

Robert E. Thomas, III
150 South Hwy 160, #310
Pahrump, NV. 89048
(530) 828-1234

Superior Court of the State of California

County of Sutter

New California State, Paul Preston, and John Does 1-10

Case Number: CVCS 20-0002218

Plaintiffs/Petitioners

VS.

PETITIONER'S MOTION TO SHORTEN TIME FOR
HEARING, POINTS AND AUTHORITIES,
DECLARATION OF ATTORNEY.

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

COMES NOW Robert E. Thomas, III, Attorney for New California State and Paul Preston *et al* who moves this Honorable Court to grant our Motion to Shorten Time for a hearing, and to set a live hearing in this matter on Tuesday, January 5, 2021, at 9 AM or as soon thereafter as counsel may be heard.

This Motion was previously denied on December 31, 2020, due to lack of compliance of all requirements of California Rule of Court 3.1200 *et seq.* This application seeks to remedy those deficiencies.

The attorney for Defendant Gavin Newsom is unknown. Attorney Thomas was told to serve all process at service.ofprocess@gov.ca.gov. [See previously filed DECLARATION RE: NOTICE OF EX PARTE APPLICATION FOR ORDER attached hereto and incorporated by reference as though fully set forth herein. Petitioner served the previous Motion to this location and will serve this Motion to that location.

The attorney for Defendant Alex Padilla is attorney Steve Reyes [(213) 332-2340] who said to serve process at his E-Mail, <sreyes@sos.ca.gov>. When Attorney Thomas spoke to Mr. Reyes after the denial of the previous Motion, Mr. Thomas told Mr. Reyes Petitioner would be seeking another Motion to Shorten Time to set a hearing on Tuesday, January 5, 2021.

As stated in the Petition, all the ballots in the State of California were printed and distributed

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1 to voters by order of Defendant Newsom. This unconstitutional procurement resulted in ballots
2 being sent unsolicited to all California voters. The problem arises because the ballots failed to
3 contain one of two mandatory notices required by Elections Code §13200 *et seq.* Elections Code
4 §13200 is clear in its language and meaning: "*Ballots not printed in accordance with this chapter*
5 *shall not be cast nor counted at any election.*"

6 The Petitioners Paul Preston and New California State, consisting of many members who
7 voted for President Trump *were harmed* in this November election because these statutorily deficient
8 ballots disenfranchised them. Further, once cast, they were counted and processed through counting
9 machines programmed by Dominion software, a software sworn testimony has demonstrated can
10 allow results to be manipulated to change votes and alter the outcome of elections. Further, when
11 analyzing numbers such as financial spreadsheets and voted ballots with *Benford's Law*, an analysis
12 that tells CPAs and attorneys if there is fraud or other irregularities in the accounting, analysis of the
13 number of ballots cast for President Trump show no irregularities or fraud, while those cast for Vice
14 President Joe Biden do show irregularities and raise strong suspicion of fraud.

15 As a result of the unlawful voting and counting of these statutorily deficient ballots,
16 California electors were selected and all voted for Joe Biden for President and Kamala Harris for
17 Vice President. These Electoral votes are scheduled to be cast in Congress sitting as the Electoral
18 College on Wednesday, January 6, 2021, the day after the date requested for the Petitioner's
19 expedited hearing.

20 Petitioners would be harmed if those Electoral College votes are cast because the state
21 ballots, on their faces, are not statutorily compliant nor lawful to be cast, but used as the basis for
22 the Electors to cast the Electoral College votes scheduled to be counted in Congress on January 6,
23 2021.

24 Petitioners believe the lawfulness of the ballots can be determined as a matter of law without
25 testimony or, in the alternative, brief testimony authenticating the ballot examples before the Court
26 [or Governor Newsom's attorney or the Secretary of State's attorney conceding at any hearing in this
27 Court on January 5, 2021 that the ballots presented to this Honorable Court are true and accurate
28 copies of the deficient ballots distributed state-wide.].

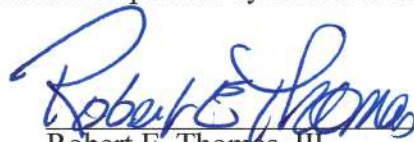
1 Additionally, Petitioners are informed and believes these ballots were procured by the
2 Governor's mandate that unsolicited paper ballots be distributed to all residents of California. The
3 authority for this mandate has already been declared unconstitutional because it is a mandate made
4 with the authority declared unconstitutional by this Court in *James Gallagher and Kevin Kiley v*
5 *Gavin Newsom*, Sutter Superior Court Case CVCS 20-0912. Petitioners and this Attorney believe
6 that just as certain mandates made pursuant to the Governor's unconstitutional exercise of power
7 must be stricken, so must these ballots.

8 This matter is set for a status conference in June, 2021. If the 55 California Electoral College
9 ballots are cast January 6, 2021, said casting would render this Petition and any potential disposition
10 in June, 2021 moot.

11 From Petitioner's point of view, it is imperative that this Honorable Court consider the
12 validity of the ballots cast in California in November, 2021 before the 55 California Electoral
13 College votes are cast in Congress on January 6, 2021.

14 This Motion is permitted by California Rule of Court §§3.1200 *et seq.* and the Declaration
15 of Attorney Robert E. Thomas, III, attached hereto and incorporated by reference as though fully set
16 forth herein.

17 DATED January 2, 2021



Robert E. Thomas, III
Attorney for Petitioners

Superior Court of the State of California

County of Sutter

New California State, Paul Preston, and John
Does 1-10

Plaintiffs/Petitioners

vs.

Gavin Newsom, in his Individual Capacity and
as Governor of the State of California, Alex
Padilla, in his Individual Capacity and as
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DECLARATION OF ATTORNEY.

COMES NOW ROBERT E. THOMAS, III, who declares and deposes as follows:

I am an attorney duly licensed to practice law in the State of California. I am the attorney for
Petitioners. I make this Declaration on Information and Belief except where otherwise stated.

On or about December 23, 2020, Petitioner Paul Preston brought to my attention the fact that
the ballots used in the November, 2020 Presidential election were statutorily deficient because they
lacked Legislatively mandated language required on all ballots.

I am aware of the provisions of the United States Constitution, Article II, paragraph 2, which
states,

"Each state shall appoint, in such manner as the Legislature thereof
may direct, a number of electors, equal to the whole number of
Senators and Representatives to which the State may be entitled in
the Congress: but no Senator or Representative, or person holding an
office of trust or profit under the United States, shall be appointed an
elector."

Because of this provision, I am aware that the Legislature of the State of California sets the
time, manner, and place of voting.

The Legislature of the State of California has set specific guidelines and limits on ballots.
The California Elections Code §§13200 sets forth those specific guidelines and limits. Of essential
importance herein is Elections Code §13200 itself, which states, "Ballots not printed in accordance
with this chapter shall not be cast nor counted at any election."

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1 Elections Code §13200 is part of Chapter 3 of that Code. Within that Chapter are other
2 provisions that mandate essential language to be printed on each ballot. Those provisions include
3 Elections Code §13204, which states,

4 Additional instructions to voters shall appear on the ballot prior to those
5 provided for in Section 13204 under the following conditions:

6 (a) . . .

7 (b) In elections when electors of President and Vice President of the
8 United States are to be chosen, there shall be placed upon the ballot,
9 in addition to the instructions to voters as provided in this chapter, an
10 instruction as follows:

11 "To vote for all of the electors of a party, mark the voting target next
12 to the names of the presidential and vice presidential candidates of
13 that party. A mark of the voting target next to the name of a party and
14 its presidential and vice presidential candidate, is a vote for all of the
15 electors of that party, but for no other candidates."

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

23 "To vote for those electors who have pledged themselves to vote for
24 a candidate for President and Vice President not supported by any
25 particular party mark the voting target next to the names of those
26 presidential and vice presidential candidates."

27 \\\

28 This writer has examined the ballots attached to the Petition in this matter. This writer is
informed and believes these ballots were procured by the Governor's mandate that unsolicited paper
ballots be distributed to all residents of California. The authority for this mandate has already been
declared unconstitutional because it is a mandate made with the authority declared unconstitutional
by this Court in *James Gallagher and Kevin Kiley v Gavin Newsom*, Sutter Superior Court Case
CVCS 20-0912. Petitioners and this Attorney believe that just as certain mandates made pursuant
to the Governor's unconstitutional exercise of power must be stricken, so must these ballots.

Attached to the Petition are three (3) ballot examples. The three ballots are for Calaveras,
Inyo, and Mendocino Counties. Those three counties' ballots lack the statutorily mandated language
specified by the Legislature as alleged in the Petition. In addition, since filing the instant Petition,
this attorney has seen true copies of ballots from other California counties used in the 2020
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1 Presidential election. All ballots examined lack the mandatory statutory language without which that
2 ballot cannot be cast or counted.

3 Based on the examination of the ballot samples provide to New California State and Paul
4 Preston, and further based on the written comments of others who have examined these and the
5 remaining ballots, this writer is informed and believes that *all* California ballots cast in the 2020
6 Presidential election were deficient as alleged in the Petitioners' Petition. Thus, the unsolicited
7 ballots distributed statewide legally disenfranchised *all* voters who "voted" them, irrespective of
8 political affiliation.

9 This belief caused Petitioners to file the instant Petition herein. Petitioners tried to give
10 notice to Defendants at the time of filing. This writer has appended to this current request to set a
11 hearing true copies of the Notices previously given to Defendants, and using the addresses
12 Defendants' representatives said to file the Petition and all related documents, and incorporate those
13 Declarations by reference as though fully set forth herein.

14 As an attorney, I taught Constitutional law in Oroville (Butte County, CA) and Live Oak, CA
15 (Sutter County) in 2016 and 2017. I am aware that voters in the November election do not actually
16 select or vote for a Presidential or Vice Presidential candidate, but for Electors who cast their ballots
17 for the individuals with the greatest number of valid votes. I am aware the Electors for the
18 Biden/Harris (Democratic) ticket cast their electoral votes [hereinafter, "Electoral Votes"]} for Joe
19 Biden and Kamala Harris in early December, 2020. These Electoral Votes have been transmitted
20 to Congress and are due to be counted in Congress sitting as the Electoral College on Wednesday,
21 January 6, 2021.

22 In light of the very specific language of Elections Code §13200, I am informed and believe
23 that *all* ballots cast in the November, 2020 election in the format alleged in the Petition are not
24 lawful. As a result, *all* California voters are harmed because their votes can not be lawfully counted.

25 While the Biden/Harris ticket has allegedly "won" all 55 California Electoral College votes,
26 if those votes are counted thereby giving the Biden/Harris ticket the necessary Electoral College
27 votes to sustain their election as President and Vice President, their election will *always* be under
28 a cloud and their election not considered "legitimate." "Lack of legitimacy" was the political

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1 reason for the political chaos of the last four years. Failing to grant Petitioners a hearing at which
2 the validity of the votes will be considered will thereby create a forum for political instability for the
3 next four (4) years. This should not be!

4 Those who voted for President Trump were harmed by these ballots because the Legislative
5 mandate, "shall not be cast nor counted at any election" totally disenfranchises them. Paul Preston
6 and many, if not all, the members of the New California State movement, also voted for the
7 Trump/Pence ticket and are equally disenfranchised.

8 Petitioners and this attorney are informed and believe these statutorily unlawful ballots were
9 cast, counted, and processed through counting machines programmed by Dominion software, a
10 software that sworn and unsworn testimony nationwide has demonstrated can allow results to be
11 manipulated to change votes and alter the outcome of elections. This claim can only be fully litigated
12 using sworn testimony for which there is no time here, but, since the statements are public
13 statements, most of which are sworn or written under penalty of perjury, they allow this Honorable
14 Court to consider them in deciding whether to void the selection of Biden/Harris Electors and
15 whether to order a new, state-wide election with lawfully-worded ballots complying with the date
16 limitations of the Twelfth Amendment of the United State's Constitution (March 4).

17 This attorney retired from the Butte County District Attorney's Office in 2015. From 2008
18 to 2015, this attorney prosecuted major fraud cases, often with the help of a CPA. That CPA
19 introduced this writer to an analysis tool, *Benford's Law*. This Law is an analytical tool to determine
20 if financial spreadsheets contain fraudulent accounting. This writer is informed and believes this
21 *Law* can also be used to analyze vote totals. While this *Law* is not conclusive to prove fraud, it is
22 very useful to determine if fraud exists. This writer has examined several published reports where
23 CPAs and others have applied *Benford's Law* to the vote totals for the 2020 Presidential election.
24 This writer is informed and believes, the analyses of the number of ballots cast for President Trump
25 show no irregularities or fraud, while those cast for Vice President Joe Biden do show irregularities
26 and raise strong suspicion of fraud.

27 This *Benford's Law* analysis raises the specter that the election of the Biden/Harris ticket is
28 fraudulent, thereby placing a cloud over the validity of the election of the Democratic ticket, thereby
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1 harming all voters who voted for the Democratic candidates. The *Benford's Law* analysis shows the
2 harm to all Trump voters, seventy (70) percent of whom believe the election of the Biden/Harris is
3 fraudulent. While this analysis is not conclusive, this Honorable Court can remove that cloud by
4 ordering a new, monitored and straight-forward election with ballots that comply with the Legislative
5 mandate.

6 What Petitioners seek is an election that everyone can agree that the results not only comply
7 with all statutes, but also an election in which all parties agree is completely fair.

8 In order to provide both Petitioners and Defendants a forum and a speedy resolution of the
9 issues raised in this Petition, Petitioners ask this Honorable Court to short-set a hearing so both sides
10 can be heard.

11 DATED January 2, 2021


Robert E. Thomas, III
Attorney for Petitioners