

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

Civil Action No. 1:22-cv-00477

**PARABLE**, an unincorporated nonprofit association, on behalf of itself and its members;  
**RON HANKS**,  
**LAUREL IMER**,  
**DAVID PETERS**,  
**CHARLES W. “CASPER” STOCKHAM**,  
**JOANN WINDHOLZ**,

Plaintiffs,

v.

**JENA GRISWOLD**, in her official capacity as Colorado Secretary of State,

Defendant.

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**UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF BRENDA AND PAUL  
FREEBURN AS *AMICI CURIAE* IN SUPPORT OF DEFENDANT**

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Brenda and Paul Freeburn, through undersigned counsel, respectfully move to file the *amicus* brief attached as Exhibit A in opposition to the motion for preliminary injunction pending before the Court.

Certificate of Conferral. Pursuant to D.C.COLO.LCivR 7.1(a), counsel for the Freeburns conferred with counsel for Plaintiffs and Defendant, who do not oppose the filing of an *amicus* brief on behalf of the Freeburns. Plaintiffs do not object provided they have an opportunity to respond.

Brenda Freeburn is the author of a letter to the editor cited by Plaintiffs as Exhibit 1 to their complaint. Doc. 1, Exh. 1. By virtue of Plaintiffs citing Ms. Freeburn’s letter as evidence that Proposition 108 is unconstitutional, the Freeburns have a unique connection to this case. In

light of their unique connection, they feel compelled to notify the Court of their objection to the relief requested by Plaintiffs and to assert that they have voting rights at stake in the outcome of this matter that should be considered by the Court and that weigh against granting Plaintiffs their requested preliminary injunction.

The Freeburns are residents of Gunnison, Colorado who are among the roughly 1.7 million unaffiliated voters in the State of Colorado. The Freeburns chose to unaffiliate with a political party five years ago as a result of the passage of Proposition 108. Since 2017, they have maintained their unaffiliated status which under the current law permits them to vote in one of the major party semi-open primary elections.

“The right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” *Reynolds v. Sims*, 377 U.S. 533, 555, 84 S.Ct. 1362, 12 L.Ed.2d 506 (1964). The Freeburns have exercised their statutory right to vote in Colorado’s open primaries since the passage of Proposition 108 into law. In reliance on Proposition 108, they intend to exercise their statutory rights and vote in the 2022 Republican primary. The Plaintiffs’ requested relief puts their rights squarely at risk.

The Freeburns are not party “raiders”. Rather, they are unaffiliated Colorado citizens and taxpayers. Through their *amici curiae* brief, they wish to put a name to the scores of unaffiliated voters who will lose voting rights afforded to them by Proposition 108 if the Court were to grant Plaintiffs their requested relief.

As stated above, the Freeburns have been unaffiliated and voting in one or the other major party primary elections for the past five years. By contrast, Plaintiffs chose to challenge Proposition 108 and seek a preliminary injunction at this late hour, even though on September

18, 2021 a substantial majority of voting members of the Republican Party's State Central Committee voted against opting out of Colorado's semi-open primary system. Doc. 26, ¶1-2.

The Freeburns do not intend to restate arguments already proffered by Defendant and other *amici* in support of Defendant. Rather, they submit the attached brief to request the Court consider their rights and the rights of the unaffiliated voters who intend to vote in the 2022 primaries.

The Freeburns respectfully request that the Court grant them leave to file the amicus brief attached hereto as Exhibit A and accept this brief as filed.

Respectfully submitted this 23rd day of March, 2022.

**SAGAL LAW, LLC**

*s/ Roger Sagal*

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*Counsel to Amicus Curiae Brenda and Paul Freeburn*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 23rd day of March, 2022, a true and correct copy of the above and foregoing **UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF BRENDA AND PAUL FREEBURN AS *AMICI CURIAE* IN SUPPORT OF DEFENDANT** was electronically filed with the Clerk of Court using the CM/ECF system and served on the following:

All Counsel of Record

*/s/ Roger Sagal*\_\_\_\_\_

Roger Sagal