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

11 23 2018

12 EDUARDO HERNANDEZ

13 SUPERIOR COURT OF CALIFORNIA
14 COUNTY OF SAN BERNARDINO

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

17 Plaintiffs and Petitioners,

18 v.

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

21 Defendants and Respondents.
22

Case No: CIV DS 1921480

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

- 17 7955 10723-1157
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]

24
25 Plaintiffs and Petitioners Jim Boydston, Steven Fraker, Daniel Howle, Josephine Piarulli, Jeff
26 Marston, Lindsay Vurek, and Independent Voter Project, a non-profit corporation, allege as follows:
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1 **I. INTRODUCTION**

2 1. The Constitution of the State of California unambiguously requires that the Legislature
3 provide for an “open presidential primary,” whereby California’s registered voters are not required to
4 declare a party affiliation as a condition of voting for a presidential candidate in a primary election.

5 2. Instead, Defendants have provided for a “closed” or “modified-closed” presidential
6 primary, whereby private political parties decide, based on party affiliation, which voters can and
7 cannot vote for a presidential candidate in a primary election.

8 3. The consequences of Defendants’ transferring control of the publicly funded and
9 administered presidential primary from the voters to the private decision-making authority of political
10 parties has resulted in widespread voter confusion and the disenfranchisement of millions of California
11 voters.

12 4. In 2020, due in part to the rapid increase in voters registering “no party preference,” if
13 this Court does not intervene, there will be a level of *de facto* voter suppression that will render the
14 most important underpinning of the California Constitution – that all political power is inherent in the
15 people -- meaningless.

16 5. The public election process is the principal method through which citizens peacefully
17 express their power. And the need to protect our representative democracy from the power of more
18 selfish interests has long been known. As our first president, George Washington, said in his farewell
19 address, “...the common and continual mischiefs of the spirit of party are sufficient to make it the
20 interest and duty of a wise people to discourage and restrain it.” Yet, in 2016, the California Secretary
21 of State made it his duty to use his office and the State of California to magnify the mischiefs of the
22 increasingly partisan spirit of government by ignoring the California Constitution and denying the
23 wise people of this state of their nonpartisan right to vote.

24 6. To discourage and restrain the common and continual mischiefs of party spirit it is
25 paramount that the voters of California, regardless of political party preference, are able to express
26 their values, aspirations, and interests at every stage of the public election process. Otherwise, we lose
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1 the democratic foundation of our republic, and replace the public interest in our election process with
2 the private interests of widely unpopular and nationally controlled political parties.

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

9 8. In California, the presidential primary is an important stage of the public election
10 process. It is the method through which *voters*, the true sovereign power within the state, decide which
11 presidential candidates will appear on November's ballot. It also affects the discourse, the candidates,
12 the issues, and the voter turnout for state and local races up and down the ballot. That is why the
13 California Constitution is clear: The State shall provide the people with an "open presidential
14 primary."

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

23 10. In an "open presidential primary," all qualified voters, regardless of party preference,
24 have the right to participate by casting a vote for the candidate of their choice. An "open" presidential
25 primary can be conducted in many ways, subject to certain constitutional limitations. An open primary,
26 however, is distinguishable from any form of a "closed" primary by a simple and defining
27 characteristic: In an "open" primary, the state guarantees every qualified voter, regardless of his or her
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1 party preference, the right to participate. In a “closed” primary, private political parties determine
2 whether a voter can or cannot participate based on the voter’s party preference or non-preference.

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

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

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

23 14. Importantly, the results of California’s presidential primary have no legally binding
24 authority over the ultimate determination of a political party’s presidential nominee. In fact, the
25 Libertarian Party in 2016 chose its presidential nominee before California had even conducted its
26 primary election. In contrast, the publicly funded and administered presidential primary is the sole and
27 exclusive opportunity for the public to express its will, to influence the public debate, and to inform
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1 the political parties of popular sentiments. In other words, the presidential primary is the only
2 component of a long and complicated presidential nomination process that is regulated by Defendants.
3 Every other decision, including the ultimate selection of candidates, is governed by the private
4 rulemaking processes of nationally controlled political parties.

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

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

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

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

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

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

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

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

24 23. Plaintiffs therefore seek an order declaring California's semi-closed presidential
25 primary unconstitutional on its face and as applied under the state and federal constitutions.
26 Furthermore, Plaintiffs seek an order preventing Defendants from using taxpayer funds to administer
27 an illegal presidential-primary election, and mandating that they take all actions necessary to
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1 implement a presidential-primary election that conforms with the state and federal constitutions; this
2 order would apply to the March 2020 presidential primary.

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4 **II. JURISDICTION AND VENUE**

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

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

11
12 **III. PARTIES**

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

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

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

1 **IV. SUBSTANTIVE ALLEGATIONS**

2 29. 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 30. Plaintiff and Petitioner Daniel Howle would like the opportunity to vote for a
6 presidential candidate of his choice in 2020, including NPP candidates, without being forced to
7 associate with a political party or disclosing his ballot choice to anyone.

8 31. Plaintiff and Petitioner Jim Boydston would like to vote for a presidential candidate
9 running for the Democratic Party nomination in 2020, without being forced to associate with the
10 Democratic Party or disclosing his ballot choice to anyone.

11 32. Plaintiff and Petitioner Steven Fraker would like the opportunity to vote for a
12 presidential candidate of his choice in 2020, including NPP candidates, without being forced to
13 associate with a political party or disclosing his ballot choice to anyone.

14 33. 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 34. Plaintiff and Petitioner Josephine Piarulli is registered as preferring the Democratic
19 Party and is otherwise qualified to vote in California. However, she would prefer to be registered as
20 NPP but has remained affiliated with the Democratic Party to ensure that she has the full opportunity
21 to vote for a presidential candidate in 2020.

22 35. 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 running
24 for the Democratic Party nomination in 2020, without being forced to associate with the Democratic
25 Party.

26 36. Each of the individual Plaintiffs/Petitioners was unable to vote for the candidate of his
27 or her choice in the 2016 presidential-primary election unencumbered by a condition of party
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1 preference, and without this Court's intervention none of them will be able to cast an unencumbered
2 vote for the candidate of his or her choice in March 2020.

3 37. 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 38. Under the California Constitution, the Legislature shall provide for an "open
9 presidential primary." (Cal. Const. art. 2, § 5(c).)

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

12 40. 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 41. 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 42. 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 43. 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).)
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1 44. In 2016, voters registered with a party preference could vote only in the primary of the
2 political party for which they were registered. (Cal. Elec. Code § 2151(c).)

3 45. NPP voters are allowed to participate in presidential primaries only if authorized by a
4 private political party. (Cal. Elec. Code § 2151(c).) In 2016, only the Democratic, American
5 Independent, and Libertarian parties allowed unaffiliated voters to participate. (Padilla, *Re:*
6 *Presidential Primary: No Party Preference Voters*,
7 <http://elections.cdn.sos.ca.gov/ccrov/pdf/2016/january/16036em.pdf> (Jan. 25, 2016).) These parties,
8 however, may change their rules to preclude unaffiliated voters from participating by changing their
9 private party rules. (Cal. Elec. Code § 2151(b)(1).)

10 46. In 2016, three major political parties including the American Independent, Libertarian,
11 and Democratic Parties chose to allow NPP voters to participate in their primary election. (*See* Padilla,
12 ¶ 45). NPP voters could choose to vote in one of these three primaries. Three major political parties
13 including the Green, Peace & Freedom, and Republican Party chose to allow only their own members
14 to participate. (*Id.*) NPP voters, if they wanted to vote for a candidate from one of these three parties,
15 could not. (Cal. Elec. Code § 2151(b)(1).)

16 47. To vote in the American Independent, Libertarian, or Democratic Parties' presidential
17 primary, an NPP voter had to ask their county elections office or poll worker at their polling place for
18 a "crossover" ballot for just one of the above three parties. (Secretary of State, *No Party Preference*
19 *Information*, <http://www.sos.ca.gov/elections/political-parties/no-party-preference/> (as of Oct. 11,
20 2017).) Alternatively, if voting by mail, NPP voters could request one of the three party ballots only
21 by submitting an application that indicates their choice by May 31, 2016. (*Id.*)

22 48. To vote in the Green, Peace & Freedom, or Republican Parties' presidential primary,
23 an NPP voter had to register to vote with the respective party by indicating a preference for that
24 political party by May 23, 2016. (*Id.*; Cal. Elec. Code § 2152.)

25 49. The ultimate selection of each party's nominee is conducted according to private party
26 rules, not the presidential primary. (Cal. Elec. Code §§ 6002(b), 6300(b), 6461(c), 6002(b), 6461(a);
27 Dem Nat'l Comm. Charter Art IX, § 10; Cal. Rep. Party Bylaws Art. VI, § 6.01(A).) Accordingly, the
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1 California presidential primary is, in effect, a state-sponsored straw poll for the exclusive and private
2 benefit of the political parties.

3 50. 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 51. 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 52. 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 **FIRST CAUSE OF ACTION**
17 **Violation of California Constitution, Art. II, § 5(c)-**
18 **Failure to Conduct an Open Presidential Primary**

19 53. This pleading's preceding allegations are incorporated into this paragraph.

20 54. The California Constitution, Art. II, § 5(c), requires that "[t]he Legislature shall provide
21 for . . . an open presidential primary."

22 55. In an open presidential-primary election, any registered voter – regardless of party
23 preference – has the right to vote for a presidential candidate.

24 56. Under Elections Code § 13102(b), however, the Legislature has provided for closed
25 and/or modified-closed presidential primaries.

26 57. On its face and as applied, no form of closed presidential-primary election is an open
27 presidential-primary election.

28 58. Each of the individual Plaintiffs/Petitioners was unable to vote for the candidate of his
or her choice in the 2016 presidential-primary election unencumbered by a condition of party

1 preference, and without court intervention they will not be able to cast an unencumbered vote for the
2 candidate of their choice in 2020.

3 59. Defendants/Respondents have administered and are likely to continue to administer a
4 form of closed presidential-primary election, in violation of Art. II § 5(c) of the California
5 Constitution.

6 60. The individual Plaintiffs/Petitioners and at least one of IVP's members have been
7 harmed and, in the absence of relief from this Court, will continue to be harmed by the illegal acts and
8 omissions of Defendants/Respondents as alleged in this cause of action. The individuals on whose
9 behalf Plaintiff and Petitioner IVP advocates have been, and in the absence of relief from this Court
10 will continue to be, equally harmed.

11 **SECOND CAUSE OF ACTION**
12 **Violation of California Constitution, Art. I, § 7–**
13 **Denial of the Substantive Right of Due Process**

14 61. This pleading's preceding allegations are incorporated into this paragraph.

15 62. The California Constitution, Art. I, § 7, provides that “[a] person may not be deprived
16 of life, liberty, or property without due process of law or denied equal protection of the laws.”

17 63. Defendants/Respondents have administered and are likely to continue to administer a
18 form of closed presidential-primary election, in violation of the substantive due-process rights of the
19 individual Plaintiffs/Petitioners and in violation of the substantive due-process rights of the individuals
20 on whose behalf Plaintiff and Petitioner IVP advocates.

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

24 **THIRD CAUSE OF ACTION**
25 **Violation of California Constitution, Art. I, § 7–**
26 **Denial of Right of Equal Protection under Law**

27 65. This pleading's preceding allegations are incorporated into this paragraph.

28 66. California Elections Code § 13102(b) denies voters equal protection of the laws
guaranteed by the California Constitution by giving partisan voters an opportunity to nominate a

1 candidate for President of the United States without affording non-partisan voters the right to do the
2 same.

3 67. Defendants/Respondents, acting under color of state law, have subjected, have caused
4 to be subjected, and are likely to continue subjecting Plaintiffs/Petitioners and all unaffiliated voters
5 in California to the deprivation of rights, privileges, and/or immunities secured by the California
6 Constitution's equal-protection clause.

7 68. 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 **FOURTH CAUSE OF ACTION**
11 **Violation of California Constitution, Art. XVI, § 3–**
12 **Unconstitutionally Appropriating Public Funds for Private Purpose**

13 69. This pleading's preceding allegations are incorporated into this paragraph.

14 70. Subject to exceptions not applicable here, the California Constitution, Art. XVI, § 3,
15 provides that “[n]o money shall ever be appropriated or drawn from the State Treasury for the purpose
16 or benefit of any corporation, association, asylum, hospital, or any other institution not under the
17 exclusive management and control of the State as a state institution, nor shall any grant or donation of
18 property ever be made thereto by the State. . . .”

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

21 72. Because the California's current semi-closed primary serves a predominantly private
22 purpose – to benefit wholly private political parties – and is paid for by monies appropriated from the
23 State Treasury, Elections Code § 13102(b) violates the California Constitution's prohibition against
24 appropriating public funds for a private purpose.

25 73. Defendants/Respondents, acting under color of state law, have spent, have caused to be
26 spent, and are likely to continue spending public monies from the State Treasury on private partisan
27 elections.

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

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

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

85. Elections Code § 13102(b) deprives California voters the right of non-association under the First Amendment of the United States Constitution by requiring a voter to participate in the private associational activity of a political party as a condition to voting during an integral stage of the public-election process.

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

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

V. PRAYER FOR RELIEF

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

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

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

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

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

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

9 Date: July 22, 2019.

Respectfully submitted,
BRIGGS LAW CORPORATION

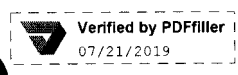
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