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In the Superior Court of the State of California

For the County of Sutter

New California State,, a Domestic Non-  
Profit Corporation, Paul Preston, and  
John Does 1-10.

Plaintiffs,

vs.

Gavin Newsom, in his individual  
capacity and as Governor of the State of  
California, Alex Padilla, as Secretary of  
State and in his individual capacity, and  
John Does #1-100.

Defendants.

Case Number: CVCS20-0002218

FIRST AMENDED PETITION FOR  
DECLARATORY RELIEF AND TO DECLARE  
ALL VOTER BALLOTS CAST IN THE  
NOVEMBER, 2020 ELECTION VOID DUE TO  
STATUTORY NON-COMPLIANCE AND NON-  
COMPLIANCE WITH THE US  
CONSTITUTION; PETITION FOR  
PROHIBITION; PETITION FOR WRIT OF  
MANDAMUS.

I.

Plaintiff State of New California is an incorporated IRC 501(c)(4) educational association in the process of creating a new state within the existing border of California using the United States Constitution, Article IV, Section 3. Paul Preston is a citizen elector residing in Sutter County and President of State of New California and John Does 1-10, members of the State of New California and the State of California.

II.

Gavin Newsom is a California resident and Governor of the State of California. Alex Padilla is a California resident and the Secretary of State of California. Does #1-100 are yet to be determined, and will be added when their identities and capacities are determined.

**Count 1      Petition for Declaratory Judgment and Relief:**

III.

California Election Code §13200 (2019) states, "Ballots not printed in accordance with this chapter shall not be cast nor counted at any election. (Enacted by Stats. 1994, Ch. 920, Sec. 2.)"

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1 Those required statutory ballot statements are, “(Elections Code) §13205 (b). In elections  
2 when electors of President and Vice President of the United States are to be chosen, there shall be  
3 placed upon the ballot, in addition to the instructions to voters as provided in this chapter, an  
4 instruction as follows:

5 “To vote for all of the electors of a party, mark the voting target next to the names of  
6 the presidential and vice presidential candidates of that party. A mark of the voting  
7 target next to the name of a party and its presidential and vice presidential candidate,  
8 is a vote for all of the electors of that party, but for no other candidates.”

9 IV.

10 In California in the November, 2020 election, the above-mandated language did not appear  
11 in ballots distributed in fifty-three (53) of California’s 58 counties.<sup>1</sup>

12 V.

13 In the remaining five (5) California Counties<sup>2</sup>, the mandatory language of Election Code  
14 §13205(b), apparently did appear on the face of the purported ballot, but the following mandatory  
15 language of Election Code §13205(c) was required, but did not appear:

16 “(c) If a group of candidates for electors has been nominated under Chapter 3 (commencing  
17 with Section 8400) of Division 8, and has under Chapter 1 (commencing at Section 8300) of  
18 Division 8 designated the names of the candidates for President and Vice President of the United  
19 States for whom those candidates have pledged themselves to vote, the instructions to voters shall  
20 also contain the following:

21 “To vote for those electors who have pledged themselves to vote for a candidate for  
22

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23 <sup>1</sup> Alameda, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt,  
24 Imperial, Kings, Lake, Lassen, Los Angeles, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Mono, Monterey,  
25 Napa, Orange, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Francisco, San  
26 Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solana, Sonoma, Stanislaus,  
Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, Yolo, and Yuba Counties Attached hereto and incorporated by  
reference as though fully set forth herein as Exhibit 1 is one of those defective ballots.

27 <sup>2</sup> Alpine, Inyo, Kern, Nevada, and Santa Barbara Counties. Attached hereto and incorporated by reference as  
28 though fully set forth herein as Exhibit 2 is one of those defective ballots.



1 President and Vice President not supported by any particular party stamp a cross (+)  
2 in the square opposite the names of those presidential and vice presidential  
3 candidates.”

4 VI.

5 Since none of the ballots in any of the 58 counties of California comply with the mandatory  
6 ballot printing requirements, pursuant to specific statute, they cannot be voted nor counted for any  
7 purpose. The Court should order all the alleged “votes” from these defective ballots be totally  
8 disregarded for all purposes except as exhibits in this matter.

9 **Count 2 Petition for Writ of Mandamus Striking California Electoral College Votes:**

10 VII.

11 Paragraphs I-VI are re-alleged as though fully set forth herein.

12 VIII.

13 Pursuant to the putative “votes” cast by members of the public using these statutorily  
14 defective ballots, certain “Presidential Electors” were selected to vote at the national Electoral  
15 College calendared for vote counting on January 6, 2021.

16 IX.

17 Since the putative “Presidential Electors” were elected pursuant to ballots that, in the terms  
18 of California Elections Code § 13200, can not “be cast nor counted at any election,” their alleged  
19 election is void for all purposes. Any Electoral College “vote” they have allegedly cast should be  
20 ruled “void” for all purposes and stricken.

21 **Count 3: Petition for Declaratory Judgment and Relief That the Ballots Used in the**  
22 **November, 2020 Election Were Unconstitutionally Procured:**

23 X.

24 Paragraphs I-IX are re-alleged as though fully set forth herein.

25 XI.

26 In *James Gallagher and Kevin Kiley v Gavin Newsom*, CVCS20-0912 this Court ruled that  
27 certain actions taken by Governor Newsom pursuant to named Executive Orders were  
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1 unconstitutional.

2 XII.

3 One of the orders made as part of the unconstitutional Executive Orders was the ordering and  
4 procurement of the defective, non-statutory compliant voters' ballots. Since the ordering of the  
5 ballots and the procurement of the ballots were neither Constitutionally nor Legislatively authorized,  
6 the ballots should not be considered for any purpose except as exhibits in this lawsuit.

7 **Count 4: PETITION FOR DECLARATORY JUDGMENT THAT THE INDIVIDUAL VOTES CAST IN**  
8 **THE NOVEMBER, 2020 PRESIDENTIAL ELECTION WERE UNCONSTITUTIONALLY**  
9 **CAST BECAUSE THE MANNER OF PROCUREMENT OF INDIVIDUAL BALLOTS,**  
10 **DISTRIBUTION OF INDIVIDUAL'S BALLOTS TO INDIVIDUAL VOTERS, AND THE**  
11 **TIMING AND MANNER OF CASTING THE VOTES WERE NOT EXCLUSIVELY MANDATED**  
12 **BY THE CALIFORNIA LEGISLATURE IN VIOLATION OF THE UNITED STATES**  
13 **CONSTITUTION, ARTICLE II, CLAUSE 1.**

14 XIII.

15 Paragraphs I-XII are re-alleged as though fully set forth herein.

16 XIV.

17 None of the ballots in any of the 58 counties of California comply with the statutory  
18 mandated ballot printing requirements mandated by the California Legislature nor of the ballots'  
19 manner of procurement, the individual ballots distribution to voters, and the individual ballots being  
20 voted by individual voters, were as specified and mandated by the California Legislature, and  
21 therefore Constitutionally void pursuant to the United States Constitution, Article II, Section 1,  
22 Clause 2.

23 XV.

24 Article II, Section 1, Clause 2 of the United States Constitution states in pertinent part,  
25 "Each State shall appoint, in such Manner as the Legislature thereof  
26 may direct, a Number of Electors, equal to the whole Number of Senators  
27 and Representatives to which the State may be entitled in the Congress;

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**COUNT 6:      REQUEST FOR LEAVE TO AMEND TO ADD SUCH OTHER COUNTS AND CAUSES OF  
ACTION AS MAY BECOME APPARENT DURING THE COURSE OF THIS CASE.**

XX.

Paragraphs I-XIX are re-alleged as though fully set forth herein.

XXI.

Petitioners requests leave of the Court to add such additional causes of action and grounds for relief as may appear by the time of the closing of the hearing in this matter.

**PRAYER**

Petitioners request that this Honorable Court:

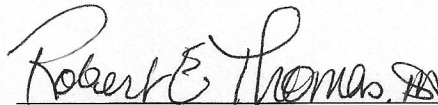
1. Declare the individual voter's ballots procured pursuant to the Governor's unconstitutional procurement void for all purposes except as exhibits in this matter;
2. Affirm Elections Code §13200 by declaring that the statutorily non-compliant and therefore defective ballots containing votes for President filed with any California County Clerk and/or Registrar of Voters and/or "voted" by submission to any County Clerk and/or Registrar of Voters or other counter-of-votes in the November, 2020 election statewide are null and void, and not be counted for any purpose in the November, 2020 election.
3. Declare that any purported "Presidential Elector" allegedly selected as a result of the use of the statutorily defective ballots that can not "be cast nor counted at any election" in the November, 2020 election was not, in fact, lawfully selected for any purpose and their purported selection is void for all purposes;
4. Declaring void any purported selection of a "Presidential Elector" in the November 2020 election because the Governor of the State of California unconstitutionally changed and did not comply with the Legislatively mandated ballot language and the Legislatively mandated manner and timing of voting in violation of the United States Constitution, Article II, Section 1, Clause 2;
5. Order the Governor and the Secretary of State to decertify the Presidential election of November, 2020;

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- 1 6. Order the Governor and Secretary of State to decertify any and all purported slates of  
2 Presidential Electors selected in the November, 2020 election;
- 3 7. Declaring void any purported vote by any purported "Presidential Elector" selected as a result  
4 of the use of statutorily defective ballots that statutorily can not "be cast nor counted at any  
5 election;"
- 6 8. Declaring void any purported vote from any "Presidential Elector" cast in the national  
7 Electoral College because the changes in the language on the ballots were not approved by  
8 the California Legislature as required by the United States Constitution, Article II, Section  
9 1, Clause 2;
- 10 9. That Plaintiffs be awarded costs and fees incurred in this action; and,
- 11 10. For such other relief as the Court may deem appropriate.

12 DATED this 27th day of January, 2021.

13   
14 Robert E. Thomas, III  
California Bar #60098

15 Verification of Pleading (Code Civ. Proc., § 446)  
16 Declaration under Penalty of Perjury Form (Code Civ. Proc., §§ 446, 2015.5)  
by Attorney for Party

17 I, Robert E. Thomas, III, declare:

18 I am an attorney duly licensed to practice law in the State of California. I am the attorney for  
19 Plaintiffs in the above-entitled matter.

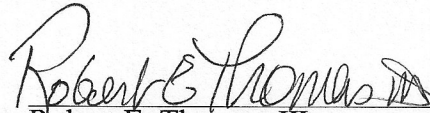
20 I have read the foregoing Complaint, Petition for Declaratory Relief and Petition for  
21 Mandamus and know the contents thereof. The same is true to the best of my own knowledge and  
22 belief, except as to those matters which are therein stated on information and belief, and, as to those  
23 matters, I believe it to be true.

24 Due to the Court's requirement that this Complaint and Petition for Declaratory Relief be  
25 electronically filed and that Plaintiff Paul Preston lives and works more than five hundred (500)  
26 miles from this attorney's office, and, further, that a recent winter storm has made the roads between  
27 Plaintiff and his attorney impassable, this Complaint and Petition is verified by Plaintiff's Attorney.

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1 Executed on January 27, 2021 at Pahrump (Nye County), Nevada.

2 I declare under penalty of perjury that the foregoing is true and correct.

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5 Robert E. Thomas, III  
6 Attorney for Plaintiffs  
7 California Bar # 60098  
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