

**DISTRICT COURT, DENVER COUNTY
STATE OF COLORADO**

520 W. Colfax Ave.
Denver, CO 80204

DATE FILED: August 1, 2022 5:30 PM
FILING ID: C5592922466BD
CASE NUMBER: 2022CV32191

RAE ANN WEBER, PETER LUPIA, LYNDA
ZAMORA WILSON, LINDSAY MOORE, DAVID
WINNEY, SUMMER GROUBERT,
TODD WATKINS and TINA PETERS,

Petitioners,

vs.

JENA GRISWOLD, in her official capacity as
Secretary of State for the State of Colorado, and
CHUCK BROERMAN, in his official capacity
as Clerk and Recorder of the county of El Paso,

Respondents.

▲ COURT USE ONLY ▲

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Case No.

Division

PETITION FOR ORDER PURSUANT TO C.R.S. § 1-10.5-109

COME NOW Petitioners, Rae Ann Weber, Peter Lupia, Lynda Zamora Wilson, Lindsay Moore, David Winney, Summer Groubert, Todd Watkins and Tine Peters (Candidates), by and through counsel, Nicholas A. Armer, Esq., pursuant to C.R.S. § 1-10.5-109, and hereby submit the following petition for an order requiring Respondent, CHUCK BROERMAN, in his official capacity as clerk and recorder of the county of El Paso (Clerk and Recorder), to stop the recount currently under way in the county of El Paso, and to give Respondent, JENA GRISWOLD, in her official capacity as Secretary of State of Colorado (Secretary), access to all pertinent election records used in conducting the recount, and requiring the secretary of state to conduct the recount.

As grounds therefore, the Petitioners state as follows:

INTRODUCTION

Petitioner/Candidates are Republican Party (GOP) candidates for several offices within the county of El Paso and state of Colorado. The Candidates allegedly lost their respective primary elections, which were held on June 28, 2022.

Pursuant to C.R.S. § 1-10.5-106, the Candidates timely requested a recount, as is their right under Colorado law. Thereafter, pursuant to C.R.S. § 1-10.5-107, the Clerk and Recorder arranged to have recount made the canvass board, of which the Clerk and Recorder is a member.

The recount in the county of El Paso started on Friday, July 29, 2022. However, before that, the Clerk and Recorder had determined the costs of a recount for Candidates, Rae Ann Weber, Peter Lupia, Lindsay Moore, David Winney, and Todd Watkins, for whom he was their election official. Similarly, the Secretary determined the costs of a recount for Candidates, Lynda Zamora Wilson, Summer Groubert and Tina Peters, for whom she was their election official.

In the determinations, the Clerk and Recorder included additional costs for vendor programming and support. These additional costs were calculated at a rate of \$250 an hour for an estimated 40 hours, for a total amount of \$10,000. As such, these additional costs were added to the estimated costs for election judges, staff overtime and other costs.

The Secretary also included the additional cost of \$10,000 for vendor programming and support in the cost determination for Lynda Zamora Wilson.¹

Four (4) Candidates, Rae Ann Weber, Peter Lupia, Lynda Zamora Wilson and Tina Peters have paid the determined costs in full, within the statutory time period.

¹ Candidates, Summer Groubert and Tina Peters, were not provided with an itemized determination. Candidates Groubert and Peters assumes a part of their determination includes at least a \$10,000 cost for vender programming and support.

Four (4) Candidates, Lindsay Moore, David Winney, Summer Groubert and Todd Watkins, were unable to pay the full amount requested—despite tendering partial payment to the Clerk and Recorder and Secretary, respectively. However, both the Secretary and Clerk and Recorder refused to accept payment from the Candidates who could not pay the full amount.

Because of the inflated cost determinations, on Friday, July 29, 2022, Petitioners, Rae Ann Weber, Peter Lupia, Lynda Zamora Wilson, Lindsay Moore, David Winney, Summer Groubert, Todd Watkins filed a verified petition in the district court for the county of El Paso, pursuant to C.R.S. § 1-1-113, referenced under 2022CV031292, for an order to: require the Clerk and Recorder and Secretary to desist from charging the Candidates the costs associated with a vendor's programming and support; return that portion of the costs to the Candidates that paid in full; and, among other things, to allow the Candidates that did not pay the full amount another opportunity to pay the adjusted amount so that they may participate in their respective recounts. Attached hereto as Exhibit A is a copy of said VERIFIED PETITION FOR RELIEF PURSUANT TO C.R.S. § 1-1-113, as though fully contained, herein.

Additionally, the Candidates reasonably believe that the administration of the recount has not been conducted in a fair, impartial and uniform manner. As

such, the Candidates request that this Court issue an order to stop the recount currently under way in the county of El Paso, and to give the Secretary, access to all pertinent election records used in conducting the recount, and requiring the secretary of state to conduct the recount.

II. PARTIES

1. Petitioner, Rae Ann Weber (Dr. Weber), is a natural person, and citizen of the state of Colorado and the United States of America. Dr. Weber is a certified 2022 GOP candidate for the office of coroner for the county of El Paso. Dr. Weber is an “interested party,” pursuant to C.R.S. 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP primary held on June 28, 2022, concerning her race, including paying the determination of costs, in full, to the Clerk and Recorder.

2. Petitioner, Peter Lupia (Mr. Lupia), is a natural person, and citizen of the state of Colorado and the United States of America. Mr. Lupia is a certified 2022 GOP candidate for the office of clerk and recorder for the county of El Paso. Mr. Lupia is an “interested party,” pursuant to C.R.S. 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP primary held on June 28, 2022, concerning his race, including paying the determination of costs, in full, to the Clerk and Recorder.

3. Petitioner, Lynda Zamora Wilson, (Ms. Wilson), is a natural person, and citizen of the state of Colorado and the United States of America. Ms. Wilson is a certified 2022 GOP candidate for state senate, district 9. Ms. Wilson is an “interested party,” pursuant to C.R.S. 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP primary held on June 28, 2022, concerning his race, including paying the determination of costs, in full, to the Secretary.

4. Petitioner, Lindsay Moore (Ms. Moore), is a natural person, and citizen of the state of Colorado and the United States of America. Ms. Moore was a certified 2022 GOP candidate for the office of county commissioner of the county of El Paso. Ms. Moore is an “interested party,” pursuant to C.R.S. § 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP primary held on June 28, 2022, concerning her race. However, Ms. Moore was unable to pay the full amount of the determination of costs, as estimated by the Clerk and Recorder. On July 27, 2022, at approximately, 3:30 p.m., which is within the statutory deadline, Ms. Moore tendered a partial payment of certified funds for her requested recount. The Clerk and Recorder refused to accept the payment.

5. Petitioner, David Winney (Mr. Winney), is a natural person, and citizen of the state of Colorado and the United States of America. Mr. Winney is a certified 2022 GOP candidate for the office of county commissioner of the county of El Paso. Mr. Winney is an “interested party,” pursuant to C.R.S. § 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP primary held on June 28, 2022, concerning his race. However, Mr. Winney was unable to pay the full amount of the determination of costs, as estimated by the Clerk and Recorder. On July 27, 2022, at approximately, 3:30 p.m., which is within the statutory deadline, Mr. Winney tendered a partial payment of certified funds, as payment for his requested recount. The Clerk and Recorder refused to accept the payment.

6. Petitioner, Summer Groubert (Ms. Groubert), is a natural person, and citizen of the state of Colorado and the United States of America. Ms. Groubert was a certified 2022 GOP candidate for candidate for state house, district 18. Ms. Groubert is an “interested party,” pursuant to C.R.S. § 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP primary held on June 28, 2022, concerning her race. However, Ms. Groubert was unable to pay the full amount of the determination of costs, as estimated by the Secretary. On July 28, 2022, at approximately, 2:30 p.m., which is within the

statutory deadline, Ms. Groubert tendered a partial payment of certified funds for her requested recount. The Secretary refused to accept the payment.

7. Petitioner, Todd Watkins (Mr. Watkins), is a natural person, and citizen of the state of Colorado and the United States of America. Mr. Watkins is a certified 2022 GOP candidate for the office of sheriff of the county of El Paso. Mr. Watkins is an “interested party,” pursuant to C.R.S. § 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP primary held on June 28, 2022, concerning her race. However, Mr. Watkins was unable to pay the full amount of the determination of costs, as estimated by the Clerk and Recorder. On July 27, 2022, at approximately, 3:30 p.m., which is within the statutory deadline, Mr. Watkins tendered a partial payment of certified funds, as payment for his requested recount. The Clerk and Recorder refused to accept the payment.

8. Petitioner, Tina Peters (Ms. Peters), is a natural person, and citizen of the state of Colorado and the United States of America. Ms. Peters is a certified 2022 GOP candidate for the office of secretary of state for the state of Colorado. Ms. Peters is an “interested party,” pursuant to C.R.S. 1-10.5-106, and followed all the necessary requirements of said statute in requesting a recount of the GOP

primary held on June 28, 2022, concerning her race, including paying the determination of costs, in full, to the Secretary.

9. Respondent, JENA GRISWOLD, is named in her official capacity as Secretary of State of Colorado.

10. Respondent, CHUCK BROERMAN, is named in his official capacity as clerk and recorder of the county of El Paso.

III. JURISDICTION AND VENUE

11. Jurisdiction of the district court is properly invoked pursuant to C.R.S. § 1-10.5-109.

12. The district court has subject matter jurisdiction over the parties and this action, pursuant to Art. VI, § 9 of the Colorado Constitution.

13. Venue is proper in the county of El Paso, pursuant to C.R.C.P. 98(b)(2).

IV. STATEMENT OF FACTS

14. On June 28, 2022, the GOP primary election was held to determine the party's candidates for offices across the state of Colorado.

15. The Candidates allegedly lost their respective primary elections to the several offices, as described herein.

16. C.R.S. § 1-10.5-106 allows an “interested party” to request a recount of an election conducted with the state of Colorado.

17. Candidates are all interested parties, pursuant to statute, and have all formally requested a recount by submitting a notarized request to either the Secretary or Clerk and Recorder, within the statutory time period of 28 days after said primary election.

18. Pursuant to said statute, on July 26, 2022, the Clerk and Recorder prepared a determination of costs for Candidates, Rae Ann Weber, Peter Lupia, Lindsay Moore, David Winney and Todd Watkins.

19. Each cost determination was for the same amount of twenty thousand, eight hundred and nineteen dollars and eighty seven cents (\$20,819.87).

20. Said determinations all include a cost for vendor programing and support in an amount of ten thousand dollars (\$10,000), which reflects the calculated rate of two hundred and fifty dollars (\$250) an hour for an estimated forty (40) hours of work.

21. Pursuant to said statute, on July 27, 2022, the Secretary prepared a determination of costs for Candidates, Ms. Wilson, Ms. Groubert and Ms. Peters.

22. The cost determination for Ms. Wilson was for the similar amount of twenty thousand, eight hundred and nineteen dollars and eighty seven cents (\$20,819.87).

23. Because the cost determination for Ms. Groubert included the county of El Paso and a small part of the county of Teller, her cost determination was for the amount of twenty one thousand, five hundred and ninety four dollars and eighty five cents (\$21,594.85).

24. The costs determination for Ms. Peters was for a statewide recount and was for an amount of two hundred, fifty five thousand, nine hundred and twelve dollars and thirty three cents (\$255,912.33)

25. Ms. Wilson's determination also includes a cost for vendor programing and support in an amount of ten thousand dollars (\$10,000), which similarly reflected the calculated rate of two hundred and fifty dollars (\$250) an hour for an estimated forty (40) hours of work.

26. Candidates, Summer Groubert and Tina Peters, were not provided with an itemized determination.

27. The identity of the vendor is not disclosed.

28. Other than describing the work anticipated as "Vendor programming/support," no other information, or work description is provided.

29. The estimated costs for Vendor programming and support are vague and ambiguous.

30. The need for such services is unnecessary and over-estimated.

31. The total amount determined is unreasonable, arbitrary, and capricious.

32. Upon information and belief, the vendor is Dominion Voting Systems, Inc. (Dominion).

33. On Friday, July 29, 2022, the Candidates, Rae Ann Weber, Peter Lupia, Lynda Zamora Wilson, Lindsay Moore, David Winney, Summer Groubert, Todd Watkins, filed a VERIFIED PETITION FOR RELIEF PURSUANT TO C.R.S. § 1-1-113, in the district court for the county of El Paso (El Paso County District Court), referenced under 2022CV031292.

34. Said verified petition for relief filed in El Paso County District Court is still pending.

35. On Friday, July 29, 2022, the said recount started in the offices of the Clerk and Recorder.

36. Before that date, pursuant to C.R.S. § 1-10.5-107, the Clerk and Recorder arranged to have the recount made by the canvass board (Board) who officiated in certifying the official abstract of the votes cast in said primary.

37. The Clerk and Recorder is a member of the Board.

38. The Clerk and Recorder is also the winning candidate in said primary for the GOP nomination for treasurer of the county of El Paso.

39. C.R.S. § 1-10.5-102 (3)(a) states:

Prior to any recount, the canvass board shall choose at random and test voting devices used in the candidate race, ballot issue, or ballot question that is the subject of the recount. The board shall use the voting devices it has selected to conduct a comparison of the machine count of the ballots counted on each such voting device for the candidate race, ballot issue, or ballot question to the corresponding manual count of the voter-verified paper records.

40. C.R.S. § 1-10.5-102 (3)(b) states:

If the results of the comparison of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of this section are identical, or if any discrepancy is able to be accounted for by voter error, then the recount may be conducted in the same manner as the original ballot count. If the results of the comparison of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of this section are not identical, or if any discrepancy is not able to be accounted for by voter error, a presumption is created that the voter-verified paper records will be used for a final determination unless evidence exists that the integrity of the voter-verified paper records has been irrevocably compromised. The secretary of state shall decide which method of recount is used in each case, based on the secretary's determination of which method will ensure the most accurate count, subject to judicial review for abuse of discretion. Nothing in this subsection (3) limits any person from pursuing any applicable legal remedy otherwise provided by law.

41. Colorado Election Rules [8 C.C.R. 1501-1] Rule 10.13.1 states:

In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule 10.12, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule 10.13.5.

42. On Friday, July 29, 2022, the Board conducted a logic and accuracy test by recounting a test deck of approximately 4,216, pre-marked test ballots.

43. Out of the 4,216 test ballots counted, 2,266 were selected for adjudication.

44. The Board spent Friday, July 29, 2022, and Saturday, July 30, 2022, manually adjudicating the test ballots.

45. On Sunday, July 31, 2022, the Board started the recount in the same manner as the original ballot count, i.e., through the use to the electronic voting machines.

46. However, the Board did not comply with C.R.S. § 1-10.5-102 (3)(a).

47. To conduct the 2022 El Paso County Primary Election, the Clerk and Recorder used eight (8) Dominion Imagecast® Central devices.

48. Pursuant to C.R.S. § 1-10.5-102 (3)(a), the Board was required, prior to the recount, to choose at random which voting devices would be tested. Upon information and belief, the Board randomly choose all eight (8) devices to test.

49. Pursuant to C.R.S. § 1-10.5-102 (3)(a), the Board was then required to manually count the ballots that were counted by the chosen devices in the primary election.

50. After the manual count of the ballots that were previously counted by the chosen devices in the primary election, the Board was required to then compare the manual count of those ballots with the results of machine count that was tabulated by each of the chosen voting devices in the primary election.

51. To date, the Board has not conducted the required comparison.

52. Without conducting the required comparison, the Board failed to then comply with C.R.S. § 1-10.5-102 (3)(b).

53. C.R.S. § 1-10.5-102 (3)(b) allows the recount to be conducted in the same manner as the original ballot count, i.e., with the voting machines, only if “the results of the *comparison* of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of [section 102] are identical, or if any discrepancy is able to be accounted for by voter error.” [Emphasis added].

54. Pursuant to C.R.S. § 1-10.5-102 (3)(b), if “the results of the *comparison* of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of [section 102] are *not* identical, or if any discrepancy is not able to be accounted for by voter error, a presumption is created that the voter-verified paper records will be used for a final determination unless evidence exists that the integrity of the voter-verified paper records has been irrevocably compromised.” [Emphasis added].

55. Since the Board failed to comply with C.R.S. § 1-10.5-102 (3)(a), the requirements of C.R.S. § 1-10.5-102 (3)(b) have not been met.

56. However, the Petitioners have been advised by the Clerk and Recorder that the recount will be counted in the same manner as the ballots were counted in the primary election.

57. Petitioners have a statutory and constitutional right to a fair, accurate and transparent recount of their respective primary elections.

58. The electronic voting systems used by the Respondents to conduct a requested recount are not reliable and/or secure.

59. Said electronic voting systems do not meet statutory and constitutional standards that guarantee a free and fair primary election.

60. A recount is part of a primary election.

61. Here, the Clerk and Recorder's use of improperly tested and unreliable electronic voting systems for purposes of the recount is unfair, partial and not in a uniform manner, as required by Colorado law, and under the Constitution of the United States and Colorado Constitution.

62. The unreliable electronic voting systems, utilized by election officials across the state, are provided, programmed, repaired, managed and operated by private companies that perform the exclusively reserved governmental function of ballot tabulation.

63. For decades, experts and politicians from across the spectrum have raised scientific concerns, and demonstrated glaring failures with electronic voting systems.

64. Recently, a computer science expert in *Curling v. Raffensperger*, Case No. 1:17-cv-02989-AT (U.S. Dist. Ct., N.D. Ga.), identified catastrophic failures in the Dominion electronic voting systems used in sixteen states, including Colorado.

65. The expert, Professor J. Alex Halderman, further opined that the failures include the ability to defeat all state safety procedures including logic and accuracy tests and risk limiting audits.

66. In response, the Cybersecurity and Infrastructure Security Agency (CISA) entered an appearance in *Curling*, and urged the federal district court to not allow the public disclosure of said expert’s entire report.

67. On June 3, 2022, CISA released a security advisory, detailing nine vulnerabilities in Dominion’s Democracy Suite® ImageCast X devices—and any components to connected to those devices, such as the Election Management System (EMS).²

68. CISA did not test all versions of the Dominion ImageCast X systems.

69. Upon information and belief, the critical vulnerabilities identified by Prof. Halderman that gave rise to CISA’s June 3, 2022, advisory applies to all Dominion electronic voting systems employing ImageCast X devices—including those systems used in Colorado.

70. Upon information and belief, Dominion also failed to disclose these known vulnerabilities to Colorado officials and other states’ officials when it learned of them.

² ICS Advisory ICSA-22-154-01, found at <https://www.cisa.gov/uscert/ics/advisories/icsa-22-154-01>.

71. As detailed below, C.R.S. § 1-5-601.5 requires all voting systems and voting equipment to meet the voting systems standards (VSS) that were promulgated in 2002 by the Federal Election Commission.

72. The Clerk and Recorder's use of the aforementioned Dominion voting systems violates VSS.

73. C.R.S. § 1-5-615(1)(l) states that “[t]he secretary of state shall not certify any electronic or electromechanical voting system unless such system [c]ounts votes correctly.”

74. C.R.S. § 1-7-512(1)(e) states that “[a] voting system provider... shall...[n]otify the secretary of state and the designated election official of any political subdivision using its voting system of any defect in the same system known to occur anywhere.”

75. CISA's advisory identified nine security vulnerabilities in Dominion machines which were undetected by Voting System Testing Lab certification testing.

76. The presence of these security failures identified in CISA's advisory warning regarding the Dominion ICX machines prevents ICX/D-Suite 5.13 compliance with VSS standards including: paragraphs 2.2.1, Security; 2.2.11, Data Retention; 4.2.2, Software Integrity, 6.2.1.2, Individual Access Privileges,

6.4.1, Software and Firmware Installation, 6.4.2, Protection Against Malicious Software.

77. None of the security failures CISA identified were detected through any prior certification or testing process, or, if known, were not reported publicly.

78. Upon information and belief, since June 3, 2022, the Secretary has not taken the necessary remedial action to adequately test the reliability of Dominion's Democracy Suite® 5.13, despite CISA's warnings and VSS requirement to do so.

79. CISA's advisory also identified thirteen defensive measures, none of which appear to have been undertaken in Colorado prior to the June 28, 2022 primary, or before the Plaintiffs' requested recount.

80. Notably, CISA recommended, among other things, that officials:

- Conduct rigorous post-election tabulation audits of the human-readable portions of physical ballots and paper records, to include reviewing ballot chain of custody and conducting voter/ballot reconciliation procedures.
- Ensure all affected devices are physically protected before, during, and after voting.
- Ensure compliance with chain of custody procedures throughout the election cycle.
- Ensure that ImageCast X and the Election Management System (EMS) are not connected to any external (i.e., Internet accessible) networks.

81. Given the limitations and flaws of existing technology, the electronic voting machines and systems used in Colorado cannot legally be used to fairly administer elections and recounts.

82. Petitioners seek to recount the legal ballots by a constitutionally sound process, which relies on time-tested, tried and true precepts that insure integrity and transparency.

83. Under the factual circumstances, as described below, the Petitioners request that the ballots casts in the relevant 2022 GOP primary be manually counted by certified election judges—not by voting machines and tabulators owned and operated by a third party, private vendors—in a secure and transparent fashion observable to the public by election observers.

84. The alternative is to continue to allow the use of electronic voting systems that are designed, owned and operated by private companies that have refused to disclose their software and system components to perform a state government's most crucial function, i.e., to accurately tabulate the legal ballots of properly registered voters.

85. Recently, experts, Dr. Walter C. Daugherty and Jeff O'Donnell, exposed evidence of unauthorized ballot manipulation by a rogue software process

running within the Mesa County, Colorado EMS system during the November 2020 general election, and April 2021 Grand Junction municipal election.³

86. Similar evidence associated with the June 28, 2022, Colorado GOP primary election for secretary of state candidate, Tina Peters, shows an unnatural pattern of vote processing.

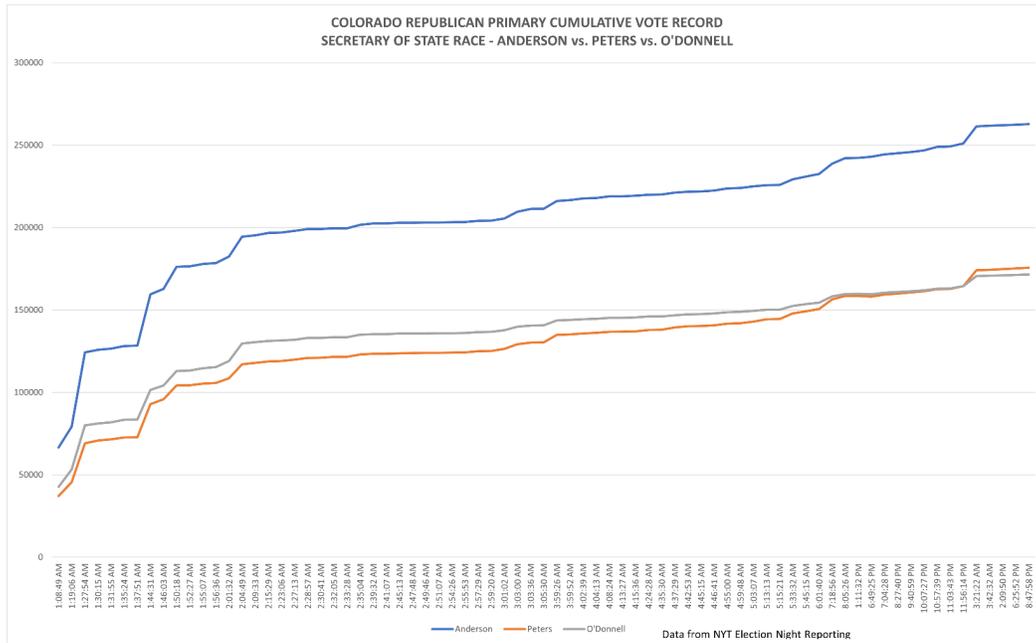
87. There, election results taken from the New York Times feed between June 28, 2022, and July 2, 2022, which continuously updated and reported, demonstrates an unnatural, near perfect correlation between the respective candidates after the first three updates.

88. Indeed, the candidates' tabulation results in each race have a correlation value (termed R-squared) exceeding .99 (1.0 being a perfect correlation).

89. This near perfect correlation remains after the first three updates regardless of where or when votes were tabulated and uploaded.

³ See *Mesa County Report #3*, Jeff O'Donnell and Dr. Walter C. Daugherty, March 19, 2022. <https://useipdotus.files.wordpress.com/2022/03/mesa-3-report.pdf>

90. Such a near identical correlation strongly suggests vote tallies are being artificially controlled as shown in the chart below tracking the cumulative votes at each update for candidate Anderson (blue), candidate Peters (orange) and candidate O’Donnell (gray).



91. The Clerk of Court was allowed to serve as the election official and canvass board member in an election for which he was a candidate and for the races of his close colleagues. Attached hereto as Exhibit B is the affidavit of Petitioner, Todd Watkins, as though fully contained herein.

92. Further, the Clerk and Recorder has withheld key information, such as El Paso County election CVR data, and would not release the information until after the deadline to request the recount had passed. *Id.*

93. On Sunday, July 31, 2022, 27,197 ballots were scanned by all the Dominion tabulation machines, and 19,749 were “passed through” the voting systems adjudication processes, none of which could be observed by Petitioners who have been in the recount room throughout the entire process. Attached hereto as Exhibits D, E & F are the affidavits of Petitioner, Ms. Lupia, as though fully contained herein.

94. Upon information and belief, the machines in the recount room are capable to connecting to the internet. *Id.*

95. The Petitioners who were not able to pay the full amount of the recount because of the additional cost for vender services added to the cost determination have not been able to be in the recount room, and reasonably believe that the recount is unfair and not uniform. Attached hereto as Exhibit B is the affidavit of Petitioner, Mr. Winney, as though fully contained herein.

96. Additionally, the Clerk and Recorder’s decision to work on both Saturday and Sunday has interfered with Petitioners’ desire to get some rest, worship and other reasonable activities over the weekend. *Id.*

97. On information and belief, there has been no uniform measures to guard the critical chain of custody of ballots for the recount. Attached hereto as Exhibit G is the affidavit of Petitioner, Ms. Summer, as though fully contained

herein. Attached, also, hereto as Exhibit H is the affidavit of Petitioner, Ms. Moore, as though fully contained herein.

98. The recount is not being conducted impartially, but instead is unfair, rushed and executed poorly. Attached here to as Exhibit J is the affidavit of Petitioner, Dr. Weber, as though fully contained herein. Attached, also, hereto as Exhibit I is the affidavit of Petitioner, Ms. Wilson, as though fully contained herein.

V. CLAIM FOR RELIEF (C.R.S. § 1-10.5-109)

99. Petitioners incorporate herein by reference all of the allegations contained in the preceding paragraphs, as though fully contained herein.

100. C.R.S. § 1-10.5-109(1)(a), states:

Any interested party that requested a recount of a county, state, national, or district office of state concern or any party to such recount that has *reasonable grounds to believe* that the recount is *not being conducted in a fair, impartial, and uniform manner* may apply to the district court of the city and county of Denver for an order requiring the county clerk and recorder to stop the recount and to give the secretary of state access to all pertinent election records used in conducting the recount, and requiring the secretary of state to conduct the recount. The county clerk and recorder shall be an official observer during any recount conducted by the secretary of state. [Emphasis added].

101. Petitioner/Candidates have “reasonable grounds to believe” that their recounts are not being conducted in a fair, impartial and uniform manner—

particularly in light of the Clerk and Recorder's failure to follow Colorado law requiring that a comparison be made, pursuant to C.R.S. § 1-10.5-102(3)(a), "prior to any recount."

102. Petitioner/Candidates are all "interested parties," pursuant to C.R.S. § 1-10.5-106.

103. Pursuant to C.R.S. § 1-10.5-109, Petitioner/Candidates request that the Court issue an order requiring the Clerk and Recorder to stop the recount, and to give the Secretary access to all pertinent election records used in conducting the recount, and require the Secretary to conduct the recount.

104. Pursuant to the C.R.S. § 1-10.5-109, the Clerk and Recorder shall then become an official observer to any recount conducted by the Secretary.

105. Pursuant to the C.R.S. § 1-10.5-109(2), all expenses incurred by the Secretary in conducting the recount, pursuant to subsection C.R.S. § 1-10.5-109 (1), shall be paid from the state general fund.

106. Pursuant to the C.R.S. § 1-10.5-109(2), the expenses incurred prior to this Court's order requiring the Secretary to conduct the recount shall be paid by the county of El Paso.

VI. PRAYER FOR RELIEF

Wherefore, the Petitioners hereby request that this Honorable Court issue an order, pursuant to C.R.S. § 1-10.5-109, to the Respondent, Clerk and Recorder, to (1) stop the recount; (2) give the Secretary access to all pertinent election records used in conducting the recount; (3) require the Secretary to conduct the recount; (4) require the Clerk and Recorder to become an official observer to any recount conducted by the Secretary; (5) require that all expenses incurred by the Secretary in conducting the recount be paid from the state general fund; (6) to require the expenses incurred prior to this Court's order requiring the Secretary to conduct the recount to be paid by the county of El Paso; (7) return all monies paid by the Candidates to the Clerk and Recorder and Secretary; and, (5) for such other relief as is just and proper, as the Court deems appropriate.

Respectfully submitted this 1st day of August, 2022,

By: /s/ Nicholas A. Armer, Esq.
Nicholas A. Armer, #55856