

<b>SEVENTH JUDICIAL DISTRICT COURT, GUNNISON COUNTY, STATE OF COLORADO</b> Court Address: 200 E. Virginia Avenue Gunnison, CO 81230	<p style="text-align: center;">▲ <b>COURT USE ONLY</b> ▲</p> Case Number:
DAVID JUSTICE,  Petitioner,  v.  JENA GRISWOLD, in her official capacity as Secretary of State, KATHY SIMILLION in her official capacity as Clerk and Recorder of the county of Gunnison, MANDY ROBERTS in her official capacity as Canvas Board Member and VIKKI ARCHULETA in her official capacity as Canvas Board Member.  Respondents.	
<b>PETITIONER'S EMERGENCY MOTION FOR PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER</b>	

Petitioner, David Justice, submits this motion for preliminary injunction for the reasons set forth in their verified petition, and pursuant to C.R.C.P. Rule 65 (b)(1) which is adopted herein and included by reference, respectfully requests this court to enter a Temporary Restraining Order against Respondents. In support of this motion, Plaintiffs state as follows:

1. As set forth more fully in their Verified Petition, on December 9, 2022, Petitioner is adversely affected or aggrieved by Respondents actions in conducting an election recount outside of the Colorado Statute.
2. Respondents are engaging in actions which violate state laws protecting the sanctity of the right of the Petitioner and Colorado residents to be assured his vote has been properly counted. Absent the requested injunction, the Respondents will, without notice, disenfranchise the Petitioner and other qualified Colorado voters.

3. There is no adequate remedy at law or in equity in that absent the issuance of a temporary restraining order, the Plaintiffs have no remedy to protect his right of suffrage from the actions of the Respondents which are clearly contrary to the law.
4. Intervention by this court is necessary to preserve for the Petitioner and Colorado residents their fundamental right, as citizens of the great state of Colorado, to vote for their leaders and participate meaningfully in the democratic process. In further support of this motion, Petitioner respectfully refer the Court to his supporting Petition Pursuant to C.R.S. § 1-1-113 and for Injunctive Relief Pursuant to C.R.C.P 65 herewith.
5. Petitioner requests expedited consideration of his motion. With the December 13, 2022 deadline to have the recount completed as required by 1-10.5-102(2), C.R.S only 4 days away, any delay will result in thousands of Coloradans being disenfranchised as the legitimacy of the results of the race for the office of Representative from Colorado's 3rd (third) Congressional District of the United State Congress will be forever in question. Without expedited consideration, thousands of Colorado voters will be prevented from knowing if their vote was counted properly.

If this Court expeditiously grants the relief requested in this Motion (and the Verified Petition, which is incorporated by reference as if fully set forth herein), there will be sufficient time to conduct the recount by the county canvassing board in each of the relevant counties which comprise the Colorado 3rd Congressional District within the statutory deadline of Tuesday, December 13, 2022. And, if need be, this Court has the

authority to stay completion of the recounts until the Colorado Secretary of State proves to the Court that the recounts were conducted with the prior to recount test required by C.R.S. § 1-10.5-102(3)(a).

WHEREFORE, Petitioner respectfully requests that the Court grant the foregoing Emergency Motion for Temporary Restraining Order and/or Preliminary Injunction ordering Respondents:

- (1) to require the Colorado Secretary of State to forthwith order any county actively conducting a recount without first conducting the prior to recount test required by 1-10.5-102 (3)(a) C.R.S. prior to starting the recount as required by law, halt the invalid recounting process and conduct a new recount preceded by performing the prior to recount test required by 1-10.5-102 (3)(a) C.R.S. prior to starting the recount as required by law;
- (2) to require the Colorado Secretary of State to forthwith order any county which conducted a recount without conducting the prior to recount test required by 1-10.5-102 (3)(a) C.R.S. prior to starting the recount as required by law, to disregard those invalid recount results and conduct a new recount preceded by performing the prior to recount test required by 1-10.5-102 (3)(a) C.R.S. prior to starting the recount as required by law;
- (3) to prohibit the Secretary of State from acting upon any amended and resubmitted abstract, unless and until each of the canvass board members has certified in writing, under oath and subject to penalty of perjury, that the prior to recount test required by 1-10.5-102 (3)(a) C.R.S. was conducted prior to starting the recount as required by law, plus details as to who conducted the

prior to recount test, when it was conducted by date and time, and what the results were.

Respectfully Submitted this 9th day of December, 2022.

/s/ David Justice

