

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JOHN ANTHONY CASTRO

Plaintiff,

v.

FEDERAL ELECTION COMMISSION

Defendant.

)
) No.: 22-cv-02176
)
) MEMORANDUM OF POINTS AND
) AUTHORITIES IN SUPPORT OF
) PLAINTIFF’S MOTION FOR
) TEMPORARY RESTRAINING
) ORDER, MOTION FOR
) PRELIMINARY INJUNCTION,
) MOTION FOR HEARING AND
) EXPEDITED BRIEFING SCHEDULE

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFF’S
 MOTION FOR TEMPORARY RESTRAINING ORDER, MOTION FOR
 PRELIMINARY INJUNCTION, MOTION FOR HEARING AND EXPEDITED
 BRIEFING SCHEDULE**

Plaintiff, JOHN ANTHONY CASTRO submits the following memorandum of points and authorities in support of Plaintiff’s Motion for a Temporary Restraining Order, Motion for Preliminary Injunction and Motion for Hearing and Expedited Briefing Schedule¹

¹ Pursuant to LCvR 65.1(a), John Anthony Castro’s memorandum includes the declaration of Plaintiff. Mr. Castro’s Declaration states that, prior to filing this motion, Plaintiff provided Defendant actual notice of the filing, including copies of all pleadings and papers.

TABLE OF CONTENTS

- I. MOTIONS FOR RELIEF 1
 - A. BACKGROUND..... 1
 - B. SUMMARY OF INJUNCTIVE RELIEF SOUGHT 4
- II. STANDARD OF REVIEW 5
 - A. PROCEDURAL AND GENERAL REQUIREMENTS 5
 - B. SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS 8
 - 1. Donald J. Trump Engaged In, Provided Aid to, or Provided Comfort to the Insurrectionists that Attacked the United States Capitol on January 6, 2021 8
 - 2. Donald J. Trump is Ineligible to Hold Office Under Section 3 of the 14th Amendment..... 10
 - 3. Plaintiff Has Article III and Prudential Standing to Sue 11
 - (a) *Personal Political Competitor Injury-in-Fact*..... 11
 - (b) *Traceable to Defendant FEC’s Unlawful Acceptance of Trump’s FEC Form 2, Statement of Candidacy*..... 12
 - (c) *Redressable with the Injunctive Relief Sought* 13
 - (d) *Plaintiff is Within the Zone of Interests of Persons that Section 3 of the 14th Amendment* 13
 - 4. Defendant’s Acceptance of Donald J. Trump’s FEC Form 2, Statement of Candidacy, Would Violate the Administrative Procedure Act as Agency Action Not In Accordance with Law 14
 - (a) *Plaintiff Seeks to Enjoin Agency Action Contrary to the Supreme Law of the Land, Section 3 of the 14th Amendment to the U.S. Constitution* 15
 - 5. Donald J. Trump Cannot Be a “Candidate” under 52 U.S.C. § 30101(2)..... 15

C.	SUBSTANTIAL THREAT OF IRREPARABLE HARM WITHOUT INJUNCTION.....	15
1.	The Competitive Financial Injury Would Be Irreparable	16
2.	First Amendment Implications.....	18
D.	BALANCE OF EQUITIES AND SERVING THE PUBLIC INTEREST.....	19
III.	DECLARATORY AND INJUNCTIVE RELIEF REQUESTED.....	20

TABLE OF AUTHORITIES

Cases

2013 WL 1164506 (D.C. Cir. Mar. 11, 2013)19

737 F.2d 1206 (D.C. Cir. 1984).....24

Al-Joudi v. Bush, 406 F. Supp. 2d 13 (D.D.C. 2005)26

Art-Metal-USA, Inc. v. Solomon, 473 F. Supp. 1 (D.D.C. 1978)24

Bayer HealthCare, LLC v. U.S. Food & Drug Admin., 942 F. Supp. 2d 17 (D.D.C. 2013)27

Browner Bldg., Inc. v. Shehyn, 442 F.2d 847 (D.C. Cir. 1971).....24

Citizens United v. FEC, 558 U.S. 310 (2010)..... 20, 26

Cobell v. Norton, 391 F.3d 251 (D.C. Cir. 2004)14

Columbia Plaza Corp. v. Sec. Nat. Bank, 525 F.2d 620, 622 (D.C. Cir. 1975)27

ConverDyn v. Moniz, 68 F. Supp. 3d 34 (D.D.C. 2014).....27

Cox v. Brown, 498 F. Supp. 823 (D.D.C. 1980).....14

Delaware & H. Ry. Co. v. United Transp. Union, 450 F.2d 603 (D.C. Cir. 1971).15

Dist. 50, United Mine Workers of Am. v. Int’l Union, United Mine Workers of Am., 412 F.2d 165 (D.C. Cir. 1969).....16

Diverco, Inc. v. Cheney, 745 F. Supp. 739 (D.D.C. 1990).....14

Doe v. Mattis, 928 F.3d 1 (D.C. Cir. 2019)24

Elk Assocs. Funding Corp. v. U.S. Small Bus. Admin., 858 F. Supp. 2d 1 (D.D.C. 2012)14

Elrod v. Burns, 427 U.S. 347, 373 (1976)26

Express One Int’l, Inc. v. U.S. Postal Serv., 814 F. Supp. 87 (D.D.C. 1992)14

Fanning v. High Mountain Inspection Servs., Inc., 520 F. Supp. 2d 55 (D.D.C. 2007)24

Fed. Deposit Ins. Corp. v. Cafritz, 762 F. Supp. 1503 (D.D.C. 1991).....14

Fulani v. Brady, 935 F.2d 1324 (D.C. Cir. 1991).....19

Fulani v. League, 882 F.2d 621 (2d Cir. 1989)20

Gottlieb v. FEC, 143 F.3d 618, 621 (D.C. Cir. 1998)19

Gottlieb, 143 F.3d at 621)19

Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cnty., 415 U.S. 423 (1974).....14

Grubbs v. Butz, 514 F.2d 1323, 1325 (D.C. Cir. 1975).....27

Hassan v. FEC, 893 F. Supp. 2d 248, 255 (D.D.C. 2012)19

Hassan v. FEC, 893 F. Supp. 2d 248, 255 n.6 (D.D.C. 2012)19

Herbert v. Nat’l Acad. of Sciences, 974 F.2d 192, 197 (D.C. Cir. 1992).....18

Hum. Res. Mgmt., Inc. v. Weaver, 442 F. Supp. 241 (D.D.C. 1977).....25

Jews for Urb. Just. v. Wilson, 311 F. Supp. 1158 (D.D.C 1970)16

La. Energy and Power Auth. v. FERC, 141 F.3d 364, 367 (D.C. Cir. 1998).....20

League of Women Voters of United States v. Newby, 838 F.3d 1 (D.C. Cir. 2016) 25

Lexmark Int’l, Inc. v. Static Control Components, Inc., 572 U.S. 118 (2014).....22

Long v. Dep’t of Homeland Sec., 436 F. Supp. 2d 38 (D.D.C. 2006)14

Massachusetts L. Reform Inst. v. Legal Servs. Corp., 581 F. Supp. 1179 (D.D.C.)24

McConnell v. FEC, 540 U.S. 93, 10720

Mendoza v. Perez, 754 F.3d 1002, 1011 (D.C. Cir. 2014)20

Nat. Res. Def. Council v. EPA, 806 F. Supp. 275 (D.D.C. 1992).....27

Nat’l Ass’n of Farmworkers Organizations v. Marshall, 628 F.2d 604 (D.C. Cir. 1980)14

Nat’l Min. Ass’n v. Jackson, 768 F. Supp. 2d 34 (D.D.C. 2011)24

New World Radio, Inc. v. FCC, 294 F.3d 164, 170 (D.C. Cir. 2002)19

Nken v. Holder, 556 U.S. 418 (2009)27

Panda v. Wolf, 487 F. Supp. 3d 48, 52 (D.D.C. 2020).....27

Pharm. Mfrs. Ass’n v. Weinberger, 401 F. Supp. 444, 449 (D.D.C. 1975).....15

PHE, Inc. v. U.S. Dep’t of Just., 743 F. Supp. 15 (D.D.C. 1990)26

Public Citizen v. FEC, 788 F.3d 312 (DC Cir. 2015).....22

Quaker Action Grp. v. Hickel, 421 F.2d 1111 (D.C. Cir. 1969).....27

Richardson v. Trump, 496 F. Supp. 3d 165 (D.D.C. 2020).....25

Roman Cath. Diocese of Brooklyn v. Cuomo, 141 S. Ct. 63, 67 (2020)26

Shays v. FEC, 414 F.3d 76, 83 (D.C. Cir. 2005)19

Shays v. FEC, 414 F.3d 76, 87 (D.C. Cir. 2005)19

Sherley v. Sebelius, 610 F.3d 69, 72–73 (D.C. Cir. 2010).....20

The Nation Mag. v. Dep’t of State, 805 F. Supp. 68 (D.D.C. 1992)27

Thompson Van Lines, Inc. v. U.S., 381 F. Supp. 184 (D.D.C. 1974)14

TikTok Inc. v. Trump, 507 F. Supp. 3d 92 (D.D.C. 2020)25

U.S. v. Sum of \$70,990,605, 991 F. Supp. 2d 154 (D.D.C. 2013).....27

Unity08 v. FEC, 596 F.3d 861 (DC Cir. 2010).....23

Vikonics, Inc. v. U.S., 749 F. Supp. 315 (D.D.C. 1990)14

Virginia Petroleum Jobbers Association v. FPC, 259 F.2d 921 (D.C. Cir. 1958)..14

Wallace v. Lynn, 507 F.2d 1186 (D.C. Cir. 1974).....16

Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).....14

Youngstown Sheet & Tube Co. v. Sawyer, 103 F. Supp. 978 (D.D.C 1952).....15

Statutes

28 U.S.C. § 1331 10, 11

28 U.S.C. § 1746..... 13, 29

5 U.S.C. § 702..... 21, 22, 32

5 U.S.C. § 704..... 10, 22

5 U.S.C. § 705..... 11, 13, 21, 28

5 U.S.C. § 706(2)(A)..... 11,12,20,23,25,26

5 U.S.C. §§ 701 - 706.....9

5 U.S.C. §§ 701-706.....9

52 U.S.C. § 30101(2)12

52 U.S.C. § 30109(a)(8).....9

52 U.S.C. § 30109(a)(8)(A)10

Rules and Regulations

Fed. R. Civ. P. 12 (b)(6).....10

Fed. R. Civ. P. 12(b)(1).....10

Fed. R. Civ. P. 659, 13

Fed. R. Civ. P. 65(b)(1)(A)13

Fed. R. Civ. P. 65(b)(1)(A)-(B)13

Fed. R. Civ. P. 65(b)(2).....14

Fed. R. Civ. P. 65(c)..... 13, 32

Fed. R. Civ. P. Rule 65(a)(1)12

I. MOTIONS FOR RELIEF

Plaintiff John Anthony Castro, pursuant to 5 U.S.C. §§ 701-706 and Fed. R. Civ. P. 65, moves this Honorable Court for the entry of a Temporary Restraining Order (“TRO”) enjoining Defendant Federal Election Commission (“FEC”) from accepting, processing, retaining, recognizing, giving consideration of, or otherwise giving effect to Donald J. Trump’s FEC Form 2, Statement of Candidacy, on the basis that such action by Defendant FEC would constitute agency action not in accordance with law since Donald J. Trump is a constitutionally ineligible candidate pursuant to Section 3 of the 14th Amendment to the U.S. Constitution.

Alternatively, if and only if the Court determines that a Temporary Restraining Order is not appropriate despite the time sensitive nature of the matters and threat of irreparable harm, Plaintiff moves this Honorable Court for a Preliminary Injunction and requests a Hearing with an Expedited Briefing Schedule.

A. BACKGROUND

On January 30, 2022, Plaintiff John Anthony Castro formally registered with the Federal Election Commission as a 2024 candidate for the Republican nomination for the Presidency of the United States and was assigned FEC ID P40007320.

On July 25, 2022, Plaintiff John Anthony Castro filed a Complaint for Declaratory and Injunctive Relief (“Compl.”) (Docket No. 1) pursuant to the judicial review provision of the Federal Election Campaign Act (“FECA”), 52 U.S.C. § 30109(a)(8), and the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. §§ 701 - 706.²

² See <https://www.fec.gov/data/candidate/P40007320/?tab=about-candidate>.

Count I is based upon an administrative complaint that Plaintiff filed with Defendant on March 23, 2022. Plaintiff's administrative complaint sought to compel Defendant to declare Donald J. Trump a "candidate" within the meaning of FECA. Defendant failed to act on the administrative complaint within 120 days. Federal law, pursuant to 52 U.S.C. § 30109(a)(8)(A), grants the right of judicial review if the FEC fails to act on an administrative complaint within 120 days. As such, the jurisdiction for Count I stems from 52 U.S.C. § 30109(a)(8)(A) due to the FEC's failure to act within 120 days regarding Donald J. Trump's activities mandating his statutory classification as a "candidate" given the invalidity of the FEC's *Testing the Waters* regulations under the U.S. Supreme Court's *Home Concrete* standard.

Count II effectively states that, because Plaintiff has alleged in his Complaint that Donald J. Trump engaged in, provided aid to, or provided comfort to the insurrectionists that violently attacked our United States Capitol on January 6, 2021, if Defendant were to accept Donald J. Trump's FEC Form 2, Statement of Candidacy, that would constitute agency action "not in accordance with law" pursuant to Section 3 of the 14th Amendment. In other words, because factual allegations in a complaint must be accepted as true and Plaintiff's Complaint specifically alleges that Trump engaged in, aided, or comforted insurrectionists, it must be accepted as true that Trump does not satisfy Section 3 of the 14th Amendment and is, therefore, ineligible to pursue public office. If Defendant were to accept Donald J. Trump's FEC Form 2, Statement of Candidacy, that would constitute final agency action under 5 U.S.C. § 704 that is "not in accordance with law" under Section 3 of the 14th Amendment, which 5 U.S.C. § 706(2)(A) specifically prohibits. As such, the jurisdiction for Count II stems from 28 U.S.C. § 1331.

On September 29, 2022, Shaina J. Ward, Jacob Stephen Siler, and Kevin Deeley electronically filed Notices of Appearance.

On October 31, 2022, Defendant filed a Partial Motion to Dismiss solely with regard to Count II pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12 (b)(6) for purported lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted, respectively. According to Defendant FEC, despite the fact that Count II arises under Section 3 of the 14th Amendment of the U.S. Constitution, the clear language of 28 U.S.C. § 1331 providing the Court with jurisdiction, the unambiguous language of 5 U.S.C. § 705 that a court can enjoin agency action that is or would be “not in accordance with law” under 5 U.S.C. § 706(2)(A), the clear language of Clause 2 of Article VI of the U.S. Constitution that states this “Constitution... shall be the supreme Law of the Land,” Defendant FEC still chose to absurdly assert that this Honorable Court lacks subject matter jurisdiction. To frivolously support its “failure to state a claim” position, Defendant FEC grossly mischaracterized Plaintiff’s legal argument in claiming that Plaintiff was seeking to compel Defendant FEC to declare Donald J. Trump ineligible to pursue public office. That is false. In the most simplistic terms, Plaintiff seeks to enjoin or set aside agency action that would be “not in accordance with law,” which includes Section 3 of the 14th Amendment to the U.S. Constitution that is the “supreme Law of the Land.”

To illustrate this case, Plaintiff provides this chart for Defendant.

<u>Violation</u>	<u>Jurisdiction</u>	<u>Grounds</u>	<u>Relief</u>	<u>Standing</u>
Accepting Trump’s FEC Form 2 Violates U.S. Const. amend. XIV, § 3	Because it arises under the Constitution, 28 U.S.C. § 1331	Agency Action Not in Accordance with Law per 5 U.S.C. § 706(2)(A)	Injunctive Relief per 5 U.S.C. § 705	Political Competitive Injury on GOP Presidential Candidate JAC

On Tuesday, November 15, 2022, Donald J. Trump announced his candidacy for the Republican nomination for the Presidency of the United States for the 2024 election cycle. Donald J. Trump’s announcement of his candidacy mooted Count I. As such, Count II is now the sole matter before this Honorable Court. To be clear, Count I and the administrative complaint are now irrelevant to this case.

The question before this Court is whether Defendant FEC's action of accepting Donald J. Trump's FEC Form 2, Statement of Candidacy, would constitute agency action "not in accordance with law" under 5 U.S.C. § 706(2)(A) given the fact that it would be contrary to Section 3 of the 14th Amendment by expressly permitting an ineligible candidate to raise funds to unlawfully campaign for public office. Alternatively, another question for this Court is whether Donald J. Trump can be considered a "candidate" within the meaning of 52 U.S.C. § 30101(2) since he is ineligible to pursue public office under Section 3 of the 14th Amendment.

Unless enjoined by this Honorable Court, Defendant will accept Donald J. Trump's FEC Form 2, Statement of Candidacy, in violation of Section 3 of the 14th Amendment to the U.S. Constitution. This injunctive relief is sought to prevent the FEC from engaging in said unconstitutional agency action that, if not enjoined, would bestow upon a constitutionally ineligible Presidential candidate the privilege of raising an unlimited sum of campaign funds in pursuit of the Republican nomination for the Presidency of the United States to the detriment of Plaintiff by unconstitutionally allowing for increased political competition, placing Plaintiff at a competitive disadvantage regarding fundraising, and allowing for the irretrievable siphoning-off of a limited amount of available campaign funds.

B. SUMMARY OF INJUNCTIVE RELIEF SOUGHT

Pursuant to Fed. R. Civ. P. Rule 65(a)(1), Plaintiff certifies to this Honorable Court that on July 25, 2022, Plaintiff filed his Original Complaint in this matter. On September 27, 2022, Shaina Ward, Attorney with the Legal Division of the Federal Election Commission contacted Plaintiff by electronic mail to confirm her assignment to the case. On Thursday, October 6, 2022, Plaintiff informed Shaina Ward that Plaintiff would be filing an emergency application for a temporary restraining order, motion for preliminary injunction, motion for expedited briefing, and motion for

hearing regarding the Count I challenge to the *Testing the Waters* regulations. Plaintiff ultimately decided this would not be prudent since Donald J. Trump's much anticipated post-Midterm Election campaign announcement would moot the issue before the Court could issue a ruling on the merits.

On November 11, 2022, Plaintiff informed Shaina Ward of his intent to file this *Emergency Application for a Temporary Restraining Order, Motion for Preliminary Injunction, Motion for Hearing and Expedited Briefing Schedule, and Brief in Support* regarding Count II.

Because there is a substantial likelihood of success on the merits based on agency action not in accordance with the law, an actual threat of irreparable harm, no harm to Defendant, and the public interest favors granting injunctive relief to resolve this issue of national importance, this Honorable Court has the authority under 5 U.S.C. § 705 to issue the requested temporary and/or preliminary injunctive relief.

Pursuant to Fed. R. Civ. P. 65(c), Plaintiffs are requesting a waiver of security.

The request for a Temporary Restraining Order is supported by Verification pursuant to 28 U.S.C. § 1746, which satisfies the "affidavit" requirement under Fed. R. Civ. P. 65(b)(1)(A).³

II. STANDARD OF REVIEW

A. PROCEDURAL AND GENERAL REQUIREMENTS

"The court may issue a temporary restraining order... only if specific facts in an affidavit... clearly show that immediate and irreparable injury, loss, or damage will result... before the adverse party can be heard." Fed. R. Civ. P. 65(b)(1)(A)-(B). Rule 65 contemplates thoroughly reading all of the facts in a supporting affidavit.

³ See *Summers v. U.S. Dep't of Just.*, 999 F.2d 570, 572 (D.C. Cir. 1993); *El Bey v. Roop*, 530 F.3d 407, 414 (6th Cir. 2008); *Owens v. Hinsley*, 635 F.3d 950, 954–55 (7th Cir. 2011); *Elder-Keep v. Aksamit*, 460 F.3d 979, 984 (8th Cir. 2006); *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 748 (11th Cir. 2010).

Plaintiff is seeking injunctive relief for the purpose “of preserving the status quo and preventing irreparable harm just so long as is necessary to hold a hearing, and no longer.”⁴ Here, Plaintiff is requesting a temporary restraining order “not to exceed 14 days” pursuant to Fed. R. Civ. P. 65(b)(2).

The U.S. Court of Appeals for the D.C. Circuit has held that the “party seeking the [injunctive] relief, by a clear showing, carries the burden of persuasion.”⁵ Furthermore, before granting injunctive relief, four factors must be weighed by the court: “(1) Has the petitioner made a strong showing that it is likely to prevail on the merits of its appeal?... (2) Has the petitioner shown that without such relief, it will be irreparably injured?... (3) Would the issuance of a stay substantially harm other parties interested in the proceedings?... (4) Where lies the public interest?”⁶

Courts should apply a “sliding scale” approach to these four factors.⁷ In other words, injunctive relief may be issued with *either* a high probability of success on the merits and some minimal injury *or* some probability of success on the merits with a high showing of injury.⁸ The court is not required to determine definite success on the merits where the other factors weigh heavily in favor of an injunction.⁹

⁴ *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974).

⁵ *Cobell v. Norton*, 391 F.3d 251, 258 (D.C. Cir. 2004).

⁶ *Nat'l Ass'n of Farmworkers Organizations v. Marshall*, 628 F.2d 604, 613 (D.C. Cir. 1980) (quoting *Virginia Petroleum Jobbers Association v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958)); also see *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Fed. Deposit Ins. Corp. v. Cafritz*, 762 F. Supp. 1503 (D.D.C. 1991); *Thompson Van Lines, Inc. v. U.S.*, 381 F. Supp. 184 (D.D.C. 1974).

⁷ *Elk Assocs. Funding Corp. v. U.S. Small Bus. Admin.*, 858 F. Supp. 2d 1 (D.D.C. 2012).

⁸ *Long v. Dep't of Homeland Sec.*, 436 F. Supp. 2d 38 (D.D.C. 2006).

⁹ *Express One Int'l, Inc. v. U.S. Postal Serv.*, 814 F. Supp. 87 (D.D.C. 1992); *Cox v. Brown*, 498 F. Supp. 823 (D.D.C. 1980); *Vikonics, Inc. v. U.S.*, 749 F. Supp. 315 (D.D.C. 1990); *Diverco, Inc. v. Cheney*, 745 F. Supp. 739 (D.D.C. 1990).

“The purpose of granting a preliminary injunction is to protect the plaintiff from irreparable injury by preserving the status quo *pendente lite*.”¹⁰ Here, the current status quo is that Plaintiff is a declared and FEC-registered 2024 Republican Presidential candidate and Trump is not. Preserving the status quo would require maintaining the current state of affairs by enjoining Defendant FEC from accepting or setting aside the acceptance of Donald J. Trump’s FEC Form 2, Statement of Candidacy.

Nevertheless, preserving the status quo cannot prevail over determining whether the party enjoined will be deprived of substantial legal rights.¹¹ Here, Defendant FEC will not be deprived of any rights. Assuming Donald J. Trump intervenes as of right, he too will not be deprived of substantial legal rights since the legality of his basic constitutional eligibility takes precedence over any temporary inconvenience caused by a delay in fundraising. In other words, adherence to the U.S. Constitution is far more important than a 14-day delay in Donald J. Trump’s fundraising activities.

A temporary restraining order will not be granted merely upon showing that action sought to be temporarily enjoined is illegal; it must be shown, in addition, that a temporary injunction is necessary to protect a movant’s rights.¹² Section 3 of the 14th Amendment created an implied right to be free of having to compete against individuals that engaged in insurrection against the United States of America. Section 3 of the 14th Amendment is an independent source of jurisdiction that was specifically designed to ensure that non-insurrectionists did not have to politically compete with the more popular pro-insurrectionist politicians in the South. It was specifically designed to remove overwhelming popular pro-insurrectionists from the ballot. Here,

¹⁰ *Pharm. Mfrs. Ass’n v. Weinberger*, 401 F. Supp. 444, 449 (D.D.C. 1975).

¹¹ *Delaware & H. Ry. Co. v. United Transp. Union*, 450 F.2d 603 (D.C. Cir. 1971)

¹² *Youngstown Sheet & Tube Co. v. Sawyer*, 103 F. Supp. 978 (D.D.C 1952).

Plaintiff John Anthony Castro is the precise class of individuals that the drafters of Section 3 of the 14th Amendment sought to protect and shield from pro-insurrection individuals like Donald J. Trump.

B. SUBSTANTIAL LIKELIHOOD OF SUCCESS ON THE MERITS

In determining whether temporary restraining order shall issue, the court must consider the reasonable probability that the party seeking the injunctive relief will ultimately prevail on the merits.¹³

Where failure to exhaust administrative remedies would likely preclude an award of relief at the end of litigation, party seeking relief has not made a sufficient showing of probability of ultimate success to obtain a preliminary injunction.¹⁴

Likelihood of success on the merits that movant for injunctive relief must demonstrate varies with quality and quantum of harm it will suffer from denial of injunction and where it appears that lack of showing of irreparable damage exists party seeking preliminary injunction has burden of convincing with reasonable certainty that it must succeed at final hearing.¹⁵

1. Donald J. Trump Engaged In, Provided Aid to, or Provided Comfort to the Insurrectionists that Attacked the United States Capitol on January 6, 2021

On January 6, 2021, Donald J. Trump summoned a mob to Washington, DC, organized and assembled the mob, allowed weapons in the crowd by ordering security to let them pass, radicalized the mob with incendiary rhetoric, and ordered them “fight like hell” and march to the United States Capitol.

¹³ *Jews for Urb. Just. v. Wilson*, 311 F. Supp. 1158 (D.D.C 1970)

¹⁴ *Wallace v. Lynn*, 507 F.2d 1186 (D.C. Cir. 1974).

¹⁵ *Dist. 50, United Mine Workers of Am. v. Int’l Union, United Mine Workers of Am.*, 412 F.2d 165 (D.C. Cir. 1969)

As insurrectionists laid siege to the United States Capitol, then President Donald J. Trump took no action for 187 minutes despite being repeatedly contacted by family and friends to call off the attack; an implicit recognition of the obvious principal-agent relationship between Donald J. Trump and the insurrectionists. Donald J. Trump joyfully watched the insurrection unfold and impliedly ratified its violent attempt to thwart the will of the voters that had overwhelmingly rejected him.

Employees and political appointees of the Executive Branch, with the knowledge and consent of President Donald J. Trump, coordinated with insurrectionists as they attacked the United States Capitol on January 6, 2021. Others within the Executive Branch, at the direction of Donald J. Trump, unlawfully impeded the security response to the insurrection.

When it became clear that the insurrectionists had failed to occupy the United States Capitol, take hostages to delay the Electoral College certification for 14 days until January 20 to unlawfully compel Donald J. Trump's inauguration, then and only then did former President Donald J. Trump order the mob to go home. However, before doing so, Donald J. Trump stated, to the individuals chanting "hang Mike Pence" and hunting for Nancy Pelosi with weapons and zip ties, that "we love you" and calling the violent mob "very special" after they had violently attacked the United States Capitol. These were words of encouragement and an irrefutable display of sympathy with the insurrectionary movement.

All of these instances were part of the overall January 6 Insurrection in which Donald J. Trump was directly and irrefutably involved.

On Saturday, January 29, 2022, a little more than one year after the January 6 Insurrection, showing absolutely no remorse, Mr. Trump publicly declared that "If I run and I win, we will treat those people from January 6 fairly... and if it requires pardons, we will give them pardons." More

words of encouragement, displays of sympathy, and ratification of the insurrectionary attack on the United States Capitol.

Based upon, but not limited to, the facts stated above,¹⁶ Donald J. Trump engaged in, provided aid to, or provided comfort to the insurrectionists that attacked the United States Capitol on January 6, 2021.

2. Donald J. Trump is Ineligible to Hold Office Under Section 3 of the 14th

Amendment

The Non-Insurrectionist Qualification Clause in Section 3 of the 14th Amendment of the United States Constitution states that “[n]o person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.”

Because Donald J. Trump engaged in, provided aid to, or provided comfort to the insurrectionists that attacked the United States Capitol on January 6, 2021, he is ineligible to pursue public office. As such, if Defendant FEC were to accept, process, or otherwise act upon Donald J. Trump’s FEC Form 2, Statement of Candidacy, it would constitute agency action “not in accordance with law” under 5 U.S.C. § 706(2)(A) due its conflict with Section 3 of the 14th

¹⁶ When the subject matter jurisdiction of the Court is challenged, the Court can consider matters outside of the pleadings. *See Herbert v. Nat’l Acad. of Sciences*, 974 F.2d 192, 197 (D.C. Cir. 1992). As such, Defendant incorporates by reference all of the finds of the House Select Committee on the January 6th Attack. Defendant has not disputed whether Donald J. Trump engaged in, provided aid to, or provided comfort to the insurrection. As such, it is, by definition, an “undisputed fact.”

Amendment, which is the “supreme Law of the Land,” and must be enjoined pursuant to 5 U.S.C. § 705 based on the jurisdiction conferred by 28 U.S.C. § 1331.

3. Plaintiff Has Article III and Prudential Standing to Sue

To establish standing, a plaintiff must show that it has suffered an “injury in fact caused by the challenged conduct and redressable through relief sought from the court.”¹⁷

(a) Personal Political Competitor Injury-in-Fact

The U.S. Court of Appeals for the D.C. Circuit has explained that political competitor standing is akin to economic competitor standing, whereby a plaintiff has standing to challenge a government action that benefits a plaintiff’s competitor to the detriment of the plaintiff.¹⁸ Political competitor standing, however, is only available to plaintiffs who can show that they “personally compete[] in the same arena with the same party to whom the government has bestowed the assertedly illegal benefit.”¹⁹ The D.C. Circuit has also held that if a plaintiff can show he is a “direct and current competitor,” then competitor standing must be recognized as a matter of established case law.²⁰ Even this court has recognized that a “candidate—as opposed to individual voters and political action groups—would theoretically have standing based upon a ‘competitive injury’” if he could show that “he personally competes in the same arena with the same party.”²¹

John Anthony Castro registered as a candidate with the Federal Election Commission and is directly and currently competing against Donald J. Trump for the Republican nomination for

¹⁷ *Shays v. FEC*, 414 F.3d 76, 83 (D.C. Cir. 2005) (citation omitted).

¹⁸ *See Shays v. FEC*, 414 F.3d 76, 87 (D.C. Cir. 2005).

¹⁹ *Gottlieb v. FEC*, 143 F.3d 618, 621 (D.C. Cir. 1998) (internal quotation marks omitted); *see also Fulani v. Brady*, 935 F.2d 1324, 1327-28 (D.C. Cir. 1991) (holding that presidential candidate did not have “competitor standing” to challenge CPD’s tax-exempt status where the candidate was not eligible for tax-exempt status); *Hassan v. FEC*, 893 F. Supp. 2d 248, 255 (D.D.C. 2012), *aff’d*, No. 12-5335, 2013 WL 1164506 (D.C. Cir. Mar. 11, 2013) (“Plaintiff cannot show that he personally competes in the same arena with candidates who receive funding under the Fund Act because he has not shown that he is or imminently will be eligible for that funding.”).

²⁰ *New World Radio, Inc. v. FCC*, 294 F.3d 164, 170 (D.C. Cir. 2002)

²¹ *Hassan v. FEC*, 893 F. Supp. 2d 248, 255 n.6 (D.D.C. 2012) (emphases added) (quoting *Gottlieb*, 143 F.3d at 621)

the Presidency of the United States. As such, Plaintiff meets all of the criteria of the D.C. Circuit's jurisprudence. To hold otherwise would directly contradict decades of established legal precedent and reasoning.

Plaintiff reiterates Paragraph 10 of his Complaint in that a fellow primary candidate, whose injury would be competitive injury in the form of a diminution of fundraising, has federal judicial standing to sue a fellow primary candidate that he believes is ineligible to hold office and to prevent agency action not in accordance with the United States Constitution.²²

Plaintiff will suffer a concrete competitive injury if the constitutionally ineligible Donald J. Trump campaign committee is permitted to raise funds, which puts Plaintiff at a fundraising disadvantage.²³ If Defendant is permitted to accept Donald J. Trump's FEC Form 2, Statement of Candidacy, Mr. Trump will be the Republican Party's presumptive nominee and completely dominate at fundraising. This will siphon off tens if not hundreds of millions of dollars to a constitutionally ineligible candidate in violation of Section 3 of the 14th Amendment to the U.S. Constitution. There is no question this political competitor injury is traceable to Defendant's act of accepting a constitutionally ineligible candidate's Form 2, Statement of Candidacy, which permits that person to raise an endless amount of campaign funds.

(b) Traceable to Defendant FEC's Unlawful Acceptance of Trump's FEC Form 2,

Statement of Candidacy

The competitor standing doctrine recognizes "parties suffer constitutional injury in fact when agencies... otherwise allow increased competition."²⁴

²² See *Fulani v. League*, 882 F.2d 621 (2d Cir. 1989).

²³ See *McConnell v. FEC*, 540 U.S. 93, 107, *overruled on other grounds by Citizens United v. FEC*, 558 U.S. 310 (2010).

²⁴ See *Mendoza v. Perez*, 754 F.3d 1002, 1011 (D.C. Cir. 2014) (citing to *La. Energy and Power Auth. v. FERC*, 141 F.3d 364, 367 (D.C. Cir. 1998); *Sherley v. Sebelius*, 610 F.3d 69, 72-73 (D.C. Cir. 2010)).

In this case, Plaintiff is already an FEC-registered 2024 Republican Presidential Candidate. Donald J. Trump is not. Defendant's acceptance of Donald J. Trump's FEC Form 2, Statement of Candidacy, would increase allow increased competition as to Plaintiff.

In accordance with the D.C. Circuit's ruling in *Mendoza v. Perez*, Plaintiff will suffer a constitutional injury in fact sufficient to confer Article III standing.

(c) Redressable with the Injunctive Relief Sought

This Honorable Court has the power to "hold unlawful" any "agency action... found to be... not in accordance with law"²⁵ In fact, Congress went further and provided that this Honorable Court may, when "such conditions as may be required and to the extent necessary to prevent irreparable injury," "issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings."²⁶ In other words, this Honorable Court may issue a Temporary Restraining Order preventing Defendant from accepting Donald J. Trump's FEC Form 2, Statement of Candidacy.

As such, Defendant's claim that this Honorable Court lacks the power to provide relief is without merit.

(d) Plaintiff is Within the Zone of Interests of Persons that Section 3 of the 14th

Amendment

"A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof."²⁷ The agency action in this case would be Defendant FEC's unlawful acceptance of Donald J. Trump's FEC Form 2, Statement of Candidacy. Plaintiff John Anthony Castro, as a

²⁵ 5 U.S.C. § 706(2)(A).

²⁶ 5 U.S.C. § 705.

²⁷ 5 U.S.C. § 702.

fellow 2024 Republican primary Presidential candidate, is a person who would suffer a legal wrong (an ineligible candidate being granted the right to raise unlimited sums of funds) or be adversely affected (having a fundraising disadvantage) by the FEC's unlawful acceptance of Donald J Trump's FEC Form 2, Statement of Candidacy. As such, Plaintiff is within the zone of interests the Administrative Procedure Act sought to protect.

Furthermore, when Section 3 of the 14th Amendment was adopted, it was specifically designed to ensure that non-insurrectionists did not have to politically compete with the more popular pro-insurrectionist politicians in the South. It was specifically designed to remove overwhelming popular pro-insurrectionists from the ballot. As such, Plaintiff is not simply within the zone of interests; Plaintiff is the precise type of person Section 3 of the 14th Amendment sought to protect.

Although the U.S. Supreme Court arguably abolished the doctrine of prudential standing in *Lexmark*,²⁸ Plaintiff satisfies prudential standing in that his injury is particularized and concrete, he satisfies Article III standing, he is within the zone of interests Congress sought to protect under the APA, and he is within the zone of interests sought to be protected by Section 3 of the 14th Amendment to the U.S. Constitution.²⁹

4. Defendant's Acceptance of Donald J. Trump's FEC Form 2, Statement of Candidacy, Would Violate the Administrative Procedure Act as Agency Action Not In Accordance with Law

Any "person suffering a legal wrong because of agency action, or adversely affected or aggrieved by agency action... is entitled to judicial review"³⁰ of "final agency action"³¹ to the

²⁸ See *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118 (2014).

²⁹ *Public Citizen v. FEC*, 788 F.3d 312 (DC Cir. 2015).

³⁰ 5 U.S.C. § 702.

³¹ 5 U.S.C. § 704.

extent the agency action is “not in accordance with law.”³² The D.C. Circuit has held that a mere FEC advisory opinion constitutes final agency action subject to judicial review under the APA authorizing a pre-enforcement legal challenge.³³ As such, any suggestion that the FEC is somehow not subject to the APA is without merit.

***(a) Plaintiff Seeks to Enjoin Agency Action Contrary to the Supreme Law of the Land,
Section 3 of the 14th Amendment to the U.S. Constitution***

Plaintiff will suffer a competitive injury as previously explained and elaborated upon if Defendant engages in agency action not in accordance with the law by accepting Donald J. Trump’s FEC Form 2, Statement of Candidacy.

As such, Plaintiff Seeks to Enjoin Agency Action Contrary to the Supreme Law of the Land, Section 3 of the 14th Amendment to the U.S. Constitution.

5. Donald J. Trump Cannot Be a “Candidate” under 52 U.S.C. § 30101(2)

Alternatively, Plaintiff asserts that because Donald J. Trump is not qualified to be a hold public office pursuant to Section 3 of the 14th Amendment for all of the above-stated reasoning, he likewise cannot be a “candidate” within the meaning of FECA since he cannot lawfully “seek[] nomination for election... to Federal office” pursuant to 52 U.S.C. § 30101(2). As such, recognizing Donald J. Trump as a “candidate” would be agency action “not in accordance with law” under 5 U.S.C. § 706(2)(A) and enjoined pursuant to 5 U.S.C. § 705.

C. SUBSTANTIAL THREAT OF IRREPARABLE HARM WITHOUT INJUNCTION

Preliminary injunction cannot be issued unless movant can demonstrate at least some injury to warrant granting of injunction, and, if he fails to do so, court need not consider remaining factors

³² 5 U.S.C. § 706(2)(A).

³³ See *Unity08 v. FEC*, 596 F.3d 861 (DC Cir. 2010).

for issuance of preliminary injunction.³⁴ The failure to demonstrate irreparable harm is grounds for refusing to issue a preliminary injunction, even if the other three factors entering the preliminary injunction calculus merit such relief.³⁵

1. The Competitive Financial Injury Would Be Irreparable

In order to establish irreparable injury in the absence of injunctive relief, a movant must demonstrate that they have or will be harmed by the non-movant's actions and that relief at later stage of proceedings would not compensate them for their injuries.³⁶ Here, there would be an irretrievable monetary loss, which this Court has previously held must be properly considered in determining irreparable harm.³⁷ There is no mechanism to refund political contributions that donors make to Donald J. Trump's campaign in order to make those funds available to eligible candidates. Cash is an inherently finite and limited resource. As such, once those donors have given their available dollars to an ineligible candidate, they are forever lost.

If relief cannot be provided through an administrative remedy, there is basis for a court's injunctive relief.³⁸ Here, by Defendant's own admission, there is no administrative remedy since Defendant lacks the authority to consider this issue.

Where an individual has no other opportunity to pursue judicial review, there is irreparable harm.³⁹ Here, Plaintiff cannot pursue judicial review of the competitive financial injury at the state level or before any other court.

³⁴ *Fanning v. High Mountain Inspection Servs., Inc.*, 520 F. Supp. 2d 55 (D.D.C. 2007)

³⁵ *Nat'l Min. Ass'n v. Jackson*, 768 F. Supp. 2d 34 (D.D.C. 2011)

³⁶ *Massachusetts L. Reform Inst. v. Legal Servs. Corp.*, 581 F. Supp. 1179 (D.D.C.), *aff'd sub nom.*, 737 F.2d 1206 (D.C. Cir. 1984)

³⁷ *Art-Metal-USA, Inc. v. Solomon*, 473 F. Supp. 1 (D.D.C. 1978)

³⁸ *Brawner Bldg., Inc. v. Shehyn*, 442 F.2d 847 (D.C. Cir. 1971)

³⁹ *Doe v. Mattis*, 928 F.3d 1 (D.C. Cir. 2019)

Where there could be no redress after a coming deadline, there will be a finding of irreparable harm.⁴⁰ Here, any delay risks this matter transforming into a non-justiciable political question as the 2024 Presidential Election nears closer. It is prudent to address these issues early, and now is the appropriate time.

Competitive injuries in the form of driving would be monetizable individuals to alternative options, eroding a competitive position, and the fact that monetizable individuals are unlikely to return after they abandon a platform were sufficient to establish irreparable harm.⁴¹ Here, nearly identically, Plaintiff would lose potential donors to Donald J. Trump, experience the erosion of his competitive position, and those potential donors would be unlikely to ever return.

While the mere presence of a constitutional question is not *de jure* irreparable harm, if it directly causes an injury to an individual, is within the zone of interests sought to be protected by that constitutional provision, there is no adequate administrative remedy, and the threatened loss from delay are all present, then injunctive relief is warranted.⁴²

The risk of a denial of a constitutional right and the fact that there could be no do-over or redress once the election had begun was sufficient to establish irreparable injury.⁴³ Here, we cannot wait until late 2023 when both Plaintiff and Donald J. Trump are state-registered candidates since that would risk either allowing the issue to transform into a non-justiciable political question or exposing the Republican Party to irreparable harm since they could lose their party's presumptive nominee after millions of Americans cast their ballots in the primaries. Delaying judicial review of these questions would be a constitutional crisis of the federal judiciary's own

⁴⁰ *League of Women Voters of United States v. Newby*, 838 F.3d 1 (D.C. Cir. 2016)

⁴¹ *TikTok Inc. v. Trump*, 507 F. Supp. 3d 92 (D.D.C. 2020).

⁴² *Hum. Res. Mgmt., Inc. v. Weaver*, 442 F. Supp. 241 (D.D.C. 1977).

⁴³ *Richardson v. Trump*, 496 F. Supp. 3d 165 (D.D.C. 2020).

making. If, however, the federal judiciary addressed this issue now, the Republican Party would have time to recover by funding, supporting, and nominating a constitutionally eligible candidate.

Plaintiff would have no adequate remedy at law, and this Court's ability to fashion effective relief would be significantly impaired if Defendant FEC is permitted to bestow upon a constitutionally ineligible Presidential candidate the privilege of raising an unlimited sum of campaign funds in pursuit of the Republican nomination for the Presidency of the United States to the detriment of Plaintiff by unconstitutionally allowing for increased political competition and placing Plaintiff at a competitive disadvantage regarding fundraising.

2. First Amendment Implications

The U.S. Supreme Court has previously held that governmental interference with political fundraising and expenditures is akin to governmental interference with free speech.⁴⁴ Here, permitting a constitutionally ineligible candidate to siphon-away the limited and finite amount of political donations available is unlawful government action that has the effect of interfering with Plaintiff's ability to raise and expend sums to exercise his free speech.⁴⁵ As such, that is *de jure* irreparable harm.⁴⁶

Self-inflicted harm can constitute irreparable harm where it is a form of protected free speech.⁴⁷

⁴⁴ *Citizens United v. FEC*, 558 U.S. 310 (2010).

⁴⁵ *PHE, Inc. v. U.S. Dep't of Just.*, 743 F. Supp. 15 (D.D.C. 1990).

⁴⁶ The U.S. Supreme Court recently held that the infringement of "First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020); also see *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

⁴⁷ *Al-Joudi v. Bush*, 406 F. Supp. 2d 13 (D.D.C. 2005).

If irreparability of the injury is in question, the court should schedule a hearing to permit Plaintiff to show specifically how he would experience a diminution in fundraising due to the unconstitutional entry of a new competitor that is ineligible for public office.⁴⁸

D. BALANCE OF EQUITIES AND SERVING THE PUBLIC INTEREST

“Where, as here, the federal government is the opposing party, the balance of equities and public interest factors merge.”⁴⁹

No parties will be harmed if temporary or preliminary injunctive relief is granted.⁵⁰ There is no inconvenience to Defendant regarding venue.⁵¹ Even if Donald J. Trump intervenes as of right, there is no inconvenience to him since there would be ample time for this case to be tried on the merits after which fundraising and campaigning could continue.⁵² In fact, Plaintiff would argue that this temporary injunctive relief could benefit Donald J. Trump by allowing the federal judiciary to rule on the merits of this issue, which, in favorable, would remove all doubt for potential donors. With such ample time before the 2024 primary elections, there can be no reasonable claim of inconvenience to any party.⁵³

The public interest favors a ruling on the merits of whether Donald J. Trump violated Section 3 of the 14th Amendment.⁵⁴

⁴⁸ *Bayer HealthCare, LLC v. U.S. Food & Drug Admin.*, 942 F. Supp. 2d 17 (D.D.C. 2013).

⁴⁹ *Panda v. Wolf*, 487 F. Supp. 3d 48, 52 (D.D.C. 2020) (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

⁵⁰ *Nat. Res. Def. Council v. EPA*, 806 F. Supp. 275 (D.D.C. 1992); *The Nation Mag. v. Dep’t of State*, 805 F. Supp. 68 (D.D.C. 1992); *Quaker Action Grp. v. Hickel*, 421 F.2d 1111 (D.C. Cir. 1969); *U.S. v. Sum of \$70,990,605*, 991 F. Supp. 2d 154 (D.D.C. 2013).

⁵¹ *See Columbia Plaza Corp. v. Sec. Nat. Bank*, 525 F.2d 620, 622 (D.C. Cir. 1975).

⁵² *Grubbs v. Butz*, 514 F.2d 1323, 1325 (D.C. Cir. 1975).

⁵³ *ConverDyn v. Moniz*, 68 F. Supp. 3d 34 (D.D.C. 2014).

⁵⁴ *Nat. Res. Def. Council v. EPA*, 806 F. Supp. 275 (D.D.C. 1992); *The Nation Mag. v. Dep’t of State*, 805 F. Supp. 68 (D.D.C. 1992).

III. DECLARATORY AND INJUNCTIVE RELIEF REQUESTED

BASED ON THE FOREGOING, Plaintiff John Anthony Castro respectfully requests the following relief:

- a. A declaratory judgment that the agency action of accepting Donald J. Trump's FEC Form 2, Statement of Candidacy, would constitute or presently does constitute agency action not in accordance with law; namely Section 3 of the 14th Amendment.
- b. A temporary restraining order, pursuant to 5 U.S.C. § 705, enjoining Defendant from accepting Donald J. Trump's FEC Form 2, Statement of Candidacy, for no more than 14 days until a hearing with briefing and oral arguments can be scheduled and take place.
- c. A hearing for a preliminary injunction with an expedited briefing schedule to enjoin Defendant from accepting Donald J. Trump's FEC Form 2, Statement of Candidacy, pending the outcome of litigation.
- d. A proposed order is attached.

Dated: November 16, 2022

Respectfully submitted,

By




John Anthony Castro
12 Park Place
Mansfield, TX 76063
Tel. (202) 594-4344
J.Castro@JohnCastro.com
Plaintiff, *Pro Se*

VERIFIED DECLARATION

I, John Anthony Castro, declare, under the penalty of perjury, as follows:

1. I am the plaintiff in the present case, a U.S. citizen, and an FEC-registered Republican primary presidential candidate (Candidate FEC ID Number P40007320) for the 2024 Presidential Election.
2. I intend to fully utilize all of my skills and knowledge to prevent Donald J. Trump from being elected to or holding any public office in the U.S.
3. I have personal first-hand knowledge of the matters set forth in both the Original Complaint and this Memorandum, including witnessing Donald J. Trump providing words of comfort to the insurrectionists on live television, and, if called upon to testify, I would competently testify as to the matters stated herein.
4. Donald J. Trump engaged in, provided aid to, or provided comfort to the insurrectionists that violently attacked the United States Capitol with the seditious intent of criminally preventing the certification of the 2020 election results.
5. Pursuant to 28 U.S.C. § 1746, I verify *under penalty of perjury* that all of the statements of fact in the Original Complaint, Memorandum of Points and Authorities in Opposition to Defendant's Motion to Dismiss, this Motion and Memorandum of Points and Authorities in Support Thereof, are true and correct.

Executed on November 16, 2022.


John Anthony Castro

CERTIFICATE OF CONFERENCE

I hereby certify that I electronically mailed and conferred with Shaina Ward, the FEC Attorney assigned to defend Defendant. Ms. Ward stated that Defendant objects to all motions and requested relief contained herein.

/s/ John Anthony Castro
John Anthony Castro

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing documents was filed electronically (via CM/ECF) on November 16, 2022. I further certify that a true and accurate copy of the foregoing Motion for Temporary Restraining Order, Motion for Preliminary Injunction and Motion for Hearing and Expedited Briefing Schedule, including Memorandum In Support and attachments was served by electronic mail on the following recipients on November 16, 2022:

Shaina Ward (D.C. Bar No. 1002801)
Attorney
1050 First Street NE
Washington, DC 20463
(202) 694-1650
sward@fec.gov

Lisa J. Stevenson (D.C. Bar No. 457628)
Acting General Counsel
lstevenson@fec.gov

Jacob Siler (D.C. Bar No. 1003383)
Assistant General Counsel
jsiler@fec.gov

Kevin Deeley
Associate General Counsel
kdeeley@fec.gov

/s/ John Anthony Castro
John Anthony Castro