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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION (FIRST STREET COURTHOUSE)

**ROCQUE "ROCKY" DE LA  
FUENTE,,**

Plaintiff,

v.

**STATE OF CALIFORNIA AND  
ALEX PADILLA, CALIFORNIA  
SECRETARY OF STATE,,**

Defendant.

2:16-cv-03242-MWF-GJS

**NOTICE OF MOTION AND  
MOTION FOR JUDGMENT ON  
THE PLEADINGS OR,  
ALTERNATIVELY, FOR  
SUMMARY JUDGMENT**

Date: June 5, 2017  
Time: 10:00 a.m.  
Courtroom: 5A  
Judge: The Honorable Michael  
W. Fitzgerald  
Trial Date: August 15, 2017  
Action Filed: May 11, 2016

TO PLAINTIFF ROQUE ("ROCKY") DE LA FUENTE AND HIS  
ATTORNEYS OF RECORD:

Please take NOTICE that, at 10:00 a.m., or as soon thereafter as the matter  
may be heard, on June 5, 2017, in Courtroom 5A at the First Street Courthouse, 350  
West First Street, Los Angeles, California 90012, before U.S. District Judge  
Michael W. Fitzgerald, Defendant Alex Padilla, California Secretary of State (the

1 “Secretary”), on behalf of himself and erroneously named Co-Defendant State of  
2 California, will and hereby does move under Federal Rules of Civil Procedure  
3 (“FRCP”) 12(c) for judgment on this case’s pleadings, specifically the November 3,  
4 2016, first amended complaint (Dkt. Item 30), or, alternatively, under FRCP 56 for  
5 summary judgment.

6 This case should be resolved via motion because the case concerns questions  
7 of law only, with no material factual disputes, about whether the U.S.  
8 Constitution’s Fourteenth Amendment, Due Process Clause, precludes enforcement  
9 of California Elections Code section 8400 and 8403(b), as to Plaintiff Roque  
10 (“Rocky”) De La Fuente and any other person who may, in 2020 or later, want to  
11 become an independent candidate for President of the United States and have his or  
12 her name appear on a general-election ballot.

13 The motion should be granted because the challenged parts of the California  
14 election statutes—particularly (1) the numbers of signatures of registered California  
15 voters that would-be independent presidential candidates have to gather to obtain  
16 places on general-election ballots, and (2) the time frames for gathering those  
17 signatures—do not impose a severe burden on would-be independent candidates for  
18 President in obtaining places on general-election ballots, and any such burden is  
19 justified by California’s important interests in administering fair and orderly  
20 general elections, avoiding voter confusion from crowded ballots, and winnowing  
21 down the candidates (usually by primary elections) so that the general election  
22 features the candidates in which the electorate is most interested.

23 This motion consists of this notice of motion and motion, and the  
24 accompanying memorandum of points and authorities, request for judicial notice,  
25 and declaration of Amie L. Medley.

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1 This motion is made following the conference of counsel, under Civil Local  
2 Rule 7-3, which took place on April 13, 2017, but did not resolve this matter.

3 Dated: May 4, 2017

Respectfully submitted,

4 XAVIER BECERRA  
5 Attorney General of California  
6 STEPAN A. HAYTAYAN  
7 Supervising Deputy Attorney  
General AMIE L. MEDLEY  
8 Deputy Attorney General

9 /s/ Jonathan M. Eisenberg  
10 JONATHAN M. EISENBERG  
11 Deputy Attorney General  
12 *Attorneys for Defendant Alex Padilla,*  
13 *California Secretary of State*  
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