

<b>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</b> 1437 Bannock St., Room 281 Denver, CO 80202	
<b>Petitioner: KARL K. SCHNEIDER</b> , an individual,  v.  <b>Respondents: JENA GRISWOLD</b> , in her capacity as the Colorado Secretary of State and <b>ELI BREMER</b> in his capacity as presiding president officer of the Republican Party State Senate District Assembly.  and  <b>Intervenor: LARRY LISTON</b> , an individual.	
<b>David Stiver (Pro Se)</b> , an individual.	<b>COURT USE ONLY</b>  <b>Case Number:</b> <b>2020CV31415</b>  <b>Division: 259</b>
<b>AMICUS CURIAE BRIEF</b>	

## JURISDICTIONAL AUTHORITY

### ARTICLE XII: CONTROVERSIES

In the event any controversy arises in SD #10 which cannot be resolved, the controversy shall be determined by the County Central Committee or the County Executive Committee. In the event the controversy is determined by the Executive Committee, any party to the controversy may appeal the decision to the County Central Committee. (**Senate District #10 Bylaws**)

### COLORADO REVISED STATUTES

1. §1-1-113 While it is understood that a candidate(s) must receive at least 30% to be placed on the primary ballot. This argument assumes that NONE of the candidates have elected to CONTEST the designation of any candidate(s) or that the entire Caucus/Assembly Process is in doubt. As such, pursuant to the Senate District #10 Bylaws, as adopted and signed by the Senate District #10 Executive Committee and affirmed by the Senate District #10 Central Committee on January 23, 2016 which reads as follows:

### ARTICLE XII: CONTROVERSIES

In the event any controversy arises in SD #10 which cannot be resolved, the controversy shall be determined by the County Central Committee or the County Executive Committee. In the event the controversy is

determined by the Executive Committee, any party to the controversy may appeal the decision to the County Central Committee.

### **ARTICLE XIII: PARLIAMENTARY AUTHORITY**

“ROBERT’S RULES OF ORDER NEWLY REVISED shall govern SD #10 in all cases to which they are applicable and in which they are not inconsistent with these Bylaws or the Election Laws of the State of Colorado, or the State Republican Bylaws.”

Although the Emergency House Bill 20-1359 and the Emergency Bylaws effectively waive the Place/Location or Conduct of the Meeting, minimum Quorum Requirements, and Notice of Meeting nowhere does there exist any other AMENDMENTS TO THE BYLAWS. Neither did the Senate District #10 convene a meeting to amend the governing documents. That said, Roberts Rules of Order prevail and should have been adhered to during the Conference Call seeking to have a Roll Call of members present, motions from the floor, etc.

### **EMERGENCY BYLAWS: APPEAL PROCESS**

**PUTSUANT TO EMERGENCY BYLAW #10 CONTESTS OF DESIGNATIONS BY DISTRICT OR COUNTYASSEMBLIES** which reads as follows:

"Any Delegate or candidate who wishes to contest the designation of any candidate to the primary ballot by district or county assembly and convention at which the designation was made, present such contest to the state Executive Committee with simultaneous notice to alt candidates for designation at the assembly and convention in the race subject to contest and to the district or county chair. The State Executive Committee will make a recommended determination of all such contests to the Colorado Republican State Central Committee which will make the final determination of all such contests at its pre-assembly meeting."

**EMERGENCY BYLAW #8: "The key word here is "MAY." If a county or district chooses to use an electronic meeting system that enables nearly 100% of all delegates to participate, they may no longer need alternates....., (pg.7l(Emphasis Added)**

**EMERGENCY BYTAW #9: "HB1359 extended the usual deadline for assemblies. This bylaw also altows counties and districts tohold a vote open for no more than seven days with the goal of allowing them freedom to find a way toallow for the maximum level of participation SO ALL VOICES ARE HEARD."(pgs. 7-S)(Emphasis Added)**

2. **§1-1-103(1):** “This code shall be liberally construed so that all eligible electors may be permitted to vote....” There existed within the process significant doubt to assert that enough infirmities existed such that a NEW ELECTION would be required. Just as the 26<sup>th</sup> Senatorial District, when it was learned that the voting process may have been compromised, the VOTING PROCESS was SUSPENDED, and a NEW ELECTION CONDUCTED. Additionally, an entirely NEW METHOD OF VOTING was implemented by the 26<sup>th</sup> Senatorial District Executive Committee. In as much as a PRECEDENT was established, the current Executive Committee refused to entertain any motions and seconds at the Credentialing Conference Call regarding said suggestions. As such, there is NO GUARANTEE that those who desired to vote were afforded the opportunity to do so.

Source: L. 92: Entire article R&RE, p. 624, § 1, effective January 1, 1993. L. 96: (1) amended and (3) added, p. 1732, § 1, effective July 1.

3. Pursuant to **§1-1-104(1.3)** which states: "Assembly" means a meeting of delegates of a political party, organized in accordance with the rules and regulations of the political party, held for the purpose of designating candidates for nominations.” As such, any reference to the purpose of such activities relative

to the caucus, assembly, or convention is clear. The sole purpose of the Assembly is to elevate a candidate, or candidates, to the primary ballot. This language is entirely different from the Central Committee Meetings conducted in NON-ELECTION YEARS for the election of party officers.

The SD10 Assembly was originally scheduled for March 25, 2020. The Emergency Bylaws are adopted on Friday March 20, 2020. Eli Bremer then announces that the Assembly will be convened on Sunday March 22, 2020 at 3:00 p.m. However, email balloting started at 10:00 a.m. on Saturday March 21, 2020. At NO TIME was I, or any of my supporters advised that the voting process and email links had been released by Mr. Bremer and/or Jodyl Richie. Our first contact was when one of our supporters telephoned a delegate and was advised voting had begun.

As the records show, I received the first indication when my wife Diana, contacted me on Saturday, March 21, 2020 at 1:16 p.m. and inquired as to whether we had received balloting information. I (see text message) responded that I had not. I obtained the balloting information from an OUTSIDE SOURCE and voted at 2:55 p.m. on March 21, 2020. I received confirmation from Mr. Joe Web at approximately 4:30 p.m. It was the understanding of several delegates, in accordance with the Official Call issued by Mr. Bremer that the Assembly was Sunday, March 22 at 3:00 p.m. As is standard practice, Delegates and Alternates aren't CREDENTIALLED until the official convening of the Assembly. To date, it is unclear whether the Conference Calling (of which Delegates/Alternates were advised NOT TO PARTICIPATE AND CALL IN) constitutes an actual Assembly.

Further, the change in the process constitutes a violation of Rule #11 of the Emergency Bylaws that require at a minimum 24 hours prior notice before the process begins. This did not occur.

**4. Ballot Secrecy: HB20-1359 (c) (I): NOTWITHSTANDING SUBSECTION (9)(a) OF THIS SECTION, DUE TO PUBLIC HEALTH CONCERNS, A PARTY MAY AMEND ITS BYLAWS AS NECESSARY IN 2020 TO PROVIDE FOR REMOTE ACCESS TO AND PARTICIPATION IN PARTY ASSEMBLIES AND CONVENTIONS AND TO FILL VACANCIES. IF A PARTY AMENDS ITS BYLAWS TO ALLOW REMOTE ACCESS AND PARTICIPATION, THE BYLAWS MUST INCLUDE PROVISIONS REQUIRING THE CREATION OF A VERIFIABLE RECORD OF ALL REMOTE ACCESS AND PARTICIPATION.**

Pursuant to HB 20-1359 and §1-1-104(15.5) an otherwise UNSECURED, UNVERIFIABLE, email system of communication which fails in that: 1) there was NO GUARANTEE that any communications being sent out by either the Executive Committee or Mr. Joe Webb were actually received, 2) that a REQUEST FOR RECEIPT from the server was NEVER EXECUTED by either party, 3) that the email communication could not be INTERCEPTED during transmission, and finally that the person voting via the email could be VERIFIED and CORRECTLY IDENTIFIED. For these reasons, the email process was in direct violation of the Colorado Revised Statutes, HB20-1359 and the Emergency Bylaws that called for an ELECTRONIC VOTING SYSTEM.

**Section 5.03:** Election of the officers shall be by **secret ballot** (that is, dropped in a ballot box by individual members or proxy). Where there is only one nominee for an office, election may be by acclamation. (Senate District #10 Bylaws)

The Electronic Email process implemented by Mr. Robert (Eli) Bremer at the advice of Mr. Karl Schneider was flawed from the outset. Pursuant to the directives of the Colorado Secretary of State, the number one item that will **INVALIDATE** an election is the issue of **BALLOT SECRECY** and **ANONYMITY**. Neither of which was communicated to "ALL" Delegates/Alternates. Further, as the email communication records show at no time was I or any members of my campaign organization conferred with as to the appointment of Mr. Joe Web as the only member of the TELLER COMMITTEE. Further, during the

Colorado GOP Executive Committee Hearings, we would learn that not one, but two sets of eyes would be reviewing individual ballots.

The second item that screams for a **NEW ELECTION** revolves around the issue of **BALLOT ACCESS**. When the email address was changed and individuals were having their emails bounced from the address, again neither I nor anyone on my staff had been consulted and/or involved in the decision-making process. To date, I **HAVE NOT** received from the Executive Committee any copies of any communications, email ballots, notes, minutes, or other materials relative to the Assembly process. However, numerous requests have been submitted to the members of the Executive Committee.

5. **§1-13-301.** Any person in authority at any precinct caucus, assembly, or convention who in any manner dishonestly, corruptly, or fraudulently performs any act devolving on him by virtue of the position of trust which he fills or knowingly aids or abets any other person to do any fraudulent, dishonest, or corrupt act or thing in reference to the carrying on of any precinct caucus, assembly, or convention or the ascertaining or promulgating of its true will is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Mr. Robert (Eli) Bremer willfully, and knowingly abused his position of authority by sending a separate email, during the voting process, calling candidate David C. Stiver as "LIAR." Said actions were an abuse and breach of office.

#### **ARTICLE V: OFFICERS**

##### **5.02(c): The Secretary shall:**

1. Be the chief clerical officer of the SD #10, and shall make a complete record of all proceedings of the SD #10 and SD #10 Assemblies.
2. Prepare and have in readiness upon the convening of the Senate District #10 Assembly a roll of the delegates (and alternates) entitled to participate. This roll of delegates shall be based upon the report of the Credentials Committee of the County Assembly.
3. Prepare and verify all credentials for delegates (and alternates) and certificates of designation that shall be made by the Senate District #10 Assembly.
4. In the event of any emergency and in the absence of the Chairman and Vice-Chairman, may call a meeting of the SD #10 and shall preside until the election of the chairman pro tem which shall take place immediately.

There does not presently exist, to the best of my knowledge, any minutes or official records that would serve as a memorialized document of these meetings, discussions, votes, and resolutions. All in violation of the Senate District 10 Bylaws, El Paso County Republican Party Bylaws, and the state of Colorado Republican Party Bylaws. As well as 7-128-201 and 202 C.R.S. as it relates to electronic meetings under the Colorado Non-Profit Corporation Act.

6. **§1-13-714. Electioneering** - removing and return of ballot - definition. (1) No person shall do any electioneering on the day of any election, or during the time when voting is permitted for any election, within any polling location or in any public street or room or in any public manner within one hundred feet of any building in which a polling location is located, as publicly posted by the designated election official. As used in this section, the term "electioneering" includes campaigning for or against any candidate who is on the ballot or any ballot issue or ballot question that is on the ballot. "Electioneering" also includes soliciting signatures for a candidate petition, a recall petition, or a petition to place a ballot issue or ballot question on a subsequent ballot. "Electioneering" does not include a respectful display of the American flag. (2) Except as necessary for ballot counting, no person may remove any official ballot from the polling location before the closing of the polls. (3) Any person who violates any provision of this section is guilty

of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111. **(Emphasis Added)**

Source: L. 80: Entire article R&RE, p. 435, § 1, effective January 1, 1981. L. 94: Entire section amended, p. 1179, § 72, effective July 1. L. 95: Entire section amended, p. 853, § 88, effective July 1. L. 2006: Entire section amended, p. 2035, § 23, effective June 6. L. 2013: Entire section amended, (HB 13-1303), ch. 185, p. 748, § 121, effective May 10. L. 2016: Entire section amended, (SB 16-142), ch. 173, p. 589, § 72, effective May 18.

7. 1-13-716. Destroying, removing, or delaying delivery of election records. (1) No person shall willfully destroy, deface, or alter any ballot or any election records or willfully delay the delivery of any such ballots or election records, or take, carry away, conceal, or remove any ballot, ballot box, or election records from the polling location or drop-off location or from the possession of a person authorized by law to have the custody thereof, or aid, counsel, procure, advise, or assist any person to do any of the aforesaid acts. (2) No election official who has undertaken to deliver the official ballots and election records to the county clerk and recorder shall neglect or refuse to do so within the time prescribed by law or shall fail to account fully for all official ballots and other records in his charge. Informality in the delivery of the ballots and election records shall not invalidate the vote Page 353 of 488Colorado Revised Statutes 2018 Uncertified Printout of any precinct if such records are delivered prior to the canvassing of the votes by the county board of canvassers. (3) Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 435, § 1, effective January 1, 1981. L. 2013: (1) amended, (HB 13-1303), ch. 185, p. 749, § 123, effective May 10. Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index. Cross references: In 2013, subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

To date, I, David C. Stiver, have requested to see "ALL" documents used to compile the voting results. At present, I have neither been afforded the opportunity to: a) access the email account(s) relative to the emails provided, received copies of any credential data and supporting documents, nor have I been privy to any communications surrounding the voting process communicated between Mr. Joe Webb, Mr. Robert (Eli) Bremer, Mr. Karl Schneider, Ms. Jodyl Richie, Mr. Larry G. Liston, or any delegates/alternates. This includes electronic communications that may have taken place during the voting, or any general communications relative to the alleged email "HACK" or attempted "HACK."

### **CONCLUSION**

The **APPEAL PROCESS** to contest a Candidate Designation or Assembly is the Colorado State Republican Central Committee. Upon application to the Colorado State Executive Committee, it was determined that sufficient **IRREGULARITIES EXISTED** that would lead a court of competent jurisdiction in Colorado to **INVALIDATE** the Assembly Process. I, David C. Stiver, pray the court will honor the Colorado Republican Party Executive Committees recommendations, and the Colorado State Republican Party Central Committee (both of which reviewed evidentiary materials, called witnesses, and cross examined "all" parties to the action) and rendered their decision.

In accordance with §1-4-604(5—6a-6d) the Colorado Republican Executive Committee is within its jurisdictional powers to review any contests, to accept evidence, conduct hearings as necessary to insure a party or party(s) are not denied access to the primary ballot.

**§1-4-604.** Filing of petitions and certificates of designation by assembly - legislative declaration. (1) (a) Every petition or certificate of designation by assembly in the case of a candidate for nomination for any national or state office specified in section 1-4-502 (1), or for member of the general assembly, district attorney, or district office greater than a county office, together with the written acceptances signed by the persons designated or nominated by such assembly described in section 1-4-601 (3), shall be filed by the presiding officer or secretary of such assembly and received in the office of the secretary of state. Page 103 of 488Colorado Revised Statutes 2018 Uncertified Printout

(b) A copy of each such certificate of designation shall be transmitted by the presiding officer or secretary of each assembly to the state central committee of the political party holding such assembly within three days after the adjournment of such assembly. (2) Every petition or certificate of designation by assembly in the case of a candidate for nomination for any elective office other than the offices specified in paragraph (a) of subsection (1) of this section shall be filed in the office of the county clerk and recorder of the county where the person is a candidate. (3) Certificates of designation by assembly shall be filed no later than four days after the adjournment of the assembly. Certificates of designation may be transmitted by facsimile transmission; however, the original certificate must also be filed and postmarked no later than ten days after the adjournment of the assembly. (4) (Deleted by amendment, L. 99, p. 764, § 22, effective May 20, 1999.)

**(5) Late filing of the certificate of designation shall not deprive candidates of their candidacy.**

**(6) (a) No later than four days after the adjournment of the assembly, the state central committee of each political party, utilizing the information described in paragraph (b) of subsection (1) of this section, shall file with the secretary of state a compilation of the certificates of designation of each assembly that nominated candidates for any national or state office or for member of the general assembly, district attorney, or district office greater than a county office. Such a compilation of certificates of designation may be transmitted by facsimile transmission; however, the original compilation must also be filed and postmarked no later than ten days after the adjournment of the assembly. (b) The secretary of state shall compare such party compilation of certificates of designation with the certificates of designation filed by each such assembly with the secretary of state's office pursuant to paragraph (a) of subsection (1) of this section. In the event that a certificate of designation appearing on such party compilation has not been filed pursuant to paragraph (a) of subsection (1) of this section, the secretary of state shall notify the state central committee of such party not less than fifty-seven days before the primary election of an assembly's failure to file such certificate of designation. (c) A state central committee that receives notification pursuant to paragraph (b) of this subsection (6) shall file, or direct the presiding officer of the assembly to file, the certificate of designation, together with any written acceptances, not less than fifty-six days before the primary election. (d) The general assembly hereby finds and declares that it is beneficial to improve the procedure and timeliness for communicating the designation of candidates for the primary election ballot by political party assemblies between the officers of such assemblies, the state central committee of each political party, and the secretary of state. The general assembly further finds that prescribing certain additional review processes for the documentation evidencing designations and nominations of candidates that are not onerous will serve to minimize the likelihood of a candidate being deprived of his or her candidacy and of an erroneous primary election ballot. The general assembly further encourages the responsible officials to engage in the enhanced communication and review described in this subsection (6) well in advance of statutorily prescribed deadlines or ballot certification dates, if possible, in order to maximize the time for giving notice and resolving any issues that may arise from the primary ballot nomination process. Page 104 of 488Colorado Revised Statutes 2018 Uncertified Printout.**

Source: L. 80: Entire article R&RE, p. 329, § 1, effective January 1, 1981. L. 81: Entire section amended, p. 310, § 2, effective March 27. L. 87: Entire section amended, p. 287, § 9, effective June 26. L. 89: Entire section amended, p. 303, § 9, effective May 9. L. 92: Entire part amended, p. 682, § 6, effective January 1, 1993. L. 99: Entire section amended, p. 286, § 2, effective April 13; entire section amended, p. 764, § 22, effective May 20. L. 2000: (1)(a) amended, p. 2028, § 4, effective August 2.

Respectfully Submitted this 30<sup>th</sup> day of April 2020.

David C. Stiver  
Candidate, Senate District 10

**Evidentiary Materials:**

Senate District #10 Bylaws – [http://committeetoelectdavidstiver.com/documents/Senate\\_District\\_10\\_Bylaws001.pdf](http://committeetoelectdavidstiver.com/documents/Senate_District_10_Bylaws001.pdf)

Letter of Contest: [http://committeetoelectdavidstiver.com/SD\\_10\\_Contest\\_Letter\\_Kristina\\_Finley.pdf](http://committeetoelectdavidstiver.com/SD_10_Contest_Letter_Kristina_Finley.pdf)

Notice of Protest: [http://committeetoelectdavidstiver.com/Notice\\_of\\_Protest\\_03\\_24\\_2020001.pdf](http://committeetoelectdavidstiver.com/Notice_of_Protest_03_24_2020001.pdf)

Executive Committee Report: [http://committeetoelectdavidstiver.com/Executive\\_Meeting\\_Report.pdf](http://committeetoelectdavidstiver.com/Executive_Meeting_Report.pdf)

Colorado State Central Committee Meeting: [http://committeetoelectdavidstiver.com/Colorado\\_State\\_Central\\_Committee.mp3](http://committeetoelectdavidstiver.com/Colorado_State_Central_Committee.mp3)

Delegate Frustrations: [http://committeetoelectdavidstiver.com/Delegate\\_Frustrations\\_2020.mp3](http://committeetoelectdavidstiver.com/Delegate_Frustrations_2020.mp3)

Executive Committee Hearing: [http://committeetoelectdavidstiver.com/Executive\\_Committee\\_Meeting.mp3](http://committeetoelectdavidstiver.com/Executive_Committee_Meeting.mp3)

Executive Committee Meeting: [http://committeetoelectdavidstiver.com/Executive\\_Committee\\_Meeting.mp3](http://committeetoelectdavidstiver.com/Executive_Committee_Meeting.mp3)