

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

JOHN ANTHONY CASTRO)
12 Park Place, Mansfield, TX 76063)
)
Plaintiff,)
)
v.)
)
SECRETARY OF STATE ANDREW)
WARNER and DONALD JOHN TRUMP,)
)
Defendants.)

Case No. 2:23-cv-00598
The Honorable Irene C. Burger

**REPLY TO
THIRD-PARTY PLAINTIFF WVGOP’S RESPONSE TO
THIRD-PARTY DEFENDANT’S MOTION TO DISMISS**

Once again, Third-Party Plaintiff West Virginia Republican Party (“WVGOP”) exhibits their gross lack of understanding of the Federal Rules of Civil Procedure.

In simple elementary laymen terms, WVGOP is now a third-party plaintiff suing the original plaintiff but, for purposes of this motion, the third-party defendant, John Anthony Castro. Pursuant to Fed. R. Civ. P. 12(b), a defendant can assert defenses by simply motioning for them, which is precisely what Third-Party Defendant John Anthony Castro has done.

WVGOP seems confused by this; expecting Third-Party Defendant John Anthony Castro to fully brief the matter for them. No, WVGOP needs to brief and prove how the Court has jurisdiction to apply the First Amendment to a non-state actor like John Anthony Castro.

A motion to dismiss for insufficient process is self-explanatory; however, as WVGOP has exhibited a severe degree of intellectual deficiency, Third-Party Defendant John Anthony Castro understands their confusion. Insufficient process means you never served a summons, WVGOP.

Where is the summons? Third-Party Defendant John Anthony Castro trusts that this is layman enough for WVGOP to understand.

A motion to dismiss for insufficient service of process is also self-explanatory. Insufficient service of process means you never served the summons, WVGOP. Where is the proof of service? Third-Party Defendant John Anthony Castro trusts that is layman enough for WVGOP to understand.

A motion to dismiss for failure to state a claim is also self-explanatory. It means you haven't stated a claim that the Court can grant relief for. A "private entity is not ordinarily constrained by the First Amendment because the private entity is not a state actor." *Manhattan Cmty. Access Corp. v. Halleck*, 139 S. Ct. 1921, 1930 (2019). As licensed attorneys, counsel for WVGOP knows better.

Again, Third-Party Defendant John Anthony Castro does not have the burden of proof. The defenses were timely and properly asserted pursuant to Fed. R. Civ. P. 12(b). Third-Party Defendant John Anthony Castro does not bear the burden of proof. Third-Party Defendant John Anthony Castro is not required to do the briefing and legal work for WVGOP.

Moreover, this Court has an independent obligation to ensure it does not continue with a matter it does not have jurisdiction to entertain. If the Court fails to do so, there will be judicial consequences that John Anthony Castro will ensure are enforced against the Court.

WVGOP has the burden to prove this Court has jurisdiction, that process was issued, that process was served, and that they stated a claim upon which relief can be granted. They have failed to carry that burden. As such, their Complaint must be dismissed as a matter of established law.

REQUESTED RELIEF

Third-Party Defendant John Anthony Castro demands this Court dismiss the frivolous third-party complaint filed by WVGOP.

Moreover, Third-Party Defendant John Anthony Castro demands that, per Fed. R. Civ. P. 11(c)(3), this Court *sua sponte* impose sanctions on WVGOP in the amount of \$500,000 to prevent further dilatory filings.

John Anthony Castro will not relent. Defendant Donald John Trump will be held accountable for the January 6th attack on the United States Capitol so help me God.

Respectfully submitted,

Dated: October 25, 2023.

By: /s/ John Anthony Castro

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Plaintiff *Pro Se*

VERIFICATION

Pursuant to 28 U.S.C. § 1746, I, John Anthony Castro, verify, under criminal penalty of perjury, that the entirety of the foregoing document, including any and all accompanying exhibits, are unequivocally true and correct.

Executed on October 25, 2023.

/s/ John Anthony Castro
John Anthony Castro

CERTIFICATE OF SERVICE

On October 25, 2023, I submitted the foregoing document with the Clerk of this Court either by mail, email, or CM/ECF. It is further certified that all other parties will be served via CM/ECF if they are registered users, and, if they are not registered users or have not yet filed a notice of appearance, they will be served by U.S. postal mail.

/s/ John Anthony Castro
John Anthony Castro