

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR COURT DIVISION
05 CVS 13073

2005 SEP 21 PM 4:44

WAKE COUNTY, C.S.C.

LIBERTARIAN PARTY OF NORTH)
CAROLINA; SEAN HAUGH, as executive)
director of the party; PAMELA GUIGNARD)
and RUSTY SHERIDAN, as Libertarian)
candidates for mayor of Charlotte, North)
Carolina; JUSTIN CARDONE and DAVID)
GABLE, as Libertarian candidates for)
Charlotte City Council; RICHARD NORMAN)
and THOMAS LEINBACH, as Libertarian)
candidates for Winston-Salem City Council;)
and JENNIFER SCHULZ as)
a registered voter;)

Plaintiffs,

vs.

STATE BOARD OF ELECTIONS; GARY O.)
BARTLETT, as executive director of the)
State Board; MECKLENBURG COUNTY)
BOARD OF ELECTIONS; MICHAEL)
DICKERSON, as director of the Mecklenburg)
County Board of Elections; FORSYTH)
COUNTY BOARD OF ELECTIONS; and)
KATHIE CHASTAIN COOPER as the director)
of the Forsyth County Board of Elections;)

Defendants.

**MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION
(INJU)**

Pursuant to Rule 65, North Carolina Rules of Civil Procedure, plaintiffs move for issuance of a temporary restraining order and preliminary injunction to enjoin defendants from removing the names of plaintiff Libertarian Party candidates from the ballots for the Charlotte and Winston-Salem 2005 municipal elections, and to enjoin defendants from changing the party affiliation of voters registered with the Libertarian Party. In seeking this relief, plaintiffs rely upon the verified Complaint filed in this action plus the affidavits of

Sean Haugh (attached as Exhibit A) and Richard Winger (attached as Exhibit B). In further support of the motion, plaintiffs show the Court as follows:

1. This is a declaratory judgment action in which plaintiff Libertarian Party, voters and candidates challenge the constitutionality of the state statutes concerning recognition of political parties.

2. Plaintiffs challenge the August 22, 2005, decision of the defendant State Board of Elections to withdraw recognition of the Libertarian Party as a political party.

3. As a result of the State Board's decision on August 22, 2005, Libertarian Party candidates who filed and qualified to run in the 2005 partisan municipal elections in Charlotte and Winston-Salem will not appear on the ballot unless injunctive relief is granted by this Court.

4. As a result of the State Board's decision on August 22, 2005, the registration of voters affiliated with the Libertarian Party will be changed by the State Board unless injunctive relief is granted by this Court.

5. Plaintiffs Pamela Guignard and Rusty Sheridan qualified as Libertarian Party candidates for mayor of Charlotte. A Libertarian Party primary was scheduled to be held on September 27, 2005. Because of the State Board's decision on August 22, 2005, the primary will not be held unless injunctive relief is granted by this Court.

6. Plaintiffs Justin Cardone and Dave Gable qualified as Libertarian Party candidates for the Charlotte City Council. There are no other Libertarian candidates for the seats for which they are running and, therefore, no party primary is needed. The general election is scheduled for November 8, 2005. Because of the State Board's decision on August 22, 2005, those candidates will not be listed on the ballot in the general election unless injunctive relief is granted by this Court.

7. Plaintiffs Richard Norman and Thomas Leinbach qualified as Libertarian Party candidates for the Winston-Salem City Council. There are no other Libertarian candidates for the seats for which they are running and, therefore, no party primary is needed. The general election is scheduled for November 8, 2005. Because of the State Board's decision on August 22, 2005, those candidates will not be listed on the ballot in the general election as Libertarian candidates unless injunctive relief is granted by this Court.

8. Unless injunctive relief is granted by this Court the plaintiffs will be denied their constitutional rights to free expression and association, including the right to form a political party and have its candidates listed on the ballot, and the right to vote for candidates of their choice.

9. Plaintiffs are likely to prevail on the merits of their lawsuit.

10. Plaintiffs will suffer irreparable harm if the Court does not issue a temporary restraining order and preliminary injunction.

11. Defendants will suffer no harm from the issuance of a temporary restraining order and preliminary injunction.

12. A temporary restraining order and preliminary injunction are necessary to maintain the *status quo* pending a final resolution of this lawsuit.

Accordingly, plaintiffs request that the Court issue a temporary restraining order and preliminary injunction pursuant to Rule 65.

RESPECTFULLY SUBMITTED, this 21st day of September 2005.

THARRINGTON SMITH, L.L.P.

Michael Crowell

Michael Crowell, State Bar # 1029
Deborah Stagner, State Bar # 23899
209 Fayetteville Street Mall
Post Office Box 1151
Raleigh, North Carolina 27602-1151
Telephone: (919) 921-4711
Facsimile: (919) 829-1583
mcrowell@tharringtonsmith.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a copy of this **Motion For Temporary Restraining Order And Preliminary Injunction** was served on the parties listed below by U.S. mail:

Donald M. Wright, General Counsel
State Board of Elections
506 North Harrington Street
Raleigh, North Carolina 27603

Gary O. Bartlett, Executive Director
State Board of Elections
506 North Harrington Street
Raleigh, North Carolina 27603

Kathie Chastain Cooper, Director
Forsyth County Board of Elections
201 North Chestnut Street
Winston-Salem, North Carolina 27101

Michael Dickerson, Director
Mecklenburg County Board of Elections
741 Kenilworth Avenue, Suite 202
Charlotte, North Carolina 28202

This the 21st day of September 2005.

Michael Crowell

Michael Crowell

STATE OF NORTH CAROLINA

AFFIDAVIT OF SEAN HAUGH

COUNTY OF DURHAM

SEAN HAUGH, being first duly sworn, deposes and says:

1. I am over 18 years of age, legally competent to give this affidavit and have personal knowledge of the facts set forth in this affidavit.
2. I am the executive director of the Libertarian Party of North Carolina and a registered voter in Durham County.
3. The Libertarian Party of North Carolina is a voluntary unincorporated organization of voters in the state. The party has been in continuous existence in North Carolina since 1976, and it has succeeded in petitioning to be recognized as a political party by the State Board of Elections on seven different occasions since that time.
4. The Libertarian Party of North Carolina is affiliated with the national Libertarian Party, which was founded in 1971 and is active in all 50 states. Nationally, the party has over 200,000 registered voters and its members hold more than 600 elected offices. The Libertarian presidential candidate was on the ballot in all states in 1996 and 2000, and in the 2004 election was on the ballot in 48 states (all except New Hampshire and Oklahoma) plus Guam and the District of Columbia.
5. As of August 22, 2005, when the State Board of Elections voted to decertify the Libertarian Party of North Carolina, there were just over 13,000 voters registered as affiliated with the Libertarian Party statewide.

6. The Libertarian Party of North Carolina has fielded candidates for governor and lieutenant governor in each election since 1976 except for 1988. Since 2000 the party has placed over 300 candidates on the ballot in North Carolina, for every office from president to county soil and water district supervisor. In 2002 a total of 145 candidates ran as Libertarians, and Libertarians ran for a majority of seats in each house of the General Assembly.

7. Libertarian Party members in North Carolina currently serve as elected members of three different city councils, five different water and sewer district boards and as a county surveyor. About a dozen other Libertarians serve on appointed city and county boards across the state.

8. The Libertarian Party of North Carolina is governed by a 15-member board of directors. The party first employed an executive director in 1990. I have been the executive director since 2000. I have been active in the party since 1994, including being the party candidate for commissioner of insurance in 1996 and for the United States Senate in 2002.

9. The Libertarian Party of North Carolina has adopted by-laws and a party platform and has held an annual convention each year for over 25 years. The party has active local organizations in more than two dozen counties and on a half dozen college campuses in the state. In addition, the party has maintained a web site, www.lpnc.org, continuously since 1996 and has had booths at the Dixie Classic Fair and the North Carolina State Fair for the last several years and as far back as the early 1990s.

10. Preparation of a petition for recognition of a new political party, and distribution of the petition for signatures, is a time-consuming and expensive activity. Based on the number of voters who voted in the 2004 gubernatorial election, a new political party must collect over 69,000 valid signatures to be officially recognized. As a practical matter, a petition may not be completed

successfully without hiring individuals to distribute the petitions and collect signatures. The cost of completing a successful petition is approximately \$100,000 to \$150,000.

11. Although the Libertarian Party is an established political party that has been in continuous existence in North Carolina for nearly three decades, the party's ability to raise money is limited. The expenditure of \$100,000 to \$150,000 to petition for recognition as a new political party each four years depletes most of the party's funds and leaves it with little money to assist candidates. Without such financial assistance, the party's candidates are unable to garner enough votes for the party to remain officially recognized and to have its candidates listed on the ballot.

12. Pamela Guignard, Rusty Sheridan, Justin Cardone and David Gable qualified and filed to run as Libertarian candidates in the 2005 Charlotte municipal elections which are conducted as partisan elections.

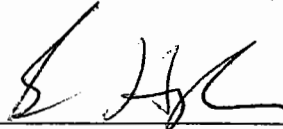
13. Richard Norman and Thomas Leinbach qualified and filed to run as Libertarian candidates in the 2005 Winston-Salem municipal elections which are conducted on a partisan basis.

14. When voters' affiliation with the Libertarian Party is cancelled following decertification of the party by the State Board of Elections, the party must devote considerable resources to petitioning for recognition and communicating with voters as to how to re-register and remain affiliated with the party. This process puts the Libertarian Party at a significant disadvantage in maintaining its ongoing party organization.

15. The North Carolina election statutes strongly favor the Democratic and Republican parties over other political parties. In particular, the statutes on ballot access severely hamper the ability of Libertarians to associate together, to vote for candidates of their choice, and to run for office.

16. The decertification of the Libertarian Party by the State Board of Elections on August 22, 2005, coming so close to the municipal elections, leaves Libertarian candidates and voters with no practical alternative for running for office and supporting their candidates in the Charlotte and Winston-Salem elections.

This concludes my affidavit.

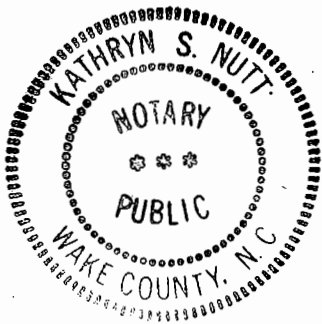


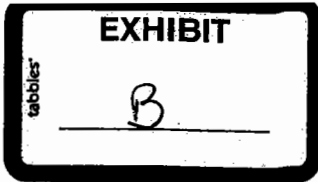
Sean Haugh, Executive Director
Libertarian Party of North Carolina

Subscribed and sworn to before me
this 9th day of September 2005.

Notary Public Kathryn S. Nutt

My commission expires: Sept 13, 2009





AFFIDAVIT OF RICHARD WINGER

STATE OF CALIFORNIA)
CITY AND COUNTY OF SAN FRANCISCO) ss

RICHARD WINGER, being first duly sworn, states as follows:

1. I am over 18 years of age, and a resident of the State of California and reside at 3201 Baker Street, San Francisco CA 94123. I make this declaration based on my own personal knowledge and research that I have conducted.
2. My curriculum vitae is attached as Exhibit "A". I have testified in courts concerning ballot access for minor parties and independent candidates in over half the states. I have been accepted as an expert in U.S. District Courts in eight states.

The Libertarian Party nationally

3. The Libertarian Party is a *bona fide* political party, formed in 1972. It has elected its member-nominees to partisan office in Alabama, Alaska, Colorado, Georgia, Idaho, Indiana, Michigan, New Hampshire, New Jersey, Ohio, Pennsylvania, Texas, Utah, Vermont and Wisconsin. It is the only party (other than the Democratic and Republican Parties) that has polled as much as 1% of the entire national vote for U.S. House of Representatives, in the last fifty years. In 2000 it polled 1.8% of the entire national vote cast for U.S. House; it also exceeded 1% in 1998 and 2002. It is the only party (besides the Republican and Democratic Parties) that has the right to appoint a representative to any state's State Elections Board (it currently has this right in Wisconsin). It has elected member-nominees to the state legislatures of three states, Alaska, New Hampshire, and Vermont. No other party, other than the Democrats and Republicans, has managed to win state legislative elections in as many as three states since the 1930's (when the Socialist Party won legislative elections in Connecticut, Pennsylvania and Wisconsin). In the last thirty years, it is the only party (other than the Democratic and Republican Parties) whose presidential nominee received an electoral vote (this occurred in Virginia in 1972, for John Hospers, the first Libertarian Party presidential nominee).

The 2% Petition Requirement

4. North Carolina only required 10,000 signatures to place a new party on the ballot, from 1929 through 1981. The 1929 law is in the State Session Laws for that year, chapter 164, pages 180-182. During all the years 1929 through 1981, North Carolina never had more than six political parties on the ballot. In 1980, for the first time ever, a Marxist political party, the Socialist Workers Party, qualified for the North Carolina ballot.

5. In 1981, the North Carolina requirement for a new party was lowered from 10,000 signatures to 5,000 signatures, with the provision that signers of the petition would have their party membership changed to list them as members of the party whose petition they had signed. See 1981 Session Laws, ch. 637, p. 920. The party membership automatic change provision was held unconstitutional in 1982 in *North Carolina Socialist Workers Party v North Carolina State Board of Elections*, 538 F.Supp.864 (E.D.N.C. 1982). The State Board of Elections did not appeal from this decision.

6. In 1982, the year only 5,000 signatures were required for party status, four parties appeared on the North Carolina ballot (Democratic, Republican, Libertarian, Socialist Workers). In 1983, the number of signatures was increased from 5,000 signatures to 2% of the last gubernatorial vote, a seven-fold increase at the time (2% of the last gubernatorial vote in 1983 equaled 36,949). See 1983 Session Laws, ch. 576, p. 506.

7. Current North Carolina law requires 69,734 valid signatures for a new party to get on the ballot for 2006. In the entire history of the United States, there are only four instances in which a new (or previously unqualified party) ever successfully met a petition¹ requirement to qualify itself for the ballot that required as many as 69,734 signatures. Those instances were in California in 1948, in Georgia in 1968, in Florida in 1974, and in Florida in 1976. See the August 1, 2001 issue of *Ballot Access News*, chart on page 5 (www.ballot-access.org) labeled “20th century champion petitioning groups.” There are no instances since 2001 when a petition hurdle of this size was overcome by any new or previously unqualified party. There are only six instances at which any independent candidate ever overcame a petition requirement as great as 69,734

¹ Although California has a petition procedure for a new party to qualify for the ballot, it has an alternative registration requirement as well, and the registration requirement (which requires that a new party have registration membership of 1% of the last gubernatorial vote) is the normal method for new parties to qualify in California. 1% of the last gubernatorial vote in California is 77,389 currently.

signatures. Those instances were in Massachusetts in 1962, in California in 1976, 1978, 1980, and 1992, and in North Carolina in 1992.

8. North Carolina's petition requirement for new parties is five times as difficult as the median percentage requirement in the United States. The median percentage requirement in the 50 states and the District of Columbia for a new party to place its presidential candidate on the ballot in 2004 was a petition signed by a number of voters equal to .42% of that state's presidential vote that year. See Appendix "B", which lists each state's requirement and the election code citation for each state. The far-right column in Appendix "B" shows a percentage. This is the number of signatures, divided by the number of votes cast for president in 2004 in that state. When a state has alternate routes for a new party to place its presidential candidate on the ballot, this chart uses the easiest method. The only states with a higher percentage requirement than North Carolina, for this purpose in 2004, were Oklahoma (which required a petition signed by 3% of the last presidential vote) and West Virginia (which, like North Carolina, requires a petition signed by 2% of the last gubernatorial vote). No new or previously unqualified party qualified in Oklahoma in 2004, and the Oklahoma requirements are currently being challenged in state court under the Oklahoma Constitution.

9. In all U.S. history, no state has ever had a crowded statewide general election ballot if that state required as many as 5,000 signatures for new or minor parties or independent statewide candidates. See the chart in the September 1, 2001 *Ballot Access News*², which shows the most crowded regularly-scheduled general election statewide ballot, in each state, in all history. The chart shows that any state that required at least 5,000 signatures never had more than nine candidates for a single office.

10. Iraq held an election earlier this year for National Assembly, using proportional representation. It carried the names of 111 parties, but no candidates were named on that ballot. The Iraq election was generally considered a success, and I saw no reports that Iraq voters were confused by having 111 choices on their ballot.

The 10% Vote Requirement for a Party to Remain Qualified

11. Between 1929 and 1949, the vote for a party to remain on the North Carolina ballot was 3% of the last vote for president or governor. In 1948, the States Rights Party polled

² www.ballot-access.org.

8.8% of the vote for president in North Carolina. This was the first time a party other than the Democratic or Republican Parties had managed to meet the 3% vote test. In 1949, the vote test for party retention was raised from 3% to 10%, although the 1949 legislation provided that if the States Rights Party could continue to be qualified if it wished. See 1949 Session Laws, Ch. 671, p. 691. However, the States Rights Party (which had been organized for the sole purpose of placing Strom Thurmond on the general election ballot as a presidential candidate) chose not to remain on the ballot for the 1950 or 1952 elections.

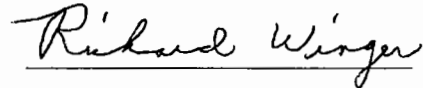
12. The only party, other than the Democratic and Republican Parties, that ever polled 10% in North Carolina for President or Governor since 1949 has been the American Party, which polled over 10% for president in 1968 for its candidate, George Wallace.

13. The median vote test requirement of the 50 states is 2% of the last vote cast. See Appendix "C". Appendix "C" shows what percentage of the vote a party must poll in order to remain on the ballot; which office counts for this purpose; the election code citation; and the year in which a party, other than the Democratic and Republican Parties, last met the requirement. A few states do not require any specified vote in order to remain on. For instance, in South Carolina, a party may remain on the ballot indefinitely, without re-petitioning, as long as it continues to run at least one nominee every four years. Mississippi lets a party remain qualified, regardless of how few votes it polls, as long as it continues to maintain an organization within the state. Some states let a party remain qualified, regardless of how many votes it polls, if it continues to have a specified number of registered members. For instance, Colorado and Louisiana let it remain on as long as it has 1,000 registered members.

14. Many parties have elected state legislators, or members of Congress, even though they had not polled as much as 10% of the last presidential or gubernatorial vote. For example, the Progressive Party of Vermont has six state legislators, even though it has never run a presidential candidate, and the last time it ran a candidate for Vermont Governor, in 2002, it only polled six-tenths of 1%. The Libertarian Party of New Hampshire elected four state legislators in 1992, two state legislators in 1994, and one state legislator in 2000, even though it has never polled as much as 10% of the vote in New Hampshire for President or Governor. The Green Party elected a state legislator in

California in 1999, even though it has never polled as much as 10% of the vote for president or Governor in California. The Green Party also elected a state legislator in Maine in 2002, and re-elected him in 2004, even though it has never polled as much as 10% of the vote for president or governor in Maine. I could add many other examples. I declare under penalty of perjury that the foregoing is true and correct.

DATED: San Francisco, California, September 2, 2005

A handwritten signature in cursive script that reads "Richard Winger". The signature is written in black ink and is positioned above a horizontal line.

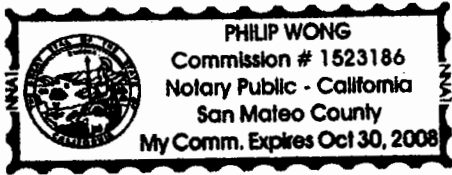
RICHARD WINGER

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA }
COUNTY OF SAN FRANCISCO } SS.

On SEPT 2, 2005 before me, the undersigned, a Notary Public in and for
said State personally appeared RICHARD WINGER
Name(s) of Signer(s)

Personally known to me OR proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within
instrument and acknowledged to me that
he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted,
executed the instrument.



Witness my hand and official seal.

Signature of Notary

PHILIP WONG
Name (Typed or Printed)

(Area above for official notarial seal)

Capacity Claimed by Signer
Description of Attached Document
This certificate is for attachment to the document described below:
Title or type of document AFFIDAVIT OF RICHARD WINGER
Number of pages 5
Date of document 09/02/2005
Signer(s) other than named above

APPENDIX "A"

Richard Winger
3201 Baker Street
San Francisco, California 94123

Curriculae Vitae, updated August 25, 2005

EDUCATION

BA, Political Science, University of California, Berkeley, 1966
Graduate study, Political Science, UCLA, 1966-67

EMPLOYMENT

Ballot Access News, Editor 1985-Present

Editor of newsletter covering legal, legislative and political developments of interest to minor parties and independent candidates. Researcher of ballot access laws of all 50 states from years 1888-present; well versed in how ballot access laws of each state work historically and how they compare to each other. Responsible for reading all statutes, regulations, legal opinions, and state attorney general opinions on rights of political parties and the publications of minor parties.

On the Editorial Board of *Election Law Journal*, published by Mary Ann Liebert, Inc., Larchmont, N.Y., since 2001.

PUBLICATIONS

Wrote a chapter or two in each of these books:

Democracy's Moment

edited by Ronald Hayduk and Kevin Mattson (2002: Rowman & Littlefield, Lanham, Md.)

The Encyclopedia of Third Parties in America

edited by Immanuel Ness and James Ciment (2000: M.E. Sharpe, Inc., Armonk, N.Y.)

Multiparty Politics in America

edited by Paul S. Herrnson (1997: Rowman & Littlefield, Lanham, Md.)

The New Populist Reader

edited by Karl Trautman (1997: Praeger, Westport, Ct.)

Additional articles published in these periodicals:

Wall Street Journal

American Review of Politics

The Long Term View

University of Mass. Law Review

California Journal

Election Law Journal

Cleveland State Law Review

Chronicles Magazine

Price Costco Connection

Fordham Urban Law Journal

NATIONAL INTERVIEWS on Minor Parties, Independents, Ballots and Ballot Access

NBC

National Public Radio

ABC

Pacifica Radio

CNN

MSNBC

CASES: TESTIMONY or AFFIDAVITS (political party or candidate prevailing)

Alaska: Libertarian Party v Coghill, state superior court, 3rd dist., 3AN-92-08181, 1992
Court issued injunction enjoining enforcement of petition deadline for minor parties

Arizona (2 cases): Campbell v Hull, 73 F Supp 2d 1081 (1999); Az. Libt. Party v Hull,
superior court, Maricopa Co. 96-13996, 1996. Court ordered Secretary of State to
place Libertarian Party presidential candidate on ballot.

Arkansas (2 cases): Citizens to Establish a Reform Party v Priest, 970 F Supp 690 (E.D.
Ark. 1996); Green Party of Ark. v Priest, 159 F.Supp.2d (E.D. Ark. 2001).

California: California Democratic Party v Jones, 530 US 567 (2000).

Colorado: Ptak v Meyer, 94-N-2250, U.S. Dist. Ct., 1994. Court ordered Secretary of
State to place Libertarian legislative candidate on ballot.

Florida (2 cases): Libt. Party of Fla. v Mortham, 4:96cv258-RH, U.S. Dist. Ct., N.D.,
1996. Court ordered Secretary of State to place Libertarian vice-presidential candidate on
ballot. Reform Party v Black, 885 So.2d 303 (Fla. 2004).

Georgia: Bergland v Harris, 767 F 2d 1551 (11th cir., 1985). U.S. Court of Appeals
remanded case back to U.S. District Court. Before U.S. District Court acted, legislature
substantially eased law, so case became moot.

Hawaii: Libt. Party of Hi. v Waihee, cv 86-439, U.S. Dist. Ct., 1986. Court ordered
Lieutenant Governor to extend petition deadline for new parties.

Illinois: Nader v Ill. State Bd. of Elections, 00-cv-4401, U.S. Dist. Ct., N.D., 2000.
Court ordered State Board of Elections to place candidate on ballot.

Iowa: Oviatt v Baxter, 4:92-10513, U.S. Dist. Ct., 1992. Court ordered Secretary of State
to put Grassroots Party candidate for Congress on ballot.

Kansas: Merritt v Graves, 87-4264-R, U.S. Dist. Ct., 1988. State did not defend three
election laws and signed consent decree on independent petition deadline, requirement that
independent petitions not be circulated outside of circulator's home precinct, and
requirement that voters could only register in qualified parties. This case should not be
confused with another by the same name decided in December, 1988.

Kentucky: Libt. Pty. of Ky. v Ehrler, 776 F Supp 1200 (E.D. 1991)

Maryland (2 cases): Dixon v Md. State Adm. Bd. of Elec. Laws, 878 F 2d 776 (1989, 4th
cir.); Green Party v Bd. of Elections, 832 A 2d 214 (Md. 2003).

Nevada (2 cases): Libt Pty. of Nev. v Swackhamer, 638 F Supp 565 (1986); Fulani v
Lau, cv-N-92-535, U.S. Dist. Ct., 1992. Court ordered Secretary of State to put various
minor parties on ballot.

New Jersey (2 cases): Council of Alternative Political Parties v Hooks, 999 F Supp 607
(1998); Council of Alternative Political Parties v State Div. of Elections, 781 A 2d 1041
(N.J.Super. A.D. 2001).

New York (3 cases): Molinari v Powers, 82 F Supp 57 (E.D.N.Y. 2000); Schulz w
Williams, 44 F 3d 48 (2nd cir., 1994); Green Party of N.Y. v N.Y. State Bd. of Elections,
389 F.3d 411 (2nd cir., 2004).

North Carolina: Obie v N.C. Bd. of Elections, 762 F Supp 119 (E.D. 1991); DeLaney v
Bartlett, 370 F.Supp.2d 373 (M.D. 2004).

Oklahoma: Atherton v Ward, 22 2F Supp 2d 1265 (W.D. Ok. 1998).

Pennsylvania: Patriot Party of Pa. v Mitchell, 826 F Supp 926 (E.D. 1993).
South Dakota: Nader v Hazeltine, 110 F Supp 2d 1201 (2000).
Texas: Pilcher v Rains, 853 F 2d 334 (5th cir., 1988).
Virginia: Libt. Pty of Va. v Quinn, 3:01-cv-468, U.S. Dist. Ct., E.D. (2001). Court ordered State Board of Elections to print "Libertarian" party label on ballot next to name of Libertarian candidates.
West Virginia (3 cases): State ex rel Browne v Hechler, 476 SE 2d 559 (Supreme Court 1996); Nader v Hechler, 112 F.Supp.2d 575 (S.D.W.V., 2000); McClure v Manchin, 301 F Supp 2d 564 (2003).

CASES: TESTIMONY or AFFIDAVITS (political party or candidate not prevailing)

Arizona: (2 cases) Indp. Amer. Party v Hull, civ 96-1240, U.S. Dist. Ct., 1996; Browne v Bayless, 46 P 3d 416 (2002).
Arkansas (2 cases): Langguth v McKuen, LR-C-92-466, U.S. Dist. Ct., E.D., 1992; Christian Populist Party v Sec. of State, 650 F Supp 1205 (E.D. 1987).
California: Socialist Workers Party v Eu, 591 F 2d 1252 (9th cir., 1978).
Florida (2 cases): Fulani v Smith, 92-4629, Leon Co. Circuit Court, 1992; Libertarian Party of Fla. v State of Fla., 710 F 2d 790 (11th cir., 1983).
Georgia (2 cases): Libertarian Party of Ga. v Cleland, 1:94-cv-1503-CC, U.S. Dist. Ct., N.D. (1994); Esco v Secretary of State, E-53493, Fulton Co. Superior Court, 1998.
Idaho: Nader v Cenarrusa, cv 00-503, U.S. Dist. Ct., 2000.
Illinois: Libt Party v Rednour, 108 F 3d 768 (7th cir., 1997).
Kansas: Hagelin for President Committee v Graves, 804 F Supp 1377 (1992).
Maine (2 cases): Maine Green Party v Diamond, 95-318, U.S. Dist. Ct., 1995; Maine Green Party v Secretary of State, 96-cv-261, U.S. Dist. Ct., 1996.
Maryland (2 cases): Ahmad v Raynor, R-88-869, U.S. Dist. Ct., 1988; Creager v State Adm. Bd. of Election Laws, AW-96-2612, U.S. Dist. Ct., 1996.
Missouri: Manifold v Blunt, 863 F 2d 1368 (8th cir. 1988).
New Hampshire: Werme v Gov. of N.H., 84 F 3d 479 (1st cir., 1996).
North Carolina: Nader v Bartlett, 00-2040, 4th cir., 2000.
Ohio: Schrader v Blackwell, 241 F 2d 783 (6th cir., 2001).
Oklahoma (3 cases): Rainbow Coalition v Okla. State Elec. Bd., 844 F 2d 740 (1988); Nader v Ward, 00-1340, U.S. Dist. Ct., 1996; Clingman v Beaver, __US__ (May 2005).
Oregon: Libt Party v Roberts, 737 P 2d 137 (Ore. Ct. of Appeals, 1987).
Texas (2 cases): Texas Indp. Party v Kirk, 84 F 3d 178 (5th cir., 1996); Nat. Comm. of U.S. Taxpayers Party v Garza, 924 F Supp 71 (W.D. 1996).
Virginia: Wood v Meadows, 207 F 3d 708 (4th cir., 2000).
West Virginia: Fishbeck v Hechler, 85 F 3d 162 (4th cir., 1996).
Wyoming: Spiegel v State of Wyoming, 96-cv-1028, U.S. Dist. Ct., 1996.

QUALIFIED EXPERT WITNESS

Fishbeck v Hechler, 85 F 3d 162 (4th cir. 1996, West Virginia case)
Council of Alternative Political Parties v Hooks, 999 F Supp 607 (1998, N.J.)
Citizens to Establish Reform Party v Priest, 970 F Supp 690 (E.D. Ark, 1996)
Atherton v Ward, 22 F Supp 2d 1265 (W.D.Ok. 1998)
Calif. Democratic Party v Jones, 530 US 567 (2000)

Swanson v Bennett, not decided yet, U.S. Dist. Ct., m.d.Ala. (02-T-644-N)
Beaver v Clingman, 363 F 3d 1048 (10th cir., 2004, Okla. case)
Green Party v N.Y. State Bd. Elections, 267 F Supp 2d 342 (E.D.N.Y. 2003)
Lawrence v Blackwell, pending in 6th cir., U.S. Dist, s.d. Ohio (1:04-cv-398);

In all cases in which I was presented as an expert, the opposition accepted that designation, except in the Green Party of New York case. The U.S. District Court ruled that I qualify as an expert. See headnote #1 at page 342, and footnote nine on page 350. The 2nd circuit agreed, 389 F.3d 411 (2004), at 421.

SPEAKING ENGAGEMENTS: Colleges and Scholarly Meetings

Panel of New York City Bar Association, 1994. Ballot access.
Amer. Political Science Assn., nat. conventions of August 1995 and August 1996. Papers.
Capital University School, law school class, Columbus, Ohio, 1996. Guest lecturer.
Cal. State U., course in political science, Hayward, 1993 and 1996. Guest lecturer.
San Francisco City College, course in political science, 1996 and 1997. Guest lecturer.
Providence College, R.I., Oct. 1997, seminar on ballot access.
Harvard U., JFK School of Gov't, Oct. 18, 1995, guest lecturer, ballot access.
Voting Integrity Project national conference, Apr. 1, 2000, speaker on ballot access.
Center for Voting & Democracy nat. conference, Nov. 30, 2003, speaker on ballot access.

APP. "B": 2004 BALLOT ACCESS FOR NEW PARTY OR INDP. PRES. CANDIDATE

Ala	number stated in law	17-19-2(a)	5,000	.27
Alas	1% of 2000 pres. vote	15.30.025	2,845	.91
Az	3% of no. of registered independents	16-341E	14,694	.73
Ark	number stated in law	7-8-302(5)(B)	1,000	.09
Cal	1% of no. of reg. voters, Oct. 2002	elec. code 8400	153,035	1.23
Colo	just pay \$500; no petition needed	1-4-801(b)	0	.00
Ct	number stated in law	9-453(d)	7,500	.48
Del	.05% of Dec. 2003 registration	Title 15, §3001 (reg.)	259	.07
Fla	file list of officers, hold nat. conv.	97.021(12)	0	.00
Ga	1% of no. of reg. voters as of 2002	21-2-180	37,153	1.13
Hi	one-tenth of 1% of reg. voters, 2002	Tit. 2, 11-62	677	.16
Id	1% of 2000 pres. vote	34-708A	5,017	.84
Il	number stated in law	10 ILCS 5/10-2	25,000	.47
In	2% of 2002 sec of state vote	3-8-6-3	29,553	1.20
Io	number stated in law	Tit 4, §45.1	1,500	.10
Kan	number stated in law	25-303	5,000	.42
Ky	number stated in law	Title 10, §118.315(2)	5,000	.28
La	just pay filing fee; no petition needed	Title 18, §465C	0	.00
Me	number stated in law	Title 21, §494.5	4,000	.54
Md	number stated in law	4-102(b)(2), 5-302(g)	10,000	.42
Ma	number stated in law	Chap. 53, §6	10,000	.34
Mi	1% of 1998 gub. vote	168.685(1)	31,776	.66
Mn	number stated in law	204B.08	2,000	.07
Ms	number stated in law	23-15-359	1,000	.09
Mo	number stated in law	Tit 9, §115.321	10,000	.37
Mt	number stated in law	13-10-601	5,000	1.11
Neb	number stated in law	32-504(2)(c)	2,500	.32
Nev	1% of 2002 US House vote	Tit 24, §293.1715	5,019	.61
N H	number stated in law	Title 4, §655:42	3,000	.44
N J	number stated in law	19:13-5	800	.02
N M	1/2 of 1% of 2002 gub. vote	1-8-2.B & 1-7-2.A	2,422	.32
N Y	number stated in law	Chap. 17, §6-142	15,000	.20
N C	2% of 2000 Gub. vote	163-96(2)	58,842	1.68
N D	number stated in law	16.1-12-02	4,000	1.28
Oh	number stated in law	3513.257	5,000	.09
Ok	3% of 2000 pres. vote	Title 26, §10-101.2	37,027	2.53
Ore	1% of 2000 pres. vote	Title 23, §249.735	15,306	.84
Pa	2% of 2003 judge winner's vote	Title 25, §2911	25,697	.45
R I	number stated in law	17-14-7	1,000	.23
S C	number stated in law	7-9-10	10,000	.62
S D	1% of 2002 gub. vote	12-7-1	3,346	.86
Tn	number stated in law	2-505	25	.00+
Tx	1% of 2002 gub. vote	Elec. code 181.005	45,540	.61
Ut	number stated in law	20-3-38	1,000	.11
Vt	have committees in 10 towns	Title 17, §2313, 2318	20	.01
Va	number stated in law	24.2-543	10,000	.31
Wa	number stated in law	29.24.030	1,000	.04
W V	2% of 2000 pres. vote	3-5-23	12,963	1.71
Wis	number stated in law	Title 2, §8.20(4)	2,000	.07
Wy	2% of 2002 US House vote	22-4-402(d)	3,644	1.50

APP. "C": WHAT MUST A PARTY HAVE DONE, TO AVOID PETITIONING?

Ala	Any statewide office	20%	17-16-2	2000
Alas	Governor or US Senator	3% (or 2% of total Regis.)	15.60.010	2004
Az	President or Governor	5% (or .67% of total Regis.)	16-804A	2004
Ark	President or Governor	3%	7-1-101(1)	1996
Cal	Any statewide, gubernatorial years	2% (or Reg. 1% last vote)	5100a	2004
Colo	Any statewide	1% (or have 1,000 reg.)	1-4-1303	2004
Ct	Any (each office separate)	1%	9-372(f)	2002
Del	Party's vote irrelevant	.05%	3001	2004
Fla	Party's vote irrelevant	File list of officers	97.021(14)	2004
Ga	Any statewide	1%	21-2-180(2)	2004
Hi	Party's vote irrelevant	Be on last 3 elections	11-62(d)	2004
Id	Party's vote irrelevant	Must have run 3 candidates	34-501(1)a	2004
Il	Any statewide	5%	10-2	1996
In	Secretary of State	2%	3-8-7-25	2002
Io	President or Governor	2%	43.2	2000
Kan	Any statewide	1%	25-302(b)	2004
Ky	President	2%	118.325	1996
La	Party's vote irrelevant	Must have 1,000 registrants	441	2004
Me	President or Governor	5% at either of last 2 elec.	321.1	2002
Md	President or Governor	1%	lawsuit	2000
Ma	Any statewide	3% (or 1% registration)	50-1	2002
Mi	Any statewide	1% Sec State winner's vote	168.685(3)	2004
Mn	Any statewide	5% at either of last 2 elec.	200.02.7	2002
Ms	Party's vote irrelevant	Must be organized	23-1-81(c)	2004
Mo	Any statewide	2% at either of last 2 elec.	115.013(10)	2004
Mt	Any statewide, either of last 2 elec.	5% of gub. winner's vote	13-10-601	2004
Neb	Any statewide	5%	32-521	2002
Nev	Any statewide	1% of U.S. House vote	293.1715	2004
NH	Governor or U.S. Senator	4%	652:11	1996
NJ	Lower house of legislature	10% of statewide vote	19:1-1	1913
NM	President or Governor	5%	1-1-9	2002
NY	Governor	Must poll 50,000 (about 1%)	1-104.3	2002
NC	President or Governor	10%	163-96(1)	1968
ND	Pres., Gov., Sec. Of State, Att. Gen.	5%	16.1-11-30	1996
Oh	President or Governor	5%	3517.01	1996
Ok	President or Governor	10%	1-109	1996
Ore	Any statewide	1% of U.S. House vote	248.008(2)	2004
Pa	Party's vote irrelevant	15% registration membership	2872.2(a)	never
RI	President or Governor	5%, either of last 2 elec.	17-1-2(f)	2000
SC	Party's vote irrelevant	Must have run 1 candidate	7-9-10	2004
SD	Governor	2.5%	12-1-3(3)	1994
Tn	Any statewide	5%	2-104(27a)	1968
Tx	Any statewide	5% (or, 2% for Governor)	181.005(b)	2004
Ut	Any statewide	2% of U.S. House vote	20-3-2(g)	2004
Vt	Party's vote irrelevant	Be organized in 10 towns	2103(23)	2004
Va	Any statewide	10%, either of last 2 elec.	24.2-101	1994
Wa	Any statewide	5%	29.01.090	2000
WV	Governor	1%	3-1-8	2004
Wis	Any statewide	1%, either of last two elec.	5.62(1b)	2002
Wy	U.S. House, Governor or Sec. State	2%	22-1-102(18)	2004