

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

JOHN CANEGATA, in his capacity as State)
Chairman of the Republican Party of the)
United States Virgin Islands, and ROBERT)
MAX SCHANFARBER, in his capacity as)
Secretary of the Republican Party of the)
United States Virgin Islands, BOTH ACTIN)
ON BEHALF OF THE REPUBLICAN)
PARTY OF THE UNITED STATES VIRGIN)
ISLANDS,)

Plaintiff,)

v.)

HERBERT SCHOENBAUM; HOLLAND)
REDFIELD; JAMES OLIVER; FRED)
VIALET, JR.; LEIGH F. GOLDMAN; and)
WARREN B. COLE,)

Defendants.)

SX-16-CV-324

ACTION FOR INJUNCTIVE
RELIEF; TEMPORARY
RESTRAINING ORDER;
PRELIMINARY
INJUNCTION; PERMANENT
INJUNCTION

OPPOSITION TO EMERGENCY MOTION

Defendant Warren B. Cole, by counsel, opposes Plaintiffs' "emergency motion" on the following bases:

1. Plaintiffs offer no evidence whatsoever that the logo or symbol (a leftward facing elephant with five stars is a registered "symbol, emblem, or insignia" owned by the Republican National Committee. Plaintiffs have the burden of proof on this issue and they have offered none. A 'google search' is not evidence of anything. In point of fact, the image does not belong to the Republican Party.
2. The statute under which Plaintiffs complain, 18 V.I.C. § 301(c) does not forbid Defendants from asserting that they are in fact the Territorial Committee of the Republican Party of the U.S. Virgin Islands. The statute speaks only to the use of a "symbol, emblem, or insignia." It says nothing of the use of words.

3. Plaintiffs contend that Defendants cannot claim to represent the legitimate Territorial Committee of the Republican Party of the U.S. Virgin Islands and appear to be asking for some sort of relief on this issue. It is enough to note that this Court cannot forbid speech in the first instance. Such an action would constitute an unconstitutional prior restraint. See, e.g., *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963) (“Any system of **prior** restraints of expression comes to this Court bearing a heavy presumption against its constitutional validity. See *Near v. Minnesota*, 283 U. S. 697; *Lovell v. Griffin*, 303 U. S. 444, 451; *Schneider v. State*, 308 U. S. 147, 164; *Cantwell v. Connecticut*, 310 U. S. 296, 306”; *Niemotko v. Maryland*, 340 U. S. 268, 273; *Kunz v. New York*, 340 U. S. 290, 293; *Staub v. Baxley*, 355 U. S. 313, 321).

Plainiffs are not trying to vindicate any statutory rights. They are merely trying to harass legitimate political opponents. The “emergency motion” should be denied. A motion to dismiss the Complaint is anticipated to be filed tomorrow.

HUNTER & COLE
Attorneys for Warren B. Cole

DATED: May 24, 2016

By: 

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Canegata v. Schoenbohm
Superior Court No. SX-16-CV-324
Opposition to Emergency Motion
Page 3 of 3

CERTIFICATE OF SERVICE

It is hereby certified that on 24th day of May, 2016, the foregoing was served on the following by first class mail:

Mark W. Eckard, Esq.
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