

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

Civil Action No. 1:22-cv-00477-PAB-MEH

PARABLE, an unincorporated nonprofit association, on behalf of itself and its members, et al.,  
Plaintiffs,

v.

JENA GRISWOLD, in her official capacity as Secretary of State for the State of Colorado,  
Defendant.

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**UNOPPOSED MOTION TO EXPEDITE BRIEFING ON THE MOTION TO DISMISS**

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Defendant Jena Griswold, in her official capacity as Secretary of State for the State of Colorado, moves to expedite the briefing on her Motion to Dismiss under Rules 12(b)(1) and 12(b)(6), as follows.

1. Certificate of Conferral: Under D.C.Colo.LCivR 7.1, the undersigned conferred with Plaintiffs' counsel regarding this motion. Plaintiffs do not oppose the requested relief, subject to the Court's order setting a hearing and related briefing schedules at the upcoming March 18, 2022 hearing-setting conference. *See* Doc. 11.

2. This case involves a challenge to Colorado's Proposition 108, an initiative approved by Colorado voters in 2016 that affords major political parties the option of allowing unaffiliated voters to participate in their primary elections. Plaintiffs are five individual members of the Colorado Republican Party and an unincorporated association formed to challenge Proposition 108.

3. Given the impending election deadlines for the upcoming June 28, 2022 primary, this Court expedited briefing on Plaintiffs' motion for a preliminary injunction and instructed the parties to contact the Court on March 18 to schedule the matter for a hearing. Doc. 11. As argued

in the Secretary’s response to the preliminary injunction motion, however, this Court is without jurisdiction because Plaintiffs lack standing to assert the Colorado Republican Party’s rights. Doc. 14, pp. 4-7.

4. Questions of jurisdiction should be raised at the “earliest stages” of the case. *Burkitt v. Pomeroy*, No. 15-cv-02386-MSK-KLM, 2016 WL 696107, at \*1 (D. Colo. Feb. 22, 2016). Otherwise, the Court risks taking actions that are void. *See, e.g., Costello v. U.S.*, 365 U.S. 265, 285 (1961) (including “lack of jurisdiction over the person or subject matter” among the “fundamental jurisdictional defects which render a judgment void”).

5. The Secretary of State has therefore filed contemporaneously with this request a Motion to Dismiss under Rule 12(b)(1) and 12(b)(6) to place the jurisdictional defects squarely before the Court in advance of the preliminary injunction hearing. Briefing on the motion to dismiss should be expedited so that the Court may evaluate and rule on the issues of standing and jurisdiction before proceeding to address Plaintiffs’ preliminary injunction motion.

6. The parties agree that expedited briefing is necessary so as to not delay the upcoming election deadlines associated with the June 28, 2022 primary, including but not limited to the inflexible April 29, 2022 deadline for certifying the ballot content and ballot order. Doc. 14-1, ¶ 9.

7. The Secretary of State requests that Plaintiffs’ response to the motion to dismiss be filed no later than 10 days from today (on or before Friday March 25, 2022), with the Secretary’s optional reply filed no later than seven days thereafter. Alternatively, given the overlap between the motion to dismiss and preliminary injunction motion, Plaintiffs’ reply in support of the preliminary injunction motion (due March 21, *see* Doc. 11) could be treated as

their response to the motion to dismiss, with the Secretary’s optional sur-reply due no later than seven days thereafter.

Dated: March 15, 2022

PHILIP J. WEISER  
Attorney General

/s Emily Buckley

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 15, 2022, I served a true and complete copy of the foregoing **UNOPPOSED MOTION TO EXPEDITE BRIEFING ON THE MOTION TO DISMISS** upon all parties herein by e-filing with the CM/ECF system maintained by the court and/or email, addressed as follows:

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