



Written by [Raven Clabough](#) on September 24, 2012

Gary Johnson Sues for Participation in Pres. Debates

Libertarian presidential candidate Gary Johnson has filed [suit](#) in an effort to be permitted to engage in the presidential debates set to take place between President Obama and GOP presidential nominee Mitt Romney. Johnson has filed an [anti-trust lawsuit](#) in federal court, asserting that the two major parties are conspiring to ostracize third party candidates from the debates as well as the Oval Office.



Raw Story reports, “In the suit, Johnson’s attorneys argue that the rules of the televised debates, which are set by the major parties, are deliberately structured to bar third party candidates and squash their candidacies. The suit asks that the U.S. District Court in Washington, D.C., therefore impose a temporary restraining order blocking the debates until all ‘constitutionally eligible’ candidates be allowed to participate.”

According to the presidential debate rules, for a candidate to participate in the debates, they must be constitutionally eligible, have achieved ballot access in enough states to stand a chance to win a majority of the Electoral College in the general election, and received at least 15 percent of the national electorate as determined by five polling organizations selected by the Commission on Presidential Debates. Such obstacles are virtually insurmountable for a candidate like a Gary Johnson who is often not even listed in major polls as an option.

“The view that presidential debates are critical to the outcome of the election is now universally held,” reads the suit. “From that premise, it follows that the participation by a candidate in the nationally-televised debates is equally critical to his or her candidacy.”

The lawsuit contends that since the presidential and vice presidential positions are paid salaries, pursuit for the White House can be deemed as commerce and therefore regulated under the Sherman AntiTrust Act.

The relevant portion of the 1890 Sherman AntiTrust Act, which prohibits business activities that reduce competition and requires the government to investigate trusts, reads:

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

In agreeing to these rules to exclude the plaintiff from participating in the debates, the defendants are conspiring and contracting to restrain the plaintiffs from participating in the electoral process.

Likewise, the Johnson camp contends that the Libertarian Party ticket will be on the November ballot in 47 states, which is enough to conceive of a 270 Electoral College vote victory for the Libertarian Party in the presidential election.



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Johnson's case has been assigned to Judge Philip S. Gutierrez, a George W. Bush appointee, who has heard only one other case involved a minor party.

This is not the first time throughout this election that Johnson has been barred from a debate. In fact, he has been excluded from almost every Republican primary debate this year. Organizers behind the debates claimed that Johnson did not have enough support in the polls to warrant his inclusion in the debates. In the end, Johnson decided not to pursue the GOP nomination and instead opt for a third party nomination.

Whether Johnson will have any success in his lawsuit remains to be seen, though recent historical precedent says no. In 2000, both Ralph Nader and Pat Buchanan filed suit against the Commission on Presidential Debates asking to be included in the debates, but failed.

The Commission on Presidential Debates was formed in 1987 to replace the League of Women Voters, and opponents of the CPD argue that it ultimately fosters the two-party system because board members of the CPD are primarily leaders within the Democratic and Republican parties.

According to George Farah in his book *No Debate: How the Republican and Democratic Parties Secretly Control the Presidential Debates*, the CPD took over the debate process in order to provide unlimited power to the two-party system. Farah wrote that the current debate system was manufactured so to stifle third-party candidates.

But previous failures have not deterred the Johnson campaign from pursuing what they believe is right.

"There is nothing remotely surprising in the fact that a private organization created by and run by the Republican and Democratic Parties has only invited the Republican and Democratic candidates to their debates. It is a bit more disturbing that the national news media has chosen to play the two-party game, when a full one-third of the American people do not necessarily identify with either of those two parties..." said Johnson advisor Ron Nielson.

"Someone has to stand up and call this what it is — a rigged system designed entirely to protect and perpetuate the two-party duopoly," Nielson continued, "That someone will be the Johnson campaign."

And according to [US News](#), a court failure for Johnson may not necessarily hurt his chances of having an impact on the national election:

Even if his lawsuit fails, it could help Johnson gain publicity and maximize his potential on Election Day. Johnson favors deep cuts in federal spending and power, along with withdrawal of U.S. troops from abroad, including Afghanistan. If he can boost his support in a handful of battleground states, he could have an impact on the race by taking votes from the major-party nominees, especially Romney, who is also trying to appeal to less-government conservatives.

If Johnson's suit is successful, this year's presidential debates will either have to include Johnson, as well as Green Party candidate Jill Stein of Boston, Massachusetts and Pennsylvania anti-poverty candidate Cheri Honkala, or be cancelled.

The last third party candidate to share the stage with the Republican and Democratic presidential nominees was Ross Perot in 1992, who garnered a significant 18.9 percent of the popular vote on Election Day.

Photo: Gary Johnson, the Libertarian Party candidate for president, addresses an audience of students and the public at Macalester College, Sept. 21, 2012 in St. Paul, Minn.: AP Images



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