

October 13, 2005

**Via Hand Delivery**

The Honorable Donald W. Stephens  
Senior Resident Superior Court Judge  
Wake County Courthouse  
Tenth Floor, Room 1036  
316 Fayetteville Street Mall  
Raleigh, North Carolina 27601

Re: Libertarian Party of North Carolina, et al., vs. State Board of Elections, et al.,  
Wake Co. Sup. Ct., File No. 05 CVS 13073

Dear Judge Stephens:

We have filed a motion for preliminary injunction and a calendar request in the case cited above and now write to explain why a hearing on the injunction is needed during the week of October 17<sup>th</sup>. We understand that, as always, there are many matters needing to be heard, and we appreciate consideration of the special circumstances of this case.

This is a lawsuit brought by our client the Libertarian Party challenging the law on recognition of political parties. Of immediate concern are the upcoming November 8<sup>th</sup> municipal elections in Charlotte and Winston-Salem. Those two cities have partisan elections, and candidates from the Libertarian Party filed and qualified to run for offices there. When the State Board of Elections withdrew official recognition of the Libertarian Party in late August, the names of the Libertarian candidates were removed from the ballot. The motion for a preliminary injunction seeks to keep the Libertarian candidates on the ballot.

Although the elections are not until November 8<sup>th</sup>, the preliminary injunction motion needs to be heard as soon as possible to allow local election officials sufficient time to prepare ballots if the court grants the relief requested and allows the Libertarians to remain on the ballot. We sought a temporary restraining order in connection with the primary to be held in Charlotte on September 27<sup>th</sup>, but it could not be heard until the day before, at which time election officials argued it was too late to make the necessary arrangements. Judge Ronald Stephens denied the restraining order.

I have a Court of Appeals argument scheduled for next Tuesday morning, October 18<sup>th</sup>, but can be available any time after that for the preliminary injunction hearing. I have informed Susan Nichols of the Attorney General's office of our plans and she says that she has conflicts on Tuesday afternoon and Thursday morning.

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Thank you for your attention to this matter.

Sincerely,

THARRINGTON SMITH, L.L.P.

Michael Crowell

MC/ksn

cc: Sallie Kearns (by hand delivery)  
Susan Nichols (by e-mail and hand delivery)

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