

No. 18-382

**In the
Supreme Court of the United States**

Raji Rab,

Applicant/Petitioner,

v.

Superior Court of Sacramento County,

Respondent;

Alex Padilla, as Secretary of State, etc., et al,

Real Parties in Interest.

**On Petition for a Writ of Certiorari
to the Supreme Court of California**

**EMERGENCY APPLICATION FOR STAY
PENDING WRIT OF CERTIORARI, UNDER REVIEW**

To the Honorable John G. Roberts, Jr.
Chief Justice of the Supreme Court of the United States
and Circuit Justice for the Ninth Circuit

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EMERGENCY APPLICATION FOR STAY PENDING CERTIORARI

TO THE HONORABLE JOHN G. ROBERTS, JR., CHIEF JUSTICE OF THE
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR
THE NINTH CIRCUIT:

Petitioner, Raji Rab, In Pro Se, seeking substantive review, (*Haines v. Kerner*, 404 U.S. 519) (1972) respectfully moves application for a Stay pending timely filed petition for Writ of Certiorari which is under review by the U.S. Supreme Court.

I. INTRODUCTION

This is an Emergency Stay Order application filed under Rule 22, Rule 23, Rule 33.2 and 28 U.S. Code 2101(F) pending the relief sought in Petitioner's Writ of Certiorari Docket No. 18-382 under Review by the U.S. Supreme Court.

Under the U.S. Supreme Court Rule 10. Section (c), Petitioner, a Congressional candidate in District 30 California's Federal primary election, filed and brought causes of actions accrued to him in the 2018 primary election contest, where his Equal protection rights were violated, his votes were shifted to other candidates, muddying results and rendering the outcome of 2018 primary election results uncertain. Thereafter, Petitioner exhausted State Courts venues wherein his 14th Amendment rights were further violated and summation of these violations caused irreparable harm to Petitioner and to sanctity and integrity of a Federal election.

State Court judgments (See Appendix A, B and C) Review by the U.S. Supreme Court is the only, last and final destination to seek justice *New York*

Times Co. v. Jascavich, 439 U.S. 1301, 1302, 1317, and 1319 (White, J.) 439 U.S. 1331, 1332 (1979). This applies to this Application for a Stay pending review of a petition for Writ of Certiorari now before this court.

It is appropriate for the court to review lower Calif State actions that have been finalized *Railway Express Agency, Inc. v. United States* 82 :L. Ed. 2d 432 (1962). The considerations for granting a stay, which Petitioner gives fair showing in the Application for Stay and in his petition for Writ of Certiorari, *Rostker v. Goldberg*, 488 U.S. 1306, 1308, (1980). This application of these general principles equally applies to State and Federal Courts (*re Roche*, 448 U.S. 1312) (1980) and *California v. Brown* 475 U.S. 1301 *1986) and *Bateman v. Arizona*, 429 U.S. 1302 (1976)

Record shows that before the June 5, 2018 primary election, Petitioner received a defective, negligent and misleading notice from the Los Angeles County Registrar, enclosed with a sample ballot stating his name and that his allocated punch position number was 148 on the ballot.

Consequently, Petitioner publicized across District 30 Ca, that his ballot punch position number was 148. Later to his shock, his ballot punch position numbers were unconstitutionally changed. On election day, Petitioner's ballot punch numbers in various precincts were 148, 149, 150 or 151. This caused huge confusion to voters and harm to the Petitioner as an unknown amount of his votes were shifted to other candidates, rendering election results muddled and outcome uncertain.

Subsequently, Petitioner made many visits to Los Angeles County Registrar's office and was informed of EC §13111 and EC §13112 under which the Candidate names were rotated. However, under these codes there is no requirement to change ballot punch position numbers. Furthermore, the ballot punch position number changes were unconstitutionally made only for Federal candidates and not for State candidates. This caused great confusion to voters and Petitioner's votes were shifted to opposing candidates. Uneven application of laws is a violation of Equal Protection Clause of the 14th amendment, treating Federal candidates differently from State candidates. See also (*Yick Wo v. Hopkins* 118 U.S. 356)(1886), (*Williams v. Rhodes* 393 US 231, 968) and (*United States Term Limits v. Thornton* 514 US 779 and 115 S. CT. 1842).

First Cause of Action (Lower Court Erred)

Lower courts were flawed in their judgment and failed to see that Under California EC §13111 and EC §13112 while State candidates are allowed to keep and advertise their ballot punch position numbers, the Federal candidates are not allowed. This took away Petitioners votes and caused 1st cause of action in violation of Petitioner's 14th Amendment rights. State actors have failed to establish requisite justification for unequal treatment and uneven application of legislative acts EC§13111, EC §13112 that discriminate a protected class of individuals, Federal candidates, over State candidates; U.S. Supreme Court should hold accountable State actors denial of Equal Protection of fundamental rights under the 14th Amendment rights. When a State erects a discriminatory system, they can be

required by the U.S. Supreme Court to modify its legislation and/or codes to create parity of state and federal candidates in its election codes. (Bullock et al. v. Carter et al, 405US 134) (1972).

Stay is justified as the Writ of Certiorari under review by the U.S. Supreme court has a very high likelihood of being granted.

Second Cause of Action (Lower Court Erred)

Lower courts were flawed in their judgment and failed to see that the mandatory 1% percent manual recount audit in Petitioners precincts for June 5, 2018 primary failed with a discrepancy of 37 additional votes. LA County Registrar-Recorder left the 13% discrepancy in the 1% audit process, unreported to Secretary of State, a serious violation of mandatory procedures. This failure to report discrepancies caused 2nd cause of action in violation of petitioners 14th Amendment rights, as evidence of flaws that took away Petitioners votes.

Stay is justified as the Writ of Certiorari under review by the U.S. Supreme court has a very high likelihood of being granted.

Third Cause of Action (Lower Court Erred)

Lower courts were flawed in their judgment and failed to see that an obsolete, inaccurate and Federally uncertified ballot counting machine (MTS) which was not compliant and unable to read EC §13111 and EC § 13112, was unlawfully used to count the votes. To check this fatal flaw, Petitioner paid \$17,000.00 for a manual recount which brought out even more flaws. Petitioner saw that ballot totals did not tally, entire precincts were missing, ballots were missing, suspicious

ballot markings, missing ballots were not accounted for and later quietly added in the ballot stack, a complete failure to comply with mandatory recount procedures. All of this is on court record. Violation of these mandatory procedures caused the 3rd cause of action in violation of Petitioner's 14th Amendment rights.

Stay is justified as the Writ of Certiorari under review by the U.S. Supreme court has a very high likelihood of being granted.

Fourth Cause of Action (Lower Court Erred)

Lower courts were flawed in their judgment and failed to see the blatant Federal Trademark and ballot designation violations of EC §13107, 2 CCR §20716 (C) and (D) by opposing candidate. These fraud violations were ignored by the Lower courts. The illegal and improper votes that misled voters, were requested to be set aside but were not set aside by the Lower courts. This injustice caused 4th cause of action in violation of Petitioner's 14th Amendment rights and shows evidence of flawed and discriminatory judgment by the Lower courts against the petitioner.

Stay is justified as the Writ of Certiorari is under review by the U.S. Supreme court has a very high likelihood of being granted.

Fifth Cause of Action (Lower Court Erred)

Lower courts were flawed in their judgment. Petitioner was pressured and not allowed his Constitutional rights to question or cross examine the witnesses. This injustice was further incorporated in lower court's flawed judgment against the petitioner and caused 6th cause of action in violation of petitioners 14th

Amendment rights and shows as evidence of discrimination against the petitioner, to get his name back on the 2018 General election ballot. Petitioner did not get a fair trial.

Stay is justified as the Writ of Certiorari is under review by the U.S. Supreme court has a very high likelihood of being granted.

Sixth Cause of Action (Lower Court Erred)

Lower court erred beyond all conscience, called it Petitioner's duty instead of Secretary of State's duty under California Assembly Bill 1090 for enforcement of election procedures to ensure voters are not misled; (See Appendix C, Attachment pg. 4) this discriminatory treatment caused a 7th cause of action in violation of Petitioner's 14th Amendment rights.

Stay is justified as the Writ of Certiorari is under review by the U.S. Supreme court has a very high likelihood of being granted.

Seventh Cause of Action (Lower Court Erred)

Lower courts were flawed in their judgment. On August 14, 2018, in the final Lower Court hearing, Petitioner made undisputed arguments to each and every opposition filed by the respondents with supporting clear and convincing evidence supported by verified declarations, laws and elections codes, admissions, all of which remain uncontested by respondents. The Reporters Transcript shows (See App. D, pg. 25) that Lower Court took sides, vehemently defended the Respondents, acted as their attorney. Petitioner presented strong arguments to which no objections were made by respondents. All evidence, uncontested admissions, verified

declarations and oral arguments were ignored in the flawed judgment by the lower courts in favor of the Respondents. This great injustice caused 8th cause of action in violation of Petitioner's 14th Amendment rights and shows evidence of flawed and discriminatory judgment and uneven application of law by the Lower courts against the petitioner.

All of the causes of action stated above by the lower courts have caused irreparable harm denying Petitioner Equal protection under his 14th Amendment rights. Lower court's analysis fell short of a substantive review of the Entire Cause as required under *California Constitution Article VI, Section 13, Haines v. Kerner*, and under the Equal Protection Clause of the U.S. Constitution to prevent Miscarriage of Justice. Petitioner has exhausted every State and Court venue seeking justice from expensive paid manual recounts all the way up to the California Supreme Court against the political giants but Petitioner faced strong opposition from Lower courts as multiple blatant violations of law were ignored. Petitioner simply did not get a fair trial.

Stay is justified as the Writ of Certiorari is under review by the U.S. Supreme court has a very high likelihood of being granted.

Adverse affects of this disastrous lower court judgments if not urgently stayed will engulf a nationwide election problem due to extremely harmful causes of actions arising out of the erroneous Lower court's judgment in all present and future elections Petitioner has suffered irreparable harm, Stay is Justified.

Petitioner has come aggrieved to this Honorable U.S. Supreme Court seeking

Emergency Stay orders and/or Extraordinary relief against the Lower court's unconstitutional, discriminatory and flawed Judgment by the Lower Court in this 2018 election contest. Petitioner's Equal Protection clause of his 14th amendment rights, Federal elections and cause of National Importance is at stake in this emergency based timely filed petition in the U.S. Supreme Court.

Petitioner meets all of the Federal election factors for this court, to grant a stay in view of the underlying fundamental rights of national importance for protected class of Federal Candidates. Petitioner seeks an urgent grant to the requested petition and any other relief as deemed fit and proper by the Honorable Supreme Court in the interest of justice. Through Supremacy Clause and the 14th Amendment, Supreme Court has the jurisdiction to nullify arbitrary state laws, codes and procedures (*Frontiero v. Richardson* 411 U.S. 677) (1973).

Petitioner has exhausted all prescribed avenues all the way to State Supreme Court and has no other plain, speedy and adequate remedy in the ordinary course of law and his Writ of Certiorari is under Review. Federal actions can eliminate discriminatory practices that treat federal and state candidates differently (*Williams v. Rhodes*, 393 U.S. 23; *U.S. Term Limits v. Thorton*, 514 U.S. 779/115 S. Ct. 1842; *Kramer v. Union Free School* 514 US 77).

If Stay is not urgently granted, the violations will continue to reward the beneficiaries of Discrimination, Fraud and Deceit, uprooting the sanctity of Federal Elections, with irreparable harm to the petitioner, the Foundation of our Constitution and our Democracy. The State has failed to provide equal protection

and Equal application of laws for Federal candidates (*Bush v. Gore* 531 U.S. 98).

Nothing opens the door to arbitrary action so effectively as to allow these officials to pick and choose only a few to whom they will apply legislation and thus to escape the political retribution that might visited upon them if larger numbers were affected. Courts can take no better measure to assure that laws will be just than to require that laws be equal in operation (*Railway Express Agency, Inc. v. New York*, 336 U.S. 106). Stay is Justified Pending Writ Review.

I. STATEMENT OF THE CASE

A. Background

Record Shows that Petitioner timely filed and timely served timely election contest through an original verified Petition on July 9, 2018 precluded by timely filed Administrative Notice and Demand pursuant to Gov. Code requirements 911.2

Record shows that Petitioner filed Writ of Mandate, alleging all facts pleaded to every element of Negligence, Fraud and Deceit through a governmental tort claim and violation of fundamental rights in complete detail explaining irreparable harm to Petitioner and requested urgent relief under the Equal protection Clause of the 14th amendment.

Record shows, Amended Petition for Writ of Mandamus pursuant EC §13314 and EC §16101(C) was timely filed on July 27, 2018 in the Lower court as a valid election contest adding new developments, with reasserted all provable causes of Action. Lower court's flawed judgment caused harm to the Petitioner and to the

Foundation of National interest. Public Interest requires prompt resolution of this matter, which Lower courts failed to do.

Record shows that an Ex Parte application for TRO Writ of Mandate was heard on July 31, 2018. In this hearing Petitioner's request under his constitutional rights to cross examine the witnesses was denied. Printing of ballots for California 30th Congressional District was agreed by respondents to stop until August 30, 2018. Final hearing in Lower court was scheduled on August 14, 2018.

Record shows that, in the final hearing on August 14, 2018, Petitioner made undisputed arguments to each and every opposition filed by the respondents with supporting clear and convincing evidence supported by verified declarations, laws and elections codes, admissions, all of which remain uncontested by respondents.

After the final hearing, the Lower court made a flawed and unconstitutional judgment fully depending on Respondents submission and fully defending all the violations made by the Respondents, denying the Writ of Mandate. (See App. C). This violated Petitioners Equal protection rights under the 14th Amendment.

It is on the record that petitioners Equal Protection rights under the 14th amendment were properly asserted in the Lower courts (In the records, Amend. Writ of Mandamus p. 11,22,24,25 and 31, Writ of Mandate filed in the 5th District Court of Appeal pages 18, 40, 51,58,59,64 and 69) and in California Supreme Court Petition for Review pages 3,8,13,17,and 36.

Records show that Lower court failed to see that this was a valid election contest duly filed, duly admitted and going through the final hearing. The

Lower court over looked Petitioner's Fundamental Equal Protection rights under 14th Amendment which is causing irreparable harm to Petitioner with disastrous impact on , election laws, election codes, paving way for cheating and fraud in future elections.

B. Procedural History

1. On July 27, 2018 Amended writ of Mandate was timely filed.
2. On July 31, 2018 Ex-Parte application for TRO was heard and Petitioner's Cease and Desist order was agreed upon by all parties not to print any ballots till August 30, 2018.
3. On August 12, 2018 in Superior Court of Sacramento a final was scheduled and heard by the Trial court and On August 16, 2018 a totally disastrous and unfounded orders after hearing were issued by the Trial court denying petitioners writ of mandate and all claims including stay requests.
4. On August 27, 2018, Petitioner filed the Writ of Mandate to the Third District Court of Appeal, seeking reversal of Lower court's discriminatory and unconstitutional judgment to prevent the biggest miscarriage of justice.
5. On August 29, 2018, the Petition for Writ of mandate with request for stay was instantly denied by the Presiding Justice Raye, P.J in the Third Appellate District, (See App. B)
6. On August 31, 2018, Petition for Review by the California Supreme Court was submitted, under important question of law, emergency stay order, or other extra ordinary relief that Lower court may find.

7. On September 12, 2018, Petition for Review by the California Supreme Court was denied. Immediately thereafter, on September 20, 2018 Petitioner filed the Writ of Certiorari in the U.S. Supreme Court.

II. REASONS FOR GRANTING A STAY

A. There is a reasonable probability that the Court will Grant Writ of Certiorari. There is a Fair Prospect and high likelihood that the Court Will Reverse the judgment of the lower courts Because it squarely Conflicts with controlling precedent of Federal law, U.S. Constitution and Petitioners substantive, fundamental Federal rights *Araneta v. United States*, 478 U.S. 1301 (1986).

1. In seeking a Stay from a single Justice, the applicant must demonstrate.

"a 'reasonable probability' that his Court will grant certiorari." *Teva Pharmaceuticals USA, Inc., et al v. Sandoz, Inc.*, 572 U.S. 1301 (2014) (Roberts, C.J.)(quoting *Maryland v. King*, 567 U.S. 1301 (2012)(Roberts, C.J.)); see also *Stroup v. Willcox*, 549 U.S. 1501 (2006) (Roberts, C.J.); *Barnes v. E-Systems, Inc.*, 501 U.S. 1301, 1302 (1991) (Scalia).

2. When a final judgment or decree of any court is subject to review by the United States Supreme Court on Writ of Certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to permit a party to obtain a Writ of Certiorari from the Supreme Court 28 U.S.C § 2101(f).

B. Petitioner Likely to Prevail on the Merits.

1. Absent a stay, petitioner will be irreparably harmed in violation of petitioners 14th amendment right as the matter is under review by the

U.S. Supreme Court.

2. There is reasonable probability the court would grant certiorari. *Van Hollen II*, 811 F. 3d at 488, 499-501. Cf. *McDaniel v. Sanchez*, 448 U.S. 1318, 1322(1980)(Powell, J., Circuit justice)(granting stay)in view of the ambiguity of the our precedents, which led to a reasonable probability that four members of the court will consider the issue sufficiently meritorious, and the need for clarification sufficiently evident-to warrant a grant of certiorari.
3. A stay will not meaningfully harm the state or respondents, but the absence of one shall irreparably harm the petitioner.

C. Petitioner Comes Harmed, Exhausting All State Venues.

1. Petitioner has come aggrieved, exhausting all state venues to this Honorable U.S. Supreme Court facing irreparable harm with this unfair election contest and prays that Stay should be granted against the Judgment of the Lower Courts, because petitioners fundamental and Equal protection rights have been violated under the 14th Amendment.
2. Petitioner has timely filed this Emergency Stay order application under Rule 22, Rule 23, Rule 33.2 and 28 U.S. Code 2101(f) seeking to address the relief sought in Petitioner's Writ of Certiorari under review. Petitioner Prays for Emergency Stay as important questions, issues of National Importance, Democracy and Federal elections are at stake.
3. A Stay should be granted by a Justice as permitted by Law and Because, a

party to a judgment sought to be reviewed may present to a justice an application to stay the enforcement of that judgment under 28 (F) U.S. Code 2101.

4. An application for stay is hereby duly set out with a particularity that the relief sought is not available from any other court or judge. Petitioner has exhausted all State court venues and Supreme court of California is on record having denied his relief.

D. Stay should be granted because Lower Courts have adversely decided an important question of Federal law concerning Federal election matters and violation of Petitioners 14th Amendment rights that has not been, but should be, settled by U.S. Supreme Court.

1. Stay Order should be granted because most important national and public interest is at stake and future abuse of laws in Federal elections due to adverse misinterpretation and non enforcement of California Code of Regulations (CCR), Election codes and Election laws are at stake.
2. Stay Order should be granted because Lower court is on record in its judgment, defending violations of discriminatory implications in Federal elections. Violations of mandatory election laws, codes and procedures are at stake, opening doors to malpractice, threatening the integrity of the nationwide Federal elections.
3. Stay Order should be granted because flawed interpretations and violations of law in federal elections in California are at stake with EC §13111, EC §13112, EC §13302, EC §13314, EC §16100 (G), EC § 16101 (C), EC §20716 (C), EC §20716 (D), 2 CCR§20817(A), 2 CCR §20817(B), 2

CCR §20818 (C), 2 CCR § 20832(A), 2 CCR § 20832(G). Protection of Federal candidates against violations of these election laws, codes and procedures is at stake.

E. Stay Order should be granted because blatant violation of Petitioner's fundamental 14th Amendment rights are at stake, violations of free and fair elections for Federal candidates are at stake. The biggest miscarriage of justice is at stake.

1. Stay Order should be granted because the Lower court violated Petitioner's constitutional 14th amendment rights in its judgment and discriminated the Petitioner by defending influential respondents in court and allowing opposing candidate to unlawfully use Trademark as his ballot designation in violation of 2 CCR § 20716 (D).
2. Stay Order should be granted because the Lower Court failed to see numerous violations brought by Petitioner not limited to: unconstitutional "recount procedure;" Federally uncertified and an unconstitutional MTS" (Microcomputer Tally System); unconstitutional ballot punch position changes, unconstitutional election procedure missing over 100,000 names from the voter roster; Fraud use of ballot designation of "Realtor" despite the fact that it is a Federally protected Trademark in violation of 2 CCR § 20716 (c) and (d).
3. Stay Order should be granted because Lower court violated Petitioner's 14th Amendment, while ignoring and not finding as to the propriety of "Realtor" a Trademark, for opposing candidate's ballot designation in the primary as well as November 6, 2018 election, which is a federally

protected trademark. Petitioner's challenged opposing candidate's use of "Realtor" Trademark as illegal in past, present and future election.

F. Stay Order should be granted because Lower court violated Petitioner's 14th Amendment rights, failing to see that the Petitioner brought a timely election contest under EC § 16101(C), and timely filed and admitted by court a Writ of Mandate meeting all of its provisions under EC Code § 13314(a)(1) which specifically provides that "an elector may seek a Writ of Mandate alleging that an error or omission has occurred, or is about to occur, in placing of a name on, or in the printing of, a ballot, sample ballot, voter pamphlet, or other official matter, or that any neglect of duty has occurred or is about to occur." Petitioner fundamental rights cannot be defeated for defects in his pleading (Davis v. Wechsler 263 U.S. 22).

1. Stay Order should be granted because Petitioner proved by clear and convincing evidence in court with circumstances identified by EC § 16101(c) which serves as a basis for a valid candidate challenge. Lower court erred in violation of Petitioner's 14th Amendment and covered up influential Respondent's serious violations of law (*Williams v. Rhodes* 393 U.S. 23) (1968).
2. Stay Order should be granted because Lower Court failed to see that California Secretary of State has a duty to protect, preserve and evenly enforce election laws and election codes (Yick Wo v. Hopkins 118 U.S. 356) (1938). To overrule established laws AB 1090 and Election codes Section 13107, 2 CCR 20716 (C) and 20716 (D) is a legal question of whether the Secretary of State has exceeded its ministerial duty.
3. Stay Order should be granted because Petitioner is a victim of broad light discrimination. Lower Court failed to see that State candidates are

allowed to keep their ballot punch position numbers and advertise those numbers, but the Federal candidates are not allowed under the same EC § 13111 and EC § 13112. This is in violation of Petitioner's constitutional rights and Equal Protection Clause.

G. Stay Order should be granted because Petitioner has struggled, comes injured to this Honorable U.S. Supreme Court, bringing this Unique Case as an Excellent Vehicle to Protect the Integrity of present and future elections and prevent biggest Miscarriage of Justice.

1. Stay Order should be granted because the Lower court ignored violation of mandatory duties by the secretary of state, as a clear bias against Petitioner despite Petitioner's verified evidential declarations. Petitioner did not get a fair trial in the Lower courts and his 14th Amendment rights were violated.
2. Stay Order should be granted because Lower court erred and from the very beginning of the final hearing only targeted Petitioner with one sided cross questioning in support of the respondents without letting the Petitioner speak (See App. D, pg. 25) Without quoting any laws, court said that there are multiple laws which coexist and equally apply to the resolution of Petitioner's election contest (See App. C, Attachment pg.4) but in its judgment court did not quote any new laws and quoted the same laws which the Petitioner used in his arguments. Equal protection clause of Petitioner's 14th amendment rights were violated.
3. Stay Order should be granted because Lower court failed to see the established duty of the SOS and instead called it the duty of the Petitioner for enforcement of

ballot designation violations (See App. C, Attachment pg.4).

H. Stay should be granted because the Lower Court erred in procedures and pressured the Petitioner, supported respondents, the sanctity of the Lower court was compromised. Lower court erred, overlooked many of Petitioner's allegations pointing to various improprieties and failed to satisfy the ambit of justice fairness and equity for any entitlement to its judgment.

1. Stay should be granted because Lower court erred in law and blindly followed the flawed oppositions filed by influential Respondents. All opposition were duly responded without objections. This is on record of the Reporter's transcript that Petitioner did not get a fair trial.
2. Stay Order should be granted because this case directly involves the public interest and a free and fair election matter, which is a constitutional and statutory right with a check on government, which the Lower Court failed to see. The Courts have the duty to "jealously guard this right of the people and to prevent any action which would improperly annul that right."
3. Stay Order should be granted because since the onset of this Election Contest, Petitioner has complained about unfair treatment and violation of equal protection rights to LA County Registrar and Secretary of State pursuant Government Code 911.2, and all other Respondents and Lower Court in the first instance in his common law Writ of Mandate, to the Court of Appeal, to Supreme Court of California and now humbly standing hopeful with his prayer at the doorstep of U.S. Supreme Court. The U.S. Supreme Court has within its power to overturn discriminatory

state laws (*Bullock v. Carter* 405 U.S. 134) (1972) .

I. Stay Order should be granted because Lower courts utterly failed to substantively address the Entire Cause and to prevent a miscarriage of justice in violation of Petitioner's 14th Amendment rights.

1. Stay Order should be granted because Petitioner has come with clean hands and unless this Election Contest is properly remedied, this issue of national importance will suffer with irreparable harm to Petitioner and a National loss to present and future Federal elections. This petition is in public interest and in interest of our democracy and should also be viewed to preserve the constitutional rights of the Petitioner.
2. Stay Order should be granted because Lower court erred and Petitioner believes there are examples of uneven, unfair, untrue and even prejudicial application of the law. Lower courts did not give substantive reading, or liberal constitution or special solicitude to Petitioner in (*Haines v. Kerner* 404 U.S. 519 (1972) and (*Davis v. Wechsler* 263 U.S 22.) Pro Se pleadings are protected when plainly asserted substantive rights of Equal Protection that cannot be defeated by local practice, codes, legislative acts.
3. Stay Order should be granted because under Petitioner's constitutional rights, Lower courts failed to see that Respondents at no time objected to Petitioner's pleading of every element for Fraud and Deceit.
4. Stay Order should be granted because in violation of Petitioner's constitutional rights, Lower courts failed to address any statues or Legislative Acts cited by Petitioner. A Court may not insert qualifying

provisions into a statute not intended by the Legislature and may not rewrite a statute to conform to an assumed legislative intent not apparent.

J. Stay Order should be granted because it's in violation of Petitioner's constitutional rights, Case law is meager regarding Petitioner's unique case, considering the entire cause and the numerous provisions in his petition. Petitioner hopes the U.S. Supreme Court will look at the entire cause to prevent a biggest miscarriage of Justice under U.S. Constitution.

1. Stay Order should be granted because not mentioned by the court of the competing importance, however , is the principle that, preservation of the integrity of the election process and the interest of the public at large is far more important in the long run than the resolution of any one particular election *Karcher v. Daggett* 455 U.S. 1303 (1982), *Rostker v. Goldberg*, 488 U.S. 1306, 1308, (1980).
2. In all of the Petitioner's citation, the U.S. Supreme court has a right and a duty to order remedies best suited to protect the public, to ensure free and fair elections. (*Williams v. Rhodes* 393 U. S. 23; *U.S. Term Limits v. Thorton*; *Bush v. Gore*) Id.
3. Stay Order should be granted because under Petitioner's constitutional rights, Lower court partially Cited selective sections of inapplicable case laws. Lower courts unlawfully allowed the opposing candidate to use of Trademark term "Realtor" as generic, which will cause havoc and a great harm to hardworking Realtors and Realtor Associations nationwide.
4. Stay Order should be granted because under Petitioner's constitutional rights, Lower court exceeded its jurisdiction, overlooked multiple election

violations, misinterpreted established election laws, Election codes, issuing and absurd judgment against our national interest, causing harmful effects on the entire country. This has opened doors to ballot designation fraud. This harmful and contagious precedents arising out of Lower court judgment may soon spread Nationwide to adversely affect other states in Federal elections, seen flawed even by a common man.

III. CONCLUSION

The Lower Courts erred in their Judgments fully relying on Respondents submissions and violated Equal Protection Clause of Petitioner's Fourteenth Amendment.

The California Secretary of State erred in his mandatory duties to preserve equal protection of constitutional rights of Federal candidate's ballot designation and punch position numbers in a Federal election compared to State candidates.

Violations of a Federally Registered Trademark and false principal occupation as a ballot designation per California State Election codes § 13107, 2 CCR §20716 (a), 2 CCR §20716 (c) and 2 CCR §20716 (d) may be allowed by lower courts for selective candidates under Equal Protection Clause of U.S. Constitution in a Federal election. California State Election codes EC §13111 and EC §13112 require changing of Ballot punch position numbers only against Federal candidates and EC §13111 and EC §13112 are not enforced equally on Federal candidates and State candidates alike for ballot punch position numbers.

All the foregoing compelling reasons stated in this Application For Stay of

Lower Court judgments have caused irreparable harm to the petitioner in violation of his constitutional rights. The Petitioner prays before the Honorable U.S. Supreme Court Justice Roberts to grant the application for a Stay until this Review of Writ of Certiorari by the U.S. Supreme Court about questions of National Importance, Laws, Democracy and Federal elections is decided. The Petitioner believes in the rule of law, comes aggrieved to this final venue of justice and will suffer irreparable harm if Stay is not Granted against unconstitutional rulings by the Lower courts.

RELIEF REQUESTED

Petitioner Prays for Emergency Stay Orders in the Interest of Justice

1. Petitioner has come aggrieved facing irreparable harm after exhausting all State venues to present himself before the Honorable Chief Justice Roberts of the U.S. Supreme Court. Petitioner's Equal Protection Rights under the 14th Amendment have been violated. Petitioner humbly prays for Emergency Stay against the most harmful and unconstitutional judgment of the Lower courts until matter of national importance in the Writ of Certiorari under Review by the honorable U.S. Supreme Court is decided.

2. Petition is a victim of harmful Discrimination, Obstruction of Justice, Deprived of his votes, Deprived of Equal Protection Clause of his constitutional rights, Deprived of a fair election contest and Deprived of a fair trial by the Lower courts, seeking justice, fairness and equality.

3. In this unique case, Petitioner prays before the Honorable U.S. Supreme Court to grant Emergency Stay to prevent the greatest Miscarriage of Justice

PRAYER

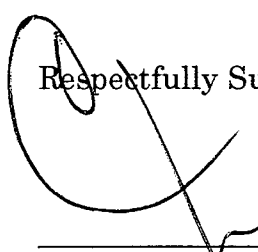
In view of all of the foregoing, the Petitioner most humbly submits that requested relief should be granted as requested.

VERIFICATION

I declare under the oath of penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief under the laws of the State of California and of the United States.

Dated: September 27 2018

Respectfully Submitted,



Raji Rab
17015 Ventura Blvd.
Encino, CA 91316

APPENDIX A

SEP 12 2018

Court of Appeal, Third Appellate District - No. C087805 **Jorge Navarrete Clerk**

S251004

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

RAJI RAB, Petitioner,

v.

SUPERIOR COURT OF SACRAMENTO COUNTY, Respondent;

ALEX PADILLA, as Secretary of State, etc., et al., Real Parties in Interest.

The petition for review and application for stay are denied.

CANTIL-SAKAUYE

Chief Justice

APPENDIX B

IN THE

Court of Appeal of the State of California

IN AND FOR THE

THIRD APPELLATE DISTRICT

RAJI RAB,
Petitioner,

v.

THE SUPERIOR COURT
OF SACRAMENTO COUNTY,
Respondent;

ALEX PADILLA, as Secretary of State, etc., et al.,
Real Parties in Interest.

C087805
Sacramento County
No. 34201880002924

BY THE COURT:

The petition for writ of mandate with request for stay is denied.


RAYE, P.J.

cc: See Mailing List

STATE OF CALIFORNIA
California Court of Appeal,
Third Appellate District

E-NOTICE

STATE OF CALIFORNIA
California Court of Appeal, Third Appellate District

Case Name: **34201880002924 | Rab v. The Superior Court of Sacramento County**

Case Number: **C087805**

Lower Court Case Number: **34201880002924**

My email address used to e-notify: **truefilingadmin@truefiling.com**

I notified by email a copy of the following document indicated below:

Title of papers e-notified: **C087805 - Order - ORDER DENYING PETITION FILED. - 8/29/2018**

| PERSON SERVED | EMAIL ADDRESS | DATE / TIME |
|--|--------------------------------|---------------------------|
| Waters, George | george.waters@doj.ca.gov | 08-29-2018 10:09:38 AM |
| Service Tracking Id: a96a383c199b44928d2395b99f3f5f3f | | |
| Winuk, Gary | gwinuk@kaufmanlegalgroup.com | 08-29-2018 10:09:38 AM |
| Service Tracking Id: 2e55e9510c6944e0b645412e970a8960 | | |
| Eachus, Gina | geachus@counsel.lacounty.gov | 08-29-2018 10:09:38 AM |
| Service Tracking Id: bc2d99da58dd4b2f8f2db1ead11a5deb | | |
| T. Eyster, Court of Appeal, Third Appellate District | truefilingadmin@truefiling.com | 08-29-2018 10:09:38 AM |
| Service Tracking Id: c6b55c48f5854199a1cac29026bc495b | | |

This eNotice was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

08-29-2018

Date

Andrea K. Wallin-Rohmann

Clerk/Executive Officer

T. Eyster


Deputy Clerk

IN THE
Court of Appeal of the State of California
IN AND FOR THE
THIRD APPELLATE DISTRICT

MAILING LIST

Re: Rab v. The Superior Court of Sacramento County
C087805
Sacramento County No. 34201880002924


Copies of this document have been sent by mail to the parties checked below unless they were noticed electronically. If a party does not appear on the TrueFiling Servicing Notification and is not checked below, service was not required.

 Raji Rab
Congressional Candidate District 30 CA
17015 Ventura Blvd.
Encino, CA 91316

George Waters
Office of the Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

Gary Scott Winuk
Kaufivian Legal Group
621 Capitol Mall, Suite 1900
Sacramento, CA 95814

Gina Valerie Eachus
Office of the County Counsel
500 W. Temple Street
6th Floor
Los Angeles, CA 90012

 Mark Reed
P.O. Box 4181
Sunland, CA 91041

 Sacramento County Superior Court
720 Ninth Street
Sacramento, CA 95814

APPENDIX C

TO ALL PARTIES :

- Date: September 10, 2018

George Waters

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

PLAINTIFF/PETITIONER: Raji Rab

CASE NUMBER:

34-2018-80002924

DEFENDANT/RESPONDENT: Secretary of State, et al

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:

1300 I Street Sacramento, CA 95814

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:

- a. ☐ deposited the sealed envelope with the United States Postal Service.
b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:

- a. on *(date)*: September 10, 2018
b. from *(city and state)*: Sacramento, CA

4. The envelope was addressed and mailed as follows:

- a. Name of person served:

See attached service list

Street address:

City:

State and zip code:

- c. Name of person served:

Street address:

City:

State and zip code:

- b. Name of person served:

Street address:

City:

State and zip code:

- d. Name of person served:

Street address:

City:

State and zip code:

☐ Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

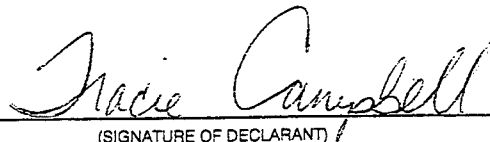
5. Number of pages attached 5 .

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 10, 2018

Tracie Campbell

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

ATTACHMENT

XAVIER BECERRA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General
GEORGE WATERS
Deputy Attorney General
State Bar No. 88295
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 210-6059
Fax: (916) 324-8835
E-mail: George.Waters@doj.ca.gov
*Attorneys for Defendant Alex Padilla, California
Secretary of State*

FILED / ENDORSED

AUG 30 2018

By E. Gonzalez, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

RAJI RAB,

Plaintiff,

v.

**SECRETARY OF STATE OF
CALIFORNIA; ALEX PADILLA;
CALIFORNIA SECRETARY OF STATE;
DEAN C. LOGAN LOS ANGELES
COUNTY REGISTRAR-
RECORDER/COUNTY CLERK; LOS
ANGELES COUNTY BOARD OF
SUPERVISORS; MARK REED; BRAD
SHERMAN; DOES 1-100,**

Defendants.

Case No: 34-2018-80002924

~~PROPOSED~~ JUDGMENT

Dept: 28

Judge: Hon. Richard K. Sueyoshi

Action Filed: July 9, 2018

For the reasons set forth in the Court's Order Denying Petition for Writ of Mandate,
Election Contest, and All Other Claims,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:



1 1. Judgment is entered in favor of Respondents/Defendants Alex Padilla, California
2 Secretary of State; Dean Logan, Los Angeles County Registrar-Recorder/County Clerk; Los
3 Angeles County Board of Supervisors; Mark Reed; and Brad Sherman.

4 2. Petitioner/Plaintiff Raji Rab shall take nothing by this action.

5 Dated: August 30, 2018



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Hon. Richard K. Sueyoshi
Judge of the Superior Court

9 SA2018102119
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11 → 3. FEES AND/OR COSTS, IF ANY, SHALL BE SOUGHT
12 PURSUANT TO CAL. CIV. PROC. CODE AND CAL. RULES
13 OF COURT.
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DECLARATION OF SERVICE BY E-MAIL and OVERNIGHT COURIER

Case Name: **Rab, Raji v. Secretary of State of California, et al**
No.: **34-2018-80002924**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for overnight mail with the **GOLDEN STATE OVERNIGHT COURIER SERVICE**. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the overnight courier that same day in the ordinary course of business.

On August 21, 2018, I served the attached **[PROPOSED] JUDGMENT** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, for overnight delivery, addressed as follows:

Raji Rab
17015 Ventura Blvd.
Encino, CA 91316
E-mail Address: rajirab@gmail.com

Mark Reed
P.O. Box 4181
Sunland, CA 91040
E-mail Address: MrCongress@Verizon.net

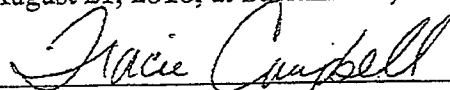
Gina Eachus
Los Angeles County Counsel's Office
Kenneth Hahn Hall of Administration
500 West Temple Street, Rm. 648
Los Angeles, CA 90012-2713
E-mail Address:
geachus@counsel.lacounty.gov

Gary Winuk
Kaufman Legal Group, APC
777 S. Figueroa Street, Suite 4050
Los Angeles, CA 90017
E-mail Address:
gwinuk@kaufmanlegalgroup.com

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 21, 2018, at Sacramento, California.

Tracie L. Campbell

Declarant


Signature

SERVICE LIST

Raji Rab v. Secretary of State, et al
Case No. 34-2018-80002924

| | |
|---|---|
| <p>Raji Rab 17015 Ventura Blvd. Encino, CA 91316 E-mail Address: rajirab@gmail.com</p> | <p>Gary Winuk Kaufman Legal Group, APC 777 S. Figueroa Street, Suite 4050 Los Angeles, CA 90017 E-mail Address: gwinuk@kaufmanlegalgroup.com</p> |
| <p>Gina Eachus Los Angeles County Counsel's Office Kenneth Hahn Hall of Administration 500 West Temple Street, Rm. 648 Los Angeles, CA 90012-2713 E-mail Address: geachus@counsel.lacounty.gov</p> | <p>Mark Reed P.O. Box 4181 Sunland, CA 91040 E-mail Address: MrCongress@Verizon.net</p> |

Page 1 of 2
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| | |
|---|------------------|
| PLAINTIFF/PETITIONER: Raji Rab | CASE NUMBER: |
| DEFENDANT/RESPONDENT: Secretary of State, et al | 34-2018-80002924 |

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):
1300 I Street Sacramento, CA 95814

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and (*check one*):
 - a. ☐ deposited the sealed envelope with the United States Postal Service.
 - b. ☒ placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:
 - a. on (*date*): September 10, 2018
 - b. from (*city and state*): Sacramento, CA

4. The envelope was addressed and mailed as follows:

| | |
|--|--|
| <ol style="list-style-type: none"> a. Name of person served: See attached service list Street address: City: State and zip code: | <ol style="list-style-type: none"> c. Name of person served: Street address: City: State and zip code: |
| <ol style="list-style-type: none"> b. Name of person served: Street address: City: State and zip code: | <ol style="list-style-type: none"> d. Name of person served: Street address: City: State and zip code: |

☐ Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)


5. Number of pages attached 13.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 10, 2018

Tracie Campbell

(TYPE OR PRINT NAME OF DECLARANT)


(SIGNATURE OF DECLARANT)

ATTACHMENT

1 XAVIER BECERRA
Attorney General of California
2 MARK R. BECKINGTON
Supervising Deputy Attorney General
3 GEORGE WATERS
Deputy Attorney General
4 State Bar No. 88295
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-6059
Fax: (916) 324-8835
7 E-mail: George.Waters@doj.ca.gov
Attorneys for Defendant Alex Padilla, California
8 Secretary of State

FILED / ENDORSED

AUG 30 2018

By E. Gonzalez, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SACRAMENTO
11
12

13 **RAJI RAB,**

14 Plaintiff,

15 v.

16
17 **SECRETARY OF STATE OF**
18 **CALIFORNIA; ALEX PADILLA;**
19 **CALIFORNIA SECRETARY OF STATE;**
20 **DEAN C. LOGAN LOS ANGELES**
21 **COUNTY REGISTRAR-**
22 **RECORDER/COUNTY CLERK; LOS**
23 **ANGELES COUNTY BOARD OF**
24 **SUPERVISORS; MARK REED; BRAD**
25 **SHERMAN; DOES 1-100,**

26 Defendants.

Case No. 34-2018-80002924

~~PROPOSED~~ ORDER DENYING
PETITION FOR WRIT OF MANDATE,
ELECTION CONTEST, AND ALL
OTHER CLAIMS

Dept: 28
Judge: Hon. Richard K. Sueyoshi
Action Filed: July 9, 2018

27 The petition for writ of mandate, election contest, and other claims came on for hearing on
28 August 14, 2018 at 1:30 p.m. Petitioner Raji Rab appeared in pro per. George Waters, Esq.,
29 appeared on behalf of Respondent California Secretary of State. Gary Winuk, Esq., appeared on
30 behalf of Respondent Brad Sherman. Gina Eachus, Esq., appeared on behalf of Respondents Los



1 Angeles County Board of Supervisors and Dean Logan, Los Angeles County Registrar-
2 Recorder/County Clerk. Mark Reed appeared in pro per.

3 Having reviewed the arguments and papers submitted by the parties, and the cause having
4 been argued and submitted for decision,

5 IT IS ORDERED that:

6 1. The amended petition for writ of mandamus, election contest, and other claims are
7 DENIED.

8 2. The Court's RULING AFTER HEARING ON PETITION FOR WRIT OF
9 MANDATE, attached as Exhibit A, is incorporated in this order.

10 Dated: August 30, 2018



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Hon. Richard K. Sueyoshi
Judge of the Superior Court

SA2018102119
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DECLARATION OF SERVICE BY E-MAIL and OVERNIGHT COURIER

Case Name: **Rab, Raji v. Secretary of State of California, et al**

No.: **34-2018-80002924**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for overnight mail with the **GOLDEN STATE OVERNIGHT COURIER SERVICE**. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the overnight courier that same day in the ordinary course of business.

On August 21, 2018, I served the attached **[PROPOSED] ORDER** by transmitting a true copy via electronic mail. In addition, I placed a true copy thereof enclosed in a sealed envelope, in the internal mail system of the Office of the Attorney General, for overnight delivery, addressed as follows:

Raji Rab
17015 Ventura Blvd.
Encino, CA 91316
E-mail Address: rajirab@gmail.com

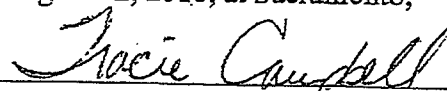
Mark Reed
P.O. Box 4181
Sunland, CA 91040
E-mail Address: MrCongress@Verizon.net

Gina Eachus
Los Angeles County Counsel's Office
Kenneth Hahn Hall of Administration
500 West Temple Street, Rm. 648
Los Angeles, CA 90012-2713
E-mail Address:
geachus@counsel.lacounty.gov

Gary Winuk
Kaufman Legal Group, APC
777 S. Figueroa Street, Suite 4050
Los Angeles, CA 90017
E-mail Address:
gwinuk@kaufmanlegalgroup.com

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 21, 2018, at Sacramento, California.

Tracie L. Campbell
Declarant


Signature

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SACRAMENTO

| | | | |
|---|---|---|-------------------|
| DATE/TIME JUDGE | August 15, 2018 HON. RICHARD K. SUEYOSHI | DEPT. NO CLERK | 28 E. GONZALEZ |
| RAJI RAB, Petitioner, v. SECRETARY OF STATE, ALEX PADILLA, CALIFORNIA SECRETARY OF STATE; DEAN C. LOGAN, LOS ANGELES COUNTY REGISTRAR- RECORDER/COUNTY CLERK; BOARD OF SUPERVISORS; BRAD SHERMAN; MARK REED, Respondents. | | Case No.: 34-2018-80002924 | |
| Nature of Proceedings: | | RULING AFTER HEARING ON PETITION FOR WRIT OF MANDATE | |

Pursuant to the Court's July 31, 2018 order which, by stipulation, shortened time for the merits hearing and briefing of this matter, the parties appeared at the hearing scheduled for August 14, 2018 at 1:30 p.m. Petitioner Raji Rab appeared in pro per. George Waters, Esq., appeared on behalf of Respondent Secretary of State. Gary Winuk, Esq., appeared on behalf of Respondent Brad Sherman. Gina Eachus, Esq., appeared on behalf of Respondents Los Angeles County Board of Supervisors and Registrar Dean Logan. Mark Reed appeared in pro per. The parties presented oral argument after which the Court took the matter under submission. The Court now issues its ruling on submitted matter.

The Court notes that California Rules of Court rule 3.1113, subdivision (a), a party must "serve and file a supporting memorandum. The court may construe the absence of a memorandum as an admission that the motion or special demurrer is not meritorious and cause for its denial..." Here, Petitioner filed a memorandum in connection with his amended verified petition on July 27, 2018. Petitioner then filed a "Supplemental Memorandum of Points and Authorities" on August 3, 2018. Neither of these memoranda addresses the entirety of issues raised in Petitioner's amended petition.

Petitioner is contesting the results of the primary election that occurred on June 5, 2018. Petitioner, who finished third in the race for the 30th Congressional District, claims the results of the subject race are invalid such that he should be placed as a candidate on the ballot for the upcoming November 6, 2018 general election.

Pursuant to Elections Code section 16100, any elector may contest "any election held therein, for any of the following causes:

- "(a) That the precinct board or any member thereof was guilty of malconduct.
- (b) That the person who has been declared elected to an office was not, at the time of the election, eligible to that office.
- (c) That the defendant has given to any elector or member of a precinct board any bribe or reward, or has offered any bribe or reward for the purpose of procuring his election, or has committed any other offense against the elective franchise defined in Division 18 (commencing with Section 18000).
- (d) That illegal votes were cast.
- (e) That eligible voters who attempted to vote in accordance with the laws of the state were denied their right to vote.
- (f) That the precinct board in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election as to any person who has been declared elected.
- (g) That there was an error in the vote-counting programs or summation of ballot counts."

Pursuant to Elections Code section 16101, a "candidate at a primary election may contest the right of another candidate to nomination to the same office by filing an affidavit alleging any of the following grounds, that:

- (a) The defendant is not eligible to the office in dispute.
- (b) The defendant has committed any offense against the elective franchise defined in Division 18 (commencing with Section 18000).
- (c) A sufficient number of votes were illegal, fraudulent, forged, or otherwise improper, and that had those votes not been counted, the defendant would not have received as many votes as the contestant.
- (d) A sufficient number of eligible voters who attempted to vote in accordance with the laws of the state were denied their right to vote, and that had those voters been permitted to vote, the defendant would not have received as many votes as the contestant.
- (e) Due to mistake, error, or misconduct the votes in any precinct were so incorrectly counted as to change the result."

In election contests, it is the duty of the court to validate the election if possible. "That is to say, the election must be held valid unless plainly illegal." (*Wilks v. Mouton* (1986) 42 Cal.3d 400, 404.) The party challenging the election results (in this case, Petitioner) has the "burden of proving the defect...by *clear and convincing evidence*." (*Gooch v. Hendrix* (1993) 5 Cal.4th 266, 279.) *Clear and convincing evidence* "requires a finding of high probability...the evidence must be 'so clear as to leave no substantial doubt'; 'sufficiently strong to command the unhesitating assent of every reasonable mind.'" (*In re Angelia* (1981) 28 Cal.3d 908, 918 (citations omitted; emphasis added) (superseded by statute on unrelated grounds).) To be clear, this standard of proof is *higher* and thereby requires Petitioner to offer *stronger* proof than the minimum proof required to meet the *preponderance of the evidence* standard which is the standard applied in common civil cases. If Petitioner fails to satisfy his burden of proof of *clear and convincing evidence*, Petitioner cannot obtain relief as a matter of law.

In this case, Petitioner makes numerous allegations in his amended petition including, but not limited to: negligence in the "recount procedure;" a failure to certify the "MTS" (Microcomputer Tally System); failure to inform Petitioner that his ballot punch number on the primary election ballot would change from the sample ballot sent to him; names missing from the voter roster; and that Respondent Reed fraudulently and improperly used the ballot designation of "Realtor" despite not being a Realtor and despite the fact that it is a trademark in violation of 2 CCR § 20716, subdivision (d). The Court is aware that Petitioner makes a number of other allegations which are set forth in his amended petition.

The majority of Petitioner's memoranda, however, focus on his contention that Mark Reed fraudulently used the ballot designation of "Realtor" for the primary election. Petitioner contends that Respondent Reed is not a Realtor, and was not a Realtor at the time he filed his application for ballot designation before the primary election.

As evident from the hearing on this matter, Petitioner believes that Reed's ballot designation for the primary election was improper and that Petitioner is entitled to challenge that designation *now*, well after the primary election has concluded. As apparent from the hearing, Petitioner argues that if he demonstrates a violation of election law (whether that violation is "big" or "small"), he is entitled to his requested relief *and* it is irrelevant what the law equally requires of him regarding the applicable procedure for his contest or what the law equally requires of him in proving the other prerequisites to relief. This is not so. As the Court attempted to explain to Petitioner at the hearing, including through the Court's attempted questions, there are multiple laws which coexist and equally apply to the resolution of Petitioner's election contest.

In order to succeed in an election contest such as this one, Petitioner must follow *all* of the applicable laws, and not only argue that certain election code provisions were violated. As it applies to his contest against Reed regarding his primary ballot designation, Petitioner was required under law to bring a *timely* election contest -- meaning one that is not *too late according to the law*. Petitioner has clearly failed to comply with this threshold requirement. That is, Petitioner did not contest Respondent Reed's primary election ballot designation until *after* the primary election had concluded. Elections Code section 13314(a)(1) specifically provides that "[a]n elector may seek a writ of mandate alleging that an error or omission has occurred, or is

about to occur, in placing of a name on, or in the printing of, a ballot, sample ballot, voter pamphlet, or other official matter, or that any neglect of duty has occurred or is about to occur." Thus, if Petitioner believed that Reed's ballot designation was improper, Petitioner had a remedy available to him prior to the primary election. Most importantly, the law clearly states that "one cannot pass up a preelection remedy in favor of a postelection challenge." (*McKinney v. Superior Court* (2004) 124 Cal.App.4th 951, 957 (emphasis added).) Yet that is exactly what Petitioner is attempting to do. Whether Petitioner did not know of Reed's ballot designation and/or did not check Reed's publicly-filed ballot designation paperwork is inapposite and does not somehow change the applicable law. There is no evidence that Petitioner filed a timely contest to Reed's primary election ballot designation prior to the primary election, but instead, only evidence to the contrary.

Additionally, Petitioner argued at the hearing that he had no responsibility to raise any objection to Reed's ballot designation request prior to the primary election. Instead, Petitioner argued that the Secretary of State was responsible to investigate and reject Reed's requested designation. This argument is unpersuasive. First, it does nothing to absolve Petitioner from the fact that he had available to him a preelection remedy if he disagreed with Reed's ballot designation but failed to pursue it prior to the primary election. This fact alone renders the argument without merit. Second, Petitioner presents no legal authority in support of the contention that the Secretary of State has a duty to investigate the propriety of individual ballot designations beyond a review of the paperwork provided by the candidate to the Secretary of State's office.

Accordingly, the Court finds that Petitioner's challenge to Respondent Reed's use of "Realtor" in connection with the June 5, 2018 primary election is untimely. As a matter of law, Petitioner cannot obtain relief on an untimely election contest.

Petitioner has not challenged Respondent Reed's use of "Realtor" as part of the general election. His requested remedy is that the Court "GRANT REMEDY, BY HOWEVER MEANS IT FEELS NECESSARY TO PUT [Petitioner] ON THE BALLOT FOR THE UPCOMING NOV. 6TH, 2018 FOR THE 30TH CONGRESSIONAL DISTRICT." (Amend. Pet., p. 34)(emphasis in original.) As the petition does not challenge Respondent Reed's ballot designation for purposes of the upcoming general election, the Court makes no finding as to the propriety of "Realtor" for Respondent Reed's ballot designation in the November 6, 2018 election.

With regard to the remainder of Petitioner's claims, the Court finds he had failed to prove by the applicable legal standard of *clear and convincing evidence* any of the circumstances identified by Elections Code section 16100, which would serve as a basis for a valid election contest. While Petitioner makes many allegations as to various improprieties, not only has he failed to satisfy adequately his burden in proving these alleged violations, but even if he had, he has not established all of the prerequisites for entitlement to relief in an elections contest as required by law and as raised in the oppositions filed by Respondents Secretary of State and Los Angeles County Board of Supervisors. Petitioner has failed to satisfy by clear and convincing evidence any of his claims against Respondent Secretary of State, Respondent Logan, Respondent Los Angeles County Registrar-Record/County Clerk, and Respondent Los Angeles

County Board of Supervisors. With regard to Respondents Reed and Sherman, the Court finds Petitioner has failed to prove by clear and convincing evidence any of the circumstances identified by Elections Code section 16101, which would serve as a basis for a valid candidate challenge.

The petition for writ of mandate is **DENIED**.

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Counsel for Respondents shall determine which party will prepare the following documents: an order incorporating this ruling as an exhibit to the order, and a judgment; non-preparing counsel (including Petitioner) shall receive a copy for approval as to form in accordance with Rule of Court 3.1312(a); and thereafter submit it to the Court for signature and entry in accordance with Rule of Court 3.1312(b).

1 RAJI RAB VS. SECRETARY OF STATE OF CALIFORNIA, ALEX PADILLA; CALIFORNIA SECRETARY OF STATE; DEAN
2 C. LOGAN, LOS ANGELES COUNTY REGISTRAR-RECORDER/COUNTY CLERK; LOS ANGELES COUNTY BOARD OF
3 SUPERVISORS; MARK REED; BRAD SHERMAN; DOES 1-100, CASE NO. 34-2018-80002924-CU-WM-GDS

4
5 CERTIFICATE OF SERVICE BY MAILING

6 C.C.P. Sec. 1013a(3))

7 I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do
8 declare under penalty of perjury that I did this date place a copy of **RULING AFTER HEARING ON**
9 **PETITIONER FOR WRIT OF MANDATE** in envelopes addressed to each of the parties, or their counsel
10 of record as stated below, with sufficient postage affixed thereto and deposited the same in the
11 United States Post Office at Sacramento, California.

12
13 SEE ATTACHED SERVICE LIST
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19 Dated: August 16, 2018

20 Superior Court of California,
21 County of Sacramento

22 By: V. BUTLER,
23 Deputy Clerk
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28

V. Butler

SERVICE LIST:

RAJI RAB VS. SECRETARY OF STATE OF CALIFORNIA, ET AL., CASE NO. 34-2018-80002924-CU-WM-GDS

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(Attorney for Respondents, Los Angeles County
Board of Supervisors and Dean C. Logan in his
official capacity as the Los Angeles County
Registrar-Recorder/County Clerk)

SERVICE LIST

Raji Rab v. Secretary of State, et al
Case No. 34-2018-80002924

| | |
|---|---|
| <p>Raji Rab 17015 Ventura Blvd. Encino, CA 91316 E-mail Address: rajirab@gmail.com</p> | <p>Gary Winuk Kaufman Legal Group, APC 777 S. Figueroa Street, Suite 4050 Los Angeles, CA 90017 E-mail Address: gwinuk@kaufmanlegalgroup.com</p> |
| <p>Gina Eachus Los Angeles County Counsel's Office Kenneth Hahn Hall of Administration 500 West Temple Street, Rm. 648 Los Angeles, CA 90012-2713 E-mail Address: geachus@counsel.lacounty.gov</p> | <p>Mark Reed P.O. Box 4181 Sunland, CA 91040 E-mail Address: MrCongress@Verizon.net</p> |

APPENDIX D

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

HONORABLE RICHARD K. SUEYOSHI JUDGE, DEPARTMENT 28

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|-----------------------------|---|------------------|
| RAJI RAB, |) | |
| |) | Petitioner, |
| |) | |
| |) | |
| vs. |) | Case No.: |
| |) | 34-2018-80002924 |
| |) | |
| SECRETARY OF STATE, et al., |) | |
| |) | |
| |) | Respondents.) |
| |) | |
| |) | |

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

--oOo--

TUESDAY, AUGUST 14, 2018

--oOo--

A P P E A R A N C E S:

For the Petitioner:

RAJI RAB, In Propria Persona

For the Respondents Secretary of State:

Office of the Attorney General
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For Respondent Brad Sherman:

Kaufman Legal Group
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APPEARANCES CONTINUED:

For the Respondent Mark Reed:

MARK REED, In Propria Persona

For the Respondent Registrar-Recorder/County Clerk:

GINA EACHUS, Attorney at Law

KELLY SOUZA, CSR No. 11951

1 TUESDAY, AUGUST 14, 2018

2 MORNING SESSION

3 --oOo--

4 The matter of RAJI RAB, Petitioner, versus
5 SECRETARY OF STATE et al., the Respondents, Case Number
6 34-2018-80002924, came on regularly before the Honorable
7 RICHARD K. SUEYOSHI, Judge of the Sacramento Superior
8 Court, County of Sacramento, State of California, sitting
9 in Department 28.

10 THE COURT: Good afternoon everybody.

11 MR. RAB: Good afternoon, your Honor.

12 MR. WINUK: Good afternoon, your Honor.

13 THE COURT: The Court shall call the case of Raji Rab
14 versus the Secretary of State, et al. This is Case Number
15 34 dash 2018 dash 80002924.

16 Good afternoon, Mr. Rab.

17 MR. RAB: Good afternoon, sir.

18 THE COURT: You continue to represent yourself in
19 this case; is that right?

20 MR. RAB: Yes, your Honor.

21 THE COURT: Okay. So the record will reflect that
22 Mr. Rab is here representing himself. I will next ask
23 counsel in the courtroom to go ahead and make their
24 appearances for the record.

25 MR. WATERS: Good afternoon, your Honor. George
26 Waters for the Respondent Secretary of State.

27 MR. WINUK: Gary Winuk representing Brad Sherman.

28 THE COURT: And then I will ask counsel on the

1 telephone first to make their appearance.

2 MS. EACHUS: This is Gina Eachus on behalf of
3 Respondents County of Los Angeles Board of Supervisors and
4 Registrar recorder county clerk.

5 THE COURT: Is the telephone up? Is the volume up as
6 far as it can go?

7 THE CLERK: No, your Honor. I did turn it down.

8 THE COURT: Ms. Eachus, I will ask you to speak up.
9 I think we heard you and I think the reporter got this, but
10 I will ask you to speak as loudly and clearly as you can
11 because we have it on speaker phone here.

12 Next counsel on the phone.

13 MR. REED: I'm pro per. This is Mark Reed,
14 defendant.

15 THE COURT: Okay. Mr. Reed.

16 Is there counsel for Mr. Sherman on the telephone?

17 MR. WINUK: Your Honor, I'm representing Mr. Sherman.

18 THE COURT: I'm sorry. Yeah. You are here. I'm
19 sorry about that. Mr. Winuk, correct?

20 MR. WINUK: Yes, your Honor.

21 THE COURT: All right. Okay. All right. This
22 matter is on calendar by way of the Court's order
23 shortening time that was stipulated to by the parties.
24 That order shortening time was entered on July 31st. It
25 was entered by stipulation and that was agreed to in
26 connection with an earlier Ex Parte application that Mr.
27 Rab had brought on that date. I indicated several things
28 in that order. First of all I indicated that any further

1 filings by Mr. Rab in support of the merits of his petition
2 were to be filed and served no later than August 3rd by
3 3:00 p.m. I indicated that any oppositions that were filed
4 would be required to be filed no later than August 9th by
5 3:00 p.m. all in this department. And I specifically
6 indicated that there will be no reply filings given the
7 expedited schedule and request for an expedited filing by
8 the Petitioner.

9 I have received opposition filings from each of the
10 Respondents in this case, that is on behalf of Mr. Sherman,
11 the Secretary of State, as well as the LA county registrar
12 and Dean Logan. I received a filing on behalf of -- or by
13 Mr. Reed in pro per. All of those were received with
14 respect to -- in connection and by the date indicated by
15 the Court's order required filings by August 9th. I
16 indicated that there would be no reply filings that would
17 be filed in this case.

18 But to my surprise before I took the bench today I
19 understood that about 20 minutes or so prior to the lunch
20 hour today a number of filings were made in reply
21 nonetheless by the Petitioner. There is a collection of
22 documents, which for the record I have not reviewed and I
23 do not intend to review given the Court's previous order,
24 but there were one, two, three -- at least eight different
25 documents that were filed today although the Court
26 specifically indicated that there would be no reply filings
27 in advance of this hearing.

28 What I did indicate though is that given the

1 expedited timeframe for briefing in this case and the
2 shortened time for a hearing on the merits that I would
3 permit Petitioner to orally address here for purposes of
4 this hearing the oppositions that have since been filed
5 since the last time we were convened.

6 So, Mr. Rab, I would just indicate to you it was my
7 intention to hear from you today about your position in
8 response to the oppositions that were filed. It was not my
9 intention as I ordered for you to file all of these
10 documents 15 minutes before the lunch hour expecting me to
11 have reviewed all of them prior to taking the bench. That
12 is not in compliance with the order. Do you understand
13 that?

14 MR. RAB: I do, your Honor. I want to take half a
15 minute to explain. It was some new evidence that had just
16 emerged yesterday and that's why it is -- but I can argue
17 that, your Honor.

18 THE COURT: Okay. All right. So with respect to the
19 hearing on the merits today, I have reviewed all of the
20 filings by the parties including the four separate
21 opposition filings that have been received in this case. I
22 previously also reviewed the amended verified petition for
23 writ of mandamus that was filed by Mr. Rab on or about
24 July 27. So I have received -- I have reviewed those
25 filings and, Mr. Rab, I'm going to ask you -- I certainly
26 -- I want to hear from you, but I also want you to respond
27 to the various arguments made by each of the separate of
28 the four Respondents in opposition.

1 So go ahead.

2 MR. RAB: I'm ready, your Honor. I received --

3 MR. REED: Your Honor, may I interject for one
4 moment? This is Mark Reed.

5 THE COURT: Go ahead, Mr. Reed.

6 MR. REED: I have a great concern to address the
7 Court in regards to the process and behavior of Mr. Rab.

8 THE COURT: I can't hear you, Mr. Reed. Mr. Reed, I
9 can't hear you.

10 MR. REED: Okay. Can you hear me now?

11 THE COURT: Yes, I can hear you now. Go ahead.

12 MR. REED: Okay. In regards to the procedure and
13 egregious actions on -- Mr. Rab's actions pertaining to my
14 employer with Realty Smart and Pinnacle Realty. From what
15 my advisory counsel has told me that the Court has to --

16 THE COURT: I'm sorry. We can't hear you now. You
17 need to speak louder as you did for that brief moment. Go
18 ahead.

19 MR. REED: Okay. From what I have been told by
20 counsel is that the Court is the one who has to submit the
21 subpoenas to anybody on Mr. Rab's behalf. Mr. Rab
22 subpoenaed my current employer Realty Smart Armando Oliva
23 (phonetic) and has attacked my integrity of whether or not
24 I'm a Realtor. He did this at the last moment. I received
25 a phonecall last night at 9:00 in the evening from my
26 employer asking me basically what the hell is going on. As
27 you see by my response, everything is laid out exactly that
28 I'm a licensed Realtor. I was with a broker with Rodeo

1 Realty and Realty Smart two years prior to this election.
2 I chose not to pay my MLS to the Southland Board of
3 Realtors because I was going to be on hiatus until after
4 the election. However, I remained a member of the
5 Southland Board of Realtors along with the National Board
6 of Realtors and the California Board of Realtors. All of
7 this is public information and since been obtained by Mr.
8 Rab by contacting and degrading my reputation with my
9 employer --

10 THE COURT: Mr. Reed, can you -- Mr. Reed. Mr. Reed,
11 I need to interject for a moment, okay.

12 MR. REED: Yes.

13 THE COURT: It is not your turn yet to address the
14 Court as to your opposition. Okay. But I will get to you.
15 The Petitioner has the burden of proof with respect to a
16 merits hearing. That is why the Petitioner speaks first at
17 this hearing. Okay. I understand that you're now stating
18 substantive reasons why you feel that claims brought
19 against you are not meritorious. It's not your turn yet to
20 speak to those things. I heard you reference a subpoena.
21 There is no subpoena that is at issue before the Court
22 today. This -- you did not bring a motion to quash nor at
23 this point is there necessity to because this is the actual
24 merits hearing which is the equivalent of a trial with
25 respect to this case. So there is no subpoena that is at
26 issue here today. I don't have any documents in response
27 to a subpoena that is at issue here today. Nobody has
28 filed a motion in connection with any subpoena that is at

1 issue here today. So the subpoena that you were referring
2 to is not something that I am taking action on, that I'm
3 considering, that I'm doing anything relating to.

4 As to your arguments as to why you feel there are no
5 claims that are valid against you, I will get to you.
6 After I hear from the Petitioner and after I hear from each
7 of the parties I will get to you as well. Okay, Mr. Reed?

8 MR. REED: Okay. I will readdress the issue at my
9 turn then.

10 THE COURT: All right. Mr. Rab, as I said, as I
11 indicated before, this is your opportunity to respond to
12 the arguments that have been made in the opposition, the
13 written oppositions that have been filed against your
14 petition.

15 Go ahead.

16 MR. RAB: Your Honor, I would like to see if I can
17 collectively answer them or I can go one-by-one. I have my
18 answers and I think I would like to go one-by-one that way
19 we can address all the Respondents.

20 THE COURT: It is up to you, but I will invariably
21 ask you some questions along the way, but I will let you go
22 ahead and start.

23 MR. RAB: Yes, your Honor. I got them line-by-line
24 and page numbers as to what -- I would like to first start,
25 your Honor, by saying that it appears now that the
26 Respondents have all joined hands and have come in line
27 with regards to my contest here. And I would like to start
28 by bringing out the responses and the opposition filed by

1 Mr. Brad Sherman and the responses are denied as false and
2 baseless and misleading, and he's gone on to attacking my
3 FEC filing report which is absolutely tolled to the very
4 final penny. Every FEC filing are done on a quarterly
5 basis. And in fact in his own response he has very
6 conveniently opted not to mention page two of his
7 submission whereas it clearly states another 120. Do you
8 have this?

9 MR. WATERS: I do.

10 MR. RAB: Basically he has attached the document from
11 FEC which is the remaining amount that is pending and that
12 is going to cover in next quarterly report and the expenses
13 are still being incurred. It's an ongoing thing. The next
14 quarterly is due on October 15th and those -- I'm just
15 trying to put on the record that this has been -- has
16 created distress in front of court of my position that I'm
17 used to making false statements. So this is one thing.

18 Then Mr. Sherman talks about recount and it says that
19 the page one, line 18, that the recount was canceled after
20 four days. Your Honor, this is a very -- I'm very happy
21 that he brought this point up. I spend \$17,000. I would
22 like to take a moment and go a little back in this matter,
23 your Honor, and what has happened is everybody is
24 misconstrued my claim when I talk about the randomization
25 of candidate names on the ballot. And what they keep
26 mentioning is 13113 and 13112 and talks only about
27 randomization of the candidate names. It does not mention
28 anything about ballot position numbers that they will

1 change also. And what I see here is that I'm going to
2 connect with Brad Sherman. How I bring this here is that
3 everybody has attacked that, you know, that's the law, your
4 randomization is there 13113, 13112. I understand that.
5 But among those issues 13111 and 13112, there is no mention
6 that the ballot punch position numbers would also change
7 randomized. The letter I got from Mr. Dean Logan was
8 defective because it just -- did not just say it's enclosed
9 here. You must have seen it. It did not just say that
10 your name would be randomized. It attached -- it says this
11 is how your name is going to appear to be on Los Angeles
12 and it had a copy of the ballot and that attachment, your
13 Honor, misled the whole situation. That attachment says
14 what it looks like and within the ballot also it says that
15 randomizing will take place, but nowhere does it mention
16 that the punch position numbers would also change.

17 THE COURT: Well, it does not address it, Mr. Rab;
18 the cover letter from Mr. Logan to you. And I read it.

19 MR. RAB: Yes.

20 THE COURT: It's attached to your petition as
21 exhibits -- Exhibit A and it is a letter that is just
22 entitled "Dear Candidate." It says, For your information
23 and pursuant to Elections Code Section 13302, enclosed is
24 an official sample ballot showing your name as it will
25 appear on the ballot in Los Angeles County for the June 5,
26 2018 statewide direct primary election. That is all it
27 says.

28 Hold on. We have to talk one at a time. She can

1 only take down one voice at a time.

2 And then it attaches a sample ballot, not the actual
3 ballot as it would then be composed for the election, but a
4 sample ballot and that ballot indicates your name as it
5 would appear. It does not speak at all as to the
6 contention you're making which is that there was a
7 representation that you would in fact be 148 or be placed
8 in that position. It does not speak -- the letter does not
9 speak to that at all. All it says is that it shows your
10 name as it will appear. Well, it does show your name.
11 What it -- what is different is that the punch number
12 changed by the time of the election in the sense that it
13 was then randomized, correct?

14 MR. RAB: I don't agree, your Honor. The way it
15 appeared to me and to many of my followers, friends, order
16 is that this is how I'm going to appear. Not everybody
17 knows the law. I went through the law later, but the law
18 13113, and one -- in the law in the rule, the rule 13113
19 and 13112, it doesn't say anywhere that this is
20 randomization of the name only and the punch position
21 number are going to change. It does not say that. The law
22 is to be clear, your Honor. I'm talking from a laymen's
23 perspective and that is also as myself with a good mind and
24 sense. I was misled with that. Otherwise I would not
25 fight it this far. I was misled from the fact that, yes,
26 it shows that this is how your -- if the attachment was not
27 there, maybe it would have a different impact but the
28 attachment made me believe that this is my name and this is

1 my -- but like you said, 13111 says randomization of name
2 it's going to go up and down. But it has not mentioned --
3 the law is gray on that, your Honor. The law itself -- if
4 anybody can show me in the room 13111 and 13112 that it
5 says that your name would be randomized and so will be the
6 ballot punch number? And people go to cast ballots, your
7 Honor, remembering numbers. Even as of today especially
8 senior citizens people that don't have that kind of memory,
9 people are busy with the world. They remember the number
10 and work with it. I know so many people write on a piece
11 of paper a ballot punch position number and work with that.

12 But if the law -- if the regulations had any
13 clarification on that and it was transparent, and it was as
14 right as the daylight, then there would be no argument, but
15 13111 and 13112 does not say that. It does not say it's a
16 punch position that will go up and down and that has played
17 havoc in my case. That is how I see it and that is only
18 one of the factors that I'm going to bring in to your
19 Honor.

20 THE COURT: Let's get back. Because you're
21 addressing the opposition of Mr. Sherman, let's get back to
22 the opposition.

23 MR. RAB: Yes, because --

24 THE COURT: My first question to you is this: Your
25 petition -- let me make sure it's clear.

26 MR. RAB: Yes.

27 THE COURT: Your petition says the following:

28 "Respondent Brad Sherman is an incumbent and a candidate of

1 the primary election of the 30th Congressional District and
2 benefited directly from the negligence and fraud and deceit
3 in the 2018 primary election. It is not known at this time
4 if there was a conspiracy. But further discovery is
5 required which is not available at this time."

6 So I'm not sure what your basis -- what your -- what
7 your claim is against Mr. Sherman.

8 MR. RAB: May I speak, your Honor?

9 THE COURT: Yes.

10 MR. RAB: Okay. Your Honor, as I'm going to unfold
11 this, you know, my response against the opposition filed by
12 Mr. Sherman, you will get the answer to your question as to
13 what I'm getting at and I will give you a hint of it now.

14 THE COURT: Tell me. Answer right now because that
15 is the question I'm concerned with.

16 MR. RAB: So the answer is that -- two things, your
17 Honor, that I want to circulate through this. Mr. Sherman
18 and everyone else muddled, M-U-D-D-I-E-D, muddled results
19 and uncertain outcome. Okay. That is what the focus of my
20 discussion is going -- and I will tell you why, your Honor:
21 Not only -- because you said I have to answer this question
22 right now since it has come up. There's a machine called
23 MTS which is in the registrar office. That machine, your
24 Honor, is -- there is a declaration by Mr. Bueller that
25 says it's a certified. You go and click there and it will
26 show it's certified. Okay. I went there. I opened the
27 page. It's here with me. You can check it. It is not.
28 It was certified in 2004 and 2005. It says in the letters

1 Bueller -- I will give you the page and why did -- that
2 machine is throwing off votes heaven and earth. This is
3 the page latest filed. I got to read it two days ago.
4 Here. And I give you the number of Exhibit B.

5 THE COURT: Are you finished with your answer?

6 MR. RAB: I thought you were looking for it, your
7 Honor.

8 THE COURT: No, no, no, no. Go ahead.

9 MR. RAB: So here it shows this status and
10 certification of all the machines not only the MTS that I'm
11 talking about. And it shows here that the certification
12 was done original approval 2004, 2008. That is it. And
13 thereafter I would like to point out a document by
14 Secretary of State, your Honor.

15 THE COURT: Well, but let me clarify my question for
16 you.

17 MR. RAB: Let me connect one little thing.

18 THE COURT: When you go -- so the questions that I
19 ask are important for me to make a decision.

20 MR. RAB: Okay. Okay.

21 THE COURT: We have to go one at a time. The
22 questions that the Court asks are being asked because
23 they're important for me to clarify for purposes of
24 considering your case and making a decision.

25 MR. RAB: Um-hum.

26 THE COURT: If I don't ask a question because I don't
27 -- I either -- if I understand what your position is and
28 others are then I won't ask questions. But the questions I

1 ask are obviously important because I need or want or
2 desire some clarification from you. That is why I ask
3 them. So as a general rule when attorneys and parties come
4 to court and the Court asks a question, they answer that
5 question because that is important for the Court to decide.
6 And that's why I'm asking questions to focus your comments
7 on the things that I think in my mind need clarification.

8 So in that regard my next question to you is
9 everything that you just said, why is that the fault of
10 Mr. Sherman? Why is he responsible for all of the things
11 that you just said?

12 MR. RAB: May I respond, your Honor?

13 THE COURT: Yes.

14 MR. RAB: Okay. I'm very clear in my response, your,
15 Honor. I'm talking about rules that have been shifted. He
16 is the beneficiary, your Honor. He is the beneficiary.
17 Their biggest factors -- I'm -- it's a complicated case,
18 your Honor. It's unique in its own way. Or maybe that I
19 don't know of a case that is after election contest where
20 by things have come to my knowledge about, you know,
21 negligence after negligence, violation of mandatory
22 procedures, and then also just like I mentioned the things
23 that I have witnessed personally.

24 So the reason I'm holding Mr. Sherman responsible
25 answering to your question is that I believe many of my
26 votes have been shifted to Mr. Brad Sherman through various
27 violations and negligence that have taken place, and as I
28 go through and I have not even started talking about

1 Mr. Sherman right now, I will be able to bring convincing
2 evidence to the Court that what I'm saying is based on
3 substance.

4 THE COURT: So what I just heard you say, and confirm
5 this for me in answering my question, what I heard you say
6 is that none of this is Mr. Sherman's fault but his
7 interest is impacted because you believe that certain votes
8 that should have been yours instead went to him? Do I
9 understand that correctly?

10 MR. RAB: Let me absorb your statement for a second.
11 So what I'm saying -- again, I will repeat it is that I'm
12 using section 13114, you know, allows writ of mandate and
13 which allows me to bring in the people that I believe are
14 beneficiary in some sort and also I look at the fact that
15 when I went to the recount, the procedures, the mingling,
16 the teamwork that was working on the sidelines between
17 Mr. Sherman and the RCC was unbelievable. It was like I
18 was not having a recount with but I was having a recount
19 against Mr. Sherman and that is just one of the reasons why
20 I filed ethics complaint in US congress because I heard him
21 over the cell phone on a speaker phone when he was
22 pressuring the election official to stop the challenges
23 made by my team. That is the reason -- that is why I was
24 coming down. That is the reason I came out, went into the
25 back into the recount room, and I said I stop this recount
26 right now because of the obstruction of justice and because
27 of a sitting congressman, a sitting congressman pressuring
28 a top election official, to stop the challenges being made

1 by my team. And I heard that. I spoke to Mr. Alex
2 Oliveira right after that and then I went back into the
3 recount room and I closed the recount under that
4 notification. Just 20 minutes before that recount was
5 stopped I had a meeting with Alex Oliveira and he said, How
6 long are you going with this? And I said I'm going to go
7 until every vote is counted. He said it would cost you a
8 lot of -- he said it will cost a lot of time. I will go
9 until the last vote is counted. But as we start counting
10 mark ballot by mark, coming up, you know, in large
11 quantities I saw a lot of -- a lot of, you know, resistance
12 by the RCC and Mr. Sherman's team, and as I came out just
13 to take some fresh air from the room that is the time I
14 heard Mr. Alex Oliveira over the cell phone. It was very
15 high tone. I don't think Mr. Sherman knew it was on
16 speaker phone, and he said, Hello, Congressman Sherman, and
17 he went on and on and on, and I was standing there
18 listening to the whole conversation. And right after that
19 I ran inside and I pointed that out, that this is the
20 reason I'm stopping the recount because the whole thing is
21 tainted. What chance do I have? This is why I stop it,
22 not because the whole thing was completed. It was abruptly
23 interrupted by Mr. Sherman, and this is one of the reasons
24 here that I laid out and I -- overnight I find an ethics
25 complaint and put it out that I feel this is obstruction of
26 justice. And then I focus all my attention towards the
27 Court. And I believe --

28 THE COURT: Mr. Rab, let me ask you another question

1 and then this is going to be my last question on this point
2 as it applies to Mr. Sherman and as it applies to what I'm
3 trying to get at. Okay. Do you agree that the documents
4 that you filed with the Court including the relief that you
5 requested in your various proposed orders granting your
6 petition for writ of mandate, in none of those proposed
7 orders are you asking for relief as to Mr. Sherman? Do you
8 agree with me that that is what it shows?

9 MR. RAB: Yes, yes, yes.

10 THE COURT: This is what I'm getting at.

11 MR. RAB: Okay.

12 THE COURT: Your petition does not seek to remove
13 Mr. Sherman from the November ballot. Your petition does
14 not seek to do anything as to Mr. Sherman pertaining to the
15 November ballot. All of these sample proposed orders -- I
16 should not call them sample. I should say proposed orders
17 by you. You have a proposal one. You have a proposal
18 number two. In every single one of these pieces of relief
19 that you seek, none of them even mention Mr. Sherman so
20 that is why I started this inquiry this afternoon because
21 you're talking about Mr. Sherman's opposition. What are
22 you charging as to Mr. Sherman and what do you -- what are
23 you seeking as to Mr. Sherman? Because as far as I can
24 tell you are seeking nothing as to Mr. Sherman in the end.
25 The proposed orders that you are requesting the Court to
26 sign have nothing to do with Mr. Sherman being on the
27 ballot for the general election. The ones that you
28 prepared have nothing to do with Mr. Sherman being on the

1 general election ballot. Do you agree with?

2 MR. RAB: Yes, I agree with that. I'm not seeking
3 anything of him. It's just that I saw him as a beneficiary
4 of the MTS machine throwing off the ballot and that is why
5 I thought it was necessary when I go to my petition so I
6 would have him as a Respondent.

7 THE COURT: But you did not identify him as a real
8 party in interest though. You identified him as a
9 Respondent, right?

10 MR. RAB: Yes.

11 THE COURT: Do you know the difference between those
12 two?

13 MR. RAB: I find them similar, your Honor. I'm not
14 an attorney.

15 THE COURT: Okay. All right. Okay. Anything
16 further as to Mr. Sherman before you go on to the next --

17 MR. RAB: Yes, your Honor. I wanted to answer the
18 questions that he has raised since he already raised those
19 questions. So basically he is talking about ballots
20 designation. That is not a basis and I would like to point
21 out to 20716(c) and (d). Because Mr. Sherman is now
22 supporting SOS. In this petition -- in this petition he
23 has pointed it out. He supports the stand of the Secretary
24 of State. 20716(c) and (d) is about -- and there is
25 another thing, your Honor, that is AB1090, that was brought
26 out to further reinforce, you know, the ballot designation
27 sanity of the ballot designation, your Honor, and the
28 reason AB1090 was brought in was to make sure that to

1 reinforce the fact that the ballot designation is taken to
2 the next level of security. That was the purpose, to save
3 the people from being misled. And I'm answering to Mr.
4 Sherman's -- one of the points that he has claimed that
5 ballot designation does not carry any strength. So
6 Petitioner claims under the ballot appears fraudulent and I
7 said I already addressed the issue that it's not about the
8 randomized ballot name. It's about the ballot punch
9 position which is not covered under the laws. And
10 Petitioner basically accused congressman of conspiracy to
11 appropriate election fraud. You already raised that
12 question and I answered that it was one of the
13 beneficiaries in this matter due to the -- due to the
14 obsolete machine which has been there forever. He is a
15 sitting congressman. He has not raised any eyebrow over
16 the fact that the machine is obsolete and should not be
17 operating and should not be doing -- deciding the fate of
18 the American people.

19 It has not been serviced by federal authorities. I'm
20 not saying that. There is a letter by Mr. Dean Logan that
21 I will bring out later. He has pointed it out himself, and
22 I'm sure you have seen the letter from Mr. Dean Logan
23 addressing the Board of Supervisors stated all those things
24 and that is rule 11. These were certified in 2005 and
25 2008. Mr. Dean Logan said this in a letter that is here in
26 the petition also and it categorically repeats in three,
27 four, five, six times that this machine, the system is
28 obsolete and incapable. It is not certified by federal

1 authority. We need to get rid of this, you know, and so
2 on. It's there. I will bring that up when I bring SOS and
3 the other responses.

4 But as far as Mr. Brad Sherman is concerned, your
5 Honor, I strongly feel that the MTS machine is not
6 compliant with the law whether it's 27016(c) or (d) or
7 AB1090. It's an old machine. It does not know punch
8 positions. I asked so many times. I made observation
9 after observation over there. And then I finally asked to
10 speak to someone that can explain to me what ballot
11 security or what system security is inside. I was
12 introduced to a person named Mr. Mark Consome (phonetic)
13 who came out, spoke to me, and said that we have a DOS
14 system. We have no security. How many passwords do you
15 use? There is no password protection. How many -- are
16 there policies and procedures that you follow because
17 secretary state mentioned a lot of policies and procedures.
18 He said, No, we have a DOS system and if something goes
19 wrong with the system it's one machine connected to one
20 computer. It's a DOS machine. DOS machine did not have
21 security procedures that you could incorporate. It's a
22 very, very old system. This was very alarming to me, your
23 Honor.

24 THE COURT: Okay. Mr. Rab, do you agree, though,
25 that Mr. Sherman is not the one -- he is not the authority
26 who decides whether or not a county will use the MTS
27 machine?

28 MR. RAB: Yes, your Honor. But I also believe that

1 he is a sitting congressman. He knows the state of affairs
2 of LAROCC. That is his district.

3 THE COURT: He does not decide whether that machine
4 system will be used or some other machine system will be
5 used. That is not his authority.

6 MR. RAB: I agree.

7 THE COURT: Or responsibility. Correct?

8 MR. RAB: I agree.

9 THE COURT: Okay. Go on to the next opposition,
10 please.

11 MR. RAB: Okay. Petitioner, he went on saying
12 that -- I'm saying that I --

13 THE COURT: Which opposition are you going to?

14 MR. RAB: Talking about the FEC where he mentioned --

15 THE COURT: Wait. I asked you to go ahead and go to
16 the next opposition. Do you -- we don't have unlimited
17 time here. Is there anything else that needs to be said?
18 I understand your position which you already started with
19 which is that the filings that are being used to impeach
20 your credibility are not a proper basis for that
21 impeachment. I understood. You said that at the very
22 beginning. I'm putting that aside right now because as you
23 can tell from my questioning more germane to the Court is
24 to the determination as to --

25 MR. RAB: Yes.

26 THE COURT: We have to go one at a time.

27 More germane to this Court is the question of why is
28 Mr. Sherman even in this case other than just an interested

1 party because you do not seek any relief against him. So I
2 asked those questions. You gave me those answers. I'm
3 satisfied with respect to understanding the positions of
4 both parties. I have not made any decisions yet, but I
5 understand your position with respect to that.

6 I'm going to ask you to go ahead and go to the next
7 opposition. We have limited time.

8 MR. RAB: Got it.

9 THE COURT: Okay.

10 MR. RAB: Okay. So --

11 THE COURT: Secretary of State registrar or Mr. Reed?
12 Go ahead.

13 MR. RAB: Secretary of State.

14 THE COURT: All right.

15 MR. RAB: He starts with that none of the election
16 affect or change the results. None of the election affect
17 or change the results. And not the basis of the filing.
18 My response to that is 16101(c), and I'm taking the words,
19 you know, the law, your Honor, sufficient votes were
20 otherwise improper. And I'm taking that to support the
21 filing of the case also and whether how my position is on
22 this. And then he says again, The candidate names were
23 randomized. And he is justifying that. And I justified it
24 by saying that this is not my court claim. He has pointed
25 out in his opposition that this is my core claim.

26 THE COURT: Let me ask you a question. Before you
27 leave the opposition from the Secretary of State that
28 indicates that you have not met your burden of proof to

1 show that the number of votes that were undercounted would
2 make you the second place position with respect to this
3 election, don't you agree that in order to prevail on an
4 election contest like this it is your burden to establish
5 that there would be a different result? And the way you
6 establish a different result is you establish why you would
7 have sufficient number of votes to be the second place
8 finisher in a system like we have in California where the
9 top two vote receivers will be the two names that are on
10 general election ballot. Don't you agree that you have the
11 burden of proving that not just that there was an improper
12 vote counted or not counted but that it was meaningful? Do
13 you agree with that?

14 MR. RAB: If you will allow me to continue, that is
15 why I'm here today, your Honor. That is why I'm here; to
16 bring about the fact as to how this election was muddled
17 and how this election count was uncertain. These are one
18 -- my main issue that is going to come down to number of
19 votes is going to come down to when I come to the point of
20 fraud and deceit and when I come down to ballot designation
21 and -- I'm just trying to quickly go through -- breeze
22 through the issues that I brought in my merit petition and
23 then I want -- and if I was not asked to answer these
24 things I would have gone straight to that but since you
25 asked me to answer the opposition, I'm just answering them
26 right now and then I have my closing arguments which is
27 going to bring about because I can't pick, choose, answer
28 these things right now just end my case like this.

1 THE COURT: I'm going to let you go ahead and just --
2 so just go ahead, Mr. Rab.

3 MR. RAB: Yeah. Okay. I'm talking about SOS here
4 and he has but a few -- I will summarize them. He talks
5 about election defect and I mentioned about 16101(c).
6 Candidate name is randomized and he is stating that is my
7 core claim. That is not my core claim. Ballot designation
8 is --

9 THE REPORTER: Can you please repeat that?

10 MR. RAB: I said ballot designation is the basis.
11 Then he says come down and he puts the word you know out of
12 his place by saying that Realtor had both is not -- is a
13 generic word. It's a generic term. If we go out and take
14 this thing out of the word, thousands and thousands and
15 thousands of people are going to get impacted with this
16 because it's a known fact, it's a known term, it's
17 registered federally, you know. There is a ruling that I
18 have, you know, ruling on that categorically and clearly
19 states that this is a trademark, your Honor. And by
20 bringing this thing out as a direct term is going to
21 bring -- collapse the whole, you know, industry of that as
22 working as membership and association, your Honor. So it
23 is not that I'm bringing it out. Mr. Mark Reed was trying
24 to defend his case and submit the same thing in the law
25 which says that -- I'm going to read it to you, your Honor.

26 THE COURT: Hold on. Hold on. You don't have to
27 read that to me. Let me ask you a question again to focus
28 the issue as to this point. I understand your challenge to

1 Mr. Reed's ballot designation to be a challenge that his
2 ballot designation as it appeared on the primary election
3 ballot was improper. Do I understand that correctly?

4 MR. RAB: Your Honor, two things here: C and D. C
5 is he has to make money out of it.

6 THE COURT: Wait. No, no, no, no, no. That's not
7 what I'm asking. I'm asking a very simple question. When
8 you say a ballot designation is improper, you're talking
9 about Mr. Reed's ballot designation on the primary election
10 ballot, correct?

11 MR. RAB: Yeah, correct.

12 THE COURT: But you did not bring a challenge to the
13 primary election ballot designation for Mr. Reed prior to
14 the primary election, correct?

15 MR. RAB: Your Honor, now I have to answer do -- and
16 things I would like --

17 THE COURT: It's a simple question. Did you bring a
18 challenge to his ballot --

19 MR. RAB: Your Honor, I'm against the wall. You're
20 pinning me down with questions. It's like I'm against
21 another attorney here.

22 THE COURT: I may ask them some questions too.

23 MR. RAB: I don't know right now. I feel I'm against
24 the wall and you're their attorney.

25 THE COURT: Oh, no, no, no.

26 MR. RAB: You're blasting me question and question
27 and trying to kill my case here.

28 THE COURT: No, no, no, Mr. Rab.

1 MR. RAB: This is how I feel. This is how I feel.

2 THE COURT: Hold on, Mr. Rab. Wait. This is the way
3 all these hearings work. It's not normally on Tuesday.
4 Every Friday we have this calendar, the writ calendar.
5 Every Friday parties like yourselves come in here and have
6 their hearing. Every Friday I ask --

7 MR. RAB: But you're not letting me talk. Every time
8 you talk, you shift issues. Hold on. Answer that
9 question.

10 THE COURT: Yes.

11 MR. RAB: I prepared myself to go into sequence and
12 you asked me to answer the opposition. As soon as I start
13 opposition, you start bombarding me with questions.

14 THE COURT: That is how this works. I ask questions.

15 MR. RAB: You have to stay in line with the answer
16 that I'm making. I'm talking about SOS. You start talking
17 about Reed. When I talk about Sherman, you're trying to
18 nail this down. I'm not prepared to just haphazardly
19 answer questions.

20 THE COURT: If you don't -- are you saying you don't
21 want me to ask questions?

22 MR. RAB: I'm saying, your Honor, that let me answer
23 the question in the section that I'm in. Like he -- he
24 raised this question. SOS brought this ballot designation
25 and that's how I was answering the question 20716(c) and
26 how many votes did you get and how would it matter to you?
27 Your Honor, the thing is if there is fraud and if somebody
28 gets his ballot designation it clearly says you cannot use

1 a trademark as a ballot designation. If someone gets into
2 our lives, our system, our congress on the basis of a
3 false -- on the basis of a violation of a rule or
4 regulation, your Honor -- we have laws and we are a nation
5 of laws and if we don't have laws or rules I think more
6 important than rules is the enforcement of rules and
7 enforcement of law. If you don't have enforcement of law,
8 you don't have nothing. What I'm talking about -- there is
9 no small law or big law. No big violation, no small
10 violation of laws. It's a violation of law. We have to
11 stop people abusing these regulations in a creative way.
12 What I have seen here as I have come across there may be a
13 time that I might not know I started this procedure and --
14 but I'm going step by step so many things coming to me and
15 this case to me during this process. It was reasonable
16 reliance on the fact that Secretary of State and everybody
17 doing their due diligence, your Honor. And then I go --
18 there is a county --

19 THE REPORTER: Please slow down and repeat that.

20 MR. RAB: Which came up in this county and this is
21 how I came to know about Realtor issue and went there and
22 found out this gentleman was not a Realtor. He has made a
23 declaration to you. I got a phone call. I find the
24 subpoena to the people that he said he worked with and I
25 got a phonecall yesterday evening. I did not call. I got
26 a phonecall and gentleman who this Mr. Reed used to work
27 for. He said he was -- he came and got his job with him
28 last year, 2017, in May and that he did not pay his dues so

1 February 1st he let him go. This is nobody in between.
2 Just me and him talking. So he said -- I said, You let him
3 go? Yeah, I let him go. And then again after I filed the
4 lawsuit on this 31st, Mr. Reed went there and asked for a
5 re-affiliation. So when he is writing down a declaration
6 in this Court and saying that he was valid, he had broker
7 affiliation, your Honor, we're in the court of law. We
8 have to honor what we are saying here. He said that he was
9 a Realtor at that time. Even if he was, your Honor,
10 20716(d) -- I'm raising my voice because I feel that this
11 is my only chance to speak your Honor, and I want to bring
12 up the fact that if 20716(d) is so clear that no trademark
13 will be used as a ballot designation, then so be it, your
14 Honor, because if we leave this door open we will have many
15 more cases of clear abuse of ballot designation. AB1090
16 would have no meaning towards it. Everybody is coming out
17 and saying it does not matter. He used it. Let him go.
18 But if borders are mislead, if more borders are misled in
19 misdirection of voting for someone, UCLA or Realtor or --
20 you know, somebody uses that that means that the walls have
21 been gained by improper use. They have been fraudulently
22 used and they have to be set aside, your Honor. Where
23 would we draw a line? We can't let this thing go saying
24 it's a minor violation. No violation is minor, your Honor.
25 They are all equal. Violation of law is violation of law.
26 We have to step up and say we will not allow any more
27 compromise of laws, and this is the case that I bring. If
28 I did not have a conversation with the employer directly

1 face -- you know, on the phone. He said the gentleman was
2 laid off. And then Mr. Reed on July 31st this year rushed
3 back to the same company and said, you know, I need to get
4 re-affiliation and he said okay. Pay the fees and get
5 re-affiliation and he got it after July 31st but during the
6 time in his own declaration I don't see the documents
7 verified but you can see them unverified. He is saying
8 himself that I was a Realtor at that time.

9 Now, I have tried my best going to different branch
10 Realtor associations. They're guarded about their members
11 and whatnot even if they're not valid, but this gentleman
12 receives a subpoena. He called me. He said, I can't make
13 it there. I can talk to you and he informed us this
14 information, and maybe after that he spoke to him and this
15 is how Mr. Reed knows.

16 But what I'm trying to talk about is how would it
17 make a difference. Alex Oliveira, Mr. Rab, this is a big
18 gap. Why would you even bother? It's not going to make a
19 difference. That is the very reason I'm here. And
20 47 million -- and hundreds and hundreds, an event I go,
21 people recognize my face; Wal-Mart, gas station, people
22 know me. I have over one hundred thousand clicks on my
23 website when you look at people and hundreds of people
24 election day say what is going on? Different name on
25 the -- news says over one hundred thousand people
26 disenfranchise name on roster and whatnot. It was havoc.
27 This election, many things happen. I'm a common man. I'm
28 one of the people here. I might come and go and I'm up

1 against giants who will come out and present themselves in
2 a way that a common man, not an attorney, may not be able
3 to present himself. But I know one thing. I know the fact
4 that 20176(d) says the trademark will not be used as a
5 ballot designation, your Honor. And then it says 20176(c)
6 says that you have to make a living out of your -- it has
7 to be your livelihood to be able to use that, your
8 principal occupation, your Honor. Those things are
9 completely missing. The gentleman told me categorically on
10 the phone did he make any money on this because as a
11 principal occupation this is what I would want you to say.
12 You prepare yourself -- he said, No, he did not make any
13 money. I'm sure Mr. Reed will confirm that when his turn
14 come.

15 The fact of the matter remains all these responses
16 are talking about the same thing. Yes, Mr. Brad Sherman as
17 far as this is concerned there is no attack on him. As to
18 whether -- and he's asked him to be relieved from this
19 Court case because he is not an -- but my opinion and my
20 impression was that he is also a beneficiary from the
21 situation and I took it from that angle. I did not go from
22 any other approach that I need to drag everybody down, and
23 that is the reason in the last case I wanted to show your
24 Honor that I agree to the shortest possible date to save
25 everybody times to bring out whatever is in my heart to
26 believe I -- because I believe in America. I believe
27 justice in America works. This is not a country where I
28 can go out and be bullied --

1 THE COURT: I hear you. You don't have to pound on
2 the table, Mr. Rab. I hear you. Okay. I'm listening to
3 you.

4 Go ahead.

5 MR. RAB: So this is why I went through all these
6 pages that these Respondents have served to me. I read all
7 of them number-by-number. I cannot find anything other than
8 the fact that the case it should not have been a writ of
9 mandamus other than the fact that the regulations don't
10 apply and that the fact that the contact is not on the
11 proper format. If the contest was not on the proper
12 format, we would not be here. If the regulations did not
13 allow me to contest things, we would not be here. I am
14 before a very learned judge, your Honor. You could have
15 threw this petition out the first day. I was told
16 99 percent of writ petitions of mandate gone out. So I'm
17 very humble that I'm here, that you are listening to me,
18 your Honor, because I bring the truth to your Honor. This
19 is a unique case. You will admit you will have to make a
20 ruling on this. There is no ruling that goes out and
21 specifically meets the status of this situation, your
22 Honor.

23 But what I'm trying to bring about to you, you have
24 to look at the entire case. You look at the guy who is
25 spending thousands and thousands -- I'm not a crazy person,
26 your Honor. I went to the recount. Why? Because under
27 the observation which I saw the one percent recount tally
28 it did not match. And can you believe, your Honor, that my

1 precinct came out in the draw when they did the one percent
2 audit. And 37 extra ballots came out, and I said, Where
3 have these ballots come from? No answer. Everybody take
4 it very cool. They mix them back there. I went outside.
5 I called the manager officer and said, There are 37 extra
6 ballots. And this gentleman who does not work there went
7 inside, grabbed the ballots. He took it personally. He
8 said, Are you talking about this extra ballot? Where did
9 they come from? They were not read by the machine. Whose
10 is this? And then everybody disbursed. And that was not a
11 conflict for -- to the Secretary of State. I have Alex
12 Oliveira's you know at the whole -- we're supposed to
13 present a variation to Secretary of State and no variance
14 here. There is -- I'm sure you looked. Zero. There were
15 variance and because of that I went into recount. I spent
16 a lot of money, your Honor, but I want you to know this:
17 It's very important. You may or may not decide in my
18 favor, but one of the people of America you should know
19 that they do not allow you to go to the ballot. There's a
20 glass wall and stored far away. During the recount
21 precincts not found. For hours. Ballots not found for
22 hours. And I'm paying huge amount of money sitting outside
23 the glass wall looking at the people pulling drawers in and
24 out and the moment I go out to lunch they're found and
25 mixed in the stack of ballots without any details of where
26 they came from. And this happened routinely, your Honor.
27 The whole day, the whole day I was sitting there, could not
28 be found, brought it next day. Your Honor, the situation

1 needs merit -- needs federal investigation, needs to --
2 somebody has to go and see what is going on in there
3 because I'm just a common man, your Honor, and I said I'm
4 going to put every penny I own. I'm going to go to the end
5 of this recount. And I spoke with Mr. Alex Oliveira and he
6 asked me, I said, I'm going to go until every vote is
7 counted. And then what happens? I step out to get fresh
8 air and I hear Congressman Sherman on the phone, very loud,
9 very loud on speaker phone pressuring Alex Oliveira about
10 the challenges that we're making, the challenges about
11 fraud that these ballots are all the same by one marker.
12 Same. And they're suspicious. And you just put them on
13 the side. Not saying listen to us. Just put them on the
14 side and you can decide later. And he called, Don't put
15 them on the side. Stop it. I said I'm up against the wall
16 here. I came back inside the room. I spoke to -- and I
17 said, Look, I heard a sitting congressman, a sitting
18 congressman over the speaker phone pressuring a top
19 election officer to stop my challenges. This is
20 obstruction of justice. I will stop this recount right
21 now. And that night I slept three in morning, late night,
22 I don't know the time. I made ethics complaint and sent
23 overnight to US congress about what has happened. And what
24 is it? Is it meddling? Why is he so worried? He has
25 hundreds and thousands of votes. Like everyone say he is
26 untouchable. Why is he worried? And why does he call from
27 Washington and pressure the guy? He has nothing to worry
28 about, your Honor. And that is why I say no. I came here,

1 your Honor.

2 And this is where I am. These oppositions -- the
3 opposition, all of them, I'm going to narrow it down.

4 THE COURT: I read your petition.

5 MR. RAB: Yes.

6 THE COURT: I have read it carefully. That is why it
7 has flags and highlights throughout, you know. That is why
8 I have gone through it and analyzed what your claims are.
9 You must understand though that the Court asks questions
10 when it has questions to understand what your claims are.
11 It's because I'm answering your claims and your allegations
12 that I ask questions because I need clarification as to
13 what your position is as it relates to certain requirements
14 and the law. There is a lot of different laws about what
15 is proper and improper. There are also laws as to what
16 is -- regarding what is the consequence that has to be
17 shown of impropriety. There are also laws about procedure
18 when things have to be raised; now, then, before, after,
19 whatever it may be, all these different laws that coexist
20 to determine when things have to be done, what the
21 particular issue is, if there was a breach of some
22 obligation, what has to be shown to entitle a petitioner or
23 plaintiff to relief. All of these laws coexist. They all
24 coexist. There is not one law that just supersedes another
25 law. They all exist together. In harmony. And it's my
26 job to understand and see if all of these various things
27 have been complied with. Some of them are more germane
28 than others depending on what you argued here and what the

1 oppositions have argued. But that is why I ask questions
2 because I need to find out from you and then what some of
3 these areas are that are unanswered by the filings.

4 Do you understand that?

5 MR. RAB: Okay, your Honor.

6 THE COURT: Okay. So with respect to the Secretary
7 of State's opposition, anything more before we move on to
8 either registrar --

9 MR. RAB: Just two strong points.

10 THE COURT: Go ahead.

11 MR. RAB: One is one person that I -- he is saying
12 that the MTS is certified. Just made a statement. He said
13 like the term Realtor he said it's generic. MTS is
14 verified. There is a registrar of voter that takes you to
15 the page when it's not. It was certified in 2005 and 2008
16 and right after that he nullified it by his own letter
17 saying it's obsolete.

18 THE COURT: Anything further on Secretary of State?

19 MR. RAB: Okay. He just -- in closing this was --
20 none of plaintiff's arguments support his relief and I said
21 plaintiff has strong grounds for relief 20176(d), 20176(c),
22 13113, 13114, and 16301 -- 16013. So this is basically
23 that Secretary of State -- that was it. His was a brief
24 opposition. The heavier one comes from SOS and Mr. Dean
25 Logan.

26 THE COURT: Do you want to go to that one next?

27 MR. RAB: Yes. That is a big one. But most of these
28 points are --

1 THE COURT: We don't have to repeat it.

2 MR. RAB: Yes, yes. Petitioner has no ground to
3 contest. I already spoke about that. The authority to
4 invalidate an election is limited to election 16100. I
5 said I'm using 16101(c). Then he says designation --
6 primary election ballot designation. The whole paragraph
7 there basically is he is talking about writ of mandate, May
8 writ of mandate. And he is saying that I don't meet the
9 criteria for writ of mandate and election code 13144 is
10 met. The condition -- I'm not going to disturb the
11 election process and the condition therein laid in. And
12 then he says that Mr. -- SOS -- I mean Mr. Logan and SOS go
13 and talk about Mark Reed Petitioner --

14 THE REPORTER: Can you please repeat that.

15 THE COURT: Slow down. She has to take down
16 everything you say. You have to go slowly. When she asked
17 you to repeat something, she just needs you to say it again
18 so she can get it down.

19 MR. RAB: Okay. So Petitioner SOS -- I mean SOS and
20 Dean Logan have said Petitioner must identify Mark Reed's
21 irregular or improper conduct. And my answer to that is
22 20176(c) and (d). I'm going to be brief so that we can
23 move on. And I already discussed these issues. And then
24 he has said that Business and Professions Code are not
25 applicable. I think business codes -- Business and
26 Profession Codes are applicable in all forms of business
27 but I'm also using 13314 and 16101(c). Then it says
28 registrar complied with its statutory obligations under the

1 obligations under the 16100. And I said then I bring in
2 the various defects that I have already spoken about under
3 16101(c). Thereafter registrar complied with one percent
4 tally. And I'm saying registrar did not comply with
5 mandatory procedures. The tally failed. And AB1090 and
6 Election Code 13560, you know, they were not complied with.
7 Basically what I am saying is one percent tally, I was
8 witness to it. It failed. And the procedures, mandatory
9 procedures were not complied with.

10 Then he -- SOS and Dean Logan say that the MTS
11 machine is certified. And again, I'm saying it is not
12 certified by federal authorities. And the letter of Mr.
13 Dean Logan is there. The declaration of Bueller takes you
14 to a link in the SOS site which says the MTS was certified
15 in 2005 and 2008. Whereas the letter of Mr. Dean Logan
16 says in 2011 it was obsolete, incapable, needs the
17 certification of the federal authority, and does not have
18 the federal certification. And then they say that
19 Petitioner has no proof. But I say Petitioner has filed
20 declaration and Petitioner is fighting on 13111, 13112,
21 13110, 13314 --

22 THE REPORTER: Can you please repeat that.

23 THE COURT: Slow down.

24 MR. RAB: I'm giving the Court the information.

25 THE COURT: But slow down. She has to write it down.

26 MR. RAB: Oh, okay. 13112, 13102, 13114, 16101(c),
27 20716(c) and (d) and then 20817, 818, 832, ANG. And that's
28 it. That is the both of them.

1 THE COURT: Okay. All right. Is there anything left
2 that you want to say about Mr. Reed's opposition other than
3 what you already covered?

4 MR. RAB: Yes, your Honor. That is the final closing
5 argument that I would like to make today. All the other
6 facts and situations that I presented before this Court are
7 true, honest, and to best of my knowledge, and believe I
8 have experienced them, seen them with my own eyes, and that
9 is how I'm bringing out my -- but, your Honor, I want to
10 say that violation of law, a violation of a rule, a
11 violation of Election Code is a violation. We cannot allow
12 our politicians and leaders to start the ground up on the
13 basis of the violation of a law or rule or regulations,
14 your Honor. Here I want to emphasize that it is being said
15 that, okay, he violated the law. So strike his name off.
16 Let him go forward. Remove the word Realtor. Mr. -- SOS
17 has said it is not even a trademark. It is a generic term
18 so it does not -- maybe he is defending himself that he is
19 allowed -- I was under the impression that he got misled by
20 Mr. Reed and he believed it but he is saying I was not
21 mislead. I did it on purpose because it is not a
22 trademark. It is a generic term that is why I let it be
23 ballot designation, your Honor.

24 And I understand that, you know, this Court deals
25 with election contests and in doing so I understand that
26 the Court understands if I'm -- if I'm not clear in my
27 speech about a certain term that the Court would overlook
28 my hesitation of my -- or my -- what is the clarity of

1 words I'm trying to use. That is why I'm trying to work
2 with the rules and codes that that will be sufficient.

3 So, your Honor, I would like to make my closing
4 argument with the fact that we are a nation of laws. And
5 these laws and these AB1090 that was made was there to
6 protect and preserve the law, preserve the sanctity of the
7 law, preserve the position of ballot designation so that
8 nobody is able to abuse it, to creatively misuse it, and
9 that the people are not misled, your Honor. The People are
10 not misled. There's a whole community of people that come
11 by -- whether you say LAUCSC, the trademark, whole
12 community goes there without looking at what they're voting
13 for. I'm here to only -- and only submit my petition on
14 the basis -- on the basis of law, justice, and equity.

15 THE COURT: Anything further on that, Mr. Rab? Does
16 that complete your comments?

17 MR. RAB: Just one more thing, your Honor. Please
18 look at the entire case. And this is a unique case, your
19 Honor. And I don't think anybody can find a specific
20 ruling in this case. The only ruling that can be made out
21 is for the future generations and future elections so that
22 the laws can be clear and that nobody is able to misuse any
23 ballot -- because there have been a lot of cases. They
24 were reserved but they were preelection. They were
25 discovered. The ruling I feel into the definition of
26 fraud, if you allow a false --

27 THE REPORTER: Please repeat that.

28 MR. RAB: A false representation of fact, knowledge

1 of the falsity by a party making falls representation,
2 intent to deceive the party by making a false
3 representation, reasonable reliance by the innocent party
4 and finally the actual loss suffered by the party who is me
5 in this case, your Honor. I'm talking about the
6 description and, you know, more than I do about the
7 description of the term fraud. And fraud destroys
8 everything it touches. Fraud contaminates everything it
9 touches, your Honor, and there is no -- there is no former
10 rule that can pick up and say how many. The whole fraud
11 muddled the results and make the outcome uncertain. On the
12 basis of that, the ballot designation has been violated and
13 the trademark should not have been used in the first place.
14 If Mr. Reed comes and processes the documents from the fact
15 that he is a Realtor, well, you know, I just spoke to the
16 gentleman and I would want him to be under oath in saying
17 whatever because I didn't see those documents under oath
18 that he has filed. They don't seem to be verified, your
19 Honor. But the case ultimately goes upon what I can prove.
20 As the number of votes I cannot prove how many votes can be
21 because of MTS or how many votes can be taken but I know
22 there has been damage but with this -- with the fraud
23 issue, your Honor, those votes have to be set aside. You
24 cannot -- if you put poison in water, I have to set the
25 whole water aside. It's not disenfranchise of voters.
26 It's about fraud. There is no way this Court can determine
27 as to how many votes were cast illegally or how many voters
28 were mislead to vote for the gentleman because trademark is

1 not supposed to be used. Either remove the law and say let
2 everybody use anything, but I want people to respect the
3 law. The law says that trademark cannot be used. 20716(d)
4 categorically -- there is no doubt in there. You cannot
5 use a trademark. Period.

6 THE COURT: All right. This is a good time for a
7 question, right?

8 MR. RAB: Ready.

9 THE COURT: All right. You said that -- you just
10 finished in your closing arguments saying there is no way
11 to determine specifically how many votes would or would not
12 have been casted for Mr. Reed had his voter designation not
13 been entered fraudulently. You also made a comment about
14 how it's difficult to fashion a ruling with respect to your
15 petition in that perhaps it's benefit for future
16 generations may be what is most relevant. But I also
17 understand that your petition seeks specific relief. I
18 want to make sure I still understand that. The relief that
19 you're seeking is for you to be inserted as either the
20 second place candidate instead of Mr. Reed for purposes of
21 the general election and then another proposal that you
22 have submitted which I am not sure is a possible one under
23 the law is that you be added to a general ballot. That is
24 what I saw in the proposed orders that you submitted to me
25 which I read.

26 MR. RAB: May I answer?

27 THE COURT: Am I right?

28 MR. RAB: Yes, your Honor. I was just -- I did not

1 know there was a possibility to put it as opening. But I'm
2 not saying that. I think you misunderstood about what I
3 said about Mr. Reed. That is why I will repeat it again.
4 What I'm saying is when certain rules are taken under the
5 wrong ballot designation, your Honor, all of it has to be
6 dismissed because there is no -- there is no knowing how
7 much impact it had, how many people were mislead. I will
8 say the other thing I said about the document. I'm talking
9 about the defective notice, the MTS machine, yes, there has
10 been a shifting. I don't know how much. But here it is
11 clear. The fraud is eminent, your Honor. If a ballot
12 designation has been violated and people have been misled
13 to vote for that ballot designation which was not allowed
14 to be -- to be exercised or to be taken, but 20716(d) is
15 very clear. It uses the word trademark. You cannot use a
16 trademark. You know, your Honor, so why would we allow
17 something -- either remove the law so a person like me does
18 not think of fighting it, but if you put up a law there
19 is -- and say, you know, trademark will not be used as a
20 ballot designation, then I'm going to be there and say I
21 don't have to be a big guy to say that it should not be
22 allowed. It was allowed. It was overlooked by someone.
23 Okay. If a crime has been overlooked it does not mean it
24 is not a crime. If somebody gets hurt and it's overlooked
25 it does not mean that this person didn't get hurt. If
26 somebody benefits from something and does it intentionally
27 to use that purpose the fact remains there. We can walk
28 away and say, You know what? Let's see what happens. But

1 if I walk away from here having this ballot designation
2 regulations 20716 screaming out why am I here for, use me,
3 use this. What I'm saying, your Honor, there is no three
4 position. I'm talking about -- I'm not talking about how
5 -- any votes given to me by Mr. Reed. I'm saying eliminate
6 the votes as they have been contaminated and then let the
7 number three position come into place because if you decide
8 today not on the face of me, Mark Reed, Brad Sherman, you
9 determine on the face that there's a wrong ballot
10 designation and that ballot designation mislead voters and
11 mislead the votes. It's not 10,000 5,000 or 3,000. I'm
12 not saying give me half of them. I'm saying those votes
13 are contaminated. They have to be set aside so that people
14 in the future can say if you misuse a system you will come
15 across a similar decision, a judgment that will be very
16 clear on the basis of law not about what Mr. Rab is saying
17 or Mr. Sherman is saying or Mr. -- about the law. And the
18 law is very clear. The regulation is clear. It says you
19 may not use trademark as a ballot designation. Whether or
20 not, you know, Mr. Reed was a Realtor or not, it is a
21 trademark. Mr. Reed is bringing in, no, I was a Realtor.
22 It's a trademark. He is saying that but 20716(d) clearly
23 says, your Honor, and you're the judge --

24 THE COURT: Hold on. Let me ask you a question then.
25 Doesn't the law also require for the very reason that
26 you're talking about for right now that an objection or
27 contest against an improper ballot designation has to be
28 made prior -- in this instance prior to the primary

1 election? If you had an objection or anybody in the public
2 had an objection who has standing as to the propriety of
3 Mr. Reed's designation before the primary, doesn't the law
4 require that that objection be heard and made before the
5 primary to prevent the very situation experienced in this
6 primary which is you don't know how many votes were
7 affected? Doesn't the law require that?

8 MR. RAB: Your Honor, the law requires the Secretary
9 of State to do his duty. That is what they're getting paid
10 for, the whole department, they're huge. It's one of the
11 biggest machineries in the world, your Honor, and the
12 AB1090 was brought into affect to make these officials work
13 as investigators to go at the next level. They're not a --
14 I fell into reasonable reliance, your Honor, and I just
15 explained the definition of fraud, innocent persons falls
16 into reasonable reliance. It's a huge machinery. They
17 must have looked into it. If he can go over and over it
18 every year as this guy. No way. I could not ever imagine
19 that Secretary of State would come and say it's not even a
20 trademark. He has completely crossed the bridge over
21 there, you know what I mean, your Honor?

22 THE COURT: All right. Mr. Waters, go ahead.

23 MR. WATERS: Thank you, your Honor.

24 From the Respondent Secretary of State's point of
25 view this case is straightforward and there are some basic
26 legal principals, one of which is that contestant has the
27 burden of proving the defect by clear and convincing
28 evidence and that the Court's obligation is to uphold an

1 election unless it is plainly illegal so that is how we
2 approach the case and for reasons that are in the brief we
3 filed. It does not appear to me that there is any basis
4 for concluding that any mistake was made in this election
5 that could possibly affect 30,000 votes. And the test
6 there is that the burden of proof is on the contestant and
7 that it is my submission that the burden of proof has not
8 been met.

9 There is a question about the ballot designation and
10 let me speak to that briefly. Were that true what the
11 contestant just said that Secretary of State's office is
12 one of the biggest machineries in the world, it is not,
13 there are I believe approximately 750 ballot designations
14 submitted to Secretary of State every election cycle. The
15 Secretary of State's practice is to make them public in
16 something called the -- I think it's the certified list of
17 candidates. I apologize. I don't have the term -- exact
18 term in front of me. But what the Secretary of State does
19 is they go over to see whether it meets on the surface the
20 requirements of the ballot designation of law and if it
21 does, it is published. It's available on the Internet for
22 a fixed period of time. I believe that it is at least five
23 days before the ballots can be printed. The whole purpose
24 of that is to allow preelection challenges.

25 I will say that before I had the job I have now I was
26 in private practice and on four separate occasions I was
27 involved in challenges of ballot designation, one of which
28 the end all case which everyone has cited I was unfortunate

1 to lose, but I will say that ballot designations are
2 watched closely by candidates and there is preelection
3 recourse to challenging them. I don't know what was going
4 through Mr. Reed's mind. I will leave that to him. But
5 when this case came up I did what I think all the lawyers
6 do in a situation like in a ballot designation case is I
7 went to the dictionary and I quoted it there and I will say
8 that Blacks Law Dictionary says there are two meanings for
9 the world Realtor. That is all I can say at this point.

10 But I will clearly summarize on the ballot
11 designation issue that this is an issue that should have
12 been raised before the election. We're in a position now
13 where if the Court were to set aside the results of the
14 primary there are 30,000 votes that are going to go up in
15 smoke here. I think that is something that I would urge
16 the Court to consider. So beyond that, outside the fact
17 that I would be pleased to respond to the Court's
18 questions, I have nothing else to offer.

19 THE COURT: What is your response to Mr. Rab's
20 contention that the Secretary of State has an independent
21 duty to investigate the accuracy of a ballot designation
22 that is being requested?

23 MR. WATERS: I believe there is no independent duty
24 to investigate with 750 in the primary, your Honor.
25 Secretary of State does not -- I doubt there are 750
26 employees at the Secretary of State's office.

27 THE COURT: Duty there either exists or doesn't
28 exist. It is probably not contingent upon the number of

1 employees that Secretary of State has. So my question
2 isn't do you have the resources to do it. The question is
3 what is your response to Mr. Rab's contention that
4 irrespective of whatever degree of resources the Secretary
5 of State has that your client has an independent duty to
6 investigate the accuracy of a ballot designation?

7 MR. WATERS: Thank you, your Honor. There is nothing
8 that I'm aware of in either statute or regulations that
9 puts on the Secretary of State an independent duty to
10 investigate ballot designations. There is nothing.

11 THE COURT: Okay. Anything further from your point?

12 MR. RAB: AB -- I thought you were pointing at me.

13 THE COURT: No. We go one at a time.

14 Mr. Waters, anything else?

15 MR. WATERS: No, your Honor.

16 THE COURT: Mr. Winuk, go ahead.

17 MR. WINUK: Very briefly that you alluded to and as
18 the Petitioner in essence agreed to there's no viable claim
19 that has been stated against Congressman Sherman. The
20 relief requested, that is nothing that is within his power
21 to be ordered to do and therefor the complaint really
22 doesn't lie against Congressman Sherman. We do support the
23 position of the Secretary of State and of Los Angeles
24 County registrar recorder. We believe they have the -- got
25 the law correctly on that, and I'm happy to answer any
26 questions specifically about our petition, but as I think
27 you have alluded to, we really don't have much of a dog in
28 the fight.

1 THE COURT: It seems to me -- on that point it seems
2 to me from what Mr. Rab explained to me earlier that
3 Mr. Sherman is in this case more so as a -- perhaps as a
4 real party in interest maybe more accurately because it has
5 to do with his election that he is involved in perhaps.

6 MR. WINUK: I think that is correct.

7 THE COURT: But Mr. Rab confirmed that at least
8 specifically nothing is being requested as to Mr. Sherman
9 directly.

10 MR. WINUK: I believe that's correct.

11 THE COURT: Okay. All right. Ms. Eachus, go ahead.

12 MS. EACHUS: Thank you, your Honor.

13 So first I will address Mr. Reed's ballot
14 designation. It appears from all his pleading papers and
15 arguments that he has made today before the Court that he
16 is not challenging the future ballot for the general
17 election in November in using the term Realtor but he's
18 asking the Court to find that Mr. Reed acted fraudulently
19 and that the Court should find that this was an irregular
20 or improper conduct that would justify taking those away
21 from Mr. Reed and give them to Mr. Rab. But Mr. Rab has
22 not provided any evidence that he -- the votes if they
23 should be shifted would be given to Mr. Rab. In fact today
24 he said to the Court that there is no way for him to
25 determine whether or not the vote should go towards him or
26 that they, the voters, improperly relied on the designation
27 Realtor. He just asked the Court to take away all of the
28 votes.

1 As the Court can see in the registrar and county's
2 opposition, this would really have been a more appropriate
3 challenge in March prior to the ballots and the sample
4 ballots being printed for the primary election. While Mr.
5 Rab has made a very passionate argument about what he
6 thinks about how Mr. Reed's designation was improper, he
7 did nothing to challenge it prior to the primary election.

8 The Court just asked a question of Mr. Waters and I
9 wanted to point out in Alex Oliveira's declaration on
10 Exhibit D, page 188 of Mr. Reed's ballot designation
11 worksheet that was submitted to the registrar, the second
12 paragraph advises candidates filing their ballot
13 designation paperwork that it's the candidates'
14 responsibility to justify the proposed ballot designation
15 and to provide all of the requested details. So the
16 registrar relied on the information that Mr. Reed provided
17 and accepted the designation. I don't know if the Court's
18 going to entertain an argument to modify the general
19 election ballot, but I don't think that is even in the
20 relief that Petitioner is requesting.

21 THE COURT: I'm not aware of that being the relief
22 requested either. So you can continue.

23 MS. EACHUS: Okay. Thank you. So moving on to what
24 the Petitioner challenges, he talks about randomization and
25 he says that the position under 13111 and 13112 there is no
26 mention of punch position and it only talks about ballot
27 name. 13111 subdivision D is very clear about the way that
28 candidates' names will be rotated. I don't think that

1 there is any way to randomize a name without randomizing
2 the ballot position. I'm also going to point to which is
3 outlined in the registrar's opposition and the declaration
4 of Alex Oliveira in Exhibit C at page 142, it did tell Mr.
5 Rab about the order in which candidates' names would appear
6 on the ballot. It indicated that they -- that it was
7 random based on a drawing of the letters of the alphabet
8 and that for federal -- most state and local offices that
9 the positions change or rotate so a particular candidate's
10 name would not always be first or last and would rotate.
11 So for him to claim now that he had no information about
12 the randomization it fails because he signed and received
13 the official sample ballot booklet or the registrar sent
14 him a letter indicating that -- how his name would appear
15 under the requirements of 13302 in the Elections Code
16 including that sample ballot and then also provided him
17 further material about the rotation of the name and the
18 randomization under Election Code 13111 and 13112.

19 With respect to the Microcomputer Tally System, the
20 MTS system, and Mr. Aman Bueller's declaration and the
21 county's response. I want to indicate that I believe that
22 Mr. Rab misunderstands what is required for a statewide
23 voting system. I think consistent with what the Secretary
24 of State provided and also what is attached to Mr.
25 Bueller's declaration it shows that the MTS system was
26 approved not only in 2004 but also again on January 15th,
27 2008. And if the Court looks at Aman Bueller's
28 declaration, Exhibit B, page six, on the top of the voting

1 technologies approved for using in California it indicates
2 that it's up to date as of May 21st, 2018. Currently the
3 registrars voting system that is used is approved by the
4 Secretary of State and it was validated and updated as of
5 May 21st, 2018. So the fact that the approval was in 2008
6 does not mean the system is not certified. And I think
7 that Mr. Rab misunderstands about the letter that was sent
8 to the Board of Supervisors that indicates that the voting
9 system is not federally certified. It's not required to be
10 federally certified. It's required to be certified
11 according to the state guidelines and it is.

12 In regards to the one percent manual tally claim, the
13 Court can look to Alex Oliveira's declaration and County's
14 response, the county provided the one percent tally notice
15 publically and also provided the result to the Secretary of
16 State, also the county complied with all the requirements
17 under the recount.

18 I don't believe that Mr. Rab has made his case or
19 proven by clear and convincing evidence that any of the
20 election contest grounds have been satisfied and therefor
21 the County is asking the Court to deny Mr. Rab's petition.

22 I will answer any questions that the Court has.

23 THE COURT: Okay. Mr. Reed. Go ahead.

24 MR. REED: Yes, I --

25 THE COURT: I'm sorry. I cannot hear you. I can't
26 hear you.

27 MR. REED: I pray that the Court -- can you hear me
28 now?

1 THE COURT: I can now, yes. Go ahead.

2 MR. REED: Okay. I pray that the Court does not
3 entertain the --

4 THE COURT: I'm sorry. You're trailing off again.

5 MR. REED: Excuse me?

6 THE COURT: We need you to be as loud as possible,
7 please.

8 MR. REED: Okay. Can you hear me better now?

9 THE COURT: At this moment I can.

10 MR. REED: You can? Okay. I said I hope that the
11 Court does not entertain the slanderous actions that Mr.
12 Rab engaged in in a declaration that I brought into light
13 of the Petitioner by claiming that I was a Realtor. In my
14 opposition briefs response I showed that I am a Realtor. I
15 am a member of the Southland Regional. I am a member of
16 the National Association of Realtors. I am a member of the
17 California Association of Realtors. I'm a paid member all
18 the way up until February of 2019. That's stated in a
19 letter that I received from the ballot challenge back in
20 2016 by somebody of my ballot designation of Realtor as
21 stated in the letter by --

22 THE COURT: I'm sorry. Stop. Stop. We can't hear
23 you. You said stated in the letter by and then we could
24 not hear anything after that. Go ahead.

25 MR. REED: Okay. Stated by in the letter by Mary
26 Newell (phonetic), trademark administrator. The trademark
27 administrator of the National Association of Realtors that
28 as long as I'm a member of the National Association of

1 Realtors I --

2 THE REPORTER: I'm sorry, your Honor. I cannot hear
3 him.

4 THE COURT: We can't hear you. So you said something
5 about as long as you're a member of the National
6 Association of Realtors. Speak up, please.

7 MR. REED: As a member of the National Association of
8 Realtors I can legally use the ballot designation of
9 Realtor as approved by the National Association of Realtors
10 Trademark Association. In my declaration I showed my
11 submitted paperwork from the Southland Regional Board of
12 Realtors that I was a member. I was a member for two years
13 prior to my filling out the application in March of 2018.
14 I --

15 THE COURT: Stop. Stop. Okay. We could not hear
16 you after you said I was a member for two years prior to my
17 filing out the application in March of 2018. We could not
18 hear anything after that.

19 MR. REED: Yes. I went ahead and did not pay my MLS
20 fees only because I was going to go dormant with my broker
21 which was Realty Smart. But I was still a member -- paid
22 up member with the National Association of Realtors. To
23 prove my point I went in this month, paid my MLS fee of one
24 hundred dollars, and I'm now a broker associated with
25 Pinnacle Realty as pleaded in my opposition papers.

26 Something that Mr. Rab is engaging in which is very
27 concerning to me is his continued slanderous actions of
28 sending a subpoena to my employer Armando Oliva with Realty

1 Smart and Pinnacle Realty verbally making all kinds of
2 allegations and demands of my employer to be in Sacramento
3 today but he would accept a declaration. Mr. Rab put me in
4 a very precarious position with my employer. He has also
5 put me in a very precarious position with my fellow
6 Realtors in the market by demanding declarations from
7 fellow Realtors which is a violation of the ethics code of
8 the National Board of Realtors. In the ethics code of the
9 National Board of Realtors, if we have an issue with a
10 fellow member we submit that to the Board of Realtors and
11 we are reprimanded there; not in a court of law.

12 Mr. Rab has engaged as I said in liable slanderous
13 actions on my profession, my character, and my name both in
14 the campaign and in my personal profession of which he
15 submitted an illegal subpoena to my employer of which I am
16 requesting the Court to completely dismiss me with
17 prejudice from the lawsuit in its entirety proving that I
18 was in fact a Realtor, a licensed Realtor, salesperson in
19 the State of California, a paid-up member with the National
20 Association of Realtors, a paid-up member with the
21 California Members of Realtors, a paid member of the
22 Southland Regional Association of Realtors, and two years
23 prior to my filing I was an active real estate agent with
24 Rodeo Realty and with Realty Smart. I also seek because of
25 actions of Mr. Rab last night financial relief from this
26 frivolous lawsuit he has brought forth and included me in
27 of \$3,000.

28 THE COURT: Anything further?

1 MR. REED: Just because -- excuse me?

2 THE COURT: Anything further?

3 MR. REED: No, your Honor. That's it. I am upset at
4 this frivolous lawsuit at this point. But I rest.

5 THE COURT: All right. Mr. Rab, do you have any more
6 than a couple minutes?

7 MR. RAB: Yes, your Honor. I would like to make --

8 THE COURT: How much time do you need?

9 MR. RAB: Two to three minutes.

10 THE COURT: If it's two to three minutes, that's
11 fine. Otherwise we need to take a break.

12 MR. RAB: Two to three minutes.

13 THE COURT: Go ahead.

14 MR. RAB: I received a call from the employer and he
15 said that the gentleman did work for him in 2017, May, and
16 then this year he -- because he was no more a Realtor or he
17 did not pay the dues and he was laid off. And because of
18 that his broker affiliation was suspended or terminated,
19 and once your broker affiliation is terminated, you know,
20 you're not working there. And at the same time he also
21 said that this gentleman did not make any business out of
22 it. So there is -- there is a case if you're aware if
23 you're not making a livelihood in a profession that you're
24 making your principal occupation that is again an issue.
25 But 20716(d) is the one that is strongly reiterated here
26 because that one says you cannot use a trademark. Even if
27 you are a Realtor, you cannot use a trademark as your
28 ballot designation.

1 That's it, your Honor.

2 THE COURT: Matter submitted?

3 MR. RAB: Yes.

4 THE COURT: Submitted, Mr. -- hold on the phone.

5 Mr. Waters, submitted?

6 MR. WATERS: Submitted, your Honor.

7 THE COURT: Hold on on the telephone.

8 Submitted, Mr. Winuk?

9 MR. WINUK: Yes, your Honor.

10 THE COURT: Ms. Eachus, submitted?

11 MS. EACHUS: Submitted, your Honor.

12 THE COURT: All right. Mr. Reed, submitted?

13 MR. REED: Yeah.

14 THE COURT: Okay. All right. The Court shall take
15 the matter under submission. I will try to issue a written
16 ruling as quickly as I can because I understand the
17 timeframes and the time deadlines at issue. The matter is
18 under submission.

19 MR. WATERS: Thank you, your Honor.

20 MR. WINUK: Thank you, your Honor.

21 MS. EACHUS: Thank you, your Honor.

22 MR. RAB: Thank you, your Honor. Thank you very
23 much. Thank you.

24 (Whereupon the proceedings were concluded.)

25 ----oOo----

26

27

28

CERTIFICATE OF CERTIFIED SHORTHAND REPORTER

STATE OF CALIFORNIA)
) ss
COUNTY OF SACRAMENTO)

I, Kelly M. Souza, hereby certify that I am a
Certified Shorthand Reporter and that I recorded verbatim
in shorthand writing the proceedings had on TUESDAY,
AUGUST 14, 2018, in the matter of RAJI RAB, Petitioner,
versus SECRETARY OF STATE, REGISTRAR RECORDER/COUNTY CLERK,
BRAD SHERMAN, MARK REED Case Number 34-2018-80002924,
completely and correctly to the best of my ability; that I
have caused my said shorthand writing to be transcribed
into typewriting and the foregoing pages, 1 through 57
constitute a complete and accurate transcript of all of my
shorthand writing taken at the above-mentioned proceedings.

I further certify that I have complied with CCP
237 (a) (2) in that all personal juror identifying
information has been redacted if applicable.

Dated: FRIDAY, AUGUST 24, 2018

KELLY SOUZA CSR NO. 11951

No. 18-382

In the
Supreme Court of the United States

Raji Rab,

Applicant/Petitioner,

v.

Superior Courts of Sacramento County,
Respondent;

Alex Padilla, as Secretary of State, etc., et al,

Real Parties in Interest

PROOF OF SERVICE

I, Todd Woods, do swear or declare that on this date, September 27, 2018 as required by the Supreme Court Rule 29 I have served the enclosed APPLICATION FOR EMERGENCY STAY ORDER and APPENDIX on each party to the above proceeding, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

See attached Service List for names and addresses of those served.

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

Name: Todd Woods

Date: September 27, 2018

Signature: Todd Woods

Address: 17015 VENTURA BLVD

City, State, Zip: FULLERTON, CA. 91131

Case Name: Raji Rab v. Superior Court of Sacramento County
Supreme Court of United States No. 18-382
Supreme Court of California Case No.: S251004
Superior Court of Sacramento Case No.: 34-2018-80002924
Third Appellate District Case No. C087805

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