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9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
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13

14 **CALIFORNIA JUSTICE**
15 **COMMITTEE, THE**
16 **CONSTITUTION PARTY OF**
CALIFORNIA, JEFF NORMAN,
CHARLES MICHEL DEEMER, and
JOHN GABREE,

17
18 Plaintiffs,

19 v.

20 **DEBRA BOWEN, California**
Secretary of State, in her official
capacity,

21 Defendant.
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CV 12-3956 PA (AGRx)

**THE SECRETARY OF STATE'S
OPENING TRIAL BRIEF**

Date: October 16, 2012

Time: 9:00 a.m.

Courtroom: 15

Judge: The Honorable Percy
Anderson

Trial Date: October 16, 2012

Action Filed: May 7, 2012

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INTRODUCTION

The Secretary of State implements and enforces a comprehensive set of laws governing California elections, including laws governing political parties. There are currently seven political parties that have qualified to appear on the ballot, including one, Americans Elect, which qualified in December 2011. Having failed to likewise qualify as parties, the California Justice Committee and the Constitution Party of California, along with certain of their individual members, brought a constitutional challenge to the timing requirement of Elections Code section 5100,¹ which governs how political bodies may qualify as political parties. Plaintiffs come now before this Court seeking to enjoin the Secretary of State from enforcing the timing requirement against political bodies, such as themselves, that wish to qualify as recognized political parties solely for purposes of placing their candidates for the offices of President and Vice President on the November general election ballot.

Pursuant to section 5100(b), the Justice Party (plaintiff California Justice Committee supports the Justice Party's qualification efforts) and the Constitution Party attempted to qualify as political parties, during a period when the Republican primary campaign was in full swing, by obtaining the affidavits of 103,004 voters who would affiliate with their respective parties by the January 23, 2012 deadline, 135 days before the June 5, 2012 primary election. Both groups failed, having garnered at most 0.2% of the required number by the deadline.

Plaintiffs' lack of success continued after this Court enjoined the Secretary of State from enforcing the timing requirement against plaintiffs. The preliminary injunction issued on May 21, 2012 allowed plaintiffs to continue their efforts throughout the summer presidential campaign. There is no indication, however, that plaintiffs have obtained any sizable number of additional affidavits, or that they will ever meet the threshold, no matter the deadline.

¹ All statutory citations are to the California Elections Code, unless otherwise noted.

1 In order to warrant heightened scrutiny of an election law, plaintiffs must
2 show, with evidence that does not include mere speculation, that the challenged law
3 imposes a severe burden or restriction on plaintiffs' constitutional rights. Plaintiffs'
4 continuing inability to garner even one percent of the required affidavits, however,
5 demonstrates that the timing requirement does not impose a severe hardship, and
6 that the reason for plaintiffs' failure to convince voters to join them resides in flaws
7 in their platform, their organizational skills, or their messaging, not in section 5100.
8 Moreover, given the large number of qualified parties in California, and the fact
9 that a new party that also sought solely to participate in the November presidential
10 election, Americans Elect, qualified as recently as December 19, 2011, it is evident
11 that section 5100's timing requirement does not act as a barrier to minor parties.

12 Absent a severe burden on plaintiffs' constitutional rights, the state need only
13 point to important regulatory interests to justify the timing requirement. The 135-
14 day deadline is justified by the state's interests in protecting the integrity and
15 fairness of the election process and avoiding voter confusion by setting deadlines
16 far enough in advance of an election to allow a level playing field for parties
17 seeking to qualify - whether for the primary or for the general election. The timing
18 requirement is also justified by the state's interest in providing time for county
19 officials and the Secretary of State to verify the affidavits to determine whether
20 political parties have qualified and to prepare and print ballots, as well as permitting
21 sufficient time for challenges to the party's qualification.

22 Plaintiffs' efforts to permanently enjoin the 135-day deadline with respect to
23 parties solely interested in participating in presidential general elections should
24 therefore be rejected.

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BACKGROUND

I. PARTIES

The California Secretary of State is the state's chief elections officer. Cal. Gov't Code § 12172.5. She is responsible for ensuring that state elections are conducted efficiently and that the election laws are enforced. *Id.*

Plaintiff California Justice Committee is a general purpose political committee, "formed to support the efforts of the Justice Party to qualify as a recognized political party in California." Complaint for Injunctive and Declaratory Relief ("Compl.") ¶ 11, ECF No. 1.² The Justice Party, which is not a party to this action, was a political body under the laws of California. *Id.* at ¶ 11. Plaintiffs Jeff Norman and John Gabree are members of the Justice Party and officers of the Justice Committee. *Id.* at ¶¶ 13-14.

Plaintiff Constitution Party of California "is a political body under the laws of California." *Id.* at ¶ 12. Plaintiff Charles Michel Deemer is a member and officer of the Constitution Party of California. *Id.* at ¶ 15.

The California Elections Code defines the term "political body" to include a "group of electors desir[ing] to qualify a new political party meeting the requirements of Section 5100." § 5001. A group may qualify as a political body by electing temporary officers at a caucus or convention, selecting a party name, and filing a formal notice with the Secretary of State. *Id.* A general purpose committee like the California Justice Committee, on the other hand, is a person or group of persons who receive contributions or make expenditures for the purpose of influencing voters in the nomination or election of one or more candidates. § 309.

Both the Constitution Party and the Justice Party sought to qualify as political parties in the 2012 election cycle, in order to place candidates for President and

² For purposes of trial, the Secretary of State stipulates that the allegations in the complaint which are cited in this brief's Background section are true.

1 Vice President on the November 6, 2012 general election ballot. Compl. ¶ 22.
2 Neither group wanted to participate in the June 5, 2012 primary election. *Id.*

3 **II. RELEVANT CALIFORNIA ELECTION LAW**

4 Under California law, a “party” is “a political party or organization that has
5 qualified for participation in any primary election.” § 338. There is no provision in
6 California’s Elections Code that allows a party to qualify solely for participation in
7 a general election or in a presidential election. Thus, only political parties that
8 initially qualify in a primary election are entitled to affiliate with their nominees for
9 President and Vice President on the ballot for the general election. §§ 6901, 13105.

10 A party may qualify to participate in a primary election via three different
11 routes: (1) poll at least 2 percent of the entire vote of the state for any of its
12 candidates in the last preceding gubernatorial election (§ 5100(a)); (2) persuade
13 voters numbering at least 1 percent of the entire vote of the state at the last
14 preceding gubernatorial election to declare their intention to affiliate with the party
15 at least 135 days before any primary election (§ 5100(b)); or (3) persuade voters
16 numbering at least 10 percent of the entire vote of the state at the last preceding
17 gubernatorial election to sign a petition stating that they wish the party to
18 participate in a primary election at least 135 days before any primary election
19 (§ 5100(c)).

20 Based on the number of voters who participated in the 2010 gubernatorial
21 election, a minimum of 103,004 voters must declare their intention to affiliate with
22 a political party by signing voter registration affidavits, in order for that party to
23 qualify for the 2012 primary election under section 5100(b). Joint Stipulated Facts
24 (“JSF”) No. 3, ECF No. 29. The 135-day deadline for this year’s June 5, 2012
25 primary election fell on January 23, 2012. It was necessary, however, for voters to
26 submit affidavits 19 days before that deadline, on January 3, 2012, in order to allow
27 county elections officials time to process and submit them to the Secretary of State.
28 *See* § 2187(d)(1) (counties must submit a statement including the number of voters

1 registered in nonqualified parties 135 days before a primary election, with respect
2 to voters registered on the 154th day before the primary); JSF No. 12.

3 **III. FACTUAL AND PROCEDURAL BACKGROUND**

4 Seven political parties qualified to participate in the 2012 elections in
5 California: American Independent, Americans Elect, Democratic, Green,
6 Libertarian, Peace and Freedom, and Republican. JSF No. 4. In the 2012 election
7 cycle, 21 groups that registered with the Secretary of State as political bodies failed
8 to qualify as recognized political parties, and one political body – the Americans
9 Elect Party – succeeded. JSF No. 9. Americans Elect qualified as a political party
10 on December 19, 2011. JSF No. 5.

11 Both the Constitution Party and the Justice Party failed to qualify as political
12 parties because far less than the 103,004 voter registration affidavits required were
13 submitted on their behalf by the January 23, 2012 deadline. JSF No. 1, 2. As of
14 January 3, 2012, the Constitution Party had 121 registered voter affidavits.
15 Declaration of Jana Lean (“Lean Decl.”) ¶ 3. The Justice Party had 183. *Id.* ¶ 4.

16 On May 7, 2012, plaintiffs filed a complaint for injunctive and declaratory
17 relief and a motion for preliminary injunction, challenging the constitutionality of
18 second 5100(b)’s 135-day requirement under the First and Fourteenth Amendments,
19 as applied to their attempts to collect 103,004 voter registration affidavits in order
20 to place their respective party’s candidates on the November 2012 ballot for
21 President and Vice President and in subsequent Presidential elections.³ Compl.
22 ¶¶ 22, 24.

23 This Court issued an order on May 21, 2012, enjoining the Secretary of State
24 “from enforcing against Plaintiffs the requirement in California Elections Code

25 ³ The complaint also challenged the number of affidavits required under
26 section 5100. Plaintiffs did not pursue this claim in their motion for preliminary
27 injunction, and later offered to amend their complaint to drop it. Joint Status
28 Report, 3, ECF No. 23. The Court dismissed plaintiffs’ challenge to the numerical
requirement without prejudice in its July 23, 2012 scheduling order. July 23, 2012
Order, 2, ECF No. 26.

1 sections 5100(b) and 5100(c) that Plaintiffs must satisfy the party-qualification
2 requirements at least 135 days prior to the primary election.” May 21, 2012
3 Order, 5, ECF No. 19. The Court declined “to impose an alternative deadline in
4 advance of the November general election by which Plaintiffs must satisfy the
5 numerosity requirements of sections 5100(b) or 5100(c),” stating that the order did
6 not prohibit the Secretary of State from establishing an alternative deadline before
7 the general election, and that the order did not alter or otherwise modify any other
8 deadline related to the November general election. *Id.*

9 To this date, despite obtaining a nearly four-month extension of time from this
10 Court to register voters during the height of election season, there is no evidence
11 that either the Constitution Party or the Justice Party registered a sufficient number
12 of voters to satisfy section 5100(b) of the Elections Code.

13 County elections officials report to the Secretary of State the number of voters
14 registered with unqualified parties as of the 154th, 60th, and 14th days before a
15 primary election, and the 60th and 14th days before the general election, as well as
16 of February 10th on odd-election years. § 2187(d)(1). As of February 10, 2011,
17 the Constitution Party had 157 registered voter affidavits. Lean Decl. ¶ 2. A year
18 later, on January 3, 2012 (154 days before the primary), it had 121. *Id.* ¶ 3. As of
19 April 6, 2012 (60 days before the primary), it had 234 registered voter affidavits (*id.*
20 ¶ 5), and as of May 21, 2012 (14 days before the primary and the last date for which
21 registration statistics are currently available), it had 207. *Id.* ¶ 7.

22 As of January 3, 2012 (154 days before the primary), the Justice Party had 183
23 registered voter affidavits. *Id.* ¶ 4. There is no data on the number of registrants for
24 the Justice Party after this date because there are now two entities claiming to be the
25 Justice Party of California, but neither group has presented a definitive claim. *Id.*
26 ¶¶ 6, 8. Accordingly, the Secretary of State has not been able to determine whether
27 the renewed notice of intent to qualify has been received from a legitimate Justice
28 Party representative. *Id.*

Counties will next submit voter registration statements to the Secretary of State on September 17, 2012, totaling the number of voters registered in each unqualified party 60 days before the general election. The Secretary of State will therefore update the registrant statistics in her Proposed Findings of Fact and Conclusions of Law and Responsive Trial Brief, due September 24, 2012.

ARGUMENT

I. LEGAL STANDARDS

A. Standard for Permanent Injunctive Relief

The propriety of permanent injunctive relief is determined by “the balance of equities and consideration of the public interest.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 32, 295 S. Ct. 365, 172 L. Ed. 2d 249 (2008). Specifically, in order to obtain a permanent injunction, plaintiffs must demonstrate: (1) success on the merits of their case; (2) the likelihood of irreparable harm in the absence of injunctive relief; (3) that the balance of equities between the parties favors them; and (4) that the injunction is in the public interest. *Id.* at 20, 32.

B. Standard for the Merits of Plaintiffs’ Claim

1. Strict Scrutiny Only Applies to a Challenge to a State Election Law if the Law is a Severe Burden or Restriction on Plaintiffs.

States must regulate all aspects of the elections process in great detail: “Common sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; ‘as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.’” *Burdick v. Takushi*, 504 U.S. 428, 433, 1125 S. Ct. 2059, 119 L. Ed. 2d 245 (1992) (internal quotations omitted); *accord Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 358, 117 S. Ct. 1364, 137 L. Ed. 2d 589 (1997) (“States may, and inevitably must, enact reasonable regulations of parties, elections, and ballots to reduce election- and campaign-related disorder.”).

1 “[W]hen a state election law provision imposes only ‘reasonable,
2 nondiscriminatory restrictions’ upon the First and Fourteenth Amendment rights of
3 voters, ‘the State’s important regulatory interests are generally sufficient to justify’
4 the restrictions.” *Burdick*, 504 U.S. at 434 (quoting *Anderson v. Celebrezze*,
5 460 U.S. 780, 788, 103 S. Ct. 1564, 75 L. Ed. 2d 547 (1983)). It is only when those
6 rights are subjected to “severe” restrictions, that the regulation must be “‘narrowly
7 drawn to advance a state interest of compelling importance.’” *Id.* (quoting *Norman*
8 *v. Reed* 502 U.S. 279, 289, 112 S. Ct. 698, 116 L. Ed. 2d 711 (1992)); *see also*
9 *Weber v. Shelley*, 347 F.3d 1101, 1106 (9th Cir. 2003). But “[b]ecause ‘the State’s
10 important regulatory interests are generally sufficient to justify reasonable,
11 nondiscriminatory restrictions,’ . . . a party challenging such a regulation bears a
12 ‘heavy constitutional burden.’” *Rubin v. City of Santa Monica*, 308 F.3d 1008,
13 1017 (9th Cir. 2002) (citations omitted).

14 There is no “bright line” that “separates permissible election-related regulation
15 from unconstitutional infringements on First Amendment freedoms.” *Timmons*,
16 520 U.S. at 359. As explained above, a challenged election law does not
17 automatically undergo strict scrutiny, but instead is reviewed with a flexible
18 balancing standard:

19 A court considering a challenge to a state election law must weigh ‘the
20 character and magnitude of the asserted injury to the rights protected by
21 the First and Fourteenth Amendments that the plaintiff seeks to vindicate’
22 against ‘the precise interests put forward by the State as justifications for
23 the burden imposed by its rule,’ taking into consideration ‘the extent to
24 which those interests make it necessary to burden the plaintiff’s rights.’
25 *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789).

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1 **2. The Evidence Must Show the Burden on Plaintiffs is Not**
2 **Speculative.**

3 In actions brought by minor political parties seeking access to the ballot,
4 plaintiffs must provide evidence that the purported burden on the First and
5 Fourteenth Amendment rights of the parties and their voter-supporters imposed by
6 a state regulation “was a ‘clear and present danger’ and not merely the product of
7 speculation.” *Libertarian Party of Ohio v. Blackwell*, 462 F.3d 579, 589 (6th Cir.
8 2006) (quoting *California Democratic Party v. Jones*, 530 U.S. 567, 578, 120 S. Ct.
9 2402, 147 L. Ed. 2d 502 (2000)). The burden should be demonstrably “far from
10 remote.” *Id.* (quoting *Jones*, 530 U.S. at 578).

11 **II. SECTION 5100’S TIMING REQUIREMENT IS CONSTITUTIONAL**

12 When it issued the preliminary injunction on an expedited basis, the Court
13 found that the timing requirement placed a severe restriction on plaintiffs, relying
14 on a Ninth Circuit opinion that had determined that a 90-day deadline prior to a
15 primary election for an independent candidate to qualify for the general election
16 ballot imposed a severe burden on the candidate. May 21, 2012 Order, 4-5 (quoting
17 *Nader v. Brewer*, 531 F.3d 1028, 1039 (9th Cir. 2008)). The Court then found that
18 although “the Secretary of State and county elections officials obviously require a
19 reasonable amount of time in advance of an election to certify that a candidate or
20 party have satisfied the eligibility requirements for inclusion on the ballot and to
21 prepare the election materials,” section 5100’s timing requirement was not
22 sufficiently justified or narrowly drawn. *Id.*

23 Upon having further opportunity to reflect upon the parties’ arguments on a
24 fuller record, the Secretary of State respectfully urges this Court to reconsider its
25 initial findings and find the timing requirement constitutional.

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1 **A. The Timing Requirement Does Not Severely Burden Plaintiffs’**
2 **First Amendment Rights**

3 Plaintiffs cannot demonstrate that the timing requirement has imposed a severe
4 burden on their constitutional rights that is not merely speculative. There is no
5 evidence demonstrating that the timing requirement posed a “clear and present
6 danger” to plaintiffs’ efforts, given the large number of existing minor parties in
7 California, the recent qualification of Americans Elect, and plaintiffs’ obvious
8 failure to capture even minimal voter interest despite being granted several
9 additional months to qualify. *See Blackwell*, 462 F.3d at 589 (quoting *Jones*,
10 530 U.S. at 578).

11 **1. The Number of Minor Parties In California Shows that**
12 **California’s Qualification Requirements Do Not Impose a**
13 **Severe Burden.**

14 Section 5100’s timing requirement does not impose a severe burden on
15 plaintiffs or minor parties generally. Currently, seven parties are qualified for the
16 ballot in California: American Independent, Americans Elect, Democratic, Green,
17 Libertarian, Peace and Freedom, and Republican. JSF No. 4. California thus has a
18 strong historical record of qualifying parties for the ballot beyond the Democratic
19 and Republican parties. The state’s party qualification provisions, including the
20 timing requirement, have manifestly not prevented minor parties from qualifying
21 for California’s ballot. *See, e.g., Burdick*, 504 U.S. at 436 (election law not
22 burdensome in part because of the success of nonpartisan candidates in obtaining
23 slots on the ballot in past years); *Jenness v. Fortson*, 403 U.S. 431, 439, 915 S. Ct.
24 1970, 20 L. Ed. 2d 554 (1971) (election law not burdensome because non-party
25 candidates in the past had gained ballot access through signature petitions).

26 Indeed, in one of the cases on which plaintiffs have relied, the Sixth Circuit
27 favorably compared California’s requirements to Ohio’s, citing to the same expert
28 plaintiffs retained for its motion for preliminary injunction. “California is the only

1 other state with a filing deadline more than a year before the general election;⁴
2 however, its qualification requirements are much lower than Ohio's, and the state
3 had seven political parties automatically qualify for the ballot in 2004. *See*
4 Declaration of Richard Winger. . ." *Blackwell*, 462 F.3d at 589 (footnote omitted).
5 Part of the reason why the *Blackwell* court found that Ohio's law requiring new
6 political parties to qualify a year before an election imposed a severe burden on the
7 associational rights of minor political parties is that there was evidence that the
8 state's "elections have . . . been monopolized by two parties." *Id.* (quoting *Jones*,
9 530 U.S. at 578).

10 Of the eight most populous states, Ohio has had by far the fewest minor
11 political parties on its general election ballot. From 1992-2002, the other
12 states in this group averaged four minor political parties on the ballot
13 each year. [Cite.] In contrast, Ohio averaged one per year, and no minor
14 political parties qualified for the ballot, in any race, in 1992, 1994, 2002
15 and 2004.

16 *Id.* This is plainly not the case in California.

17 **2. The Recent Qualification of the Americans Elect Party**
18 **Demonstrates that the Timing Requirement Does Not**
Impose a Severe Burden.

19 Plaintiffs admit that another political body did in fact qualify for the same
20 election, under the same circumstances, and by the same deadline of which they
21 complain. The Americans Elect Party qualified for the November 6, 2012 ballot on
22 December 19, 2011 under section 5100(c), by submitting over a million signatures
23 on petitions circulated and submitted over 135 days before the June primary. JSF
24 No. 5. While plaintiffs intimate that Americans Elect had an unfair advantage
25 because it had sufficient funds to hire paid circulators (Compl. ¶ 44), Americans
26

27 _____
28 ⁴ This statutory deadline has been shortened since *Blackwell* was decided.

1 Elect's ability to attract enough funding for circulators indicates a significant
2 amount of support, and that it will be a viable party.

3 There is therefore sufficient opportunity for a new party to qualify by section
4 5100's deadline, as long as it cultivates a reasonable amount of support in
5 California.

6 **3. Plaintiffs' Failure to Qualify Stems From Their Failure to**
7 **Capture Voter Interest, Not a Failure to Meet a Deadline.**

8 In a state as large as California, it is fair to require that parties demonstrate
9 some degree of support among voters before taking a place on the ballot. "There is
10 surely an important state interest in requiring some preliminary showing of a
11 significant modicum of support before printing the name of a political
12 organization's candidate on the ballot." *Jenness*, 403 U.S. at 442. Plaintiffs tacitly
13 acknowledged this by dropping their challenge to the numerosity requirement of
14 section 5100. But it is important to recognize that the reason why most political
15 bodies fail to qualify as political parties in California is because they lack voter
16 support, and will never meet the numerosity requirement, not because they would
17 have met the numerosity requirement if only they had been given enough time.

18 Plaintiffs argue that the early qualification deadline prevents their groups from
19 organizing, recruiting and retaining volunteers because the general election is
20 remote, prevents political bodies from responding to developments late in the
21 election cycle, and dampens their ability to gain attention and galvanize support.
22 Complaint ¶¶ 27, 28, 29 (citing *Anderson*, 460 U.S. at 789, 792-92). But this
23 speculative argument is belied by the actual 2012 campaign. It is simply untrue that
24 fall 2011 was a dead time in the election cycle, or that the key issues of the 2012
25 presidential race were not already on the table. The Republican primary campaign
26 was in full swing, with a large number of well-publicized debates through out the
27 second half of 2011, leading up to the primaries beginning in early January 2012.
28 There was a large amount of voter interest in the campaign, so there is no credence

1 to an argument that the electorate was disengaged from politics during the period in
2 which plaintiffs were gathering signatures, so that plaintiffs would have had trouble
3 attracting their attention prior to the January 23, 2012 deadline.

4 Furthermore, citation to evidence of other groups' failure to qualify - either in
5 the 2012 election cycle or in prior cycles - is unsuitable to the constitutional inquiry
6 as to whether the timing requirement, as opposed to the numerosity requirement,
7 generally imposes a severe burden on such groups. The fact that eighteen other
8 aspiring registered political bodies joined plaintiffs in failing to qualify as parties by
9 the January 23, 2012 deadline is therefore not evidence that the 135-day timing
10 requirement was too burdensome of a hurdle for these groups. It is merely
11 emblematic of the triviality of many of the efforts. Like the Constitution Party and
12 the Justice Party, the other unqualified parties in the 2012 election cycle had zero to
13 little voter support; indeed, *zero* voters submitted affidavits in support of the
14 American Concerned Party and the Dharma Party, and less than seventy affidavits
15 were submitted for each of another eleven unqualified parties. Lean Decl.,
16 Ex. B, 13-16. The only aspiring party to obtain even 20 percent - or 20,722 - of the
17 required affidavits was the Reform Party. *Id.* The 135-day timing requirement did
18 not dictate this outcome for these groups, lack of voter enthusiasm did. The reality
19 is that many of the groups seeking to become political parties utterly lack voter
20 support. This should not be ignored in assessing claims that not enough minor
21 parties are qualifying as parties under California's party qualification scheme.

22 Finally, plaintiffs, and this Court, have relied on out-of-district cases that
23 involve situations in which a minor party had sufficient support to qualify for the
24 ballot, but for a state's other requirements, and are not dispositive in this case. In
25 *Blackwell*, the court struck down Ohio regulations that combined to pose a severe
26 burden on minor political parties by requiring the parties to nominate their
27 candidates by primary election and to file a petition with the Secretary of State a
28 full year in advance of the presidential election. *Blackwell*, 462 F.3d at 582, 593.

1 The plaintiff in that case was the Libertarian Party of Ohio (LPO), which had
2 submitted the requisite number of signatures before Ohio's deadline but failed to
3 comply with a recent change to that state's election falsification notice. *Id.* at 583.
4 Because of the requirement that minor parties submit signatures a year in advance,
5 the LPO was unable to rectify the problem. Unlike the case presented by plaintiffs,
6 the notice requirement operated to deny LPO's access to the ballot even though
7 LPO had sufficient statewide support under Ohio law. As such, the Ohio law
8 presented a clear and present danger of violating LPO's First Amendment rights.

9 Other cases in which courts have invalidated laws governing the qualification
10 of minor parties or individuals likewise involved parties or individuals that had a
11 significant level of support and would likely have qualified but for complications
12 arising from the statutory deadline for submitting signatures. In *Anderson*, for
13 instance, John Anderson had submitted the required 14,500 signatures and a
14 statement of candidacy to the Ohio Secretary of State on May 16, 1980 in order to
15 become an independent candidate for president. 460 U.S. at 782. If filed on or
16 before March 20, 1980, these documents would have allowed Anderson a place on
17 the ballot. *Id.* at 782, 783 n.1 (requiring 5,000 and no more than 15,000 signatures
18 for independent candidates to be placed on the ballot). Similarly, in *Nader*, Ralph
19 Nader submitted the required 14,694 signatures required by Arizona to become an
20 independent candidate for president on the filing date, June 9, 2004, but conceded
21 after the validity of some of the signatures were challenged that he did not meet the
22 signature requirements if those challenged signatures were discarded. 531 F.3d at
23 1031-32. In both cases, the candidates had close to or above the required amount of
24 signatures at the time of filing. Here, in stark contrast, the facts show that the
25 Justice Party and the Constitution Party have an extremely slim chance of
26 registering the required 103,004 voters even with an extended deadline.

27 For all these reasons, plaintiffs' claim that the timing requirement places a
28 severe burden on their constitutional rights is conjectural at best. There is no

1 evidence that their – or any other group’s – failure to qualify was due to a
2 premature deadline, as opposed to lack of voter support. Accordingly, the next line
3 of inquiry is whether the timing requirement is justified by important regulatory
4 interests. It is.

5 **B. California Has Important Regulatory Interests that Justify the**
6 **Restrictions Regarding Political Party Qualification**

7 Because there is no severe burden on plaintiffs’ First Amendment rights,
8 California’s important regulatory interests are sufficient to justify the challenged
9 deadline. *Timmons*, 520 U.S. at 358-59. The state has a significant interest in
10 protecting the integrity and fairness of the election process and avoiding voter
11 confusion. *See id.* at 363-64. This interest is sufficient to justify a reasonable
12 restriction on plaintiffs’ rights. *Id.* California must have a process by which
13 political groups are recognized as a qualified party in order to limit access to the
14 ballot in a meaningful and fair way and to promote order and prevent chaos. *See*
15 *Burdick*, 504 U.S. at 433. California’s deadline for political party qualification falls
16 135 days before the primary, but it is a reasonable regulation of the process by
17 which new parties and their candidates are added to an election ballot, regardless of
18 whether they end up participating in the primary or not.

19 Plaintiffs seek to narrowly enjoin the timing requirement as applied to parties
20 that want to participate only in the presidential general election. But as a general
21 rule, there are no restrictions on a party’s participation in any election, or any race,
22 once it qualifies. A party is not simply a one-election or one-race entity, it is an
23 ongoing entity that, under the laws of California, may participate in any future
24 election - general, primary, or special, as long as one of its statewide candidates
25 receives at least 2% of the entire vote of the state in the preceding gubernatorial
26 election, and retains at least .00067% of the total state registration. §§ 5100(a),
27 5101. It is therefore proper for state laws governing party qualification to be more
28

1 deliberate than state laws governing independent candidates, who will only qualify
2 to appear in one race, on one ballot.

3 Even if a party seeking qualification claims that it only wants to place a
4 presidential candidate on the general election ballot and should thus be exempt
5 from the timing requirement with respect to the primary, nothing would stop them
6 from also running other candidates in future elections. The state therefore needs to
7 ensure that the party has sufficient, timely voter support, not just support sufficient
8 to participate in one presidential election. The state also needs one standard
9 deadline for all aspiring parties, in order to decrease confusion, promote equal
10 political opportunities for all unqualified parties, and eliminate potential fraud.

11 Plaintiffs have also argued that the state's ability to add Democratic and
12 Republican candidates for president and vice president, whose identities are not
13 known until August or September, demonstrates that there is no compelling
14 administrative need to require other parties to qualify as early as January 2012 for
15 the general election. Compl. ¶ 49. As an initial matter, this argument ignores the
16 fact that the Democratic and Republican parties have already qualified for the ballot;
17 the Secretary need only receive the names of their nominees and communicate
18 those to the counties. For a new political party, however, the Secretary of State
19 must verify that the political body has submitted sufficient affidavits or signatures
20 to qualify in the first instance. Moreover, as a practical matter, the Secretary of
21 State informs counties earlier in the process how many parties will be included on
22 the ballot so the counties can determine the length of the ballot and the names of the
23 candidates of those qualified parties can be filled in later. Lean Decl. ¶ 11.

24 Finally, the timing requirement also allows time for judicial and administrative
25 challenges to the qualification of the party. For example, it allows for potential
26 challenges to the validity of the voter affidavits, as well as challenges to the name
27 of the new party. *See, e.g.*, § 5001 (the political body's "designated name shall not
28 be so similar to the name of an existing party so as to mislead the voters, and shall

1 not conflict with that of any existing party of political body that has previously filed
2 notice.”).

3 **III. A PERMANENT INJUNCTION SHOULD NOT ISSUE**

4 There is no evidence, only mere conjecture and speculation as to why
5 plaintiffs have failed to spark any voter interest, to demonstrate that section 5100’s
6 timing requirement imposes a severe burden on plaintiffs. *See* Section II.A, *supra*.
7 Furthermore, California state interests sufficiently justify the timing requirement.
8 *See* Section II.B, *supra*. Plaintiffs therefore have failed to meet the threshold
9 prerequisite for a permanent injunction: success on the merits. *Winter*, 555 U.S. at
10 20, 32.

11 Moreover, plaintiffs cannot satisfy the other considerations that must be
12 weighed before a permanent injunction may issue. *See id.* Plaintiffs are unlikely to
13 suffer irreparable harm in the absence of a permanent injunction, as they have failed
14 to gain voter support for their appearance on the November 6, 2012 ballot, and the
15 past several months while the preliminary injunction has been in place have
16 definitively demonstrated that this failure is attributable to their inability to attract
17 voter interest, *not* the timing requirement. The balance of the equities and the
18 public interest also dictates that the party qualification provisions be preserved, in
19 order to protect the state’s interest in having sufficient time to prepare the ballot,
20 decrease voter confusion, and provide one set of rules for all parties seeking to
21 qualify, as such parties will be able to participate in all future elections as long as
22 they meet certain requirements under section 5100(a).

23 Finally, plaintiffs request relief only from the application of section 5100’s
24 deadline for the submission of voter registration signatures for unqualified parties
25 that wish to qualify exclusively in order to put a presidential candidate on the ballot.
26 If, despite the flaws in plaintiffs’ evidence and the lack of merits in their case, this
27 Court is inclined to declare section 5100(c)’s timing requirement is unenforceable,
28 or to issue a permanent injunction, that relief should be as narrowly crafted as

1 plaintiffs request, and avoid the amendment of section 5100 or the creation of new
2 law.

3 When it issued the preliminary injunction, the Court correctly declined to
4 impose a new deadline by which plaintiffs were required to comply with sections
5 5100(b) or (c), or to modify any other deadline related to the election. May 21,
6 2012 Order, 5. “The power to declare what the law *shall be* belongs to the
7 legislative branch of the government; the power to declare what the law *is, or has*
8 *been*, belongs to the judicial branch of government.” *Santa Fe Pacific Realty Corp.*
9 *v. U.S.*, 780 F. Supp. 687, 696 (E.D. Cal. 1991) (quoting *In re Shear*, 139 F. Supp.
10 217, 220 (N.D. Cal. 1956)) (emphasis added). Thus, under the separation of
11 powers doctrine, while the courts may declare statutes unenforceable, they cannot
12 rewrite those statutes, or direct legislatures to amend the statutes or executive
13 officials to promulgate regulations to rectify the perceived legal problem. “[C]ourts
14 should not add to, subtract from, repeal, or promulgate laws on their own initiative.
15 In other words, . . . the courts may not under our form of government judicially
16 legislate.” *In re Shear*, 139 F. Supp. at 220; *Ferguson v. Skrupa*, 372 U.S. 726, 729,
17 83 S. Ct. 1028, 10 L. Ed. 2d 93 (1963) (“Under the system of government created
18 by our Constitution, it is up to legislatures, not courts, to decide on the wisdom and
19 utility of legislation.”)

20 Although plaintiffs’ requested relief is deceptively simple, in order to afford it,
21 California’s entire party qualification scheme must be reconsidered, and several
22 Elections Code provisions may have to be changed. For example, if the deadline
23 for presidential election qualification in section 5100 is changed, a domino effect
24 may require several other provisions to be amended, including the provisions which
25 govern presidential candidates and elections, and section 13302(b), which allows
26 parties to submit all of the party’s endorsed candidates for publication in the sample
27 ballot at least 83 days before the general election. Moreover, section 2187’s
28 requirement that counties use voter registration data collected a certain number of

1 days before they submit statements regarding the number of unqualified party
2 registrants to the Secretary of State must be taken into account. Any potential
3 amendment to all or several of the above provisions is the responsibility of the
4 Legislature, in consultation with the Secretary of State, after public debate and
5 careful consideration of the relevant facts and policy considerations.

6 **CONCLUSION**

7 For the reasons set forth above, the Secretary of State respectfully requests that
8 the Court declare section 5100's timing requirement to be constitutional, based on
9 the facts of the case and the law, and deny plaintiffs' request for a permanent
10 injunction.

11
12
13 Dated: September 10, 2012

Respectfully submitted,

14
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16 PETER A. KRAUSE
Supervising Deputy Attorney General

17
18 /s/
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9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12
13

14 CALIFORNIA JUSTICE
COMMITTEE, THE
15 CONSTITUTION PARTY OF
CALIFORNIA, JEFF NORMAN,
16 CHARLES MICHEL DEEMER, and
JOHN GABREE,

17 Plaintiffs,

18 v.

19 DEBRA BOWEN, California
Secretary of State, in her official
20 capacity,

21 Defendant.
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27
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CV 12-3956 PA (AGR_x)

DECLARATION OF JANA M.
LEAN IN SUPPORT OF THE
SECRETARY OF STATE'S
OPENING TRIAL BRIEF

Date: October 16, 2012
Time: 9:00 a.m.
Courtroom: 15
Judge: The Honorable Percy
Anderson
Trial Date: October 16, 2012
Action Filed: May 7, 2012

DECLARATION OF JANA M. LEAN

I, Jana M. Lean, declare as follows:

1. I am the Chief of the Elections Division, employed in the office of the California Secretary of State. I have served in that capacity since May 2010. Prior to assuming my current position, I served in various roles in the Elections Division for more than 12 years, and am familiar with all aspects of the Division's work.

2. As of the February 10, 2011, Odd-Numbered Year Report of Registration, the Constitution Party of California had 157 registrants in the State of California. Attached hereto, marked as "Exhibit A," is a true and correct copy of the February 10, 2011, Report of Registration pertaining to Political Bodies Attempting to Qualify. This information may be accessed on the Secretary of State's website at <http://www.sos.ca.gov/elections/ror/ror-pages/ror-odd-year-11/nonqual.pdf>.

3. As of the January 3, 2012, Report of Registration (154 days before the June 5, 2012, Presidential Primary Election), the Constitution Party of California had 121 registrants in the State of California. Attached hereto, marked as "Exhibit B," is a true and correct copy of the January 3, 2012, Report of Registration pertaining to Political Bodies Attempting to Qualify. This information may be accessed on the Secretary of State's website at <http://www.sos.ca.gov/elections/ror/ror-pages/154day-presprim-12/nonqual.pdf>.

4. As of the January 3, 2012, Report of Registration (154 days before the June 5, 2012, Presidential Primary Election), the Justice Party had 183 registrants in the State of California. *See* Ex. B.

5. As of the April 6, 2012, Report of Registration (60 days before the June 5, 2012, Presidential Primary Election), the Constitution Party of California had 234 registrants in the State of California. Attached hereto, marked as "Exhibit C," is a true and correct copy of the April 6, 2012, Report of Registration pertaining to Political Bodies Attempting to Qualify. This information may be accessed on the

1 Secretary of State's website at <http://www.sos.ca.gov/elections/ror/ror->
2 [pages/60day-presprim-12/nonqual1.pdf](http://www.sos.ca.gov/elections/ror/ror-pages/60day-presprim-12/nonqual1.pdf).

3 6. As of the April 6, 2012, Report of Registration (60 days before the June
4 5, 2012, Presidential Primary Election), the Justice Party did not have any reported
5 registrants in the State of California. The Secretary of State did not request
6 registration data for the Justice Party in the April 6, 2012, Report of Registration
7 because two factions have claimed to be representatives of the Justice Party, and the
8 Secretary of State has not determined the legitimate contact person(s) in order to
9 determine whether the group's renewed notice to qualify has been received from a
10 legitimate Justice Party representative.

11 7. As of the May 21, 2012, Report of Registration (15 days before the June
12 5, 2012, Presidential Primary Election), the Constitution Party of California had
13 207 registrants in the State of California. Attached hereto, marked as "Exhibit D,"
14 is a true and correct copy of the May 21, 2012, Report of Registration pertaining to
15 Political Bodies Attempting to Qualify. This information may be accessed on the
16 Secretary of State's website at <http://www.sos.ca.gov/elections/ror/ror->
17 [pages/15day-presprim-12/nonqual1.pdf](http://www.sos.ca.gov/elections/ror/ror-pages/15day-presprim-12/nonqual1.pdf).

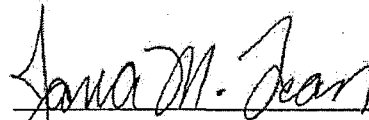
18 8. As of the May 21, 2012, Report of Registration (15 days before the June
19 5, 2012, Presidential Primary Election), the Justice Party did not have any reported
20 registrants in the State of California. The Secretary of State did not request
21 registration data for the Justice Party in the April 6, 2012, Report of Registration
22 because two factions have claimed to be representatives of the Justice Party, and the
23 Secretary of State has not determined the legitimate contact person(s) in order to
24 determine whether the group's renewed notice to qualify has been received from a
25 legitimate Justice Party representative.

26 9. There are no provisions in the California Elections Code that allow for a
27 newly qualified political party to qualify for and participate only in a general
28 election. However, should a political body be allowed by this Court to qualify as a

1 political party before the November 6, 2012, Presidential Election, the Secretary of
2 State's office and each of California's 58 counties would need sufficient time to
3 gather registration data and prepare ballots and election materials to reflect the new
4 political party.

5 10. In order to provide counties sufficient time to prepare their ballots, the
6 Secretary of State would need to announce whether a political party has qualified
7 for the ballot 98 days prior to the election. To enable the Secretary of State to make
8 that determination, each county would need to report the registration totals of
9 political bodies attempting to qualify to the Secretary of State no later than July 19,
10 2012. Counties would in turn require additional time to collect and verify the
11 information provided to them.

12 11. As a practical matter, the Secretary of State informs counties earlier in the
13 process how many parties will be included on the ballot so the counties can
14 determine the length of the ballot, and the names of the candidates of those
15 qualified parties can be filled in later. When a political party is newly qualified,
16 particularly if it qualifies late and close to the election, counties must find and/or
17 create space for an additional party's candidate(s) on their ballots.

18
19 

20 JANA M. LEAN
21 Chief, Elections Division
22 Office of the California Secretary of State

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EXHIBIT A

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	Total	American Third Position Party	Christian Party	Conservative Party
Alameda	426	0	1	0
Alpine	2	0	0	0
Amador	41	0	1	3
Butte	86	0	0	0
Calaveras	40	0	1	3
Colusa	1	0	0	0
Contra Costa	590	3	0	0
Del Norte	54	0	0	0
El Dorado	142	0	2	0
Fresno	261	0	2	0
Glenn	5	0	0	0
Humboldt	87	0	0	0
Imperial	26	0	0	0
Inyo	4	0	0	0
Kern	289	0	0	0
Kings	37	0	0	0
Lake	43	0	0	0
Lassen	27	0	0	0
Los Angeles	5255	0	51	119
Madera	37	0	0	0
Marin	279	0	0	4
Mariposa	0	0	0	0
Mendocino	106	0	0	2
Merced	65	0	0	0
Modoc	1	0	0	0
Mono	0	0	0	0
Monterey	141	0	0	1
Napa	65	0	0	0
Nevada	125	0	0	3
Orange	2686	1	1	48
Placer	230	0	0	1
Plumas	0	0	0	0
Riverside	2278	0	3	0
Sacramento	650	0	1	0
San Benito	27	0	0	0
San Bernardino	1043	0	10	0
San Diego	3067	0	31	91
San Francisco	315	0	0	0
San Joaquin	129	0	0	0
San Luis Obispo	184	0	0	11
San Mateo	1484	0	0	14

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	Constitution Party of California	Federalist Party	New Revolution Party	Open Party
Alameda	0	2	1	2
Alpine	0	0	0	0
Amador	8	1	0	0
Butte	0	0	0	0
Calaveras	0	0	0	0
Colusa	0	0	0	0
Contra Costa	0	0	0	0
Del Norte	0	0	0	0
El Dorado	0	0	0	0
Fresno	0	0	0	0
Glenn	0	0	0	0
Humboldt	0	2	0	0
Imperial	0	0	0	0
Inyo	0	0	0	0
Kern	0	0	0	0
Kings	0	0	0	0
Lake	0	0	0	0
Lassen	0	0	0	0
Los Angeles	0	20	0	52
Madera	0	0	0	0
Marin	0	0	0	0
Mariposa	0	0	0	0
Mendocino	0	0	0	0
Merced	0	0	0	0
Modoc	0	0	0	0
Mono	0	0	0	0
Monterey	0	0	0	0
Napa	0	0	0	0
Nevada	0	0	0	0
Orange	39	1	0	0
Placer	7	0	0	0
Plumas	0	0	0	0
Riverside	2	1	3	2
Sacramento	1	0	0	1
San Benito	0	0	0	0
San Bernardino	0	0	6	2
San Diego	38	0	0	0
San Francisco	0	0	0	0
San Joaquin	0	0	0	0
San Luis Obispo	0	0	0	0
San Mateo	5	0	0	0

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	Reform Party	Twelve Visions Party of California	Utopia Manifesto Political Party	We Like Women Party
Alameda	411	3	0	0
Alpine	1	0	0	0
Amador	27	0	0	0
Butte	86	0	0	0
Calaveras	36	0	0	0
Colusa	1	0	0	0
Contra Costa	586	0	0	0
Del Norte	54	0	0	0
El Dorado	140	0	0	0
Fresno	258	0	0	0
Glenn	5	0	0	0
Humboldt	84	0	0	0
Imperial	26	0	0	0
Inyo	3	0	0	0
Kern	288	0	0	0
Kings	37	0	0	0
Lake	43	0	0	0
Lassen	27	0	0	0
Los Angeles	4,984	0	0	0
Madera	37	0	0	0
Marin	275	0	0	0
Mariposa	0	0	0	0
Mendocino	104	0	0	0
Merced	65	0	0	0
Modoc	1	0	0	0
Mono	0	0	0	0
Monterey	139	0	0	0
Napa	65	0	0	0
Nevada	122	0	0	0
Orange	2,384	0	0	196
Placer	220	2	0	0
Plumas	0	0	0	0
Riverside	2,245	1	2	5
Sacramento	642	1	1	0
San Benito	27	0	0	0
San Bernardino	1,012	4	0	0
San Diego	2,905	0	0	2
San Francisco	314	1	0	0
San Joaquin	129	0	0	0
San Luis Obispo	172	0	0	0
San Mateo	1,451	0	0	0

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	WHIG Party	Working Families Party of California
Alameda	6	0
Alpine	1	0
Amador	1	0
Butte	0	0
Calaveras	0	0
Colusa	0	0
Contra Costa	1	0
Del Norte	0	0
El Dorado	0	0
Fresno	1	0
Glenn	0	0
Humboldt	1	0
Imperial	0	0
Inyo	1	0
Kern	1	0
Kings	0	0
Lake	0	0
Lassen	0	0
Los Angeles	29	0
Madera	0	0
Marin	0	0
Mariposa	0	0
Mendocino	0	0
Merced	0	0
Modoc	0	0
Mono	0	0
Monterey	1	0
Napa	0	0
Nevada	0	0
Orange	16	0
Placer	0	0
Plumas	0	0
Riverside	14	0
Sacramento	3	0
San Benito	0	0
San Bernardino	9	0
San Diego	0	0
San Francisco	0	0
San Joaquin	0	0
San Luis Obispo	1	0
San Mateo	14	0

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	Total	American Third Position Party	Christian Party	Conservative Party
Santa Barbara	294	0	0	0
Santa Clara	1020	0	1	15
Santa Cruz	553	0	0	0
Shasta	112	0	3	22
Sierra	4	0	0	0
Siskiyou	17	0	0	0
Solano	261	0	0	5
Sonoma	386	0	0	0
Stanislaus	355	0	1	36
Sutter	23	0	0	0
Tehama	21	0	2	0
Trinity	0	0	0	0
Tulare	20	2	1	8
Tuolumne	58	0	0	0
Ventura	624	0	0	16
Yolo	97	0	0	5
Yuba	13	0	0	0
State Total	24,186	6	112	407

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	Constitution Party of California	Federalist Party	New Revolution Party	Open Party
Santa Barbara	3	0	0	0
Santa Clara	27	0	0	0
Santa Cruz	0	0	0	0
Shasta	6	0	0	2
Sierra	0	0	0	0
Siskiyou	2	0	0	0
Solano	1	0	0	0
Sonoma	0	0	0	0
Stanislaus	7	0	0	0
Sutter	0	0	0	0
Tehama	1	0	0	0
Trinity	0	0	0	0
Tulare	2	1	0	1
Tuolumne	0	0	0	0
Ventura	1	0	10	0
Yolo	6	0	0	0
Yuba	1	0	0	0
State Total	157	28	20	62

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	Reform Party	Twelve Visions Party of California	Utopia Manifesto Political Party	We Like Women Party
Santa Barbara	289	2	0	0
Santa Clara	944	0	0	0
Santa Cruz	547	0	0	0
Shasta	79	0	0	0
Sierra	4	0	0	0
Siskiyou	14	1	0	0
Solano	254	0	0	0
Sonoma	383	0	0	0
Stanislaus	308	2	0	0
Sutter	23	0	0	0
Tehama	17	0	1	0
Trinity	0	0	0	0
Tulare	1	0	0	0
Tuolumne	58	0	0	0
Ventura	589	5	0	0
Yolo	85	0	0	0
Yuba	12	0	0	0
State Total	23,013	22	4	203

**Report of Registration as of February 10, 2011
Political Bodies Attempting to Qualify**

County	WHIG Party	Working Families Party of California
Santa Barbara	0	0
Santa Clara	33	0
Santa Cruz	6	0
Shasta	0	0
Sierra	0	0
Siskiyou	0	0
Solano	1	0
Sonoma	3	0
Stanislaus	1	0
Sutter	0	0
Tehama	0	0
Trinity	0	0
Tulare	3	1
Tuolumne	0	0
Ventura	3	0
Yolo	1	0
Yuba	0	0
State Total	151	1

EXHIBIT B

Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify

County	Total	American Concerned Party	American Third Position Party	California Moderate Party	Christian Party	Conservative Party
Alameda	451	0	0	0	2	0
Alpine	2	0	0	0	0	0
Amador	36	0	0	0	1	3
Butte	146	0	0	0	0	13
Calaveras	44	0	0	0	1	5
Colusa	1	0	0	0	0	0
Contra Costa	590	0	0	0	0	2
Del Norte	15	0	0	0	0	0
El Dorado	136	0	0	0	2	0
Fresno	257	0	0	0	1	1
Glenn	6	0	0	0	0	0
Humboldt	92	0	0	0	0	3
Imperial	24	0	0	0	0	0
Inyo	4	0	0	0	0	0
Kern	282	0	0	0	1	2
Kings	40	0	0	0	0	0
Lake	47	0	0	1	2	1
Lassen	23	0	0	0	0	0
Los Angeles	5,287	0	0	0	50	122
Madera	30	0	0	0	0	2
Marin	271	0	0	0	0	7
Mariposa	0	0	0	0	0	0
Mendocino	114	0	0	0	0	5
Merced	60	0	0	0	0	0
Modoc	1	0	0	0	0	0
Mono	0	0	0	0	0	0
Monterey	158	0	0	0	0	4
Napa	63	0	0	0	0	0
Nevada	131	0	0	0	0	6
Orange	2,779	0	0	0	2	61
Placer	219	0	0	0	0	4
Plumas	0	0	0	0	0	0
Riverside	964	0	0	0	4	0
Sacramento	630	0	0	1	1	1
San Benito	104	0	0	0	0	0
San Bernardino	1,025	0	0	0	13	8
San Diego	2,938	0	0	0	28	96
San Francisco	350	0	0	0	0	6
San Joaquin	267	0	0	0	0	5
San Luis Obispo	185	0	0	0	0	11
San Mateo	1,494	0	0	1	0	14
Santa Barbara	286	0	0	0	0	0
Santa Clara	1,002	0	0	0	1	17
Santa Cruz	271	0	0	0	0	0
Shasta	110	0	0	0	3	25
Sierra	4	0	0	0	0	0
Siskiyou	16	0	0	0	0	0
Solano	257	0	0	0	0	0

**Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify**

County	Constitution Party of California	Dharma Party	Federalist Party	Justice Party	La Raza Unida Party	New Revolution Party
Alameda	1	0	2	28	10	2
Alpine	0	0	0	0	0	0
Amador	8	0	1	0	0	0
Butte	7	0	0	33	0	0
Calaveras	0	0	0	2	0	0
Colusa	0	0	0	0	0	0
Contra Costa	0	0	0	4	0	0
Del Norte	0	0	0	1	0	0
El Dorado	0	0	0	3	0	0
Fresno	0	0	0	0	0	0
Glenn	0	0	0	0	0	0
Humboldt	0	0	2	8	0	0
Imperial	0	0	0	0	0	0
Inyo	1	0	0	0	0	0
Kern	1	0	0	0	0	0
Kings	0	0	0	0	0	0
Lake	2	0	0	1	0	0
Lassen	0	0	0	0	0	0
Los Angeles	0	0	21	0	285	0
Madera	0	0	0	0	0	0
Marin	0	0	0	0	0	0
Mariposa	0	0	0	0	0	0
Mendocino	2	0	0	1	0	0
Merced	0	0	0	0	0	0
Modoc	0	0	0	0	0	0
Mono	0	0	0	0	0	0
Monterey	0	0	0	1	20	0
Napa	0	0	0	0	0	0
Nevada	0	0	0	6	0	0
Orange	1	0	1	16	14	0
Placer	5	0	0	1	0	0
Plumas	0	0	0	0	0	0
Riverside	3	0	1	2	0	2
Sacramento	2	0	0	0	0	0
San Benito	0	0	0	0	1	0
San Bernardino	4	0	0	0	10	6
San Diego	38	0	0	10	40	0
San Francisco	2	0	0	16	0	0
San Joaquin	0	0	0	1	0	0
San Luis Obispo	0	0	0	3	4	0
San Mateo	5	0	1	12	0	0
Santa Barbara	1	0	0	3	0	0
Santa Clara	0	0	0	2	26	0
Santa Cruz	0	0	0	15	0	0
Shasta	6	0	0	0	0	0
Sierra	0	0	0	0	0	0
Siskiyou	2	0	0	0	0	0
Solano	0	0	0	0	3	0

**Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify**

County	Open Party	Reform Party	The Humane Party of California	The Middle Class Party	The People's Party of California
Alameda	2	395	0	0	0
Alpine	0	1	0	0	0
Amador	0	22	0	0	0
Butte	0	85	3	0	0
Calaveras	0	36	0	0	0
Colusa	0	1	0	0	0
Contra Costa	0	566	0	0	0
Del Norte	0	14	0	0	0
El Dorado	0	131	0	0	0
Fresno	2	252	0	0	0
Glenn	0	6	0	0	0
Humboldt	0	78	0	0	0
Imperial	0	24	0	0	0
Inyo	0	2	0	0	0
Kern	0	277	0	0	0
Kings	0	40	0	0	0
Lake	0	39	0	0	0
Lassen	0	23	0	0	0
Los Angeles	51	4,680	42	0	0
Madera	0	28	0	0	0
Marin	0	264	0	0	0
Mariposa	0	0	0	0	0
Mendocino	1	102	1	0	0
Merced	0	60	0	0	0
Modoc	0	1	0	0	0
Mono	0	0	0	0	0
Monterey	0	133	0	0	0
Napa	0	63	0	0	0
Nevada	0	119	0	0	0
Orange	0	2,314	0	6	0
Placer	0	207	0	0	0
Plumas	0	0	0	0	0
Riverside	1	926	1	0	0
Sacramento	1	616	2	0	1
San Benito	0	103	0	0	0
San Bernardino	1	949	4	0	0
San Diego	3	2,713	4	0	3
San Francisco	0	307	0	5	0
San Joaquin	0	261	0	0	0
San Luis Obispo	0	165	0	1	0
San Mateo	0	1,445	1	0	0
Santa Barbara	0	279	1	0	0
Santa Clara	0	922	0	0	0
Santa Cruz	0	249	0	0	0
Shasta	2	74	0	0	0
Sierra	0	4	0	0	0
Siskiyou	0	13	0	0	0
Solano	0	253	0	0	0

**Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify**

County	Twelve Visions Party of California	Utopia Manifesto Political Party	We Like Women Party	WHIG Party	Working Families Party of California
Alameda	3	0	0	6	0
Alpine	0	0	0	1	0
Amador	0	0	0	1	0
Butte	0	0	0	5	0
Calaveras	0	0	0	0	0
Colusa	0	0	0	0	0
Contra Costa	17	0	0	1	0
Del Norte	0	0	0	0	0
El Dorado	0	0	0	0	0
Fresno	0	0	0	1	0
Glenn	0	0	0	0	0
Humboldt	0	0	0	1	0
Imperial	0	0	0	0	0
Inyo	0	0	0	1	0
Kern	0	0	0	1	0
Kings	0	0	0	0	0
Lake	0	0	0	1	0
Lassen	0	0	0	0	0
Los Angeles	1	0	0	33	2
Madera	0	0	0	0	0
Marin	0	0	0	0	0
Mariposa	0	0	0	0	0
Mendocino	2	0	0	0	0
Merced	0	0	0	0	0
Modoc	0	0	0	0	0
Mono	0	0	0	0	0
Monterey	0	0	0	0	0
Napa	0	0	0	0	0
Nevada	0	0	0	0	0
Orange	1	0	343	20	0
Placer	2	0	0	0	0
Plumas	0	0	0	0	0
Riverside	0	1	12	10	1
Sacramento	1	1	0	3	0
San Benito	0	0	0	0	0
San Bernardino	6	0	14	10	0
San Diego	1	0	2	0	0
San Francisco	0	0	11	3	0
San Joaquin	0	0	0	0	0
San Luis Obispo	0	0	0	1	0
San Mateo	0	0	0	15	0
Santa Barbara	2	0	0	0	0
Santa Clara	0	0	0	34	0
Santa Cruz	0	0	0	6	1
Shasta	0	0	0	0	0
Sierra	0	0	0	0	0
Siskiyou	1	0	0	0	0
Solano	0	0	0	1	0

**Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify**

County	Total	American Concerned Party	American Third Position Party	California Moderate Party	Christian Party	Conservative Party
Sonoma	383	0	0	0	0	2
Stanislaus	336	0	0	0	1	36
Sutter	57	0	0	0	0	0
Tehama	20	0	0	0	2	1
Trinity	0	0	0	0	0	0
Tulare	118	0	2	3	1	9
Tuolumne	56	0	0	0	0	0
Ventura	611	0	0	10	1	16
Yolo	98	0	0	0	0	5
Yuba	14	0	0	0	0	1
State Total	22,905	0	2	16	117	494

**Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify**

County	Constitution Party of California	Dharma Party	Federalist Party	Justice Party	La Raza Unida Party	New Revolution Party
Sonoma	3	0	0	9	0	0
Stanislaus	10	0	0	3	0	0
Sutter	0	0	0	0	0	0
Tehama	1	0	0	0	0	0
Trinity	0	0	0	0	0	0
Tulare	8	0	1	0	1	0
Tuolumne	1	0	0	0	0	0
Ventura	1	0	0	2	45	1
Yolo	5	0	0	0	2	0
Yuba	1	0	0	0	0	0
State Total	121	0	30	183	461	11

**Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify**

County	Open Party	Reform Party	The Humane Party of California	The Middle Class Party	The People's Party of California
Sonoma	0	362	4	0	0
Stanislaus	0	282	1	0	0
Sutter	0	57	0	0	0
Tehama	0	15	0	0	0
Trinity	0	0	0	0	0
Tulare	1	88	0	0	0
Tuolumne	0	55	0	0	0
Ventura	2	525	2	0	0
Yolo	0	84	0	1	0
Yuba	0	12	0	0	0
State Total	67	20,722	66	13	4

**Report of Registration as of January 3, 2012
Political Bodies Attempting to Qualify**

County	Twelve Visions Party of California	Utopia Manifesto Political Party	We Like Women Party	WHIG Party	Working Families Party of California
Sonoma	0	0	0	3	0
Stanislaus	2	0	0	1	0
Sutter	0	0	0	0	0
Tehama	0	1	0	0	0
Trinity	0	0	0	0	0
Tulare	0	0	0	3	1
Tuolumne	0	0	0	0	0
Ventura	2	0	0	4	0
Yolo	0	0	0	1	0
Yuba	0	0	0	0	0
State Total	41	3	382	167	5

EXHIBIT C

**Report of Registration as of April 6, 2012
Political Bodies Attempting to Qualify**

County	Total	Constitution Party	Moderate Party
Alameda	14	13	1
Alpine	0	0	0
Amador	6	6	0
Butte	11	7	4
Calaveras	2	2	0
Colusa	1	1	0
Contra Costa	15	15	0
Del Norte	0	0	0
El Dorado	7	7	0
Fresno	0	0	0
Glenn	0	0	0
Humboldt	0	0	0
Imperial	0	0	0
Inyo	0	0	0
Kern	0	0	0
Kings	0	0	0
Lake	3	2	1
Lassen	0	0	0
Los Angeles	107	38	69
Madera	0	0	0
Marin	0	0	0
Mariposa	0	0	0
Mendocino	3	3	0
Merced	0	0	0
Modoc	0	0	0
Mono	0	0	0
Monterey	0	0	0
Napa	0	0	0
Nevada	0	0	0
Orange	43	43	0
Placer	5	5	0
Plumas	0	0	0
Riverside	3	3	0
Sacramento	4	2	2
San Benito	0	0	0
San Bernardino	3	3	0
San Diego	37	37	0
San Francisco	1	1	0
San Joaquin	3	1	2
San Luis Obispo	2	2	0
San Mateo	7	6	1

**Report of Registration as of April 6, 2012
Political Bodies Attempting to Qualify**

County	Total	Constitution Party	Moderate Party
Santa Barbara	1	1	0
Santa Clara	0	0	0
Santa Cruz	0	0	0
Shasta	2	1	1
Sierra	0	0	0
Siskiyou	2	2	0
Solano	2	0	2
Sonoma	3	3	0
Stanislaus	10	10	0
Sutter	0	0	0
Tehama	1	1	0
Trinity	0	0	0
Tulare	16	13	3
Tuolumne	0	0	0
Ventura	12	1	11
Yolo	4	4	0
Yuba	1	1	0
State Total	331	234	97

EXHIBIT D

**Report of Registration as of May 21, 2012
Political Bodies Attempting to Qualify**

County	Total	California Pirate Party	Constitution Party	Moderate Party	We Like Women Political Party
Alameda	14	0	13	1	0
Alpine	0	0	0	0	0
Amador	6	0	6	0	0
Butte	11	0	7	4	0
Calaveras	3	1	2	0	0
Colusa	1	0	1	0	0
Contra Costa	1	0	0	1	0
Del Norte	0	0	0	0	0
El Dorado	6	0	6	0	0
Fresno	1	0	0	1	0
Glenn	0	0	0	0	0
Humboldt	1	0	0	0	1
Imperial	0	0	0	0	0
Inyo	0	0	0	0	0
Kern	0	0	0	0	0
Kings	1	0	1	0	0
Lake	4	0	3	1	0
Lassen	0	0	0	0	0
Los Angeles	105	0	37	68	0
Madera	0	0	0	0	0
Marin	1	0	0	1	0
Mariposa	0	0	0	0	0
Mendocino	3	0	3	0	0
Merced	0	0	0	0	0
Modoc	0	0	0	0	0
Mono	0	0	0	0	0
Monterey	0	0	0	0	0
Napa	0	0	0	0	0
Nevada	0	0	0	0	0
Orange	347	1	1	0	345
Placer	4	0	4	0	0
Plumas	0	0	0	0	0
Riverside	16	0	3	1	12
Sacramento	3	0	1	2	0
San Benito	0	0	0	0	0
San Bernardino	15	0	2	2	11
San Diego	39	0	35	2	2
San Francisco	12	0	2	0	10
San Joaquin	3	0	1	2	0
San Luis Obispo	3	0	3	0	0
San Mateo	5	0	5	0	0

**Report of Registration as of May 21, 2012
Political Bodies Attempting to Qualify**

County	Total	California Pirate Party	Constitution Party	Moderate Party	We Like Women Political Party
Santa Barbara	2	0	1	1	0
Santa Clara	29	0	28	1	0
Santa Cruz	6	0	6	0	0
Shasta	24	0	17	7	0
Sierra	0	0	0	0	0
Siskiyou	2	0	2	0	0
Solano	2	0	0	2	0
Sonoma	2	0	2	0	0
Stanislaus	11	0	11	0	0
Sutter	0	0	0	0	0
Tehama	1	0	1	0	0
Trinity	0	0	0	0	0
Tulare	12	0	8	4	0
Tuolumne	0	0	0	0	0
Ventura	14	0	3	11	0
Yolo	4	0	4	0	0
Yuba	1	0	1	0	0
State Total	701	2	207	111	381