CHUCK BROERMAN, in his official
capacity as County Clerk and Recorder**

COURT USE ONLY

Petitioners' Attorney:
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Case No: 2022CV031462

Div: 21

PETITIONERS' UNOPPOSED MOTION TO AMEND VERIFIED PETITION

Petitioners respectfully ask the Court for leave to amend their verified petition.

Petitioners request an order that accepts for filing the Second Amended Verified Petition, which is attached hereto as Exhibit A.

Counsel conferred. The Motion is UNOPPOSED.

In support of this motion, Petitioners show the Court:

1. Counsel have agreed that filing of the Second Amended Verified Petition does not moot the pending Motion to Dismiss.

2. C.R.C.P. 15(a) states in pertinent part that, “a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires.”

3. Petitioners filed their initial Verified Petition on August 19, 2022, and they filed their Amended Verified Petition on August 21, 2022.

4. On September 15, 2022, Respondents filed a Motion to Dismiss pursuant to C.R.C.P. 12(b)(5), which asserted that the complaint failed to state a claim for relief in part because Petitioners had not filed an administrative complaint with the Secretary of State pursuant to C.R.S. § 1-5-621(1).

5. On September 27, 2022, Petitioner Timothy Kirkwood filed an administrative complaint with the Colorado Secretary of State. A copy of the administrative complaint is attached as Exhibit 3 to the Second Amended Verified Petition.

6. Petitioners aver that the Second Amended Verified Petition, attached hereto as Exhibit A, together with Exhibits 1, 1.1, 2, and 3 that are incorporated therein by reference, sufficiently states a claim for relief.

WHEREFORE, Petitioners respectfully ask the Court to grant leave to amend the verified petition, and to enter an order approving the filing of the Second Amended Verified Petition attached hereto as Exhibit A.

Respectfully submitted September 28, 2022

JOHN CASE, P.C.
Counsel for Petitioners

s/John Case
John Case, #2431

CERTIFICATE OF SERVICE

The undersigned certifies that on September 28, 2022, he filed and served the foregoing document via ICCES to the following:

Clerk of the District Court of El Paso County
270 S. Tejon St.
Colorado Springs CO 80903

Nathan Whitney
First Assistant County Attorney
Steven Klaffky
Chief Deputy County Attorney
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Assistant County Attorney
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s/John Case _____
John Case