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6 Attorneys for Plaintiffs
7 *California Justice Committee, the*
Constitution Party of California,
8 *Jeff Norman, Charles Michel Deemer,*
and John Gabree

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

12 CALIFORNIA JUSTICE COMMITTEE; et) Case No. CV12-3956 PA (AGR_x)
13 al.,)
14 Plaintiffs,) The Honorable Percy Anderson
15 vs.) **[PLAINTIFFS' PROPOSED]**
16 DEBRA BOWEN, California Secretary of) **FINDINGS OF FACT AND**
17 State, in her official capacity,) **CONCLUSIONS OF LAW**
18 Defendant.) Trial Date: October 16, 2012
) Time: 9 a.m.
) Courtroom: 15
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1 Plaintiffs California Justice Committee, the Constitution Party of California, Jeff
2 Norman, Charles Michel Deemer, and John Gabree respectfully submit the following
3 proposed findings of fact and conclusions of law:
4

5 **FINDINGS OF FACT**

6 **A. Plaintiffs' Background**

7 1. The California Justice Party and Plaintiff Constitution Party of California
8 are political bodies attempting to qualify for the 2012 general election and desire to
9 list their nominees for President and Vice President with their party affiliations on the
10 November Presidential Election ballot. [Decl. of Jeff Norman ("Norman Decl.") ¶¶ 2,
11 11, 15 (Dkt. No. 6); Decl. of Charles Michel Deemer ("Deemer Decl.") ¶¶ 11-12, 17
12 (Dkt. No. 8).]

13 2. Plaintiff California Justice Committee is a general purpose committee
14 under California law formed to support the efforts of the California Justice Party to
15 qualify as a recognized political party in California. [Norman Decl. ¶ 2.]

16 3. Plaintiffs Jeff Norman and John Gabree are registered voters who have
17 submitted affidavits declaring their intention to affiliate with the California Justice
18 Party and who wish to vote for their party's candidates and the party with which they
19 align. [Norman Decl. ¶¶ 6, 11; Decl. of John Gabree ¶¶ 3, 6 (Dkt. No. 4).]

20 4. Plaintiff Charles Michel Deemer is a registered voter who has submitted
21 an affidavit declaring his intention to affiliate with the Constitution Party of California
22 and who wishes to vote for his party's candidates and the party with which he aligns.
23 [Deemer Decl. ¶¶ 12, 15.]

24 **B. California's Party-Qualification Scheme**

25 5. The California Elections Code defines a political "party" as a "political
26 party or organization that has qualified for participation in any primary election." [Cal.
27 Elec. Code § 338.]

28 6. Elections Code § 5100 provides one of three avenues by which political

1 parties can receive formal recognition in California: (1) by receiving 2 percent of the
2 statewide vote in the preceding gubernatorial election; (2) by having 1 percent of the
3 vote from the last gubernatorial election declare their intent to affiliate with the party
4 by registering with the party; or (3) by collecting signatures of voters supporting
5 recognition of the political body as a political party equal to 10 percent of the vote
6 from the last gubernatorial election. [Cal. Elec. Code § 5100.]

7 7. For the current election cycle, if a political body sought to qualify as a
8 political party through the voter registration method in Elections Code § 5100(b), a
9 minimum of 103,004 voters needed to have declared their intention to affiliate with
10 that party by the deadline specified by statute. [Joint Stipulated Facts (“Stip.”) ¶ 3
11 (Dkt. No. 29).]

12 8. For the current election cycle, if a political body sought to qualify as a
13 political party through the petition method in Elections Code § 5100(c), a minimum of
14 1,030,040 voters needed to have signed a petition supporting recognition of that
15 political body as a political party by the deadline specified by statute. [Request for
16 Judicial Notice (“RJN”) at 7 (Dkt. No. 3).]

17 9. Elections Code § 5100 provides that the Secretary of State shall certify
18 the parties eligible to participate in the primary election 135 days prior to the primary
19 election, which this year was held on June 5, 2012. [Cal. Elec. Code § 5100; RJN at
20 6.]

21 10. The deadline for the Secretary of State’s certification of parties eligible to
22 participate in this year’s primary therefore fell on January 23, 2012. [Cal. Elec. Code §
23 5100; RJN at 6-7, 10 & 16.]

24 11. For political bodies seeking to qualify under Elections Code § 5100(b)
25 (voter registration), the Secretary of State’s determination is based on voter
26 registration affidavits submitted to each county’s registrar of voters by 154 days
27 before the primary. [Cal. Elec. Code § 2187(d)(2); RJN at 10.]

28 12. The deadline for voters to submit voter registration affidavits that would

1 count toward the Secretary of State’s certification of parties eligible to participate in
2 this year’s primary therefore fell on January 3, 2012. [RJN at 6, 10 & 16.]

3 13. For political bodies seeking to qualify under Elections Code § 5100(c)
4 (petition) during this election cycle, the petition packet had to be submitted no later no
5 later than November 10, 2011 to ensure verification of signatures by January 23, 2012.
6 [Cal. Elec. Code §§ 5100(c), 9030, 9031; RJN at 7.]

7 14. Under California law, only political bodies that fulfill California’s party-
8 qualification requirements are entitled to place their nominees for President and Vice
9 President on the November Presidential ballot with their party affiliations listed. [Cal.
10 Elec. Code §§ 6901, 13105; *Field v. Bowen*, 199 Cal. App. 4th 346, 350, 131 Cal.
11 Rptr. 3d 721 (2011).]

12 15. Under California law, candidates for President and Vice President do not
13 need to participate in the primary election to participate in the general election. [Cal.
14 Const., art. 2, § 5(a-b); Cal. Elec. Code § 359.5; RJN at 52.]

15 16. California’s January 3, 2012 deadline for party qualification through the
16 voter registration option is earlier than almost every early qualification deadline that
17 has been struck down by courts, and only two deadlines were earlier in the calendar
18 year: the Arkansas deadline struck down in 1996 (January 2) and the Ohio deadline
19 struck down in 2006 (November 3 of the year preceding the election). [Decl. of
20 Richard Winger (“Winger Decl.”) ¶ 28 & Exh. B (Dkt. No. 5).]

21 **C. California’s Requirements for Independent Presidential Candidates**

22 17. Under California law, independent candidates for President may qualify
23 for the November ballot in California by submitting a petition with a sufficient
24 number of signatures by 88 days before the November Presidential election. [Winger
25 Decl. ¶ 32; RJN at 35 & 39.]

26 18. For the November 2012 election, the number of signatures required for
27 an independent Presidential candidate was 172,859, and the deadline for submitting
28 the petition for verification of signatures was August 10, 2012. [Winger Decl. ¶ 32;

1 RJN at 39.]

2 **D. Plaintiffs' Efforts to Satisfy California's Party-Qualification Scheme**

3 19. On or about November 30, 2011, Rocky Anderson announced the
4 formation of the Justice Party and his intention to seek its nomination for President in
5 2012, and, on or about December 15, 2011, a group of California voters submitted to
6 the California Secretary of State's office a notice of intent to qualify the Justice Party
7 as an official political party in California. [Norman Decl. ¶¶ 4-5.]

8 20. Because the Justice Party has limited funds, its supporters elected to
9 pursue the voter registration option for qualifying as a political party in California.
10 [Norman Decl. ¶ 10.]

11 21. The Constitution Party was founded by Howard Phillips as a national
12 political party in 1992. [Deemer Decl. ¶ 5.]

13 22. Since its first Presidential campaign in 1992, the Constitution Party has
14 placed its candidates for President and Vice President on the November ballot in no
15 less than 35 states, such that its Presidential candidates have been theoretically
16 capable of winning a majority of the electoral college in each election. [Deemer Decl.
17 ¶ 6.]

18 23. In 1992, the American Independent Party (AIP), which has been
19 continuously recognized as a political party by California since 1968, formally
20 affiliated with the Constitution Party, so the Constitution Party's nominees for
21 President and Vice President appeared on California's November Presidential ballot as
22 AIP's candidate between 1992 and 2004. [Deemer Decl. ¶¶ 3, 8.]

23 24. When the AIP declined to affiliate with the Constitution Party in 2008
24 and again in 2010, supporters of the Constitution Party who resided in California filed,
25 on or about August 9, 2010, a notice of intent to qualify the Constitution Party of
26 California as a political party. [Deemer Decl. ¶¶ 9-11.]

27 25. Because the Constitution Party of California has limited funds, its
28 supporters elected to pursue the voter registration option for qualifying as a political

1 party in California. [Deemer Decl. ¶ 14.]

2 26. As of January 23, 2012, insufficient voters had affiliated with the
3 California Justice Party or the Constitution Party of California to enable them to
4 qualify as a political party under Elections Code § 5100(b). [Stip. ¶ 2.]

5 27. On or about January 31, 2012, Defendant Debra Bowen announced that
6 the California Justice Party and Constitution Party of California had failed to qualify
7 as recognized political parties. [RJN at 4.]

8 28. After the announcement that the groups had not qualified as recognized
9 political parties, supporters of the California Justice Party and Constitution Party of
10 California continued their efforts to fundraise, educate voters, and register supporters
11 through the internet, conferences, and grassroots campaigning. [Norman Decl. ¶ 12;
12 Deemer Decl. ¶ 17.]

13 29. The Secretary of State's determination in January 2012 that the
14 California Justice Party and Constitution Party of California failed to qualify by the
15 135-day deadline undermined campaign activity because the parties' supporters could
16 not promote the goal as part of their organizing efforts of qualifying as a recognized
17 political party to place their candidates on California's 2012 Presidential ballot.
18 [Norman Decl. ¶ 12; Deemer Decl. ¶¶ 17, 18.]

19 **E. The Impact of Early Qualification Deadlines**

20 30. Early qualification deadlines, when coupled with high voter registration
21 or signature requirements, can act as barriers to the ability of minor parties and
22 independent candidates to gain access to the ballot. [Winger Decl. ¶¶ 12-14.]

23 31. Events that occur during the spring of election years are sometimes
24 completely unexpected, and of great importance, but early deadlines prevent minor
25 parties from responding to and capitalizing on these developments. Two historical
26 examples underscore the importance of flexibility: both the Republican Party in 1854
27 and the Progressive Party in 1912 formed late in the election cycle in response to
28 political developments and ultimately garnered substantial support and won several

1 important races, but an early qualification deadline like California's would have
2 prevented either party from achieving that level of support. [Winger Decl. ¶ 13.]

3 32. Additionally, early qualification deadlines that require political bodies to
4 organize in the year preceding the election hamper organizing efforts because new
5 parties seldom have enough public support that early in the election season to comply
6 with the requirement and there is seldom as much interest in politics that far before the
7 heart of the election cycle in the summer and fall. This is particularly true of new
8 parties, like the Justice Party (which formed in December 2011), which not only have
9 to organize but also make the public familiar with their platform. [Winger Decl. ¶
10 14.]

11 **F. California's History of Ballot Access for New Political Parties**

12 33. Since 1953, when California set the party-qualification deadline 135 days
13 before the primary election, seven new political parties have attained formal
14 recognition under California's party-qualification scheme. [Stip. ¶ 6; Winger Decl. ¶¶
15 16-22.]

16 34. Since 1995, one new political body, the Americans Elect Party in 2011,
17 has qualified as a recognized political party. [Stip. ¶ 7; Winger Decl. ¶¶ 21-22.]

18 35. Since 2000, 61 groups that have registered with the Secretary of State as
19 political bodies have failed to qualify as recognized political parties in California, with
20 11 of these having registered and failed to qualify more than once. [Stip. ¶ 8.]

21 36. In the 2012 election cycle, 21 groups that registered with the Secretary of
22 State as political bodies failed to qualify as recognized political parties, and one
23 political body succeeded. [Stip. ¶ 9.]

24 **G. The Administrative Requirements for Preparing California's**
25 **General Election Ballot**

26 37. To have sufficient time to prepare the ballots for an election, California
27 counties require notification by the Secretary of State that a political party has
28 qualified for the ballot no more than 98 days before the election. [Stip. ¶ 10.]

1 38. For the current election cycle, 98 days before the general election is July
2 31, 2012. [Stip. ¶ 10; RJN at 38.]

3 39. California counties therefore would have sufficient time to prepare
4 ballots for the general election if they knew the identities of the political parties that
5 have qualified for the November 6, 2012 Presidential election by July 31, 2012. [Stip.
6 ¶ 10; RJN at 38.]

7 40. For the Secretary of State to determine to whether a political party has
8 qualified 98 days prior to a Presidential election, each county would need to report the
9 registration totals for each political body no more than 110 days before the election,
10 which fell on July 19, 2012 in the current election cycle. [Stip. ¶ 11; RJN at 38.]

11 41. The Secretary of State would therefore be able to ensure that the ballot is
12 prepared in time for the November general election if the counties reported the
13 registration totals of political bodies attempting to qualify for the November 6, 2012
14 Presidential election prior to July 19, 2012. [Stip. ¶ 11; RJN at 38.]

15 42. California counties require no more than 19 days to collect and verify
16 voter affidavits before them submitting them to the Secretary of State. [Stip. ¶ 12; *see*
17 *also* Elec. Code § 2187(d) (requiring that counties collect and verify voter affidavits
18 for submission to the Secretary of State at different points in the election cycle in 7, 10
19 and 19 days).]

20 43. For the current election cycle, the State of California would therefore
21 have been able to ensure that ballots are prepared in time for the November general
22 election had the deadline for political bodies seeking to qualify for the November
23 Presidential election been June 30, 2012. [Stip. ¶ 12.]

24
25 **CONCLUSIONS OF LAW**

26 1. Plaintiffs challenge the application of the timing requirements in
27 California Elections Code § 5100 to political bodies seeking recognition as political
28 parties so that their candidates for President and Vice President can appear on

1 California's November general election ballot.

2 2. Plaintiffs' claims for declaratory and permanent injunctive relief are
3 brought pursuant to the First and Fourteenth Amendments to the Constitution of the
4 United States and 42 U.S.C. § 1983.

5 3. This Court has jurisdiction over Plaintiffs' claims under 28 U.S.C.
6 §§ 1331, 1343, and 2201. Declaratory relief is authorized under 28 U.S.C. §§ 2201
7 and 2202.

8 4. Venue is proper in this Court under 28 U.S.C. § 1391(b).

9 5. Plaintiffs seeking a permanent injunction must demonstrate: (1) that they
10 have suffered an irreparable injury; (2) that remedies available at law, such as
11 monetary damages, are inadequate to compensate for that injury; (3) that, considering
12 the balance of hardships between the plaintiffs and defendant, a remedy in equity is
13 warranted; and (4) that the public interest would not be disserved by a permanent
14 injunction. *See Sierra Forest Legacy v. Sherman*, 646 F.3d 1161, 1184 (9th Cir.
15 2011) (quoting *eBay Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391, 126 S. Ct.
16 1837, 164 L. Ed. 2d 641 (2006)).

17 **A. Plaintiffs Have Demonstrated that California's Early Qualification**
18 **Deadline Causes Irreparable Injury**

19 6. Plaintiffs have established that California's early party-qualification
20 deadline has caused, and will continue to cause, irreparable harm to political bodies
21 and to voters seeking to cast their votes and to engage in the electoral process
22 effectively in this and future Presidential elections.

23 7. Courts have consistently recognized that state ballot-access restrictions
24 implicate two First Amendment guarantees, "the right of individuals to associate for
25 the advancement of political beliefs" and "the right of qualified voters, regardless of
26 their political persuasion, to cast their votes effectively," both of which "rank among
27 our most precious freedoms." *Anderson v. Celebrezze*, 460 U.S. 780, 787-88, 103 S.
28 Ct. 1564, 75 L. Ed. 2d 547 (1983) (quoting *Williams v. Rhodes*, 393 U.S. 23, 30-31,

1 89 S. Ct. 5, 10, 21 L. Ed. 2d 24 (1968)).

2 8. Under the balancing test laid out in *Anderson* and clarified in *Burdick v.*
3 *Takushi*, 504 U.S. 428, 112 S. Ct. 2059, 119 L. Ed. 2d 245 (1992), courts weigh “the
4 character and magnitude of the asserted injury to the rights protected by the First and
5 Fourteenth Amendments” against “the precise interests put forward by the State as
6 justifications for the burden imposed by its rule,” considering “the extent to which
7 those interests make it necessary to burden the plaintiff’s rights.” *Anderson*, 460 U.S.
8 at 789. If the combined effect of a State’s laws places “severe” restrictions upon these
9 rights, then courts apply strict scrutiny, but if the laws impose only “reasonable,
10 nondiscriminatory restrictions,” then courts apply rational basis review. *Burdick*, 504
11 U.S. at 434 (internal quotation marks omitted).

12 9. Plaintiffs have established that California’s early party-qualification
13 deadline severely burdens their First and Fourteenth Amendment rights and is
14 therefore subject to strict scrutiny.

15 10. “[T]he great weight of authority that has distinguished between filing
16 deadlines well in advance of the primary and general election and deadlines falling
17 closer to the dates of those elections,” *Libertarian Party of Ohio v. Blackwell*, 462
18 F.3d 579, 590 (6th Cir. 2006), and courts have consistently struck down deadlines that
19 fall far in advance of the relevant election because of the severe burden they impose
20 on voters’ rights, *see id.* at 586 (“Many courts have documented the burden imposed
21 by statutes requiring political parties to file registration petitions far in advance of the
22 primary and general elections.”); *id.* at 590-91 (“A number of other courts have noted
23 the problems associated with filing deadlines far in advance of the election.”).

24 11. For example, in *Nader v. Brewer*, 531 F.3d 1028 (9th Cir. 2008), the
25 Ninth Circuit applied strict scrutiny and struck down Arizona’s early filing deadline
26 for independent Presidential candidates, which fell 90 days before the primary and
27 146 days before the general election, *see id.* at 1031.

28 12. California’s party-qualification deadline is among the earliest deadlines

1 that federal courts have considered and is earlier than all but two of the early deadlines
2 that courts have struck down, including the early deadline to which the Ninth Circuit
3 applied strict scrutiny in *Nader*, further supporting the conclusion that California’s
4 party-qualification deadline imposes a severe burden on Plaintiffs rights. *See Nader*,
5 531 F.3d at 1039 (noting that challenged “signature requirement is greater and the
6 deadline [earlier]” than in a case where a registration deadline was upheld); *Blackwell*,
7 462 F.3d at 591 (noting that “Ohio’s deadline in the November preceding the election
8 is the earliest of any deadline reviewed by a federal court”).

9 13. The limited success of new political parties in satisfying California’s
10 qualification requirements—only seven new political parties have satisfied
11 California’s party-qualification scheme since the current deadline was adopted 60
12 years ago and only one, the Americans Elect Party, has done so since 1995—also
13 supports the conclusion that the early deadline is a severe barrier for political bodies
14 seeking to qualify as recognized political parties. *See Libertarian Party of Wash. v.*
15 *Munro*, 31 F.3d 759, 762 (9th Cir. 1994) (holding that the controlling inquiry is
16 “whether ‘reasonably diligent’ minor party candidates can normally gain a place on
17 the ballot, or if instead they only rarely will succeed” (quoting *Storer v. Brown*, 415
18 U.S. 724, 742, 94 S. Ct. 1274, 39 L. Ed. 2d 714 (1974); *see also Blackwell*, 462 F.3d
19 at 592 (“[T]he fact that an election procedure can be met does not mean the burden
20 imposed is not severe.”)).

21 14. The Secretary of State’s argument that Plaintiffs have suffered no real
22 injury because they have not made meaningful progress toward satisfying the 103,004
23 voter registration threshold erroneously shifts the focus from whether Plaintiffs have
24 established the unconstitutionality of § 5100, the legal issue before the Court, to the
25 likelihood that Plaintiffs will ever meet the qualification requirements that the Court
26 might conclude are constitutional. Whether Plaintiffs have met, or ever would meet,
27 the numeric threshold has no bearing on determining whether setting the deadline for
28 doing so ten months before the relevant election impermissibly burdens Plaintiffs

1 fundamental rights, which involves assessing the severity of that restriction against the
2 justifications for it proffered by the Secretary of State.

3 15. The Secretary of State has not proffered a sufficient or credible
4 justification the party-qualification deadline in California Elections Code § 5100, let
5 alone evidence that the timing requirement is “narrowly drawn” to justify the severe
6 restriction it places on Plaintiffs and other voters and political bodies. *See Burdick*,
7 504 U.S. at 434.

8 16. Although California elections officials undoubtedly require a reasonable
9 amount of time in advance of an election to certify that a candidate or party have
10 satisfied the eligibility requirements for inclusion on the ballot and to prepare election
11 materials, the evidence demonstrates that a June 30, 2012 deadline would have
12 adequately served that legitimate interest during the current election cycle.

13 17. The State of California’s ability to ensure that eligible independent
14 candidates for President are included on the November ballot based on a petition
15 deadline that is 98 days before the November election further confirms that California
16 election officials do not need 10 months to tabulate whether a political body has
17 satisfied the voter registration threshold in order to place its candidates for President
18 and Vice President on the November ballot with the party label.

19 18. Although California has a legitimate interest in limiting ballot access to
20 bona fide parties to avoid voter confusion and to protect the integrity of the electoral
21 process, those concerns are far more relevant to support § 5100’s numerosity
22 requirement than the timing requirement. A party-qualification deadline closer to the
23 relevant election would amply serve those interests.

24 19. Although California has legitimate interests in avoiding voter confusion
25 and preventing fraud, the Secretary of State has presented no evidence and offered no
26 plausible explanation why establishing a later party-qualification deadline would
27 cause voter confusion or increase the likelihood of voter fraud, nor has she explained
28 how the early qualification deadline is narrowly tailored to advance those interests.

1 20. California does not have a legitimate interest in withholding formal
2 recognition from political parties who satisfy the numeric threshold based primarily
3 on voter support for the party’s presidential nominee. A state’s interest in restricting
4 ballot access is at its lowest when it comes to regulating Presidential elections, *see*
5 *Anderson*, 460 U.S. at 794-95, and limiting ballot access for political parties that form
6 primarily to support a candidate in the national Presidential election is not a legitimate
7 state interest, *see Burdick*, 504 U.S. at 434 (holding that the constitution may permit
8 “reasonable, *nondiscriminatory* restrictions” on ballot access (emphasis added and
9 internal quotation marks omitted)).

10 21. Even if this were a legitimate interest, the early party-qualification
11 deadline is not narrowly tailored to advance that interest. Under the current deadline,
12 there is nothing that prevents a new party from meeting the numeric threshold based
13 solely on voter support for that new party’s putative Presidential nominee.
14 Additionally, even with a later deadline for parties seeking recognition so their
15 Presidential candidates may appear on the general election ballot, there is no reason to
16 believe that voters who affirm their support for a party that is focused primarily on
17 trying to place its Presidential candidate on the general election ballot would not also
18 support a broader slate of candidates from that party in future elections.

19 22. To the extent that California has a legitimate interest in assuring equal
20 political opportunities for all unqualified parties, refusing to establish a later party-
21 qualification deadline, which would be open to all political bodies seeking formal
22 recognition, does not advance that interest.

23 23. Although California elections officials need sufficient time to resolve
24 judicial and administrative challenges to the qualification of a party, they are able to
25 resolve challenges involving independent Presidential candidates, who must submit
26 their nomination petitions 98 days before the general election, before the general
27 election, and the Secretary of State has presented no evidence establishing that a
28 deadline 10 months before the election is necessary to accommodate this interest.

1 24. The loss of First Amendment freedoms “for even minimal periods of
2 time, unquestionably constitutes irreparable injury” because “[t]he timeliness of
3 political speech is particularly important.” *Elrod v. Burns*, 427 U.S. 347, 373, 374
4 n.29, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976).

5 **B. Plaintiffs Have Demonstrated that Remedies at Law Are Inadequate**

6 25. Monetary damages or other legal remedies are inadequate to resolve
7 Plaintiffs’ claims because “[t]here is no way to calculate the value of such a
8 constitutional deprivation.” *Walters v. Reno*, 145 F.3d 1032, 1048 (9th Cir. 1998); *see*
9 *also Allee v. Medrano*, 416 U.S. 802, 814-15 94 S. Ct. 2191, 40 L. Ed. 2d 566 (1974)
10 (holding “[n]o remedy at law would be adequate to provide [adequate] protection”
11 where plaintiffs challenged conduct that infringed “constitutionally protected rights of
12 free expression, assembly, and association”).

13 **C. Plaintiffs Have Demonstrated the Balance of Hardships Tips Sharply**
14 **in Favor of Granting a Permanent Injunction**

15 26. The substantial infringement on fundamental personal liberties caused by
16 California’s early party-qualification deadline greatly outweighs whatever minimal
17 burden the State of California must undertake to establish a constitutionally compliant
18 deadline for political bodies seeking recognition so their candidates for President and
19 Vice President may appear on the November Presidential Election ballot. *See*
20 *Anderson*, 460 U.S. at 806 (“If the State has open to it a less drastic way of satisfying
21 its legitimate interests, it may not choose a legislative scheme that broadly stifles the
22 exercise of fundamental personal liberties.” (internal quotation marks omitted)).

23 **D. Plaintiffs Have Demonstrated that Permanent Injunctive Relief**
24 **Serves the Public Interest**

25 27. An order prohibiting the State of California from denying political bodies
26 the opportunity to participate meaningfully in the current and future Presidential
27 Election cycles greatly benefits the public, because “[t]he ability of a political party to
28 appear on the general election ballot affects not only the party’s rights, but also the

1 First Amendment right of voters.” *Blackwell*, 462 F.3d at 588; *see also Sammartano*
2 *v. First Judicial Dist. Court*, 303 F.3d 959, 974 (9th Cir. 2002) (recognizing “the
3 significant public interest in upholding First Amendment principles”).

4 **E. Plaintiffs Have Established Their Entitlement to Declaratory and**
5 **Permanent Injunctive Relief**

6 28. Plaintiffs are entitled to the declaratory relief requested in their
7 Complaint.

8 29. Plaintiffs are entitled to the permanent injunctive relief requested in their
9 Complaint.

10
11 Dated: September 24, 2012

Respectfully Submitted,

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13 By: /s/ David B. Sapp

14 David B. Sapp
15 ACLU Foundation of Southern California
16 Attorneys for Plaintiffs
17 California Justice Committee, Constitution
18 Party of California, Jeff Norman, Charles
19 Michel Deemer, and John Gabree
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