

1 PEACE & SHEA, LLP
2 S. Chad Peace (State Bar No. 290274)
2700 Adams Avenue, Suite 204
3 San Diego, CA 92116
Tel: 619-255-4461
Fax: 619-255-4462

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

NOV 19 2019

4 BRIGGS LAW CORPORATION [file: 1351.03]
5 Cory J. Briggs (State Bar no. 176284)
Anthony N. Kim (State Bar no. 283353)
6 99 East "C" Street, Suite 111
Upland, CA 91786
7 Tel: 909-949-7115
Fax: 909-949-7121

BY 
CHRISTIAN HERNANDEZ, DEPUTY

8 Attorneys for Plaintiffs and Petitioners JIM BOYDSTON,
STEVEN FRAKER; DANIEL HOWLE, JOSEPHINE PIARULLI,
9 JEFF MARSTON, AND INDEPENDENT VOTER PROJECT

10 [Additional counsel on signature page]

11 **SUPERIOR COURT OF CALIFORNIA**
12 **COUNTY OF SAN BERNARDINO**

13 JIM BOYDSTON; STEVEN FRAKER;
14 DANIEL HOWLE; JOSEPHINE PIARULLI;
15 JEFF MARSTON; LINDSAY VUREK; and
INDEPENDENT VOTER PROJECT, a non-
16 profit corporation,

17 Plaintiffs and Petitioners,

18 v.

19 ALEX PADILLA, in his official capacity as
California Secretary of State; STATE OF
20 CALIFORNIA; and DOES 1 through 1,000,

21 Defendants and Respondents.

Case No: CIVDS1921480

**PLAINTIFFS AND PETITIONERS' REPLY
BRIEF IN SUPPORT OF MOTION FOR
PRELIMINARY INJUNCTION;
DECLARATION OF KAMMI FOOTE**

Action Filed: July 23, 2019
Department: S-32 (Hon. Wilfred J. Schneider, Jr.)

Hearing Date: November 19, 2019
Hearing Time: 8:30 a.m.

22 Plaintiffs and Petitioners Jim Boydston, Steven Fraker, Daniel Howle, Josephine Piarulli, Jeff
23 Marston, Lindsay Vurek, Linda Carpenter Sexauer,¹ and Independent Voter Project ("Petitioners")
24 respectfully submit this reply brief in support of its motion for a preliminary injunction against
25 Defendants and Respondents Alex Padilla and the State of California ("Defendants").

26 ¹ The Parties have stipulated to allow Petitioners to amend their complaint to add Linda Carpenter
27 Sexauer as a plaintiff and petitioner in this case. Petitioners filed the stipulation and proposed order
28 for leave to file first amended complaint with the Court on October 21, 2019 and are presently waiting
for the Court's approval.

1 **I. INTRODUCTION**

2 Throughout their opposition, Defendants attempt to justify the continued violation of the
3 constitutional rights of over 5.6 million qualified voters, registered as no party preference (“NPP”), by
4 conflating the obligations *of the State* with the associational rights of the private political parties, by
5 grossly overstating the difficulty in complying with the Constitution—as if such difficulty is a valid
6 defense for not complying with the Constitution—and by grossly understating the harm they are
7 causing Petitioners and millions of NPP voters.

8 The Court should grant this motion because Defendants have put forth no authority or evidence
9 demonstrating that Petitioners’ requested relief could not or should not be granted.

10 **II. ARGUMENT & ANALYSIS**

11 **A. The Obligations of the State are Separable from the Associational Rights of**
12 **Private Political Parties**

13 Defendants claim that the current scheme does not burden Petitioners’ right of association
14 under the First Amendment because the U.S. Supreme Court has recognized the associational rights
15 of the private political parties. *See* Defendants’ Opposition Brief (“Opp. Br.”), pp. 10:11-11:15, 12:1-
16 13:2.² Defendants go on to defend their unconstitutional primary scheme by arguing that “voters are
17 free to change their party preference up until fifteen days before an election” or submit a conditional
18 ballot “during the fourteen days before the election or even on election day.” Opp. Br., p. 11:17-23.
19 Both of these arguments are completely irrelevant to the issue at hand: whether *the State*, consistent
20 with the First Amendment, can force voters to associate with a private political party in order to
21 exercise their fundamental right to vote in a presidential primary election.

22 Defendants spend considerable time discussing the associational rights of the political parties.
23 *See, e.g.*, Opp. Br., p. 12:1-13:2. However, the existence of the associational rights of the private
24 political parties is inapposite in this case. Those rights, as articulated in *California Democratic Party*
25 *v. Jones*, 530 U.S. 567 (2000) (“*Jones*”), are not contested or at issue here and would not be affected
26 by the relief requested. In fact, the relief requested—providing NPP voters with their own, non-binding

27 ² Citations to pleadings filed in this case are such that “Opp. Br., pp. 10:11-11:15” means line 11
28 of page 10 through line 15 of page 11 of Defendants’ opposition brief.

1 presidential primary ballot—would actually support the ruling in *Jones*, which held that political
2 parties had the First Amendment right to exclude voters from their primaries who were unwilling to
3 demonstrate a minimal commitment to the party. *Jones*, 530 U.S. at 570, 574-575. A political party's
4 interest in requiring voters to register and show "some commitment to the party" in order to participate
5 in the *party's primary* is beside the point. Petitioners do not seek to force the political parties to
6 associate with NPP voters (if they choose not to by party rule) or to change anything about how the
7 parties administer their primary elections or choose their nominees. That process is governed by the
8 private parties' rules. However, the obligations of the State are independent and separable from the
9 private parties' interests and rules. The State is required to administer a free and fair election. Cal.
10 Const., art. II §§ 3 & 4; cf. *Dunn v. Blumstein*, 405 U.S. 330, 336 (1972) ("[A] citizen has a
11 constitutionally protected right to participate in elections on an equal basis with other citizens in the
12 jurisdiction."). Petitioners seek to give all voters, whether registered as a party member or NPP, the
13 constitutionally protected right to *cast a ballot* in a presidential primary election in which they are
14 qualified to participate.

15 Defendants rely on *Clingman* for the proposition that modified-closed primaries are
16 constitutional, but that case is similarly inapposite. There, the U.S. Supreme Court upheld an
17 Oklahoma law that allowed political parties to open their primaries beyond their registered members
18 to voters registered as Independent³ but not to members registered to other political parties. *Clingman*
19 *v. Beaver*, 554 U.S. 581, 584-585 (2005). The Court identified several regulatory interests that were
20 served by such a rule including preserving the political parties, enhancing party-electioneering and
21 party-building, and guarding against party-raiding. *Id.* at 593-594.

22 Contrary to Defendants' characterization, Petitioners request no such access to the qualified
23 political parties' primary elections. Petitioners are not requesting that NPP voters be given the right to
24 participate in a *political party's primary* without registering with that party. *See* Opp. Br., p. 15. What
25 Petitioners are requesting that NPP voters be given their constitutional right to participate in the *public*
26 *primary election process* without being forced to forfeit their constitutional right to not associate with

27 ³ Registering as Independent in Oklahoma is analogous to registering to vote as "no party
28 preference" in California.

1 a private political party. In fact, Petitioners' requested relief advances the regulatory interests
2 articulated in *Clingman*. By providing NPP voters their own ballot, they can exercise their right to
3 vote for a presidential candidate in a primary election without the burden of forced association and
4 without having any effect on the political parties' primaries; the parties are preserved, party-building
5 is more genuine, and party-raiding is averted because NPP voters won't need to infiltrate a party, to
6 which they have little or no commitment, in order to participate in a presidential primary.

7 Moreover, the ease with which a voter could change their party preference is equally irrelevant.
8 Defendants conflate the burden of changing party preference with the burden to associate in the first
9 place. *Opp. Br.*, p. 11:16-26. The courts have said that changing one's party preference is only a
10 minimal burden. *See Clingman*, 544 U.S. at 592. States can place reasonable time, place, and manner
11 restrictions on voting. *See Eu v. San Francisco Cty. Democratic Central Comm.*, 289 U.S. 214, 222
12 (1989). However, states cannot force individuals into associations in violation of the First Amendment.
13 *See id.*; *see also Janus v. American Federation of State, County, and Mun. Employees, Council 31*,
14 138 S. Ct. 2448, 2463-2464 (2018). Petitioners agree that, in California, it is only a minimal burden to
15 change from one party to another. What is constitutionally impermissible is requiring voters to
16 associate with any political party as a pre-condition of participating in the presidential primary
17 election. Inherent in the freedom to associate is the freedom to not associate. *Jones*, 530 U.S. at 574.
18 This right is fundamental, and the State's current presidential primary system unconstitutionally
19 infringes on that right.

20 **B. The Obligations of the State in Administering a Presidential Primary Election**
21 **Remain Unchanged**

22 Defendants argue that Petitioners' requested relief would change or alter the State's obligations
23 with respect to administering primary elections. In particular, Defendants contend that adding
24 presidential candidates to the NPP primary ballot would "impose extraordinary burdens on State and
25 County election officials," that such a ballot would violate Elections Code Section 13102, and that
26 such a ballot would violate the "California Constitution's guarantee that '[a] voter who casts a vote in
27 an election in accordance with the laws of the State shall have that vote counted.'" *Opp. Br.*, p. 20:9-
28

1 11 (citing Cal. Const., art II § 2.5). Each of these contentions is either drastically overstated or just
2 plain incorrect.

3 1. **Petitioners' requested relief would not impose extraordinary burdens on**
4 **election officials**

5 To justify their unconstitutional administration of presidential primary elections, Defendants
6 the detail the process by which an electronic voting system is programmed, vetted, and approved by
7 the State. Opp. Br., p. 17:23-18:17; *see generally* Declaration of Susan Lapsley. Defendants further
8 argue that the timeline for making any changes to that system would be "very short." *Id.* at 18:11-12.
9 Petitioners do not seek to modify or alter the underlying physical voting system. The physical voting
10 system and technology used by the State to print the ballots, distribute the ballots, collect the ballots,
11 and tally the ballots would remain unchanged. *See* Declaration of Kammi Foote ("Foote Decl.") ¶ 3.
12 Furthermore, the physical system would already be set up to print and tally different ballots with
13 different candidates listed as that is already the process for the private party primary ballots. NPP
14 voters are already provided their own nonpartisan ballot. Petitioners do not seek an additional ballot
15 or that NPP voters are given party ballots. Petitioners only seek to have the presidential candidate
16 section of the NPP ballots populated with presidential candidates, rather than being left blank.

17 Defendants next argue that "extensive voter education efforts would be required to ensure that
18 NPP voters understand that they would be able to request an NPP ballot and cast a vote for any party's
19 candidate." Opp. Br., p. 18:19-20. First, the Voter Information Guide issued by the Secretary of State
20 will not be finalized until January 2020. *See* Sec. of State, *Official Voter Info. Guide*,
21 <https://voterguide.sos.ca.gov/> (last visited Nov. 11, 2019) ("The Official Voter Information Guide for
22 the March 3, 2020, Presidential Primary Election will be available in January 2020."). Second,
23 Defendants provide no evidence that any additional information provided to voters would conflict with
24 any information already disseminated. *See* Foote Decl., ¶ 6. Third, Defendants do not argue that
25 supplemental notices could not be sent out informing voters and elections administrators of the change.
26 In truth, sending out a supplement notice informing NPP voters that they will be afforded the
27 constitutionally protected opportunity to participate in our democratic primary process would not be
28

1 unreasonably or extraordinarily burdensome. *See id.* Nor would it be any more confusing than it would
2 be if a comparable notice was sent to all registered members of the political parties informing them
3 that, pursuant to state and federal law, their primary vote may or may not be counted or otherwise
4 considered in choosing the party's nominee. Giving all NPP voters, not just those that choose to vote
5 in the primary of party that allows NPP cross-over votes, the opportunity to express themselves in a
6 presidential primary more than justifies the minimal burden on the State to inform NPP voters of their
7 rights.

8 In arguing that a voter's political affiliation is not protected by the right of privacy guaranteed
9 by the California Constitution, Defendants argue that the State's interest in maintaining its partisan
10 presidential primary system "justify the minimal invasion of privacy that may occur when an NPP
11 voter requests the ballot of one of the political parties." Opp. Br., p. 14:9-10. It is true, as Defendants
12 point out, that "[p]rivacy concerns are not absolute; they must be balanced against other important
13 interests." Opp. Br., p. 14:6-7 (quoting *Hill v. Nat'l Collegiate Athletic Assn.*, 7 Cal. 4th 1, 37 (1994)).
14 However, the interests Defendants put forward are not the interests of the State but the interests of the
15 private political parties. As observed by Justice Thomas in *Clingman*, "Oklahoma remains free to
16 allow [a different primary scheme]." *Clingman*, 544 U.S. at 589. From an administrative standpoint,
17 the State has no more of an interest in *this* presidential primary system (*i.e.*, modified-closed, partisan)
18 than it does in any other presidential primary system (*e.g.*, caucuses). The State's obligation with
19 respect to a presidential primary is to administer it in accordance with the law. Lastly, the State's
20 interest in having interparty competition settled before the general election is not contested, nor is it
21 at issue. *See* Opp. Br., p. 14:23-15:1. No aspect of Petitioners' requested relief would prevent
22 interparty competition settled before the general election.

23 Defendants drastically overstate any difficulty of administering a primary election that is
24 constitutional. Petitioners maintain there is no difficulty beyond what is already expected of the State
25 and to attribute that burden to Petitioners is erroneous. Furthermore, administrative difficulty, if indeed
26 any exists, is no defense to a system that violates a person's constitutional rights. *See Tashjian v.*
27 *Republican Party of Conn.*, 479 U.S. 208, 217 (1986) ("The power to regulate the time, place, and
28

1 3. The evidence shows that the State's presidential primary scheme is
2 suppressing voter turn-out

3 Defendants dismiss, without discussion, the clear evidence that additional barriers to
4 participation for California's over 5.6 million NPP voters, including forced association and the
5 requirement that NPP voters must affirmatively request a partisan ballot of a particular party, is
6 resulting in *de facto* voter suppression and confusion. As detailed in Petitioners' opening brief, the
7 result of the State's current scheme is the disenfranchisement of millions of NPP voters. *See* Opng.
8 Br., p. 12:1-13:6. Defendants further suggest that there is no harm to NPP voters who are required to
9 take additional steps to vote in a presidential primary. The uncontroverted statistical evidence shows
10 that requiring NPP voters to take additional steps to vote in a presidential primary – steps other voters
11 do not have to take – is resulting in lower NPP voter participation despite the evidence that NPP voters
12 have a high desire to participate. *See* Opng. Br., p. 4:18-20. The evidence is plain that the State's
13 current scheme is suppressing voter participation.

14 4. Elections Code Section 13102 Conflicts with First Amendment Protections

15 To the extent that Elections Code Section 13102 is inconsistent with the dictates of the
16 California Constitution, Plaintiffs maintain that the First Amendment protections relied on in the
17 opening brief must prevail over the statute. The NPP voters are entitled to receive a ballot that
18 contains all of the eligible Presidential party candidates.

19 C. Petitioners' Requested Relief Would Put All Voters on Equal Footing

20 The current modified-closed presidential primary scheme creates two classes of voters, those
21 who register for a political party and are eligible to participate in the presidential primary and those
22 who do not wish to pledge allegiance to a political party and are then precluded from participating in
23 the presidential primary. Defendants argue that by giving NPP voters a ballot with all of the
24 presidential primary candidates listed would create "the opposite problem." Opp. Br., p. 16:8-12. The
25 current scheme creates one class of voters that can vote in a presidential primary and one class that
26 cannot. Petitioners' proposed system would create a single class of voters, all of whom can vote the
27 presidential primary election. It is difficult to see how giving everyone the ability to cast a vote for
28

1 their preferred presidential primary candidate is “the opposite problem.” It is true that the NPP ballot
2 proposed would have a different list of presidential candidates than the parties’ ballots, but this is
3 already true as between the different party’s ballots. Moreover, limiting or proscribing the candidate
4 options is not the same as having no candidate options. If Petitioners’ relief is granted, all voters
5 qualified to participate in the 2020 presidential primary election will have the opportunity to express
6 themselves by voting for their preferred presidential candidate without having to sacrifice their
7 constitutional right to not associate with the qualified political parties.

8 Defendants correctly note that Petitioners seek to illuminate and remedy the unconstitutional
9 distinction between NPP voters who chose to not associate with a political party and those who chose
10 to associate either through party registration or by requesting a cross-over ballot. Opp. Br., p. 16:1-2.
11 While the State has the right to *classify* voters by political affiliation, it does not follow that the State
12 also has the right to deny one of those classes the right to vote in a presidential primary merely because
13 they chose to not associate with a private political party.

14 Additionally, the one-person one-vote principal is violated by the current scheme because NPP
15 voters cannot make themselves eligible to vote in the presidential primary without forfeiting their
16 fundamental right not to associate. Following Defendants’ logic, (Opp. Br., p. 15:16), all the voters in
17 *Moore v. Ogilvie*, 394 U.S. 814 (1969), that felt the weight of their vote was diminished because they
18 lived in a populous county could simply move their family to a rural county where their vote would
19 carry more weight and power. That is not, however, what the Court held in *Moore*. “The right to vote
20 freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions
21 on that right strike at the heart of representative government.” *Id.* at 818 (quoting *Reynolds v. Sims*,
22 377 U.S. 533 (1964)). Just as the right to travel is fundament, so too is the right to vote and it may not
23 be burdened or conditioned by the requirement that one forfeit their First Amendment rights.

24 **D. Petitioners Have and Will Continue to Suffer Irreparable Harm**

25 Defendants suggest a voter who refuses to associate with a political party—and therefore
26 cannot participate in the presidential primary—is not harmed. Reality and case law disagree. In reality,
27 the requirement results in voter suppression on a massive scale. *See* Oppng. Br., p. 12-13. Under the
28

1 law, the State's current presidential primary scheme requires NPP voters to make a constitutionally
2 impermissible choice: the right to not associate with a political party or the right to vote in a
3 presidential primary election. The exercise of one right cannot be conditioned on the forfeiture of
4 another right. "For if the government could deny a benefit to a person because of his constitutionally
5 protected speech or associations, his exercise of those freedoms would in effect be penalized and
6 inhibited. This would allow the government to produce a result which (it) could not command directly.
7 Such interference with constitutional rights is impermissible." *Elrod v. Burns*, 427 U.S. 347, 359
8 (1976) (internal citations and quotation marks omitted).

9 In particular, Petitioners and NPP voters who vote by mail are harmed when the State forces
10 them to engage in affirmative activities in order to "opt in" into a voting procedure to enable them to
11 vote for President of the United States. Forcing voters to "opt in" to obtain a presidential primary
12 ballot constitutes a burden very similar to the poll tax barred by the 14th Amendment to the
13 Constitution. *Harper v. Virginia*, 383 U.S. 663, 666 (1966). In *Harper*, the court struck down a \$1.50
14 poll-tax because, "the Equal Protection Clause restrains the state from fixing voter qualifications that
15 invidiously discriminate." *Id.* Instead of charging a few dollars, the expense here is in time, effort,
16 postage stamp, and envelope. This creates two classes of vote-by-mail voters: one group that receives
17 its ballot, and a second group that must take additional, often confusing steps to request its ballot. This
18 is exactly the kind of invidious discrimination *Harper* sought to prevent.

19 Finally, there is no realistic path for NPP voters that vote by mail to participate in large numbers
20 as long as the "opt in" procedure is used for these voters *who may or may not learn about the deadline*
21 *to obtain a presidential primary ballot*. Defendants contend "[c]ompleting and returning the
22 application [to request a partisan mail ballot] is neither onerous nor burdensome. Opp. Br., p. 17:4-5.
23 However, the Secretary of State's own statistical data shows the return rates of NPP mail in ballots is
24 extraordinarily low even though desire of NPP voters to participate is high. Opng. Br., p. 4:18-20.
25 Clearly, these applications are onerous and burdensome enough that NPP voters are losing the
26 opportunity to meaningfully participate in the presidential primary election because they are forced to
27 complete this additional step. It is well-known – and Petitioners suggest it should be a matter of judicial
28

1 notice⁴ – that a large portion of Americans citizens in the modern era check their email routinely and
2 check their post office mail rarely. For many of us, it is literally junk mail that we didn't ask for and
3 treat as a low priority. It is easy for a deadline to slip by in this manner. A large portion of Americans
4 do not use the postal system as a tool of correspondence and calendaring. They rely on email and
5 texting. By the time a vote-by-mail NPP voter realizes they will receive or have received a ballot with
6 no presidential candidates on it, it will be too late for them to request a new mail ballot.

7 By forcing voters to “opt in” and stymying their access to the ballot box, the State continues
8 to cause irreparable harm to Petitioners and NPP voters.

9 **III. CONCLUSION**

10 For all the foregoing reasons, the Court should grant the requested provisional relief in its
11 entirety.

12 Date: November 12, 2019.

Respectfully submitted,

BRIGGS LAW CORPORATION

13
14
15 By:

Cory J. Briggs
Cory J. Briggs

16
17 PEACE & SHEA, LLP

18 By:

S. Chad Peace
S. Chad Peace

19
20 Attorneys for Plaintiffs and Petitioners Jim
21 Boydston, Steven Fraker, Daniel Howle, Josephine
22 Piarulli, Jeff Marston, and Independent Voter
23 Project

24
25
26
27 ⁴ “Facts and propositions that are of such common knowledge within the territorial jurisdiction of
28 the court that they cannot reasonably be the subject of dispute.” Evid. Code § 452(g).

WILLIAM M. SIMPICH, ATTORNEY AT LAW

By: William M. Simpich
William M. Simpich

Attorney for Plaintiff and Petitioner Lindsay Vurek

Additional Counsel:

William M. Simpich (State Bar No. 106672)
1736 Franklin Street, 9th Floor
Oakland, CA 94612
Tel: 415-542-6809

Attorneys for Plaintiff and Petitioner Lindsay Vurek

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF KAMMI FOOTE

IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

I, Kammi Foote, am over the age of eighteen and if called as a witness in this lawsuit will testify as follows:

1. I am serving my third term as the elected Inyo County Clerk/Recorder and Registrar of Voters and have worked as an elections official for the past 13 years. I am also an appointed member of the Board of Directors of the California Association of Clerks and Elections Officials and as a board member on several non-profits with a focus on civic engagement, civil rights and leadership development. I am broadly familiar with the management and administration of elections, including all aspects of the elections process including the implementation of election procedures, protocols and voter education and outreach efforts.

2. I have read Plaintiffs' proposed order and brief.

3. Based on my years of experience designing ballots and administering elections, I believe the implementation of Plaintiffs' proposed injunctive relief can be done with existing technology and in a similar manner as any other contest on the ballot. Registrars could add a contest to the NPP ballot design, in a similar manner as adding any other local contest or measure to the ballot. Registrars would simply place all the qualified presidential candidates, regardless of party, on that contest as we would any other voter-nominated contest in a direct Primary Election. The tabulation of the results, whether cast in-person, by mail or provisionally, would be reported in the same manner as any other contest. No new voting systems would be required.

4. Generally, ballot designs can be modified until mid to late December. The first ballots cannot be mailed to Military and Overseas voters until January 3, 2020.

5. The voting procedures for the presidential primary are uniform throughout the State of California.

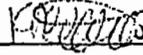
6. The County Elections Office of Inyo County recently began its voter education program which includes efforts to ensure that NPP voters understand their options for voting in the March 3, 2020 presidential primary. Plaintiffs' proposed injunctive relief does not conflict with any

1 of the information already provided to voters. Rather, the relief sought would provide all voters,
2 regardless of party, one additional option – to cast their vote on the NPP ballot. A supplemental
3 notice informing voters and elections administrators of this additional option can be provided to
4 voters before the first ballots are mailed in January.

5 7. I have personal knowledge of the foregoing facts and would so competently testify if
6 called as a witness in these proceedings.

7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct.

9 Date: November 8, 2019.



10 _____
Kammi Foote

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

1. My name is Ruth Flores. I am over the age of eighteen. I am employed in the State of California, County of San Bernardino.

2. My business residence address is Briggs Law Corporation, 99 East "C" Street, Suite 111 Upland, CA 91786.

3. On November 12, 2019, I served _____ an original copy a true and correct copy of the following documents: PLAINTIFFS AND PETITIONERS' REPLY BRIEF IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION; DECLARATION OF KAMMI FOOTE

4. I served the documents on the person(s) identified on the attached mailing/service list as follows:

by personal service. I personally delivered the documents to the person(s) at the address(es) indicated on the list.

by U.S. mail. I sealed the documents in an envelope or package addressed to the person(s) at the address(es) indicated on the list, with first-class postage fully prepaid, and then I

_____ deposited the envelope/package with the U.S. Postal Service

placed the envelope/package in a box for outgoing mail in accordance with my office's ordinary practices for collecting and processing outgoing mail, with which I am readily familiar. On the same day that mail is placed in the box for outgoing mail, it is deposited in the ordinary course of business with the U.S. Postal Service.

I am a resident of or employed in the county where the mailing occurred. The mailing occurred in the city of _____, California.

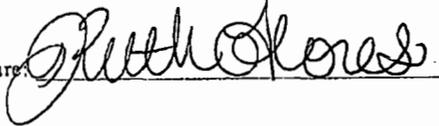
by overnight delivery. I sealed the documents in an envelope/package provided by an overnight-delivery service and addressed to the person(s) at the address(es) indicated on the list, and then I placed the envelope/package for collection and overnight delivery in the service's box regularly utilized for receiving items for overnight delivery or at the service's office where such items are accepted for overnight delivery.

by facsimile transmission. Based on an agreement of the parties or a court order, I sent the documents to the person(s) at the fax number(s) shown on the list. Afterward, the fax machine from which the documents were sent reported that they were sent successfully.

by e-mail delivery. Based on the parties' agreement or a court order or rule, I sent the documents to the person(s) at the e-mail address(es) shown on the list. I did not receive, within a reasonable period of time afterward, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws _____ of the United States of the State of California that the foregoing is true and correct.

Date: November 12, 2019

Signature: 

SERVICE LIST

Jim Boydston v. Alex Padilla, et al.
San Bernardino Superior Court Case No. CIVDS1921480

PEACE & SHEA, LLP
S. Chad Peace
2700 Adams Avenue, Suite 204
San Diego, CA 92116
Telephone: (619) 255-4461
Facsimile: (619) 255-4462
chad@peaceshea.com

*Attorney for Plaintiffs and Petitioners Jim
Boydston, Steven Fraker, Daniel Howle,
Josephine Piarulli, Jeff Marston and
Independent Voter Project*

(By email only)

William M. Simpich
1736 Franklin Street, 9th Floor
Oakland, CA 94612
Telephone: (415) 542-6809
bsimpich@gmail.com

*Attorney for Plaintiff and Petitioner Lindsay
Vurek*

(By email only)

Xavier Becerra
Mark R. Beckington
Amie L. Medley
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6226
Facsimile: (916) 731-2124
amie.medley@doj.ca.gov

*Attorneys for Alex Padilla, California
Secretary of State and the State of California*