

STATE OF NEW MEXICO  
COUNTY OF LEA  
FIFTH JUDICIAL DISTRICT

REPUBLICAN PARTY OF NEW MEXICO,  
DAVID GALLEGOS, TIMOTHY JENNINGS,  
DINAH VARGAS, MANUEL GONZALES, JR.,  
BOBBY AND DEE ANN KIMBRO, and  
PEARL GARCIA,

Plaintiffs,

Case No. D-506-CV-2022-00041

v.

MAGGIE TOULOUSE OLIVER,  
in her official capacity as New Mexico Secretary of State, et al.,

Defendants.

**DEFENDANT SECRETARY OF STATE MAGGIE TOULOUSE OLIVER'S  
MOTION FOR AN ORDER EXCUSING HER ATTENDANCE AT TRIAL**

COMES NOW Defendant Maggie Toulouse Oliver, in her official capacity as New Mexico Secretary of State, by and through her general counsel, and respectfully moves the Court for an Order excusing her attendance at trial in this matter, which is scheduled for September 27-29, 2023, in Lovington, New Mexico. In support of her motion, Defendant Secretary states as follows:

1. Although first-named in the caption, Defendant Secretary is a “nominal” defendant as there are no allegations specifically directed at her in the Verified Complaint for Violation of New Mexico Constitution Article II, Section 18, other than the bare statement that she is the elected Secretary of New Mexico and that her office is in Santa Fe County. *Complaint*, ¶ 8.
2. Upon review of witness lists filed by the parties, no party intends to call Defendant Secretary as a witness to provide testimony at trial.
3. Defendant Secretary has official business out-of-state during the September 27-29, 2023 time frame.

4. Counsel for Plaintiffs does not object to this motion. Respective counsel for Defendants were contacted by email regarding this motion, and none have responded with an objection.

5. Defendant Secretary acknowledges that she will be bound by any final judgment and order that may issue following the trial on the merits.

WHEREFORE, Defendant Maggie Toulouse Oliver, in her official capacity as New Mexico Secretary of State, respectfully requests that the Court enter an Order excusing her attendance at trial in this matter; and for such other and further relief as the Court deems proper.

Respectfully submitted,

By: /s/ Peter S. Auh  
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Attorney for Defendant  
Maggie Toulouse Oliver,  
New Mexico Secretary of State

#### **CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing pleading to be served by electronic means, via email and/or the Court's electronic filing system through Tyler Technologies Odyssey File & Serve platform, upon all parties or counsel of record, on this 7th day of September, 2023.

/s/ Peter S. Auh  
Peter S. Auh