

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

34th REPUBLICAN SENATORIAL )  
DISTRICT COMMITTEE, )  
 ) Case No.  
Plaintiff, )  
 )  
v. )  
 )  
JOHN (JAY) ASHCROFT, in his official )  
capacity as Missouri Secretary of State, )  
 )  
and )  
 )  
SCOT VAN METER, )  
 )  
Serve: 8610 NE Hurlingen Road )  
St. Joseph, MO 64507 )  
 )  
Defendants. )

**VERIFIED PETITION FOR INJUNCTIVE RELIEF  
UNDER THE 1st AND 14th AMENDMENTS TO THE  
U.S. CONSTITUTION**

Plaintiff, 34th Republican Senatorial District Committee (hereinafter “34th District GOP”), for its petition for injunctive relief against John (“Jay”) Ashcroft, in his official capacity as Missouri Secretary of State (the “Secretary of State”), and against Scot Van Meter, a member of the Democratic Party seeking to run as a Republican, states:

**The Parties**

1. The 34th District GOP is the Missouri Republican Party Senatorial District Committee created under Section 115.603, RSMo. It represents and act for the Missouri

Republican Party under Section 115.605, RSMo, on all issues concerning Missouri's 34th Senatorial District.

2. The Secretary of State is Missouri's chief election official and is responsible for transmitting to election authorities "a certified list containing the name and address of each person who has filed a declaration of candidacy in the secretary's office and is entitled to be voted for at the primary election, together with a designation of the office for which the person is a candidate and the party the person represents." Section 115.387, RSMo.

3. Van Meter is a Democrat who filed a declaration of candidacy with the Secretary of State on March 27, 2018 to seek the Republican Party's nomination for Missouri's 34th Senatorial District.

### **Venue and Jurisdiction**

4. The 34th District GOP brings this lawsuit under Sections 526.010 and 527.010, RSMo, to enforce its associational rights guaranteed by the First and Fourteenth Amendments to the United States Constitution.

5. Venue is proper in this Court under Section 508.010.2(2) because the Secretary of State's office is located in Cole County, Missouri.

### **Facts**

6. Democrat Van Meter is the Buchanan County Assessor. He was elected to a four-year term as a Democrat November 8, 2016. Van Meter has been Buchanan County Assessor since 2001. In each general election for County Assessor in which Van Meter has appeared on the ballot, he has been the Democratic Party nominee.

7. Van Meter reaffirmed his affiliation with the Democratic Party as recently as April 10, 2018, when his campaign filed a Statement of Limited Activity with the Missouri Ethics Commission identifying himself as a Democrat.

8. Notwithstanding his current and decades-long affiliation with the Democratic Party, Van Meter is attempting to become the Republican Party nominee for Missouri's 34th Senatorial District seat.

9. An individual desiring to be a candidate for nomination in a partisan primary election for any Federal or state elected office in Missouri only has to satisfy two requirements: 1) file a declaration of candidacy with the Secretary of State between the last Tuesday in February and the last Tuesday in March; and 2) pay a filing fee to the treasurer of the state party whose nomination the candidate seeks. Sections 115.349, and 115.357, RSMo.

10. Once those two steps have been taken, the Secretary of State shall, "not later than the tenth Tuesday before each primary election ... transmit to each election authority a certified list containing the name and address of each person who has filed a declaration of candidacy in the secretary's office ..." Section 115.387, RSMo.

11. Based on the ease with which individuals can declare their candidacy, a political party has virtually no ability to screen potential candidates to determine the extent to which the party wants to be associated with a potential candidate. This difficulty is compounded by the short time window within which candidates must file and the large number of candidates who file in any given year. For example, 313

individuals filed declarations of candidacy as Republicans for a state office in Missouri in 2018.<sup>1</sup>

12. Thus, Missouri's election laws do not provide an effective mechanism for political parties to vet potential candidates for party affiliation.

13. Van Meter never filed a Statement of Committee Organization with the Missouri Ethics Commission identifying himself as a Republican candidate for State Senate. Thus, until Democrat Van Meter filed his declaration of candidacy as a Republican, he had given the Republican Party no indication of his intent to do so.

14. The 34th District GOP did not learn about Democrat Van Meter's proposed candidacy in the Republican primary until after he filed his declaration of candidacy.

15. Upon learning of Democrat Van Meter's candidacy, the members of the 34th District GOP unanimously voted to not be associated with Van Meter and to pursue all available legal avenues to protect their right not to be associated with an individual who does not share their political views.

16. The Missouri Republican Party also returned Democrat Van Meter's filing fee April 24, 2018.

17. The 34th District GOP does not want to be associated with Democrat Van Meter. The 34th District GOP's right to not be associated with Van Meter is protected by the First and Fourteenth Amendments to the U.S. Constitution. The U.S. Supreme Court has declared that such a right of non-association is protected by the U.S. Constitution:

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<sup>1</sup> <https://s1.sos.mo.gov/candidatesonweb/DisplayCandidatesPlacement.aspx?ElectionCode=750004332>

Freedom of association would prove an empty guarantee if associations could not limit control over their decisions to those who share the interests and persuasions that underlie the association's being. **In no area is the political association's right to exclude more important than in the process of selecting its nominee.** That process often determines the party's positions on the most significant public policy issues of the day, and ... it is the nominee who becomes the party's ambassador to the general electorate.

*California Democratic Party v. Jones*, 530 U.S. 567, 574 (2000) (internal quotation marks omitted, emphasis added).

18. If the Secretary of State places Democrat Van Meter on the 34th Senatorial District Republican Party primary ballot pursuant to Section 115.387, RSMo, this will force an unwanted association with Van Meter on the 34th District GOP, violating the political association's First and Fourteenth Amendment rights.

19. No legal remedy exists under Missouri law for the 34th District GOP to enforce its Constitutional right to not be associated with Democrat Van Meter.

20. The 34th District GOP will suffer irreparable harm unless the Secretary of State is enjoined from certifying Van Meter's name on the 34th Senatorial District Republican Party primary ballot.

21. The irreparable harm the 34th District GOP will suffer without injunctive relief outweighs any harm injunctive relief may cause Van Meter because Democrat Van Meter has the ability to run as an independent candidate under Section 115.321, RSMo. Democrat Van Meter also has the right to wait until the next election cycle and run in the Democratic Party primary for the seat.

WHEREFORE, the 34th District GOP requests that the Court enter preliminary and permanent injunctions enjoining the Secretary of State from certifying Van Meter's

name on the 34th Senatorial District Republican Party primary ballot, and for such further relief as may be just and proper under the circumstances.

Respectfully submitted,

JACOBSON PRESS P.C.

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*Attorney for Plaintiff*

#### **VERIFICATION**

I, James Rooney, Chairman of the 34th Republican Senatorial District Committee, verify the foregoing allegations are true and correct to the best of my information and belief.

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