

DISTRICT COURT, DENVER COUNTY STATE OF COLORADO 520 W. Colfax Ave. Denver, CO 80204	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
TINA PETERS Petitioner, vs. JENA GRISWOLD, et al., Respondents.	
Counsel for Petitioner: Nicholas A. Armer, Esq., #55856 Armer Law, P.C. 539 W. Commerce St., Suite 7260 Dallas, TX 75208 (214) 937-0037 nick@armerlaw.com	Case No. 2022CV032225 Division 466
MOTION TO STAY RECOUNT DEADLINE	

COME NOW the Petitioner Tina Peters (Petitioner), by and through counsel, and hereby moves this Honorable Court for an order staying the recount deadline for two weeks, up to and including August 18, 2022.

INTRODUCTION

This Motion seeks to preserve Petitioner's right to a fair, impartial, and uniform recount of the June 28, 2022, primary election, pursuant to C.R.S. § 1-10.5-102. Importantly, C.R.S. § 1-10.5-106 requires that any recount must be completed no later than the thirty-seventh day after any election, which in this circumstance is Thursday, August 4, 2022. However, as discussed in the previously filed Petition, Respondents have breached their duties to uphold Colorado election laws and have thus denied Petitioner of her right to a fair, impartial, and uniform recount. Petitioner request that the Court issue an order staying the recount deadline fourteen (14) days to provide time for resolution of this legal challenge and the relief requested in the Petition.

ARGUMENT

If this Court grants the relief requested in the Petition, which is incorporated by reference as if fully set forth herein, there will be insufficient time to conduct the recount for Petitioner within the statutory deadline. Conversely, if the Court denies the petition, Petitioner must exercise her appellate rights to seek relief with the Colorado Supreme Court. To deny Petitioner her right to a recount in the face of Respondents' unlawful acts would be unreasonable and unfair. Indeed, there is no greater policy objective in a democratic republic than to ensure free and fair

elections. No other policy consideration, even the timely resolution of elections, can outweigh this crucial interest.

Indeed, Colorado courts have issued orders staying statutory election deadlines where there was ongoing legal challenge to the fairness of the election. In *Blaha v. Williams*, Case No. 2016CV31574 (Dist. Ct. Denver Cty., May 4, 2016), a Republican primary candidate for the United States Senate challenged the secretary of state for the state of Colorado, Wayne Williams (SOS), concerning his determination that he had garnered insufficient signatures to appear on the ballot, alleging that hundreds of signatures had been improperly invalidated. *See also Frazier v. Williams*, Case No. 2016CV31575 (Dist. Ct. Denver Cty., May 5, 2016).

In those cases, C.R.S. § 1-5-203(1)(a) required that the SOS certify the ballot by April 29, 2016. This deadline was of great importance, since the SOS needed to begin printing and shipping ballots urgently to avoid delaying the election. However, the district court had the jurisdiction to stay the deadline and order the SOS to reexamine the signatures and certify the petitioner if he met the signature requirements. Though the stay orders were reconsidered on other grounds, the district court's jurisdiction to enter such an order was not challenged by the SOS.

Here, there are similar policy considerations at play. However, the SOS is

not under the same time constraints as in *Blaha* and *Frazier*. Because of that, the balance is only more in favor of the issuance of a stay. Here, the Secretary has more time to prepare for the upcoming election on November 8, 2022, than the SOS in *Blaha* and *Frazier*, since ballots for the general election will not need to be printed and shipped for at least a month.

Further, there is a greater need for the issuance of a stay compared to *Blaha* and *Frazier*, since an election has already taken place. The recount procedures under Article 10.5 of Title 1 serve as critical guardrails for the democratic process in Colorado. However, a recount takes time. Accordingly, there is simply not enough time to resolve this matter and conduct a proper recount before the recount deadline. To allow Respondents to circumvent Colorado election laws and then avoid curing those deficiencies due to a statutory deadline flies in the face of the legislative intent that undergirds the right to redress under C.R.S. §§ 1-10.5-109 and 1-10.5-113.

Further, the potential harm caused by not issuing the stay far outweighs the harm of issuing the stay. The only potential harm is that the recount deadline is delayed by two weeks. This is a small price to pay to resolve Respondents' legal deficiencies and ensure free and fair elections in Colorado. Indeed, Respondents will still have much time to prepare for the general election on November 8, 2022.

Petitioner made attempts to meet and confer with all respondents on August 4th, 2022. At the time of filing, any respondents who have responded state that they oppose the motion.

WHEREFORE, Petitioner, by and through counsel, hereby respectfully requests that this Honorable Court issue an order staying the recount deadline for two weeks for two weeks, up to and including August 18, 2022.

Respectfully submitted this 4th day of August, 2022,

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

CERTIFICATES OF SERVICE

I hereby certify that I have on this 4th day of August, 2022, electronically filed the foregoing **MOTION TO STAY RECOUNT DEADLINE** with the Clerk of Court using the Integrated Colorado Courts (ICCES) system, which will send notification of such filings to the following:

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