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**OFFICE OF  
APPELLATE COURTS**

September 12, 2023

**VIA ELECTRONIC FILING**

The Honorable Lorie S. Gildea  
Chief Justice, Minnesota Supreme Court  
Supreme Court of the State of Minnesota  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King, Jr. Blvd.  
St. Paul, MN 55155

Re: *Joan Growe et al. v. Steve Simon, Minnesota Secretary of State*

Dear Chief Justice Gildea:

We, along with co-counsel from Free Speech For People, represent petitioners in the above-referenced matter. Petitioners request an order from this Court, directing Minnesota Secretary of State Steve Simon to exclude Donald J. Trump from the ballots for the 2024 Republican presidential nomination primary and general election because he is ineligible to hold the office of president pursuant to Section 3 of the 14<sup>th</sup> Amendment to the United States Constitution. This is a matter of great significance and we submit this letter to address several prefatory matters.

- 1. Service may be completed by serving a copy of the petition on the Minnesota Secretary of State and the Chair of the Republican Party of Minnesota.***

Minn. Stat. § 204B.44 requires a petitioner to serve a copy of the petition on the officer charged with an error or omission with respect to “the placement of a candidate on the official ballot who is not eligible to hold the office for which the candidate has filed” and all candidates for the office. Petitioners are satisfying this requirement by serving a copy of the petition and this letter upon Minnesota Secretary of State Steve Simon, and upon David Hann, Chair of the Republican Party of Minnesota. Candidates for the offices of President and Vice President seeking the nomination of a major political party are identified by the chair of each party. Minn. Stat. §§ 207A.13, subd. 2; 208.03. With respect to the primary election, the party chair must “submit to the secretary of state the names of the candidates to appear on the ballot for that party not later than 63 days before the presidential nomination primary.” Minn. Stat. § 207A.13, subd. 2. This is the exclusive

manner to access the ballot for the presidential primary election. *De La Fuente v. Simon*, 940 N.W.2d 477, 494-95 (Minn. 2020).

The mere fact that an individual has declared his or her candidacy for President or registered a campaign committee with the Federal Election Commission does not guarantee that the individual will appear on the ballot for Minnesota’s presidential nomination primary.<sup>1</sup> *See, e.g., De La Fuente*, 940 N.W.2d at 483. Accordingly, while it may be possible to identify individuals who have stated their intention to become candidates for Minnesota’s presidential nomination primary, it is not possible for petitioners, the respondent Secretary of State, the Court, or anyone *but* the party chairs to identify the actual candidates until the party chairs submit their lists to the Secretary of State.<sup>2</sup> Put another way, the set of “all candidates for the office” under Minn. Stat. § 204B.44 does not come into existence until the party chairs create and submit their lists.

In this circumstance, service on “all candidates” for the Republican Party of Minnesota’s presidential nomination primary can be completed only through service upon the party chair who is solely responsible for identifying the candidates to appear on the ballot and submitting such names to the Secretary of State. Notwithstanding the foregoing, petitioners are sending a courtesy copy of the petition and this letter to the Donald J. Trump for President 2024 campaign via certified mail to the address included in the campaign’s Federal Election Commission filings and a duplicate copy to Mr. Trump’s last known residential address.

**2. *The petition is ripe and is not barred by laches.***

Petitioners’ counsel are familiar with this Court’s jurisprudence applying the doctrine of laches in the context of petitions under Minn. Stat. § 204B.44, as well as the requirement that a matter present an actual case or controversy to invoke the Court’s jurisdiction. This petition is ripe and it is timely filed.

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<sup>1</sup> More than 900 individuals have filed paperwork with the Federal Election Commission declaring themselves candidates for the 2024 presidential election.  
[https://ballotpedia.org/List\\_of\\_registered\\_2024\\_presidential\\_candidates#Registered\\_2024\\_presidential\\_candidates](https://ballotpedia.org/List_of_registered_2024_presidential_candidates#Registered_2024_presidential_candidates)

<sup>2</sup> Consideration of whether Donald Trump is disqualified from the Office of President cannot wait until January 2, 2024 when only 17 days would remain before absentee voting for the presidential nomination primary begins on January 19, 2024.

Donald Trump's disqualification from the office of president pursuant to Section 3 of the 14<sup>th</sup> Amendment has been the subject of recent news stories and scholarly articles. Whether the candidate may appear on the Minnesota presidential nomination primary ballot is a live controversy which must be resolved, ideally well before any primary ballots are printed. In addition, co-counsel for petitioners, Free Speech For People, sent a letter to Secretary Simon on August 23, 2023, requesting the Secretary take action to exclude Donald Trump from the Republican presidential nomination primary ballot. On August 29, 2023, the Office of the Secretary of State responded by email stating the Office "does not have legal authority to investigate a candidate's eligibility for office." The response continued "Minnesota law provides a separate legal process, found at Minn. Stat. 204B.44" to address candidate eligibility and that the Office "will continue to honor the outcome of that process, as we have in the past." On September 7, 2023, Secretary Simon issued a virtually identical statement via press release. The issue has been joined. Secretary Simon has been asked to exclude the candidate from the ballot and has refused to do so. This matter is now before this Court, consistent with the process established in Minnesota election law.

The petition also is timely. It was filed 16 weeks before the chairs of Minnesota's major political parties are required to submit the names of the candidates to appear on their respective primary ballots. There is ample time for this court to hear evidence, and decide the merits of the petition, before the January 2, 2024 deadline to submit the lists of candidates to the Secretary of State. Petitioners have moved diligently to pursue this petition. This is not a circumstance in which the equitable doctrine of laches may apply to "prevent one who has not been diligent in asserting a known right from recovering at the expense of one who has been prejudiced by the delay." See *Winters v. Kiffmeyer*, 650 N.W.2d 167, 169 (Minn. 2002).

**3. *Discovery likely will be necessary to present a full record.***

Petitioners anticipate the need to engage in discovery to prepare and present a full record for this Court's consideration. Petitioners are prepared to move expeditiously to complete all such discovery and will work with counsel for all parties to ensure the full factual record may be prepared and presented to this court as efficiently as possible. To that end, petitioners respectfully submit that it would be beneficial to conduct a conference with the Court in order to establish a schedule for completing discovery, conducting an evidentiary hearing, and submitting this matter to the Court for consideration on the merits.

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We appreciate the Court's consideration of this matter and are available to address any questions the Court may have.

Thank you.

Respectfully submitted,

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

s/David J. Zoll

David J. Zoll

c: Steve Simon (via hand delivery)  
David Hann (via hand delivery)  
Donald J. Trump for President 2024, Inc. (via Certified Mail)  
Donald J. Trump (via Certified Mail)  
Registered Agent for Donald J. Trump for President 2024, Inc. (via U.S. mail)  
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