IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 03-cv-2453-ZLW-CBS

KEITH LANCE,
CARL MILLER,
RENEE NELSON,
NANCY O'CONNOR,

Plaintiffs,

v.

DONETTA DAVIDSON, SECRETARY OF STATE FOR
THE STATE OF COLORADO, in her Official Capacity only,

Defendant.

ORDER DISMISSING CERTAIN CLAIM

On June 20, 2005, this matter came before a three-judge panel, Judges David M. Ebel, John C. Porfilio, and Zita L. Weinshienk, for a hearing on Defendant Donetta Davidson's Motion To Dismiss. The Court heard the arguments and statements of counsel, and made oral conclusions of law which are incorporated herein by reference as if fully set forth. Accordingly, it is

ORDERED that Defendant Donetta Davidson's Motion To Dismiss is granted in part and denied in part. It is

FURTHER ORDERED that the motion is granted as to Plaintiffs' First Claim for Relief based upon the Elections Clause, and the First Claim is dismissed with prejudice. It is

FURTHER ORDERED that the motion is denied as to Plaintiffs' Second Claim for Relief based on an individual right to petition claim under the First and Fourteenth Amendments insofar as the motion is limited to the issues of *Rooker-Feldman* and issue preclusion. It is

FURTHER ORDERED that an opinion supporting the above rulings will be provided by the Court in due course. It is

FURTHER ORDERED that the Court accepts Defendant's oral motion under Fed. R. Civ. P. 12(b)(6) to dismiss the Second Claim as a matter of law. It is

FURTHER ORDERED that, on or before July 11, 2005, the parties shall file simultaneous briefs, not to exceed 15 pages, on Defendant's oral motion to dismiss.

Dated at Denver, Colorado, this 21st day of June, 2005.

BY THE COURT:

s/Zita L. Weinshienk
_____
ZITA L. WEINSHIENK, Senior Judge
United States District Court

DAVID M. EBEL, Judge
United States Court of Appeals
for the Tenth Circuit

JOHN C. PORFILIO, Senior Judge
United States Court of Appeals
for the Tenth Circuit