STATE OF MAINE
KENNEBEC, ss

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-24-01

DONALD J. TRUMP,

Petitioner,

v.

SHENNA BELLOWS, *in her official capacity as* **Secretary of State, State of Maine,**

Respondent,

KIMBERLEY ROSEN, THOMAS SAVIELLO, and ETHAN STRIMLING,

Parties-in-Interest.

REPLY TO MOTION TO STAY

In their opposition to the *Motion to Stay*, neither the Secretary nor the Rosen Challengers confront President Trump's core argument—this Court has inherent authority to issue a stay. Courts across the country have uniformly held that because the judiciary is an independent and co-equal branch of government, courts have the authority to manage judicial proceedings before them. And the Secretary cites no authority to dispute, contradict, or limit the large number of cases holding that courts may stay proceedings before them,

even in the face of a legislative enactment that purports to prohibit a stay. This authority unambiguously includes a stay during a review of agency action, like the case here.[1]

And the Secretary herself exceeded Section 337's statutory deadlines, even as she argues that this Court cannot. To be sure, she claims that she "rule[d] on the validity of any challenge within 5 days after the completion of the hearing,"[2] by redefining "hearing" to include repeated extensions to solicit and receive additional briefing, as well as a final *Ruling*.[3] But this argument shows that the Secretary violated the seven-day statutory deadline for holding a public hearing; "[*w*]*ithin* 7 days after the final date for filing challenges . . . the Secretary of State shall *hold* a *public* hearing on any challenge properly filed."[4] This court should promptly reject the Secretary's argument that she met statutory deadlines by simply proclaiming that the hearing extended beyond the seven day statutory deadline—to include non-public deliberations and her final *Ruling*.

President Trump points out this disparity because the Secretary demands that this Court adhere to statutory deadlines that she herself ignored. If the Secretary had truly moved with the speed demanded by Section 337, she would have completed the public hearing by December 15, 2023, issued her *Ruling* by December 20, 2023, and President Trump would

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[1] *See, e.g.*, *City of Norwood v. Horney*, 110 Ohio St. 3d 353, 388 (Ohio, 2006).

[2] 21-A M.R.S. 337(C) ("The Secretary of State shall rule on the validity of any challenge within 5 days after the completion of the hearing.").

[3] It should be noted that the parties submitted simultaneous briefs on evidentiary objections on Tuesday, December 19, nine days before the Secretary issued her ruling on December 28, 2023.

[4] 21-A M.R.S. 337(B) (emphasis supplied).

have sought appeal to this Court no later than December 26, 2023. But the Secretary took additional time for a practical reason; Sections 336 and 337 were never intended or designed to accommodate a complex factual and legal challenge under Section Three.

A stay in this matter would neither give rise to a claim under U.S. Const. Art II, nor be imprudent.

First, the Secretary misapprehends President Trump's Article II claims. He does not argue that if the Colorado District Court had met the statutory deadlines, all would be well. Rather, he argues that by exercising jurisdiction and allowing a Section Three claim under Colorado law, the Colorado District Court grossly departed from Colorado's statutory framework and legislative intent. The impossibility of meeting Colorado's exceedingly short statutory deadlines serves as additional evidence that the Colorado statute—like Maine law—was never designed to include a Section Three claim.

Second, the Secretary claims potential harm if the proceedings are stayed pending resolution by the U.S. Supreme Court, even as she—and the Rosen Challengers—have agreed to a stay of any enforcement pending resolution by the U.S. Supreme Court. In both instances; (1) voting will begin in advance of the March 5, 2024 primary (2) Maine voters—particularly those who support President Trump—will remain alert and intelligent enough to monitor the outcome of the U.S. Supreme Court appeal, and (3) no Trump voter will be harmed even if President Trump is barred from the ballot, because Maine's ranked choice voting system will afford all Trump voters the ability to vote for their second choice.

The Secretary and the Rosen Challengers essentially argue that in order to eliminate the possibility of voter confusion, the Secretary may extinguish their right to vote for President Trump. This cannot be right.

Third, the fact remains that a stay of proceedings will have three substantial benefits. First, it will foster judicial economy if the U.S. Supreme Court overturns the Colorado Supreme Court's decision. Second, it will resolve one or more federal issues that bear directly on this Court's proceedings, regardless of the outcome. Indeed, at a minimum the Court will provide standards to adjudicate the Article II and Due Process claims in this Court. And finally, it will allow Maine courts to properly and thoroughly consider any remaining issues in the event the Court affirms the Colorado Supreme Court.

Respectfully submitted this 9th day of January 2024.

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