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7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10

11 ELECTION INTEGRITY  
12 PROJECT® CALIFORNIA, INC;  
13 JAMES P. BRADLEY, MARK  
14 REED; BUZZ PATERSON; MIKE  
CARGILE; RONDA KENNEDY,

15 Plaintiffs,

16  
17 v.

18 SHIRLEY WEBER, CALIFORNIA  
SECRETARY OF STATE; ROB  
19 BONTA, CALIFORNIA  
ATTORNEY GENERAL;  
20 RIVERSIDE COUNTY  
21 REGISTRAR OF VOTERS  
22 REBECCA SPENCER; LOS  
ANGELES COUNTY REGISTRAR  
23 OF VOTERS DEAN C. LOGAN;  
24 VENTURA COUNTY REGISTRAR  
OF VOTERS MICHELLE  
25 ASCENCION; SAN BERNARDINO  
26 COUNTY REGISTRAR OF  
VOTERS STEPHENIE SHEA;  
27 MONTEREY COUNTY  
28 REGISTRAR OF VOTERS GINA  
MARTINEZ; SACRAMENTO

Case No. 2:21-cv-32-AB-MAA

**SECOND AMENDED COMPLAINT  
FOR DECLARATORY AND  
INJUNCTIVE RELIEF AND  
DAMAGES**

**DEMAND FOR JURY TRIAL**

1 COUNTY REGISTRAR OF  
 2 VOTERS HANG NGUYEN;  
 3 ALAMEDA COUNTY REGISTRAR  
 4 OF VOTERS TIM DUPUIS;  
 5 CONTRA COSTA COUNTY  
 6 REGISTRAR OF VOTERS  
 7 KRISTIN CONNELLY; SANTA  
 8 CLARA COUNTY REGISTRAR OF  
 9 VOTERS SHANNON BUSHEY;  
 10 SAN BENITO COUNTY  
 11 REGISTRAR OF VOTERS  
 12 FRANCISCO DIAZ; SANTA CRUZ  
 13 COUNTY REGISTRAR OF  
 14 VOTERS TRICIA WEBBER;  
 15 FRESNO COUNTY REGISTRAR  
 16 OF VOTERS JAMES A. KUS;  
 17 ORANGE COUNTY REGISTRAR  
 18 OF VOTERS BOB PAGE; KERN  
 19 COUNTY REGISTRAR OF  
 20 VOTERS AIMEE ESPINOZA; SAN  
 21 LUIS OBISPO REGISTRAR OF  
 22 VOTERS ELAINA CANO,

Defendants.

18 Plaintiffs state for their Second Amended Complaint against Defendants as  
19 follows:

20 **NATURE OF THE ACTION**

21 1. Our Constitutional Republic is founded on the sacred right of all eligible  
 22 citizen to cast an equal vote to determine who will represent them in government. The  
 23 Constitution of the United States guarantees this right through the Equal Protection and  
 24 Due Process Clauses of the Fourteenth Amendment and, in the case of Federal  
 25 congressional elections, through the Elections Clause. (Art. I, § 4, cl. 1). No right is  
 26 more sacred than the right to vote, as it involves “matters close to the core of our  
 27 constitutional system.” *Carrington v. Rash*, 380 U.S. 89, 96 (1965).  
 28

1           2.     Over the past three decades, Defendants have systematically eroded these  
2 rights by an onslaught of unconstitutional statutes and emergency regulations, which,  
3 taken together, have led to widespread election irregularities across California counties.  
4 California has inexplicably chosen a path that jeopardizes election integrity and  
5 undermines ballot security by legalizing unrestrained and unrestricted ballot  
6 harvesting, eliminating chain of custody, solidifying vote-by-mail (“VBM”), gutting  
7 signature verification requirements, and failing to maintain accurate lists of eligible  
8 voters.

9           3.     Specifically, California laws, regulations, and guidelines have:

10           A.     Eliminated absentee ballots and solidified universal VBM, a less-  
11 secure balloting process that does not require voters to present identification to request  
12 a ballot;

13           B.     Legalized unrestrained and unrestricted ballot harvesting by  
14 removing mandates regarding chain of custody, unleashing the potential exploitation  
15 of vulnerable populations such as non-citizens, college students, and senior citizens;

16           C.     Allowed counties to treat VBM and in-person votes differently,  
17 resulting in disproportionate harm to in-person voters; and

18           D.     Failed to comply with federal laws requiring the maintenance of  
19 accurate voter rolls, allowing deceased persons, non-residents, duplicates, and other  
20 ineligible registrants to remain on rolls and receive ballots.

21           4.     In 2020, California implemented new “emergency” election regulations  
22 without public comment or legislative authority of the State and many of its counties,  
23 often under the pretext that they were necessary due to COVID-19. These “emergency”  
24 regulations are still in effect today and do not require counties to apply uniform and  
25 secure signature verification and ballot remaking procedures.

26           5.     California’s current laws and regulations lack uniform and robust  
27 procedures and have thus granted county officials considerable discretion in  
28 implementation of election laws and procedures. Consequently, widespread

1 irregularities have occurred across California counties, culminating in the 2020  
2 election, when California implemented universal VBM and lax signature verification  
3 requirements.

4 6. In the 2020 election cycle, the Election Integrity Project California  
5 (EIPCa) collected over 600 affidavits from citizen observers who observed ballots left  
6 unsecured, election workers spending inadequate time observing signatures, and  
7 election workers remaking ballots and running them through vote machines with no  
8 oversight and outside of the purview of citizen observers.

9 7. EIPCa has continued to collect thousands of sworn affidavits from trained  
10 volunteer observers, citizen observers, witnesses, and from people who moved to other  
11 states attesting to similar irregularities during 2021 and 2022.

12 8. The irregularities that continue to arise across California counties are the  
13 result of California's lack of uniform and secure election vote-counting procedures,  
14 including universal VBM, lax signature verification requirements, and a lack of chain  
15 of custody. Although the Defendant County Registrars implement their own  
16 procedures, their lack of uniform and secure procedures can be traced to California's  
17 voting laws and regulations. The situation is exacerbated by the lax maintenance of  
18 voter lists that allows potentially ineligible persons to vote.

19 9. Thus, Plaintiffs seek to enjoin California's election laws and regulations  
20 and to declare the current election laws, regulations, and procedures unconstitutional.  
21 Plaintiffs will seek all available discovery methods, including an audit.

22 10. This nonpartisan lawsuit seeks to restore confidence and integrity in  
23 California's election process. The remedies sought are essential in ensuring the  
24 integrity of future elections for all citizens. Election integrity and transparency are  
25 critical for the enfranchisement of all eligible voters, regardless of party affiliation or  
26 political view.

**PARTIES**

**I. Plaintiffs**

11. Plaintiff Election Integrity Project California, Inc. (EIPCa) is a California non-profit public benefit corporation committed to defending the civil rights of U.S. citizens to fully participate in the election process under Federal and state law. EIPCa is a non-partisan organization qualified under § 501(c)(3) of the Internal Revenue Code. As a non-partisan organization, EIPCa does not participate in any political campaign, nor does it endorse any candidate for public office. EIPCa focuses on the voting process, so that every vote is lawfully cast and accurately counted. EIPCa believes that the electoral process is the cornerstone of self-governance and the preservation of our Constitutional Republic. EIPCa takes no position on which candidate should prevail in a fair, honest, and transparent election. Candidates for public office, regardless of their political party affiliation, who seek genuine election integrity in our Constitutional Republic could cooperate with EIPCa in questioning and investigating election procedures. That cooperation does not constitute an endorsement by EIPCa of any particular candidate. Findings of defects or illegalities in election procedures have independent nonpartisan significance, whether or not any particular findings ultimately affect the outcome of an election.

12. EIPCa’s efforts are statewide. Since 2010, EIPCa has operated in 43 California counties, constituting over 85% of California’s population. Specifically, EIPCa operates in the counties listed in this lawsuit.

13. EIPCa accomplishes its mission by, among other things, education, research, legislative advocacy regarding the civil rights of U.S. citizens to fully participate in the election process, and investigations into the defects and illegalities in elections.

14. Additionally, EIPCa accomplishes its mission through observation of election procedures. Volunteer citizen observers for EIPCa agree to exercise their civil rights to observe election procedures under the guidance and for the benefit of EIPCa’s

1 research. Volunteers generally undergo extensive training on California election  
2 procedures and issues. Volunteers then schedule their time to observe with their county  
3 coordinator who staffs the county hotline to address issues that are called in from the  
4 county level volunteers. Volunteers agree that what they observe is confidential and  
5 for the benefit of EIPCa and may be used for legal procedures. EIPCa does not require  
6 membership dues but many volunteers choose to donate funds to EIPCa. Overall, these  
7 volunteers are dedicated to EIPCa and anticipate that EIPCa will use their observations  
8 to advocate for greater election integrity. Their personal connection and commitment  
9 are far more profound than those of most members of nonprofit organizations, such as  
10 a recreational hiker who pays annual dues to become a member of the Sierra Club.

11 15. EIPCa is directly harmed by California's voting laws, regulations, and  
12 procedures. In EIPCa's early years, elections were a single day, with two weeks of  
13 provisional and absentee ballot processing. This schedule required less than thirty days  
14 of work by EIPCa – including training of citizen observers, observation of election day,  
15 and a roughly two-week observation period of provisional and absentee ballot  
16 processing. EIPCa spent the remainder of the year engaged in research regarding the  
17 state and county voter rolls; research of the voting machines; research of state and  
18 federal election law; legislative advocacy; and other educational efforts.

19 16. Since California expanded VBM, gutted signature verification  
20 requirements, and limited chain of custody, EIPCa has diverted its resources from most  
21 of their programs to almost exclusively election observation efforts. Similarly, EIPCa  
22 has refused its voter list research to urgent monitoring and reporting of thousands of  
23 suspected ineligible registrants who will be mailed ballots in upcoming elections.  
24 Again, EIPCa has had to divert its attention to observation efforts because of the current  
25 laws and regulations in place.

26 17. Since 2020, EIPCa now commits a minimum of three months to their  
27 election observation program, including observation of a now 60-day long election  
28 season. The expansive work listed above is critical to EIPCa's mission. However, given

1 EIPCa’s limited resources and California’s election laws and procedures, EIPCa only  
2 has the capacity to focus on election process observation efforts and pre-election list  
3 analyses.

4 18. Plaintiff James P. Bradley is a resident and registered voter in Orange  
5 County.

6 19. Plaintiff Mark Reed is a resident and registered voter in Madera County.

7 20. Plaintiff Buzz Patterson is a resident and registered voter in Ventura  
8 County.

9 21. Plaintiff Michael Cargile is a resident and registered voter in Los Angeles  
10 County.

11 22. Plaintiff Ronda Kennedy is a resident and registered voter in Ventura  
12 County.

13 **II. Defendants**

14 23. Defendant Shirley Weber is the Secretary of State of the State of  
15 California. Defendant Weber is named in her official capacity. During many of the  
16 events alleged herein, Alex Padilla was serving as California’s Secretary of State.  
17 However, on or about January 18, 2021, he resigned his position as Secretary of State  
18 to take up an appointment to the U.S. Senate. Defendant Weber replaced former  
19 Secretary of State Padilla.

20 24. Defendant Rob Bonta (“Bonta”) is the Attorney General of the State of  
21 California. Defendant Bonta is named in his official capacity.

22 25. Defendant Rebecca Spencer (“Spencer”) is the Registrar of Voters for  
23 Riverside County, California. Defendant Spencer is named in her official capacity.

24 26. Defendant Dean C. Logan (“Logan”) is the Registrar of Voters for Los  
25 Angeles County, California. Defendant Logan is named in his official capacity.

26 27. Defendant Michelle Ascencion (“Ascencion”) is the Registrar of Voters  
27 for Ventura County, California. Defendant Ascencion is named in her official capacity.  
28



1           28. Defendant Stephenie Shea (“Shea”) is the Registrar of Voters for San  
2 Bernardino County, California. Defendant Shea is named in her official capacity.

3           29. Defendant Gina Martinez (“Martinez”) is the Registrar of Voters for  
4 Monterey County, California. Defendant Martinez is named in her official capacity.

5           30. Defendant Hang Nguyen (“Nguyen”) is the Registrar of Voters for  
6 Sacramento County, California. Defendant Nguyen is named in her official capacity.

7           31. Defendant Tim Dupuis (“Dupuis”) is the Registrar of Voters for Alameda  
8 County, California. Defendant Dupuis is named in his official capacity.

9           32. Defendant Kristin Connelly (“Connelly”) is the Registrar of Voters for  
10 Contra Costa County, California. Defendant Connelly is named in her official capacity.

11           33. Defendant Shannon Bushey (“Bushey”) is the Registrar of Voters for  
12 Santa Clara County, California. Defendant Bushey is named in her official capacity.

13           34. Defendant Francisco Diaz (“Diaz”) is the Registrar of Voters for San  
14 Benito County, California. Defendant Diaz is named in his official capacity.

15           35. Defendant Tricia Webber (“Webber”) is the Registrar of Voters for Santa  
16 Cruz County, California. Defendant Webber is named in her official capacity.

17           36. Defendant James A. Kus (“Kus”) is the Registrar of Voters for Fresno  
18 County, California. Defendant Kus is named in his official capacity.

19           37. Defendant Bob Page (“Page”) is the Registrar of Voters for Orange  
20 County, California. Defendant Page is named in his official capacity.

21           38. Defendant Aimee Espinoza (“Espinoza”) is the Registrar of Voters for  
22 Kern County, California. Defendant Espinoza is named in her official capacity.

23           39. Defendant Elaina Cano (“Cano”) is the Registrar of Voters for San Luis  
24 Obispo County, California. Defendant Cano is named in her official capacity.

25           40. Defendants are empowered with expansive authority to administer the  
26 election laws of the State of California. Specifically, the Secretary of State is statutorily  
27 delegated the “chief elections officer of the state” to “administer the provisions of the  
28 Elections Code.” Cal. Gov't Code § 12172.5. The Secretary of State holds the authority



1 to “adopt regulations to ensure the uniform application and administration of state  
2 election laws.” Cal. Gov’t Code § 12172.5. The Secretary of State’s role includes  
3 promulgating “regulations establishing guidelines for county elections officials related  
4 to the processing of vote by mail ballots,” Elections Code § 3026, and authorizing  
5 regulations relating to processing of provisional ballots. 2 C.C.R §§ 20992, 20993.

6 41. The County Registrar of Voters “hav[e] jurisdiction over elections within  
7 any county, city, or district within the state.” Cal. Elec. Code § 320. The County  
8 Registrar of Voters’ general powers and duties are set forth in Cal. Gov’t Code §§  
9 26801; 26802. The County Election Boards are executive agencies that carry out  
10 legislative mandates, and their duties concerning the conduct of elections are  
11 ministerial, acting upon information received from the Secretary of State. *Felt v.*  
12 *Waughop*, 193 Cal. 498, 504, 225 P. 862, 864 (1924).

### 13 JURISDICTION AND VENUE

14 42. This Court has subject matter jurisdiction under 28 U.S.C. 1331, which  
15 provides, “[t]he district courts shall have original jurisdiction of all civil actions arising  
16 under the Constitution, laws, or treaties of the United States.”

17 43. This Court also has subject matter jurisdiction under 28 U.S.C. 1343  
18 because this action involves a federal election for President of the United States and  
19 the United States Congress. See *Bush v. Gore*, 531 U.S. 98, 113 (2000) (Rehnquist,  
20 C.J., concurring); *Smiley v. Holm*, 285 U.S. 355, 365 (1932).

21 44. Jurisdiction to grant declaratory relief is conferred by 28 U.S.C. 2201 and  
22 2202 and by Rule 57 and 65, Fed. R. Civ. P. 7.

23 45. This Court is also authorized to grant injunctive relief and damages under  
24 28 U.S.C. § 1343, pursuant to Rule 65 of the Federal Rules of Civil Procedure, and  
25 reasonable attorneys’ fees and costs under

26 46. Venue is proper under 28 U.S.C. 1391 because “a substantial part of the  
27 events or omissions giving rise to the claim occurred” within the Central District of  
28 California as some Plaintiffs and Defendants reside in the Central District.

1 47. In addition, EIPCa conducts a significant amount of its observation  
2 efforts in the Central District of California, and its volunteer citizen observers reside  
3 and vote in the Central District of California.

4 **FACTUAL ALLEGATIONS**

5 **I. California Has Systemically Undermined the Integrity of California’s**  
6 **Elections through Decades of Unconstitutional Laws.**

7 48. Over the years, California has passed election laws, orders, and  
8 regulations under the guise of increasing voter participation. Although the goal is  
9 laudable, these laws and regulations have systemically undermined election integrity  
10 and enabled pervasive irregularities. For instance, these laws and regulations expanded  
11 VBM, gutted signature verification requirements, eliminated chain of custody, and  
12 legalized unrestrained and unrestricted ballot harvesting and therefore the exploitation  
13 of vulnerable populations.

14 49. Cumulatively, these changes in the law and election procedures have  
15 allowed voter rolls to encompass large numbers of deceased persons, non-residents,  
16 duplicates, and other potentially ineligible registrants who, nonetheless, receive VBM  
17 ballots and who have often voted in elections according to state elections data.

18 50. The changes in the law to send VBM ballots to all registered voters created  
19 a process where known ineligible voters (including deceased persons, non-citizens, and  
20 non-residents) were sent ballots. For instance, one voter in Alameda County reported  
21 receiving a VBM ballot for the 2020 election for her deceased husband.

22 51. In 1993, Congress enacted the National Voter Registration Act (“NVRA”)  
23 52 U.S.C. § 20501, et seq. with the stated purposes of: (1) “increase[ing] the number  
24 of eligible citizens who register to vote”; (2) “enhance[ing]” their “participation ... as  
25 voters in elections for Federal office”; (3) “protect[ing] the integrity of the electoral  
26 process”; and (4) “ensur[ing] that accurate and current voter registration rolls are  
27 maintained.” *Id.*, § 20501(b). Goals 1 and 2 were to be realized, in part, by allowing  
28 voter registration through state departments of motor vehicles (“DMVs”). Goals 3 and

1 4 were embodied in Section 8, which requires each state to “conduct a general program  
2 that makes a reasonable effort to remove the names of ineligible voters from the official  
3 lists of eligible voters by reason of” death or a change in the residence of the registrant  
4 and specifies a procedure for doing so.

5 52. California, however, has failed to comply with Section 8 of the NVRA,  
6 interpreting its requirement to remove ineligible voters from voter rolls as permissive,  
7 rather than mandatory. In other words, California massively expanded its voter rolls  
8 through DMV registration but failed to remove ineligible voters.<sup>1</sup> California’s New  
9 Motor Voter Program made DMV registration automatic. This allows for duplicated  
10 registrations and non-citizen registrations.

11 53. In 1998, California exacerbated the problems created by ineligible voters  
12 on its rolls by eliminating the absentee balloting process. With absentee ballots, voters  
13 had to present identification and apply for a ballot. The VBM balloting process  
14 automatically sends ballots to registrants prior to every election and does not require  
15 verification that the voters are eligible to vote, residents of California, or deceased.  
16 Since 1998, approximately 75% of voters in California regularly received permanent  
17 VBM ballots even before the most recent “emergency” orders. In many cases, this was  
18 not the voter’s choice. Two Presidential Election Commissions (2001 and 2005) have  
19 determined that VBM ballots do not satisfy five requirements for fair and honest  
20 elections and facilitate election manipulation and fraud.

21 54. In 2002, the Federal government passed the Help America Vote Act  
22 (HAVA), which required the establishment of a statewide voter database. California  
23 was one of the last states to come into compliance with this mandate, only doing so in  
24 2016 after the California Advisory Committee to the U.S. Commission on Civil Rights  
25 called for a hearing as a result of EIPCa providing voter roll research and observation

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26  
27 <sup>1</sup> In 2018, EIPCa entered into a settlement with the Los Angeles County Registrar and former Secretary  
28 of State Padilla that, among other things, required removal of 1.5 million inactive registrants from the  
voter list due to their failure to comply with Section 8 of the NVRA. That settlement is not at issue in  
this case.

1 documentation from the 2012, 2013 (special election), and 2014 elections. Even then,  
2 there were issues with California’s compliance with HAVA, including the manner in  
3 which the contract was awarded (no-bid, non-competitive award), the poor reputation  
4 of the company awarded the contract, the lack of transparency with regard to the  
5 database certification, and EIPCa’s revelations of serious and potentially disqualifying  
6 defects in the database (which continue even now).

7 55. In 2012, California passed Senate Bill (SB) 397, allowing online voter  
8 registration without effective controls against ineligible registrations. In its first month,  
9 6,080 duplicate registrations through the new online system were recorded in just nine  
10 counties, 113 of whom appear to have voted twice in the November 2012 election.

11 56. In 2016, California passed SB 450, otherwise known as the Voter’s  
12 Choice Act, which eliminated neighborhood precinct voting and reduced the number  
13 of in-person polling places. The bill no longer required a voter, who received a VBM  
14 ballot but sought to vote in person, to surrender the VBM ballot at the voter’s home  
15 precinct and clearly mark it as “surrendered.” Instead, an electronic system was put in  
16 place, which purportedly keeps track of invalidated VBM ballots belonging to in-  
17 person voters.

18 57. In 2020, EIPCa observers documented election workers telling in-person  
19 voters to simply throw their VBM ballots and envelopes into trash cans with no  
20 invalidating markings. It is unclear whether any of these discarded ballots could have  
21 been subsequently removed from the trash, filled out, and counted in the vote totals.

22 58. Also in 2016, California passed Assembly Bill (AB) 1921, allowing an  
23 unlimited number of VBM ballots to be turned in by anyone, regardless of relationship  
24 to the voter. This bill eliminated mail ballot chain of custody and legalized wholesale  
25 ballot harvesting, by which one person can collect an unlimited number of ballots and  
26 turn them in. Because of the extreme potential for fraud, this practice is restricted or  
27 prohibited in most states and considered a felony in many. In states where ballot  
28 harvesting is allowed, voter fraud operations have been uncovered, including cash

1 payments for votes and ballot harvesters preying upon and deceiving vulnerable  
2 populations like the elderly, minority voters, non-citizens, and young voters.

3 59. In 2017, California further eroded election integrity by passing SB 286,  
4 under which voters are no longer required to state their name and address aloud and  
5 have it repeated by election workers when voting in person as was previously required  
6 under California Elections Code § 14216. The bill further facilitates voter  
7 impersonation since voter ID is not required.

8 60. In 2018, California passed SB 759 as urgency legislation (*i.e.*, effective  
9 immediately), requiring counties to contact all voters whose VBM ballots are  
10 considered for rejection, so they can “cure” their signatures. This law has significant  
11 unintended consequences. For example, verification by a voter is done by downloading  
12 a form online or responding with a form sent in the mail. A voter may therefore never  
13 see the original ballot envelope and may verify a fraudulent signature. Although the  
14 law requires the curing notice to be sent no later than eight days prior to certification  
15 and be returned no later than two days before certification, former Secretary of State  
16 Padilla violated California law and issued an advisory in November 2018 that the  
17 practice can and should continue up to the date of certification.

18 61. AB 306 further weakened ballot chain of custody and opened the door to  
19 organized ballot harvesting by prohibiting disqualification of a ballot solely because  
20 the person returning it does not provide their name, relationship to the voter, or  
21 signature.

22 62. In 2019, California passed a raft of new voting legislation, including AB  
23 963 and AB 1036, which instituted complex programs on high school and college  
24 campuses with the goal of increasing registration and voting by students, whether  
25 eligible to vote or not. California also passed SB 72, which instituted same-day voter  
26 registration at all polling places, placing undertrained, under-supervised, and at times  
27 overwhelmed election workers with unreliable computer systems in the position of  
28 determining voter eligibility. Finally, California passed SB 523, which extended the

1 “curing” process for missing or challenged VBM ballot envelope signatures from eight  
2 days after election day to two days before certification.

3 **II. California Continues To Pass Unconstitutional Laws And Issue**  
4 **Unconstitutional Regulations In 2020 and Beyond.**

5 63. On June 18, 2020, California passed AB 860, directing county officials to  
6 mail a ballot to every active-status registrant voter.

7 64. As a result, every active-status registrant on California’s voter rolls were  
8 mailed a VBM ballot. Millions of VBM ballots for the 2020 general election were  
9 placed in the U.S. Mail with no means to ensure that a particular ballot was actually  
10 received by the intended recipient, or that the intended recipient was alive, a resident  
11 of California, or otherwise eligible to vote. EIPCa data research shows that hundreds  
12 of thousands of ballots were sent to the last known address of individuals showing no  
13 electoral activity for 12-40 years. EIPCa’s post-election analysis showed that 12  
14 individuals voted by mail in 2020 after having no voting activity for over 30 years.

15 65. Emergency regulations issued by former Secretary of State Padilla for the  
16 2020 general election further eviscerated the standards for the validation of VBM  
17 ballots. Secretary of State Weber readopted these regulations, and they remain in effect  
18 today.

19 66. On September 28, 2020, after an unpublicized public comment period of  
20 only five days, former Secretary of State Padilla adopted new “emergency” regulations.  
21 *See CC/ROV 20226* (Sept. 29, 2020). These regulations include California Code of  
22 Regulations (“CCR”) §§ 20910, 20960-20962, and 20980-20985. Initially, these  
23 emergency regulations were intended to be effective through July 28, 2021. Secretary  
24 of State Weber readopted the regulations in 2021 and 2022, and they remain effective  
25 today.

26 67. These regulations do not require that counties across California apply  
27 uniform, meaningful, and robust vote-counting procedures. For instance, subsection (b)  
28 of 2 CCR § 20960 provides that the “comparison of a signature shall begin with the



1 basic presumption that the signature on the petition, the vote-by-mail identification  
2 envelope, signature verification statement, unsigned ballot statement, or provisional  
3 ballot envelope is the voter's signature.” In 2021, the California Legislature codified  
4 subsection (b) into law through SB 503, as reflected in California Elections Code §  
5 3019.

6 68. Section 3019 does not require county officials to find an exact match when  
7 comparing VBM signatures with those on record on the election database.

8 69. Neither California Elections Code § 3019 nor 2 CCR § 20960 require  
9 counties to require election workers to verify a specific number of points of  
10 comparison. Examples include: the slant of the signature; whether the signature is  
11 printed or in cursive; the size, proportions, or scale of the signature; individual  
12 characteristics such as how the t’s are crossed or how the i’s are dotted; line direction;  
13 spacing between letters; and letter formations.

14 70. Subsection (g) of 2 CCR § 20960 also dictates criteria for evaluation of  
15 signature matches that justify finding a favorable comparison (i.e. match) of two  
16 signatures that clearly do not match. Particularly egregious is the justification that the  
17 voter’s signature style might have changed over time. This provision legitimizes  
18 acceptance of virtually any signature without subjecting clear mis-matching signatures  
19 to the safeguard of the curing process.

20 71. The effect of the foregoing provisions in nullifying any possibility of  
21 meaningful signature verification is compounded by subsection (j) of 2 CCR § 20960,  
22 which requires that a signature “shall only be rejected if two different elections officials  
23 unanimously find beyond a reasonable doubt that the signature differs in multiple,  
24 significant, and obvious respects from all signatures in the voter’s registration record.”  
25 In 2021, the California Legislature codified this subsection into law through SB 503.

26 72. When combined with the standards of 2 CCR § 20960(g) set forth above,  
27 the beyond a reasonable doubt standard of § 20960(j) justifies the acceptance of  
28



1 virtually any signature on a VBM ballot return envelope, again, without subjecting  
2 clearly mis-matching signatures to the safeguard of the curing process.

3 73. The adjustment of standards for signature matching of VBM ballot return  
4 envelopes is patently gratuitous given that California Elections Code § 3019(d)  
5 provides a meaningful opportunity for a voter to cure the rejection of a signature match  
6 by requiring notice to the affected voter and the opportunity to submit verification of  
7 the rejected signature.

8 74. The enacted emergency regulations also nullify rejections based on  
9 computer signature recognition technology, requiring that election workers evaluate  
10 any rejection manually under the virtually nonexistent standards of 2 CCR § 20960.

11 75. The enacted emergency regulations also promote fraud by allowing the  
12 submission of multiple ballots in a single VBM ballot return envelope. Subsections  
13 (b)(10) and (b)(11) of 2 CCR § 20991 allow multiple ballots to be stuffed into a single  
14 VBM return envelope, provided there is an equal number of signatures on that  
15 envelope. This conflicts with the requirement that the signature and other information  
16 included by the voter on the outside of a VBM envelope be confirmed by a declaration  
17 under penalty of perjury. Cal. Elec. Code § 3011.

18 76. The acceptance of multiple ballots in a single VBM return envelope  
19 authorized by 2 CCR § 20991(b)(10) and (11) also eliminates the protection provided  
20 by the barcode on the envelope, which is used to track whether a particular voter has  
21 submitted a VBM ballot. Moreover, without the barcode to scan for the extra  
22 signatures, the already harried reviewers have no reasonable means of summoning each  
23 voter registration affidavit signature for purposes of comparison.

24 77. Even if it were practicable to conduct signature comparisons for multiple  
25 signatures on a single VBM return envelope – which for the reasons set forth above it  
26 is not – the signature reviewer has no means of knowing if there is a signature for each  
27 ballot included in the envelope. Signatures are verified before the envelope is opened.  
28

1           78. The acceptance of multiple ballots in a single VBM return envelope also  
2 creates intractable practical problems for determining which votes have been legally  
3 cast. If after opening a VBM ballot return envelope there are more ballots in the  
4 envelope than signatures on the envelope, there is no means of determining which of  
5 the multiple ballots an election worker should reject, assuming any efforts were made  
6 to make this comparison. The same would hold true if one or more signatures on the  
7 VBM envelope were rejected (which for the reasons set forth above, would rarely occur  
8 under the standards set forth in 2 CCR §§ 20960 and 20961); there would be no way to  
9 determine which ballot should not be counted.

10           79. The emergency regulations also require the acceptance of VBM ballot  
11 envelopes with no reliable indication that the ballot was cast on or before election day.  
12 This is reflected in subsection (b)(8) of 2 CCR § 20991, which provides that a VBM  
13 ballot must be accepted when a “vote-by-mail ballot identification envelope has no  
14 dated postmark, the postmark is illegible, and there is no date stamp for receipt from a  
15 bona fide private mail delivery service, but the voter has dated the vote-by-mail ballot  
16 identification envelope or the envelope otherwise indicates that the ballot was executed  
17 on or before Election Day.”

18           80. Moreover, the legislature amended California Elections Code § 3020 to  
19 provide that, “any vote by mail ballot cast under this division shall be timely cast if it  
20 is received by the voter’s elections official via the United States Postal Service or a  
21 bona fide private mail delivery company no later than seven days after election day. .  
22 .”

23           81. Thus, under the California Elections Code and the emergency regulations,  
24 VBM ballots that cannot reliably be determined to have been cast on or before election  
25 day are nevertheless required to be accepted up to seven days after election day. This  
26 creates an open invitation to submit illegal ballots after election day to overturn  
27 reported election results, especially election contests decided by margins of very few  
28 votes.

1           82. The enacted emergency regulations further promote fraud by granting  
2 election workers wide discretion to determine the intent of the voter during the ballot  
3 duplication process. 2 CCR § 20982 allows duplication of ballots that are “not marked  
4 as provided by law.” Subsection (c) 2 CCR § 20982 allows ballots with improper marks  
5 to be counted if the election worker determines that the improper ballot mark represents  
6 “a voter’s choice.” Subsection (e) of 2 C.C.R. § 20982 allows ballots where more than  
7 one candidate is marked for the same office to be counted if the “voter’s choice can be  
8 clearly determined.”

9           83. Defendant Weber (as Alex Padilla before her), in her official capacity as  
10 Secretary of State, has managed California’s vote by mail and signature verification  
11 process through emergency regulations, bypassing the legislative process. The  
12 California legislature has enacted portions of these regulations into law.

13           84. These regulations and laws have transformed election day from a one-day  
14 process to a multi-week process and have given County officials considerable latitude  
15 and discretion in enforcement of vote-counting and signature verification procedures.

16 **III. EIPCa Warns Secretary of State about Serious Irregularities with Voter**  
17 **Rolls Prior to the 2020 Election.**

18           85. On March 1, 2020, prior to the primary election, EIPCa sent a letter to  
19 former Secretary of State Padilla warning him that “[w]e have identified in the [State  
20 of California’s voter registration] file over 22,000 Californians that appear to be  
21 registered twice, some registered three or four times. Of these, we estimate that almost  
22 5,000 duplicated registrants have been mailed two or more VBM ballots this election.”  
23 EIPCa noted that duplicate voting was likely to result and witnessed voting records  
24 indicating early double voting in the upcoming primary. On April 7, 2020, the Secretary  
25 of State responded that its office had confirmed 13 EIPCa-reported suspected double  
26 voters had indeed voted twice.

27           86. On April 28, 2020, EIPCa sent former Secretary of State Padilla statutory  
28 notice pursuant to 52 U.S.C. § 20510(b) of violations of Section 8 of the NVRA, 52

1 U.S.C. § 20507. This notice was accompanied by an Excel findings report detailing  
2 each irregular registration. The notice highlighted over 458,000 likely ineligible  
3 registrants who would be mailed ballots for the November election and an additional  
4 24,000 duplicated registrants who would each be mailed two or more ballots unless  
5 corrected. The notice included supporting evidence that the state has over 1 million  
6 more registered voters than eligible citizens, per official government data.

7 87. On July 11, 2020, EIPCa warned former Secretary of State Padilla that  
8 EIPCa had identified large numbers of ineligible registrants on California’s voter rolls,  
9 including “13,456 California registrants who match a California Department of Public  
10 Health (CDPH) Death Index record” (327 of whom were 105+ years old), and 106,315  
11 other registrants who appear to be ineligible for a variety of reasons, such as having  
12 moved out of the state or being below the minimum age to vote. California’s failure to  
13 comply with the NVRA’s requirement to cancel registrations of ineligible voters is a  
14 major contributor to these issues.

15 88. On October 17, 2020, EIPCa sent another letter and Excel report to the  
16 Secretary of State stating that it had identified almost 440,000 likely ineligible  
17 registrants who had been mailed a ballot for the November 2020 election. The total  
18 included 416,000 who had been registered for 12+ years but who had not voted in 12-  
19 40 years. Also included were over 3,300 registrants still on the rolls who closely  
20 matched a California death record and almost 20,000 who had been mailed two to four  
21 ballots because they each had two or four registrations. The letter requested the  
22 Secretary to work with the counties to ensure only lawfully-cast ballots are counted.

23 89. EIPCa’s estimates of ineligible registrants are conservative and  
24 significantly underestimate the full extent of the problem. For example, if a name and  
25 birthdate appearing on the voter roll is shared by both a deceased and a living person,  
26 EIPCa assumes the name belongs to the living person and does not include that name  
27 within its count of deceased voters, even though it is possible that the name on the voter  
28

1 roll refers to the deceased person. Further, EIPCa does not include in its analysis names  
2 that are particularly common within the population (e.g., John Smith, Jose Gonzalez).

3 90. EIPCa received responses to its letters downplaying EIPCa’s concerns and  
4 refusing to remedy the identified problems.

5 **IV. California’s Voting Laws, Regulations, And Procedures Caused**  
6 **Widespread Irregularities In The 2020 Election And Beyond.**

7 **A. Citizen Observers Were Obstructed from Meaningfully Observing**  
8 **Vote Collection and Tabulation.**

9 91. Secretary of State Weber implemented guidance<sup>2</sup> regarding the rights and  
10 responsibilities of election observers that grant local election officials’ broad discretion  
11 in determining the parameters of observation of the election process. The Secretary’s  
12 guidance allows local election officials to determine the distance at which observers  
13 can observe and how observers may pose questions and challenges during the  
14 observation process. The guidelines also allow local elections officials to ask observers  
15 to leave the premises. The wide discretion granted to county officials via regulations  
16 and rules implemented by the Secretary of State are leading to expansive irregularities,  
17 as reflected in incident reports from EIPCa observers.

18 92. EIPCa provides non-partisan training to citizen observers across the State  
19 of California regarding how to observe the election process at polling locations and  
20 vote centers, as well as ballot processing and vote tabulation consistent with their rights  
21 under California law. These EIPCa-trained observers provide incident reports to  
22 EIPCa, signed under penalty of perjury, regarding any irregularities they witness.  
23 Unaffiliated citizens also report irregularities to EIPCa signed under penalty of perjury.

24  
25  
26 <sup>2</sup> Secretary of State Weber’s most recent guidelines issued to the Counties pertaining to observer rights  
27 and responsibilities is available at: <https://elections.cdn.sos.ca.gov/ccrov/2022/september/22233jl.pdf>.  
28 Nearly identical guidelines were issued in the 2020 and 2021 elections. Secretary Weber has proposed  
that her rules and guidelines pertaining to the rights and responsibilities of election observers be  
codified at Chapter 8.2 to Division 7 of Title 2 of the California Code of Regulations. A vote on these  
regulations is impending.

1           93. Over the past few years, EIPCa has received thousands of incident reports  
2 signed under penalty of perjury establishing that EIPCa-trained observers were not  
3 allowed sufficiently close access to see the signatures on VBM ballots with sufficient  
4 clarity to determine if established procedures were being followed. Observation  
5 distances were too great. Observers were limited, at times, to a few minutes of  
6 observing. In some cases, observation was provided through remote video access which  
7 precluded the ability of observers to challenge whether established procedures were  
8 being followed. In some counties, observers were not allowed to observe the remaking  
9 of military, damaged, or defective ballots.

10           94. Below is a sampling of the ways in which Secretary Weber’s lack of  
11 robust election procedures resulted in obstructed observation on a county-by-county  
12 basis:

13           **95. Alameda County:**

14           During the 2020 election, an EIPCa citizen observer was informed by multiple  
15 county employees that no observers were allowed to observe vote processing and  
16 counting at all due to COVID-19.

17           **96. Fresno County:**

18           Throughout Fresno County, EIPCA citizen observers during the 2020 election  
19 were kept in confined areas too far from vote processing and counting activities to  
20 effectively observe them. Former Registrar Orth told citizen observers at the Orange  
21 Cove Library that they “needed to stay in [their] area and observe!” Former Registrar  
22 Orth did not believe observers needed to be close enough to hear what was going on.

23           In 2020, at Reedley Precinct 13, citizen observers were forced to remain in an  
24 observer area which was approximately 35 feet back from check-in and in the back of  
25 the room. According to EIPCa-trained observers, it was difficult to see and hear what  
26 was going on.

1 In 2020, at Orange Cove Precinct 14, citizen observers were required to stay in  
2 a confined area behind tables approximately 50 feet from vote processing and counting  
3 activities. It was difficult to see or hear.

4 On multiple occasions during the 2021 recall election, EIPCa-trained observers  
5 at the Fresno County Processing Center were told that the center was not processing  
6 ballots. They were surprised to learn that the workers were in fact actively processing  
7 ballots without observation.

8 During the 2021 recall election, EIPCa-trained observers were prohibited from  
9 observing signature verification processes. A supervisor explained to one observer that  
10 this was to “honor voter privacy.”

11 **97. Kern County:**

12 When observing the signature verification process for the 2021 recall election,  
13 citizen observers were kept between 15 to 50 feet from signature verification workers,  
14 making it impossible to see the signature verification process. Signatures were  
15 processed so quickly it was difficult for observers to follow along. At the Kern County  
16 Registrar of Voters office, six monitors covered the observation window, rendering  
17 observation of ballot processing significantly limited or impossible.

18 In 2021, workers at the Kern County Registrar of Voters Office made it difficult  
19 for citizen observers to observe and displayed hostility towards the EIPCa observers.  
20 EIPCa-trained observers were directed not to speak while on the premises, even though  
21 their discussions pertained to the assignment at hand in a nondisruptive manner. EIPCa-  
22 trained observers were kept outside the elections department for increasing periods of  
23 time, without access to the observation area while ballot processing was occurring.

24 **98. Los Angeles County:**

25 During the 2020 election, a citizen observer was told by a head poll worker at  
26 Vasquez High School that “it was illegal for [her] to be [there]” as a poll observer after  
27 the polls closed. The citizen observer was forced to leave five minutes before the doors  
28 to the voting center closed.



1 Throughout the past few years, observers have noted that they were not able to  
2 adequately observe the ballot remaking process.

3 **99. Monterey County:**

4 EIPCa-trained observers were separated from the election officials processing  
5 ballots by thick glass, making it impossible to hear the process. They were more than  
6 ten feet away from the election officials' desks, making it virtually impossible to see  
7 what they were doing.

8 **100. Orange County:**

9 During the 2020 election, EIPCa-trained observers were provided with computer  
10 "observation screens" on which to view ballot processing activities. However,  
11 observers were kept far away from these screens, making observation of details like  
12 signatures impossible to verify. One citizen observer resorted to viewing the screens  
13 with binoculars but was still too far away to see signatures clearly.

14 Observation screens were also turned off with varying or no explanation while  
15 the count continued. EIPCa-trained observers were unable to view or object to  
16 signature matches and the processing of conditional ballots because these screens were  
17 off.

18 The Registrar of Voters informed EIPCa-trained observers that it had halted  
19 "first pass" ballot counting at 5:00 p.m. However, counting took place again later in  
20 the evening without the knowledge or observation of observers. This would never have  
21 been discovered but for a EIPCa-trained observer who logged into the Remote  
22 Observing System at 6:30 p.m. and was "stunned" to see the video "was an active and  
23 live viewing of 'first pass' signatures" going on.

24 **101. Riverside County:**

25 EIPCa-trained observers during the 2020 election were prevented from  
26 observing the ballot remaking process. When an observer raised this concern with an  
27 election official, he told the observer there would be no changes to the process to enable  
28 observers to see ballots being remade. A temporary elections assistant in Riverside who

1 took part in the remaking of ballots reported that she observed no method of  
2 accountability for the remaking of ballots that would ensure the voter’s original choice  
3 was accurately marked on the new ballot. The employees sat across from each other  
4 without view of what the other person was doing. Ballot remaking occurred in the back  
5 of the room, far from where citizen observers could see because tall carts obstructed  
6 the view.

7 **102. Sacramento County:**

8 An EIPCa-trained observer during the 2020 election was positioned more than  
9 six feet from the counting desks. The desks were also surrounded by plexiglass, making  
10 it nearly impossible to see ballot marks.

11 In 2021 and 2022, citizen observers were not allowed to adequately observe the ballot  
12 remaking process.

13 **103. Santa Clara County:**

14 During the 2020 election, an EIPCa-trained observer in Santa Clara reported that,  
15 “Observers were not allowed into the tabulation room to observe counting. Observers  
16 watched from conference room over zoom link, but camera was filming from the  
17 doorway/outside the room.” As such, observers had limited view on the operation and  
18 could not readily object.

19 In 2020, an observer was not allowed into the room where the duplication of  
20 ballots were occurring and could therefore not see or hear what was going on.

21 **104. Ventura County:**

22 In 2020, Ventura County allowed only a limited number of citizen observers to  
23 observe ballot processing and vote tabulation in person, and they were directed to stand  
24 outside the vote tabulation center in the hall and observe through the window,  
25 approximately 20 feet away from the process. Ventura County also set up a limited  
26 number of streaming cameras to allow citizen observers to observe remotely, but they  
27 provided limited view of the facility and did not show the activity on computer screens.  
28

1 Throughout the past few years, EIPCa-trained observers have also reported not  
2 being able to adequately observe the ballot remaking process.

3 **B. Despite Obstacles to Observation, Widespread Irregularities Were**  
4 **Reported in Thousands of Sworn Affidavits.**

5 105. Despite the inadequate observation measures implemented by Defendant  
6 County Registrars, EIPCa-trained observers and non-affiliated citizens still observed a  
7 vast number of VBM and processing irregularities, which are documented in thousands  
8 of sworn affidavits collected by EIPCa.

9 106. The lack of uniform and secure vote counting procedures caused disparate  
10 results across counties. For instance, Solano County runs all signatures through a  
11 machine for an initial review. Election workers look for an overall signature  
12 characteristic match, which includes more than three points of comparison. Any  
13 rejected signature gets at least three reviews, including by a machine, line staff, and  
14 supervisor.

15 107. Placer County manually reviews all signatures looking for at least three  
16 points of comparison. The signature verification process is slow, in-depth, and  
17 methodical. On information and belief, citizens in these counties did not report  
18 incidents of election workers approving ballots that did not match the signatures on  
19 file.

20 108. However, the Defendant County Registrars implemented inadequate  
21 procedures, as demonstrated in thousands of affidavits. These affidavits demonstrate  
22 that signature verifications for VBM ballots for all elections since November 2020  
23 were not meaningfully or uniformly conducted. As massive numbers of VBM ballots  
24 flooded vote counting centers, their signatures were visually checked at the rate of one  
25 signature pair every one to four seconds. In some cases, four signature comparisons  
26 were conducted simultaneously using images projected on computer monitors at the  
27 rate of one to four seconds per screen.  
28

1           109. California’s laws and regulations do not require county registrars to use a  
2 machine to verify signatures. 2 CCR 20961. The laws and regulations also do not  
3 require counties calibrate their signature verification technology to a specific error rate.  
4 *Id.* Some counties, like Los Angeles County, use a higher error rate so more signatures  
5 pass the machine run.

6           110. These inadequate procedures resulted in election workers in these counties  
7 approving VBM ballots that did not match the signature samples on record. Some  
8 election workers even counted ballots with no signatures or signatures that did not  
9 match the identity of the voter.

10           111. Furthermore, California’s laws and regulations do not require counties  
11 apply the same standard when determining the intent of a voter. 2 CCR 20982. Some  
12 counties use machine technology while other counties use arbitrary manual standards  
13 or a hybrid model to determine the intent of a voter during the ballot remaking process.

14           112. Some counties, such as those listed in this lawsuit, have only one team  
15 verifying the intent of the voter whereas counties like Siskiyou County have multiple  
16 teams verifying the intent of the voter. The first team reads the ballot and then ensures  
17 it is being read correctly. In the second team, the first person marks a blank ballot with  
18 a black ball point pen or a black gel ink pin while another person watches the first  
19 person to ensure the marking matches what is read out loud. A multiple two-person  
20 team is more accurate because it provides additional oversight and accountability.

21           113. The following incident reports reflect a small fraction of reports received  
22 by EIPCa relating to ballot remaking, signature verification, and chain of custody:

23           114. **Alameda County:**

24           In 2020, one EIPCa-trained election worker observed election workers  
25 duplicating ballots without any input from the voter. The observer found this odd, as  
26 those who voted via voting machine were given a chance to change or correct their  
27 ballots, while those who voted by mail or provisional ballot were not given a chance to  
28 change or correct their ballot.

1           **115. Contra Costa County:**

2           In 2020, a voter had his ballot envelope signed by another person with a different  
3 name, and the county accepted the signature because no signature matching was taking  
4 place.

5           A citizen who was voting during the 2020 election observed a poll worker  
6 instruct another voter how to vote on certain ballot items that the voter had left blank  
7 because the voter knew nothing about them, per her own admission. The poll worker  
8 provided her this guidance without solicitation.

9           During the 2021 election, an EIPCa-trained observer challenged signatures  
10 which were verified despite more discrepancies between the signatures than common  
11 elements. Two supervisors ignored the observers concerns, informing the citizen  
12 observers that the election worker comparing signatures was “experienced” despite  
13 clear differences between the compared signatures.

14           **116. Fresno County:**

15           At Fresno County’s Clovis Center, a supervisor informed an EIPCa-trained  
16 observer during the 2020 election that the ballots for the first day of early voting had  
17 been left inside a vote tallying machine “unattended in a locked room overnight,” and  
18 that it was his understanding this practice would continue every night until the final  
19 closing of the voting center.

20           Multiple EIPCa-trained observers and voters reported that vote center ballot box  
21 counters were not daily reset to zero as required by law.

22           At Betty Rodriquez Regional Library, the lead supervisor informed an EIPCa-  
23 trained observer during the 2021 recall election that ICS machines were not locked up  
24 overnight and were kept in the room where voting took place. The lead supervisor told  
25 an observer that when she arrived at the vote center in the morning, the doors to the  
26 voting room were unlocked and open overnight.

27           **117. Kern County:**

28

1 During the 2021 recall election, election officials did not perform meaningful  
2 signature matching of signatures on VBM ballot envelopes with those on record.  
3 Multiple citizen observers reported that election workers were verifying signatures that  
4 didn't have the same name. One ballot read "I don't know name" and was verified.  
5 Signatures with no comparable characteristics and with multiple, significant, and  
6 obvious incomparable characteristics were also verified.

7 On one occasion, the signature history of a challenged signature showed three  
8 different signatures for a single voter. The signature on the envelope was verified as  
9 valid even though it did not match the signatures on record.

10 Election workers were also accepting signatures before all signature history  
11 populated on the computer screen. EIPCa-trained observers saw election workers  
12 verify "inactive voter" signatures, as well as ballots with no signature at all.

13 At the Kern Registrar of Voters, multiple EIPCa-trained observers during the  
14 2021 election witnessed a worker performing signature verification on ballots that were  
15 challenged on the first pass. The worker rapidly approved approximately 95% of  
16 challenged signatures. According to the EIPCa observers, of the signatures approved  
17 by the worker, approximately 1/3 of signatures were an extreme mismatch, 1/3 were  
18 acceptable, and another 1/3 needed closer examination.

19 **118. Los Angeles County:**

20 During the 2020 election, multiple EIPCa-trained observers at voting centers  
21 saw "many workers with open bags, big purses and other stuff around desks" in  
22 violation of security procedures, noting that "[b]allots could easily have been taken."

23 An EIPCa-trained observer at Los Angeles County's Claremont Center  
24 witnessed two different women drop off multiple ballots without voter signatures.  
25 Nevertheless, the ballots were counted by election officials for the 2020 general  
26 election.

27 Even where signature comparison was done, it was not done effectively. During  
28 the 2020 election, an EIPCa-trained observer watched a worker comparing signatures

1 four at a time (as in other listed counties) and spending five seconds or less per each  
2 set of four. The observer saw over 40 signatures that did not match. Only a few were  
3 flagged. Another observer observed 95 signatures that should have been challenged but  
4 were not, including “[m]any [that] had no signature or a total mismatch.” (*Emphasis*  
5 *added.*)

6 Across Los Angeles County, multiple in-person voters for the 2021 recall  
7 election were told upon checking in at the vote center that they had already voted. Other  
8 individuals report receiving VBM ballots for individuals who did not live at their  
9 address.

10 Also, during the 2021 recall election, EIPCa-trained observers reported that the  
11 automatic signature verification machines at the vote centers were functioning at such  
12 a rapid speed that observation was nearly impossible. Observers noted that these  
13 machines flagged very few ballots, despite observers noting clear discrepancies in the  
14 signatures.

15 **119. Monterey County:**

16 Voters in Salinas who voted in person for the 2020 election were advised that a  
17 provisional ballot must be used. A mail carrier in the Salinas Post Office informed a  
18 voter that his superiors had instructed him to “cram all the ballots into a mailbox” even  
19 if he knew many of the voters at the address did not live there.

20 **120. Orange County:**

21 Election officials did not perform meaningful signature comparison of signatures  
22 on VBM ballot envelopes with those on record during the 2020 election. Signatures  
23 were displayed four at a time on computer screens and remained on the screen for only  
24 a few seconds, leaving no actual time for signature matching to occur or for observers  
25 to object. Ballots with signatures that did not appear to match were counted. Another  
26 election official informed an EIPCa-trained observer that Former Registrar Kelley had  
27 modified a ballot processing rule that previously required signature pairs to be  
28 examined for 12 seconds each.



1 The status of VBM envelope signatures that were challenged by EIPCa-trained  
2 observers was changed from “challenged” to “good” without meaningful review by  
3 election officials. During ballot processing, an election official announced over the  
4 public address system that observers were challenging too many signatures and that the  
5 election officials would not have time to get through all of them.

6 At the meeting of the League of Women Voters of Central Orange County on  
7 November 16, 2020, Kelley expressed surprise about the changes regarding signature  
8 verification because the new instruction essentially amounted to a directive that  
9 “basically all ballots were to be considered valid unless there was substantial proof  
10 otherwise.”

11 **121. Riverside County:**

12 In 2020, an EPCa-trained observer witnessed ballots put into boxes that were  
13 never sealed and then put into an election official’s car in which another unidentified  
14 individual was riding.

15 A temporary assistant at the Registrar of Voters during the 2020 election was  
16 assigned to accept drive-in VBM ballots curbside. She “observed temp. employees  
17 taking ballots without checking for signatures or if the person was dropping off for  
18 others. No effort was made to check for their signature and their relationship to the  
19 person.”

20 Throughout the past few years, on information in belief, the election workers  
21 only apply a two-point match when verifying signatures. The rule of thumb is to verify  
22 signatures if “it generally looks the same.” It has been reported that some election  
23 workers rush through the signature verification process without comparing the ballots  
24 with the signature samples on record.

25 **122. Sacramento County:**

26 An EIPCa-trained observer during the 2020 election reported that he saw, on  
27 multiple occasions, a ballot marked for both Biden and Trump, but with the Trump  
28 indicator having an “x” through it. The observer mentioned this to the adjudicators,

1 who refused to elevate the issue to supervisors, concluding, without evidence, the voter  
2 had just changed his or her mind. On another date, the same citizen observer again saw  
3 a ballot marked for both Trump and Biden, with the Trump indicator having an “x”  
4 through it, and the ballot being counted for Biden.

5 Throughout the past three election cycles, individuals have observed election  
6 workers rushing through the signature verification process without researching  
7 additional comparison signatures on record.

8 During the primary in 2022, a staff member on the signature verification team  
9 was challenging numerous signatures and was berated by the supervisor as challenging  
10 too many signatures. Then, the supervisor fired a majority of the signature verification  
11 staff for no cognizable reason. This did not make sense at the time because it was the  
12 busiest the county had been and a lot of VBM ballots were arriving.

13 **123. San Bernardino County:**

14 An election official at the San Bernardino Registrar of Voters informed a citizen  
15 during the 2020 election that, “not all of the ballots will be counted because California  
16 is such a Democrat state,” in response to the citizen’s inquiry as to why her in-person  
17 ballot had not already been counted.

18 An EIPCa-trained observer also observed that there were more than 400 voters  
19 on the rolls than the night before (after polls had closed). No explanation was found for  
20 this increase.

21 **124. San Luis Obispo County:**

22 During the 2020 election, multiple EIPCa-trained observers reported one person  
23 dropping off multiple VBM ballots. One observer noticed an individual dropping off  
24 five VBM ballots. Another observer watched a man return a VBM ballot on behalf of  
25 another individual while refusing to sign the VBM envelope. The election worker  
26 placed the envelop into a box with all other accepted ballots.

27 During the 2020 election, EIPCa-trained observers and voters across San Luis  
28 Obispo County reported irregularities with VBM and precinct ballots. Multiple

1 observers and voters reported that election workers were telling individuals who  
2 showed up to vote in person to vote on their VBM ballot. Election workers assured  
3 people that the VBM ballot was “the same as the precinct ballot” even though the  
4 ballots were handled and counted two separate ways.

5 One EIPCa-trained observer saw a man receive a precinct ballot even though he  
6 had not returned his VBM ballot. Another observer saw individuals filling out precinct  
7 ballots despite the county already receiving that voters VBM ballot. Upon questioning,  
8 the precinct inspector stated that election officials were instructed not “to turn anyone  
9 away, nor argue with any voter, and that the registrar would figure it out later.”

10 **125. Santa Clara County:**

11 On November 2, 2020, an EIPCa-trained observer arrived at the Santa Clara  
12 Registrar of Voters at 7:02 a.m. and found the double entrance doors and side doors  
13 leading to ballot processing area open and unattended. An employee arrived at 7:08  
14 a.m. and said that the area was not supposed to be open. No supervisor or other  
15 employee was found in the area and the unopened doors were not explained.

16 In the November 2020 election, an EIPCa-trained observer observed workers  
17 rushing through the signature verification process and comparing four ballots with only  
18 one signature sample at a time. On information and belief, these practices continued in  
19 2021 and 2022.

20 During the 2020 election, several individuals reported receiving multiple VBM  
21 ballots or receiving VBM ballots after they moved or already voted.

22 126. In 2021, EIPCa collected around 3,000 incident reports demonstrating  
23 widespread irregularities and a lack of uniform and secure vote counting procedures,  
24 including signature verification and ballot remaking, in the counties listed above.

25 127. In 2022, EIPCa received around 1,300 incident reports which identified  
26 similar problems, such as counties not applying uniform and adequate vote counting  
27 procedures, including signature verification and ballot remaking.  
28

1           128. The irregularities that have transpired over the past few years are the result  
2 of California’s election laws, regulations, and procedures – namely – universal VBM,  
3 CCR §§ 20910, 20960-20962, 20980-20985, SB 503, and California Elections Code §  
4 3019. Since California gutted signature verification requirements and solidified VBM,  
5 EIPCa has received more incident reports – as reflected above – demonstrating that  
6 election workers do not adequately vet and verify ballots.

7           129. Because California ratified universal VBM into law and because the  
8 Secretary of State continues to apply the same regulations, the same issues that  
9 transpired in 2020 continued in 2021 and 2022 with roughly the same rate of incident  
10 reports.

11           **C. In-Person Voters Were Subject to Unequal Treatment Compared to**  
12           **VBM Voters, Disproportionately Burdening In-Person Voters.**

13           130. Under California law, in-person voters can only vote if they are in line at  
14 the time the polls close, which is usually 8 p.m.

15           131. In 2020, under former Secretary of State Padilla’s guidance, VBM voters  
16 could legally vote by dropping off ballots in mailboxes until 11:59 p.m. and still have  
17 their ballots postmarked on election day and therefore counted.

18           132. Further, because ballots were not picked up from mailboxes until well into  
19 the day after the election and because the mailboxes were unmonitored, nothing  
20 prevented VBM voters from voting the day after election day by dropping ballots in  
21 such boxes.

22           133. EIPCa has recorded such late voting and ballot pickups.

23           134. This difference in timing, which allots at least four additional hours for  
24 VBM voters to vote, allows VBM voters to vote even after poll results are being  
25 announced, whereas in-person voters cannot.

26           135. California Elections Code § 3020 also allows counties to accept VBM  
27 ballots after election day that cannot reliably be determined to have been cast on or  
28

1 before election day. Such unequal treatment disproportionately affects people who  
2 prefer to vote in person.

3 136. In 2020, EIPCa collected information revealing that around 596  
4 Nevadans voted in California, including, specifically, the counties listed above. EIPCa  
5 has also collected information showing 180 individuals voted in both Nevada and  
6 California, and 72 voted in California even though they were deceased. Counties listed  
7 in this lawsuit, like Los Angeles, reported more irregularities.

8 137. Almost 124,000 more votes were counted in the 2020 election than  
9 registrants with voting histories for that election. Kern County, Riverside County,  
10 Orange County, and Los Angeles County recorded higher discrepancies by percentage  
11 between VBM votes counted and VBM registrants with voting histories than non-  
12 defendant counties like Butte County and Glenn County.

13 138. The cause of this discrepancy is due to universal VBM and counties,  
14 including Defendant County Registrars, not ensuring their voter rolls are updated.  
15 These irregularities will continue because the Defendants do not require uniform  
16 procedures as it relates to maintaining accurate voter rolls and ensuring only eligible  
17 voters are on the voter rolls. In fact, these patterns and practices have continued through  
18 2021 and 2022.

19 139. These irregularities specifically harm Plaintiffs and other in-person voters  
20 whose votes are diluted by ineligible VBM votes in their respective counties.

21 140. Furthermore, as demonstrated above, election workers do not adequately  
22 vet VBM ballots as the influx of ballots flood election centers. The failure to adequately  
23 vet VBM ballots dilutes the votes of lawful in-person voters.

24 141. Laws that disadvantage in-person voters inherently disadvantage minority  
25 voters because data shows these communities have historically relied upon in-person  
26 voting to a greater degree than other groups. *See League of Women Voters of North*  
27 *Carolina v. North Carolina*, 769 F.3d 224 (2014); *North Carolina State Conference of*  
28 *NAACP v. McCrory*, 831 F.3d 204 (2016).

1 142. California’s election laws and regulations, including California Senate  
2 Bill 503, the laws concerning universal VBM, and the regulations governing signature  
3 verification have caused the dilution of in-person votes like Plaintiffs and African  
4 American voters like Plaintiff Ronda Kennedy.

5 **V. An Audit and Special Master Are Needed to Identify the Full Extent of the**  
6 **Alleged Irregularities and the Effects of California’s Unconstitutional Laws**  
7 **and Regulations.**

8 143. Despite several elections marred by lack of citizen oversight and policies  
9 and procedures that created massive opportunities for both error and fraud, California  
10 has provided no meaningful access to the VBM ballots and envelopes.

11 144. In fact, Secretary of State Weber has issued guidance to county election  
12 officials mandating destruction of election materials after the retention period.

13 145. This situation is intolerable in light of widespread evidence of vote  
14 irregularities, which shows that election outcomes could have been changed and  
15 citizens disenfranchised throughout the state.

16 146. Evidence must be preserved and made available to qualified experts, so  
17 that an audit can be conducted to determine the extent and effect of the alleged  
18 irregularities. Given the historically low rejection rate for signatures since the  
19 November 2020 election, such an audit should include, among other things, a review  
20 of the signatures on VBM ballots against the signatures on file. It should also include  
21 all ballots where election officials selected the voter’s intent, including all “remade”  
22 and “adjudicated” ballots.

23 147. Further, one or more special masters should be appointed to oversee the  
24 audit, as well as the conduct of the upcoming elections. Elections that took place in  
25 March 2021, September 2021, March 2022, and November 2022 were similarly  
26 affected. Indeed, former Secretary of State Padilla’s emergency regulations are still in  
27 effect (as adopted by Secretary of State Weber), and the Legislature has taken steps to  
28 codify some such regulations into law as described above.





1 155. Plaintiffs are entitled to damages, declaratory relief, and temporary,  
2 preliminary, and permanent injunctive relief invalidating or restraining the Defendants’  
3 violation of the Equal Protection Clause.

4 **SECOND CAUSE OF ACTION**

5 **Denial of Due Process: 14th Amendment of U.S. Constitution; 42 USC 1983**

6 156. Plaintiffs repeat and incorporate by reference the allegations set forth in  
7 Paragraphs 1 through 155 of this Complaint as if fully set forth herein.

8 157. The right of qualified citizens to vote in a state election involving federal  
9 candidates is recognized as a fundamental right under the Fourteenth Amendment of  
10 the United States Constitution. *See Harper*, 383 U.S. at 663; *see also Reynolds v. Sims*,  
11 377 U.S. 533, 554 (1964) (The Fourteenth Amendment protects “the right of all  
12 qualified citizens to vote, in state as well as in federal elections.”). Indeed, ever since  
13 the *Slaughter-House Cases*, 83 U.S. 36 (1873), the United States Supreme Court has  
14 held that the Privileges or Immunities Clause of the Fourteenth Amendment protects  
15 certain rights of federal citizenship from state interference, including the right of  
16 citizens to directly elect members of Congress. *See Twining v. New Jersey*, 211 U.S.  
17 78, 97 (1908) (*citing Ex parte Yarbrough*, 110 U.S. 651, 663-64 (1884)); *See also*  
18 *Oregon v. Mitchell*, 400 U.S. 112, 148-49 (1970) (Douglas, J., concurring) (collecting  
19 cases).

20 158. The fundamental right to vote protected by the Fourteenth Amendment is  
21 cherished in our nation because it “is preservative of other basic civil and political  
22 rights.” *Reynolds*, 377 U.S. at 562. Voters have a “right to cast a ballot in an election  
23 free from the taint of intimidation and fraud,” *Burson v. Freeman*, 504 U.S. 191, 211  
24 (1992), and “[c]onfidence in the integrity of our electoral processes is essential to the  
25 functioning of our participatory democracy.” *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006)  
26 (per curiam).

27 159. “Obviously included within the right to [vote], secured by the  
28 Constitution, is the right of qualified voters within a state to cast their ballots and have

1 them counted” if they are validly cast. *United States v. Classic*, 313 U.S. 299, 315  
2 (1941). “[T]he right to have the vote counted” means counted “at full value without  
3 dilution or discount.” *Reynolds*, 377 U.S. at 555, n.29 (quoting *South v. Peters*, 339  
4 U.S. 276, 279 (1950) (Douglas, J., dissenting)).

5 160. “Every voter in a federal . . . election, whether he votes for a candidate  
6 with little chance of winning or for one with little chance of losing, has a right under  
7 the Constitution to have his vote fairly counted, without its being distorted by  
8 fraudulently cast votes.” *Anderson v. United States*, 417 U.S. 211, 227 (1974); *see also*  
9 *Baker v. Carr*, 369 U.S. 186, 208 (1962). Invalid or fraudulent votes “debase[]” and  
10 “dilute” the weight of each validly cast vote. *See Anderson*, 417 U.S. at 227.

11 161. “The right to an honest [count] is a right possessed by each voting elector,  
12 and to the extent that the importance of his vote is nullified, wholly or in part, he has  
13 been injured in the free exercise of a right or privilege secured to him by the laws and  
14 Constitution of the United States.” *Anderson*, 417 U.S. at 226 (quoting *Prichard v.*  
15 *United States*, 181 F.2d 326, 331 (6th Cir.), *aff’d* due to absence of quorum, 339 U.S.  
16 974 (1950)).

17 162. Practices that promote the casting of illegal or unreliable ballots or fail to  
18 contain basic minimum guarantees against such conduct can violate the Fourteenth  
19 Amendment by leading to the diminution in value of validly cast ballots. *See Reynolds*,  
20 377 U.S. at 555 (“[T]he right of suffrage can be denied by a debasement or dilution of  
21 the weight of a citizen’s vote just as effectively as by wholly prohibiting the free  
22 exercise of the franchise.”).

23 163. Defendants have violated the Due Process Clause by implementing laws,  
24 regulations, and procedures that diminish the value of in-person voters, including  
25 EIPCa’s observers and Plaintiffs in their respective counties.

26 164. Defendants have further violated the Due Process Clause by applying  
27 nonuniform laws, regulations, and procedures that treat voters, including Plaintiffs and  
28

1 EIPCa’s observers, differently than voters in other counties, including counties not  
2 listed in this lawsuit.

3 165. Plaintiffs have suffered damages through the diminution in value of their  
4 votes by reason of Defendants’ violation of the Due Process Clause.

5 166. Plaintiffs have no adequate remedy at law and will suffer irreparable harm  
6 unless the Court enjoins Defendants’ violation of the Due Process Clause.

7 167. Plaintiffs are entitled to damages, declaratory relief, and temporary,  
8 preliminary, and permanent injunctive relief invalidating or restraining the Defendants’  
9 violations of the Due Process Clause.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray judgment against Defendants as follows:

12 1. An order directing Defendants to preserve for inspection and an audit all  
13 VBM ballots, VBM ballot envelopes, RAVBM ballots, remade or duplicated ballots,  
14 adjudicated ballots, and other documents used to cast votes in all elections since the  
15 November 2020 election;

16 2. An order directing Defendants to preserve for inspection and an audit all  
17 voting machines, software, peripherals (including flash drives and other memory  
18 storage), computers, reports generated, and other data and equipment used to cast,  
19 examine, count, tabulate, modify, store or transmit votes or voting data since the  
20 November 2020 election;

21 3. The appointment of one or more special masters to oversee the evidence  
22 preservation and audit process;

23 4. The appointment of one or more special masters to oversee and monitor  
24 the accuracy of vote counting in California’s upcoming elections;

25 5. A declaratory judgment that the following are unconstitutional on their  
26 face and as applied:

27 (a) California Assembly Bill 860;

28 (b) California Assembly Bill 37;

- 1 (c) California Senate Bill 503;
- 2 (d) California Senate Bill 397;
- 3 (e) California Senate Bill 450;
- 4 (f) California Code of Regulations §§ 20910, 20960, 20961, 20962,
- 5 20980, 20981, 20982, 20983, 20984, 20985; 20990, 20991, 20992;
- 6 (g) California Elections Code § 3000.5;
- 7 (h) California Elections Code § 3019;
- 8 (i) California Elections Code § 3020;<sup>3</sup>

9 6. A declaratory judgment declaring Defendants’ lack of uniform and secure  
 10 vote counting, laws, regulations, and procedures a violation of the Equal Protection  
 11 Clause and Due Process Clause to the Fourteenth Amendment;

12 7. Injunctive relief preventing the Defendants from enforcing and/or  
 13 applying a lack of uniform and secure vote counting laws, regulations, and procedures;

14 8. Damages;

15 9. Nominal damages;

16 10. Plaintiffs’ costs of suit;

17 11. Reasonable attorneys’ fees; and

18 12. Such other relief as is just and proper.

19

20 DATED: February 21, 2023

ADVOCATES FOR FAITH AND FREEDOM

21

22

/s/ Mariah Gondeiro

23

By: Mariah Gondeiro

24

Attorneys for Plaintiffs

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<sup>3</sup> This lawsuit challenges all bills and future bills that have or will expand VBM and all regulations that have or will not provide uniform requirements regarding observation, signature verification, ballot remaking, and voter rolls.