

**FILED**

No. A23-1354

September 27, 2023

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**STATE OF MINNESOTA  
IN SUPREME COURT**

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**OFFICE OF  
APPELLATE COURTS**

JOAN GROWE, *et al.*,  
PETITIONERS,

v.

STEVE SIMON, MINNESOTA SECRETARY OF STATE,  
RESPONDENT.

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**REPUBLICAN NATIONAL COMMITTEE, NATIONAL REPUBLICAN SENATORIAL  
COMMITTEE, AND NATIONAL REPUBLICAN CONGRESSIONAL COMMITTEE  
REQUEST FOR LEAVE TO PARTICIPATE AS *AMICI CURIAE* IN SUPPORT OF  
RESPONDENT**

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TO: The Minnesota Supreme Court and to all counsel of record:

Pursuant to Minnesota Rule of Civil Appellate Procedure 129.01 and this Court’s September 20, 2023 order, Applicants Republican National Committee, National Republican Senatorial Committee, and National Republican Congressional Committee—collectively, National Republican Amici—respectfully request leave to participate in this action as *amici curiae* in support of Respondent.

This case involves a petition to this Court to disqualify a candidate of the Republican Party for President from the Minnesota ballot for the 2024 presidential primary and general elections. This request for leave to participate as *amici curiae* describes the National Republican Amici’s interest in the matter, sets forth their legal position, and identifies “why a brief of amic[i] curiae is desirable.” Minn. R. Civ. App. P. 129.01(c). In short, National Republican Amici have unique interests in and arguments relevant to this case that this Court would benefit from hearing.

## **I. Interests of National Republican Amici.**

National Republican Amici are political organizations who help their members achieve electoral victories at the local, state, and national level, and who work to ensure a fair and equal electoral process. The Republican National Committee is a national committee, as defined by 52 U.S.C. §30101, that manages the Republican Party's business at the national level, supports Republican candidates for public office at all levels, coordinates fundraising and election strategy, and develops and promotes the national Republican platform. It represents over 30 million registered Republicans. The National Republican Senatorial Committee and National Republican Congressional Committee are the Republican Party's national political committees that work to elect Republicans to the United States Senate and House of Representatives, respectively. Hence, the National Republican Amici interest is public in nature.

National Republican Amici have multiple interests in this matter. This case seeks to remove a candidate from the Republican primary ballot and the general election ballot for President. It does so based on a legal theory that has been used to attempt to disqualify various Republicans from holding other state and federal offices. Removing a candidate from the Republican primary ballot threatens National Republican Amici and their voters' First Amendment interests in controlling their primaries and nominating the candidate of their choice. "Under our political system, a basic function of a political party is to select the candidates for public office to be offered to the voters at general elections." *Kusper v. Pontikes*, 414 U.S. 51, 58 (1973). And intrusions on "[t]he processes by which political parties select their nominees" intrudes on their constitutional rights, including their rights to "associational freedom." *California Democratic Party v. Jones*, 530 U.S. 567, 572-75 (2000). National Republican Amici also have an interest in ensuring that the rules governing elections are lawful and fairly applied. And they have an interest in promoting any of their potential nominees' ballot eligibility

and electoral success.<sup>1</sup> Because these interests concern both National Republican Amici's own rights and those that they advocate for, they are both public and private interests.

## **II. Legal Positions of National Republican Amici.**

National Republican Amici intend to argue in support of Respondent that the petition should be denied for the following reasons:

- This is the inappropriate forum for this dispute. For reasons of text, history, structure, and common sense, Section 3 qualifications for federal offices like the Presidency cannot be decided by state courts or officials or before an election.
- The Presidency has never been subject to Section 3, which applies only to those former officeholders who took the oath prescribed in Article VI of the U.S. Constitution and disqualifies only subordinate executive officeholders. The lineage of Section 3, which National Republican Amici will describe, demonstrates that it does not apply here.
- Disqualifying President Trump would violate National Republican Amici and their voters' First Amendment rights.

National Republican Amici respectfully reserve the right to advance additional arguments in support of Respondent and to address any arguments raised by Petitioners or their amici.

## **III. Reasons for National Republican Amici Brief.**

National Republican Amici will explain the implications of this petition for the rights of political parties and voters. They have unique institutional interests in this matter as the Party whose candidate Petitioners seek to disqualify. They have extensive experience and familiarity with election disputes, including disputes involving related legal issues. And they have insights regarding the legal

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<sup>1</sup> National Republican Amici do not take positions in primary campaigns, and their interest arises from the wide-ranging consequences of the pending action for the national Republican Party as a whole.

issues presented in this case. For these reasons and many more, political parties like National Republican Amici are routinely not only allowed to submit amici briefs, but granted party status, in election matters like this. *E.g., League of Women Voters of Minn. Ed. Fund v. Simon*, Doc. 52, No. 20-cv-1205 ECT/TNL (D. Minn. June 23, 2020) (granting intervention to the RNC and Republican Party of Minnesota in election-rule dispute). Their amici brief will assist the Court in understanding the issues and interests implicated by this case.

### CONCLUSION

For these reasons, National Republican Amici respectfully request leave to participate in this action as *amici curiae* in support of Respondent.

Dated: September 26, 2023

Respectfully submitted,

*s/ Gregory M. Erickson*

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## CERTIFICATE OF DOCUMENT LENGTH

This request complies with the word limitations of Minn. R. Civ. App. P. 129.01. The brief was prepared with proportional font, using Microsoft Word, which reports that the request contains 851 words, exclusive of the parts that can be excluded.

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