JOHN BRAUTIGAM

Esq. LLC

September 28, 2020

Matthew Pollack, Clerk
Maine Supreme Judicial Court
205 Newbury Street, Room 139
Portland ME 04101-4125

Re: ***Jones et al. v. Sec'y of State*, No. CUM-20-227**

Paper original and one copy by hand delivery and native .pdf by email to:
lawcourt.clerk@courts.maine.gov

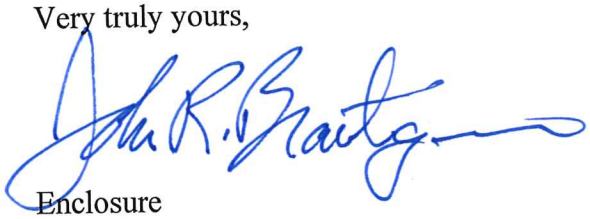
Dear Clerk Pollack:

Enclosed please find the original and one copy of the following documents for filing in connection with Appellees' Motion to Stay the Mandate and for Injunction Pending Appeal the above-entitled action:

1) Motion for Leave to File *Amicus* Memorandum in Opposition to Motion to Stay and for an Injunction
2) *Amicus* Memorandum in Opposition to Motion to Stay and for an Injunction

Thank you for your time and attention to this filing.

Very truly yours,



Enclosure

Copies to:
Patrick Strawbridge, Esq.
Phyllis Gardiner, Esq.
James Monteleone, Esq.

RECD ME SUPREME JUD CT
SEP 28 '20 AM11:56

1 Knight Road, Falmouth, Maine 04105 + 207 · 671 · 6700 + jblaw@maine.rr.com
Maine Bar # 8223

STATE OF MAINE

SUPREME JUDICIAL COURT
Sitting as the Law Court
Docket No. Cum-20-227

DAVID A. JONES, *et al.* *Petitioners-Appellees,* v. MATTHEW DUNLAP, in his Official capacity as Maine Secretary Of State, *Respondent-Appellant,* and THE COMMITTEE FOR RANKED CHOICE VOTING, *et al.* *Intervenors-Appellants*	*AMICUS* THE ALLIANCE PARTY'S MOTION FOR LEAVE TO FILE OPPOSITION TO APPELLEES' MOTION TO STAY THE MANDATE AND FOR AN INJUNCTION PENDING RELIEF FROM THE UNITED STATES SUPREME COURT

Pursuant to Rule 7A(e) of the Maine Rules of Appellate Procedure, *amicus curiae* the Alliance Party seeks leave of court to file the accompanying Memorandum in Opposition to Appellees' Motion to Stay the Mandate and for an Injunction Pending Relief from the United States Supreme Court. Undersigned counsel has obtained the consent of

intervenors-appellants the Committee for Ranked Choice Voting, *et al.* Undersigned counsel also contacted counsel for defendant-appellant Matthew Dunlap and counsel for petitioners-appellees David A. Jones *et al.* who both stated by email that they have no objection to the motion for leave to file. Simultaneous with this motion for leave, *amicus* is submitting for filing and is serving the opposition memorandum referred to in this motion for leave.

Interest of *Amicus Curiae* the Alliance Party

In recent years growing dissatisfaction with a failing, polarizing, and dysfunctional two-party system brought about a series of meetings of leaders of existing political parties that had in common centrist and moderate reform tenets.

On October 14, 2018 the leaders of three political parties: The American Moderates, the Modern Whigs (which in recent years had six political parties merge under their banner), and the American Party of South Carolina met in Denver, Colorado and formally agreed to cooperatively create the Alliance Party. On January 4th, 2019 the Alliance Party registered with the Federal Elections Commission.

In subsequent months, the Independence Party of Minnesota (2019), American Alliance Party (2019), and the Independent Party of Connecticut (2020) also merged to become state affiliates of the Alliance Party.

The Alliance Party strives to lead a movement to "elect public servants who will end corruption, stagnation and partisan politics." Through its political work, including running candidates for a wide range of elected offices and bringing their campaigns to the voters, the Alliance Party seeks to "bring back American values and emphasize the importance of integrity and honor" while "moving the nation forward rather than left or right."

After much deliberation, interviews with potential candidates, and research, the Alliance Party's National Committee decided to hold a National Convention (virtually) for the purpose of considering the nomination of presidential and vice-presidential candidates for 2020. The Convention was held on April 28, 2020 and the delegates voted to nominate Roque "Rocky" De La Fuente for President of the United States and Darcy Richardson as his Vice-Presidential running mate.

The Alliance Party has been active in nearly every state and has completed the process of securing a position on the Maine ballot for its presidential and vice-presidential nominees. On July 27, 2020, the Party submitted 4221 signatures and the electors' forms required for ballot access. On August 10, 2020, the Alliance Party received notification from the Maine Secretary of State that it had met the requirements for the November, 2020 election in Maine and that its presidential and vice-presidential nominees would appear on the ranked choice voting ("RCV") ballot.

The Alliance Party's nominee De La Fuente is presently on the ballot in fifteen states and is an approved write-in candidate in ten states. State approval for write-in status for De La Fuente is pending in nine states.

The Alliance Party and its nominees have a unique and unprecedented role to play as Maine voters consider the candidates and decide upon their choices. The rules that will be applied in the tabulation of the vote for the Party's presidential and vice-presidential candidates in Maine will have a profound effect on the Alliance Party's campaign, the allocation of Maine's electoral votes, and the Alliance

Party's general success in this election. The tabulation of the vote is also likely to impact the Alliance Party's future as an official party in Maine.[1] Never before in the history of presidential elections has an emerging party candidate had a chance to compete for ranked votes and thereby demonstrate the true impact of RCV voting at the highest level. The Alliance Party therefore has an intense and abiding interest in any Court ruling that would fundamentally change the rules that have governed this election to date, and which will directly affect the vote count of its nominee.

The Maine campaign strategy of Alliance Party presidential candidate Roque De La Fuente has been constructed to maximize the probability of the candidate being ranked along with the major party candidates. Litigation has disrupted and essentially halted that process while the tabulation methodology is confirmed by the courts. Because the tabulation methodology is of the highest importance in the campaign strategy of any candidate not associated with one of the two major parties, this last-minute uncertainty has significantly disrupted the campaign's dialogue with Maine voters.

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[1] 21-A M.R.S. § 302 (percentage of vote received by presidential nominee is factor in determining party status).

This unforeseen delay has financial consequences for the De La Fuente campaign, forcing the Alliance Party candidate to postpone a major media buy, including the purchase of as many as 2,100 television spots. Focusing largely on the unique and historic use of RCV in a presidential election, the television ads have already been produced but cannot be aired until the use of RCV is settled. Meanwhile, the costs of all media in the final days of the election cycle are increasing daily. The result not only burdens the Alliance Party's campaign, but prevents the public from hearing the vital and meaningful messages of the candidate during this election.

Why the Brief of Amicus The Alliance Party is Desirable

The Alliance Party strongly supports a range of campaign reforms including RCV. The Party's interest in this proceeding, however, is more direct and immediate than positions in the Party platform. The Alliance Party, its nominees and supporters have engaged with the ongoing presidential campaign in Maine with the understanding that the Maine presidential ballot will be tabulated using RCV. The Party, its candidates and supporters have invested in the 2020 campaign for president in Maine, developing strategies and tactics to maximize its

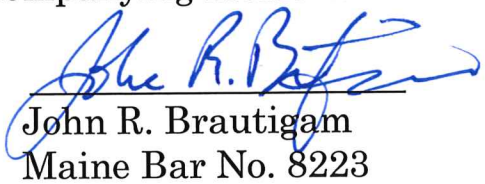
chances to succeed on the basis of existing Maine law, which since January 12, 2020 and the enactment of P.L. 2019, ch. 539 has mandated the use of RCV tabulation in the presidential election. Those strategic investments mirror the expectation relied upon by Maine voters that their ballot for president will present them with a ranking of candidates rather than a simple "first past the post" plurality choice.

The experience of the Alliance Party in conducting a campaign in Maine under the rules of RCV, and the implications of changing those rules after ballots have been designed, instructions written, the ballots have been printed, and voting has begun, may be illuminating to the Court as it considers the possible consequences to the public and to voters of granting appellee's motion at this point in an election.

CONCLUSION

For the forgoing reasons, the Court should grant *amicus curiae* the Alliance Party leave to file the accompanying memorandum.[2]

September 28, 2020



John R. Brautigam
Maine Bar No. 8223
John R. Brautigam, Esq. LLC
1 Knight Hill Road
Falmouth, Maine 04105
207-671-6700
johnbrautigam@gmail.com
attorney for *amicus*

[2] *Amicus curiae* does not seek leave to participate in oral argument.

CERTIFICATE OF SERVICE

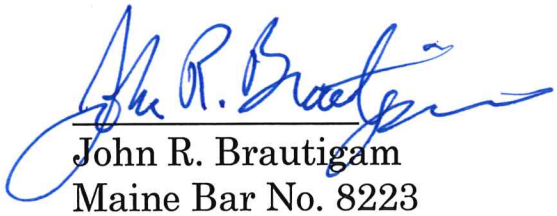
I hereby certify that on this date I served a copy of the preceding memorandum on all counsel by email and by U.S. Mail at the following addresses:

Patrick Strawbridge, Esq.
Patrick@consovoymccarthy.com
Ten Post Office Square
8th Floor South PMB # 706
Boston, MA 02109

Phyllis Gardiner, Esq.
Phyllis.Gardiner@maine.gov
Office of the Attorney General
6 State House Station
Augusta, ME 04333

James Monteleone, Esq.
JMonteleone@bernsteinshur.com
Bernstein Shur
100 Middle Street
West Tower
Portland, ME 04101

Dated: September 28, 2020



John R. Brautigam
Maine Bar No. 8223
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1 Knight Hill Road
Falmouth, Maine 04105
207-671-6700
johnbrautigam@gmail.com
for *amicus* The Alliance Party