

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

RICK HOMANS,

Plaintiff,

v.

Docket No. 01-2271

THE CITY OF ALBUQUERQUE,
a municipal corporation, and
MARGIE BACA ARCHULETA,
in her capacity as Clerk of the City of
Albuquerque,

Defendants.

**AMICUS BRIEF OF THE STATES OF COLORADO AND NEW MEXICO
IN OPPOSITION TO EMERGENCY RELIEF REQUESTED BY
PLAINTIFF**

This amicus brief is submitted by the States of Colorado and New Mexico (referred to as the “states” below). The states’ interest in this case is to create electoral systems and campaign financing rules that serve two broad purposes. First, electoral systems must allow democratic government to function properly at all levels. Second, the states desire to protect the free speech and other rights of individuals who run for office and support those who run for office.

The states submit this brief pursuant to Rule 29(a) of the Federal Rules of Appellate Procedure, and without consent of the parties or leave of court.

ARGUMENT

Due to the understandably short briefing schedule in this case, the states have not had adequate time to assemble a traditional amicus brief for submission to the court. They also have not had time to seek support for this brief from other states, as ordinarily they would do. Nevertheless, Colorado and New Mexico have very strong interest in the proper and lawful regulation of campaign financing and spending, the issue at the heart of this case.

The states support the position of the City of Albuquerque, and the constitutionality of the campaign expenditure limitation contained in the city charter. This support is tied directly to the circumstances before the Court in this case.

On the one hand, a candidate's ability to speak freely in an election contest, and a candidate's ability to campaign effectively, are core values jealously protected by the states. On the other hand, the states also fiercely protect the assemblage of values that comprise the "integrity" of the election. These include the avoidance of actual corruption of officials as well as the appearance of corruption. They also include the broader connections between voters and their government, including citizen confidence that elected officials in practice consider and represent their interests, that the vote of an individual actually matters in the

election, and that the elected official will undertake the work of government rather than perpetual fundraising.

The City of Albuquerque has presented very substantial factual evidence in this case. That evidence convinces Colorado and New Mexico, in this specific and documented factual context, that the set of election integrity interests presented far outweighs the set of freedom of speech and campaigning interests raised when considering the constitutionality of the campaign expenditure cap for the city's mayoral election.

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