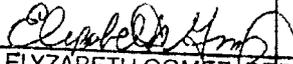


OCT 22 2020

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19 **SUPERIOR COURT OF CALIFORNIA**
20 **COUNTY OF SAN BERNARDINO**

21 JIM BOYDSTON; STEVEN FRAKER;
22 DANIEL HOWLE; JOSEPHINE PIARULLI;
23 JEFF MARSTON; LINDSAY VUREK; LINDA
24 CARPENTER SEXAUER; and INDEPENDENT
25 VOTER PROJECT, a non-profit corporation,

26 Plaintiffs and Petitioners,

27 v.

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

Defendants and Respondents.

Case No: CIVDS 1921480

**SECOND AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF FOR CIVIL-RIGHTS
VIOLATIONS; PETITION FOR WRIT OF
MANDATE**

1. California Constitution, Art. II § 5(c)
2. California Constitution, Art. I § 7 [Due Process]
3. California Constitution, Art. I § 7 [Equal Protection]
4. California Constitution, Art. XVI § 3
5. 42 U.S.C. § 1983 [Due Process]
6. 42 U.S.C. § 1983 [Non-Association]

Plaintiffs and Petitioners Jim Boydston, Steven Fraker, Daniel Howle, Josephine Piarulli, Jeff Marston, Lindsay Vurek, Linda Carpenter Sexauer, and Independent Voter Project, a non-profit corporation, allege as follows:

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SUPERIOR COURT OF CALIFORNIA
SAN BERNARDINO COUNTY

1 their values, aspirations, and interests at every stage of the public election process. Otherwise, we lose
2 the democratic foundation of our republic, and replace the public interest in our election process with
3 the private interests of widely unpopular and nationally controlled political parties.

4 8. While California law recognizes that general elections are held on "the Tuesday next
5 after the first Monday in the month of November," this "Election Day" is only the end of a long process
6 by which we select our representatives. The election cycle begins months (or even years) before the
7 election, through public discourse, political campaigns, and the primary elections. It should be
8 unsurprising, therefore, that our state and federal constitutions protect individuals throughout the
9 various stages of our election process as vigorously as they protect citizens on election day.

10 9. In California, the presidential primary is an important stage of the public election
11 process; it is the method through which party-registered *voters* decide which presidential candidates
12 will appear on November's ballot. But it is also an important stage for voters not affiliated with a
13 private political party because it affects the discourse, the candidates, the issues, and the voter turnout
14 for state and local races up and down the primary and general election ballots. That is why the
15 California Constitution is clear: The State shall provide the people with an "open presidential
16 primary."

17 10. California voters adopted an "open presidential primary" by way of initiative in 1972
18 to "free the voters of California to choose their own candidates for President of the United States" and
19 "take the decision out of the smoke-filled rooms." Section 5(c) of Article 2 of the California
20 Constitution states that "[t]he Legislature shall provide for . . . an open presidential primary. . . ." Yet
21 more than 40 years later, *the voters of California are not free to vote for the presidential candidate*
22 *of their choice*. Instead, private and nationally controlled political parties, in the smoke-filled rooms,
23 decide which voters can and cannot vote. Further, non-partisan candidates are excluded from the
24 presidential primary election altogether.

25 11. In an "open presidential primary," all qualified voters, regardless of party preference,
26 have the right to participate by casting a vote for the candidate of their choice. An "open" presidential
27 primary can be conducted in many ways, subject to certain constitutional limitations. An open primary,
28

1 however, is distinguishable from any form of a “closed” primary by a simple and defining
2 characteristic: In an “open” primary, the state guarantees every qualified voter, regardless of his or her
3 party preference, the right to participate. In a “closed” primary, private political parties determine
4 whether a voter can or cannot participate based on the voter’s party preference or non-preference.

5 12. On its surface, the requirements for an “open” primary appear to come into conflict
6 with the constitutional right of private political parties and their members to select their own nominees.
7 However, open primaries do not inherently create this conflict. Rather, an open-primary election only
8 conflicts with a party’s private rights when the state creates the conflict in the first place.

9 13. In 2016, in conflict with the clear language of the California Constitution, the Secretary
10 of State administered a semi-closed presidential primary. Most simply, a semi-closed primary is not
11 an open primary. This abrogation of the Secretary’s responsibility to the public resulted in widespread
12 voter confusion, substantially greater administrative costs, and millions of disenfranchised voters,
13 including the nearly half-million California voters who were mistakenly registered as preferring the
14 American Independent Party and were often not provided with a “no party preference” ballot, as
15 described below.

16 14. Another 4.7 million “no party preference” (“NPP”) voters, nearly 25% of the electorate,
17 had their right to vote subjected completely to the whims of private political party decision-making.
18 In 2016, three major political parties – including the American Independent, Libertarian, and
19 Democratic Parties – chose to allow NPP voters to participate in their primary election. Three major
20 political parties – including the Green, Peace & Freedom, and Republican Parties – chose to allow
21 only their own members to participate. In 2020, the voters of California did not even know what parties
22 allow or disallow NPP voters to vote for a presidential candidate in the primary election until October
23 20, 2019 – all because Defendants have given private political parties the power to make and change
24 that determination up until that date.

25 15. Importantly, the results of California’s presidential primary have no legally binding
26 authority over the ultimate determination of a political party’s presidential nominee. In fact, the
27 Libertarian Party in 2016 chose its presidential nominee before California had even conducted its

1 primary election. In contrast, the publicly funded and administered presidential primary is the sole and
2 exclusive opportunity for the public to express its will, to influence the public debate, and to inform
3 the political parties of popular sentiments. In other words, the presidential primary is the only
4 component of a long and complicated presidential nomination process that is regulated by Defendants.
5 Every other decision, including the ultimate selection of candidates, is governed by the private
6 rulemaking processes of nationally controlled political parties.

7 16. In transferring power from the voters to the political parties, Defendants have infringed
8 and continue to infringe on important rights protected by state and federal law. Indeed, one of the
9 Defendants has referred to the right to vote as: “[T]he fundamental right in our democracy, the one
10 that makes all others possible.” Therefore, by Defendants’ own admission, even the slightest
11 infringement on the right to vote should be considered with the strictest of scrutiny.

12 17. As the United States Supreme Court recognized in *Gray v. Sanders*, when it first
13 articulated the “one person, one vote” standard most regularly cited from its decision in *Reynolds v.*
14 *Sims*, the right to vote applies to all integral stages of the public election process, including the primary
15 election. In this case, Defendants are not only infringing on state and federal constitutional protections
16 concerning the right to vote, but they are taking the right to vote out of the hands of the voters,
17 delivering it to private organizations, and then asking the voters to have faith not in California’s
18 election process, but in the private rulemaking and enforcement of privately and nationally controlled
19 political parties.

20 18. California’s semi-closed primary also infringes on the right of non-association
21 protected by the United States Constitution under the First Amendment. As recognized by the United
22 States Supreme Court in *California Democratic Party v. Jones*, the right to not associate is a necessary
23 corollary of the right to associate. Yet California’s semi-closed primary conditions a voter’s
24 participation on affiliating himself or herself with ideologically driven private organizations with
25 whom he or she may have profound disagreement, distaste, and/or distrust. A voter should not be
26 deprived of the right to vote as a consequence of exercising the right not to affiliate with a political
27

1 party any more than a citizen should be denied the right to practice religion outside of a state-
2 sanctioned church.

3 19. Finally, California prohibits the private use of public funds. To add insult to the non-
4 partisan voters' injury, the semi-closed presidential primary is financed by taxpayers and administered
5 by public officials. Thus, non-partisan voters have to bear the tax burden for an election that serves
6 private political parties, not the public. While taxpayers often have to pay for programs that they may
7 not support, taxation should never be levied in a manner that creates inequitable representation. In this
8 case, it should go without argument that a semi-closed primary gives private political parties and their
9 loyal members a decided advantage in the public election process.

10 20. "No taxation without representation" was the battle cry for freedom that fueled the
11 American revolution. Two hundred and fifty years later, "we the people" must remain vigilant against
12 private interests that usurp the public treasury for their own gain. And when our legislators are so
13 overwhelmingly and unabashedly affiliated with those private interests that they play politics with the
14 clear mandates sets forth in our state constitution, this Court must intervene.

15 21. Most importantly, California and the Judiciary have recognized that the fundamental
16 right to vote derives from citizenship alone. There are many ways to conduct an open presidential
17 primary that serves every California citizen, without compromising the private rights of political
18 parties and their members. For six years, Plaintiff and Petitioner Independent Voter Project has
19 presented Defendants with multiple options for respecting the rights of political parties while also
20 protecting every individual's right to vote in the presidential primary.

21 22. Defendants refuse to protect the right to vote.

22 23. Without this Court's intervention, political parties and their members will continue to
23 implement the public's presidential primary out of conformance with the California Constitution and
24 in a way that offends fundamental notions of individual liberty, equality, and self-government that, as
25 Defendants themselves recognize, can only be secured by protecting the fundamental right to vote.

26 24. Plaintiffs therefore seek an order declaring California's semi-closed presidential
27 primary unconstitutional on its face and as applied under the state and federal constitutions.

1 Furthermore, Plaintiffs seek an order preventing Defendants from using taxpayer funds to administer
2 an illegal presidential-primary election, and mandating that they take all actions necessary to
3 implement a presidential-primary election that conforms with the state and federal constitutions.

4
5 **II. JURISDICTION AND VENUE**

6 25. The Court has jurisdiction over this lawsuit pursuant to Code of Civil Procedure
7 Sections 526a, 1060 *et seq.*, and 1084 *et seq.*; the United States and California Constitutions; and other
8 provisions of law.

9 26. Venue is proper in this Court because Defendants' violations have taken place and, in
10 the absence of appropriate relief from his Court, will continue to take place in San Bernardino County.
11 Indeed, the violations occur throughout California.

12
13 **III. PARTIES**

14 27. Plaintiff and Petitioner Steven Fraker is a registered voter in San Bernardino County.
15 Plaintiffs and Petitioners Jim Boydston, Jeff Marston, Daniel Howle, Josephine Piarulli, Lindsay
16 Vurek, and Linda Carpenter Sexauer are registered voters elsewhere in California. These
17 Petitioners/Plaintiffs pay at least one form of tax to the state.

18 28. Plaintiff and Petitioner Independent Voter Project ("IVP") is a non-profit, non-partisan
19 501(c)(4) corporation dedicated to better informing voters about important public-policy issues and to
20 encouraging non-partisan voters to participate in the electoral process. At least one of IVP's members
21 pays some form of tax to the state.

22 29. Defendant and Respondent Alex Padilla is the duly elected California Secretary of State
23 and is being sued in his official capacity. As the California Secretary of State, he is California's chief
24 election officer and is responsible for ensuring the state's elections conform to the California
25 Constitution. *See* 52 U.S.C. § 20509. At all times relevant to this lawsuit, he acted under color of
26 law.

1 **IV. SUBSTANTIVE ALLEGATIONS**

2 30. Plaintiffs and Petitioners Daniel Howle, Jim Boydston, and Steven Fraker are registered
3 as NPP preference and have otherwise been qualified voters in California for more than four years
4 preceding this lawsuit. Each of them was California qualified to vote in the 2016 presidential primary.

5 31. Plaintiff and Petitioner Daniel Howle would like the opportunity to vote for a
6 presidential candidate of his choice in the next primary election, including NPP candidates, without
7 being forced to associate with a political party or disclosing his ballot choice to anyone.

8 32. Plaintiff and Petitioner Jim Boydston would like to vote for a presidential candidate
9 running for the Democratic Party nomination in the next primary election, without being forced to
10 associate with the Democratic Party or disclosing his ballot choice to anyone.

11 33. Plaintiff and Petitioner Steven Fraker would like the opportunity to vote for a
12 presidential candidate of his choice in the next primary election, including NPP candidates, without
13 being forced to associate with a political party or disclosing his ballot choice to anyone.

14 34. Plaintiff and Petitioner Jeff Marston is registered as preferring the Republican Party
15 and is otherwise qualified to vote in California. He would like the opportunity to vote in the primary
16 election for a presidential candidate other than a Republican without being forced to change his party
17 preference.

18 35. Plaintiffs and Petitioners Josephine Piarulli and Linda Carpenter Sexauer are registered
19 as preferring the Democratic Party and are otherwise qualified to vote in California. However, they
20 would prefer to be registered as NPP but have remained affiliated with the Democratic Party to ensure
21 that they have the full opportunity to vote for a presidential candidate in the next primary election.

22 36. Plaintiff and Petitioner Lindsay Vurek is registered as preferring the Green Party and
23 is otherwise qualified to vote in California. He would like to vote for a presidential candidate of his
24 choice in the next primary election, without being forced to associate with a political party.

25 37. Each of the individual Plaintiffs/Petitioners was unable to vote for the candidate of his
26 or her choice in the 2016 and 2020 presidential-primary elections unencumbered by a condition of
27

1 party preference, and without this Court's intervention none of them will be able to cast an
2 unencumbered vote for the candidate of his or her choice in the next primary election.

3 38. In California, a qualified registered voter must meet these requirements: 1) be a U.S.
4 citizen living in California, 2) be registered where the voter currently lives, 3) be at least 18 years old,
5 and 4) not be in prison or on parole for a felony. There is no requirement that a registered voter identify
6 a political party preference in order to exercise the right to vote. Instead, registered voters who do not
7 wish to identify a political party preference may register as NPP voters.

8 39. Under the California Constitution, the Legislature shall provide for an "open
9 presidential primary." (Cal. Const. art. 2, § 5(c).)

10 40. However, in 2016, California conducted a modified closed primary. (Cal. Elec. Code
11 §§ 2151, 13102(b))

12 41. In California, to qualify for a state-funded presidential-primary election, a political
13 party must either: (a) have voter registration equal to one percent (1%) of the votes cast in the
14 preceding gubernatorial election, (b) file a petition with signatures of registered voters equal to ten
15 percent (10%) of the votes cast in the preceding gubernatorial election, or (c) at the gubernatorial
16 election, it must garner votes equal to at least two percent (2%) of total votes cast. (Cal. Elec. Code §
17 5100.)

18 42. In California, the Secretary of State is responsible for determining which candidates
19 will appear on each party's presidential primary ballot. (Cal. Elec. Code §§ 6041, 6340, 6520, 6720,
20 6851.) Candidates not selected by the Secretary of State for inclusion may petition for placement on
21 the ballot. (Cal. Elec. Code §§ 6061, 6343, 6523, 6725, 6853.5.)

22 43. However, a presidential candidate who is not a member of a qualified party cannot
23 participate in the primary election. In order to become a qualified party, the party must demonstrate
24 sufficient support of voters to the Secretary of State through prior election votes or party registration.
25 (Cal. Elec. Code § 5100.)

26 44. In 2016, by default, NPP voters received a nonpartisan ballot which did not include an
27 option to vote for any candidates for President of the United States. (Cal. Elec. Code § 2151(b)(1).)

1 California presidential primary is, in effect, a state-sponsored straw poll for the exclusive and private
2 benefit of the political parties.

3 51. California's primary elections are "paid from the county treasuries." (Cal. Elec. Code
4 § 13001.) A 2012 study by the National Association of Secretaries of State estimated that the cost of
5 a statewide presidential primary in California is approximately \$96 million. (Open Primaries,
6 *Taxpayer Cost of Closed Primaries: Map of Primary Costs by State*,
7 http://www.openprimaries.org/taxpayer_costs_of_closed_primaries (Oct. 15, 2017).

8 52. According to the California Secretary of State's Office, in the state's 2016 presidential-
9 primary election 44.8% of California voters were registered Democrat, 27.3% of registered voters
10 were Republican, 4.6% of registered voters were affiliated with a third party, and 23.3% of voters
11 registered as NPP voters.

12 53. As chief election officer, Defendant and Respondent Padilla, under Elections Code §
13 10, "has the powers and duties specified in Section 12172.5 of the Government Code," which include
14 the power to "adopt regulations to assure the uniform application and administration of state election
15 laws."

16 54. Defendants impose additional burdens on NPP voters, like Plaintiffs, in order to access
17 and participate in the presidential primary election. For example, NPP voters who vote by mail¹ must
18 either (a) respond to an innocuous postcard² to request a crossover ballot; (b) bring their NPP ballot
19 to their polling place, surrender it, and request a crossover ballot at their polling place; or (c) re-register
20 with a party at their polling place and receive the party's primary ballot.

21 55. In addition, Defendants/Respondents know that many counties, when they send out the
22 aforementioned postcards to NPP voters, set an arbitrary deadline for NPP voters to respond with what
23 type of crossover ballot they desired in order for them to receive such a ballot. However, the wording
24 on the postcards with respect to these deadlines leads reasonable NPPs voter to believe that if they
25 don't respond by such deadline they will have lost their right to vote for a presidential candidate in the

26 ¹ In California, vote-by-mail voters are also known as absentee voters.

27 ² Despite their importance, these postcards are largely overlooked because they tend to look like
28 junk mail.

1 primary (which is not the case). Plaintiffs are informed and believe and hereby alleged that
2 Defendants/Respondents have done nothing to rectify this practice.

3 56. Not only are NPP voters subjected to these additional, onerous steps in order to exercise
4 their fundamental right to cast a vote in a primary election, but Defendants utterly fail to inform NPP
5 voters of these options. In fact, if NPP voters (whether they vote by mail or vote in person) do not
6 request a crossover ballot using the correct terminology (*i.e.*, requesting a “*crossover*” ballot), they
7 will not receive it and poll workers are barred from making any suggestions or providing additional
8 information to these voters about their options.

9 57. In contrast, party-registered voters are *by default* provided with a ballot that includes
10 an option to cast a vote for a presidential primary candidate (which is then considered by the respective
11 party in choosing its candidate); there is nothing more these voters need to do.

12 58. What the political parties do with primary votes cast in favor of their candidates is left
13 entirely to these parties’ respective rules.

14 59. Regardless of what the private political parties do with the votes cast in favor of their
15 candidates, Defendants’ obligations to voters – whether NPP or party-registered voters – remains the
16 same: Defendants must provide free and fair elections that are accessible by all qualified voters and
17 they must accept, tally, and report the results of each validly cast vote.

18 60. Defendants could easily provide NPP voters with their own non-partisan ballot in the
19 presidential primary election.

20 61. The private political parties are free to ignore the votes cast by NPP voters, just as they
21 are free to ignore votes cast by their own party members, in selecting the party’s preferred candidate
22 for the general election.

23 **FIRST CAUSE OF ACTION**

24 **Violation of California Constitution, Art. II, § 5(c)–
Failure to Conduct an Open Presidential Primary**

25 62. This pleading’s preceding allegations are incorporated into this paragraph.

26 63. The California Constitution, Art. II, § 5(c), requires that “[t]he Legislature shall provide
27 for . . . an open presidential primary.”

1 or benefit of any corporation, association, asylum, hospital, or any other institution not under the
2 exclusive management and control of the State as a state institution, nor shall any grant or donation of
3 property ever be made thereto by the State. . . .”

4 82. The Elections Code, as alleged throughout this pleading, violates the requirement that
5 California not appropriate monies from the State Treasury for the benefit of a private party.

6 83. Because the California’s current semi-closed primary serves a predominantly private
7 purpose – to benefit wholly private political parties – and is paid for by monies appropriated from the
8 State Treasury, Elections Code § 13102(b) violates the California Constitution’s prohibition against
9 appropriating public funds for a private purpose.

10 84. Defendants/Respondents, acting under color of state law, have spent, have caused to be
11 spent, and are likely to continue spending public monies from the State Treasury on private partisan
12 elections.

13 85. The individual Plaintiffs/Petitioners and at least one of IVP’s members have been
14 harmed and, in the absence of relief from this Court, will continue to be harmed by the illegal acts and
15 omissions of Defendants/Respondents as alleged in this cause of action.

16 **FIFTH CAUSE OF ACTION**
17 **Violation of Federal Civil Rights Act (42 U.S.C. § 1983)–**
18 **Denial of Substantive Due Process under 1st and 14th Amendments of Federal Constitution**

18 86. This pleading’s preceding allegations are incorporated into this paragraph.

19 87. The right to vote is a fundamental right ensured by the U.S. Constitution. This right
20 applies to all integral stages of the public-election process, including the primary election.

21 88. Under California Elections Code § 13102(b), however, the Legislature has provided
22 for closed and modified-closed presidential primaries. The result is that voters like the individual
23 Plaintiffs/Petitioner and at least one of IVP’s members have been denied the right to participate in the
24 presidential-primary process.

25 89. Each of the individual Plaintiff/Petitioners and at least one of IVP’s members were
26 unable to vote for the candidate of their choice in the 2016 and 2020 presidential-primary elections
27

1 unencumbered by a condition of party preference, and without court intervention they will not be able
2 to cast an unencumbered vote for the candidate of their choice in the next primary election.

3 90. Any infringement on the fundamental right to vote demands a strict-scrutiny analysis.

4 91. Defendants/Respondents, acting under color of state law, have administered and are
5 likely to continue to administer a form of closed presidential-primary election, in violation of the
6 federal constitutional rights of the individual Plaintiffs/Petitioners and in violation of the federal
7 constitutional rights of the individuals on whose behalf Plaintiff and Petitioner IVP advocates.

8 92. There are several ways to conduct California's presidential primary while protecting
9 the rights of political parties and voters. Defendants refuse to implement any of them.

10 93. The individual Plaintiffs/Petitioners and at least one of IVP's members have been
11 harmed and, in the absence of relief from this Court, will continue to be harmed by the illegal acts and
12 omissions of Defendants/Respondents as alleged in this cause of action.

13 94. The individual Plaintiffs/Petitioners and at least one of IVP's members have been
14 harmed by being forced to associate with a private political party in order to participate in a presidential
15 primary election on the same burden-free basis that party-affiliated voters enjoy.

16 95. The individual Plaintiffs/Petitioners and at least one of IVP's members have been
17 harmed by having to navigate additional, onerous steps in order to participate in a presidential primary
18 election that other, party-affiliated voters do not have to navigate.

19 **SIXTH CAUSE OF ACTION**

20 **Violation of Federal Civil Rights Act (42 U.S.C. § 1983)–
Denial of 1st Amendment Right of Non-Association Guaranteed by Federal Constitution**

21 96. This pleading's preceding allegations are incorporated into this paragraph.

22 97. The First Amendment of the constitution protects the right of association. According
23 to *California Democratic Party v. Jones*, a corollary of the right to associate is the right not to
24 associate.

25 98. Elections Code § 13102(b) deprives California voters the right of non-association under
26 the First Amendment of the United States Constitution by requiring a voter to participate in the private
27

1 associational activity of a political party as a condition to voting during an integral stage of the public-
2 election process.

3 99. Defendants/Respondents, acting under color of state law, have administered and are
4 likely to continue to administer a form of closed presidential-primary election, in violation of the First
5 Amendment right of non-association of the individual Plaintiffs/Petitioners and in violation of the
6 same right of the individuals on whose behalf Plaintiff and Petitioner IVP advocates.

7 100. The individual Plaintiffs/Petitioners and at least one of IVP's members have been
8 harmed and, in the absence of relief from this Court, will continue to be harmed by the illegal acts and
9 omissions of Defendants/Respondents as alleged in this cause of action.

10
11 **V. PRAYER FOR RELIEF**

12 FOR ALL THESE REASONS, Plaintiffs/Petitioners pray for all of the following relief against
13 Defendants/Respondents (and any other persons who may in any way take their side in this lawsuit),
14 as the Court deems appropriate:

15 A. A judgment or other order of the Court determining or declaring that California's
16 election laws with respect to the presidential-primary election and/or the implementation of those laws
17 by Defendants/Respondents is illegal in some manner, rendering the laws and/or their implementation
18 null and void.

19 B. A judgment or other order of the Court enjoining Defendants/Respondents from
20 administering a presidential-primary election that does not comply with all applicable laws.

21 C. A writ of mandate compelling Defendants/Respondents to take any and all steps
22 necessary to bring their administration of the presidential-primary election into compliance with all
23 applicable laws.

24 D. Any and all attorney fees and other costs incurred by Plaintiffs/Petitioners in
25 connection with this lawsuit.

26 E. Any other relief that this Court deems appropriate.

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Date: October 22, 2020.

Respectfully submitted,

BRIGGS LAW CORPORATION

Cory J. Briggs

By:

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PEACE & SHEA, LLP

S. Chad Peace

By:

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Boydston, Steven Fraker, Daniel Howle, Josephine
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William M. Simpich

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Attorneys for Plaintiff and Petitioner Lindsay Vurek
and Linda Carpenter Sexauer

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 October 22, 2020, I served an original copy a true and correct copy of the following documents: SECOND AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF FOR CIVIL-RIGHTS VIOLATIONS; PETITION FOR WRIT OF MANDATE

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: October 22, 2020

Signature: Ruth Flores

SERVICE LIST

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

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