

IN AND FOR THE CIRCUIT COURT FOR THE FIFTEENTH JUDICIAL CIRCUIT
PALM BEACH COUNTY, STATE OF FLORIDA

**DR. JILL STEIN,
PRESIDENTIAL CANDIDATE
FOR THE GREEN PARTY**

Plaintiff,

Case No: _____

**COMPLAINT FOR INJUNCTIVE
RELIEF**

v.

**THE FEDERAL ELECTIONS COMMISSION;
COMMISSION ON PRESIDENTIAL DEBATES;
REPUBLICAN NATIONAL COMMITTEE;
DEMOCRATIC NATIONAL COMMITTEE;
and LYNN UNIVERSITY.**

Defendants.

**VERIFIED EMERGENCY COMPLAINT TO ENJOIN/POSTPONE
THE PRESIDENTIAL DEBATE NOW SCHEDULED AT LYNN UNIVERSITY
ON OCTOBER 22, 2012, DUE TO VIOLATIONS OF THE FLORIDA
CONSTITUTION, THE FLORIDA CIVIL RIGHTS ACT, THE LAWS OF THE
STATE OF FORIDA, THE CONSTITUTION OF THE UNITED STATES,
AND LAWS OF THE UNITED STATES**

PRELIMINARY STATEMENT

1. This is a civil action for **Emergency Injunctive Relief** against the Federal Elections Commission, the Commission on Presidential Debates, the Republican National Committee, the Democratic National Committee, and Lynn University, to enjoin them from violating numerous laws of the State of Florida and the United States by conducting the **U.S. Presidential debate scheduled to be held on October 22, 2012, at Lynn University, in Boca Raton, Florida**, which violations have and will continue to directly, substantially and irreparably harm and damage Green Party Presidential candidate Dr. Jill Stein.

2. SPECIFICALLY, AND AS MORE FULLY SET OUT BELOW, THIS IS AN ACTION WHERE PLAINTIFF RESPECTFULLY MOVES THIS HONORABLE COURT TO ENTER AN ORDER ENJOINING ALL NAMED DEFENDANTS FROM CONDUCTING, OR IN ANY FASHION PARTICIPATING IN OR AUTHORIZING THE PRESIDENTIAL DEBATE NOW SCHEDULED FOR OCTOBER 22, 2012, UNTIL SUCH TIME AS ALL DEFENDANTS HAVE FULLY COMPLIED WITH THEIR CONSTITUTIONAL, STATUTORY, REGULATORY AND FIDUCIARY DUTIES TO PLAINTIFF SO THAT THE NEXT PRESIDENTIAL DEBATE, AND ANY AND ALL SUBSEQUENT PRESIDENTIAL DEBATES, WILL ACTUALLY BE NONPARTISAN AND OTHERWISE COMPLETELY INDEPENDENT OF THE REPUBLICAN AND DEMOCRATIC NATIONAL COMMITTEES, AS THEY ARE INTENDED AND MANDATED TO BE; SO THAT FUTURE DEBATES WILL BE COMPLETELY DEVOID OF ARBITRARY, CAPRICIOUS, AND SUBJECTIVE PARTICIPATION CRITERIA SUCH AS “POLLING RESULTS”; SO THAT ALL FUTURE DEBATES WILL BE DEVOID OF DISCRIMINATION OF EVERY KIND, INCLUDING BUT NOT LIMITED TO, DISCRIMINATION BASED ON POLITICAL PARTY AFFILIATION, GENDER, AGE, RELIGION, RACE, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, AND ANY OTHER CLASS WHICH HAS OR NEEDS PROTECTION; SO THAT ALL FUTURE DEBATES WILL BE FINANCIALLY TRANSPARENT AND FREE OF FINANCIAL CONFLICTS OF INTEREST; AND SO THAT ALL FUTURE DEBATES

WILL SEEK ONE GOAL AND ONE GOAL ONLY: TO EDUCATE THE CITIZENS OF THE UNITED STATES SO THAT THEY MAY KNOWINGLY AND INTELLIGENTLY CHOOSE THE PRESIDENTIAL CANDIDATE OF THEIR CHOICE FROM EACH AND EVERY ELIGIBLE CANDIDATE.

PARTIES

3. **Plaintiff Dr. Jill Stein is the United State's Presidential Candidate for the Green Party.** Dr. Stein graduated magna cum laude from Harvard College in 1973 and from Harvard Medical School in 1979. Dr. Stein is, *inter alia*, a pioneer in the field of environmental-health, green local economies, sustainable agriculture, clean power, and freedom from toxic threats. Dr. Stein currently resides in Lexington, Massachusetts. The Jill Stein for President Headquarters is based in Madison, Wisconsin.
4. **Dr. Stein is currently on the ballot for the November 2012 Presidential election in the State of Florida, 36 other states, and the District of Columbia. Dr. Stein will appear as a write-in candidate in Connecticut, Georgia, Indiana, Missouri, Montana, South Dakota, New Hampshire, Vermont, and Wyoming. Dr. Stein is seeking write-in status in Nebraska, Nevada, and North Carolina.**
5. Due to the fact that Dr. Stein is on the ballot in all of the largest states in the country and nearly all of the mid-size states, her name will appear on 85% or more of all ballots cast. As such, 85% or more of the American populace is currently eligible to vote for Dr. Stein in the upcoming Presidential election.

6. Dr. Stein has reached a level of support among the American populace such that her campaign has qualified to receive matching funds from the federal government to seek the Presidency.
7. Further, and most decisively, due to the cumulative allocation of Electoral College votes designated to those states in which Dr. Stein is on the ballot,¹ she has a “*mathematical chance of securing an Electoral College majority in the 2012 general election*”, a current prerequisite to participate in the Presidential debates under the current system. [See Exhibit A: Commission on Presidential Debates 2012 Candidate Selection Criteria: Evidence of Ballot Access]
8. Notwithstanding that Dr. Stein is currently eligible to win the Presidency, defendant Commission on Presidential Debates has not “invited” her to participate in any of the previous Presidential debates for the 2012 election.
9. Defendant Federal Election Commission (Hereinafter the “FEC”) is a U.S. governmental regulatory agency created by Congress in 1975 to administer and enforce the Federal Election Campaign Act of 1971, which governs the financing of federal elections. The duties of the FEC are, *inter alia*, to disclose campaign finance information, to enforce the provisions of the law, such as the limits and prohibitions on contributions, and to oversee the public funding of Presidential elections. Its principle place of business is Washington DC.

¹ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Delaware, District of Columbia, Florida, Hawai'i, Idaho, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New Mexico, Nebraska, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin

10. Under certain and specifically delineated circumstances, the Federal Elections Commission has the authority to exempt corporate sponsorship of nonpartisan candidate debates from the general prohibition on corporate contributions. In relevant part, the delineated circumstances are as follows: PART 110:

CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

110.13 - Candidate debates.

(a) **Staging organizations.** (1) Nonprofit organizations described in 26 U.S.C. 501 (c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(b) **Debate structure.** The structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organizations(s), provided that:

(1) Such debates include at least two candidates; and

(2) The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) **Criteria for candidate selection.** For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organizations(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate.

11. Defendant Republican National Committee is a political organization which provides and otherwise constitutes the national leadership for the Republican Party of the United States. It is responsible for, *inter alia*, developing and promoting the Republican political platform, and fundraising for the Party.

- 12.** Defendant Democratic National Committee is a political organization which provides and otherwise constitutes the national leadership for the Democratic Party of the United States. It is responsible for, *inter alia*, developing and promoting the Democratic political platform, and fundraising for the Party.
- 13.** In 1987, defendants Republican National Committee and Democratic National Committee joined together to form defendant Commission on Presidential Debates with the express purpose of insulating the two major political parties from substantial Presidential debate liabilities, responsibilities, and expense. The Commission on Presidential Debates is allegedly a private, non-profit corporation organized under 26 USC Sec. 501(c) (3) and the laws of the District of Columbia, with its principle place of business at 1200 New Hampshire Avenue, NW, Suite 445, Washington DC.
- 14.** Lynn University is a private university located in Boca Raton, Florida. Kevin M. Ross is president of the University. Lynn University is the site of the scheduled Presidential debate on October 22, 2012. Lynn University is listed on the Commission for Presidential Debate’s website as a “Voter Education Partner.”

VENUE AND JURISDICTION

- 15.** Venue is proper in this Court as Lynn University in Boca Raton, Florida, is the scheduled forum for the Presidential debate scheduled for October 22, 2012.
- 16.** Pursuant to F.S. 48.193, this Court has personal jurisdiction over each and all of the named defendants in this cause by the fact that each and all of them operate, engage in, or carry on business in the State of Florida, have an office or agency in the State of Florida, have committed tortious acts in the State of Florida, and/or

have committed tortious acts in other states or jurisdictions resulting in harm to Plaintiff in the State of Florida.

- 17.** Specifically, as the sole federal agency overseeing and responsible for U.S. Presidential elections, defendant Federal Elections Commission regularly conducts and transacts business in every state in the nation, including the State of Florida, and Palm Beach County, and will continue to do so up to and beyond the Presidential election in November 2012.
- 18.** Defendant Republican National Committee regularly transacts business in the State of Florida and Palm Beach County. As of June 2012, the RNC had opened 23 “Victory” offices in the State of Florida from where it conducts its business. The RNC promotes the election of party candidates with technical and financial support and works with national, state and local party organizations, including elected officials, candidates, constituencies and grassroots volunteers across the country, including in Palm Beach County, Florida.
- 19.** Defendant Democratic National Committee regularly transacts business in the State of Florida and Palm Beach County. The DNC promotes the election of party candidates with technical and financial support and works with national, state and local party organizations, including elected officials, candidates, constituencies and grassroots volunteers across the country, including in Palm Beach County Florida.
- 20.** Defendant Lynn University regularly transacts business and is situated in Palm Beach County, Florida.
- 21.** This Court has jurisdiction to hear violations of the Florida Constitution, the Florida Civil Rights Act, and other Florida laws and torts. This Court also has

concurrent jurisdiction to hear cases brought pursuant to 42 USC Sec. 1983 for violations of the United States Constitution and other federal laws.

22. Pursuant to Article I, Section 21 of the Florida Constitution, this Court “shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.”

23. This Court has jurisdiction to issue injunctive relief, declaratory relief, and award compensatory damages. The damages in this case exceed the jurisdictional amount of \$15,000.00, exclusive of costs and attorney’s fees.

FACTS AND GENERAL ALLEGATIONS

24. On October 16th, 2012, less than one week ago, Presidential Green Party candidate, Dr. Jill Stein, and her Vice-Presidential running mate, Ms. Cheri Honkala, were arrested for being on the grounds of the site of the Presidential debate which was scheduled to take place approximately seven hours later.

25. Dr. Stein arrived on the grounds of Hofstra University at approximately 2:00pm in order to speak with defendant Commission for Presidential Debates to request that she and other “third party” candidates be allowed to participate in that evening’s Presidential debate. Fifteen minutes after making that request to a representative of defendant Commission, Dr. Stein and Ms. Honkala were approached by local police and the Secret Service, at which time they were handcuffed, taken to a remote detention facility/warehouse especially set up to house “protestors”, where they were forced to remain for over eight hours while tightly handcuffed to metal chairs until such time as the debate between the only two candidates “invited” to participate in the debate was over.

26. When Dr. Stein and Ms. Honkala were finally “un-handcuffed” from the metal chairs and released, they were sent out into the cold night in a remote location with no notice to their lawyers or staff of their release.
27. Dr. Stein’s comments concerning her arrest, handcuffing, and incarceration are, in essence, the basis for this injunction. Upon her release, Dr. Stein stated: **"It was painful but symbolic to be handcuffed for all those hours, because that’s what the Commission on Presidential Debates has essentially done to American democracy."**
28. On October 3, 1988, the League of Women Voters withdrew its sponsorship of the Presidential debates for the very reason articulated by Dr. Stein almost a quarter of a century later. As reason for its withdrawal, the head of the League stated as follows: **“The League of Women Voters is withdrawing its sponsorship of the presidential debate scheduled for mid-October because the demands of the two campaign organizations would perpetrate a fraud on the American voter...The League has no intention of becoming an accessory to the hoodwinking of the American people.”**
29. With the honorable institution of the League of Women Voters now out of the way, the two “major” parties, acting by and through defendants Democratic National Committee and Republican National Committee, “created” defendant Commission on Presidential Debates in their own image for the specific purpose of having the new-found Commission host all future Presidential debates to the exclusion of any other political party.
30. The Commission for Presidential Debates was established as a tax-exempt 501 (c) (3) “non-profit” corporation and currently retains that status, at least on paper.

26 US Code Sec. 501 mandates that **corporations may only be tax exempt, *inter alia***, as long as they **do not attempt to “influence legislation”**, and as long as they do **“NOT PARTICPATE IN, OR INTERVENE IN...ANY POLITICAL CAMPAIGN ON BEHALF OF OR IN OPPOSITION TO ANY CANDIDATE FOR PUBLIC OFFICE.”**

31. Subsequent to the DNC and the RNC creating their “non-profit” corporate alter ego under the guise of defendant Commission on Presidential Debates, said Commission and defendants DNC and RNC thereafter met privately in Washington DC to devise specific rules for the Presidential and Vice-Presidential debates. Once again, the League of Women Voters hit the nail on the head concerning the discriminatory and exclusive intent of defendants Commission, RNC and DNC:

“Americans deserve to see and the hear the men who would be president face each other in a debate on the hard and complex issues critical to our progress into the next century.” But instead, the control of the Commission *“is a closed-door masterpiece”* between the Republican and Democratic parties.

32. The “closed-door masterpiece” between the Republican and Democratic parties which is in place for the 2012 Presidential debates is a **MEMORANDUM OF UNDERSTANDING** attached hereto as Exhibit B.

33. The introductory paragraph of the MEMORANDUM OF UNDERSTANDING reads as follows: **“This Memorandum of Understanding constitutes an agreement between Obama for America and Romney for President (the “campaigns”) regarding the rules that will govern debates in which the**

campaigns participate in 2012. This agreement shall be binding upon the campaigns.”

34. The Memorandum goes on to address the issue of **“Sponsorship”**:

“The two campaigns will participate in four debates sponsored by the Commission on Presidential Debates. The Campaigns agree that the Commission shall sponsor the debates, subject to its expression of a willingness to employ the provisions of this agreement in conducting these debates. In the event the Commission does not so agree, the two campaigns jointly reserve the right to determine whether an alternate sponsor is preferable. The parties agree that the Commission’s Nonpartisan Candidate Selection Criteria for 2012 General Election Debate participation shall apply in determining the candidates to be invited to participate in these debates.”

35. The Memorandum goes on to address **“Participants”**: **“If one of more candidates from campaigns other than the two signatories are invited to participate pursuant to those Selection Criteria, those candidates shall be included in the debates, if those candidates accept the terms of this agreement.”**

36. As they have done since the Commission’s invention in 1987, earlier this year, the Commission on Presidential Debates, the RNC and the DNC, acting in concert with each other and only each other, established the “selection criteria” for the 2012 Presidential and Vice-Presidential debates. [See Exhibit A] **No other political party, including, or more appropriately excluding, Dr. Stein, was consulted or invited by defendants Commission, DNC or RNC to attend the**

planning sessions wherein they established the criteria for participation in the 2012 Presidential debates.

37. The Commission's 2012 Candidate Selection Criteria Introduction reads as follows: *“The Mission of the nonpartisan Committee on Presidential Debates is to ensure, for the benefit of the American electorate, that general election debates are held every four years between the leading candidates for the offices of President and Vice-President of the United States. The CPD sponsored a series of such debates in each of the past six general elections, and has begun the planning, preparation, and organization of a series of nonpartisan debates among leading candidates for the Presidency and Vice-Presidency in the 2012 Presidential election. As in prior years, the CPD’s voter educational activities will be conducted in accordance with all applicable legal requirements, including regulations of the Federal Election Commission that require that debate sponsors extend invitations to debate on the application of “pre-established, objective” criteria. The goal of the CPD is to afford the members of the public an opportunity to sharpen their views, in a focused debate format, of those candidates from among whom the next President and Vice-President will be selected. In each of the last six elections, there were scores of declared candidates for the Presidency, excluding those seeking the nomination of one of the major parties. During the course of the campaign, the candidates are afforded many opportunities in a great variety of forums to advance their candidacies. In order most fully and fairly to achieve the educational purposes of its debates, the CPD has developed nonpartisan, objective, criteria upon which it will base its decisions regarding selection of the candidates to*

participate in its 2012 debates. The purpose of the criteria is to identify those candidates who have achieved a level of support such that they realistically are considered to be among the principal rivals for the Presidency. In connection with the 2012 general election, the CPD will apply three criteria to each declared candidate to determine whether the candidate qualifies for inclusion in one or more of the CPD debates. The criteria are (1) constitutional eligibility; (2) ballot access; (3) electoral support. All three criteria shall be satisfied before a candidate will be invited to debate.

38. Constitutional eligibility means that the candidate must:

- a. Be at least 35 years of age;
- b. Be a natural born citizen of the United States and a resident of the United States for 14 years;
- c. Be otherwise eligible for the office of President under the U.S. Constitution.²

39. Evidence of Ballot Access “requires that the candidate qualify to have his/her name appear on enough state ballots to have at least a mathematical chance of securing an Electoral College majority in the 2012 general election. Under the Constitution, the candidate who receives a majority of votes in the Electoral College, at least 270 votes, is elected President, regardless of the popular vote.”

40. Indicators of electoral support “requires that the candidate have a level of support of at least 15% of the national electorate as determined by five selected national public opinion polling organizations, using the average of those

² According to Article II, Section 1 of the U.S. Constitution, “No person except a natural born citizen, or a citizen of the United States, at the time of the adoption of this Constitution shall be eligible to the Office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years as a resident within the United States.

organizations' most recent publicly-reported results at the time of the determination.

41. Because the Commission for Presidential Debates is allegedly “non-profit”, it survives by “donations” and “private funding” and “fundraising” for its “**educational activities**”, such as the Presidential debates, its primary reason for existing in the first instance. The Commission’s Mission Statement reads as follows:

“The Commission on Presidential Debates (CPD) was established to ensure that debates, as a permanent part of every general election, provide the best possible information to viewers and listeners. Its primary purpose is to sponsor and produce debates for the United States presidential and vice-presidential candidates and to undertake research and educational activities relating to the debates. The organization, which is a nonprofit, nonpartisan, 501 (c) (3) corporation, sponsored all the presidential debates in 1988, 1992, 1996, 2000, 2004 and 2008.” [See Exhibit C]

42. Pursuant to the Commission’s website, the list of “**Sponsors of the 2012 Debates**” who have philanthropically chosen to facilitate and foster its “educational” goals, are Anheuser-Busch Companies, The Howard G. Buffett Foundation, Sheldon S. Cohen, Esq., Crowell & Moring LLP, International Bottled Water Association, the Kovler Fund, and Southwest Airlines. Communications Support for the debates is provided by The Kaiser Family Foundation. [See Exhibit D]

43. The venue of the debate is Lynn University in Boca Raton, Florida. According to the University’s president, the Commission on Presidential Debates recently

“awarded Lynn University the prestigious honor of hosting the third and final 2012 Presidential Debate, which will take place on our campus.” Dr. Ross further stated that “our University has been gaining a reputation as an open forum for public dialogues, and we are thrilled to be providing this service to our campus, community and country.”

44. According to its website, *“Lynn University is committed to and actively supports the spirit and the letter of equal opportunity as defined by federal, state and local laws. It is the policy of Lynn University to ensure equal opportunity in administration of its educational policies, admissions policies, and employment policies without discrimination on the basis of race, color, religion, gender, sexual orientation, age, national origin, ancestry, citizenship, disability, veteran or military status, marital status, or any other characteristic protected by law.”*

45. The University’s website is literally plastered with Presidential Debate articles, information, slogans, events, opportunities to volunteer, links to financially sponsor the debate and links to “donate” to the debate, to name a few. Every web page on the University’s internet site now says somewhere on it: **Lynn University—Official Host, 2012 Presidential Debate.**

46. Further, and as coincidence would have it, Lynn University is **“GOING GREEN.”** According to its website: *“As Lynn University charges into the future, we stand strong in our commitment to create a more sustainable campus, community and planet. Our fragile natural surroundings in South Florida serve as a daily reminder of why our efforts to “go green” are vital to the longevity and mission of the university”. As part of a comprehensive plan, Lynn’s Sustainability Committee is focused on improvement in 5 major areas:*

1. Community Education; 2. Energy and Transportation; 3. Landscape and Ecology; 4. Water; 5. Materials and Waste. [See Exhibit E]

COUNT ONE

DENIAL OF DUE PROCESS UNDER THE 14TH AMENDMENT OF THE US CONSTITUTION AGAINST ALL DEFENDANTS PURSUANT TO 42 USC 1983 AND VIOLATION OF THE DUE PROCESS CLAUSE OF THE FLORIDA CONSTITUTION

- 47.** Plaintiff re-alleges and hereby incorporates by reference paragraphs 1-46 above as if fully set out herein.
- 48.** All defendants in this matter have acted and continue to act under color of state law under the facts of this case.
- 49.** The 14th Amendment to the United States Constitution protects Dr. Stein and endorses her with **substantive due process** rights under the law. Specifically, Dr. Stein has a protected property interest in becoming the President of the United States.
- 50.** Due to the fact that Dr. Stein is the U.S. Presidential candidate for the Green Party, and because she meets all U.S. Constitutional requirements to take the office of President, and given the fact that she is on a sufficient number of state ballots in the upcoming election, and that those states can provide her with enough Electoral College votes to win the Presidency, her due process rights rise to the level of a legitimate claim to entitlement.
- 51.** As such, defendants, jointly and severally, violated Dr. Stein's due process rights by denying her entry, or otherwise not "inviting" her to participate in the Presidential debate at issue ostensibly based on an alleged failure to meet what are clearly arbitrary, capricious, vague, and subjective participation criteria regarding

“polling data”, “support”, and other such unreliable, subjective, manipulable and untrustworthy indicators. Such criteria should be considered and ruled void *ab initio*.

- 52.** Further, defendants, jointly and severally, violated Dr. Stein’s 14th Amendment **procedural due process rights** prior to depriving her of her property interest in the Presidency. Jointly and severally, defendants intentionally, purposefully and with premeditation deprived Dr. Stein of her Constitutional “notice and opportunity to be heard” regarding participation in establishing criteria for Presidential debate participation.
- 53.** Further, defendants concomitantly violated Dr. Stein’s due process rights pursuant to Article I, Section 9, of the Florida Constitution, and her liberty interest applicable to the State of Florida by and through the due process clause of the 14th Amendment.
- 54.** As a direct and proximate result of defendants’ joint and several violations of Dr. Stein’s due process rights and protections, she has suffered and will continue to suffer immediate loss and irreparable injury and harm. Such loss, injury and harm will result to Dr. Stein before the adverse parties can be heard in opposition if the Court does not enjoin the Presidential debate scheduled for Monday, October 22, 2012, at 9:00pm.
- 55.** Plaintiff has no adequate remedy at law for these Constitutional violations. No amount of money could adequately compensate Plaintiff for the irreparable harm of not being able to participate in what is scheduled to be the last Presidential debate before the general election. Any such quantum would be unascertainable.

56. Further, the public interest would be greatly served by the debate being postponed until such time as it would include Dr. Stein and any other candidate who participated in it pursuant to fair, equitable, and constitutional admission criteria.

COUNT TWO

DENIAL OF EQUAL PROTECTION UNDER THE FLORIDA AND FEDERAL CONSTITUTIONS

57. Plaintiff re-alleges and hereby incorporate by reference paragraphs 1-46 above as if fully set out herein.

58. All defendants in this matter have acted and continue to act under color of state law under the facts of this case.

59. The facts of the instant case are abundantly clear that at all times relevant to this case, and to date, Plaintiff was and is being treated by defendants, jointly and severally, with obvious, intentional and premeditated inequality when compared to the Presidential candidates from the Republican and Democratic parties.

60. There is no rational basis to support this disparate treatment of a viable Presidential candidate. There is absolutely nothing rationally related to a legitimate government interest in so doing. Quite the contrary, in fact.

61. Dr. Stein has as much of a “mathematical chance” of winning the Electoral College at this time as President Obama and Governor Romney, yet she is denied the same rights and enormous opportunities showered upon them because of, *inter alia*, their party affiliations as the two “major parties.”

62. **Nothing** about this case has been fair and equal and nor will it ever be if the Court fails to enjoin the future actions of all defendants effective immediately. The election laws relevant to this case, starting with the private, exclusive and

conspiratorially created Debate Commission in the first instance, up to and including the intentional and willful exclusion of Dr. Stein from tonight's debate based on self-serving, subjective "polling" criteria³ purported to pass as a barometer of a candidate's viability to win the Presidency and allegedly secure that candidate an "invitation" to the debate, is severely discriminatory against other than those belonging to the "club" of Republicans and Democrats.

63. It is elementary that a candidate could, and usually does, rise in the polls once they have had substantial national exposure. That is precisely why and how defendants keep the polling numbers out of reach of other political parties and candidates. The Commission's condescension in its Candidate Selection Criteria which, in no uncertain terms, tells minority candidates that there are many other fora where they can go to get their message out, is indicative of its absolute intention to keep the "riff-raff" off the national political stage.

64. The defendants in this cause made a conscious and deliberate choice to conduct the third and last Presidential debate in the State of Florida. As such, they have subjected themselves to the laws and jurisdiction of the State of Florida. Specifically, in conducting the debate as currently planned in Florida, the defendants will violate the Equal Protection Clause of the Florida Constitution which specifically mandates, *inter alia*, that "**All natural persons, female and**

³ In that regard, the subjective polling criteria which the Debate Commission is ostensibly using as an excuse to deny Dr. Stein her "invitation" to the last Presidential debate is a sham in theory and practice. Libertarian candidate Gary Johnson presented polling results which could arguably have been accepted by the Commission, securing him an invitation to the last debate. After sending the Commission several demand letters advising that Mr. Johnson met all of the Commission's debate invitation criteria, the Commission responded by denying Mr. Johnson his "invitation" to debate and otherwise advising him that "his claims are without merit." [See Attachment F]

male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness, and to be rewarded for industry.

- 65.** Dr. Stein is entitled to the same protection under the U.S. Constitution and can plead it here pursuant to 42 USC Sec. 1983.
- 66.** Dr. Jill Stein is not only equal under the law to the two “major party” candidates, she is better, because she became a viable contender for the Presidency while being discriminated against by the defendants at every turn. However, she now needs this Court to enforce her rights at this critical juncture by enjoining tonight’s debate until such time as it can be conducted fairly, equitably and legally so that the people of America can have the opportunity to see and hear what and whom they have been missing due to the unlawful acts of the defendants.

COUNT III

DENIAL OF FREEDOM OF SPEECH

- 67.** Plaintiff re-alleges and hereby incorporate by reference paragraphs 1-46 above as if fully set out herein.
- 68.** All defendants in this matter have acted and continue to act under color of state law under the facts of this case.
- 69.** The Florida and US Constitutions guarantee Dr. Stein freedom of speech, freedom of association, and the right to redress the grievances of her government. There is nowhere more appropriate than a Presidential debate for a declared Presidential candidate to express her views on political matters before millions of potential and likely voters just weeks before the general election.
- 70.** The joint and several actions of the defendants in this matter, in intentionally and purposefully excluding her from prior debates and tonight’s debate have imposed

a complete prior restraint on Dr. Stein's freedom of speech, freedom of assembly and the right to redress grievances against her government.

71. In conjunction with her equal protection claims, Dr. Stein is entitled under the Constitutions of Florida and the United States to exercise her freedom of speech in her individual capacity and especially in her capacity as an equal contender to the Presidency of the United States. Her rights to do so must be equal to those of President Obama and Governor Romney and any other candidate who is a viable contender for the Presidency under legal and constitutional criteria.

72. Until such time as that equality can be implemented, the Presidential debate scheduled for October 22, 2012, must be postponed.

73. There is no nexus between the participation of Dr. Stein in this debate and the cause of any legitimate harm caused by her participation in it, nor is there any legitimate governmental interest advanced by the denial of her participation.

There is absolutely no reasonable basis to exclude Dr. Stein from tonight's debate

PRAYER FOR RELIEF

Article I, Section 1, of the Florida Constitution specifically mandates that "All political power is inherent in the people." The people of the State of Florida and the people of the United States are entitled to know who they want working for them. The Presidential debates are, in essence, job interviews, and Dr. Stein has filled out her application with the American people and made the last round of interviews. Her contenders, however, by and through the defendants in this cause, have jointly and severally taken every possible step to exclude Dr. Stein and other qualified job applicants

from meaningfully competing for the job. The problem is they have done so in violation of the very Constitution they have sworn to uphold and that cannot and must not stand.

Dr. Stein respectfully asks this Court to stop the irreparable harm which she will suffer if the Presidential debate is allowed to proceed as scheduled tonight. There is no other adequate remedy at law. Dr. Stein prays that this Court enjoin tonight's debate until such time as all defendants can conduct it lawfully, constitutionally, fairly, equitably, and in compliance with all Voting Act rules and regulations.

Dated this 22nd day of October, 2012

Respectfully submitted:

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Counsel's Certification

Regarding Plaintiff's motion for injunctive relief, undersigned counsel hereby certifies that no notice of this petition for injunction has been given and no notice should be required to be given due to the great immediacy of the loss, injury and damage to Dr. Stein if time is taken or required to formally notice the adverse parties.

Kathleen D Kirwin, Esq.