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January 10, 2024

VIA EMAIL & COURIER

Tamara Rueda, Clerk
Kennebec County Superior Court
Capital Judicial Center
1 Court Street, Suite 101
Augusta, ME 04330

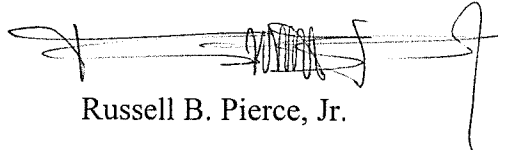
RE: Donald J. Trump v. Shenna Bellows, et al
Civil Action, Docket No. AP-24-01
Our File No (506481)

Dear Tamara:

Enclosed please find the Brief of Amicus Curiae Free Speech for People in Support of Respondent Shenna Bellows, Secretary of State, State of Maine, which I am submitting for filing and consideration in connection with the above-referenced matter.

Thank you for your assistance in this regard. If you should have any questions or concerns, please do not hesitate to contact us.

Very truly yours,



Russell B. Pierce, Jr.

RBP/bee

Enclosure

cc: Bruce W. Hepler, Esq. *(via email)*
Scott Gessler, Esq. *(via email)*
Gary Lawkowski, Esq. *(via email)*
Ronald Coleman, Esq. *(via email)*
Jason Anton, AAG *(via email)*
Benjamin Gaines, Esq. *(via email)*
Patrick Strawbridge, Esq. *(via email)*

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

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) **BRIEF OF AMICUS CURIAE**
) **FREE SPEECH FOR PEOPLE**
) **IN SUPPORT OF RESPONDENT**
) **SHENNA BELLOWS,**
) **SECRETARY OF STATE,**
) **STATE OF MAINE**

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**THE FIRST AMENDMENT DOES NOT SHIELD DONALD TRUMP FROM
DISQUALIFICATION UNDER SECTION 3 OF THE FOURTEENTH AMENDMENT**

[illegible]

officials to take oaths to protect the Constitution. *See* U.S. Const. art. VI. First Amendment “compelled speech” analysis, which protects private citizens from compelled oaths, does not apply to legislators who refuse to take their oath—the more specific provision controls. *Bond v. Floyd*, 385 U.S. 116, 132 (1966) (“A legislator of course can be required to swear to support the Constitution of the United States as a condition of holding office [O]ath provisions of the United States and Georgia Constitutions do not violate the First Amendment.”). Likewise, the First Amendment does not override Section 3 just because an insurrectionist uses words.

2. “Engage” includes speech that assists the insurrection. Reconstruction-era courts defined “engage” under Section 3 as any voluntary action to assist the insurrection. *See United States v. Powell*, 27 F. Cas. 605, 607 (C.C.D.N.C. 1871) (defining “engage” as “a voluntary effort to assist the Insurrection”); *Worthy v. Barrett*, 63 N.C. 199, 203 (1869) (defining “engage” as “[v]oluntarily aiding the rebellion, by personal service, or by contributions, other than charitable, of any thing that was useful or necessary”), *appeal dismissed*, 76 U.S. 611 (1869); *The Reconstruction Acts (I)*, 12 U.S. Op. Atty. Gen. 141, 161-62 (1867) (“any overt act for the purpose of promoting the rebellion”). This includes incitement. *See The Reconstruction Acts (II)*, 12 Op. Att’y. Gen. 182, 205 (1867) (“when a person has, by speech or by writing, incited others to engage in rebellion, he must come under the disqualification”); *see also In re Charge to Grand Jury*, 62 F. 828, 830 (N.D. Ill. 1894) (“every person who knowingly incites, aids, or abets [insurgents], no matter what his motives may be, is likewise an insurgent”).

Further, “marching orders or instructions to capture a particular objective, or to disrupt or obstruct a particular government proceeding, would appear to constitute ‘engagement’ under the *Worthy-Powell* standard.” *Rowan v. Greene*, No. 2222582-OSAH-SECSTATE-CE-57-Beaudrot (Ga. Off. of State Admin. Hg’s, May 6, 2022), at 14, <http://bit.ly/MTGOSAH>. That describes

Trump's Ellipse speech. His supporters understood their orders perfectly: they *marched* to the Capitol, *captured* it, *obstructed* Congress, and *disrupted* the congressional electoral count.

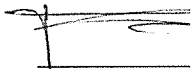
3. Trump's engagement was not just speech. While the Secretary's analysis focused on incitement, the record includes conduct, including planning and spending. *See Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490, 502 (1949) (First Amendment does not protect criminal plans or conspiracy). Trump *directed* the fraudulent electors scheme, a key part of January 6 plans. R1194-1224; *Eastman v. Thompson*, 594 F. Supp. 3d 1156, 1193 (C.D. Cal. 2022) (finding it "more likely than not that President Trump corruptly attempted to obstruct the Joint Session of Congress"). He personally helped *plan* a critical mustering event: the "wild" Ellipse Demonstration. R1386-89. His political committees *paid* \$3.5 million to the demonstration's organizers. Anna Massoglia, *Trump's political operation paid more than \$3.5 million to Jan. 6 organizers*, Open Secrets (Feb. 10, 2021), <https://bit.ly/OS21021>; *see The Reconstruction Acts (II)*, 12 U.S. Op. Atty. Gen. at 205 ("voluntary contributions to the rebel cause, even such indirect contributions as arise from the voluntary loan of money to rebel authorities, . . . will work disqualification"). He *planned* a march on the Capitol to force Congress to stop electoral vote certification. R1386; *see Rowan, supra*, at 14 ("marching orders or instructions to capture a particular objective, or to disrupt or obstruct a particular government proceeding"). He *ordered* officials to remove magnetometers that prevented armed people from joining the assembly, precisely so they could bring weapons to the Capitol. R1438. He *directed* officials to take him to the Capitol with the armed crowd; when they refused, he *attempted to go* anyway. R1440.

4. The National Republican Amici's single-spaced parade of horrors is an irrelevant distraction. On January 6, 2021, a violent mob acting on Trump's behalf and at his direction attacked the U.S. Capitol, defeated law enforcement, conquered the seat of our national

government, nearly a
Congress, and disrupt
even the Confederac
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challenges. The fact
that hypothetical friv

Respectfully

Counsel for I



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