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10  
11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13

14 **JOSEPH KISHORE**, Socialist Equality  
Party candidate for U.S. President; and  
15 **NORISSA SANTA CRUZ**, Socialist  
Equality Party candidate for U.S. Vice  
16 President,

17 Plaintiffs,

18 v.

19 **GAVIN NEWSOM**, Governor of  
California; and  
20 **ALEX PADILLA**, Secretary of State of  
California, in their official capacities,

21 Defendants.  
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23  
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Case No.: 2:20-cv-05859

**NOTICE OF AND RENEWED  
APPLICATION BY PLAINTIFFS  
FOR TEMPORARY RESTRAINING  
ORDER AND PRELIMINARY  
INJUNCTION**

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT**

**DECLARATIONS OF JOSEPH  
KISHORE, NORISSA SANTA CRUZ,  
NORA KIMIE KUZAY, SEBASTIAN  
AYALA, ELIZABETH CASTILLO,  
AMY ELLEVOLD, RICHARD  
WINGER; AND EXHIBITS**

**PROPOSED TEMPORARY  
RESTRAINING ORDER**

**PROPOSED ORDER TO SHOW  
CAUSE WHY A PRELIMINARY  
INJUNCTION SHOULD NOT ISSUE**

1 **NOTICE IS HEREBY GIVEN THAT:**

2 Pursuant to Fed. R. Civ. P. 65(a), Plaintiffs Joseph Kishore and Norissa Santa  
3 Cruz (“Plaintiffs”) will and hereby do apply and move for a temporary restraining  
4 order and/or preliminary injunction against Defendants Gavin Newsom and Alex  
5 Padilla (collectively, “Defendants”).

6 Plaintiffs are the Socialist Equality Party’s (“SEP”) candidates for President  
7 and Vice President of the United States. This case is a challenge to California’s  
8 ballot access requirements for independent candidates for president and vice  
9 president, which compel the candidates to gather and submit nearly 200,000  
10 physical signatures between April 24, 2020 and August 7, 2020, on the grounds that  
11 these requirements are effectively impossible for the Plaintiffs to fulfill during the  
12 ongoing global coronavirus pandemic.

13 This motion was made and denied without prejudice on June 30, 2020. *See*  
14 Doc. No. 9. While service of the previous motion was accomplished upon an  
15 individual who agreed to accept service for Defendants, the Court indicated that “it  
16 does not appear that he is authorized to do so.” Doc. No. 9, \*1 (citing Cal. Gov’t  
17 Code § 955.4(a)). Denying the motion without prejudice, the Court indicated that:  
18 “Plaintiffs have sued California state officials in their official capacity, which is  
19 tantamount to suing the state itself. . . . California requires that, in such cases,  
20 ‘[s]ervice of summons . . . shall be made on the Attorney General.’ Cal. Gov’t Code  
21 § 955.4(a).” *See id.*

22 Accordingly, Plaintiffs hereby give notice and renew their application that  
23 this Court:

24 A. Enter a temporary restraining order and a preliminary and permanent  
25 injunction barring Defendants from enforcing the aforesaid ballot restrictions and  
26 requirements, as well as any substitute requirements Defendants may subsequently  
27 adopt or promote that unlawfully restrict Plaintiffs’ constitutional rights;  
28

1 B. Enter a temporary restraining order and a preliminary and permanent  
2 injunction prohibiting Defendants from printing the November election ballot if it  
3 does not include the names of Plaintiffs as candidates for U.S. President and Vice  
4 President; or in the alternative, requiring Defendants to extend the filing deadline,  
5 decrease the signature requirements to a nominal number, and allow for online  
6 signature gathering; and

7 C. Award such other temporary and permanent relief as the Court may  
8 deem just and proper under the circumstances.

9 This motion is based on the complaint on file in this action; this application;  
10 the accompanying memorandum of points and authorities; the attached declarations  
11 of Joseph Kishore, Norissa Santa Cruz, Nora Kimie Kuzay, Sebastian Ayala,  
12 Elizabeth Castillo, Amy Ellevold, and Richard Winger, together with the  
13 accompanying exhibits; any further briefing and oral arguments of counsel; and  
14 such other and further matters as may be presented to the Court at the time of any  
15 hearing. Apart from this notice and renewed application, the memorandum and  
16 supporting materials remain the same as in the June 30, 2020 filing (Doc. No. 4).

17 The grounds for the relief requested in this application are that:

18 1. The state's purported deadline to submit the required signatures is  
19 rapidly approaching, but it has been and continues to be utterly impractical, if not  
20 impossible, for Plaintiffs to gather the number of signatures California requires due  
21 to the pandemic and the state's countermeasures in response to it.

22 2. Absent the issuance of a temporary restraining order and preliminary  
23 injunction, Kishore and Santa Cruz will suffer irreparable injury to their  
24 constitutional rights, both as candidates and in Santa Cruz's case as a California  
25 voter.

26 3. The balance of equities decidedly tips in favor of Kishore and Santa  
27 Cruz, because Defendants' ballot access requirements serve no interest that would  
28 be worth risking human life. Meanwhile, no reasonably diligent candidate would

1 have been able to, and still cannot, comply with Defendants' requirements for ballot  
2 access.

3 4. The inclusion of Kishore and Santa Cruz's names on the ballot will  
4 serve the public interest by (a) ensuring that the upcoming elections at a time of  
5 national crisis are free and fair, providing diverse political viewpoints to voters, and  
6 allowing for the growing number of socialist-minded voters to cast meaningful votes  
7 and to support candidates that share their deeply-held political convictions; as well  
8 as (b) safeguarding the health and lives of persons who would otherwise circulate  
9 petitions for signatures to place Plaintiffs on the ballot and those members of the  
10 public who would otherwise be approached for such signatures.

11 In denying Plaintiffs' previous application for this relief without prejudice,  
12 the Court also indicated: "Along with their renewed TRO Application, Plaintiffs  
13 must submit proof of proper service and a declaration that they have informed  
14 Defendants of the Court's requirement that parties opposing ex parte applications  
15 must respond within 24 hours of receiving proper service. . . . Unless otherwise  
16 ordered, Defendants must then file their Opposition within one court day of  
17 receiving proper service." *Id.* Accordingly, **NOTICE IS HEREBY GIVEN that**  
18 **Defendants' response to this application is due within one court day of**  
19 **receiving proper service.**

20 In the event the Court denies the request for a temporary restraining order  
21 Plaintiffs request that the request for a preliminary injunction be heard on shortened  
22 notice as provided by Local Rule 65-1 ("If the TRO is denied, the Court may set the  
23 hearing on the order to show cause without regard to the twenty-eight (28) days  
24 notice of motion requirement of L.R. 6-1.")

25 Dated: July 1, 2020

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