

**DISTRICT COURT, DENVER COUNTY  
STATE OF COLORADO**

520 W. Colfax Ave.  
Denver, CO 80204

TINA PETERS,

Petitioner,

vs.

JENA GRISWOLD, in her official capacity  
as Secretary of State for the State of Colorado,  
JOSH ZYGIELBAUM, in his, official capacity  
as Clerk and Recorder of the county of Adams,  
NICOLE JARAMILLO in her official capacity  
as Clerk and Recorder of the county of Alamosa,  
JOAN LOPEZ, in her official capacity  
as Clerk and Recorder of the county of Arapahoe,  
KRISTY ARCHULETA, in her official capacity  
as Clerk and Recorder of the county of Archuleta,  
SHARON DUBOIS, in her official capacity  
as Clerk and Recorder of the county of Baca,  
LYNDA G. MOSS in her official capacity  
as Clerk and Recorder of the county of Bent,  
MOLLY FITZPATRICK in her official capacity  
as Clerk and Recorder of the county of Boulder,  
CRYSTAL CLEMENS, in her official capacity  
as Interim Clerk and Recorder of the county of  
Broomfield,  
LORI MITCHELL, in her official capacity  
as Clerk and Recorder of the county of Chaffee,  
PATRICIA DAUGHERTY, in her official capacity  
as Clerk and Recorder of the county of Cheyenne,  
BRENDA CORBETT, in her official capacity as  
Clerk and Recorder of the county of Clear Creek,  
NATHAN RUYBAL, in his official capacity as  
Clerk and Recorder of the county of Conejos,

**▲ COURT USE ONLY ▲**

MIRANDA ESQUIBEL, in her official capacity as Clerk and Recorder of the county of Costilla,  
MELINDA CARTER, in her official capacity as Clerk and Recorder of the county of Crowley,  
KELLEY CAMPER, in her official capacity as Clerk and Recorder of the county of Custer,  
TERI A. STEPHENSON, in her official capacity as Clerk and Recorder of the county of Delta,  
PAUL D. LÓPEZ, in his official capacity as Clerk and Recorder of the county of Denver,  
LANA HANCOCK, in her official capacity as Clerk and Recorder of the county of Delores,  
MERLIN KLOTZ, in his official capacity as Clerk and Recorder of the county of Douglas,  
REGINA O'BRIEN, in her official capacity as Clerk and Recorder of the county of Eagle,  
CHUCK BROERMAN, in his official capacity as Clerk and Recorder of the county of El Paso,  
DALLAS SCHROEDER, in his official capacity as Clerk and Recorder of the county of Elbert,  
JUSTIN D. GRANTHAM, in his official capacity as Clerk and Recorder of the county of Fremont,  
JEAN ALBERICO, in her official capacity as Clerk and Recorder of the county of Garfield,  
SAHARI MCCORMICK, in her official capacity as Clerk and Recorder of the county of Gilpin,  
SARA ROSENE, in her official capacity as Clerk and Recorder of the county of Grand,  
KATHY SIMILLION, in her official capacity as Clerk and Recorder of the county of Gunnison,  
JOAN ROBERTS, in her official capacity as Clerk and Recorder of the county of Hinsdale,  
NANCY CRUZ, in her official capacity as Clerk and Recorder of the county of Huerfano,  
HAYLE JOHNSON, in her official capacity as Clerk and Recorder of the county of Jackson,

<p>GEORGE P. STERN, in his official capacity as Clerk and Recorder of the county of Jefferson, DELISA L. WEEKS, in her official capacity as Clerk and Recorder of the county of Kiowa, SUSAN CORLISS, in her official capacity as Clerk and Recorder of the county of Kit Carson, TIFFANY LEE PARKER, in her official capacity as Clerk and Recorder of the county of La Plata, PATRICIA BERGER, in her official capacity as Clerk and Recorder of the county of Lake, ANGELA MYERS, in her official capacity as Clerk and Recorder of the county of Larimer, PATRICIA VIGIL, in her official capacity as Clerk and Recorder of the county of Las Animas, CORINNE M. LENGEL, in her official capacity as Clerk and Recorder of the county of Lincoln, PAM BACON, in her official capacity as Clerk and Recorder of the county of Logan, BRANDI BANTZ, in her official capacity as Designated Election Official of the county of Mesa, ERYN WINTZ, in her official capacity as Clerk and Recorder of the county of Mineral, TAMMY RASCHKE, in her official capacity as Clerk and Recorder of the county of Moffat, KIM PERCELL, in her official capacity as Clerk and Recorder of the county of Montezuma, TRESSA GUYNES, in her official capacity as Clerk and Recorder of the county of Montrose, SUSAN L. BAILEY, in her official capacity as Clerk and Recorder of the county of Morgan, LYNDA SCOTT, in her official capacity as Clerk and Recorder of the county of Otero, MICHELLE NAUER, in her official capacity as Clerk and Recorder of the county of Ouray, DEBRA GREEN, in her official capacity as Clerk and Recorder of the county of Park,</p>	
---	--

<p>MADENE ZILLA, in her official capacity as Clerk and Recorder of the county of Phillips, INGRID GRUETER, in her official capacity as Clerk and Recorder of the county of Pitkin, JANA COEN, in her official capacity as Clerk and Recorder of the county of Prowers, GILBERT ORTIZ, in his official capacity as Clerk and Recorder of the county of Pueblo, BOOTS CAMPBELL, in her official capacity as Clerk and Recorder of the county of Rio Blanco, CINDY HILL, in her official capacity as Clerk and Recorder of the county of Rio Grande, KIM BONNER, in her official capacity as Clerk and Recorder of the county of Routt, TRISH GILBERT, in her official capacity as Clerk and Recorder of the county of Saguache, LADONNA JARAMILLO, in her official capacity as Clerk and Recorder of the county of San Juan, STEPHANNIE VAN DAMME, in her official capacity as Clerk and Recorder of the county of San Miguel, CHRISTY M. BECKMAN, in her official capacity as Clerk and Recorder of the county of Sedgwick, KATHLEEN NEEL, in her official capacity as Clerk and Recorder of the county of Summit, KRYSTAL BROWN, in her official capacity as Clerk and Recorder of the county of Teller, ANNIE KUNTZ, in her official capacity as Clerk and Recorder of the county of Washington, CARLY KOPPES, in her official capacity as Clerk and Recorder of the county of Weld, and BEVERLY WENGER, in her official capacity as Clerk and Recorder of the county of Yuma,</p> <p>Respondents.</p>	
---	--

**Counsel for Petitioner:**

Nicholas A. Armer, Esq., #55856  
Armer Law, P.C.  
539 W. Commerce St., Suite 7260  
Dallas, TX 75208  
(214) 937-0037  
[nick@armerlaw.com](mailto:nick@armerlaw.com)

Case No.

Division

**PETITION UNDER C.R.S. §§ 1-1-113 and 1-10.5-109 and for  
INJUNCTIVE RELIEF PURSUANT TO C.R.C.P 65**

This case is about restoring trust in the electoral process for the many Coloradans who have lost faith. And not without good reason. Indeed, we are here because Respondents have brazenly shirked their legal duties to uphold Colorado election laws. First, Respondents have missed a crucial step before the recount: the tabulated results of the voting devices used in the election must be compared to the actual paper ballots to ensure the integrity of the original counting method. But all Respondents failed to do so before commencing the recount. Thus, the recount has been conducted without a proper inquiry into the reliability of the counting method. Second, Colorado Secretary of State Jena Griswold (Secretary) improperly certified voting systems despite a federal agency's finding that the system has several vulnerabilities. Indeed, these vulnerabilities render such voting systems noncompliant with Colorado law. Simply, this action seeks a Court order that the Secretary conduct the recount in accordance with Colorado

election laws.

## **I. INTRODUCTION**

Petitioner, Tina Peters (Petitioner or Ms. Peters), by and through counsel, Nicholas A. Armer, Esq., pursuant to C.R.S. § 1-1-113 and 1-10.5-109, and C.R.C.P. 65, hereby submits the following complaint for an order requiring the Respondents to stop the recount currently under way across the state of Colorado regarding Ms. Peters' recount of the GOP nomination for the office of secretary of state for the state of Colorado. The respective clerk and recorders are sued in their official capacities, along with, JENA GRISWOLD, in her official capacity as Secretary of State of Colorado.

## **II. PARTIES**

1. Petitioner, Tina Peters, is a natural person, and citizen of the state of Colorado and the United States of America.
2. Ms. Peters is an elector from the county of Mesa, and is a certified 2022 GOP candidate for secretary of state.
3. Respondent, Jena Griswold, is sued because she is about to commit a breach of duty in her official capacity as the Colorado Secretary of State.

4. Respondent, Josh Zygielbaum, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Adams (Clerk Zygielbaum).

5. Respondent, Nicole Jaramillo, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Alamosa (Clerk Jaramillo).

6. Respondent, Joan Lopez, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Arapahoe (Clerk Lopez).

7. Respondent, Kristy Archuleta, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Archuleta (Clerk Archuleta).

8. Respondent, Sharon Dubois, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Baca (Clerk Dubois).

9. Respondent, Lynda F. Moss, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Bent (Clerk Moss).

10. Respondent, Molly Fitzpatrick, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Boulder (Clerk Fitzpatrick).

11. Respondent, Crystal Clemens, is sued for prospective relief in her official capacity as Interim Clerk and Recorder of the county of Broomfield (Interim Clerk Clemens).

12. Respondent, Lori Mitchell, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Chaffee (Clerk Mitchell).

13. Respondent, Patricia Daugherty, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Cheyenne (Clerk Daugherty).

14. Respondent, Brenda Corbett, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Clear Creek (Clerk Corbett).

15. Respondent, Nathan Ruybal, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Conejos (Clerk Ruybal).

16. Respondent, Miranda Esquibel, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Costilla (Clerk Esquibel).

17. Respondent, Melinda Carter, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Crowley (Clerk Carter).

18. Respondent, Kelley Camper, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Custer (Clerk Camper).

19. Respondent, Teri A. Stephenson, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Delta (Clerk Stephenson).

20. Respondent, Paul D. López, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Denver (Clerk Lopez).

21. Respondent, Lana Hancock, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Delores (Clerk Hancock).

22. Respondent, Merlin Klotz, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Douglas (Clerk Klotz).

23. Respondent, Regina O'Brien, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Eagle (Clerk O'Brien).

24. Respondent, Chuck Broerman, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of El Paso (Clerk Broerman).

25. Respondent, Dallas Schroeder, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Elbert (Clerk Schroeder).

26. Respondent, Justin D. Grantham, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Fremont (Clerk Grantham).

27. Respondent, Jean Alberico, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Garfield (Clerk Alberico).

28. Respondent, Sahari McCormick, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Gilpin (Clerk McCormick).

29. Respondent, Sara Rosene, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Grand (Clerk Rosene).

30. Respondent, Kathy Simillion, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Gunnison (Clerk Simillion).

31. Respondent, Joan Roberts, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Hinsdale (Clerk Roberts).

32. Respondent, Nancy Cruz, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Huerfano (Clerk Cruz).

33. Respondent, Hayle Johnson, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Jackson (Clerk Johnson).

34. Respondent, George P. Stern, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Jefferson (Clerk Stern).

35. Respondent, Delisa L. Weeks, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Kiowa (Clerk Weeks).

36. Respondent, Susan Corliss, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Kit Carson (Clerk Corliss).

37. Respondent, Tiffany Lee Parker, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of La Plata (Clerk Parker).

38. Respondent, Patricia Berger, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Lake (Clerk Berger).

39. Respondent, Angela Myers, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Larimer (Clerk Myers).

40. Respondent, Patricia Vigil, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Las Animas (Clerk Vigil).

41. Respondent, Corinne M. Lengel, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Lincoln (Clerk Lengel).

42. Respondent, Pam Bacon, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Logan (Clerk Bacon).

43. Respondent, Brandi Bantz, is sued for prospective relief in her official capacity as Designated Election Official of the county of Mesa (Designated Election Official Bantz).

44. Respondent, Eryn K Wintz, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Mineral (Clerk Wintz).

45. Respondent, Tammy Raschke, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Moffat (Clerk Raschke).

46. Respondent, Kim Percell, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Montezuma (Clerk Percell).

47. Respondent, Tressa Guynes, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Montrose (Clerk Guynes).

48. Respondent, Susan L. Bailey, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Morgan (Clerk Bailey).

49. Respondent, Lynda Scott, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Otero (Clerk Scott).

50. Respondent, Michelle Nauer, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Ouray (Clerk Nauer).

51. Respondent, Debra Green, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Park (Clerk Green).

52. Respondent, Madene Zilla, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Phillips (Clerk Zilla).

53. Respondent, Ingrid Grueter, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Pitkin (Clerk Grueter).

54. Respondent, Jana Coen, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Prowers (Clerk Coen).

55. Respondent, Gilbert Ortiz, is sued for prospective relief in his official capacity as Clerk and Recorder of the county of Pueblo (Clerk Ortiz).

56. Respondent, Boots M Campbell, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Rio Blanco (Clerk Campbell).

57. Respondent, Cindy Hill, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Rio Grande (Clerk Hill).

58. Respondent, Kim Bonner, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Routt (Clerk Bonner).

59. Respondent, Trish Gilbert, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Saguache (Clerk Gilbert).

60. Respondent, Ladonna Jaramillo, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of San Juan (Clerk Jaramillo).

61. Respondent, Stephannie Van Damme, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of San Miguel (Clerk Van Damme).

62. Respondent, Christy Beckman, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Sedgewick (Clerk Beckman).

63. Respondent, Kathleen Neel, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Summit (Clerk Neel).

64. Respondent, Krystal Brown, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Teller (Clerk Brown).

65. Respondent, Annie Kuntz, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Washington (Clerk Kuntz).

66. Respondent, Carly Koppes, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Weld (Clerk Koppes).

67. Respondent, Beverly Wenger, is sued for prospective relief in her official capacity as Clerk and Recorder of the county of Yuma (Clerk Wenger).

### **III. JURISDICTION AND VENUE**

68. Jurisdiction of the Denver County District Court is properly invoked pursuant to C.R.S. § 1-1-113 and 1-10.5-109.

69. The district court has subject matter jurisdiction over the parties and this action, pursuant to Art. VI, § 9 of the Colorado Constitution.

70. Venue is proper in the county of Denver, pursuant to C.R.C.P. 98(b)(2).

#### **IV. FACTUAL ALLEGATIONS**

71. On June 28, 2022, the GOP primary election was held to determine the party's respective nominations for offices across the state of Colorado.

72. Ms. Peters allegedly lost her primary election for the office of secretary of state for the state of Colorado.

73. C.R.S. § 1-10.5-106 allows an "interested party" to request a recount of an election conducted within the state of Colorado.

74. Ms. Peters is an interested party and, pursuant to said statute, formally requested a recount by submitting a notarized request to JENA GRISWOLD, in her official capacity as Secretary of State for the State of Colorado (Secretary), within the statutory time period of 28 days after said primary election.

75. Pursuant to statute, on July 27, 2022, the Secretary prepared a determination of costs for Ms. Peters.

76. On July 28, 2022, Ms. Peters delivered certified funds to the Secretary for the full amount of the cost determination of two-hundred, fifty-five thousand, nine-hundred and twelve dollars and thirty-three cents (\$255,912.33).

77. The following day, Friday, July 29, 2022, recounts were started by clerk and recorders in counties across the state of Colorado.

**The Recount Is Not Being Conducted In Accordance With the Requirements of C.R.S. § 1-10.5-102 (3)(A).**

78. Pursuant to C.R.S. § 1-10.5-107, clerk and recorders are required to arrange to have their recounts made by the respective canvass boards that officiated in certifying the official abstract of the votes casts in Ms. Peters' race.

79. C.R.S. § 1-10.5-102 (3)(a) states:

Prior to any recount, the canvass board shall choose at random and test voting devices used in the candidate race, ballot issue, or ballot question that is the subject of the recount. The board shall use the voting devices it has selected to conduct a comparison of the machine count of the ballots counted on each such voting device for the candidate race, ballot issue, or ballot question to the corresponding manual count of the voter-verified paper records.

80. Similarly, 8 Colo. Code Regs. § 1505-1, Rule 10.12.1 states:

The canvass board must review the post-election audit before selecting the equipment for testing under section 1-10.5-102(3), C.R.S.

81. C.R.S. § 1-10.5-102 (3)(b) states:

If the results of the comparison of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of this section are identical, or if any discrepancy is able to be accounted for by voter error, then the recount may be conducted in the same manner as the original ballot count. If the results of the comparison of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of this section are not identical, or if any discrepancy is

not able to be accounted for by voter error, a presumption is created that the voter-verified paper records will be used for a final determination unless evidence exists that the integrity of the voter-verified paper records has been irrevocably compromised. The secretary of state shall decide which method of recount is used in each case, based on the secretary's determination of which method will ensure the most accurate count, subject to judicial review for abuse of discretion. Nothing in this subsection (3) limits any person from pursuing any applicable legal remedy otherwise provided by law.

82. Similarly, in 8 Colo. Code Regs. § 1505-1, Rule 10.13.1

Colorado states:

In accordance with section 1-10.5-102(3)(b), C.R.S., if there are no discrepancies in the test under Rule 10.12, the recount must be conducted in the same manner as the ballots were counted in the election except as outlined in this Rule. If there are unresolvable discrepancies in the test, the recount must be conducted as a hand count under Rule 10.13.5.

83. Instead, the Secretary directed the clerk and recorders to perform a Logic and Accuracy Test (LAT) through the use of test decks (See Exhibits A and B).

84. The procedures surrounding a LAT test are outlined in 8 Colo. Code Regs. § 1501-10.12.1, which states:

If the county re-scans ballots during the recount, the county clerk must test all ballot scanners that will be used. The purpose of the test is to ensure that the voting system accurately tabulates votes in the recounted contest.

(a) The county must prepare and tabulate the following test decks:

(1) The county recount test deck must include every ballot style and, where applicable, precinct style containing the recounted contest. It must consist of enough ballots to mark every vote position and every possible combination of vote positions, and include overvotes, undervotes, and blank votes in the recounted contest.

(2) In a requested recount, the person requesting the recount may mark up to 10 ballots. Any other candidate in the contest, or person or organization who could have requested the recount, may also mark up to 10 ballots.

(3) In a mandatory recount, at least two canvass board members of different party affiliations must each mark an additional 10 ballots containing the recounted contest.

(b) A bipartisan team, of election judges and/or staff, must hand tally the recounted contest on the test ballots and verify that the hand tally matches the voting system's tabulation.

(c) The test is limited to the race or measure that is recounted.

85. The Secretary conducted a rescan, though Ms. Peters did not request one.

86. Additionally, said test, pursuant to 8 Colo. Code Regs. § 1501-10.12.1, clearly states that such a test is for counties that “re-scans ballots *during* the recount,” to “test all ballot scanners that will be used.” [Emphasis added].

87. The test required by C.R.S. § 1-10.5-102(3)(a), as opposed to the L&A, is to be conducted “[p]rior to *any* recount” to “test [the] *voting devices* used in the candidate race.” [Emphasis added].

88. In that regard, Pursuant to C.R.S. § 1-10.5-102 (3)(a), a canvass board is required, *prior* to a recount, to choose at random which voting devices will be tested.

89. Pursuant to C.R.S. § 1-10.5-102 (3)(a), the canvass board would then be required to manually count the ballots that were counted by the chosen devices in the primary election on June 28, 2022.

90. After the manual count of the ballots that were previously counted by the chosen devices in the primary election, the canvass board must then compare the manual count of those ballots with the results of machine count that were tabulated on June 28, 2022, by the randomly chosen voting devices used during the primary election.

91. On information and belief, Respondents have not complied with C.R.S. § 1-10.5-102 (3)(a) at the direction and guidance of the Secretary.

92. By failing to conduct the required comparison, every canvassing board in Colorado has failed to comply with C.R.S. § 1-10.5-102 (3)(a).

93. By directing the canvassing boards not to comply with C.R.S. § 1-10.5-102 (3)(a), the Secretary has breached her duty to ensure fair, impartial, and uniform recounts.

94. C.R.S. § 1-10.5-102 (3)(b) allows the recount to be conducted in the same manner as the original ballot count, i.e., with voting machines, only if “the results of the *comparison* of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of [section 102] are identical, or if any discrepancy is able to be accounted for by voter error.” [Emphasis added].

95. Pursuant to C.R.S. § 1-10.5-102 (3)(b), if “the results of the *comparison* of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of [section 102] are *not* identical, or if any discrepancy is not able to be accounted for by voter error, a presumption is created that the voter-verified paper records will be used for a final determination unless evidence exists that the integrity of the voter-verified paper records has been irrevocably compromised.” [Emphasis added].

96. Since the canvass boards across the state have failed to comply with C.R.S. § 1-10.5-102 (3)(a), the requirements of C.R.S. § 1-10.5-102 (3)(b) have also not been met.

97. Upon information and belief, the recount of Ms. Peters’ race will be counted, across the state, in the same manner as the ballots were counted in the primary election, i.e., with the respective counties electronic voting machines.

98. Petitioner requests that the Court enter an order requiring the Secretary to conduct the recount in accordance with C.R.S. § 1-10.5-102.

**The Dominion Voting Systems ImageCast X Devices and Attached Components Used In The Recount Violate Voting System Standards and Therefore Are Not Certifiable In Accordance With C.R.S. § 1-5-601.5**

99. C.R.S. § 1-5-601.5 requires all voting systems and voting equipment to meet federal voting systems standards (VSS) that were promulgated in 2002 by the Federal Election Commission.

100. Recently, a computer science expert in *Curling v. Raffensperger*, Case No. 1:17-cv-02989-AT (U.S. Dist. Ct., N.D. Ga.), identified catastrophic vulnerabilities and failures in the Dominion electronic voting systems used in sixteen states, including Colorado.

101. The expert, Professor J. Alex Halderman (Prof. Halderman), further opined that the vulnerabilities and failures include the ability to defeat detection all state safety procedures including logic and accuracy tests and risk limiting audits.

102. In response, the Cybersecurity and Infrastructure Security Agency (CISA) entered an appearance in *Curling* and urged the federal district court to not allow the public disclosure of said expert's entire report.

103. On June 3, 2022, CISA released a security advisory, detailing nine vulnerabilities in Dominion’s Democracy Suite® ImageCast X devices—and any components connected to those devices, such as the Election Management System (EMS).<sup>1</sup>

104. CISA did not test all versions of the Dominion ImageCast X (Dominion ICX) systems.

105. Upon information and belief, the critical vulnerabilities identified by Prof. Halderman that gave rise to CISA’s June 3, 2022, advisory applies to all Dominion electronic voting systems employing ImageCast X devices—including those systems used in Colorado.

106. CISA’s advisory identified nine security vulnerabilities in Dominion ICX which were undetected by Voting System Testing Lab (“VSTL”) certification testing.

107. The presence of these security vulnerabilities and failures identified in CISA’s advisory warning regarding the Dominion ICX machines prevents ICX/D-Suite 5.13 compliance with various VSS standards, including but not limited to:

- a. VSS § 2.2.1 requires that any voting system ensures system security;

---

<sup>1</sup> ICS Advisory ICSA-22-154-01, found at <https://www.cisa.gov/uscert/ics/advisories/icsa-22-154-01>.

- b. VSS § 2.2.11, citing 42 U.S.C. § 1974, requires that all data and records created by the system are maintained for purposes of an audit;
- c. VSS § 4.2.2 prohibits the use of self-modifying, dynamically loaded, or interpreted code in voting systems so that the software that was approved and certified retains its integrity;
- d. VSS § 6.2.1.2 requires that voting systems identify and control the individuals with access;
- e. VSS § 6.4.1 requires that voting systems with resident software be retested prior to the start of election operations; and
- f. VSS § 6.4.2 requires that voting systems protect against malicious software.

108. None of the security failures CISA identified were detected through any prior certification or testing process, or, if known, were not reported publicly by Dominion nor the Secretary.

109. Upon information and belief, since June 3, 2022, the Secretary has not taken the necessary remedial action to adequately test the reliability and security of Dominion's Democracy Suite® 5.13, despite CISA's warnings and the requirement to do so under VSS.

110. CISA’s advisory also identified thirteen defensive measures, none of which appear to have been undertaken in Colorado prior to the June 28, 2022 primary, nor before the Petitioner’s requested recount.

111. Notably, CISA recommended, among other things, that officials:

- Conduct rigorous post-election tabulation audits of the human-readable portions of physical ballots and paper records, to include reviewing ballot chain of custody and conducting voter/ballot reconciliation procedures.
- Ensure all affected devices are physically protected before, during, and after voting.
- Ensure compliance with chain of custody procedures throughout the election cycle.

Ensure that ImageCast X and the Election Management System (EMS) are not connected to any external (i.e., Internet accessible) networks.

112. C.R.S. § 1-5-615(1)(l) states that “[t]he secretary of state shall not certify any electronic or electromechanical voting system unless such system . . . [c]ounts votes correctly.”

113. C.R.S. § 1-5-615(1)(p) states that “[t]he secretary of state shall not certify any electronic or electromechanical voting system unless such system . . . [s]aves and produces the records necessary to audit the operation of the electronic or electromechanical voting system, including a permanent paper record with a manual audit capacity.”

114. Dominion’s ICX do not meet the statutory requirements under C.R.S. §§ 1-5-601.5, 1-5-615(1)(l), and 1-5-615(1)(p).

115. The Secretary breached her duty to ensure compliance with C.R.S. §§ 1-5-601.5, 1-5-615(1)(l), and 1-5-615(1)(p) by certifying Dominion’s ICX.

116. Upon information and belief, sixty-two counties in Colorado use these voting systems.

117. The Respondents’ use of improperly tested and unreliable electronic voting systems for purposes of the recount is unfair, partial and lacks uniformity, violating the duty “to conduct the recount in a fair, impartial, and uniform manner.” C.R.S. § 1-10.5-102(2).

118. C.R.S. § 1-7-512(1)(e) states that “[a] voting system provider... shall...[n]otify the secretary of state and the designated election official of any political subdivision using its voting system of any defect in the same system known to occur anywhere.”

119. Upon information and belief, Dominion also failed to disclose these known vulnerabilities to Colorado officials and other states’ officials when it learned of them.

120. Petitioner seeks to recount the legal ballots by a fair, impartial, and uniform process in accordance with CRS § 1-10.5-109.

121. Petitioner requests that the Court order that the Secretary address the above-mentioned vulnerabilities of the Dominion ICX systems and appropriately certify these systems in accordance with her duties under C.R.S. § 1-5-615. Alternatively, Petitioner requests a manual (hand) recount.

122. Recently, experts, Dr. Walter C. Daugherty and Jeff O'Donnell, exposed evidence of unauthorized ballot manipulation by a rogue software process running within the Mesa County, Colorado EMS system during the November 2020 general election, and April 2021 Grand Junction municipal election.<sup>2</sup>

123. Similar evidence associated with the June 28, 2022, Colorado GOP primary election for secretary of state candidate, Tina Peters, shows an unnatural pattern of vote processing.

124. There, election results taken from the New York Times' feed between June 28, 2022, and July 2, 2022, which continuously updated and reported, demonstrates an unnatural, near perfect correlation between the respective candidates after the first three updates.

---

<sup>2</sup> See *Mesa County Report #3*, Jeff O'Donnell and Dr. Walter C. Daugherty, March 19, 2022. <https://useipdotus.files.wordpress.com/2022/03/mesa-3-report.pdf>



## V. CLAIM FOR RELIEF

### COUNT 1

#### (C.R.S. § 1-10.5-109)

#### (Demand to Conduct Proper Recount)

128. Petitioner incorporates herein by reference all of the allegations contained in the preceding paragraphs, as though fully contained herein.

129. C.R.S. § 1-10.5-109(1)(a), states:

Any interested party that requested a recount of a county, state, national, or district office of state concern or any party to such recount that has *reasonable grounds to believe* that the recount is *not being conducted in a fair, impartial, and uniform manner* may apply to the district court of the city and county of Denver for an order requiring the county clerk and recorder to stop the recount and to give the secretary of state access to all pertinent election records used in conducting the recount, and requiring the secretary of state to conduct the recount. The county clerk and recorder shall be an official observer during any recount conducted by the secretary of state. [Emphasis added].

130. Petitioner has “reasonable grounds to believe” that her recount is not being conducted in a fair, impartial and uniform manner—particularly in light of the failure of the Respondents to follow Colorado law requiring that a comparison be made, pursuant to C.R.S. § 1-10.5-102(3)(a), “prior to any recount.”

131. Petitioner is an “interested part[y],” pursuant to C.R.S. § 1-10.5-106.

132. Pursuant to C.R.S. § 1-10.5-109, Petitioner requests that the Court issue an order requiring the Respondents to stop their recounts, and to give the

Secretary access to all pertinent election records used in conducting the recount and require the Secretary to conduct the recount.

133. Pursuant to the C.R.S. § 1-10.5-109, the clerk and recorders shall then become official observers to any recount conducted by the Secretary.

134. Pursuant to the C.R.S. § 1-10.5-109(2), all expenses incurred by the Secretary in conducting the recount, pursuant to subsection C.R.S. § 1-10.5-109 (1), shall be paid from the state general fund.

135. Pursuant to the C.R.S. § 1-10.5-109(2), the expenses incurred prior to this Court's order requiring the Secretary to conduct the recount shall be paid by the respective counties.

**COUNT II**  
**(C.R.C.P. 65)**  
(Injunctive Relief)

136. Petitioner incorporates herein by reference all of the allegations contained in the preceding paragraphs, as though fully contained herein.

137. As described above, the Dominion ICX devices and attached components violate VSS and therefore are not certifiable for use in elections and this recount in accordance with, *inter alia*, C.R.S. §§ 1-5-601.5, 1-5-615(1)(l), and 1-5-615(1)(p).

138. The Secretary was put on notice of the aforementioned issues by a letters sent by Tina Peters dated July 12, 2022 and July 15, 2022 (attached as Exhibits C and D) but nonetheless directed the recount to be performed using the aforementioned Dominion voting machines.

139. Further, Respondents have failed to comply with C.R.S. § 1-10.5-102(3).

140. The Court should order compliance with C.R.S. § 1-10.5-102(3).

141. The Court should order proper certification of the Dominion ICX systems by the Secretary or, alternatively, enjoin the use of the Dominion ICX systems and require a manual (hand) recount.

142. The Court should also order a forensic examination of the Dominion ICX systems by a qualified cyber expert of Petitioner's choosing to determine if the Dominion ICX are certifiable in accordance with C.R.S. § 1-5-615.

## VI. PRAYER FOR RELIEF

Wherefore, the Petitioner, Tina Peters, hereby requests that this Honorable Court issue an order, pursuant to C.R.S. § 1-1-113 and 1-10.5-109, to the Respondents, to: (1) stop their recounts; (2) give the Secretary access to all pertinent election records used in conducting the recounts; (3) require the Secretary to conduct the recounts in accordance with Colorado law, including C.R.S. §§ 1-10.5-102, 1-5-601.5, and 1-5-615; (4) require the clerk and recorders to become official observers to any recount conducted by the Secretary; (5) require that all expenses incurred by the Secretary in conducting the recount be paid from the state general fund; (6) to require the expenses incurred prior to this Court's order requiring the Secretary to conduct the recount to be paid by the respective counties; (7) return all monies paid by the Petitioner to the Secretary; and, (5) for such other relief as is just and proper, as the Court deems appropriate.

Respectfully submitted this 3<sup>rd</sup> day of August, 2022,

By: /s/ Nicholas A. Armer, Esq.  
Nicholas A. Armer, #55856