



Written by [Joe Wolverton, II, J.D.](#) on June 18, 2012

## Delegates Committed to Ron Paul File Federal Lawsuit Against RNC Seeking Right to Vote Their Conscience

In [a message to supporters posted Friday on YouTube](#) by Ron Paul, the constitutionally consistent candidate gave some marching orders to the legion of liberty-minded backers concerned about the future of the movement.



Telling viewers that he has come with “a lot of good news,” the Texas Congressman announced a roster of goals for all the delegates and alternates elected to represent him at the Republican National Convention in Tampa in August.

First, delegates should work to “influence the platform.” Next, they should “fight for our values,” and finally, “do whatever they can to promote the cause of liberty.”

Running about eight minutes, Dr. Paul’s message does not sound like an attempt to either compromise or concede. He sounds confident that the fight for liberty and limited government will continue and is growing stronger every day.

As for those who argue that the fight is over and that the leader didn’t manage to win even a single state primary, the candidate responds that “not winning every single battle is irrelevant if you can win the war and the real war is the war of ideas.”

On that note, Dr. Paul presented several of the ideas promoted by “the opposition” (a group he does not specifically identify) that have failed and have led to the problems, economic and otherwise, plaguing the United States. He specifically blames the failures of Keynesian economics, central banks, fiat money, and authoritarianism for our current state of affairs.

Sensing that delegates devoted to the cause of liberty might “really have an impact,” Dr. Paul asks that his retinue not be disruptive, but insists that they should not permit themselves to be “pushed around.”

“At the convention, I think the rules should be followed on our side and on their side,” Paul posited.

It’s the fate of these Paul delegates and how the Republican National Committee (RNC) rules will be applied to them once the gavel sounds in Tampa that is at the heart of a lawsuit filed June 11 in a California federal court by a group of lawyers loyal to Ron Paul and determined to see his contingency treated fairly by the RNC.

In what has been described as “revolt against Romney,” the law firm of Gilbert & Marlowe in Santa Ana, California [filed a complaint in the U.S. District Court](#) for the Central District of California asking the court to decide:

whether Plaintiffs are free to vote their conscience on the first and all ballots at the Federal Election known as the Republican National Convention or whether Plaintiffs are bound to vote for a particular candidate as instructed by Defendants’ State Party Bylaws, or State Laws, or the



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preference of political operatives.

Named as defendants in the lawsuit are the chairmen of every state's Republican Party, as well as the state party itself.

In all, a total of over 143 delegates (presumably national delegates, otherwise the federal court would have no jurisdiction) have joined or have asked to join as co-plaintiffs in the suit.

Among other complaints, the lawsuit alleges that the RNC violated its own rules and applicable federal voting statutes by:

Certifying "unlawful slates of Delegates that were not elected in accordance with the US Statutes and US Supreme Court Decisions cited, nor in accordance with the proper Bylaws of Defendants;"

Engaging "in a scheme to intimidate and harass Delegates who were supporting a Candidate that Defendants did not approve of;"

Forcing delegates to "sign affidavits under penalty of perjury with the threat of criminal prosecution for perjury as well as financial penalties and fines if the Delegate fails to vote as instructed by Defendants rather than vote the Delegate's conscience as mandated by the US Statutes and US Supreme Court;"

Denying "a quorum or to manipulate Delegates supporting a particular Candidate to be deprived of a fair election as a Delegate;"

Using "threats of violence including dressing security type people in dark clothing searching out supporters of a Candidate Defendants do not approve of to harass and intimidate said Delegates from voting their conscience;"

Unlawfully using "State Bylaws and in some cases State Laws to harass and intimidate Delegates from voting their conscience;" and

Altering "the voting ballot results to fraudulently reflect an outcome that is inconsistent with the actual voting ballot results for the purpose of certifying a fraudulently selected slate of Delegates to support the Candidate of Defendants choice rather than the Delegates properly elected."

If the court does not issue an immediate injunction blocking these actions, the plaintiffs argue, they will suffer irreparable harm.

In [an interview with Courthouse News](#), the plaintiffs' lead attorney Richard Gilbert explained his clients' motivation:

When nominating someone for a federal office, all delegates must be free to vote their conscience. They don't want to be bound to any candidate, or even be forced to vote for the nominee. To have a real convention, the delegates must have free will so that when they meet, they can persuade each other and then decide who to vote for.

This notion of "binding" delegates to vote for one candidate despite the dictates of their conscience is one of the many bones of contention being fought over by those loyal to Ron Paul and those who accept Mitt Romney as the "presumptive nominee."

The RNC argues that the winner of the popular vote (Mitt Romney in most cases) should also receive at least a corresponding percentage of that state's delegates elected at the state conventions, while the plaintiffs in this lawsuit (and the Paul campaign itself) insist that delegates are empowered by RNC



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Rule 38 to vote their consciences and cannot be forced to vote for the winner of the state primaries.

Evidence of the RNC's interpretation of its own rule was presented in 2008 when a delegate from Utah refused to vote for John McCain, the winner of the Utah popular vote. The delegate wanted to cast a vote for Mitt Romney. When the matter was referred to the RNC's general counsel, the response is illuminating and likely relevant to the present Ron Paul controversy. The RNC attorney wrote:

[The] RNC does not recognize a state's binding of national delegates, but considers each delegate a free agent who can vote for whoever they choose. The national convention allows delegates to vote for the individual of their choice, regardless of whether the person's name is officially placed into nomination or not.

That is about as clear and definitive a restatement of the RNC position as can be expected.

For his part, Gilbert doesn't have much faith in the Republican Party's fidelity to its own rulebook.

In an interview, Gilbert reportedly said that GOP chairmen and organizers will change the rules immediately before a convention "and sometimes in the middle of one" to block the existence of a quorum or to "rig an outcome."

This sort of parliamentary perfidy isn't the only rigging of which Gilbert is accusing the GOP. Gilbert alleges that Republican Party leaders around the country are "rigging elections and committing voting fraud." In the *Courthouse News* interview he claimed to have more than "100 signed affidavits from delegates to support these allegations."

"Some campaigns act like organized crime syndicates — and I mean organized crime, no doubt about it," Gilbert said. "In Arizona, the voting machines were rigged so that Ron Paul votes were counted as Mitt Romney votes. It was so intentional that a Romney delegate refused to certify the vote count, and for that he got thrown off the convention," he added.

Regardless of the morality behind the delegates-cum-plaintiffs arguments, there is more than one legal hurdle to be cleared before a judge can issue a ruling on their request for an injunction.

First, there is the question of whether a state nominating convention qualifies as a "federal" election for purposes of applying federal election and voting laws. As a rule, courts are reluctant to meddle in the governance of the two major political parties.

Second, there is the problem of standing. Before the challenge could proceed, the court would have to determine that all of the named plaintiffs are indeed delegates to the national convention ([some doubt about this has been expressed](#)) and that they would personally suffer irreparable harm should the RNC be permitted to carry on with the nominating process as planned.

In the meantime, Gilbert drives on, undaunted: "If the judge rules in our favor, I won't be surprised if three or four new candidates, say Sarah Palin, jump in and say they want to be considered," [Gilbert told Courthouse News](#). "It will be the most interesting national convention in my lifetime if the judge rules for us on this."

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