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STATE OF WYOMING)
)
)**ss.**
COUNTY OF LARAMIE)
)
)**IN THE DISTRICT COURT**
)
)**FIRST JUDICIAL DISTRICT**

JOE MARTINEZ, an individual,)
PHILLIP SCHEEL, an individual,)
MERI ANN DORMAN, an individual, and)
CLAY VAN ANTWERP, an individual,)

Plaintiffs,)

v.)

Civil Case No. 2025-CV-0203239

WYOMING REPUBLICAN PARTY, a Wyoming)
Nonprofit corporation and major political party,)
the WYOMING REPUBLICAN PARTY STATE)
CENTRAL COMMITTEE, an unincorporated)
association and arm of the Wyoming Republican)
Party, the WYOMING REPUBLICAN PARTY)
DISPUTE RESOLUTION COMMITTEE,)
an unincorporated association and arm of the)
Wyoming Republican Party,)

Defendants.)

**PLAINTIFFS’ REPLY TO DEFENDANTS’ RESPONSE TO MOTION FOR
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiffs Joe Martinez (“Martinez”) and Phillip Scheel (“Scheel”)(collectively
“Plaintiffs”) hereby submit their Reply to Defendants’ Response to Motion for temporary
Restraining Order and Preliminary Injunction, as follows:

Defendants Wyoming Republican Party, The Wyoming Republican Party State Central Committee and Wyoming Republican Party Dispute Resolution Committee (collectively, the “State Party”) advance the following unmeritorious arguments in their Response:

(1) W.S. §22-4-101 and 22-4-105, which restrict the members of a county central committee to the elected precinct committeemen and committeewomen for the county political party and provides for the election of a county chair, state committeeman and committeewoman by such elected county precinct committeemen and committeewomen, are unconstitutional because the state, according to the State Party, has no legitimate interest in determining the composition of a body that may pick three persons one of whom would become the next member of Congress, the next Secretary of State, the next Treasurer or the next State Auditor;

(2) there is no likelihood of irreparable harm because the State Party has already caused irreparable harm;

(3) the balance of harms weighs against an injunction because it would be harmful to have the State Party comply with state law;

(4) an injunction is contrary to the public interest because, according to the State Party, continuing to comply during the pendency of this litigation with a statute that the State Party had previously complied with for over 50 years outweighs the public’s interest in the transparent and orderly filling of vacancies in statewide elective offices; and

(5) Plaintiffs, who have been deprived of their rightful offices by the State Party's wrongful conduct in violation of state law, lack standing for some unexplained reason.

As discussed below, each of the State Party's arguments is without merit.

At the outset, Plaintiffs submit that their request is for a prohibitory rather than a mandatory injunction. *Winney v. Jerup*, 2023 WY 113, ¶ 23, 539 P.3d 77, 84 (Wyo. ,2023)(“A request for an injunction is a proceeding in equity, and an injunction may be prohibitory or mandatory.”) Plaintiffs seek to preserve the status quo of their status as the victors in the March 17, 2025 election of county party officers for the Hot Springs County Republican Party. As discussed below, the relief Plaintiffs seek is to compel the State Party to continue to comply with statutes that have been on the books for over 50 years and with which the State Party in fact complied for over 50 years, until it went rogue in 2025.

I. Wyo. Stat. 22-4-101 and 22-4-105 Are Facially Constitutional

[A] court considering a challenge to a state election law must weigh the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the [political party] seeks to vindicate against the precise interests put forward by the State as justifications for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the [political party's] rights.

Conrad v. Uinta Cnty. Republican Party, 2023 WY 46, ¶ 27, 529 P.3d 482, 493 (Wyo. 2023) citing *Utah Rep. Party v. Cox*, 892 F.3d 1066, 1077 (10th Cir. 2018).

Wyo. Stat. Ann. 22-4-105 is a constitutional exercise of the state's authority to regulate political parties in furtherance of its compelling interest in ensuring the fair and

orderly composition of the bodies that fill vacancies to statewide elective offices. The U.S. Supreme Court has recognized that states may enact reasonable regulations of political parties, elections, and ballots to reduce disorder and ensure the integrity of democratic processes. “When deciding whether a state election law violates First and Fourteenth Amendment associational rights, we weigh the ‘character and magnitude’ of the burden the State's rule imposes on those rights against the interests the State contends justify that burden, and consider the extent to which the State's concerns make the burden necessary. *Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358 (1997) (internal citations omitted and cleaned up). *Timmons* further held that “[r]egulations imposing severe burdens on plaintiffs' rights must be narrowly tailored and advance a compelling state interest. Lesser burdens, however, trigger less exacting review, and a State's ‘important regulatory interests’ will usually be enough to justify ‘reasonable, nondiscriminatory restrictions.’ *Id.*

Similarly, the Supreme Court has emphasized that substantial regulation of elections is necessary to ensure fairness and order. *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.) (internal quotations omitted and cleaned up).

Here, W.S. §22-4-101 and W.S. §22-4-101 do not impose undue burdens on the Wyoming Republican Party's internal governance but instead ensures that the elections of county central committee officers and state committeepersons are conducted transparently

and fairly. The statutory requirements are narrowly tailored to achieve the state's legitimate interest in filling vacancies for statewide elected officials, which is essential to the broader electoral process.

The State Party makes much of the fact that the State Party does not itself elect anyone to public office but rather only selects three persons one of whom may be appointed to statewide office. Response, at 4-5. If it were true that the State Party had no role in determining who holds an elective office, that argument might carry weight. However, where the State Party “turns outward” to affect the public and to the selection of “an individual who will swear an oath not to protect the Party, but instead the Constitution, and when the individual ultimately elected has the responsibility to represent all the residents in his or her district, the state acquires a manifest interest in that activity, and the party’s interest in such activity must share the stage with the state’s manifest interest.” *Utah Republican Party v. Cox*, 885 F.3d 1219 at 1229. It is this key element of “turning outward” to affect who holds a statewide elective office that gives rise to the state’s regulatory interest in ensuring a fair and orderly process.

While the State Party argues that the statute infringes on its First and Fourteenth Amendment rights, the U.S. Supreme Court has consistently held that not all regulations of political parties are unconstitutional. In *Tashjian v. Republican Party of Connecticut*, the Court invalidated a law that directly interfered with a party's associational rights by prohibiting it from allowing independents to vote in its primaries. *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 210-25, 107 S.Ct. 544, 546-54, 93 L.Ed.2d 514 (1986).

However, the Court also acknowledged that states have a legitimate interest in regulating elections and political parties to ensure fairness and order. *Id.*

This case is also different from *Eu v. San Francisco Cnty. Democratic Cent. Comm.*, 489 U.S. 214, 222-33, 109 S.Ct. 1013, 1020-25, 103 L.Ed.2d 271 (1989), as the Court in *Eu* was considering a California law that limited the composition of the body, terms of office of a party chair, and required that the chair rotate between residents of Northern and Southern California. *Eu v. San Francisco County Democratic Cent. Comm.*, 489 U.S. 214, 216, 109 S.Ct. 1013, 1015 (1989).

Unlike the statutes at issue in *Eu* and *Tashjian*, W.S. §22-4-101 and W.S. §22-4-105 do not impermissibly dictate the internal structure or leadership of political parties. Instead, they establish a framework for the election of party officers and committeepersons, ensuring that these processes are conducted in a manner that promotes transparency and accountability. This regulation is consistent with the state's interest in preserving the integrity of the filling of vacancies in elective offices and does not impose severe burdens on the party's associational rights. In addition, the state has an interest in seeing that taxpayer dollars used to fund major party primary elections such as those of the State Party are expended within the framework of an orderly and transparent process.

If the court adopts the position of the State Party, county central committees could hold their election meetings secretly and without notice and the State Party could, through its dispute resolution committee, declare as winners of the county party elections only convicted felons, illegal aliens and members of the Chinese Communist Party, who would then serve on the Wyoming Republican Party State Central Committee. Under the State

Party's absolute view of its rights of association, the only three possible candidates to fill a vacancy in the office of United States Senator from Wyoming could be chosen by a group composed entirely of illegal aliens, convicted felons and the Chinese Communist party. The State Party's argument that W.S. §§22-4-101 and 105 are facially unconstitutional leads to absurd results and should be rejected.

II. **W.S. §§. 22-4-101 and 22-4-105 Are Constitutional As Applied To This Case.**

A. **The Statutes Serve a Compelling State Interest.**

In *Conrad*, the Wyoming Supreme Court recognized the state's interest in regulating political parties to ensure fair and orderly processes, even though it abstained from ruling on the constitutionality of Wyo. Stat. Ann. 22-4-105. *Conrad* at ¶ 26, 493. The Plaintiffs' reliance on this case underscores the statute's alignment with the state's regulatory interests.

Moreover, the statute's requirements are narrowly tailored to achieve the state's compelling interest in maintaining the integrity of political party governance. By specifying that county central committees shall elect their officers and state committeepersons, the statute ensures that these elections are conducted by individuals who are directly accountable to the party's members. This framework promotes transparency and accountability without unduly interfering with the party's internal decision-making processes.

B. **The Statute Does Not Impose Severe Burdens.**

The Defendants argue that the statute is facially overbroad and void under the First Amendment. However, the U.S. Supreme Court has held that regulations imposing lesser

burdens on associational rights are subject to less exacting scrutiny and may be justified by the state's important regulatory interests. In *Timmons*, the Court upheld a Minnesota law prohibiting fusion candidacies, finding that the law imposed only a minimal burden on associational rights and was justified by the state's interest in maintaining the integrity of its electoral process.

Similarly, Wyo. Stat. Ann. 22-4-105 imposes only minimal burdens on the Wyoming Republican Party's associational rights. The statute does not dictate the party's internal structure or leadership but merely establishes a framework for the election of party officers and committeepersons. This regulation is a reasonable and nondiscriminatory restriction that serves the state's compelling interest in ensuring fair and orderly governance.

The statutes' requirements are narrowly tailored and impose only minimal burdens on the Wyoming Republican Party's associational rights. For these reasons, the statute should be upheld as a reasonable restriction on the freedom of association.

As applied to the facts of this case, the ineligible electors whose votes the State Party retroactively counted **did not in fact vote** during the relevant county party elections on March 17, 2025. Martinez Decl. ¶¶6-8. Rather, after the meeting was adjourned and the results were announced, only then did the ineligible former county party officers submit so-called provisional ballots. *Id.* This voting after an election is over violates the State Party's own bylaws, which are governed by Robert's Rules of Order unless otherwise specified. In its Response, the State Party does not dispute that the votes that it now seeks to count were not in fact even cast during the relevant county party officer elections.

III. **The Court Should Not Reward The State Party For Its Bad Faith Conduct In Causing Irreparable Harm At The May 3, 2025 Election Of State Party Officers.**

In the days leading up to the State Party elections on May 3, 2025, counsel for the State Party reasonably agreed to recommend to the State Party that Plaintiffs be allowed to cast provisional ballots on May 3, 2025. If Plaintiffs ultimately prevailed in this litigation, there would be an accurate record of the votes validly cast at the May 3, 2025 election of State Party officers. On May 3, 2025, however, the State Party rejected its counsel's advice and refused to allow Plaintiffs to cast any votes, provisional or otherwise. Cheryl Aguiar, who on March 17, 2025 as outgoing Hot Springs County Republican Party chairman had purported to allow provisional ballots for the ineligible voters at the county party elections, on May 3, 2025 switched positions at the State Party meeting and railed against allowing Plaintiffs to cast provisional ballots because provisional ballots are not authorized by the State Party bylaws.

Ms. Aguiar's position prevailed and Plaintiffs, who were present and ready, willing and able to vote, were not allowed to cast any ballots on May 3, 2025. The vote for Vice Chairman of the Party was decided by just one vote. Plaintiffs, had they been allowed to vote, would have voted for Virginia Bennett, the candidate who lost by one vote to Bob Ferguson. On information and belief, the Hot Springs County pretenders to the office of chairman and state committeeman, Bradyn Harvey and Russell Lewis, respectively, voted for Bob Ferguson, who was declared the winner by one vote. The State Party has already

caused irreparable harm because Virginia Bennett should be the rightful winner in the race for Vice Chairman of the State Party.

In its Response, the State Party attempts to use its bad faith conduct as a shield by claiming that because it has already intentionally caused irreparable harm, no injunction should issue. Response, at 9.

The court should not reward the State Party for its bad faith conduct. There is more irreparable harm on the horizon that the State Party is ready, willing and able to inflict on the public. In the event of an eventual vacancy in any of the statewide elective offices, Plaintiffs will be prevented from casting a vote on the election of three individuals who may fill such statewide elective office vacancies. In addition, the position of Vice Chairman is now held by a pretender, and that position is also allowed to vote on the filling of statewide elective official vacancies. *See* W.S. §22-18-111.

IV. **The Balance Of Harms Weighs Against Defendants.**

The balance of harms weigh decidedly against Defendants. The only “harm” is to ask the State Party to comply with a statute that has been on the books and substantively unchanged since 1973, and with which the State Party had actually complied every year from 1973 until 2024. The predecessor statute to W.S. 22-4-101 was adopted in 1973. Chapter 251 of the 1973 Session Laws provides, in pertinent part:

Chapter 251 –“Wyoming Election Code”

...

Chapter 4 – Political Parties

22.1-34 County central committee; composition; election, residency requirement. The county central committee of each political party consists of precinct committeemen and committeewomen elected in the county at the regular biennial primary election . . .

22.1-38 – County central committee meeting; notice; election of chairman, state committeeman and state committeewoman. . . .At the [county central committee] meeting the county central committee shall elect the chairman of the county central committee, one state committeeman and one state committeewoman . . .

Session Laws of Wyoming 1973, Chapter 251, at ch. 4.

Plaintiffs ask the court to preserve the status quo and have the State Party comply, at least temporarily during the pendency of this litigation, with a statute that has been on the books for over 50 years. The harm to the State Party is slight and the potential harm great and irreparable.

In weighing the balance of harms, the court may consider the State Party's bad faith conduct and unclean hands. *See Moore v. Wolititch*, 2015 WY 11, ¶ 27, 341 P.3d 421, 427 (Wyo. 2015)(finding injunction appropriate where “equity weighed against Defendants and their abandonment claim because they had flagrantly ignored the covenants in operating their daycare business . . .”). Here, the State Party has intentionally caused irreparable harm already by ignoring its counsel's advice and, while steadfastly insisting upon the right of ineligible voters to cast provisional ballots at the

Hot Springs County party central committee meeting on March 17, 2025, took the opposite position at the May 3, 2025 State Party meeting and refused to allow Plaintiffs to cast even provisional ballots.

V. **An Injunctions Is In The Public Interest.**

In its Response, the State Party appears to believe that the only “public” in the calculation of public interest are members of the Republican Party who are outgoing officers but not elected precinct committeemen or committeewomen and members of the secretive Dispute Resolution Committee who are allowed to issue orders after an arbitration conducted without witnesses, evidence or the participation of the affected parties, all without any oversight or judicial review.¹ The public interest that is actually at issue here are the interests of all of the citizens of Wyoming, who have an interest in ensuring that vacancies in statewide elective offices are filled in an orderly and transparent fashion.

VI. **Plaintiffs Have Standing.**

In its response, the State Party asserts, without explanation, that Plaintiffs do not have standing. See Response, at 3. “[T]he concept of standing in the declaratory judgment context requires a person to “show a ‘perceptible,’ rather than a ‘speculative’ harm from the action; a remote possibility of injury is not sufficient to confer standing.

¹ The Wyoming Supreme Court has not ruled on whether there is a public interest prong when a court is considering granting an injunction. See *Brown v. Best Home Health & Hospice, Ltd. Liab. Co.*, 2021 WY 83, ¶ 35, 491 P.3d 1021, 1032 (Wyo.021)(“we need not address the applicability of the federal standard for preliminary injunctions .. “). To the extent this factor is required, it weighs in favor of Plaintiffs in this case.

Tavern, LLC v. Town of Alpine, 2017 WY 56, ¶ 33, 395 P.3d 167, 176 (Wyo. 2017). In the present case, Plaintiffs have been deprived of their personal and individual rights to vote as members of the State Central Committee. “[V]oters who allege facts showing disadvantage to themselves as individuals have standing to sue” to remedy that disadvantage. *Baker v. Carr*, 369 U. S. 186,t 206 (U.S. 1961). Plaintiffs have suffered a perceptible harm, namely, by not being allowed to cast votes for, among other things, the office of State Party Vice Chairman, which would have been outcome determinative in this case and not being allowed to vote or even participate at any eventual election to propose three candidates to fill a statewide vacancy.

DATED this 3rd day of June 2025.

JOE MARTINEZ,
PHILLIP SCHEEL
MERI ANN DORMAN
CLAY VAN ANTWERP,
Plaintiffs

/s/ Clark Stith

By; _____
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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2025, I filed the foregoing **PLAINTIFFS' REPLY TO DEFENDANTS' RESPONSE TO MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION** through File&ServXpress and served the following persons through File&ServXpress:

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