

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock St. Denver CO 80202	DATE FILED: November 18, 2021 7:13 PM FILING ID: 21E63020360F1 CASE NUMBER: 2021CV33691
Plaintiffs: Ron Hanks, Amy Mitchell, Gary Moyer, Jeff Rector, and Merlin Klotz v. Defendant: JENA GRISWOLD, individually and as Colorado Secretary of State	
Plaintiff's Attorneys: John Case, Atty reg. # 2431 John Case, P.C. 5460 S. Quebec St. #350 Greenwood Village CO 80111 Phone: (303) 667-7407 FAX: (303) 648-4786 E-mail: brief@johncaselaw.com Counsel for Plaintiffs	Case No: 2021CV ** Courtroom: **
COMPLAINT and JURY DEMAND	

The plaintiffs state:

PARTIES AND VENUE

1. Plaintiff Ron Hanks is a resident of Fremont County, Colorado who voted in the Colorado November 3, 2020 general election (hereafter “2020 election”). Mr. Hanks retired from military service after 32 years in the U.S. Air Force, where he served as a linguist, intelligence officer, and counterdrug officer. Mr. Hanks served in Desert Storm, Iraq, Kuwait, Kazakhstan, Afghanistan, and U.A.E. In the 2020 election, voters of Colorado House District 60 elected Mr. Hanks to serve in the Colorado House of Representatives. Mr. Hanks was the only Colorado legislator who traveled to Arizona to attend briefings on the Maricopa County election audit.

2. Plaintiff Amy Mitchell is a resident of Park County, Colorado who voted in the 2020 election. Ms. Mitchell is a 5th generation Coloradan. She is a graduate of the University of Colorado, and she has worked in the Natural Products Industry for 29 years. In the 2020 election, voters of Park County elected Ms. Mitchell to serve as a Park County Commissioner.

In October 2021, Ms. Mitchell voted against the renewal of the contract to use Dominion Voting Systems for future elections in Park County.

3. Plaintiff Gary Moyer is a fourth-generation resident of Rio Blanco County, Colorado. Mr. Moyer voted in the 2020 election. He is a graduate of the University of Minnesota School of Forestry, an independent business owner, and he has served as a County Commissioner of Rio Blanco County since January 2019.

4. Plaintiff Jeff Rector is a resident of Rio Blanco County, Colorado who voted in the 2020 election. Mr. Rector graduated from high school in Rangely, Colorado and has owned his own well servicing company since the age of 27. Mr. Rector was elected a county commissioner of Rio Blanco County in 2016, and re-elected in 2020.

5. Plaintiff Merlin Klotz is a resident of Douglas County who voted in the 2020 election. Mr. Klotz has served as the Douglas County Clerk and Recorder since January 2015. He is a graduate of the University of Iowa with a degree in Accounting. Before being elected to the office of Clerk and Recorder, Mr. Klotz worked in the private sector.

6. Defendant Jena Griswold (“Defendant”) has held the office of Colorado Secretary of State since January 8, 2019.

7. Venue is proper pursuant to C.R.C.P. 98(b)(2).

FIRST CLAIM FOR RELIEF

(Declaratory Judgment – violations of C.R.S. § 1-5-608.5 – Defendant failed to employ a federally accredited laboratory to test Colorado voting systems before the 2020 election)

8. Plaintiffs incorporate all other allegations of this Complaint as if fully re-written.

9. Dominion Voting Systems Democracy Suite 5.11-CO (hereafter “5.11-CO”) is an electronic and/or electromechanical voting system that was used by sixty-two Colorado counties during the 2020 election cycle.

10. ClearBallot ClearVote 2.1 (hereafter “CV 2.1”) is an electronic and/or electromechanical voting system that was used by two Colorado counties during the 2020 election cycle.

11. C.R.S. § 1-5-612 states:

(1) The governing body of any political subdivision may, upon consultation with the designated election official, adopt an electronic or electromechanical voting system, including any upgrade in hardware, firmware, or software, for use at the polling locations in the political subdivision. The system may be used for recording, counting, and tabulating votes at all elections held by the political subdivision.

(2) An electronic or electromechanical voting system may be used only if the

system has been certified by the secretary of state in accordance with this part 6.

(Underline added)

12. C.R.S. § 1-5-608.5 provides in pertinent part:

1-5-608.5. Electronic and electromechanical voting systems - testing by federally accredited labs . . .

(1) A federally accredited laboratory may test, approve, and qualify electronic and electromechanical voting systems for sale and use in the state of Colorado.

(3)

(a) If the electronic and electromechanical voting systems tested pursuant to this section satisfy the requirements of this part 6, the secretary of state shall certify such systems and approve the purchase, installation, and use of such systems by political subdivisions and establish standards for certification.

(Underline added)

13. On or about June 7, 2019, Defendant issued a letter certifying 5.11-CO. A copy of Defendant's Certification Letter is attached to this Complaint and incorporated by reference as Exhibit 1. The letter states in part:

“Pro V&V, a federally accredited voting system testing laboratory, tested Democracy Suite 5.11 CO in accordance with the test plans my office approved on May 20, 2019 and May 23, 2019.

(Exhibit 1, second paragraph, underline added).

14. On or about July 31, 2020, Defendant's deputy issued a letter certifying CV 2.1. A copy of Defendant's Certification Letter is attached to this Complaint and incorporated by reference as Exhibit 2. The letter states in part:

“Pro V&V, a federally accredited voting system testing laboratory, tested ClearVote 2.1 in accordance with the test plans my office approved on December 16, 2019.

(Exhibit 2, second paragraph, underline added).

15. In fact, Pro V&V was not a federally accredited voting system testing laboratory on the dates that Defendant issued Exhibits 1 and 2, or at any time during 2019 and 2020.

16. In late 2002, Congress passed the Help America Vote Act of 2002 (HAVA). HAVA created the U.S. Election Assistance Commission (EAC) and assigned to the EAC the responsibility for both setting voting system standards and providing for the voluntary testing and certification of voting systems.

17. In response to this HAVA requirement, the EAC has developed (a) the voting system standards in the form of the Voluntary Voting System Guidelines (VVSG), (b) a voting system certification program in the form of the Voting System Testing and Certification Program Manual, and (c) an election systems testing laboratory accreditation program in the form of the Voting System Test Laboratory Program Manual (VSTLPM)..

18. HAVA Section 231(b) (originally 42 U.S.C. §15371(b), now 52 U.S.C. §20971(a)) requires that EAC provide for the accreditation and revocation of accreditation of independent, non-federal laboratories qualified to test voting systems to Federal standards.

19. EAC published “The Voting System Test Laboratory Program Manual, Version 2.0” (“VSTLPM 2.0”), which became effective May 31, 2015.

20. VSTLPM 2.0 remained in effect from May 31, 2015, until February 12, 2021, when EAC voted to adopt “The Voting System Test Laboratory Program Manual, Version 3.0.”

21. At all times relevant to this Complaint, VSTLPM 2.0 provided the procedural requirements of the EAC voting system Test Laboratory Accreditation Program.

22. Federal law (52 U.S.C. §20971(b)(2)(A)) and VSTLPM 2.0 provide that a voting systems test laboratory can receive federal accreditation only by vote of the EAC Commissioners, and VSTLPM 2.0 specifies that accreditation lasts for a period not exceeding two years.

23. Section 3.6 of VSTLPM 2.0 states:

3.6 Grant of Accreditation. Upon a vote of the EAC Commissioners to accredit a laboratory, the Testing and Certification Program Director shall inform the laboratory of the decision, issue a Certificate of Accreditation and post information regarding the laboratory on the EAC Web site.

3.6.1 Certificate of Accreditation. A Certificate of Accreditation shall be issued to each laboratory accredited by vote of the Commissioners. The certificate shall be signed by the Chair of the Commission and state:

3.6.1.1 The name of the VSTL [Voting System Testing Laboratory];

3.6.1.2 The scope of accreditation, by stating the Federal standard or standards to which the VSTL is competent to test;

3.6.1.3 The effective date of the certification, which shall not exceed a period of two (2) years; and

3.6.1.4 The technical standards to which the laboratory was accredited.

(VSTLPM 2.0 §3.6 [underline added])

24. At all times prior to February 1, 2021, EAC normally issued accreditation certificates for two years pursuant to VSTLPM 2.0 §3.6.

25. On or about February 24, 2015, EAC issued a Certificate of Accreditation to Pro V&V, Inc., Huntsville, Alabama. A copy of the Certificate is attached as Exhibit 3 and incorporated by reference. The Certificate states that it was issued on February 24, 2015, and that certification is effective through February 24, 2017.

26. On or about February 1, 2021, EAC issued a subsequent Certificate of Accreditation to Pro V&V, Inc., Huntsville, Alabama. That certificate documented Pro V&V's accreditation only for periods beginning on February 1, 2021. A copy of the Certificate is attached as Exhibit 4 and incorporated by reference.

27. During the 47 months period from February 24, 2017, until February 1, 2021, Pro V&V, Inc., Huntsville, Alabama was not a federally accredited testing laboratory.

28. 5.11-CO was not tested by a federally accredited laboratory prior to its use in the 2020 election.

29. CV 2.1 was not tested by a federally accredited laboratory prior to its use in the 2020 election.

30. Because Defendant violated C.R.S. § 1-5-608.5 by failing to have Colorado voting systems tested by a federally accredited laboratory before Defendant's certification of the voting systems, enabling their use in the 2020 election, an independent forensic audit is necessary to determine whether Colorado voting systems meet mandatory certification standards under Colorado law, and whether the systems accurately recorded the votes of the people of Colorado in the 2020 election.

WHEREFORE, on their First Claim for Relief, Plaintiffs pray that this Honorable Court enter judgment declaring that Defendant violated C.R.S. § 1-5-608.5 by failing to have Colorado voting systems tested by a federally accredited laboratory before the 2020 election. Plaintiffs pray that the Court enter judgment that an independent forensic audit is necessary to determine whether the voting systems meet legal standards, and whether the systems accurately recorded the votes of the people of Colorado in the 2020 election. Plaintiffs pray that the Court order the Defendant to pay the costs of such audit. Because of the importance of this case to the voters of Colorado, Plaintiffs pray for advancement on the docket and accelerated discovery pursuant to C.R.C.P. 57 (m). Plaintiffs pray for an award of costs, expert witness fees, reasonable attorney fees, and all other appropriate relief.

SECOND CLAIM FOR RELIEF

(Declaratory Judgment and injunctive relief – violations of C.R.S. § 1-7-802 – Defendant deleted or destroyed election records that election officials are required to preserve)

31. Plaintiffs incorporate all other allegations of this Complaint as if fully re-written.

32. C.R.S. § 1-5-601.5 states:

[Editor’s note: This version of this section is effective until July 1, 2022.]

All voting systems and voting equipment offered for sale on or after May 28, 2004, shall meet the voting systems standards that were promulgated in 2002 by the federal election commission. At his or her discretion, the secretary of state may require by rule that voting systems and voting equipment satisfy voting systems standards promulgated after January 1, 2008, by the federal election assistance commission as long as such standards meet or exceed those promulgated in 2002 by the federal election commission. Subject to section 1-5-608.2, nothing in this section shall be construed to require any political subdivision to replace a voting system that is in use prior to May 28, 2004.

(underline added)

33. The voting systems standards promulgated in 2002 by the Federal Election Commission (“FEC”) are set forth in FEC publication “Voting Systems Standards” Volumes 1 and 2 (“2002 VSS”).

34. C.R.S. § 1-7-802 states:

1-7-802 Preservation of election records.

The designated election official shall be responsible for the preservation of any election records for a period of at least twenty-five months after the election or until time has expired for which the record would be needed in any contest proceedings, whichever is later. Unused ballots may be destroyed after the time for a challenge to the election has passed. If a federal candidate was on the ballot, the voted ballots and any other required election materials shall be kept for at least twenty-five months after the election.

(Underline added)

35. Colorado voting systems in 64 counties require that all ballots are scanned and stored electronically in a central location.

36. All ballot images are stored on a single physical server hosting a backend “Network Attached Storage” (NAS) application, which is part of an “election management system.” computer called “the server”.

37. The server stores ballot images, election project files and log files, as well as system and system application “log files,” including audit log files, and system software.

38. A “log file” consists of individual log events which represent a system-time correlated record of hardware and software event history, including security, communication, process, error, and operator events, on the computer system.

39. “Log files” contain a date-time stamp, and may contain other information such as usernames, initiated and terminated applications, attempted file system access and modification, and the IP address of any device which has connected to the server.

40. The presence of an IP address, in a log file, belonging to any device that is not part of the voting system, is evidence that the voting system was accessed by a device outside the closed network.

41. An election cannot be secure if the voting system components connect to and communicate with the Internet or any other computer network that is external to the voting system.

42. In order to certify an election, the county clerk must have the ability and expertise to verify that the voting system has not been accessed or used in an unauthorized manner, including the ability and expertise to review all the log files and entries to determine if there have been any unauthorized connections with the voting system from outside the closed network.

43. Defendant limited access to the system event logs of every county voting system by requiring a password that is kept secret from county clerks and the public.

44. The log files meet the requirements of public information under the Colorado Open Records Act (“CORA”).

45. In the 2020 election, Mesa County used electronic vote-tabulating equipment that scanned ballots, interpreted marks on the ballots as votes, and then tabulated the votes for a final result.

46. As part of its operations, the Mesa County electronic vote-tabulating equipment produced electronic computer files that recorded how the system scanned and tabulated votes.

47. Such equipment also produced “operating system audit” files described in the 2002 VSS, section 2.2.5.3, which also are referred to hereinabove as “log files.”

48. 2002 VSS requires log files to be preserved as election records. 2002 VSS, section 2.2.5.3 requires operating system audit files to include “all session openings and closings, . . . connection openings and closings, . . . process executions and terminations, and for the alteration or deletion of any memory or file object.”

49. Log files are necessary to understand and audit how the electronic vote-tabulating equipment scanned, interpreted, and tallied votes.

50. 2002 VSS states, in section 4.3, that all systems shall “Maintain the integrity of voting and audit data during an election, and for at least 22 months thereafter, a time sufficient in which to resolve most contested elections and support other activities related to the reconstruction and investigation of a contested election.”

51. C.R.S. § 1-7-802 requires all electronic files that reside on the server, including log files, to be preserved for 25 months.

52. Along with certification of 5.11-CO, Defendant promulgated mandatory technical procedures directed for use by election officials within Colorado counties in configuring and operating the voting systems certified by Defendant.

53. The mandatory technical procedures included vendor-developed manual “2.09 – Democracy Suite EMS System Maintenance Manual, Version: 5.11-CO::3,” dated April 18, 2019, attached hereto and incorporated herein as Exhibit 5.

54. At Chapter 2, Section 2.1, Exhibit 5 prescribes that the system log file parameters be set at a level that insures the destruction of log files in the normal course of the system’s operation. (Exhibit 5, P. 4)

55. Defendant’s certification of 5.11-CO and promulgation of technical procedures which directed the configuration of 5.11-CO systems by Colorado counties in such a manner as to ensure the destruction of records of the 2020 election, violated C.R.S. § 1-7-802 by deleting or destroying records of the 2020 election.

56. In April of 2021, Defendant notified Colorado counties that Defendant would conduct a “Trusted Build” software update of county election equipment.

57. On information and belief, the Defendant conducted “Trusted Build” software updates of 62 counties in Colorado from April through August of 2021.

58. Defendant’s employees, together with employees of the election system vendor, conducted the “Trusted Build” of Mesa County election equipment on May 25 and 26, 2021.

59. On information and belief, during the “Trusted Build” of Mesa County election equipment, Defendant’s employees and employees of the system vendor permanently deleted or destroyed log files that were election records from the 2020 election.

60. Doug Gould, a qualified cyber-security expert, conducted a forensic examination of the voting systems of Mesa County used in the 2020 election. Mr. Gould’s initial report, dated September 15, 2021 is attached hereto and incorporated herein by reference as Exhibit 6. Mr. Gould concluded in pertinent part:

“Forensic examination found that election records, including data

described in the Federal Election Commission's 2002 Voting System Standards (VSS) mandated by Colorado law as certification requirements for Colorado voting systems, have been destroyed on Mesa County's voting system, by the system vendor and the Colorado Secretary of State's office. Because similar system modifications were reportedly performed upon county election servers across the state, it is possible, if not likely, that such data destruction in violation of state and federal law has occurred in numerous other counties."

(Exhibit 6, P. 4)

61. Defendant's 2021 "Trusted Build" process violated C.R.S. § 1-7-802 by deleting or destroying records of the 2020 election.

62. On information and belief, Defendant's 2021 "Trusted Build" process deleted election records in all counties in which it was conducted in violation of C.R.S. § 1-7-802.

63. An independent forensic audit is necessary to determine the extent of deleted or destroyed records, whether such records can be reconstructed, and, to the extent possible, whether Colorado voting systems accurately recorded the votes of the people of Colorado in the 2020 election.

64. Defendant must be enjoined from deleting or destroying election records in the future.

WHEREFORE, on their Second Claim for Relief, Plaintiffs pray that this Honorable Court enter judgment declaring that Defendant violated C.R.S. § 1-7-802 by destroying election records as part of installing Dominion 5.11-CO and Defendant's 2021 "Trusted Build" process. Plaintiffs pray that the Court enter judgment that an independent forensic audit is necessary to determine the extent of deleted or destroyed records, whether such records can be reconstructed, and, to the extent possible, whether Colorado voting systems accurately recorded the votes of the people of Colorado in the 2020 election. Plaintiffs pray that the Court order the Defendant to pay the costs of such audit. Plaintiffs pray that the Court enjoin defendant from further altering or destroying election records. Plaintiffs pray that the Court order Defendant to preserve all election records of the 2020 election under her control until February 3, 2023, or until final judgment is entered in this case, whichever is later. Plaintiffs pray for an award of costs, expert witness fees, reasonable attorney fees, and all other appropriate relief.

THIRD CLAIM FOR RELIEF
(Judicial Review of Agency Action – C.R.S. § 24-4-106)

65. Plaintiffs incorporate all other allegations of this Complaint as if fully re-written.

66. Colorado County Clerk and Recorders ("CCRs") have custody and control of all county election equipment.

67. At all times prior to June 17, 2021, CCRs could lawfully hire or designate non-

employee technical consultants with the necessary expertise to evaluate, audit, or otherwise ensure that electronic vote-tabulating equipment, and other election equipment, functions correctly and in accordance with Colorado law.

68. On June 17, 2021, Defendant promulgated, on an alleged emergency basis, a new version of Election Rule 20.5.4 that prohibits CCRs from allowing qualified technical consultants access to election equipment. Defendant's emergency Rule 20.5.4 is attached hereto and incorporated herein by reference as Exhibit 7. The new rule allows ONLY the following people to have access to election equipment: (1) employees of Defendant; (2) employees of a County Clerk, (3) election judges, (4) voting system vendors. No independent consultants are allowed.

69. Defendant does not employ on her staff a qualified cyber-security expert with the skills and experience necessary to test the integrity of Colorado voting systems.

70. No Colorado county clerk employs a qualified cyber-security expert with the skills and experience necessary to test the integrity of Colorado voting systems.

71. Election judges are not cyber security experts who can verify whether the voting system in his or her county is secure nor whether it complies with Colorado law.

72. Employees of Dominion are not cyber security experts, and it would be against Dominion's economic interest to find that a Colorado voting system is insecure or does not comply with Colorado law.

73. Thus, Defendant's new Rule 20.5.4 effectively prevents qualified cyber security experts from being employed to test the integrity of Colorado voting systems and their compliance with Colorado law.

74. Defendant stated on June 17, 2021 that she promulgated Exhibit 7 to prevent an independent forensic audit of the 2020 election, such as occurred in Arizona.

“Adoption of these new and amended rules on a temporary basis is necessary given the public concern regarding rapidly increasing instances of purported “forensic audits” conducted by unknown and unverified third parties nationwide.”

(Exhibit 7, P. 6)

75. Defendant tweeted:

“My office just issued rules prohibiting sham election audits in the state of Colorado. We will not risk the state's election security nor perpetuate The Big Lie. Fraudits have no place in Colorado.” (Exhibit 8).

76. Rather than preventing “fraudits,” “Big Lies,” and “purported forensic audits,” Exhibit 7 prevents legitimate forensic and other audits of Colorado elections.

77. Defendant directed her staff and CCRs to withhold from the public information related to the schedule for the “Trusted Build” modification of Colorado Dominion Voting Systems from version 5.11-CO to 5.13, conducted in 2021.

78. Exhibit 9, which is attached hereto and incorporated herein by reference, is a report of security testing performed in 2020 by Synack Inc. at the direction of Defendant’s security officer.

79. Defendant withheld from the public all information related the election system vulnerability findings, which are reported in Exhibit 9.

80. On July 7, 2021, Maureen West, a licensed Colorado attorney, made a CORA request to Defendant for information related to Emergency Rule 20.5.4. The Cora request is attached hereto and incorporated herein as Exhibit 10.

81. Defendant failed to provide the information requested in Exhibit 10.

82. The Dominion voting system used in 60 Colorado counties relies on Dell computers that were made in Mexico and China.

83. Dell laptop computers used in the Colorado voting system were manufactured in Chengdu, China.

84. Dell computers used in the Colorado voting systems were ordered and built with the ability to connect to external networks and devices, including the internet, both through wireless and wired connections.

85. Election Rule 20.19.1 (8 CCR 1505-1) appears to prohibit voting systems from connecting to the internet. The Rule states:

20.19.1 The county must use the voting system only on a closed network or in a standalone fashion.

(8 CCR 1505-1:20).

86. Election Rule 1.1.14 defines “Closed network” as “a network configuration in which voting system components connect to and communicate only with each other and not with the Internet or any other computer network.” (8 CCR 1505-1:4)

87. Because election system computers are manufactured with wireless connectivity,

there is no way to prevent them from being connected to the internet, nor for CCRs and Colorado election officials to determine whether or not the election system computers are, have been, or can connect to the internet or to other outside networks.

88. Only a forensic audit with access to log files can determine whether or not an election computer system was “hacked” or subjected to unauthorized access during, or affecting, an election.

89. By requiring a secret password to access log files and entries, Defendant precludes County Clerks and the citizens of Colorado from knowing whether there have been unauthorized connections with the voting system during an election.

90. Because Defendant refuses to allow county clerks to review log files after an election, citizens and governing officials of each county should be allowed to employ a qualified cyber-security expert to conduct an independent forensic audit of the voting system, including voting equipment, paper ballots, ballot envelopes, and original signatures, to determine if there were unauthorized connections, or discrepancies in paper ballots, ballot envelopes, and original signatures, and if so, how each unauthorized connection, access or use of voting equipment, or discrepancy in paper ballots, affected election results.

91. The “Risk Limiting Audit” (RLA) permitted by Defendant’s election rules is only a statistical sample of one candidate race or one ballot issue.

92. An RLA does not verify the authenticity of ballots or the eligibility of voters.

93. An RLA is insufficient to guarantee the security or integrity of an election.

94. In the most recent election, November 2, 2021, the El Paso County clerk’s office transmitted election data to Defendant’s website using an internet connection. As batches of votes were transmitted, the total votes counted increased on Defendant’s website by approximately 20 per cent. This happened twice. The El Paso County Clerk telephoned Defendant’s office. Defendant’s office was unaware that its website was showing inflated vote totals from El Paso County. Defendant’s office and the El Paso County Clerk agreed to manually decrease the vote totals that had been transmitted by the voting system.

95. Votes must be cast by anonymous ballot, but the vote counting process should be transparent.

96. Defendant promulgated Rule 20.5.4 with the express purpose of avoiding transparency in the vote counting process.

97. Rule 20.5.4 prohibits independent verification that an election was free or fair.

98. Rule 20.5.4 prevents CCRs from exercising their statutory duties to conduct

free and fair elections.

99. On August 3, 2021, Defendant held a public hearing via Zoom to receive public input on Exhibit 7.

100. At the hearing, 360 concerned citizens attended. Sixty-three citizens spoke in opposition to the new Exhibit 7. No person spoke in favor of adopting Exhibit 7.

101. Despite unanimous opposition to Exhibit 7, Defendant adopted it on August 26, 2021.

102. Exhibit 7 became final October 15, 2021.

103. Judicial review of Defendant's Rules is available under C.R.S. § 24-4-106 and C.R.S. § 1-1-110 (1.5).

104. This claim for judicial review is timely under C.R.S. § 24-4-106 (4).

105. On November 18, 2021 undersigned counsel obtained a redline version of Defendant's entire set of New Election Rules that became effective October 15, 2021 (hereafter "New Election Rules"). The New Election Rules are attached hereto and incorporated herein by reference as Exhibit 11.

106. Undersigned counsel was retained on November 11, 2021 and requires additional time to study the New Election Rules that became effective October 15, 2021.

107. On information and belief, the New Election Rules set forth in Exhibit 11 are unlawful, exceed Defendant's statutory authority, and unlawfully deprive Plaintiffs of their rights to make sure that elections in Colorado are secure, free, and fair.

108. Plaintiffs request leave of Court to file a First Amended Complaint on or before December 23, 2021, setting forth additional legal and factual bases which will challenge specific sections of Exhibit 11.

WHEREFORE, on their Third Claim for Relief, Plaintiffs pray that this Honorable Court enter judgment declaring that:

- (1) New Rule 20.5.4 is contrary to law and beyond the Secretary's legal authority to implement;
- (2) New Rule 20.5.4 is contrary to public policy and the public interest in free and fair elections;
- (3) Annuling new Rule 20.5.4 and permanently enjoining Defendant from enforcing it.

(4) Allowing Plaintiffs until December 23, 2021 to file a First Amended Complaint challenging any and/or all of the New Election Rules shown in Exhibit 11.

(5) And for such further relief as the Court deems just.

PLAINTIFFS DEMAND TRIAL BY JURY ON DISPUTED ISSUES OF FACT

Respectfully submitted November 18, 2021.

JOHN CASE, P.C.
Counsel for Plaintiffs

s/John Case

John Case, #2431