

UNITED STATES DISTRICT COURT

for the

Northern District of California

San Jose Division

MICHAEL LYNN GABRIEL

Case No. 21-5605

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

SHIRLEY N. WEBER
CALIFORNIA SECRETARY OF STATE

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

AMENDED COMPLAINT AND REQUEST FOR INJUNCTION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name: MICHAEL LYNN GABRIEL
Street Address: 1903A COOLEY AVENUE
City and County: EAST PALO ALTO SAN MATEO COUNTY
State and Zip Code: CA 94303
Telephone Number: 650-888-9189
E-mail Address: aetal@earthlink.net

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Pro Se 2 (Rev. 12/16) Complaint and Request for Injunction

Defendant No. 1

Name SHIRLEY N. WEBER
Job or Title *(if known)* CALIFORNIA SECRETARY OF STATE
Street Address 1500 11th Street
City and County SACRAMENTO SACRAMENTO COUNTY
State and Zip Code CA 95814
Telephone Number (916) 653-9154
E-mail Address *(if known)* candidate-filings@sos.ca.gov

Defendant No. 2

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

Defendant No. 3

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

Defendant No. 4

Name _____
Job or Title *(if known)* _____
Street Address _____
City and County _____
State and Zip Code _____
Telephone Number _____
E-mail Address *(if known)* _____

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

- Federal question Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

A. If the Basis for Jurisdiction Is a Federal Question

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

42 U.S.C. § 1983 to redress the deprivation under color of state law of rights secured by Sections 2 and 208 of the Voting Rights Act, 52 U.S.C. §§ 10301, 10508; and under the 1st, 14th and 15th Amendments, 28 U.S.C. §§ 1331 and 1343 and, the protection of voting rights, 28 U.S.C. §§ 2201 and 2202. authority to provide preliminary injunctive relief Rules 57 and 65 of the FRCP

B. If the Basis for Jurisdiction Is Diversity of Citizenship

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* _____, is a citizen of the State of *(name)* _____.

b. If the plaintiff is a corporation

The plaintiff, *(name)* _____, is incorporated under the laws of the State of *(name)* _____, and has its principal place of business in the State of *(name)* _____.

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* _____, is a citizen of the State of *(name)* _____. Or is a citizen of *(foreign nation)* _____.

b. If the defendant is a corporation

The defendant, (name) _____, is incorporated under the laws of the State of (name) _____, and has its principal place of business in the State of (name) _____.
Or is incorporated under the laws of (foreign nation) _____, and has its principal place of business in (name) _____.

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the injunction or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. Where did the events giving rise to your claim(s) occur?

see attached IIIA

B. What date and approximate time did the events giving rise to your claim(s) occur?

July 16, 2021 at 5 pm, the defendant:

1. concluded the accelerated 1 week filing period which caused over 1/3 of the announced candidates to have to file as write in candidates like the plaintiff because they could not get it all done in such a short period. This has had a disparate impact on minorities candidates and others considering to run

2. denied the inclusion of candidate statement in the Voters Guide for all write in candidates even for those who will be registered and have fully paid by the August 6 date available to replacement candidates

- C. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*

SEE ATTACHMENT III C

IV. Irreparable Injury

Explain why monetary damages at a later time would not adequately compensate you for the injuries you sustained, are sustaining, or will sustain as a result of the events described above, or why such compensation could not be measured.

Plaintiff is running for Governor . In California, the right to run for office is a fundamental right.

By accelerating the election so that the filing period was only 1 week, and then denying Plaintiff and all other write in candidate who will be registered before the ballot are published the right to be on the ballot, that fundamental right is violated as well as having their chances elected deeply reduced. Damages for such an infringement of a Constitutional right are hard to calculate

Likewise the refusal to publish the candidate statements in the Voters Guide for write in candidates who register like the Plaintiff before the August 6 date while open to replacement candidates limits both their access to voters and the dissemination of their message. The calculation of damages in the suppression of their speech is hard to calculate

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

SEE ATTACHED PRAYER FOR RELIEF

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

Signature of Plaintiff

Printed Name of Plaintiff

B. For Attorneys

Date of signing: 07/25/2021

Signature of Attorney	<u>/S/ MICHAEL LYNN GABRIEL</u>
Printed Name of Attorney	<u>MICHAEL LYNN GABRIEL</u>
Bar Number	<u>86924</u>
Name of Law Firm	<u>LAW OFFICE OF MICHAEL LYNN GABRIEL</u>
Street Address	<u>1903A COOLEY AVE</u>
State and Zip Code	<u>CA 94303</u>
Telephone Number	<u>650-888-9189</u>
E-mail Address	<u>aetal@earthlink.net</u>

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3 **ATTACHMENT III A**

4 **Where did the events giving rise to the claim occur?**

5 1. The events giving rise to the Plaintiff's claims occurred in
6 Sacramento and San Mateo Counties, California, when and where the
7 Defendant accelerated the normal election filing period for a Special Recall
8 Governor Election to just one week.

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10 2 This acceleration of the special election was specifically and
11 intentionally done by the Democratically controlled California Legislature so
12 as to make it as difficult as possible, and in fact, practically impossible for
13 many minority candidates to be able to file replacement candidates in such a
14 short time. This was proven by the fact that 94 people had filed their Form 500
15 Declaration of Candidate Intention prior to the announcement of the election as
16 shown on the defendant's web site Exhibit 2 but despite that only 44 just 47%
17 were unable to file by within the accelerated 1 week period. These professed
18 candidates including the Plaintiff must now run as a write in candidates solely
19 because of the disparate impact the acceleration of the election and restriction
20 of the incredibly short filing period has had on the minority communities and
21 minority candidates thereof wishing and considering running for Governor.
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27 3 Likewise, the Defendant, on July 16 2021, officially changed the
28 requirements on the Candidate Statement Guidelines, Exhibit 1. The

1 Defendant for the first time announced and denied all write in candidates the
2 equal opportunity to have their candidate statements published even if they
3 submit it and pay for it while the submission date is still open to replacement
4 candidates.
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6 4 Plaintiff had fully complied with the Candidate Statement
7 Guidelines to have his candidate statement published in the Voters Guide if
8 he is registered as a write in candidate by Aug 6 but the defendant both
9 refused to accept his candidate statement yet has kept his payment of the
10 \$6250 fee for the publication.
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ATTACHMENT III C

What are the facts underlying your claim(s)?

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1. The Democratically controlled California Legislature on June 28, 2021 passed a law SB 152 specifically designed to move up of the election date up by over a month and only allow a one week period for people to register to run as a replacement candidate.

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2. The prior law required a thirty day period for to review the estimated costs of the special election before setting the date. To bolster the reelection efforts of Governor Newsom, the Democratically controlled California legislature passed SB152 and was signed by the very governor whose recall was to be held waiving that state law and allowing the election date to be set immediately.

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3. Under the previous law, the Department of Finance was to issue a cost estimate, after which the Joint Legislative Budget Committee had 30 days to review and comment on the costs. Both the review by finance and the review by lawmakers were steps put into place less than four years ago by Democratic lawmakers. SB 152 lets the Secretary of State's office certify the recall before the joint committee has had 30 days to review the estimate, so long as the Legislature has appropriated the funds it determines "reasonably necessary" to conduct the recall election.

1 4. The sole purpose of SB 152 was specifically to advance the election
2 date and give people especially minorities less time to enter the race. The result
3 of the new law was that candidates only had 7 days from July 9 to July 16 to
4 file a declaration of candidacy and submit a nominating petition of 65
5 signatures, file a Form 501 Candidate Intention, file their tax returns for the last
6 5 years, open a campaign bank account and file a Form 700 Statement of
7 Economic Interests to make the ballot as replacement candidates.
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10 5. Anyone like the Plaintiff who was unable to do all in the seven day
11 period could not make the ballot as a replacement candidate but could still run
12 as a write in candidate but they would not be their candidate statement
13 included in the Voter Guide even if they were fully registered and approved for
14 the ballot by August 6 for Replacement candidates doing so
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17 6. Plaintiff, an Arab American could not get the 65 signatures by that
18 date so was unable to file as regular candidate. Within just a week period. If the
19 election had been originally set 30 days further back everyone including fellow
20 minorities would have an additional month to collect the signatories and make
21 the printed ballot as a replacement candidate
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23 7. Moving the election date up by Governor Newsom was specifically
24 and undeniably intended to prevent candidates and specific minority candidates
25 from entering the race.
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27 8. There had been over 60 persons who had filed Form 501 as a candidate for
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1 the election but only 41 were able to get the 65 signatures or otherwise comply
2 within the specific filing week so as to become a replacement candidate. The
3 rest like the Plaintiff if they choose to run must now do so as write in
4 candidate. Write in candidates still need 65 signatures the same as the
5 replacement candidates. For that reason in this recall election because of the
6 short time, there is no practical difference between the write in candidate and
7 replacement candidate except that the Defendant has rewritten the candidate
8 statement guideline to bar write in candidates from having a candidate
9 statement published in the Voters' Guide even if they like the Plaintiff have
10 paid to have it done.

14 9 This revision of the candidate statement guidelines followed the
15 Plaintiff's submission of his candidate statement along with the full payment.
16 The subsequent barring of the Plaintiff;s Candidate Statement from the Voters'
17 Guide sprang from the fact that if published and minority voters saw the
18 support of Jesse Jackson it probably would cost Governor Newsom the election.
19 For that reason alone, Plaintiff and his planks had to be kept out of the Voters
20 Guide to help Governor Newsom win.

23 10. The decision to deny write in candidates in the Voter Guide was made
24 only after the Plaintiff's candidate statement was viewed. It was then realized
25 that if minority voters saw the Plaintiff's candidate statement that enough
26 minority voters and Independents could investigate his web site
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1 www.MichaelForGov.com. They could then join with Jesse Jackson and
2 support Plaintiff on the ATAC Bill, his Immigration initiative and his
3 Legislative corruption reform which would cost Governor Newsom the
4 election.
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6 11. The Plaintiff's candidate statement which so alarmed the
7 Democratically controlled California Legislature that it tore up the rule of law
8 to keep from the voters is:
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10 "The State of California needs fundamental change. It is the policies
11 and direction of California that are at the heart of this election.
12 Whether an Independent or a Minority, you should consider standing
13 with Jesse Jackson and me in this election. Jesse Jackson and I
14 authored the *Access to American Courts Bill HR2009 (ATAC BILL)*
15 confirming the right of all Americans to be able to sue the government
16 to stop unconstitutional violations. The Biden Administration recently
17 stated in court that Americans cannot sue the government even to stop
18 unconstitutional actions without the government's consent. In response
19 Jesse Jackson has stated the Biden's Administration's reinterpretation
20 of the Constitution turns the Bill of Rights into a Bill of Mere
21 Suggestions'. I am a conservative while Jesse Jackson is a liberal. yet
22 we both believe that ATAC Bill is the most important constitutional
23 and civil rights bill in 50 years. We ask you stand with us and support
24 the ATAC BILL for all America. Does anyone really have any
25 protectable constitutional rights if no one is allowed to sue when those
26 rights are violated? Besides the ATAC Bill, I have solutions for
27 **IMMIGRATION REFORM, INFRASTRUCTURE REFORM,**
28 **HIGH SPEED RAIL REFORM, HOUSING DEVELOPMENT**

1 **REFORM, ENVIRONMENTAL ENERGY REFORM, TAX**
2 **REFORM, SAFETY THROUGH GUN LICENSING, CASINO**
3 **GAMBLING** and **LEGISLATIVE REFORM**. Visit my site
4 **www.MichaelForGov.com** and see what Jesse Jackson and I are
5 proposing and then **STAND WITH US: ON THE RIGHT SIDE OF**
6 **JUSTICE, THE RIGHT SIDE OF THE LAW AND THE RIGHT**
7 **SIDE OF HISTORY.”**

8 12. It was after seeing Plaintiff's candidate statement that the Defendant
9 announced that write in candidates could would not appear in the Voters
10 Guide. The Democratically controlled California Legislature does not want the
11 Plaintiff's Candidate Statement published because it will cost them votes and
12 probably the election.

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14 13. Independents and Minorities would be shocked to learn that the
15 Biden Administration is attempting to rewrite the Constitution and the deny all
16 Americans the right to sue the government to stop unconstitutional violations
17 They would be further shocked to know that Governor Gavin Newsom has by
18 his silence on the issue tacitly approved the Biden Administration efforts “*to*
19 *turn the Bill of Rights into a Bill of Mere Suggestions” as stated by Rev*
20 *Jackson.*

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24 14. What started as a basic albeit a large eminent domain case has turned
25 into the first major civil rights constitutional rights case in 50 years along with
26 a constitutional rights bill being written introduced and then stalled by the
27 Democrats.
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1 15 To briefly recount what had happened. Last year, the Cherokee
2 filed a federal court class action for the return of their land that was taken and
3 never used under the infamous the 1835 Trail of Tears Treaty along with a fair
4 payment for the land that's not returned. The Cherokees had been forced to
5 accept less than 25% of the actual value of the land while under gunpoint, in
6 chains and in concentration camps for land that they did not want to sale or
7 leave. Furthermore, up to 10.000 Cherokee died on the Trail of Tears, nearly
8 one half of all Cherokee, on the 2200 miles death march in the worst winter
9 ever recorded on the continental United States. All this was done as every
10 Cherokee is aware in furtherance of the ethnic cleansing program promulgated
11 under the Indian Removal Act, the first of its type in the modern age.

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15 16. The Biden Administration responded to the complaint by filing in
16 Delaware district court to motion to dismiss the Cherokee class action lawsuit
17 which is solely based on the unconstitutional violation of the 5th Amendment
18 asserting that the government cannot be sued without its consent through its
19 extension of the *Doctrine of Sovereign Immunity* to the Constitution itself. The
20 last and only time this argument was tried was in 1888 in the case US v Lee and
21 the government failed. Up to now, the Doctrine has only been applied to federal
22 statutes on the basis that since the government created the statute, it can decide
23 who can sue under it. However, the government did nor create the Bill of
24 Rights, the People did and thus the government cannot prevent itself from being
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1 sued to stop its unconstitutional violations despite the assertions of the Biden
2 Administration.

3 17. It was because of the significance of the Biden Administration's
4 attempt to rewrite the Constitution and bar all future suits against the
5 government to stop unconstitutional actions, that the Rev Jackson who is a
6 Democratic and liberal joined with the Plaintiff a conservative and Independent
7 to write the ATAC Bill HR 2009 which congressman Danny Davis a Democrat
8 introduced on March 28, 2018 into the US House where Nancy Pelosi has
9 effectively killed it.
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12 18. The Biden Administration convinced the District Court to extend
13 the Doctrine of Sovereign Immunity to the entire US Constitution for the first
14 time. The Cherokee are not done. They are continuing their fight in the courts in
15 the belief that ultimately it will be recognized again that every American,
16 Black, White, Indian and Asian can sue government without its consent to stop
17 unconstitutional violations. That is what everyone had been taught was every
18 American's right until this lone decision.
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22 19. The Biden Administration attack on constitutional rights has caused
23 such concern that Plaintiff was asked as the author of the ATAC Bill by
24 members of the Democratic Hispanic Caucus to write a summary of the bill to
25 explain how it protects the right of Hispanic People from the Biden
26 Administration,
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1 20. Plaintiff's ATAC Bill is set forth as Exhibit 3. The Democratic
2 Congressional Hispanic Caucus is planning upcoming meetings with Rev
3 Jackson, and Congressman Davis to determine its response to the Biden
4 Administration's assault on the constitutional right to sue the government and
5 hold it accountable for its unconstitutional actions. There seems to be brewing a
6 civil war in the Democratic Party over Biden's assault on the Constitution.
7 Thus, the Democratically controlled California Legislature would have a reason
8 to conceal all of this from minority and Independent voters by refusing to
9 include Plaintiff's candidate statement in the Voters' Guide.
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12 21. **The ATAC Bill is the first major Constitutional Bill in 50 years.**
13 While the ATAC Bill is brought by the Cherokee it applies to all Americans as
14 all it does is confirm what the People have always believed - that all Americans
15 have the right to sue the government without the government's consent in order
16 to to stop its unconstitutional actions.
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19 22. The Indian vote will be critical in the upcoming midterm and 2024
20 Presidential elections. It is therefore quite natural for the Democratically
21 controlled California legislature to try to conceal from the Indian voters how
22 fellow Indians have been mistreated by the Biden Administration and other
23 Democrats.
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26 23. President Biden had announced a few days after taking office
27 sweeping Native American and minority programs for the redress of the harms
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1 done to them over the years. However, those programs appear not to apply to the
2 Cherokee. Less than a week after making that announcement President Biden
3 moved to dismiss the Class Action on the ground that no one sue the government
4 even to stop unconstitutional actions.
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6 24. The hypocrisy of this Democratic position is highlighted even
7 further in that it was the Cherokees who are responsible for giving the control of
8 the Senate to the Democrats. It was the 28,000+ voting bloc of Indian justice
9 supporters that the Cherokees at the last minute threw behind Senator Ossoff
10 which gave him his victory. This came about because Senator Ossoff's mother
11 had convinced Stuart Anglin the Cherokee lead plaintiff that he was a supporter
12 of Indian justice. The 28,000 votes if taken away from Ossoff and given to
13 Senator Perdue instead would have given him the election.
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17 25 The Cherokee regret supporting Ossoff. Now having won, Ossoff
18 will not even take Cherokee calls or setup an appointment to speak about
19 Cherokee issues. So Be it. The Cherokee elected one senator, they can do so
20 again not just for Georgia but Alabama as well in its 2022 election
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22 26 On the national scene, Native Americans compose the largest
23 uncommitted voting bloc in the nation. In the 2010 census, 819000 people
24 identified themselves as having Cherokee lineage. When all Indians, their non-
25 indian relatives and friends in support of Indian justice come together that is a
26 bloc of over 5 million people. This bloc can go either Republican or Democratic
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1 depending on how the government handles Indian justice. The first test of that
2 commitment to Indian Justice is the Cherokee Trail of Return Bill.. If just 1300
3 Cherokee can deliver 28,000 votes to Democrats in a short period of time what
4 can 819000 do in a year and a half? Perdue could not see this and Ossoff has
5 ignored this fact, but the Cherokee are moving on.
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7 27. Plaintiff's second plank is an immigration reform bill which is not an
8 amnesty and solves immigration reform. Such an initiative is immensely
9 unpopular with the Democratically controlled California legislature as it would
10 take support from the Democratic party while giving a pathway to citizenship to
11 illegal aliens for the first time. The Plaintiff's immigration reform is not an
12 amnesty, requires illegals to work for their citizenship, does not cost the state,
13 money and in fact probably makes the state money and cures the problem forever
14 so the country will not have the problem ever again. The Democratic Legislature
15 and Governor Newsom do not want minorities and independent to know of
16 Plaintiff's solution and thus it is moving the election up has a disparate impact on
17 minorities by keeping this information from them.
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19 28. Plaintiff's third Plank is for Legislative Corruption Reform, It bars the
20 appearance of impropriety and possibility of corruption by barring government
21 officials and their staff from serving on for profit boards. This problem is
22 manifested in the corruption investigation of Hunter Biden where allegations of
23 10% of the fees he received from clients for alleged influence peddling were
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1 supposedly paid to his father President Biden. This reform will cost many
2 members of the legislature fortunes. The House has recently required it of their
3 members as did the Senate so it is time now to clean up California.
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5 29 Is it any wonder when the Democrats saw these three planks that they
6 tore up the rule of law and have done everything they could to keep voters from
7 seeing these planks by keeping the Plaintiff out of the Voter's Guide.
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9 30. The refusal to publish minority candidate statements received prior to
10 Aug 6 from registered write in candidates violates the voting rights act and the
11 14 and 15 amendments to the US Constitution as well as the California
12 Constitution
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14 31. To be listed in the voter guide the only stated requirements is that
15 the people seeking to run file a declaration of candidacy, the candidate statement
16 and pay the fee of \$6250. Plaintiff did all that and then after accepting the
17 payment the California Secretary of State rewrote the candidate statement rules
18 Exhibit 1 and then reversed itself and refused to accept Plaintiff's candidate
19 statement. The defendant stated for the first time that only regular candidates
20 can appear on the printed ballot. Thus under this revision of the rules write in
21 candidates even those who Plaintiff will be approved before the August 6 print
22 deadline date cannot be in the Voters Guide, but the defendant kept the payment
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26 32. The Defendant's actions were a blatant effort to keep minority
27 nominees, such as Plaintiff an Arab American, from reaching the electorate. This
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1 is a clear violation of the voting rights act

2 33. The guidelines required that Plaintiff both file a Form 501 and pay
3 the fee of \$6250 both of which Plaintiff had done. Nothing in the instructions
4 said that the application would be limited to replacement candidates alone.
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6 34. Furthermore the date for payment of the fee for replacement
7 candidates is August 6 in order so as to make the to Voters Guide
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9 **"If a payment for the candidate statement is not received, or if the**
10 **payment is made by a check and it does not clear the candidate's**
11 **banking institution before the end of the state Voter Information**
12 **Guide public display period (August 6, 2021), the candidate**
13 **statement will not be printed in the state Voter Information**
14 **Guide."**
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17 35. Write in candidate should have the August 6 date as well to be in the
18 guide as the state has not yet prepared ballot so there is no burden on the state in
19 both adding the names of write in candidates who have qualified for the election
20 as of that time and also putting their candidate statements in the voter guide.
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22 36 The California Supreme Court in *Thompson vs Mellon* 9 Cal. 3D 97
23 (1973) restated that the right to run for office is a fundamental right.
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25 **"We concluded in Zeilenga that the right to hold office was a**
26 **fundamental right and that restrictions upon its exercise must,**
27 **therefore, be strictly scrutinized"**
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1 37. Thus a strict scrutiny test will be applied to any decision on refusal to
2 accept a candidate prior to the August 6 date . There is no reason not to accept
3 Plaintiff's candidate statement for inclusion into the voting guide as long as
4 Plaintiff make the ballot by August 6. That is the same treatment for
5 replacement candidates who do not pay their fee by then. Use of that date for
6 write candidates to be in the voter guide does not disrupt in the election process
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9 38. The new limitation of who can be on the Voter Guide is arbitrary,
10 capricious and unreasonable as there is no basis for limiting the Plaintiff's
11 access to the Voter Guide if he qualifies for the election by August 6 which is
12 the last date for replacement candidates to be in the Voter's Guide by paying
13 for their candidate statement an act which the Plaintiff has already done66.
14 These actions were was primarily directed at minorities and minorities because
15 Jesse Jackson and Plaintiff have created planks for presentation to the
16 California people which would pull the black, Hispanic and Independent vote
17 from Governor Newsom and cost his the election. Keeping Plaintiff as well as
18 other minorities off the ballot and out of the Voters Guide is a deliberate
19 attempt to keep minorities from presenting and their ideas and participating in
20 this election
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25 39. The remedy is the twofold for these violations
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1. Moving the election back to at least Oct 14 when it should have been held at the earliest if the discriminatory law SB 152 moving the election forward had not been passed

2. Printing the names of write in candidates and on the ballot and also having their candidate statements accepted for the Voters Guide if they qualify for the election by August 6 or Sept 6 of the election is pushed back to October 14 because of the Voting Rights violation.

PRAYER FOR RELIEF

Wherefore, Plaintiffs respectfully request that this Court:

- a. Issue a declaratory judgment, pursuant to 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57, declaring that the acceleration of the Special California Recall Election for Governor and the limitation to participation in the Voters Guide to only replacement candidates who were fortunate enough to have registered in the one specially created registration period are illegal and unconstitutional in violation of Sections 2 and 208 of the Voting Rights Act of 1965, 52 U.S.C. §§ 10301 and 10508, and the First, Fourteenth, and Fifteenth Amendments to the United States Constitution;
- b. Preliminarily and permanently enjoin Defendant Shirley N. Weber her respective agents, officers, employees, and successors, and all persons acting in concert with each or any of them, from holding the recall election for Governor Newsom until the state mandated 30 day review period had been completed and from denying properly registered write candidates from being in the Voter’s Guide if registered prior to the closing date allowed to replacement candidates

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- c. Retain jurisdiction and subject Defendants to a preclearance requirement pursuant to Section 3(c) of the Voting Rights Act, 52 U.S.C. § 10302(c);
- d. Issue an order requiring Defendant to pay Plaintiffs’ costs, expenses, and reasonable attorneys’ fees incurred in the prosecution of this action, as authorized by, *inter alia*, 42 U.S.C. § 1988 and other applicable laws;
- f. If write in candidates fully register before the printing of the ballots, their names are to be added on the ballots the same as replacement candidates
- g. If write in candidates fully register, submit a valid candidate statement and pay for inclusion in the Voters Guide while replacement candidates can still pay to be in the Voters Guide such write in candidates’ statements shall be published in the Voters Guide:
- h. Grant such other and further relief as may be just and equitable.



California Gubernatorial Recall Election September 14, 2021 Candidate Statement Guidelines Gubernatorial Replacement Candidates

PLEASE NOTE:

- All deadlines are final. It is HIGHLY RECOMMENDED to submit candidate statement packages early.
- Please proofread your submission. If a statement is accepted, the information as provided on the Candidate Statement & Checklist Form is exactly how it will appear in the state Voter Information Guide.

Candidate Statement Guidelines

- ❑ The text of the statement shall not exceed 250 words. Word count standards are governed by Elections Code section 9.
- ❑ The statement should be typewritten, double-spaced, and in standard paragraph style. Do not use bullets, tables, lists, or other material requiring indentation.
- ❑ Words that are underlined, in italics, in bold, or in all upper-case letters will be typeset in italics.
- ❑ The statement may not make reference to any replacement candidate (opponent of the candidate).
- ❑ The statement shall be limited to a recitation of the replacement candidate's own personal background and qualifications.
- ❑ The candidate statement shall be accompanied by a declaration that the statement being submitted is true and correct and shall be attested to and signed by the candidate.
- ❑ Statements shall be printed in the state Voter Information Guide in the order determined by a randomized alphabet drawn in substantially the same manner as set forth in Elections Code section 13112. The names and statements will remain in this order throughout the state and do not rotate as names do on actual ballots.

Candidate Photograph Guidelines

- ❑ Candidate statements may also include photographs [if space allows].
- ❑ The statement may include a photograph of the candidate taken no more than two years prior to the filing of the statement.
- ❑ The photograph submitted must be taken on a light (not white) background and limited to the head and shoulders of the candidate. The resolution of the photograph should be around 300 dpi. Photographs will be printed in black and white.

- The photograph must be submitted:
 - Via email to candidate-statements@sos.ca.gov and the files must be saved as the candidate's name (first_last.jpg example: Jon_Smith.jpg).

- In-person/Courier Service:

California Secretary of State
1500 11th Street
Sacramento, California 95814

Elections Division drop box located in 1st floor lobby.

Building hours: Monday through Friday, 8:00 a.m. to 5:00 p.m.

In-person filings will NOT be accepted in the Secretary of State's Los Angeles office.

- Express Delivery/Mail:

California Secretary of State
Elections Division
Attn: VIG Coordinator
1500 11th Street, Fifth Floor
Sacramento, CA 95814

- The photograph must not depict a judicial robe, uniform, or other type of apparel which could reasonably be construed as being indicative of the occupation, profession, or organizational affiliation. However, clothing or apparel required to be worn in accordance with the candidate's religious beliefs shall be acceptable. The candidate shall not wear or display, in his or her photograph, buttons, pins, insignias, emblems, any flags, other than the flag of the United States or California State flag, or other items which would indicate a specific political, professional, or occupational affiliation.

Form 501 Filing – Copy

- Form 501 Candidate Intention Statement – An original Form 501 for each candidate running for statewide office must be filed at the Secretary of State's office, Political Reform Division, 1500 11th Street, Fourth Floor - Room 495, Sacramento, CA 95814. If you wish to have your candidate statement included in the state Voter Information Guide for the California Gubernatorial Recall Election, you must file your Form 501 on or before July 16, 2021.
- A copy of a properly filed Form 501 (bearing the Secretary of State's office date stamp), which indicates the candidate's **acceptance of the voluntary expenditure limit**, must accompany the candidate statement package when submitted.

Payment for Candidate Statement

- ❑ The fee for a candidate statement to be included in the state Voter Information Guide for the California Gubernatorial Recall Election is \$25.00 per word, not to exceed \$6,250.00 (250 words).
- ❑ Payment in the amount of \$25.00 per word, not to exceed \$6,250.00, must be included with the candidate statement package by check, money order, or credit card, payable to the *Secretary of State*.
- ❑ If payment is made by check, the check amount should be left blank with a note on the check indicating that the check is “Not to exceed \$6,250.00.” The Secretary of State’s office will conduct a word count to determine the cost and will forward to the candidate a copy of the executed check in the appropriate amount for their records.
- ❑ If a payment for the candidate statement is not received, or if the payment is made by a check and it does not clear the candidate’s banking institution before the end of the state Voter Information Guide public display period (August 6, 2021), the candidate statement **will not** be printed in the state Voter Information Guide.

Further Information

- ❑ The candidate statement must be filed and received by the Secretary of State’s Elections Division **no later than 5:00 p.m. on Friday, July 16, 2021.**
- ❑ The candidate statement and accompanying forms may also be submitted via email or fax before the deadline. Candidate statements and accompanying forms may be scanned and emailed to candidate-statements@sos.ca.gov or faxed to (916) 653-3214 by the deadline. The original copies of the signed forms must be received at the SOS Elections Division within 72 hours of submittal.
- ❑ The original copy of the candidate statement and accompanying forms must be mailed or delivered to:

California Secretary of State
Elections Division
Attn: VIG Coordinator
1500 11th Street - Fifth Floor
Sacramento, CA 95814

- ❑ If the Secretary of State’s Elections Division has not received a candidate statement, accompanying forms, and payment by the established deadline, the statement **will not** be printed in the state Voter Information Guide.
- ❑ Should the Secretary of State’s office disqualify any statement or photograph based on these provisions, the Secretary of State’s office shall immediately notify the

candidate of the specific objections. The candidate may address the objections by making appropriate changes prior to the submission deadline or within 24 hours of the notification of disqualification.

- No statement filed shall be made public or shall be available for viewing by the Secretary of State's office until the state Voter Information Guide is available for public examination, pursuant to Government Code section 88006 and Elections Code section 9092.
- A filed statement may be withdrawn and resubmitted before the deadline. However, once a statement is filed and the deadline has passed, it may be withdrawn completely, but shall not be changed nor resubmitted, unless required by the Secretary of State's office.
- Every candidate statement that is to be included in the state Voter Information Guide will include a heading, consisting of the candidate's name and the candidate's qualified political party preference. If the candidate does not have a qualified political party preference, the term "no qualified party preference" will appear in the heading. The heading is not part of the candidate statement and will not count toward the 250-word count.

**California Gubernatorial Recall Election
September 14, 2021
Candidate Contact Information Form
Gubernatorial Replacement Candidates**



The following form shall be used for candidate statements submitted to the Secretary of State's office for inclusion in the state Voter Information Guide for the California Gubernatorial Recall Election. This form must be submitted to the Elections Division of the Secretary of State's office **no later than 5:00 p.m. on Friday, July 16, 2021.**

- A maximum of 250 words may be used. Word count standards shall be pursuant to [Elections Code section 9](#).
- The statement may not make reference to any replacement candidate (opponent of the candidate).
- The statement shall be limited to a recitation of the replacement candidate's own personal background and qualifications.
- All statements should be typewritten, double-spaced, and in standard paragraph style. Do not use bullets, tables, lists, or other material requiring indentation.
- Words that are underlined, in italics, in bold, or in all upper-case letters will be typeset in italics.
- Please refer to the section in this packet entitled "Candidate Statement Guidelines" for a complete list of requirements.

Candidate's Name: _____

Political Party Preference*: _____

The following optional information will appear with your candidate statement **(this information is not included in the 250 word count)**:

Mailing Address: _____

Phone: () _____

Email: _____

Website: _____

Facebook: <https://www.facebook.com/> _____

Twitter: <https://www.twitter.com/> _____

Instagram: <https://www.instagram.com/> _____

Other: _____

***Please list your political party preference as it is reflected on your current affidavit of registration. If you are not registered with a qualified political party, your political party preference will be indicated in the Voter Information Guide as "No Qualified Party Preference."**

**California Gubernatorial Recall Election
September 14, 2021
Candidate Statement and Checklist Form
Gubernatorial Replacement Candidates**



Candidate's Name: _____

Political Party Preference*: _____

***Please list your political party preference as it is reflected on your current affidavit of registration. If you are not registered with a qualified political party, your political party preference will be indicated in the Voter Information Guide as "No Qualified Party Preference."**

Please sign and attach this form to the Candidate Statement.

I, the undersigned author of the attached candidate statement hereby declare that I have read, fully understand, and will comply with the requirements contained in this packet and that the candidate statement submitted herewith is true and correct to the best of my knowledge.

Candidate Signature

Date

CHECKLIST

- Candidate Statement (typewritten and double-spaced)
- Candidate photograph (submitted via email or delivered)
- Candidate Contact Information Form
- Signed Candidate Statement and Checklist Form
- Copy of Properly Filed Form 501
- Check, Money Order, or Credit Card payable to the *Secretary of State*

IMPORTANT: Person to Contact Regarding Candidate Statement

The following information for the candidate's contact person is critical to ensure communication between the candidate and Elections Division staff. **This information will not appear in the state Voter Information Guide:**

Name: _____

Address: _____

Phone: _____ Email Address: _____

Cell: _____ Fax: _____

**California Gubernatorial Recall Election
September 14, 2021
Word Count Standards**



Each word shall be counted as one word except as specified below.

1. Punctuation is not counted.
2. Each word shall be counted as one word except as specified in this section.
3. All proper nouns, including geographical names, shall be considered as one word; for example, "City and County of San Francisco" shall be counted as one word.
4. Each abbreviation for a word, phrase, or expression shall be counted as one word.
5. Hyphenated words that appear in any generally available standard reference dictionary, published in the United States at any time within the 10 calendar years immediately preceding the election for which the words are counted, shall be considered as one word. Each part of all other hyphenated words shall be counted as a separate word.
6. Dates shall be counted as one word.
7. Any number consisting of a digit or digits shall be considered as one word. Any number which is spelled, such as "one," shall be considered as a separate word or words. "One" shall be counted as one word whereas "one hundred" shall be counted as two words. "100" shall be counted as one word.
8. Telephone numbers shall be counted as one word.
9. Internet Web site addresses shall be counted as one word.

See [California Elections Code section 9](#)

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cal-access.sos.ca.gov/Campaign/Candidates/list.aspx?view=intention

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CALIFORNIA
Secretary of State Dr. Shirley N. Weber

SECRETARY OF STATE ELECTIONS CAMPAIGN & LOBBYING BUSINESS PROGRAMS STATE ARCHIVES REGISTRIES

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 Advanced Search

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Campaign Finance
 Candidates & Elected Officials
 Propositions & Ballot Measures
 Committees, Parties, Major Donors & State Mailers
 Daily/Late/Special Filings

Lobbying Activity
 Resources
 For Filers Only
 Political Reform
 User's Manual

**CAMPAIGN FINANCE:
 Candidates & Elected Officials**

Choose a Listing:

- Certified Election Candidates
- Incumbent Elected State Officials
- Candidates and Elected Officials By Name
- Who filed a Statement of Intention to run for What State Office? (Filers may not have qualified for the ballot)
- CalPERS and CalSTRS Candidate Filings, Scanned Images

Choose an Election:

- 2030 PRIMARY
- 2028 PRIMARY
- 2026 PRIMARY
- 2024 PRIMARY
- 2022 PRIMARY
- 2022 SPECIAL ELECTION (PUBLIC EMPLOYEES RETIREMENT BOARD)
- 2021 SPECIAL ELECTION (PUBLIC EMPLOYEES RETIREMENT BOARD)
- 2021 SPECIAL ELECTION (GOVERNOR)
- Prior Elections

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CANDIDATE NAME	CONTEST	PARTY	ACCEPT SPENDING LIMITS
ABUSHI, KEVIN	GOVERNOR	REPUBLICAN	YES
AMEY, JOSEPH	GOVERNOR	AMERICAN INDEPENDENT PARTY	YES
BAADE, HOLLY L.	GOVERNOR	DEMOCRATIC	YES
BERG, SONYA	GOVERNOR	NO PARTY PREFERENCE	YES
BLAKE, KAREN E.	GOVERNOR	REPUBLICAN	YES
BRAMANTE, DAVID A.	GOVERNOR	REPUBLICAN	YES
BRANDT, JERRY S.	GOVERNOR	NO PARTY PREFERENCE	YES
CANADA, CARLA L.	GOVERNOR	NO PARTY PREFERENCE	YES
CARLSON, CHRISTOPHER N.	GOVERNOR	GREEN PARTY	YES
COLLINS, HEATHER WJ	GOVERNOR	GREEN PARTY	YES
COOK, MARY E.	GOVERNOR	NO PARTY PREFERENCE	YES
COX, JOHN H.	GOVERNOR	REPUBLICAN	NO
DAWSON, MARIANA B.	GOVERNOR	NO PARTY PREFERENCE	YES
DEITCH, DOUGLAS	GOVERNOR	DEMOCRATIC	YES
DIXON, JASON L.	GOVERNOR	DEMOCRATIC	YES
DRAKE, JOHN R.	GOVERNOR	DEMOCRATIC	YES
EDMUNDS, SONDRERS	GOVERNOR	NO PARTY PREFERENCE	
ELDER, LAURENCE A.	GOVERNOR	REPUBLICAN	YES
FANARA, ANTHONY L.	GOVERNOR	DEMOCRATIC	YES
FARLEY, BRYAN T	GOVERNOR	DEMOCRATIC	YES
FAULCONER, KEVIN	GOVERNOR	REPUBLICAN	YES
FIMBRES, VERONIKA	GOVERNOR	GREEN PARTY	YES

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FITZGERALD, STEVEN A.	GOVERNOR	REPUBLICAN	YES
FLOYD, ELIZABETH (LIBBY) S.	GOVERNOR	NO PARTY PREFERENCE	YES
FRAZIER, WAYNE H	GOVERNOR	REPUBLICAN	YES
FURIN, RHONDA D.	GOVERNOR	REPUBLICAN	NO
GABRIEL, MICHAEL LYNN	GOVERNOR	NO PARTY PREFERENCE	YES
GAINES, EDWARD MOORE	GOVERNOR	REPUBLICAN	YES
GALLUCCI, SAMUEL L.	GOVERNOR	REPUBLICAN	YES
GORDON, CARL	GOVERNOR	DEMOCRATIC	
GRIFFIS, ROBERT D.	GOVERNOR	DEMOCRATIC	YES
HADJINIAN, ADAM M	GOVERNOR	NO PARTY PREFERENCE	YES
HANINK, JAMES G	GOVERNOR	NO PARTY PREFERENCE	YES
HARRISON, SEAN	GOVERNOR	REPUBLICAN	YES
HERODE, TIMOTHY P.	GOVERNOR	REPUBLICAN	YES
HEWITT, JEFF	GOVERNOR	LIBERTARIAN	YES
HILLBERG, DAVID A.	GOVERNOR	REPUBLICAN	YES
HUANG, LUIS M	GOVERNOR	DEMOCRATIC	YES
HUBBARD, JUSTIN D.	GOVERNOR	REPUBLICAN	YES
JENNER, CAITLYN	GOVERNOR	REPUBLICAN	
JONES, JIMIH L.	GOVERNOR	REPUBLICAN	YES
KAPELOVITZ, DANIEL I.	GOVERNOR	GREEN PARTY	YES
KAUL, KEVIN K.	GOVERNOR	NO PARTY PREFERENCE	YES
KETNER, JOSEPH W	GOVERNOR	NO PARTY PREFERENCE	YES
KILEY, KEVIN	GOVERNOR	REPUBLICAN	YES
KILLENS, CHAUNCEY S.	GOVERNOR	REPUBLICAN	YES

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KILPATRICK, PATRICK	GOVERNOR	DEMOCRATIC	YES
KURDIAN, PAUL MESROP	GOVERNOR	NO PARTY PREFERENCE	YES
LE ROUX, JENNY RAE	GOVERNOR	REPUBLICAN	YES
LEONARD, TORR H.	GOVERNOR	DEMOCRATIC	YES
LYNE, ANGELYNE	GOVERNOR	NO PARTY PREFERENCE	YES
LODGE, STEVE CHAVEZ	GOVERNOR	REPUBLICAN	YES
LOEBS, MICHAEL A	GOVERNOR	NO PARTY PREFERENCE	YES
LOZANO, DAVID	GOVERNOR	REPUBLICAN	YES
LUCEY, DENIS P.	GOVERNOR	NO PARTY PREFERENCE	YES
LUCIANO, JOSEPH	GOVERNOR	REPUBLICAN	NO
LUPOLI, JEREMY B	GOVERNOR	DEMOCRATIC	YES
MARCINIAK, JEREMIAH E.	GOVERNOR	NO PARTY PREFERENCE	YES
MARINELLI, LOUIS J.	GOVERNOR	REPUBLICAN	YES
MARTINEZ, DIEGO J.	GOVERNOR	REPUBLICAN	YES
MASON, CHRISTOPHER THOMAS	GOVERNOR	REPUBLICAN	YES
MC GOWAN, JACQUELINE M	GOVERNOR	DEMOCRATIC	YES
MERCURI, DANIEL R.	GOVERNOR	REPUBLICAN	YES
MOORE, DAVID	GOVERNOR	NO PARTY PREFERENCE	YES
NAZAR, JEMISS	GOVERNOR	NO PARTY PREFERENCE	YES
NEWMAN II, ROBERT C.	GOVERNOR	REPUBLICAN	YES
OLSON, LEE W	GOVERNOR	NO PARTY PREFERENCE	YES
OROZCO, MAURO A.	GOVERNOR	NO PARTY PREFERENCE	YES
OSE, DOUG	GOVERNOR	REPUBLICAN	NO
PAFFRATH, KEVIN	GOVERNOR	DEMOCRATIC	YES

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Cherokee Trail of R... Web Mail Attorney Et Al Movies Google Attorney Et Al, LLC Hypnotics Collectiv... Locast Yahoo Credit Karma Other bookmarks Reading list

PALMIERI, RONALD J.	GOVERNOR	DEMOCRATIC	YES
PAPAGAN, ADAM	GOVERNOR	NO PARTY PREFERENCE	YES
PEREZ-SERRATO, ARMANDO	GOVERNOR	DEMOCRATIC	YES
PIERCE, JOHN	GOVERNOR	REPUBLICAN	YES
RAKUS JR., PATRICK M.	GOVERNOR	REPUBLICAN	YES
RICHTER, DENNIS L.	GOVERNOR	NO PARTY PREFERENCE	YES
ROSS, BRANDON	GOVERNOR	DEMOCRATIC	YES
ROTH, MARC A.	GOVERNOR	NO PARTY PREFERENCE	YES
SCHULTZ, FREDERIC C.	GOVERNOR	NO PARTY PREFERENCE	YES
SHANTZ, A.	GOVERNOR	GREEN PARTY	YES
SHIOURA, HILAIRE FUJI	GOVERNOR	NO PARTY PREFERENCE	YES
SINGH, MAJOR	GOVERNOR	NO PARTY PREFERENCE	YES
STEPHENS, SARAH L.	GOVERNOR	REPUBLICAN	YES
STONER, DENVER M.	GOVERNOR	REPUBLICAN	YES
SYMMON, JOE M.	GOVERNOR	REPUBLICAN	YES
TRIMINO, ANTHONY D	GOVERNOR	REPUBLICAN	YES
TRIPLETT, SHANE T.	GOVERNOR	NO PARTY PREFERENCE	YES
VENTRESCA, JOEL A.	GOVERNOR	DEMOCRATIC	YES
WADE, FRANK HENRY	GOVERNOR	DEMOCRATIC	YES
WATTS, DANIEL THOMAS	GOVERNOR	DEMOCRATIC	YES
WILDSTAR, NICKOLAS	GOVERNOR	REPUBLICAN	YES
WILLIAMS, MAJOR	GOVERNOR	REPUBLICAN	YES
ZACKY, LEO	GOVERNOR	REPUBLICAN	YES
ZANDPOUR, BEN	GOVERNOR	NO PARTY PREFERENCE	YES

Monday, July 26, 2021

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**IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA
SAN JOSE**

MICHAEL LYNN GABRIEL

Plaintiff,

vs.

**SHIRLEY N, WEBER,
Secretary of State**

Defendant.

) **CASE NO: 21-5605**

) **EXHIBIT 3**

) **ACCESS TO AMERICAN**

) **COURTS BILL**

) **(ATAC) HR 2009**

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TITLE OF DOCUMENT: EXHIBIT 3 ATAC BILL CASE NO: 21-5605

117TH CONGRESS
1ST SESSION

H. R. 2009

To clarify access to courts of the United States for persons seeking redress for a violation of a constitutional right by the United States or any agent, person, or entity acting in the name of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2021

Mr. DANNY K. DAVIS of Illinois introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To clarify access to courts of the United States for persons seeking redress for a violation of a constitutional right by the United States or any agent, person, or entity acting in the name of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Access to the American
5 Courts Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The United States Constitution sets forth
2 limits on the ability of the United States to act.

3 (2) The Constitution would not have been
4 adopted and therefore the United States of America
5 would not have been formed or come into existence
6 unless the Bill of Rights, the first 10 Amendments
7 to the Constitution, had not been adopted prior to
8 its approval by the first 13 States forming the
9 United States of America.

10 (3) The right of the American people to hold
11 the United States accountable for violations of the
12 Constitution committed by people acting allegedly in
13 the name of the United States has been the corner-
14 stone and bedrock upon which the freedom of the
15 American people has been based.

16 (4) The right of the American people to come
17 before a court and seek redress and thereby hold the
18 Government of the United States accountable for
19 violations of the Constitution is now seriously dis-
20 puted.

21 (5) The Executive Branch of the United States
22 Government has asserted, in actions filed in the
23 United States courts by Americans seeking redress
24 for alleged Constitutional violations, that no one can
25 sue the Government, even for a Constitutional viola-

1 tion, unless the Government first agrees to be sued.
2 The Executive Branch has asserted an overbroad in-
3 terpretation of the extent of sovereign immunity,
4 which bars suits against the Government based on
5 statutory violations, to now include suits based on
6 Constitutional violations as well.

7 (6) The effect of the Executive Branch's exten-
8 sion of sovereign immunity so as to include constitu-
9 tional rights as well as statutory rights would be
10 that—

11 (A) the Bill of Rights would be converted
12 to a mere a bill of suggested rights; and

13 (B) constitutional rights would be enforce-
14 able only when and if the Government deigns to
15 grant permission for their individual enforce-
16 ment on a case-by-case basis.

17 (7) The Bill of Rights and the other Amend-
18 ments to the Constitution are not mere suggestions,
19 but the inherent and enforceable rights possessed by
20 all American people. These Amendments grant to all
21 Americans the right to seek redress for Constitu-
22 tional violations committed in the name of the
23 United States without first having to obtain the per-
24 mission of the Government before seeking such re-
25 dress in Federal court.

1 **SEC. 3. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) all Americans should have access Federal
4 courts in order to seek relief and redress for alleged
5 claims of violations of constitutional rights; and

6 (2) the doctrine of sovereign immunity, as well
7 as any assertion of any statute of limitation or equi-
8 table laches (under equity or statute) was never in-
9 tended to bar, restrict, hinder or otherwise delay ac-
10 cess to court or the filing of a claim seeking relief
11 or redress against the Government for an alleged
12 violation of a constitutional right.

13 **SEC. 4. JURISDICTION OF DISTRICT COURTS.**

14 The district courts of the United States shall have
15 jurisdiction to hear any complaint or claim for relief based
16 upon an alleged violation of a constitutional right by the
17 United States or any agent, person or entity acting in the
18 name of the United States. Each such court has authority
19 to grant any relief necessary to redress a violation of a
20 constitutional right, including monetary, injunctive, and
21 declaratory relief.

22 **SEC. 5. RIGHT TO A JURY TRIAL.**

23 A person filing an action in a district court of the
24 United States seeking redress for a violation of a constitu-
25 tional right by the United States or any agent, person,
26 or entity acting in the name of the United States shall

1 have the right to request a jury trial. In the case of an
2 action containing both constitutional and non-constitu-
3 tional claims against the United States, the court shall
4 may grant jury trial for all claims, and shall grant a jury
5 trial for the constitutional claims.

6 **SEC. 6. ATTORNEY FEES AND COSTS.**

7 In the case that the plaintiff prevails in an action
8 brought against the United States seeking redress for a
9 violation of a constitutional right by the United States or
10 any agent, person, or entity acting in the name of the
11 United States, the court shall award the plaintiff attorney
12 fees and costs.

○